

**Meeting of the Malta Ornis Committee
(Video conference)**

**Wednesday, 1st April 2020,
1630 – 1920**

Minutes

Participants:

Dr Joseph Grech – Chairman
Mr Richard Lia – Secretary
Mr Nicholas Barbara – BirdLife (Malta)
Mr Marco Falzon – Member nominated by Government
Mr Mark Gauci – Avifauna expert
Mr Horace Micallef – Member nominated by Government
Mr Joe Perici Calascione – FKNK
Mr Darrin Stevens – Representative of the Environment and Resources Authority
Mr Mark Sultana – BirdLife (Malta)
Mr Joseph Tabone – Member nominated by Government
Mr Frank Vassallo – Hunting and live-capturing expert

Excused:

Mr Lino Farrugia – FKNK

1. Approval of the agenda

- 1.1 The Secretary welcomed the Committee members to the video conference and requested to proceed with approval of the previously-circulated agenda, specifying that items 4, 5, 6 and 8 are subject to a vote.
- 1.2 Mark Sultana requested Chairman's permission to make a statement before proceeding with approval of the agenda, pointing out that BirdLife Malta had already made their position on the Wild Birds Regulation Unit and the legislation clear. Mark Sultana requested the Chairman or the Head of the Wild Birds Regulation Unit to specify whether the decisions that will be taken during this sitting will be reported to the Minister for the Environment as requested by law, or to the Minister for Gozo. The Secretary replied that WBRU has been assigned under the Ministry for Gozo since January 2020 and that as Head of WBRU he reports directly to the Ministry for Gozo, whilst in his capacity as Secretary of the Committee he reports to both the Minister for Gozo and the Minister for the Environment.
- 1.3 Mark Sultana remarked that SL 549.42 specifies that the Wild Birds Regulation Unit is the Unit established within the Ministry responsible for the Environment adding that the law does not state that both Ministers have to be informed and that it is the Government that is requesting the Head of Unit/Secretary to do so, stating further that whatever functions carried out by WBRU under the Ministry for Gozo are *ultra vires*. Mark Sultana also stated that he will not decide on the matter himself and that BirdLife Malta will only participate in this meeting in a limited manner without prejudice, because any decision that is taken by Ornis and until the matter related to where the WBRU stands is clarified, BirdLife Malta reserves the right to take all legal action so that the matter is revised. Mark Sultana added that BirdLife Malta will nonetheless participate in the deliberations of the Committee but within this preamble for the fact that the legal decision will be that of the Minister for the Environment, adding that although a proposal may be that of the Minister for Gozo, the law will be signed by the Minister for the Environment.

- 1.4 Joe Perici Calascione remarked that he has a point of order in relation to the agenda, stating that on the basis of information received, the Cabinet requested the Ornithology Committee to meet to discuss spring hunting season, hence failing to see why the agenda had to include other items given that the Committee was only requested to discuss spring hunting. Mark Sultana pointed out that on 24 January 2020, BirdLife Malta requested WBRU to issue a derogation related to studies that were being carried out but WBRU had replied that the Committee was dissolved and hence cannot make any decision on this matter, notwithstanding that the study was expected to commence in February. Mark Sultana added that subsequently, it came to BirdLife Malta's knowledge that WBRU was mistaken in stating that the Committee was dissolved. The Secretary clarified that the Committee did not meet on the basis of legal advice obtained by WBRU from AG's office. Mark Sultana added that in that case Cabinet's request for the Committee to meet goes against the advice of AG's office.
- 1.5 The Chairman intervened, stating that the matter is quite simple: members of the Committee offered their resignation and until such resignation is accepted the person offering his resignation is still in office. Mark Sultana questioned why AG's office advised WBRU that the Ornithology Committee cannot meet, adding that on the one hand the Committee is dissolved yet now it is not, stating that it could well be the case that the Committee is not in fact dissolved. Mark Sultana added that further to Joe Perici Calascione's point of order, the other three items might as well be removed from the agenda since BirdLife Malta wanted the derogation in February but it was not processed. Joe Perici Calascione asked whether BirdLife Malta had in fact lost the opportunity to carry out the study due to an administrative issue. Mark Sultana remarked that the derogation had sought sampling of birds that are fitted with a scientific ring which already form part of the Garnija Project and that, as such, the request was very straightforward. Mark Sultana added that BirdLife Malta had subsequently requested whether the authorisation could be given by the Minister given that Ornithology Committee could not meet.
- 1.6 Joe Perici Calascione remarked that if the Committee had to discuss sustainability, BirdLife Malta knows that in reality spring hunting derogation would not lead to any adverse impact, and that for BirdLife it is only a matter of principle, adding that he would not have objected to their sampling proposal. Mark Sultana added that he had no doubt about this since the proposal does not run counter to Joe Perici Calascione's principle, adding that the Cabinet requested to discuss spring hunting yet other items were placed on the agenda, pointing out that BirdLife Malta's request was submitted a long time ago.
- 1.7 The Secretary remarked that AG's office provides legal advice and that as far as he is aware, Cabinet's decisions are sovereign, adding that there have been instances when decisions were taken notwithstanding that AG's Office advice was to the contrary. The Secretary explained that AG's Office had advised WBRU that since the Committee members had just offered their resignation due to change in Ministerial portfolios, it would not have been wise for the Committee to meet, pending an official communication.
- 1.8 The Secretary further explained that BirdLife Malta's proposal to take samples from the two species of Shearwater was submitted in late-January at the same time when there was a change in Ministerial portfolios and during the same period when the AG's Office advice was sought on whether the Committee should meet given that the members had just tendered their resignation. The advice was that before receiving an official communication it would not be wise for the Committee to meet, but at no point did AG's Office state that the Committee *cannot* or *should not* meet, adding further that subsequent to this advice the Committee still did not receive any official reply as to whether the resignations were accepted or not, which explains why no further meetings were held. Mark Sultana took note and stated that the Ministers knew that there were pending derogations but did not perceive these as important or urgent unlike spring hunting when the Committee was requested to meet, thus confirming where Government's priorities lie.

