

## Meeting of the Malta Ornis Committee

Wednesday, 16<sup>th</sup> October 2019, WBRU, MESDC, Sta Venera  
1630 - 1830

### Minutes

#### Participants:

Dr Joseph Grech – Chairman  
Mr Richard Lia – Secretary  
Mr Nicholas Barbara – BirdLife (Malta)  
Mr Marco Falzon – Member nominated by Government  
Mr Lino Farrugia – FKKNK  
Mr Joe Perici Calascione – FKKNK  
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 Mark Gauci – Avifauna Expert  
Mr Horace Micallef – Member nominated by Government

#### 1. Approval of the agenda

1.1 Agenda approved.

#### 2. Matters arising and matters to report

2.1 The Secretary informed members that a total of six presentations to ALE, Gozo Police and AFM representatives on the parameters of the forthcoming Golden Plover and Song Thrush live-capturing season were delivered by the Wild Birds Regulation Unit between 9 October and 16 October. All officers in charge of overseeing the live-capturing season attended these presentations.

2.2 The Secretary also informed members that the coordinates of all registered clap-nets (*mnasab*) for the 2019 live-capturing season for Golden Plover and Song Thrush were published on 15 October. On the day of publication, the Secretary circulated an email to all members with a link to these coordinates<sup>1</sup>, explaining that publication of these coordinates is a legal requirement as set out in Regulation 8(7) of S.L. 549.74, which states that *the coordinates of the approved stations shall be made public on the internet by the Wild Birds Regulation Unit at least three (3) days before the start of the live-capturing season and be available on-line at all times during the live-capturing season*. S.L. 549.74 (and S.L. 549.42) define a live-capturing station as *the footprint area within the live-capturing site containing not more than two pairs of horizontal clap-nets*.

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<sup>1</sup> The coordinates of all registered clap-nets for the 2019 live-capturing season for Golden Plover and Song Thrush is available from the following link: <https://msdec.gov.mt/en/Pages/WBRU/livecapturingder.aspx>.

- 2.3 In his correspondence to the Committee, the Secretary explained that a total of 1,895 clap-net pairs (*mnasab*) were registered for this season, submitted by 1,587 applicants. The Secretary further explained that assuming each station contains the maximum allocation of two clap-nets, the total number of stations amounts to *ca.* 948. However, the Secretary further noted that the number of stations is indicative and that only the number of clap-nets (*mnasab*), i.e., 1,895, should be considered as the precise quantity.
- 2.4 The Secretary also informed members that a total of eight tablets containing the coordinates of all registered clap-nets for the 2019 live-capturing season will be handed over to ALE and Gozo Police before the start of the season to assist them during spot-checks. As in previous years, a demonstration on the use of these tablets will also be provided.
- 2.5 Mark Sultana asked whether the Legal Notice with regards to the trapping derogation has been issued since it's the 16<sup>th</sup> of October and the season opens on the 20<sup>th</sup>. The Secretary replied that it should be out by Friday 18<sup>th</sup>.
- 2.6 Lino Farrugia added that unfortunately the FKNK are disappointed with the apparent lack of cooperation from the police, adding that in one of two recent incidences, he himself was directly involved. The Chairman requested to clarify what type of cooperation Lino Farrugia is referring to. Lino Farrugia clarified that a report was lodged at the Rabat Police Station by a FKNK Member regarding some foreigners in two leased vehicles who went on the private site of said FKNK Member and opened and released several quails from their cages. Notwithstanding the report, which included photos of the vehicles, the FKNK has been informed that the Police failed to take the necessary action, displaying a rather *laissez-faire* attitude. The second relates to drones over private property. Lino Farrugia remarked that in both instances, the police seem to have found it difficult to act accordingly. Lino Farrugia added that although there is no law on drones, it does not mean that one can fly it on private property and it is common knowledge that such drones are equipped to take video footage or photos. Although, as much as the FKNK is informed, no such footage or photos have yet been uploaded to the public domain, there is no guarantee that whoever took such footage will not do so at some point in time. Lino Farrugia stated that quite apart from their publication or otherwise, the fact remains that that no one can disturb/hassle people in their own private property. Again with regards the drone report, the *laissez-faire* attitude was evident and the FKNK is not aware of any police follow-up, if there was any.
- 2.7 Mark Sultana added that the reports submitted by BirdLife Malta regarding Delimara area are rarely acted upon. We are aware that within the ALE there is a hunter that hunts in Delimara. Lino Farrugia also stated that during the last meeting, the police representatives, when directly requested by the FKNK, were hesitant to provide and in fact did not provide a direct contact by only referring to the general 119 number.

