

Meeting of the Malta Ornis Committee

Wednesday, 13th October 2021
1600 – 1800

Minutes

Participants:

Dr Joseph Grech – Chairman
Mr Richard Lia – Secretary
Mr Nicholas Barbara – BirdLife Malta
Mr Victor Dimech – Member nominated by Government
Mr Lino Farrugia – FKNK
Mr Mark Gauci – Avifauna expert
Mr Horace Micallef – Member nominated by Government
Mr Lucas Micallef – Hunting and live-capturing expert
Mr Joe Perici Calascione – FKNK
Dr Gaynor Saliba – Member nominated by Government
Mr Darrin Stevens – Representative of the Environment and Resources Authority
Mr Mark Sultana – BirdLife Malta

1. Approval of the agenda.

1.1 The agenda was approved.

2. Matters arising and matters to report.

2.1 The Committee welcomed Dr Gaynor Saliba and Mr Victor Dimech as new members appointed in terms of regulation 10(2)(c) of the Conservation of Wild Birds Regulations (S.L.549.42).

3. Approval of the minutes of the previous meetings held on 14/07/2021 and 18/08/2021.

3.1 The minutes of the meetings held on 17 July and 18 August were approved, as amended by FKNK and BirdLife Malta.

4. Recommendations on the application of autumn 2021 finches research derogations [Article 9(1)(b)]. *Proposed derogation period: 20 October 2021 – 20 December 2021. Police confirmed that the legal requirements regarding minimum enforcement deployment (Regulation 8 of SL 549.137) will be met. Item subject to a vote.*

4.1 The Secretary provided an update on the infringement procedure 2020/2346 related to the finches research derogation regime, initiated by the European Commission in December 2020, which is now at Reasoned Opinion stage. Malta's reply to the Reasoned Opinion was submitted to the Commission within the one-month deadline, in July 2021, after the Maltese authorities carried out extensive consultations with independent law firms and the State Advocate.

4.2 The Secretary informed the Committee that during the two-month finch research period using the species-specific clap-net system between 20 October 2020 and 20 December 2020, data collected on Common Linnet *Linaria cannabina* was at the rate of two ring recoveries per month compared to 0.05 ring recoveries per month over a span of 86 years (1920–2006) using

the mist-net system. The Secretary stated that out of the total number of ring recoveries during the aforementioned period, some were reported by trappers. The Secretary also pointed out that video evidence of finches being released in 2020, including hawfinches, chaffinches and greenfinches was submitted to the Commission as evidence of compliance.

- 4.3 Mark Sultana pointed that there was always a legal obligation for trappers to report ring recoveries although this requirement was removed during a specific year for unknown reasons. Mark Sultana expressed concern that an unlimited amount of finches has been permitted to be caught through this derogation. He also explained that one cannot assess the effectiveness of finch ringing when during their migration since early 90s there have been thousands of trappers along the coast trapping the same finches. One also has to keep in mind that ringing effort in European (eastern mainly) in the past was way lower than what it is being ringed today.
- 4.4 The Secretary explained that the legal requirement is for licensees to record ring recoveries and to immediately release all specimens caught back into the wild. The Secretary also informed the Committee that, without prejudice to the Committee's recommendation and Government's final decision, there will be an emphasis on real-time reporting of all finches caught (controlled), including reporting of research effort, whereby the licensee will be legally required to inform the authorities whenever he took part in the research but did not manage to catch any finches. The Secretary also informed the Committee that licensees will also be required to submit footage of finches being released back into the wild. Lino Farrugia stated that the requirement to submit video evidence should be optional since not all licensees will have access to a device that can record video clips. The Secretary took note and explained that the research programme for any one of the seven finch species will cease once data saturation has been reached, which is set at 60–70 ring recoveries per species, provided no new data (i.e., ring recoveries from countries that were not previously recorded) is obtained after the 60 threshold.
- 4.5 Mark Gauci questioned how data saturation can be obtained considering that ringing effort is not uniform across Europe, with some countries having extensive ringing programmes compared to others. Lino Farrugia replied that, as an example, Malta calculates the quota for Turtle-dove on the basis of known ring recoveries, adding that it is indeed correct to state that bird-ringing is not practiced in Russia. Mark Gauci remarked that Russian bird-ringers have recently started to increase their bird-ringing effort.
- 4.6 Replying to Mark Sultana's previous remark, Joe Perici Calascione pointed out that there is now a streamlined focus on reporting of ring recoveries, adding that whilst during previous years, many did not feel the need to report such recoveries, nowadays they specifically know that they are required to do so. The Secretary pointed out that the whole purpose of this derogation regime is to report ring recoveries to the authorities.
- 4.7 The Chairman remarked that since the European Commission is still pursuing infringement proceedings against Malta, also with regard to the finches research derogation, notwithstanding the fact that the derogation as applied in 2020 yielded positive results, he is of the opinion that the Committee should not have to decide again on this issue and that such matter should thus be left to the Government. Mark Sultana remarked that this has always been the case and that is why the Committee requires the advice of the State Advocate. The Chairman pointed out that the State Advocate's advice is given to Government.
- 4.8 Lino Farrugia remarked that whilst FKNK agrees with this research and is willing to provide its assistance, BirdLife Malta's position will not change. The Chairman stated that as a Committee the recommendation to Government has already been given and that after we provided our opinion, the Committee should issue a statement that our position is to leave it up to Government to decide. Mark Gauci stated that whilst he understood what the Chairman is stating, the Committee always proceeded with a vote, as in the case when members abstain.