1.9 Nicholas Barbara asked whether FKNK's position regarding Ornis Committee has changed given that they had suspended themselves during the last meeting in November. Joe Perici Calascione replied that they are waiting for a confirmation and that FKNK's position has not changed since, but given the urgency and FKNK's interest in the matter, FKNK attended the meeting like the rest of the members.

1.10 The agenda was subsequently approved.

2. Matters arising and matters to report

2.1 Matters arising and matter to report were discussed before the agenda was approved.

3. Approval of the minutes of the meeting held on 20/11/2019

3.1 The Secretary informed members that the previously-circulated draft minutes included comments submitted by Lino Farrugia and Mark Sultana, in track changes. No further comments were made and hence the minutes of the previous meeting were deemed approved as amended.

4. LIFE Arċipelagu Garnija: Proposed sampling of Yelkouan Shearwater (*Puffinus yelkouan*) and Scopoli's Shearwater (*Calonectris diomedea*). Document circulated in advance of the meeting. Item subject to a vote. Proposed derogation period: 1 February–30 September 2020.

4.1 The Secretary explained that the proposal entails sampling of feathers from up to 300 adult Yelkouan Shearwaters and their fledglings and to take blood samples from up to 20 adult Yelkouan and 20 adult Scopoli's Shearwaters. The Secretary informed members that this request forms part of LIFE Arċipelagu Garnija and that on 27 June 2018, the Committee had already recommended in favour of a similar request for sampling of Yelkouan Shearwaters. The Secretary invited representatives of BirdLife Malta and the expert on avifauna to deliver a brief presentation on the proposal. Mark Sultana stated that the proposal is clear in that it is not a request to capture the specimens per se given that they are already being captured for the purpose of bird-ringing¹. Mark Sultana added that the proponents of the study requested a derogation specifically for taking blood and feather samples from the two Shearwater species.

4.2 Darrin Stevens remarked that ERA does not object to the proposal provided that all the necessary permits required by law are obtained, adding that ERA permits have already been issued. Mark Sultana confirmed that BirdLife Malta has already been issued with ERA permits.

4.3 The proposal was put to the vote. Five members voted in favour (BirdLife Malta, ERA, three members appointed by Government), whereas FKNK and Chairman abstained. The proposal was approved.

5. Outcome of the 2019 air-safety control licence and proposed renewal: Conservation of Wild Birds (Declaration of a Derogation for the Control of Birds in the Interest of Air Safety) Regulations, 2020. Documents circulated in advance of the meeting. Item subject to a vote. Proposed derogation period: 1 April 2020–30 June 2021.

5.1 The Secretary provided an overview of the outcome of last year's air-safety licence, with a focus on the relocation component, noting that a Pallid Harrier, a Montagu's Harrier and a

¹ Bird-ringing is subject to a separate Birds Directive Article 9(1)(b) derogation.

Lesser Kestrel were captured from the airport's precinct and released elsewhere as detailed in the report on the outcome of the study. Both harriers were fitted with a satellite tag and their movements north during pre-nuptial migration together with their subsequent southern migration towards their wintering grounds were tracked over a considerable distance and period of time, as illustrated in the same report submitted by Malta International Airport, which shows the respective flight paths. The Secretary explained that the only difference between last year's licence and this year's proposal is the period of validity—the current proposal seeks a period starting April 2020 until end-June 2021, instead of April 2020 to March 2021. Subsequent derogations would then span from June to June of the following year to encompass both migration periods. The Secretary stated that given that the date of the Committee meeting coincided with the proposed starting date of the derogation period, if approved, the starting date would be from the date of publication of the Legal Notice. The Secretary added that this also applies to the sampling of Shearwaters—validity period of the licence will be from date of publication.

- 5.2 Mark Sultana asked how many specimens MIA is requesting as part of this proposal. The Secretary stated that MIA are planning to satellite tag up to five harrier specimens this year but may catch and relocate more birds of prey and other species that may constitute a threat to aviation safety, depending on how intense or persistent the presence of such birds will be. The Secretary added that the Framework Regulations does not set a limit on the amount of birds that can be relocated—the amount is not known *a priori*, similar to bird-ringing derogations given that the amount of birds fitted with a ring would not be known in advance. The Secretary further explained that this is why only the total amount of birds that are actually fitted with a ring is reported as opposed to reporting a pre-authorised limit. Mark Sultana took note, adding that it would make sense if the Committee asks MIA how many specimens are envisaged to be caught/relocated and the methodology, since the methodology is important.
- 5.3 Mark Sultana added that the Committee should also check whether MIA is interested in fitting the birds caught with a ring supplied by the national ringing scheme prior to their release, adding that MIA can inform BirdLife Malta of the date and location of their release, whoever the person or persons releasing them may be. Mark Sultana added that if a bird fitted with a ring returns to the airport the data would still be important for MIA, pointing out that the ringing scheme could supply the rings and that this should form part of the derogation.
- 5.4 The Secretary requested members whether they agree with Mark Sultana's suggestions and whether the Committee should communicate with MIA in this regard. Darrin Stevens asked for a clarification on what specific information is being requested, whether MIA will be requested for the methodology and whether MIA would consider bird ringing. Joe Perici Calascione asked whether Mark Sultana is requesting whether the quantity per species subject to relocation should be specified *a priori*. Mark Sultana replied that rather than the species, given that we know that MIA is interested in Harriers, which do not amount to more than four species, the approximate amount should be known as this is linked to MIA's capacity at least insofar as the maximum amount that can be relocated at any one time is concerned—whether MIA can relocate, for example, fifty specimens or five at any one time.
- 5.5 Mark Sultana also asked for information about the procedure that is proposed to be in place in terms of temporary housing from the first specimen caught until, say, the tenth and last one is caught. Mark Sultana asked how long the procedure will take from the first to last specimen caught, whether the specimen will be kept in a cage overnight, where it will be kept, and what security measures will be in place. Mark Sultana further remarked that MIA's proposal is very interesting, adding that it is a request that the Committee should consider, adding that nonetheless there are other components of the proposal that should be explored further.
- 5.6 Joe Perici Calascione stated that there is the overriding issue of air-safety. Mark Sultana added that an important consideration is scientific value or if it can be ascertained that the birds will not be subjected to any harm—if a bird is captured and released early in the morning, are we

causing it any harm? Mark Sultana added that the Committee does not have such information, and hence the need to ascertain where they are being kept and their security. Joe Perici Calascione remarked that he has no problem with requesting this information. Mark Sultana added that the Committee should also ask MIA whether they are willing to allow these specimens to be fitted with a ring.

