

## **Meeting of the Malta Ornis Committee**

**Wednesday, 10<sup>th</sup> July 2019, WBRU, MESDC, Sta Venera  
1530 - 1830**

### **Minutes**

#### **Participants:**

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

#### **Excused:**

Mr Joseph Tabone – Member nominated by Government

#### **1. Approval of the agenda**

1.1 The agenda was approved.

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

2.1 The Secretary welcomed Mr. Darrin Stevens as representative of the Environment and Resources Authority (ERA) and thanked outgoing ERA representative Ms. Maria Attard for her contribution. The Secretary also informed members that the term of the Committee will expire on 29 August and that he will be in touch with the Ministry for the necessary follow-ups.

#### **3. Approval of the minutes of the meeting held on 03/04/2019**

3.1 Joe Perici Calascione submitted a request for minor amendments to the minutes, as previously circulated to all members. The minutes were approved as amended.

#### **4. Outcome of the 2019 spring hunting season**

4.1 The Secretary provided an update on the outcome of the 2019 spring hunting season, with a focus on the migration study of Common Quail, bag data, enforcement effort, and offences detected. According to the independent migration study (actual counts, not extrapolated), there were two peak influxes on 17 and 18 April (10 birds each) and another peak on 30 April (9 birds), as shown in Annex A. Mark Sultana requested the mean daily count between the start of the migration study (mid-March) to mid-April. On average, five quail were observed during the period mid-March to mid-April (mean count).

4.2 The Secretary informed members that a total of 1,070 quail were reported by hunters during the season and that the total number of enforcement patrols, spot-checks, road blocks and patrols was the highest since 2012 (Annex B). A total of 17 offences were detected and subject to legal action, as follows:

- One case of illegal killing of European Turtle-dove and Golden Oriole
- Two cases of firearm irregularities
- One case of hunting without licence
- Seven cases of illegal trapping
- Four cases of illegal bird callers
- Two cases of non-reporting

4.3 The Secretary also pointed out that during the open season (10–30 April), the following birds were confirmed illegally shot:

- Seven European Turtle-doves (*Streptopelia turtur*)
- Two Marsh Harriers (*Circus aeruginosus*)
- Montagu's Harrier (*Circus pygargus*)
- Common Kestrel (*Falco tinnunculus*)
- Hoopoe (*Upupa epops*)
- Golden Oriole (*Oriolous oriolus*)
- Eurasian Stone-curlew (*Burhinus oedicephalus*)

4.4 The report on the outcome of the 2019 spring hunting season was submitted to the European Commission within one month from closure of the season—such deadline is in accordance with an agreement with the services of the European Commission following Case C-76/08. However, given that the migration study period was extended until mid-May, the Secretary informed members that the European Commission agreed that the report is submitted within one month from termination of the study period, that is, by mid-June. The 2019 report is also available online on the website of the Wild Birds Regulation Unit.

## **5. Amendments to the air safety framework regulations and notice of derogation (relocation as a last resort): Legal Notices 65/2019 and 66/2019.**

5.1 The Secretary provided an overview of events leading to the publication of the amendments to the air safety regulations and the notice of derogation to permit the relocation of birds that posed an air safety hazard. The Secretary explained that the only reason these legal notices were not discussed at Ornithology Committee was due to the urgency to set in place a legal framework that permitted relocation of hazardous birds from the airport, noting that it previously only permitted culling of starlings and pigeons as a last resort. The Secretary explained that, similar to culling, the amended regulations only allow relocation of birds from the airport as a last resort and after representatives from the Malta International Airport (MIA) consult the Wild Birds Regulation Unit.

5.2 The Secretary further explained that according to MIA, the dispersal methods, including firing of blank shots, are ineffective against certain species, as explained in the Method Statement that was previously circulated to the Committee members. A foreign ornithologist was engaged to affix two harriers with a geo-locator to monitor their movement post-relocation. A Montagu's Harrier (*Circus pygargus*) and a Pallid Harrier (*Circus macrourus*) were subsequently fitted with a geo-locator and neither of the two returned to the airport area. The Secretary presented a map showing the migratory route and current location of these two specimens. Both harriers migrated in a NE direction to Belarus and Russia respectively. The Secretary added that following a complaint by BirdLife Malta, MIA had subsequently suspended all activities related

to the relocation of birds from the airport and that the Wild Birds Regulation Unit also suspended the special licence until the issue is discussed at Ornithology Committee, also in view that the alleged urgency was put into question. Mark Sultana stated that the responsibility should lie with WBRU not MIA. The Chairman clarified that the responsibility was moved to MIA in consultation with WBRU, thereby indicating that actions are in line with S.L. 549.42, which indicates that WBRU is the responsible entity for the conservation of wild birds. The Secretary explained that depending on Ornithology Committee's recommendation, the legal notices will either be retained or repealed.

