

Meeting of the Malta Ornis Committee
28th June 2013, Casa Leoni, Sta Venera

Minutes

Attendees:

Dr Louis F. Cassar – Chairman
Mr Victor Agius – Secretary
Mr Frank Vassallo – Hunting and Trapping Expert
Mr Lino Farrugia - FKNK
Mr Nicholas Barbara – BIRDLIFE (MALTA)
Mr Gwido Baldacchino - Member nominated by Government
Ms Emeline Fenech – Member nominated by Government
Mr Marco Falzon – Member nominated by Government
Mr Darrin Stevens – MEPA

Apologies for absence: Mr Mark Gauci – Avifauna Expert; Mr. Joseph Mangion - BIRDLIFE (MALTA); Mr. Joe Perici Calascione (FKNK)

In addition to Committee members, the following persons were present:

Insp. Ramon Mercieca – ALE, Police Corps
Mr Sergei Golovkin – Parliamentary Secretariat for Agriculture, Fisheries and Animal Rights
Mr Steve Micklewright – BIRDLIFE (MALTA)

1. Adoption of the Agenda

The Chair introduced the agenda. The agenda was adopted.

2. Approval of the minutes

2.1 The following clarifications were raised with respect to the minutes of the meeting held on 16th May 2013:

2.2 MEPA representative proposed correction to the following sentence under item 6 of the Minutes:

*“MEPA representative ~~noted~~ **clarified** that birds and rabbits are regulated through two distinct regulations, and Ornis does not have the **legal** remit over wild rabbits regulations.*

This correction was noted.

2.3 Birdlife (Malta) representative clarified that the first sentence under item 5 of the Minutes, namely:

“Birdlife (Malta) asked whether the LP – FKNK agreement may be disclosed, and whether as a result of this agreement the Government intends to initiate discussions regarding a possible finch trapping derogation.” should not be construed to imply that Birdlife (Malta) is in any way suggesting or proposing a finch trapping derogation, but that it merely asked on whether the Government intends to propose such an item for discussion at some point in future. This clarification was noted.

2.4 FKNK representative referred to item 2.4 of the Minutes of the 1st Ornis meeting held in March 2013, which referred to Autumn 2012 bag for Turtle Dove as follows:

“According to official statistics, 9501 turtle doves were caught during the period 1st September 2012 and 31st January 2013.” He pointed out that the bag quoted is incorrect.

Mr. Sergei Golovkin clarified that the total bag for the autumn 2012 hunting season was reported at 3,696 Turtle Dove and 4,262 Quail. This correction was noted.

2.5 Chair proposed to have the paragraphs in any subsequent Minutes numbered.

3. Matters arising out of the minutes and matters to report

3.1 There were no matters arising from the Minutes or matters to report

4. Rules of Procedure

4.1 The Chair proposed a discussion on the formal rules of procedure for the Committee.

4.2 The FKNK representative remarked about the formal composition of the committee and attendance by persons who are not formally appointed as members and suggested that this matter must be clarified, particularly because the composition of the Committee is established by law through Article 10 of Legal Notice 79 of 2006. He has no objection to having a representative of the MEPA Director being delegated to attend the Committee because such a possibility is envisaged in the law. FKNK also had no objection to the presence of Mr. Sergei Golovkin, representing Parliamentary Secretariat *ex-officio* as an observer, and to the presence of Insp. Ramon Mercieca representing the ALE.

4.3 Mr. Sergei Golovkin pointed out, by way of clarification, that insofar as the reference to representatives of Birdlife Malta and FKNK is concerned, Article 10 of the Legal Notice 79 of 2006 refers to representatives of organisations and not to concrete individuals, and hence such representatives may substitute for one another.

4.4 The Chair pointed out that this would not apply to Government – nominated members who are appointed as members in their individual capacity and therefore cannot delegate this responsibility.