5.7 The Secretary requested a clarification on the bird-ringing component, whether the request is for BirdLife Malta's licensed bird-ringers to be allowed to fit rings on these specimens. Replying to Joe Perici Calascione's remark that there is no-one else authorised to carry out bird-ringing, the Secretary clarified that MIA had engaged the expertise of a foreign bird-ringer, adding, however, that it is unlikely he will be using rings not issued by the national ringing scheme. Mark Sultana replied that foreign bird-ringers cannot use their own rings, but BirdLife Malta can supply the rings, as they had proposed for the Blue Rock Thrush study. Mark Sultana further stated that as far as BirdLife Malta is aware, MIA should not find any objections for their members to fit rings on the specimens caught and that this should be considered a good way of working together. The Secretary stated that, if the Chairman agrees, he would proceed with circulating a draft request for information for the Committee's review prior to onward forwarding to MIA. Chairman agreed. Voting was postponed to the next available Committee meeting.

6. Outcome of the Blue Rock Thrush pilot study and request for renewal. *Documents circulated in advance of the meeting. Item subject to a vote.* Proposed derogation period: extension to recapture tagged specimens.

6.1 The Secretary outlined the main outcome of last year's study which was issued under the terms of a special licence with validity period 24 February 2019 to 24 February 2020. A total of eight Blue Rock Thrushes were fitted with a geo-locator. The proposal seeks an extension for the recapturing of these eight specimens since they were not recaptured during the validity period of the licence, adding that the proposal does not include fitting of additional geo-locators.

6.2 Mark Sultana stated that the Committee needs to consider that when the proposal was first discussed, BirdLife Malta had informed the proposer of the study not to use data loggers since the specimens would need to be recaptured. Mark Sultana added that, unlike Shearwaters which frequent the same nesting burrow, the Blue Rock Thrush may frequent different sites within the same coastal cliff, and in many instances the data loggers do not work. Joe Perici Calascione remarked that the Committee will confirm this once the data is retrieved.

6.3 Mark Sultana replied that attempts to recapture the birds fitted with a data logger has so far failed so much so that a request for an extension has been submitted. Mark Sultana also stated that the main concern relates to the methodology—birds are being fed to be captured, which means that since the data loggers are difficult to see unless the bird is handled, how will a distinction be made between birds that are fitted with a logger and those that are not? Replying to Joe Perici Calascione's comment that birds not fitted with a logger should be immediately released, Mark Sultana stated that this is not only something that should be done but, legally, birds not fitted with a logger should not be captured in the first place since the objective of the derogation is to recapture the specimens fitted with the data logger.

6.4 Mark Sultana reiterated that if a study's value to research is questionable, the proponent should not be hindered from carrying out the research to prove that it does not in fact provide added value to research. Joe Perici Calascione asked whether the birds were fitted with a ring. Mark Sultana replied that according to the report, eight specimens were captured but this cannot be verified since no photos showing specimens fitted with a data logger have been submitted. Mark Sultana questioned the validity of this study, adding that even if the proposal had to be accepted by the Committee, there are still many questions that need to be asked.

- 6.5 Mark Gauci questioned where a line should be drawn by the Committee in terms of scientific research, noting that this is a study which is supposed to establish the dispersal patterns of the birds, but since these birds are being fed to be captured and fitted with a data logger, the data is already skewed on the assumption that the specimens will visit the same site. Mark Gauci added that this is the remit of the methodology, questioning whether at this stage this should be delved into. Mark Gauci further added that lessons learned from this case should allow the Committee to be more stringent in terms of methodology because, in his opinion, it is flawed. Mark Gauci also requested ERA's position and that of other members on the issue of feeding birds in order to capture them for placing geo-locators, maintaining that this would affect their behaviour. Joe Perici Calascione replied that if feeding had to take place regularly then one could argue that the methodology is flawed, but in this case feeding was done as a one-off. Mark Gauci replied that since it has become customary to feed birds for photography and that it is likely that these birds were already being fed in these areas, there was a high confidence that they would be recaptured. Joe Perici Calascione replied that he was not aware of this.
- 6.6 Mark Sultana stated that BirdLife Malta had requested the birds to be fitted with a ring since there is a possibility that all the effort in geo-tagging may actually yield no results, also considering that the loggers provide data for only one year. Mark Sultana added that in the event that a specimen is controlled in Sicily after the lifespan of the data logger, the bird-ringer would not know the origin of the bird—the benefit of ringing is that the data can be retrieved even when it was presumed lost. Joe Perici Calascione replied that as far as he is aware, the issue with the proposer of the study was not that the birds are fitted with a ring but rather that BirdLife Malta carried out the ringing. Mark Gauci replied that initially Dr Fenech proposed the services of a foreign bird-ringer and at the time BirdLife Malta had offered its rings, but it was subsequently deemed prohibitively expensive in terms of travel costs. Mark Sultana added that there are a number of questions that should be asked, but if the Committee is inclined in recommending the derogation so that Dr Fenech could catch the eight specimens in the hope that some have the data logger, than the Committee should recommend it. Mark Sultana reiterated that nonetheless he has serious doubts about this study.
- 6.7 The Secretary read part of the methodology included in the report dated February 2020:
- Leg loop harnesses were used to fix the geo-locators on the birds' back. Some birds were re-captured a few days after the logger was fitted and there were no signs of stress or abrasions on the birds. Several birds were photographed (particularly singing males which use the same perches) after the tagging process. The tags were not visible on any of the birds.*
- 6.8 The Secretary remarked that on the basis of the above, it will not be possible to identify those specimens that are fitted with a geo-locator hence cannot specifically be targeted for recapture, which means that the authorisation has to take this issue into consideration. Joe Perici Calascione stated that Dr Fenech has to catch a certain amount in the hope that some are fitted with the geo-locators. The Secretary pointed out that if the proposed derogation is approved, the Committee has to consider that there may be specimens caught that are not geo-tagged. Mark Sultana remarked that although he does not agree with the methodology, the Committee should not oppose the request to retrieve the data loggers and that a limited extension of say three or six months should be allowed but thereafter, no further extensions should be considered. The Secretary reminded the Committee members that this study was subject to an Ombudsman case and recommendation. Mark Gauci stated that whilst keeping in mind Ombudsman's recommendation and the fact that this study was the first of its kind, and also keeping in mind other requests that the Committee might have in future, apart from this proposed extension, it is opportune for the Committee to dedicate some time to analyse its recommendations so that any future requests will be reviewed on the basis of past experience to ensure that any mistakes are not repeated.