5.3 The Chairman requested members to cast their vote. All voting members unanimously agreed that the two legal notices should be retained as published.

## **6. Conservation of Wild Birds Regulations (Amendment) Regulations, 2019 (S.L. 549.42)**

6.1 This item was brought forward from the previous Ornithology Committee meeting held on 3 April 2019<sup>1</sup>. The Secretary outlined the proposed amendments, ranging from minor revisions to legal definitions, permission to use rotating decoys, to the release of captive-bred gamebirds for dog training purposes and bird-ringing. The main discussion focused on the latter two.

6.2 The Secretary referred to the proposed amendment to sub-regulation 12(5), which seeks to provide legal weighting to the hunting and trapping booklets issued by the Wild Birds Regulation Unit. Apart from serving as a confirmation that membership with a recognised hunting organisation was renewed, these booklets also serve as a pocket-sized guide to the game reporting obligations and procedure. The Secretary noted that the Weapons Office and some police stations are not accepting this booklet as evidence that membership with a hunting organisation has been paid, notwithstanding that they bear the official rubber-stamp of a hunting organisation. In fact, some police stations only renew the police permits if the applicant produces the actual membership card.

6.3 Under the circumstances, the Secretary asked whether members would consider removing this amendment altogether, limiting proof of membership to the actual membership card issued by hunting organisations. The Chairman and FKNK objected to the removal of the specific reference of the booklet. BirdLife Malta recommended a meeting between the WBRU and the Police Force, but FKNK noted that this issue has been going on for over 30 years, and different Police districts act differently, some accepting the membership booklet, others not. The Committee agreed that the booklets issued by WBRU should be given legal weighting and hence the proposed amendment to sub-regulation 12(5) should be retained.

6.4 Regarding the proposed release of gamebirds for dog training purposes during the closed season (regulation 18), FKNK explained that this is a common practice across other EU Member States. BirdLife Malta voiced concerns in view of potential disturbance to breeding birds, hunting on public land, genetic pollution and disease transmission. Should this be approved, BirdLife Malta maintained that ERA are to be consulted on such releases, particularly on issues on invasive alien species and genetic issues. Darrin Stevens was asked to clarify ERA's position on this, and noted the concern on the introduction of potentially invasive alien species. In relation to the issue of genetics raised by BirdLife Malta, ERA noted that this is particularly crucial vis-à-vis selected species, it is of less concern on migratory species. Darrin Stevens further added that since the occurrence of quail in Malta is dependent on migration and given that the European population is homogenous, *prima facie* no adverse effects are envisaged compared to the same effects on a (spatially-separated) metapopulation. However, ERA agreed that Japanese quail subspecies are to be considered alien. The Secretary confirmed that the EU

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<sup>1</sup> <https://msdec.gov.mt/en/Document%20Repository/WBRU/2019/ornisCom/oMinThiApr19.pdf>

indicated that such species is considered alien<sup>2</sup>. Lino Farrugia added that it is not the intention of FKNK to establish a breeding population from released stock. BirdLife Malta disagreed with ERA's stance on the matter, in the fact that captive bred birds are invariably selected and especially after many generations, will still be genetically distinct from their wild counterparts. In the eventuality that the released birds occur in the wild, ERA should be regulating such matter, as indeed this will be equivalent to the introduction of genetically altered individuals. Captive breeding is tantamount to selective breeding, incomparable and incompatible with the maintenance of a healthy wild population genetically.