- 4.9 Joe Perici Calascione pointed out that the role of the Committee is to make recommendations and that the final decision is up to the Government. The Chairman prepared the following statement for the Committee's consideration:

Given that the European Commission is pursuing infringement proceedings against Malta with regard to the finches research derogation regime, the Ornithology Committee feels that it does not need to pronounce itself again on this matter and should therefore be left to the Government.

- 4.10 The Committee agreed to vote on this statement. Lino Farrugia remarked that whilst FKNK will continue to propose the opening of a research period, it has nothing against this statement and is thus voting in favour. Mark Sultana remarked that BirdLife Malta is abstaining since it does not believe it is a scientific derogation. Darrin Stevens remarked that ERA is voting in favour of the statement and that the Authority is not in a position to recommend in favour of a derogation in view of the infringement procedures. The statement was approved with six votes in favour and an abstention (BirdLife Malta).

5. Amendments to the Conservation of Wild Birds Regulations (S.L.549.42). Documents 5.1, 5.2 and 5.3 circulated in advance of the meeting. Item subject to a vote.

- 1. Taxidermy (Doc Item 5.1)** – paid membership in an organisation representing taxidermists. Rationale and justification as submitted by the Malta Taxidermy Federation on 23 July 2021:

- *Il-Federazzjoni iżzomm lil kull balzmatur agġornat b'ligġiet li jistgħu joħorgu jew jinbidlu.*
- *Nagħtu informazzjoni lill-membri fuq avvenimenti li jikkonċernaw l-ibbalzmar anka 'l barra minn xtutna.*
- *Nghinu nghaddu informazzjoni u nedukaw lill-balzmaturo jimxu mal-ligi.*

- 5.1 Mark Sultana asked whether the law should specify 'federation' or 'organisation' and questioned how membership will be ascertained given that there are taxidermists who can operate without a licence for non-commercial purposes¹. The Secretary replied that the proposed legal amendment specifies 'organisation' and that the Malta Taxidermy Federation had stated that membership will be open to all those who have a taxidermy licence issued under regulation 21 of S.L.549.42².

- 5.2 The Committee approved the proposed legal amendment unanimously.

- 2. Research proposals** – finalisation of the previously-circulated application form for research permits (**Doc Item 5.2**).

- 5.3 The Secretary informed the Committee that this item is a follow-up to the meeting held on 29 March (Item 4). Darrin Stevens recommended the inclusion of information on species name/s, quantity of specimens to be impacted and research period. The Committee took note.

¹ The second proviso to regulation 21(1) of S.L.549.42 exempts individuals from obtaining a licence in the case of small scale taxidermy where not more than thirty specimens are preserved in any given year exclusively for personal use and not as a service provided on a commercial basis. It should be noted that sub-regulations 2 to 5 of regulation 21 apply to all taxidermists, irrespective whether they are exempted from obtaining a taxidermy licence in accordance with regulation 21(1) and its provisos.

² This item was re-discussed during the following Committee meeting held on 1 December.

- 5.4 Mark Gauci asked whether the submission of applications for research permits to the Committee would precede the issuance of associated nature permits by the Environment and Resource Authority, if such activity would also require a nature permit. Darrin Stevens replied that nature permits are issued subject to other permits that may be required by law. The Secretary confirmed that the permitting procedure is the same for research permits that are issued by the Wild Birds Regulation Unit following Ornithology recommendation. Thus, nature permits and WBRU permits can be issued concurrently.
- 5.5 The Secretary also explained that the legal amendment as approved by the Committee [fourth proviso to sub-regulation 23(1)] already specifies that non-submission of a final report renders the applicant ineligible for another research permit or renewal, as follows:

“Provided further that in the event that the applicant fails to submit the report as referred to in paragraph (e) within the deadline stipulated by the Wild Birds Regulation Unit in the licence conditions, the applicant shall be rendered ineligible to apply for any other research permit or renewal.”

- 5.6 Mark Gauci asked how the application form will be disseminated to clients. The Secretary replied that following approval of the application form by the Committee, the Wild Birds Regulation Unit will upload it on its website.
- 5.7 Mark Gauci asked whether the Committee should request the submission of a *Curriculum Vitae*. Darrin Stevens stated that the submission of a *Curriculum Vitae* is not requested for all activities that are subject to a nature permit. However, Darrin Stevens recommended that the application form should include a disclaimer specifying that the Wild Birds Regulation Unit may require additional information from the applicant and/or the consultant. The Committee took note.
- 5.8 Members unanimously agreed on the contents of the application form, provided that ERA’s recommended amendments are implemented and subject to above disclaimer.