- 6.9 The Secretary was asked whether Dr Fenech is requesting an extension for an entire year. The Secretary replied that the period is not specified in the submission and is thus being considered subject to the Committee's recommendations. Mark Gauci stated that since the data loggers have a twelve-month validity period, we need to confirm when the specimens were fitted with the loggers and add an additional twelve-month period. The dates when the eight specimens were fitted with a geo-locator were provided by the Secretary as follows:
1. Adult male on 26 February 2019
 2. Adult female on 28 February 2019
 3. Second year male on 1 March 2019
 4. Second year male on 28 March 2019
 5. Two first-year males and two first-year females on 27 June 2019
- 6.10 Mark Sultana remarked that the licence should be issued until end-June 2020 as suggested by Mark Gauci. Mark Gauci agreed, noting that first-year birds are unlikely to be recaptured since they would have established a different territory elsewhere, unless the adult male within that territory died. The Secretary asked whether additional extensions are to be considered in the event that the tagged specimens are not recaptured. Mark Gauci replied that no additional extensions should be considered since no data can be retrieved beyond the one-year lifespan of the data loggers.
- 6.11 Mark Sultana asked Mark Gauci to clarify whether the data loggers would lose all data or whether they would stop recording data after their lifespan. Mark Gauci stated that he would need to check but Joe Perici Calascione remarked that it does not make sense for a data logger to lose all its data after one year. Mark Sultana however pointed out that there are data loggers that would lose all the data once their lifespan has elapsed.
- 6.12 The Committee agreed that Dr Fenech should be given the opportunity to recapture the specimens but also requested clarification on the battery life of the data loggers and the timeframe within which these can be retrieved including photos showing how the loggers were fitted. Nicholas Barbara remarked that according to Dr Fenech's report, the battery life of the data loggers is one year. Mark Sultana replied that although the battery life is confirmed to be one year, the Committee does not have information on whether the data will be lost after one year, and asked whether it would still be possible to extract the data if the logger is retrieved after the battery's lifespan. Nicholas Barbara replied that the data will not be lost but the longer it stays on the specimen the higher the risks that it is either lost or damaged. Joseph Tabone pointed out that according to the report submitted, batteries normally last about a year and that catching birds tagged late in the year would mean loss of possible data.
- 6.13 The Chairman remarked that if authorisation is issued until end-June 2020 and Dr Fenech considers that he requires an additional extension, then he should submit a request to the Committee, adding that since we are now already in April, a three-month period is effectively until June. Darrin Stevens pointed out that since the Committee is discussing a derogation, it is subject to publication of a Legal Notice and hence the timeframes until the Notice is published must also be taken into consideration and should not be construed as a stumbling block to the proposed extension. The Secretary remarked that the three-month period should commence from date of publication and both Darrin Stevens and the Chairman agreed. The Secretary clarified that although notices of derogation are published as a Legal Notice when governed by Framework Regulations (e.g. [SL 549.57](#), [SL 549.74](#), [SL 549.85](#)), the fourth proviso to Regulation 6 of SL 549.42 refers to publication of a notice in the Gazette. The Secretary added that research derogations not governed by Framework Regulations are published as a Government Notice (e.g. [GN 881/2018](#)), although the procedures and timeframes required to publish a Legal Notice and a Government Notice are similar.
- 6.14 Mark Sultana pointed out that whilst the Committee should allow for a three-month period from date of publication, the Minister should also be informed that the Notice should be published

as soon as possible so as not to extend the proposed recapturing unnecessarily. The Secretary asked for a confirmation that the data in the geo-locaters will not be lost so that a way forward can be established. Mark Sultana confirmed but added that the longer it takes for it to be retrieved the higher the risk that the data would no longer be viable. Darrin Stevens pointed out that whilst ERA finds no objection to the proposed extension, it is subject to all other permits as required by law and that this also applies to the other derogations discussed earlier. The Secretary confirmed that all special licences are issued subject to any other permits or authorisations as may be required by law.

- 6.15 The proposal to extend the research by an additional three months from date of publication of the Notice was put to the vote. Six members voted in favour whilst Chairman abstained.

7. **Conservation status of European Turtle-dove (*Streptopelia turtur*) and Common Quail (*Coturnix coturnix*).** *Document circulated in advance of the meeting.*

- 7.1 The Secretary provided a summary of the previously-circulated report on the conservation status of European Turtle-dove and Common Quail, focusing on short-term and long-term population trends. The Secretary informed the Committee that the latest update on the population status and trends of species at EU level is not yet available online², hence it was not possible to provide an update on Member States' Article 12 reports for the current (2013–2018) reporting period.