4.5 The MEPA representative further clarified that although the Legal Notice refers to representatives of organisations, the Government Notice establishing the Ornis Committee refers to individuals. He also suggested that rules of procedure may be formalised as it is the case in other formally constituted committees. Generic rules of procedure adopted by other committees may need to be adapted, whilst recognising the need for certain degree of flexibility.

4.6 FKNK representative signalled his agreement with the need to be flexible, thus if a representative of the organisation cannot attend, then the organisation can nominate another member to represent at Committee meeting¹. He also suggested that whenever observers / guests are invited, the Committee should be informed in advance. However, he would have no problem with Sergei Golovkin participating on a permanent basis *ex-officio*².

4.7 The Chair, on having reached a consensus, by all those present, on this issue, invited Mr Steve Micklewright to join Members around the table.

4.8 Birdlife (Malta) representative suggested that the rules of procedure should also regulate notices of the meetings.

4.9 The Secretary mentioned that the Parliamentary Secretariat is in the process of establishing Wild Birds Regulation Unit, which is headed by Mr. Sergei Golovkin. For this reason Sergei Golovkin is being invited to attend Ornis meetings as an observer. Following up on the Secretary's announcement Mr. Golovkin briefly explained the role and functions of the new unit.

5. Finches captive-breeding projects at Ghammieri and Xewkija

5.1 The Chair asked the members for any information regarding finch captive breeding programme including facilities at Ghammieri and Xewkija.

5.2 The FKNK representative noted that there is perception that the Ornis Committee is responsible for these programmes when in the actual fact these programmes were not within the Committee's control. In the FKNK representative's opinion, which he had expressed at several other meetings, due to the failure of this project and the large financial relative burden which anyone may attribute to the Ornis Committee responsibility, this programme should be terminated immediately.

¹ Mr. Farrugia had consented in this regard for the sake of smooth procedure of the meeting, however not before explaining the embarrassment he personally had been subjected to when at a past Ornis Meeting on the objection of Mr. Joseph Mangion (who was now proposing a substitute in his stead), Mr. Farrugia, even though present on the then Chairman's invitation, had been asked to leave said Meeting since he was then not an Ornis appointed member. Mr. Farrugia also did not press-on with his complain because apparently the situation was identical at the previous Ornis meeting, when Mr. Farrugia had been excused, and no objection had been raised on the assumption that Mr. Micklewright had in fact been nominated by government instead of Mr. Mangion.

² Subsequent to the Ornis meeting, the Committee has received an email dated 2nd July from Mr. Joe Perici Calascione where he expressed his objections to participation by individuals who are not formally appointed on the Committee. The email refers to the possibility that such individuals may be present, but only upon due notification and prior consent of the Committee.

5.3 the MEPA representative recalled that there has been a report by a sub-committee chaired by Prof. Mark Anthony Falzon and a separate report by FKNK with recommendations to government. He is not aware of whether any of the recommendations were followed up.

5.4 BLM enquired what is the purpose of reopening discussion on the matter. BLM informed the Committee that a past recommendation was made by the Ornis Committee to scrap the idea given the project never worked and that it was made clear by a commissioned report that the catching of wild birds for genetic diversity purposes was not required since new genetic stock is available from captive bred populations of finches in other EU countries. BLM also reminded the Committee that the FKNK also recommended closure of the project, because as was minuted in a meeting, their only interest in the project was the trapping of wild birds.

5.5 Mr. Sergei Golovkin informed the Committee that an officer is being engaged within the new Wild Birds Regulation Unit, who will be responsible for taking stock of the situation with regards to the status of captive breeding programmes and proposing way forward.

5.6 The Chair asked Mr. Sergei Golovkin to present a report on this matter once the officer has been engaged and the stock-taking exercise completed.

6. Barn Owl re-introduction programme

6.1 The Chair referred to a number of initiatives concerning reintroduction of Barn Owl which have previously been discussed, but it appears that none these have been concluded.