### **3. Approval of the minutes of the meeting held on 18/09/2019**

- 3.1 Lino Farrugia submitted minor revisions to the draft minutes, which were circulated to all members on 21 September. The minutes were approved as amended.

### **4. KSU's concern on the European Commission's requirement to fit all Golden Plovers and Song Thrushes caught during live-capturing derogations with WBRU single-use ring and implications on use of live-decoys that survive gunshot.**

- 4.1 Reference was made to the previously-circulated document submitted by Kaċċaturi San Ubertu (KSU) to the Secretary on 30 September 2019 (Annex I). The Chairman stated that since the concerns raised by KSU are not yet in force, the Committee should not discuss matter at this

stage. However, the Secretary pointed out that KSU are requesting the Ornis Committee to provide direction on the matter in advance of any legal amendments in this regard.

- 4.2 Lino Farrugia questioned whether the Committee should consider KSU's letter in view of the fact that KSU, or anyone else for what matters, have no right to set the Committee's agenda, however added, that they do have a point with regards shot injured birds that survive their injury and are then kept in captivity. Lino Farrugia explained that this is a reality, especially with song thrushes. Joe Perici Calascione remarked that the Chairman is right in the sense that if there are no urgent exigencies, the Committee should not discuss the matter at this stage, adding that nevertheless, the Committee should be in a position to recommend improvements to specific items without the need to defer to another sitting or at a later stage. The Chairman added that in this case, these birds are huntable and hence can be kept in captivity. The Secretary explained that KSU's concern goes beyond the keeping of such specimens and is more specific to their use as live-decoys whilst hunting, as explained in their correspondence. KSU's concern stems from the European Commission's requirement that all Golden Plovers and Song Thrushes used as live-decoys during hunting are to be fitted with a single-use ring since, as stated by the Commission, the source of such live-decoys is through live-capturing derogations. The Secretary added that as from this season, all specimens caught during a live-capturing period must be fitted with a single-use ring. Mark Sultana stated that if hunters are provided with Golden Plovers and Song Thrushes for use as live-decoys, such specimens would obviously have already been fitted with a single-use ring by the live-capturer since this is a legal obligation. The Secretary clarified that such legal obligation will only be in place as from this season, adding that during previous derogation periods the legal obligation limited the fitting of single-use rings on specimens that were intended to be used as live-decoys during a live-capturing season. The Secretary added that this implies that there is a stock of Golden Plovers and Song Thrushes that are actually not fitted with a single-use ring, including those that survive gunshot. The Secretary further added that this is essentially KSU's concern since specimens surviving a gunshot cannot be used by the hunter if the law will prohibit it.
- 4.3 Lino Farrugia remarked that, as things stand at present, the Commission's 'requirement' that all Golden Plovers and Song Thrushes used as live-decoys during hunting are to be fitted with a single-use ring is not foreseeable in the near future due to the unknown number of birds, including injured ones, presently kept in captivity. The Secretary made reference to Section 2 of Ornis Committee minutes of meeting held on 20 March 2019<sup>2</sup>, which specifies that on the basis of a survey carried out by the Wild Birds Regulation Unit amongst 7,647 hunters who applied for a 2019 spring hunting licence (73% of all hunters licensed to hunt on land), the total number of Golden Plovers and Song Thrushes in captivity in March 2019 is estimated to have stood at 4,234 and 12,544 respectively. As also specified in the same minutes, out of the total number of respondents, 6,553 individuals reported not having any live Golden Plovers whereas 5,503 individuals reported not having any live Song Thrushes in their possession. The Secretary further explained that this survey provides an estimate of the total number of Golden Plovers and Song Thrushes kept by hunters but does not distinguish between those that were caught alive and those that survived a gunshot. The Secretary added that, in this respect, it is correct to state that the number of specimens surviving gunshot that are kept in captivity is unknown.
- 4.4 The Secretary further explained that during the June 2019 Nature Bilateral with the services of the European Commission, the Maltese authorities had already expressed their concerns in this regard, but the Commission had made it clear that specimens surviving a gunshot are an exception and not the rule since if this was not the case, the main rationale and justification for a live-capturing season would be jeopardised and seriously put into question.