Common Quail (*Coturnix coturnix*)

- 7.2 The Secretary pointed out that the breeding population trend of the Common Quail (*Coturnix coturnix*) at EU27 level is **Decreasing** in the short-term and **Unknown** in the long-term, adding that the EU population status is **Unknown**, as the data reported was not sufficient to assess the population status of the species. The Common Quail has an IUCN Least Concern classification at both the EU27 and European scale and its population within EU27 constitutes 41% of the total European population.
- 7.3 The Secretary explained that the Common Quail is not included in the Pan-European Common Bird Monitoring Scheme (European Bird Census Council), adding that on the basis of Article 12 reports at EU28 level (EU27 Article 12 reports for reporting period 2008–2012 + Croatian data for 2004), the Common Quail is **Increasing** in the long-term trend (Min. calling males: +23.49%; Max. calling males: +27.40%). The Secretary further explained that Common Quail is surveyed on the basis of calling males rather than breeding pairs, noting that the percentage increase referred to earlier should be interpreted with caution given that it is based on data pertaining to just under 70% of Common Quail population within EU28—the remaining 31% have an Unknown long-term trend.
- 7.4 In the short-term, the EU28 population of Common Quail has a **Stable** maximum number of calling males (-9.23%) but a **Decreasing** minimum number of calling males (-13.65%). The Secretary explained that trend classifications are considered as stable when the change is equal to or less than $\pm 10\%$.
- 7.5 The Secretary explained that the reference population of the Common Quail has a short-term trend classification of **Stable** in the maximum number of calling males (+6%) but **Decreasing** in the minimum number of calling males (-11.73%), adding that the long-term trend of the reference population is **Unknown** owing to the fact that the source countries reported the status of this species as Unknown.

² *Population status and trends at the EU and Member State levels.* Available at: <https://nature-art12.eionet.europa.eu/article12/summary> (Accessed on 01/04/2020).

European Turtle-dove (*Streptopelia turtur*)

- 7.6 The Secretary noted that according to the latest (2019) data provided by the European Bird Census Council, the Turtle-dove population declined by 80% when compared with the 1980 baseline data and decreased by 17% during the 10-year trend (2008–2017). The Secretary also explained that when compared with the previous (2018) EBCC update, the Turtle-dove population remained at 80% decline in the long-term trend (no change) and increased by 12% in the short-term (10-year) trend (from -29% to -17%). The Secretary further pointed out that in 2015, the EU population status of Turtle-dove (*Streptopelia turtur*) was assessed as Near Threatened, because the species comes close to meeting the IUCN Red List criteria at the EU27 scale. At the European and Global levels the Turtle-dove has been uplisted to Vulnerable.
- 7.7 The Secretary also explained that the reference population is **Declining** in the short-term trend (Min. Pairs: -13.02%; Max. Pairs: -10.61%) but remained **Stable** in the long-term trend (minimum and maximum pairs). The Secretary also remarked that given both the short-term and long-term trend categories for the major source population in Italy (half the total reference population) is 'Unknown', such trend classification should be interpreted with caution.
- 7.8 The Secretary asked members whether they have any comments to make on this update. Joe Perici Calascione noted that whilst the long term-trend of European Turtle-dove remained at 80% decline, it increased by 12% in the short-term trend. The Secretary confirmed, adding that during the previous update, the short-term trend of European Turtle-dove was 29% decline whereas the current update shows a decline of 17%, meaning that there was an increase of 12% when compared with the previous update over the ten-year period. Mark Sultana remarked that this goes to show that the moratorium is having the desired effects at which point Joe Perici Calascione replied that it is being effective for the few thousand Turtle-doves that are hunted in Malta. Joe Perici Calascione stated further that on 10th March, FKNK submitted a proposal to Minister Camilleri to open a spring hunting season for Quail from 10th to 30th April and for Turtle-dove from 15th April to 30th April, with a national bag limit of 3,500 Turtle-doves.
- 7.9 Joe Perici Calascione asked whether the Secretary has anything further to add before voting on spring hunting. The Secretary replied that as was the case in previous years, prior to any vote on spring hunting, a summary of the conservation status of the species is presented so that an informed decision can be made, adding that whilst the population status of Turtle-dove is based on recent EBCC update, that of Quail is now quite dated given that it is based on Article 12 reports for the 2008–2012 reporting period, and hence the Committee should take this into consideration.
- 8. Consideration of the potential application of a derogation for spring hunting including dates of the season and any other relevant criteria. *Item subject to a vote.*** Proposed derogation period: maximum of three weeks, in line with S.L. 549.57.
- 8.1 Mark Sultana stated that FKNK were not correct in submitting their spring hunting proposal to the Minister for Gozo since he is not the competent Minister and that perhaps next time their proposal should have also been submitted to the Minister for the Environment. Joe Perici Calascione replied that he will not delve into this matter. Mark Sultana pointed out that as is customary before voting on the spring hunting derogation, representatives of the Executive Police would be present to discuss enforcement-related matters, adding that this time round given the current COVID-19 pandemic, ALE officers have been assigned enforcement duties related to quarantine and that police resources are now limited more than ever. Mark Sultana stated that over and above all this it is expected to have 7 officers for every 1,000 hunters and that as a citizen he feels that it was a little irresponsible for FKNK to submit a proposal to open a spring hunting season. Mark Sultana further stated that although the Committee did not and is not expected to meet to discuss legal issues, but rather to discuss technical matters, all members casting a vote on spring hunting should be aware that the current health precautions related to this pandemic has affected everyone and that respect should be shown to everyone.

Mark Sultana further remarked that it is not a requirement to have 7 officers/1,000 individuals for someone who opts to go jogging as is required for spring hunting due to statutory requirement. Mark Sultana asked what enforcement measures are in place for the proposed spring hunting season.

8.2 The Secretary informed the Committee that following closure of the application period on 19 March, the Executive Police were provided with a detailed breakdown of applicants residing in Malta and those residing in Gozo, accompanied by the required minimum enforcement deployment as requested by regulation 6 of SL 549.57. Following reply from ALE, the Secretary contacted the Inspector to check whether he would find any objections if his reply had to be read out to the Committee. Since the Inspector did not object, the Secretary proceeded with informing the Committee that according to ALE, *unless the situation improves, which, as you are well aware is highly improbable, or unless we have different instructions, minimum enforcement will surely not be met. This is regarding Malta only.*