- 6.5 BirdLife Malta did not agree with the concept of release and hunt for a number of reasons ranging from animal welfare, bio security, health and safety to mention a few. It categorically opposes further hunting activities outside hunting seasons and in this case outside hunting season for birds. This would be a high disturbance for breeding birds and also for the general public especially if allowed on public land. It requested that such activity should not be carried out on public land and that only the private landowner should endorse such activity. Chairman objected to this. The Secretary pointed out that the proposed amendment specifies that pre-authorization from the landowner or leaseholder is required at application stage. The Chairman added that when assessing these proposals, the Wild Birds Regulation Unit should always include a condition saving third party rights. FKNK noted that the wording of the proposed legal amendment excludes release of captive-bred gamebirds during an open hunting season and that such authorisation during open season should also be catered for. The Secretary added that should this proposal be recommended by the Committee, a condition will also be added to address the issue of disease transmission, by requesting applicants to submit a veterinary health certificate prior to the release. The Secretary added that the proposed amendment limits submission of applications to organisations representing hunters. BirdLife Malta maintained that birds should only be released in a controlled environment where their escape is guaranteed not to happen.
- 6.6 On the issue of bird-ringing (regulation 23), the Secretary read the legal advice submitted by the Office of the Attorney General, dated February 2019. The legal advice states that bird-ringing is not a requirement of the Birds Directive and that EURING, despite its name, is not in any way connected to the European Union. AG's advice also notes that as long as it is only persons (be they hunters or not) who are affiliated to/certified by a national or other recognised EU research body who are allowed to capture birds for this purpose, there should not be any issues. The legal advice further states that in its reply to the Ombudsman, the European Commission seems to suggest that both bird ringing as well as geo-tagging might be acceptable methods for research purposes. AG's legal advice concluded that removal of EURING from the Conservation of Wild Birds Regulations (S.L. 549.42) is not expected to have any EU law implications. The Secretary further informed members that on the basis of a recent political direction, EURING is expected to be retained in the Conservation of Wild Birds Regulations.
- 6.7 Mark Sultana stated that AG's advice should be relayed to the Committee on other matters such as derogations. The Secretary informed members that following discussions with AG's Office, WBRU was informed that whilst AG's advice to Government should not be tabled to the Committee, AG's Office found no objection if the Secretary had to relay or read the advice during a Committee meeting.

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<sup>2</sup> The EU Management Plan for Common Quail 2009–2011 lists genetic pollution from the release of Japanese Quail (*Coturnix japonica*) and/or *Coturnix coturnix* x *C. japonica* hybrids in the 1960s–80s (mainly in Italy, France and Spain) as a threat to wild populations, but is set at Unknown. The Plan notes that genetic pollution reduces innate migratory characteristics, whilst also noting that in some parts of the range (Catalunya), the proportion of hybrid birds over an 11-year monitoring period was small (<5%) despite the release of 100,000 quails. The EU Management Plan is available at: [http://ec.europa.eu/environment/nature/conservation/wildbirds/hunting/docs/Quail%20EU\\_%20MP.pdf](http://ec.europa.eu/environment/nature/conservation/wildbirds/hunting/docs/Quail%20EU_%20MP.pdf)

- 6.8 Lino Farrugia objected to retaining EURING, since it imposes a monopoly, given that it is solely represented by BirdLife Malta. Lino Farrugia cited documentation that Germany, Denmark and Cyprus have other schemes (within EURING). However, Mark Gauci indicated that other ringing schemes exist, including in Spain and the Netherlands, and that EURING is working towards agglomerating databanks and schemes into one. Lino Farrugia handed over two reports on bird-ringing and EURING to the Secretary and also informed members that he will circulate a soft copy at a later stage.
- 6.9 The Chairman proposed to subdivide, for voting purposes, the amendments into three separate categories—amendments that are of an administrative nature, such as amendments to the legal definitions, the proposal on release of captive-bred gamebirds for dog training and the proposal on bird-ringing. The proposed legal amendments having an administrative nature were approved by five votes in favour, none against and one abstention (BirdLife Malta). The proposed amendment on bird-ringing was unanimously approved with six votes in favour.
- 6.10 Regarding the proposed amendment on the release of captive-bred gamebirds, it was agreed that three variants are circulated to the members and proceed with an online vote within one week from receipt. The first variant includes permission to carry out this activity both during a closed season and during an open hunting season and to prohibit the release of Common Quail during the months of March, April and May to avoid any problems in relation to the migration study. The second variant limits this activity during an open hunting season, that is, from September to January, to avoid disturbance to breeding birds, with a requirement to release birds in a controlled environment. The third variant limits release to Common Quail only rather than all species from the order Galliformes listed in Schedule II, so as to address issues linked with the introduction of alien species. All three variants include a requirement to submit a veterinary health certificate.