6.2 The MEPA representative explained that the initiative was discussed for at least 5 years within a committee that was purposely set up by OPM. An agreement was reached regarding the potential release sites, and it was also agreed that Wasteserv had to submit applications to MEPA. Separate discussion with the former OPM Secretariat official Mr. Leonard Callus and the former Minister Dr. Mario de Marco have also been held. There are at present 17 birds held at Ghammieri facility. Their legal status needs to be clarified, however this is not deemed to be a major issue since most of these birds were born in captivity and were close ringed. MEPA will be following up on this issue with the view to eventually issuing the necessary certificates. As regards the actual reintroduction programme MEPA proposed to use birds from rehabilitation centre in Sicily which may be released at an open aviary that may be set up at Buskett orchard.

6.3 Birdlife (Malta) representative referred to the study conducted by Mr. Richard Lia, which indicates that illegal killing of birds may pose a problem and an unacceptably high risk to any reintroduction programme. According to BLM, this was concluded from a survey which Mr Lia himself had conducted with FKNK hunters where most admitted that they would still hunt a bird like a barn owl even if this would be part of a reintroduction project.

6.4 The FKNK representative, after updating the Committee with further details regarding this programme including that FKNK had been responsible to supply the stock-birds of the project at FKNK's expense, reacted by stating that one has to tackle the problem of illegal killing, but that should not preclude the government from going ahead with the reintroduction.

6.5 Birdlife (Malta) representative made reference to IUCN guidelines for reintroduction of species, which recommend an assessment of the level of risk. If the risk of illegal killing is too high, then we should not proceed with reintroduction.

6.6 The FKNK representative replied that there have been positive developments in eradication of illegal killing. He mentioned an example of an environment monitoring board that was set up a few years ago, and which has successfully eradicated illegal killing at Buskett.

6.7 The MEPA representative further clarified that the IUCN guidelines referred to by BirdLife (Malta) refer to pressures and threats that need to be addressed. One way to address these threats would be through an educational campaign, with the involvement of hunters, and by implementing the programme at multiple locations.

6.8 Mr. Sergei Golovkin clarified that Mr. Richard Lia's research was qualitative in nature, and not one that was based on statistical information. He also mentioned the need for communication strategy for eradication of illegal killing, trapping and trade in wild birds, in line with the Larnaca Declaration of the Bern Convention. Implementation of such a strategy would help to alleviate the pressures referred to in the prior discussion. The Chair asked Mr. Sergei Golovkin to form a working group (to include BLM, FKNK, MEPA and Richard Lia) on the reintroduction of Barn Owl project, which working group may be established once the new Wild Birds Regulation Unit begins to function.

6.9 Chairman read out Mark Gauci's viewpoint on the matter which also mentioned the use of Comino as an ideal location to gauge success of introduction in comparison to Malta and Gozo.

7. Restoration ecology programme

7.1 The Chairman made reference to the issue of land abandonment and the need for proactive restoration and management of habitats. He suggested that the Committee may play a role in this by identifying priorities for potential ecological restoration programme.

7.2 The MEPA representative informed the Committee that MEPA is at present at an advanced stage of implementing an EU-funded project which is expected to deliver a series of management plans / conservation orders for all terrestrial Natura 2000 sites in the Maltese Islands by the end of 2013. The project has been sub-contracted to a consortium consisting of the local firm ADI & Associates and a Greek company Epsilon. This consortium is presently conducting a massive stakeholder involvement campaign at all levels to identify conservation and management priorities for each Natura 2000 site. This project therefore represents a structured process whereby priorities for restoration of key habitats are being identified. It is envisaged that the draft plans will be presented for Government approval at the end of 2013 and thereafter subjected to formal public consultation.