8.3 The Secretary also informed the Committee that the coronavirus measures that came into force on Saturday 28 March specify that individuals over 65 years of age and those suffering from particular medical conditions should stay at home. This meant that out of 7,395 (MT: 6,195 | GZ: 1,200) hunters who were initially considered eligible for a spring hunting licence, 1,247 over the age of 65 (MT: 1,082 | GZ: 165) were subsequently rendered ineligible, whilst the number of individuals who suffer from particular medical conditions was still subject to vetting by the health authorities. The Executive Police were informed of the revised figure (7,395 less 1,247 hunters aged over 65) and were also informed of the corresponding minimum enforcement deployment based on 6,148 licences (MT: 5,113 | GZ: 1,035) as the maximum possible number of licences issued, pending vetting of the list of applicants by the health authorities. The Secretary explained that the minimum enforcement deployment based on a maximum of 5,113 applicants in Malta and a maximum of 1,035 in Gozo (excluding over 65s only, pending vetting of list by health authorities) is calculated as follows:

1. Minimum enforcement deployment during permitted hunting hours (until noon, inclusive of weekdays, weekends and public holidays) at 7 officers/1,000 special licences issued:

Malta: 36

Gozo: 7

2. Minimum enforcement deployment outside permitted hunting hours (from noon onwards): two officers.

3. Following closure of the spring hunting season until at least Saturday 9 May, a minimum of 3 officers / 1,000 special licences issued should be on duty during daylight hours, as follows:

Malta: 15

Gozo: 3

8.4 The Secretary also informed the Committee that notwithstanding the revised figures listed above, which meant that the minimum enforcement deployment for 6,148 licences is slightly less than that required for 7,395 licences, ALE's position remained the same, namely that unless the situation improves, or unless they have different instructions, minimum enforcement cannot be met. The Secretary added that whenever the minimum enforcement deployment is requested (spring hunting / live-capturing derogations), such deployment has always been met and in many instances exceeded through deployment of District Police and AFM, adding that the Framework Regulations SL 549.57 state that the Police shall be assisted by hunting marshals and that, within this legal context, District Police and AFM have always been considered as hunting marshals.

- 8.5 Mark Sultana asked whether the Committee has confirmation that District Police and AFM would have enough manpower to be able to supervise the 6,000 or so hunters. Nicholas Barbara added that it is customary for ALE to seek assistance from District Police and AFM and hence it could equally be argued that ALE's reply is a confirmation that District Police and AFM will also not have the required deployment. The Chairman remarked that the matter is of an administrative nature and has to be addressed by the Government, stating, as example, that until a month ago, the traffic section was depleted but all the necessary arrangements were made to cater for the shortfall. The Chairman added that whilst fully aware of the issues involved, in the event of a Committee recommendation, the Committee cannot solve the shortfall itself or assume the role of Commissioner of Police. The Chairman also remarked that if need be the Police can deploy the cavalry as has already been the case when enforcing directives issued by the health authorities.
- 8.6 Nicholas Barbara and Mark Sultana pointed out that it is equally as important for the Committee to discuss the conservation status as it is to discuss enforcement of the derogation, since it is part and parcel of the derogation regime and its associated parameters. Mark Sultana added that although the Committee is not in any way specifying how and where the police are assigned duties, since as rightly pointed out by the Chairman it is the responsibility of the Ministers and the Police Force, the Committee will be taking a decision on spring hunting and hence such recommendation has to be based on the assertion that there will be enforcement, adding that, as things stand, it is clear that there will be no enforcement.
- 8.7 Mark Sultana further added that it is impossible for the Committee to place the onus of enforcement on the Government, that is, to focus enforcement on hunting when fully aware of the situation regarding COVID-19. Joe Perici Calascione intervened, stating that the Committee is a consultative body and makes recommendations to the Minister, both in terms of considerations related to the conservation status of the species and other parameters of the derogation such as enforcement, bag limits, and reporting obligations. Joe Perici Calascione added that as things stand it could well be the case that there will not be enough enforcement, but it is equally within the Committee's obligation to include a clause as part of the recommendation that specifies that if Government decides to apply a spring hunting derogation, it should be ensured that there is the required complement to ascertain that the derogation is properly enforced.
- 8.8 Mark Sultana remarked that this can be included as part of the Committee's recommendation but feels disconcerted to recommend opening of a spring hunting season given the current situation across the globe, and to ask for the required complement so that 6,000 hunters can go out to hunt when we all know what is happening around us. Mark Sultana added that BirdLife Malta will be voting against not only from a conservation point of view but also in view of the current situation related to COVID-19. Mark Gauci asked FKNK's position regarding hunters' age, given that a distinction has been made between hunters in view of the current pandemic and health-related measures in place. Joe Perici Calascione replied that FKNK are following all measures issued by the health authorities regarding vulnerable individuals, adding that, in his opinion, given that by default hunting is practiced individually rather than in groups, those over 65 years of age should still go out.
- 8.9 The Chairman reiterated that Ornis is a consultative committee and hence a recommendation will be made to Government to either open or not a spring hunting season, adding that if Government proceeds with opening the season, all measures should be in place to ensure that there are enough human resources to enforce the derogation. If the Government orders all individuals aged over 65 to stay indoors, irrespective of whether a season is opened or not, they have to stay at home, adding that such issue rests with Government not with the Committee. Mark Sultana replied that the Chairman is correct on the issue of over 65, but to state that the Committee provides a recommendation and then leaves it up to Government to ensure there is enough police is incorrect.