**7. Outcome of the 7<sup>th</sup> Meeting of the Parties on the Agreement on the Conservation of African–Eurasian Migratory Waterbirds (AEWA): Northern Lapwing (*Vanellus vanellus*) and Common Pochard (*Aythya ferina*).**

- 7.1 The Secretary updated members on a communication from the European Commission dated 18 June 2019 as a follow-up of the decisions taken at the 7<sup>th</sup> Meeting of the Parties of the Agreement on the Conservation of African–Eurasian Migratory Waterbirds (AEWA). Among the species concerned by a population status change in Table 1 of Annex 3 of AEWA, nine species<sup>3</sup> are listed in Annex II of the Birds Directive and, therefore, may be hunted under national legislation in different Member States. For these nine species, in line with Council Decision 14175/18, the Commission entered a reservation on behalf of the EU, which is currently in force.
- 7.2 The Commission further added that in line with the principles established in the Guidance Document on Hunting under the Birds Directive, hunting of a species in decline “cannot by definition be sustainable unless it forms part of a properly running management plan that also involves habitat conservation and other measures that will slow and ultimately reverse the decline”. This approach is based on Article 7(4) requiring that the practice of hunting complies with the principle of “wise use” of the species as well as Article 7(1) requiring that hunting of Annex II species should “not jeopardize conservation efforts”, that is, hunting is compatible with the maintenance of the populations of the species concerned at a satisfactory level. The

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<sup>3</sup> Common Eider *Somateria mollissima* (6 Member States), Red-breasted Merganser *Mergus serrator* (5 Member States), Common Pochard *Aythya ferina* (all Member States), Eurasian Oystercatcher *Haematopus ostralegus* (2 Member States), Northern Lapwing *Vanellus vanellus* (8 Member States), Bar-tailed Godwit *Limosa lapponica* (3 Member States), Black-tailed Godwit *Limosa limosa* (2 Member States), Red Knot *Calidris canutus* (2 Member States), Spotted Redshank *Tringa erythropus* (2 Member States).

Commission added that hunting of a bird species in unsecure status remains possible under Article 7 of the Birds Directive by way of exception where it is duly established that it does not contribute to worsening the conservation status of the affected bird population and it is fully consistent with their recovery to secure status.

- 7.3 The Commission further noted that since no valid management plan (including an adaptive harvest programme) is in place for these nine species, their hunting cannot be considered compatible with the above-mentioned requirements set in Article 7 of the Directive. The Commission requested Member States to temporarily suspend hunting of these species until such plans are in place and implemented. The Commission further added that any hunting thereafter should only be on the basis of it being sustainable and consistent with the recovery of the species to good conservation status and that Member States willing to allow hunting of these species in the future should take the lead in developing management plans, including adaptive harvest management programmes. Malta is directly affected by two species, the Common Pochard and Northern Lapwing, albeit they are not resident and present in limited numbers.
- 7.4 The Secretary made reference to the previously-circulated bag data on Common Pochard and Northern Lapwing during the period 2010–2018, stating that, on average, less than two Common Pochards and less than 150 Northern Lapwings are hunted annually in Malta. Some members raised concerns regarding Malta’s feasibility of adopting a management plan for these two species considering that: lapwings and pochards do not breed in Malta, hunting depends on migration and the number of birds hunted annually is negligible. Lino Farrugia added that a formal objection by FACE will be submitted to the European Commission. Darrin Stevens pointed out that Malta may consider seeking an exemption if the effect of hunting on these two species is limited. The Secretary informed members that the Commission is expected to receive a formal reply by Member States by the end of July and that the Ministry will be advised to seek an exemption.
- 7.5 The Red-breasted Merganser (*Mergus serrator*) was not discussed given that Malta removed it from the list of huntable species way back in 2016 via Legal Notice 69/2016<sup>4</sup>, which amends Schedule II of S.L. 549.42. Lino Farrugia remarked that AEWa and the Commission are still unaware of this three-year old Malta amendment.