8. Proposed legislation regarding the culling of starlings at the airport in the interests of air safety

8.1 The MEPA representative informed the Committee that in view of the need to ensure air safety at the Malta International Airport, the Government has been applying derogations for the culling of Starlings within the perimeter of the airport since 2009. These regulations are required for air safety reasons, since bird strikes resulting from collisions between an airborne bird (or a flock of these) and an aircraft during the take-off or landing of an aircraft may pose a serious threat to flight safety (and associated human health). Regulations permitting the culling activity under strict supervision of the Director of Environment were issued three times in 2009 and once in 2010, the latter covering three years, from 2010-2013. A minor amendment was issued in 2013, but the current air safety regulations expire on the 30th June 2013. The Government was subsequently advised that the application of such derogations should ideally follow a similar legal pattern as that adopted for other derogations, namely that there should be framework legislation that would stipulate parameters which the government must consider before deciding to derogate, and a separate legal notice of the actual derogation itself, which may be published annually. The draft Framework for Allowing a Derogation for the Culling of Starlings in the Interest of Air-Safety Regulations, 2013, have been prepared and are currently being finalised by MEPA. The regulations describe, amongst other, the monitoring provisions, permitted methods (including both scaring and culling by means of air rifles) and licensing provisions.

8.2 The FKNK representative, who believed that the culling method being adopted was inadequate, mentioned the possibility of trapping of starlings at the airport in large numbers and then releasing them elsewhere. He proceeded to clarify that in past years, government, which legally does not have to consult the Committee to derogate in such instances, in fact never consulted the Committee before and questioned why should it had to start now. He concluded that the FKNK had no objection in this regard. Various representatives commented that this is not an effective approach since anyway starlings would return to MIA.

8.3 Birdlife (Malta) representative asked who would be in charge of the culling, to which the Chairman replied that such a practice is normally the responsibility of MIA Staff. Being a military controlled area only specific personnel are allowed entry and to undergo the culling. BirdLife Malta representative asked for an advance copy of the draft regulations. The draft will be circulated to Committee members prior to publication.

9. Information note concerning good environmental status of seabird species – a deliverable under the Marine Strategy Framework Directive

9.1 The MEPA representative explained that the Directive 2008/56/EC establishing a framework for community action in the field of marine environmental policy, specifically Articles 8 and 10 and Annexes III and IV requires Member States to submit reports, by 15th October 2012, concerning an initial assessment, descriptors of “good environmental status” as well as targets for the management of marine species. In this regard MEPA, in consultation with other institutional stakeholders, as well as with input from Mr. John Borg, has prepared reporting sheets for 3 marine bird species, namely *Calonectris diomedea*, *Puffinus yelkouan* and *Hydrobates pelagicus*. A brief summary of the reporting sheets was presented.

9.2 A brief discussion ensued revolving around the following issues:

- Whether the Yellow Legged Gull should also be included in the measures;
- Clarifications with regards to the requirement to report on species vs functional groups;
- The issue of availability of scientific data;
- An assessment of the status of Storm Petrel that is presently being carried out through the LIFE+ project spearheaded by the BLM.

10. Information pack regarding Regulations of relevance to Ornis

10.1 The MEPA representative presented a compendium of regulations and policy documents which may serve as an “Official Manual” for reference by the Ornis Committee.

10.2 With reference to EU management plans for Turtle Dove and Quail, the FKNK representative noted that both species are mistakenly cited as breeding in Malta. It was pointed out that the Commission was already informed of the fact that these species do not breed in Malta, however at this stage the EC management plans cannot be amended. The correction will once again be pointed out to the Commission through Malta’s response to the questionnaires, circulated by the EU Ornis Committee, regarding the status of implementation of 13 management plans for huntable species.

11. Marking of Protected Area boundaries (as per L.N. 79/2006; and amended SL 504.71)

11.1 Inspector Ramon Mercieca informed the Committee that the Minister responsible for the Police has received a number of complaints from the hunters who are claiming that the boundaries of certain bird sanctuaries, particularly those of the Ghadira nature reserve and the adjacent Foresta 2000 site are unclear, which results in some confusion over the precise areas where hunting is prohibited. It has been suggested that the boundaries of these areas are physically marked on site.

11.2 Mr. Sergei Golovkin remarked that these areas are clearly delineated on maps published as part of the Legal Notice 79 of 2006 and that marking the boundaries physically on site may be impractical due to the extent of the areas in question and also due to the possibility of causing further confusion since multiple land markers are often present in various areas. He suggested that instead of the physical marking of these boundaries, there has to be an effective information campaign which should aim to ensure that all hunters are clearly aware of the site boundaries as delineated on maps included in legislation. Furthermore, billboards containing maps of the boundaries should be erected on site.

