

Meeting of the Malta Ornis Committee

27 May 2015, Hexagon House, MEPA, 1630 - 1830

Minutes

Attending members:

Prof Mark Anthony Falzon – Chairman
Mr Sergei Golovkin - Secretary
Mr Nicholas Barbara – Birdlife (Malta)
Mr Lino Farrugia – FKNK
Mr Joe Perici Calascione – FKNK
Mr Gwido Baldacchino - Member nominated by Government
Mr Marco Falzon – Member nominated by Government
Ms Emeline Fenech – Member nominated by Government
Mr Frank Vassallo– Hunting and Trapping Expert
Mr Stephen Saliba – MEPA

Excused: Mr Mark Gauci – Avifauna Expert; Mr. Geoffrey Saliba - Birdlife (Malta)

Other contributors present: Mr Richard Lia, Manager of Policy Branch of WBRU

1. Adoption of the agenda

1.1 The agenda was adopted.

2. Adoption of the minutes of the meeting held on 20 May 2015

2.1 Minutes were adopted subject to slight modification to paragraph 5.6 (substitute “Geoffrey Saliba asked...” with “Member asked...”).

3. Matters arising and matters to report

3.1 Sergei Golovkin asked regarding follow up to the report, circulated by Birdlife (Malta) for Ornis members’ comments on 20th May. The report concerns a study of the extent of illegal killing of birds. Sergei Golovkin drew committee’s attention to written comments provided by the Wild Birds Regulation Unit and asked Birdlife (Malta)’s representative whether and to what extent these comments are being considered. He specifically asked whether BLI’s guideline to clearly distinguish between legally hunted birds and illegal killing is being followed, since the last draft report appears to have ignored this distinction and treated all birds potentially shot or capture during derogations as “illegal killing”.

3.2 Nicholas Barbara said that the comments are being considered and some of these were being reflected in the final draft. He said that the BLI indicated that estimates of birds shot / captured during derogations should be treated as “illegal killing”. Sergei Golovkin disputed this with reference to discussion held with BLI representative during February 2015 meeting in Madrid.

3.3 Lino Farrugia said the FKNK fundamentally disagrees with the methodology adopted for this study. The FKNK has commissioned its own report on this matter which will be completed in due course.

4. Continuation of discussion regarding finch live-capturing derogation

4.1 Chairman referred to the reports and technical materials presented by the WBRU during previous sitting. He asked if the members had adequate time to review and assess these materials, and formulate their reactions. He suggested that the members should present their views.

4.2 Joe Perici Calascione said that the FKNK is satisfied with the technical and scientific reports presented, which are extremely detailed and address every aspect of this dossier. The FKNK believes that these reports provide sufficient basis for the Committee to make an informed decision and provide recommendation to government. He also referred to Birdlife (Malta)'s request for AG opinion. On this point, the FKNK believes that it is up to the government to seek the opinion of the AG, if deemed necessary. Ornis does not have the mandate or remit to request such opinions from the AG, who is a lawyer to government and not to Ornis, unless the request concerns matter related to the functioning of the committee itself. The FKNK believes that Birdlife (Malta)'s request is unjustified, and is part of a "delaying tactics". In FKNK's opinion, the Committee should not give in to "scaremongering" concerning infringement procedure, either. Experience of last year's derogation has shown that the derogation ran smoothly, whilst the restrictions and controls were "harshly" enforced in practice. Finally, the FKNK reiterates that the traditional live-capturing activity was practiced for thousands of years, with no detrimental impact on the species or habitats. The reports presented by the WBRU indicate that the species enjoy a very healthy status and it is clear that the limited and strictly regulated activity can in no way affect this negatively.

4.3 Nicholas Barbara said that the concerns previously expressed by Birdlife (Malta) in respect of WBRU's reports are still valid. The BLM is concerned that the derogation appears not to respect the "judicious use" principle, since capturing birds as an end in itself to preserve "tradition" can hardly be termed "judicious". On this aspect the BLM is not satisfied with the explanations presented as part of the documentation prepared by the WBRU. If the activity is justified because it is "traditional" that means that all other alternatives are automatically ruled out since nothing can rival tradition. This effectively prejudices the "no other satisfactory solution" criterion. The BLM is also concerned that the opening of a new finch season will lead to escalation of the infringement procedure, and the WBRU has not responded clearly to the question of what would happen in this regard. Is it therefore prudent to make recommendations that may land Malta before CJEU? The BLM requested Ornis to obtain AG advice because it wants to make sure that the decision to derogate will not lead to such escalation in the infringement procedure. The BLM are not at all convinced that the "strict supervision" criterion was met in practice. To the contrary, data presented in WBRU reports shows spikes in reported catches in the last two weeks of the season when migration was low. This seems to be a failure of strict supervision regime. Enforcement was not adequate. The BLM is also concerned that the conservation status of the species appears to be not as healthy as the WBRU is trying to portray it. Indeed long term decline was documented in respect of most species (examples were mentioned).