- 8.10 Mark Sultana further pointed out that the Committee could have just as well not met and instead wrote to Government that, provided the conservation status of Quail is good and provided there are 7 police officers for every 1,000 hunters, there are no issues and the season can open. Mark Sultana stated that the reason why the Committee met is to ensure that all parameters of the derogation can be fulfilled and to ensure that the Committee is confident that the Government can implement them, adding that that is why ALE's reply on minimum deployment has to be taken into consideration. Mark Sultana further added that the Committee is duty bound to give a good recommendation not a convenient one.
- 8.11 Joe Perici Calascione disagreed with Mark Sultana's comment, stating that the Committee provides a recommendation on all matters related to the derogation and that in the event the European Commission initiates infringement procedures, such procedures would not be addressed to the Committee or to any member of the Committee but to the Government of Malta. Joe Perici Calascione further pointed out that that is why the decision whether Ornis recommendation should be considered or not rests with the Government, including all issues related to enforcement or lack of, adding that if Government considers that the minimum enforcement deployment cannot be met, then it is up to Government not to declare a spring hunting season.
- 8.12 Nicholas Barbara remarked that enforcement statistics and minimum deployment have always been discussed by the Committee, adding that for some reason this year the Committee is not going to discuss enforcement. Mark Sultana remarked that now that this year the Committee has been informed that the minimum enforcement deployment cannot be reached, the Committee is leaving it up to Government to decide, noting that at the end of the day it was the Cabinet of Ministers that decided that Ornis Committee should meet to discuss spring hunting as opposed to a decision being taken by Cabinet whether to open a season or not without Ornis recommendation. Joe Perici Calascione remarked that he would have had no objection if the Commissioner of Police was present at this meeting so that he would have discussed matter directly.
- 8.13 Mark Gauci added that technically, from a scientific point of view, the process is flawed since the season could have opened earlier for quail, noting that according to the *modus operandi* as agreed by the Committee in November, the experts on avifauna and hunting and trapping matters were supposed to provide scientific background prior to a recommendation by the Committee, adding that this year this cannot be done and that the process is merely rubber stamping. Joe Perici Calascione added that whilst giving the benefit of the doubt to Mark Gauci's argument, it can also be argued that FKNK could have proposed to split the season in two, from mid-March for Quail and until mid-May for Turtle-dove. Mark Gauci replied that it was not the first time that FKNK proposed such dates.
- 8.14 Mark Sultana added that if there had to be respect, such proposal could have been considered, but there is none. Mark Sultana explained that according to an FKNK's official who has a pending Court case for shooting at a Turtle-dove in Mizieħ, who was tagged in FKNK's post, the allocation of hides at Mizieħ for this year will be the same as last year. Mark Sultana maintained that quail hunting is not carried out from hides. Joe Perici Calascione replied that whilst he is not stating that he disagrees with Mark Sultana, respect has to be mutual. The Secretary excused himself temporarily from the meeting.
- 8.15 Following a discussion on poaching, both Mark Sultana and Joe Perici Calascione agreed that illegalities need to be addressed and discussed further in separate fora. Chairman stated that it appears that the discussion has been exhausted and that members should proceed to a vote. The Secretary replied that he had just excused himself from the meeting to get in touch with ALE Inspector, who was asked to clarify whether ALE's reply that the minimum enforcement deployment could not be met also incorporates District Police and AFM so as to relay this information to the Committee. The Secretary informed the Committee that according to the

Inspector's reply, AFM are not usually deployed to assist ALE during spring hunting. The Secretary added that whilst he did not communicate with AFM prior to the meeting, it also appears that neither did ALE, hence it is not clear whether AFM would be in a position to offer the required complement. Mark Gauci asked whether WBRU provides training to the police before the season opens. The Secretary confirmed that it is customary for WBRU to provide training to enforcement officers prior to the season but given the current situation, a copy of the PowerPoint presentation will be forwarded to the enforcement personnel.

- 8.16 Mark Sultana requested information on the application system given that applicants were requested to send an SMS, and asked how this system works in practice during spot-checks, whether the hunter is required to show the SMS. The Secretary explained the application and licensing procedure, pointing out that instead of applying in person at MaltaPost branches, applicants were required to send an SMS to a specific number with details of their name, surname and ID card number. Following closure of the application period on 19 March, the list was vetted against eligibility criteria to ensure that only individuals in possession of a valid general licence (licence not suspended or revoked) to hunt birds on land would be issued with a spring hunting 2020 special licence via registered mail through MaltaPost services.
- 8.17 Darrin Stevens pointed out that ERA is concerned about the indicated decline of birds and is also concerned about enforcement in view of the COVID-19 situation indicated earlier, given that the derogation requires that such prerequisites are in place. Darrin Stevens asked whether BirdLife Malta and FKNK are willing to work together on a reinforcement project to reverse the decline of Turtle-dove and Quail in a scientific manner, subject to all necessary permits as required by law and environmental guidelines. Nicholas Barbara stated that it is very straightforward—not to open the season in the first place. Darrin Stevens replied that his comment was not related to the season but on the decline of the species. Joe Perici Calascione remarked that as a Member State, Malta should provide support to the Common Agricultural Policy to ensure that the adverse effects of agriculture on farmland birds are addressed, adding that, in Malta, birds do not breed in large numbers and that most species do not breed at all. Joe Perici Calascione also remarked that FKNK followed IUCN guidelines and implemented a captive-breeding programme for the release of Turtle-doves, adding that it is Malta's best possible contribution towards reversing the decline of this species. Chairman pointed out that members should keep to the agenda and proceed with finalising item 8 and if need be the Committee should discuss any other business under agenda item 9. Darrin Stevens suggested that the discussion is carried forward to a dedicated meeting between WBRU, ERA, BirdLife Malta and FKNK. The Secretary, Mark Sultana and Joe Perici Calascione agreed.
- 8.18 Nicholas Barbara asked the Secretary whether details on how spot-checks will be carried out have been obtained in view of health issues and issues related to social distancing. The Secretary replied that each A4-sized special licence is issued on the individual hunter, and that all necessary measures should be in place to ensure that a minimum distance of two metres is kept, adding that as is the current procedure when enforcing quarantine measures, protective gear should also be worn by personnel carrying out spot-checks as guided by the health authorities. The Secretary added that hunters in possession of a special licence are legally required to immediately report each catch made by means of an SMS sent to the number indicated on the licence. The procedure for verifying the SMS sent should also ensure that the measures and guidance set out by the health authorities are respected, adding that enforcement personnel have already received the necessary training (related to *inter alia* enforcement of mandatory quarantine) to ensure that all measures established by the health authorities are followed, even in the event that stricter directives are imposed.
- 8.19 The Chairman reiterated that this is precisely why the remit of the Committee is to make recommendations as previously discussed, at which point Mark Gauci made reference to Mark Sultana's previous comment that the Committee could in that case not have met and left it up to Government to decide on whether or not to open a season. The Secretary remarked that an informed decision should be made after all parameters of the derogation have been assessed,

including minimum enforcement deployment. Marco Falzon pointed out that the final decision rests with the Government, including any decision to introduce other means to ensure that the strict supervision component and minimum enforcement deployment are met, adding that the Committee is duty bound to recommend to Government and to include any conditions that it deems necessary to ensure proper implementation of the derogation. Chairman agreed, noting that the Committee can recommend the opening of the season including all relevant conditions but the Government may decide not to open the season if, for example, the minimum enforcement condition cannot be met.

