

Meeting of the Malta Ornis Committee

Wednesday, 27th June 2018, WBRU, MESDC, Sta Venera
1630 - 1800

Minutes

Participants:

Magistrate (retd.) Dr Denis Montebello – Chairman
Mr Richard Lia – Secretary
Mr Nicholas Barbara – BirdLife (Malta)
Mr Mark Sultana – BirdLife (Malta)
Mr Joe Perici Calascione – FKNK
Mr Joseph Tabone – Member nominated by Government
Mr Marco Falzon – Member nominated by Government
Mr Horace Micallef – Member nominated by Government
Mr Frank Vassallo – Hunting and live-capturing expert

Excused: Mr Lino Farrugia – FKNK; Mr Mark Gauci – Avifauna expert; Ms Maria Attard – Representative of the Environment and Resources Authority

1. Approval of the agenda

1.1 Agenda was approved.

2. Matters arising and matters to report

2.1 Chairman made reference to the recent updates regarding Ombudsman Case ES 0024 on the Blue Rock Thrush study and noted that this has already been included as agenda item 4.

3. Approval of the minutes of the meeting held on 16/05/2018

3.1 Lino Farrugia's proposed amendments to the minutes of the previous meeting were received via email on 28 May and were tabled by the Secretary. The proposed amendments were discussed and reviewed by the Committee. The minutes were subsequently amended and approved.

4. Update on Ombudsman Case ES 0024: Blue Rock Thrush study and proposer's request to discuss ringing requirement with Committee

4.1 Chairman informed members that he had discussed matter with the Ombudsman on 25 May, highlighting his worry that the Ombudsman is now involving himself in technical issues that are beyond his terms of reference and competence and to also point out that if he considers that he had conclusively ruled that "ringing is not essential" and that he can also conclude on his own whether the "use of services of a foreign bird-ringer is not essential", then he would now be taking the role of reviewer of Ornis technical decisions and recommendations, even when reached in accordance with the law and rules of equity. During the discussion with Ombudsman, it seemed to be the case that the whole issue flared up again because the proposer of the study could not find a competent and willing foreign bird-ringer and that he will be writing to Ornis highlighting his difficulty and asking whether the Committee would relieve him of the obligation of ringing. Such request was formally submitted by the proposer to the Chairman in a letter dated 18 June 2018.

4.2 The Chairman requested this issue to be concluded during the next Ornis Committee meeting in the presence of the proposer of the study. The Secretary will be inviting proposer to attend the next Ornis Committee meeting.

5. ECJ verdict on Case C-557/15 and implications on the recommendations on the application of autumn live-capturing derogations

5.1 The Secretary provided a summary of the Court judgment, explaining that Malta was found to be in breach of the Birds Directive on all four counts, namely:

1. *The 2014 and 2015 declarations do not contain any reference to the absence of another satisfactory solution nor do they constitute decisions containing a clear and sufficient statement of reasons concerning the condition of the absence of another satisfactory solution laid down in Article 9 of Directive 2009/147.*
2. *Malta has not adduced sufficient evidence that its derogation regime for the trapping of the seven finch species in question makes it possible to ensure the maintenance of the populations of those species at a satisfactory level.*
3. *The exploitation of the birds in question through trapping for recreational purposes cannot, in any event, be considered judicious and [...] the method of capture is non-selective.*
4. *Malta failed to adduce evidence that the derogation at issue is used under strictly controlled conditions, within the meaning of Article 9(1)(c) of Directive 2009/147.*

5.2 The Chairman requested the Secretary to seek Government's position regarding live-capturing derogations given ECJ's verdict. Joe Perici Calascione remarked that FKNK are currently evaluating the content of ECJ's verdict to check if it is possible to apply a derogation that would be deemed acceptable by the European Commission. He also made it clear that the Court decision did not and could not impinge on Malta's right to apply another derogation that takes due note of the remarks of the Court.

5.3 Mark Sultana stated that the Committee should advise Government on the basis of the verdict since certain aspects of the sentence affect live-capturing of Golden Plover and Song Thrush.

6. Sampling of Yelkouan Shearwaters: population genetics (LIFE Arcipelago Garnija)

6.1 The Secretary outlined the main objectives and methodology of the proposal as submitted by the EU-LIFE Arcipelago Garnija Project Manager, in partnership with the University of Barcelona. The proposed derogation entails the collection of blood samples from the foot vein of up to twenty specimens of *Puffinus yelkouan* during the months of June and July 2018, using a widespread and well established standard procedure in studies on wild birds around the globe with no measurable detrimental impact on the birds. The blood samples will be shipped to Spain and will form part of an international study on population genetics of Yelkouan, Balearic and Manx Shearwaters.

6.2 The Secretary noted that the proposal was submitted during the same month when the proposed sampling was intended to be carried out and pointed out that proposals for the application of derogations should invariably be submitted for the Committee's deliberation well in advance of the period during which the study was expected to be carried out. Mark Sultana acknowledged this concern and stated that he will make sure that in future, such proposals are submitted in a timely manner.

6.3 Joe Perici Calascione objected to the methodology, remarking that handling and especially the taking of blood samples would cause undue stress to the birds.

6.4 The proposal was put to the vote with two votes in favour, one against and three abstentions. The proposed derogation was approved, limiting the sampling period to the month of July only.

7. Any other business

7.1 Nicholas Barbara requested the Secretary to put on the next agenda the Turtle-dove International Species Action Plan. The Committee agreed to reconvene on 25th July. The meeting was adjourned at 1800 hrs.