4.4 Chairman asked for further reactions. Marco Falzon said the documents presented by the WBRU are indeed very extensive and the Committee should have sufficient basis to make its decision. This comment was also echoed by Frank Vassallo.

4.5 Chairman invited the WBRU to respond to the concerns raised by Birdlife (Malta)'s representative.

4.6 On the issue of the conservation status, Richard Lia clarified distinction between EU and pan-European level assessments. Whilst both statuses are considered in WBRU's report, status within the EU, and in particular, within reference populations is more important because of the requirements of the Birds Directive. Richard Lia explained that the European Bird Census Council provides annual updates on the trend classifications at both the pan-European and EU levels. However, EBCC does not provide short-term trend classifications at EU level. The trend classifications are provided by EBCC for the short- and long-term trends at pan-European level and long-term trend classifications at

EU level. Richard Lia explained that on the basis of the latest EBCC update and Article 12 reports by Member States, the long-term trends of all seven finch species indicate that they enjoy a favourable conservation status at EU level as well as at ring recoveries level. In the short-term trend, the EU population of Chaffinch, Linnet and Hawfinch is stable at all levels of the population (minimum and maximum pairs and their geomean), whereas the minimum number of Greenfinch pairs is increasing, and is stable at the maximum and geomean levels. Richard Lia pointed out that, conversely, the short-term trend of the Goldfinch, Serin and Siskin EU populations have shown a decline (more than 10% change in ten years). In terms of long-term trend, Richard Lia explained that all seven finch species within the European Territory are Stable at all three levels of their population (min/max/geomean), the Siskin being the only exception since it increased in the number of minimum pairs and geomean. Regarding ring recoveries level, Richard Lia explained that in the short-term trend the Goldfinch increased, the Linnet, Hawfinch and Serin were stable whereas the Chaffinch, Greenfinch and Siskin decreased. It was pointed out that the long-term trends at ring recovery level were consistent with those at EU level: the Chaffinch, Linnet, Greenfinch, Hawfinch and Serin were stable at all three levels of the population (min/max/geomean) but the Siskin increased at all three levels and the Goldfinch increased in the minimum number of breeding pairs and the geomean.

4.7 Sergei Golovkin referred to Nicholas Barbara's comment with regards to the "judicious use" criterion. He said that the information on this aspect of the derogation is contained within Section III of Part B of the Technical Memorandum enclosed as an annex to the report circulated by the WBRU. With respect to the fulfilment of the "strict supervision" requirement, he reiterated that the WBRU has developed and implemented one of the most stringent supervisory and enforcement regimes which is possibly unprecedented anywhere in the EU. Malta not only has amongst the highest penalties in the EU for live-capturing-related violations, but also has a very high ratio of enforcement officers deployed on the ground to supervise the derogation, which rate is guaranteed in national legislation. This is apart from the stringent special licensing regime, the site screening and registration exercise, the state of the art telephonic game reporting system, an elaborate system of special single-use rings, an independent migration monitoring study and analysis, the Carnet de Chasse reporting mechanism, a system of field inspections and spot-checks, the deployment of latest technologies in supervision of the derogation (the use of drones, GPS-enabled tablet computing systems containing GIS databases of licensed sites and live-capturers), a robust justice system that ensures swift prosecution of any detected violations, unprecedented levels of public scrutiny and monitoring by NGOs.

4.8 As regards infringement procedure, Sergei Golovkin said that it is clear that there are some fundamental differences in the interpretation of the law and applicable policy. Therefore it is highly likely that should a new season be permitted, the Commission will escalate infringement procedure to the next level.

4.9 Chairman said that the Committee has no expertise or remit to debate the legal dimension of this dossier. The Committee limits its assessment and basis for recommendation to technical and scientific aspects only. On this point, a brief debate ensued with regards to what may constitute "legal aspects" and how these may be linked to the technical aspects.

4.10 Chairman asked whether any member would wish to add any further comments. He invited the Committee to formulate a motion for a vote. He proposed to vote on whether the Committee may recommend the opening of the 2015 season subject to the same conditions and parameters as in 2014.

4.11 Sergei Golovkin raised the issue of whether the Committee may have an opinion on capping the number of licensees. Lino Farrugia said the FKNC disagrees with the capping the number of licensees, since the quotas and bag limits allow for effective control. Nicholas Barbara said that the fact that persons who never had trapping license were allowed to obtain one last year lead to the increase in the impact on land and on the species. Moreover, it seems to undermine the "tradition" argument. Chairman said that the motion put forward for the vote will not go into this issue of capping of the number of licensees. This will be up to the government to decide.

4.12 The committee recommended the opening of the 2015 season subject to the same parameters as last year, with five votes in favour (MEPA, FKNK, three Government-appointed members), one against (BLM) and one abstention (Chairman). As on previous occasion, Chairman asked to minute the reason for his abstention, i.e. the need to be impartial and equidistant.

5. Bern Convention Letter & related issues

5.1 The Committee agreed to postpone discussion on this item to the next session, which was tentatively scheduled for Wednesday 17th June at 1500.

5.2 The meeting was adjourned at 1830 hours.