11.3 The MEPA representative noted that such billboards are already being planned for each Natura 2000 site as part of the management planning project. The billboards would clearly delineate areas where hunting may be restricted or prohibited, and as a result, this should address the issue.

11.4 There were also remarks about the fact marking boundaries in one bird sanctuary and not others would prejudice future court cases where violations of hunting within bird sanctuaries, making such prosecutions impossible.

12. Derogation Report

12.1 The Chair informed the Committee that the formal spring hunting derogation report has been submitted to the Commission on the 5th of June. The summary of the report containing SMS data will shortly be published on the MEPA website.

12.2 BLM asked when will such a copy of the report be circulated since this was promised by Victor Aguis in an earlier meeting. BLM clarified that the requests was not for data which would not normally be disclosed (such as court prosecutions containing personal data) but for data which is normally published like SMS reports, types of convictions, etc. as well as the migration study commissioned by MEPA.

12.3 With regards to the proposed independent migration study for Turtle Dove and Quail in the Autumn, Sergei Golovkin explained that the government is committed to undertaking such a study, but its implementation is contingent on the availability of the necessary financial resources. No budget for this study has been allocated for 2013, however the Wild Birds Regulation Unit is making necessary arrangements with the Ministry of Finance to ensure that a provision to that effect is made in the government budget for 2014.

13. Information note regarding proposal to fix dates of autumn hunting season in legislation

13.1 Mr. Sergei Golovkin informed the Committee that following previous Ornis Committee recommendations dated 16th August 2012 concerning the fixing of autumn hunting dates in legislation, the Ministry sought advice from Malta's Permanent Representation in Brussels (PREU). The Ambassador's advice was as follows:

“The proposed amendments aimed at permanently fixing autumn hunting dates can however prove to be problematic for the following reasons:

The scope of the Birds Directive relates to the conservation of all species of naturally occurring birds in the wild state in the European territory of the Member States. In fact Article 5 states that Member States ‘shall take the requisite measures to establish a general system of protection for all species of birds....prohibiting in particular (a) deliberate killing or capture by any method’. Therefore a fundamental premise of the Birds Directive is that all birds should be protected.

The Directive provides however that, some birds, owing to their population level, geographical distribution and reproductive rate throughout the Community (listed in Annex II of the Directive) ‘may be hunted under national legislation’, in terms of the provisions of Article 7.

In this context, it is imperative to note that Article 7 of the Directive stipulates as follows:

Art 7(1) “... Member States shall ensure that the hunting of these species does not jeopardize conservation efforts in their distribution area”; and

Art 7(4) “... Member States shall ensure that the practice of hunting ... complies with the principles of wise use and ecologically balanced control of the species of birds concerned and that this practice is compatible as regards the population of these species in particular migratory species, with measures resulting from Article 2. ...”.

Article 2 of the Directive stipulates that “Member States shall take the requisite measures to maintain the population of the species ... at a level which corresponds in particular to ecological, scientific and cultural requirements, while taking account of economic and recreational requirements, or to adapt the population of these species to that level.”

In view of the above it is clear that the proposed draft Legal Notice should follow a comprehensive analysis and well informed decisions taken at the highest political level. It is also clear that, following such analysis, should the Government’s intention remain to go ahead with the proposed amendments to permanently fix the autumn hunting season, such proposed amendments cannot merely establish the dates of such season. They will need to refer to the individual species concerned, show how the hunting of these species does not jeopardize conservation efforts in their distribution area and indicate how the practice complies with the principles of wise use and is compatible as regards the population of these species, including measures taken to maintain population levels of these species, as required by the abovementioned Articles of the Birds Directive.”