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<sup>2</sup> <https://msdec.gov.mt/en/Document%20Repository/WBRU/2019/ornisCom/oMinTweMar19.pdf>

- 4.5 The members took into consideration KSU's correspondence and concluded that since the Committee can only recommend to the Minister, KSU should direct their concerns to the appropriate channels.
- 5. Adoption of the previously-circulated document: Procedural guidelines for the Malta Ornis Committee.**
- 5.1 This item was carried forward from the previous agenda as agreed by the Committee during the previous meeting. The draft guidelines were circulated to the Committee members on 9 August. Comments were submitted by BirdLife Malta and the Environment and Resources Authority and were circulated to all Committee members prior to the 18 September meeting.
- 5.2 Joe Perici Calascione remarked that if the Committee is to set up procedural guidelines, a further tier of restrictions would be added over and above those already established at law. Lino Farrugia stated that the result of this draft guidelines follows a recent online vote, adding that it was not the first time that online votes were taken. Lino Farrugia added that despite the Committee had made its recommendations to the Minister following a vote, the proposed amendments to the Conservation of Wild Birds Regulations have not yet been published. Lino Farrugia also pointed out that the guidelines contain aspects that do not make sense, adding that whilst the work carried out by WBRU in administering derogations is fully understood, it does not make sense to impose a 6-month deadline before the date when the derogation period is proposed to come into force. Lino Farrugia explained that in the past, there have been instances where the government at the time had published a legislation that allowed the Committee to proceed with a recommend a few days before a season is opened.
- 5.3 The Chairman stated that there are two issues at hand. Firstly, in relation to derogations, if the law does not specify timeframes or specifies shorter timeframes, the Committee cannot set out a longer timeline, notwithstanding that there is a need to cater for an administrative process to take place. Secondly, with reference to the inclusion of items on agenda, the Chairman pointed out that he has several reservations, pointing out that if we have a request we reply to the request. The Chairman also pointed out that since Ornis Committee is an entity, the agenda is drafted by the Committee and no other entity or third party should dictate what items are placed on the agenda.
- 5.4 The Secretary pointed out that following FKNK's remarks as to whether these guidelines should be adopted or not, the Committee should first decide whether to proceed with these guidelines in the first place and, if in agreement, followed by a review of each comment submitted by BirdLife Malta and ERA, followed by a final round of comments prior to adoption of the guidelines.
- 5.5 The Chairman stated that the Committee should first identify the main concerns that triggered the need for the guidelines in the first place. Mark Sultana stated that the main concerns are voting procedures and items on the agenda. Darrin Stevens pointed out that members should be informed beforehand that a vote will be taken and that members have the right not to vote if not enough information is provided in advance.
- 5.6 The Secretary stated that items on the agenda regarding derogations can only be placed on the agenda if known a priori and that proposals related to hunting and live-capturing derogations are put forward by FKNK. At this point, Joe Perici Calascione remarked that FKNK are requesting derogation for spring hunting of Turtle Dove and Quail and for finch trapping in 2020.
- 5.7 The Chairman stated that the Committee should definitely establish voting guidelines, which may, for example, eliminate online voting. Although the agenda has always specified that an

item is subject to a vote, the question arises as to what procedure should best be adopted in the case that a vote has to be taken during the sitting despite that it was not specified as such on the agenda. The Committee agreed that voting guidelines should be drafted. Regarding requests by third parties to discuss items during a Committee meeting, it was agreed that the Secretary shall be informing them to redirect such requests to the appropriate channels.