- 8.20 Following a lengthy discussion by the members on who should be deemed competent to enforce the derogation, whether ALE or other enforcement personnel, Nicholas Barbara asked how many quail were reported hunted during the previous autumn. The Secretary replied that as specified in the previously-circulated e-mail correspondence, the number of quail hunted in autumn 2019 was 103 (64 in September, 35 in October, 3 in November and 1 in Dec 2019). The Secretary also referred to the proportionality principle enshrined in Annex I of the Spring Hunting Framework Regulations, which specifies that no spring hunting season shall open if the amount of quail hunted during the previous autumn season exceeds 20,000 and that the maximum bag limit of 5,000 quail may be allowed if the number of quail hunted during the previous autumn season does not exceed 10,000.
- 8.21 Nicholas Barbara asked how many hunters participated during autumn 2019. The Secretary explained that between September 2019 and January 2020, a total of 987 separate SMS reports were submitted by 294 hunters for a total of 2,736 birds hunted on land³. Mark Sultana stated that whilst BirdLife Malta is not against removal of individual bag limits, if hunters do not participate in game reporting notwithstanding the absence of individual quotas, one cannot state that we have the best available data on the number of birds hunted, adding that if the best available data is not good enough, scientific data should be used to extrapolate it. Mark Sultana stated that, as an example, if 100 hunters declared catching a quail and 10,000 did not report anything, the data has to be extrapolated. Chairman proposed to proceed with a vote on whether a season should open in principle and, if the Committee decides in favour, a vote on the parameters of the season should also be taken.
- 8.22 Following a discussion on whether the Committee should vote for quail only or for both quail and turtle-dove, and after the Secretary clarified that last year the Committee had put the proposal for spring hunting of Turtle-dove to a vote, the Committee proceeded to a vote as follows:
1. whether the season should open for European Turtle-dove
 2. whether the season should open for Common Quail
 3. dates of the season and hunting hours
- 8.23 The Committee voted against opening a spring hunting season for Turtle-dove, with one vote in favour (FKNK), two against (BirdLife Malta and ERA) and four abstentions. The Committee proceeded with a vote on whether a spring hunting season should open for Quail. Five members voted in favour and two against (BirdLife Malta and ERA). Mark Sultana asked ERA representative whether an individual hunting within a Natura 2000 site requires an ERA permit. Darrin Stevens replied that the current legal interpretation is that no such permit is required. Mark Gauci questioned whether the Committee should include a clause that the recommendation is without prejudice to the final decision of the Superintendent of Public Health, especially considering that a risk assessment on hunting is still pending. Chairman stated that such clause is in itself obvious. Mark Gauci pointed out that apart from the deliberations of this particular sitting, the Committee should give more weighting to scientific advice. Darrin Stevens stated that, as was the case in previous years, ERA's position is that the

³ The 2019 report on game reporting data is available at:

<https://environment.gov.mt/en/Document%20Repository/WBRU/2019/reportsStats/grdReport19.pdf>

recommendation to open a spring hunting season should be accompanied by a request to ensure that the statutory enforcement deployment is in place, specifying the need for no impact on protected areas, adding that there were no significant issues in this regard in previous years.

- 8.24 With reference to the previously-circulated draft notice of derogation, which mirrors the parameters of the 2019 spring hunting season, Darrin Stevens pointed out that according to the Spring Hunting Framework Regulations, SL549.57, the individual daily and individual seasonal bag limits are mandatory since regulation 5(b) specifies that each licence shall set individual bag limits. Mark Sultana remarked that last year's Committee recommendation to remove the individual bag limits was *ultra vires* and that the removal of individual daily and individual seasonal bag limits is subject to an amendment to the legal notice. The Secretary stated that whilst the second proviso to regulation 3 refers to the size of the bag limit to be allowed for that particular spring hunting derogation (national bag limit), it does not make specific reference to the individual daily and seasonal bag limits, contrary to what is subsequently specified in regulation 5(b), which requires each licence to set the daily and seasonal bag limit (individual daily and individual seasonal bag limits). Chairman pointed out that following recommendation of Ornis Committee, AG's Office will proceed with amending the legal notice.
- 8.25 The Committee proceeded with a vote on the dates of the season and hunting hours. The season for quail from 10 April to 30 April, inclusive of both dates, from two hours before sunrise until noon on weekdays, weekends and public holidays was approved with five votes in favour, one against (BirdLife Malta) and one abstention (ERA). The Committee's recommendation included a condition that the season shall be applied in full compliance with the parameters of the Spring Hunting Framework Regulations, including statutory minimum enforcement deployment to ensure that the derogation is implemented correctly and under strictly supervised conditions. Chairman added that since the Committee recommended that no individual daily or individual seasonal bag limits are to be set, as per previously-circulated draft legal notice mirroring last year's parameters of the season, all the necessary legal amendments to reflect such recommendation should be made. The Committee took note.

9. Any other business

- 9.1 Chairman invited members to discuss any other matters. Joe Perici Calascione remarked that some of the discussions and points raised earlier merit follow-ups and invited BirdLife Malta to discuss further but on an individual level rather than in groups. Mark Sultana agreed and added that an agreement should also be reached to push Government to take a stand so that any person breaking the law and expelled from a hunting organisation would be rendered ineligible to seek membership in another organisation for a period of time.
- 9.2 Nicholas Barbara requested confirmation whether a clause will be included in Ornis recommendation regarding enforcement. The Secretary confirmed, stating that Ornis recommendation will specify that opening of a spring hunting season shall be subject to adequate enforcement in line with the provisions and requirements of the Spring Hunting Framework Regulations. Mark Sultana requested to confirm whether Ornis recommendation, apart from the fact that WBRU reports to the Minister for Gozo, will be forwarded to the Minister for the Environment. The Secretary confirmed.
- 9.3 The meeting was adjourned at 1920 hrs.