## **8. Update on the conservation status of Golden Plover, Song Thrush and seven finch species**

- 8.1 The Secretary informed the Committee that on the basis of the latest data published by the European Bird Census Council (EBCC)<sup>5</sup>, all nine species retained their respective trend classifications as reported to the Committee in May 2018. For example, if the Song Thrush was reported as Moderate Increase during the previous update, it was again reported as Moderate Increase in the current EBCC update. The Secretary noted that a major update on the EU population status of all European territory birds is expected next year following Member States’ submission of Article 12 reports for the 2013–2018 reporting cycle.

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<sup>4</sup> Regulation 10 of L.N. 69/2016, available at: <http://justiceservices.gov.mt/DownloadDocument.aspx?app=lp&itemid=27449&l=1>

<sup>5</sup> Species trends (2018 update), available at: <https://pecbms.info/trends-and-indicators/species-trends/>.  
PanEuropean Bird Monitoring Scheme | European Bird Census Council | BirdLife International.

**9. Any other business**

- 9.1 Darrin Stevens noted that any hunting and trapping proposals should also take into account, and be without prejudice, to the Flora, Fauna and Natural Habitats Protection Regulations (S.L. 549.44<sup>6</sup>).
- 9.2 The Committee agreed to reconvene on 31 July 2019. The meeting was adjourned at 1830 hrs.

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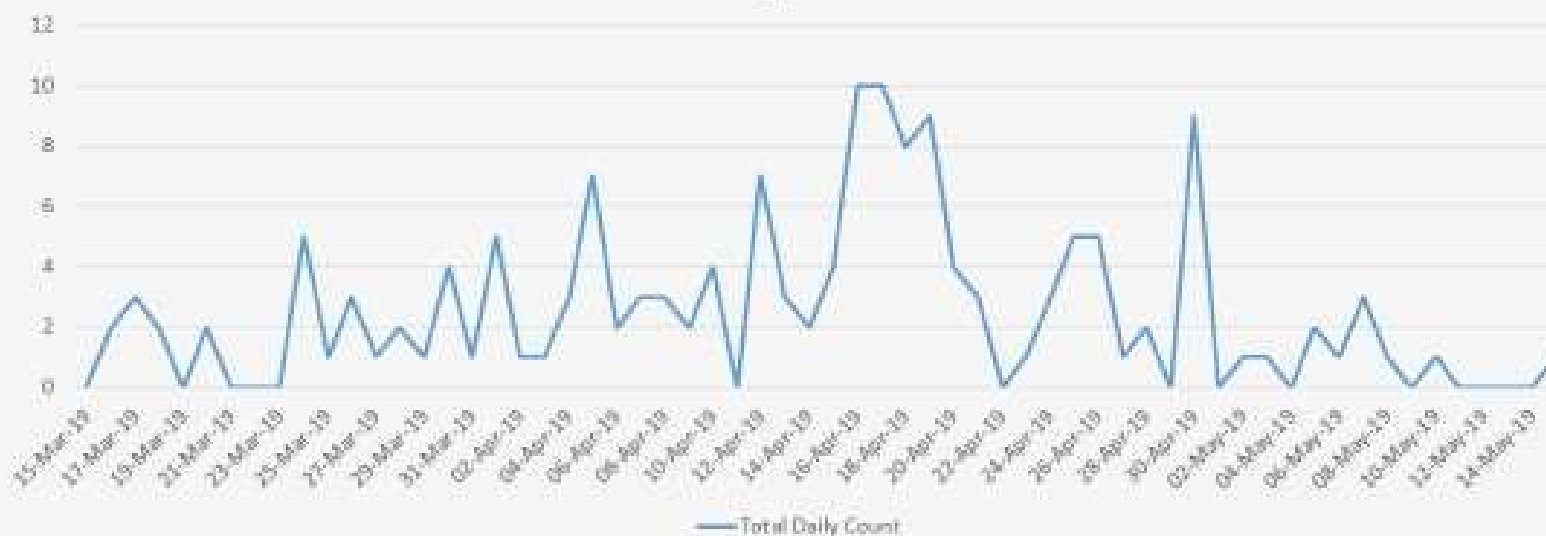
<sup>6</sup> <http://justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=11550&l=1>

Annex A: Influx of Common Quail observed during the study period 15 March – 15 May 2019 (daily counts)

# Influx of Common Quail observed during the study period



*Counts of Common Quail obtained across the network of observation stations over the study period*



## Annex B: Enforcement effort during the 2019 spring hunting season