- 5.8 During the next meeting, the Committee shall discuss the voting guidelines with a view to their adoption. Mark Sultana suggested that the voting component should be circulated by the Secretary to all members for their comments prior to next meeting. This suggestion was approved by the Committee.

## **6. Any other business**

- 6.1 The Committee agreed to reconvene on 20 November 2019. The meeting was adjourned at 1820 hrs.

## **ANNEX I: Use of Song Thrush and Golden Plover surviving gunshot as live decoys for hunting.**

Without any prejudice to the live-capture of Song Thrush (ST) and/or Golden Plover (GP) as a means to procure decoy-birds for hunting, Kaccaturi San Ubertu (KSU) airs its disagreement with the WBRU's position stated below on illegalizing the current legal use as live decoys for hunting of birds of these two species that survive a gunshot. "As from 2020 onwards, although it would not be illegal to possess GPs | STs without WBRU single-use ring, such un-ringed specimens cannot be used as live-decoys, neither for trapping nor for hunting."<sup>3</sup>

Though the Commission acknowledges such capture as "the exception and not the rule", KSU notes its "insistence" on all live-decoys of Golden Plovers and Song Thrushes being fitted with a WBRU ring even those that are used as live-decoys for hunting<sup>4</sup>. KSU is unaware of any restriction coming from the Commission or EU Directives on gunshot surviving birds being used as live-decoys by hunters and fails to understand why such restriction should now be imposed locally.

KSU refer to the quotas of 5000 ST and 700 GP stipulated for live-capture and the recurring even smaller number of specimens actually caught through live-capture<sup>5</sup>. Though these help to supplement demand, they by far fail to meet the live-decoy requirements of around 10,000 licensed hunters who, though personal requirements might vary, "require in the region of five Golden Plovers and between ten to fifteen Song Thrushes" per hunter as stated by the Maltese Authorities <sup>6</sup>

KSU see no solution as to how live-capturing **alone** could meet this demand. Subsequently the "exception" of a few birds that survive gunshot including those already or in future in possession of hunters, which are all legally acquired through hunting, should be considered as a supplement to such requirements.

Such secondary legal means of capturing live decoys by hunters do not fall within any derogation parameters. Subsequently birds that survive gunshot do not jeopardize derogation for live-capture neither do they relate to any quotas stipulated for such derogation.

Apart from illegalizing the current use of a legally acquired gunshot live-decoy, this proposed legislation also creates a dangerous precedent considering the number of legally kept gunshot birds of these two and other species commonly held in aviaries within a hunting area. Under this new obligation, by the WBRU's admission, any such birds not fitted with a WBRU ring can now be interpreted as being used illegally as live decoys simply by evidence of a conspecific alighting next to any such aviary. Furthermore, under such legislation, how can a hunter explain to enforcement officers that he has just placed in a cage to take home, a ST or GP which just survived the shot? Even more complex to justify is when a hunter would have just placed such an injured bird in an aviary within his hunting grounds. Based on the above arguments KSU asks the ORNIS Committee to address these realities and offer its direction.

Kaccaturi San Ubertu.

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<sup>3</sup> Email from WBRU of 3/9/19

<sup>4</sup> June 2019 Nature Bilateral meeting

<sup>5</sup> Game Reporting Data figures : 2016: 230ST and 297GP, 2017: 183 ST and 187 GP, 2018: 511 ST and 233 GP

<sup>6</sup> Item 5 of the minutes of the Malta Ornis Committee meeting held on 31 July 2019:

<https://msdec.gov.mt/en/Document%20Repository/WBRU/2019/ornisCom/oMinThirtstJul19.pdf>