The FKNK representative expressed disagreement with this argumentation, on the basis of the following logic:

- In Malta autumn season dates have not changed since 2006;
- Other EU MS have hunting seasons fixed in legislation;
- There is a political commitment to ensure that Maltese hunters are not discriminated in relation to their EU counterparts when it comes to the interpretation of the Birds Directive, and;
- Since autumn hunting is recognised as a legitimate activity by the Birds Directive and the implementation of the season does not require a derogation, there should be no legal reason to withhold the fixing of the dates in legislation.

It was agreed that the Permanent Representative would be asked to confirm prior advice in relation to the above, given FKNK’s argumentation, and given other developments³. It was proposed this item should continue to be debated at the next Ornis session.

³ The Ministry has subsequently consulted PREU again, and received on 2nd July confirmation that their prior advice still applies. Furthermore, the Permanent Representation advised that since the autumn hunting season dates have always been established and remained unchanged since 2006, the existing legislative regime has worked well both in terms of providing the hunters with a constant and unchanged opportunity to hunt during the autumn and in terms of keeping criticism of the regime from the Commission at bay. Hence the strong recommendation from both the EU Secretariat and the Permanent Representation would be to stick to the status quo and to steer away from ending up in a position requiring changes to existing legislation (deemed adequate by the Commission) which the Commission could perceive as a weakening of such a legislative regime.

14. FKNK proposals for hunting during autumn and winter

14.1 The FKNK noted that there is a perception, which it believes is mistaken, that Maltese hunters have an uninterrupted five month hunting opportunity for Turtle Dove and Quail in autumn, which perception is being fuelled by anti-spring hunting lobbyists. This perception is clearly mistaken, not only because the ECJ and the Commission have recognised Malta's right to apply spring derogation due to absence of a satisfactory alternative in autumn, but also because the real hunting opportunity for Turtle Dove and Quail is limited to a brief season in September and October (for Turtle Dove) and September to November for Quail, which brief season is also "interrupted" but what the FKNK believes to be an unjust and punitive "curfew" applicable between 15th and 30th of September. Given this situation, the FKNK is proposing to legally limit the season for Turtle Dove to the period from 1st September to 31st October, and to limit the season for Quail to the period from 1st September to 30th November.

14.2 It was proposed that this item should continue to be debated at the next Ornis session, whereby all implications of this proposal should be considered.

15. Proposed improvements to Carnet de Chasse system for autumn 2013 hunting season

15.1 Birdlife (Malta) representative briefly explained the essence of the proposal, which aims to strengthen enforcement and monitoring of the uptake of autumn hunting bags. The proposal is particularly significant because of the link between the autumn bags for Turtle Dove and Quail and the quotas used for spring derogations. The proposal involves the introduction of a tagging system for bagged birds, whereby each bagged bird can be tagged with a tagging device bearing an identification number, which tags may be subsequently returned to the authorities possibly together with Carnet de Chasse. The system aims to provide an added verification mechanism in addition to Carnet de Chasse.

15.2 A debate ensued whereby several Committee members including FKNK questioned the practicality and effectiveness of the proposal on the grounds of it being impractical and costly, possibly presenting a health hazard for the officials who may be charged with collecting tags at the end of the season, and not addressing the core issue of the veracity of reporting which hinges on self-compliance by hunters who are required by law to report their bags accurately through Carnet de Chasse. The proposal does not address the main issue of compliance because hunters who tend to ignore their legal obligation to report their bags truthfully through Carnet de Chasse are also likely to ignore their obligation to tag the birds and to send these tags to the authorities. Whilst noting that similar systems are in use in other countries including in the US and Canada, it was also pointed out that these systems are designed mainly for large game hunting (deer, etc) or for trout fishing and as such are ill-suited for bird hunting.

16. Proposal for changes to 2013 rabbit hunting season (although this is now open as of 1st June)

16.1 Discussion on this item will be postponed to another Ornis session.

17. Proposal for extension of 3pm hunting curfew to cover peak bird of prey migration in September/October 2013

17.1 Postponed to the next Ornis session.

18. Other matters

18.1 No substantive matters were raised.

The meeting was adjourned at 1830 hours.