3. Proposed new Schedule XI (Doc Items 5.3) – internal ring sizes for EU territory birds.
Documents circulated in advance of the meeting.

- 5.9 The Secretary informed the Committee that this item should be deferred since the list of internal ring diameters is still being cross-checked by CITES office. The Committee agreed to defer this item.

6. Article 9(1)(b) research project: Request for sampling of blood and feathers from up to fifty (50) Spotted Flycatchers *Muscicapa striata* (Mediterranean Flycatcher – *Muscicapa tyrrhenica*) in Malta for laboratory analysis abroad.

Research period – Phase 1: May – August 2022 (blood sampling and geo-tagging) | Phase 2: May – August 2023 (feather sampling upon retrieval of the devices). Phase 2 subject to submission of report for Phase 1, followed by Ornithology Committee meeting in 2023. *Proposal circulated in advance of the meeting (Doc Item 6). Item subject to a vote.*

- 6.1 The Secretary presented this research proposal to the Committee, stating that the objective is to carry out genetic analyses on the local breeding population of the Spotted Flycatcher through blood and feather sampling, and preservation of dead chicks in the nest for genetic analyses, to assess whether the Maltese population is composed of birds from the *Muscicapa striata tyrrhenica* (‘Mediterranean’ Flycatcher) lineage. The subspecies *Muscicapa striata tyrrhenica* is endemic to the Mediterranean basin and currently only known to breed in the Mediterranean islands of Corsica, Sardinia and the Tuscan archipelago. The proposed research will be part of

a genetic and migration study (through geolocation) of the *Muscicapa* flycatcher populations across Europe, continuing on studies by Jean-Marc Pons *et. al.* in 2015.

- 6.2 In this study, blood and feather sampling will also be accompanied by geo-tagging (**0.36g loggers**) of birds. Apart from BirdLife Malta metal rings, a metal colour ring for easier detection during geo-locator retrieval efforts in the second year of the study (2023) will also be used. A control-group identified via differently coloured colour-rings will also be included in this study. The aim of the control-group is to determine any potential effects of geo-tagging and sampling on the return rate of the birds. On such small birds (weighing an average of 13g), a maximum of two actions, in addition to ringing, is typically recommended per season on an individual bird. Therefore, blood samples of geo-tagged birds will be taken in the first year (during tagging in 2022) whilst feather samples for this group will be taken on retrieval of the devices in the second year of study (2023). Feather samples will be taken for the control group in the first year. No blood samples will be taken for the control group. Laboratory analysis will be conducted at the Service de Systématique Moléculaire (SSM) within the Muséum National D'Histoire Naturelle (MNHN) in Paris, France.
- 6.3 Joe Perici Calascione remarked that FKNK is in favour of all research projects. The Committee approved this item unanimously.
- 7. Ornithology Committee non-response attitude to incorrect and inciting public statements about the Committee (with reference to FKNK's respective complaint of 15 July and KSU's statement of the same date; and KSU's statement of 20 August 2021). Item submitted by FKNK on 20 August 2021. Documents circulated in advance of the meeting (Docs Item 7).**
- 7.1 Lino Farrugia remarked that there has been ongoing and unfounded criticism towards Ornithology Committee because the individuals levelling such criticism are not represented on the same Committee. Lino Farrugia further remarked that following the previous Committee meeting, Kaççatari San Ubertu (KSU) issued an incorrect and inciting statement, which compelled him to request the Committee to publish a right of reply.
- 7.2 Lino Farrugia lamented that to the best of his knowledge, such right of reply was not issued. Lino Farrugia stated that he cannot understand why the Committee has remained silent considering that KSU's statement was not only incorrect but also damaging to the Committee members. Lino Farrugia further remarked that such inciting statements and mud slinging will persist if the Committee will continue to do nothing about them.
- 7.3 The Chairman pointed out that whilst he fully understands Lino Farrugia's concern, as a consultative committee we should not go into the merits of a non-governmental organisation, adding that the Committee's role should be *super partes* (impartial).
- 7.4 Joe Perici Calascione remarked that the Committee's minutes are public thus any part of the minutes can be misquoted or misinterpreted out of context, in the sense that members could be quoted as having said something they did not. Joe Perici Calascione further stated that if there is anything non-trivial it should be corrected.
- 7.5 The Secretary stated that, by way of example, the Wild Birds Regulation Unit follows an established procedure and cannot issue any press release or right of reply unless the necessary authorisations have been obtained. Darrin Stevens remarked that any statement should be discussed by the Committee, which means that until it is published it becomes obsolete. The Chairman requested the Secretary to check whether there are any established procedures in place regarding rights of replies and publication of statements by statutory Committees. The Secretary informed the Committee that an update will be provided during the next meeting.

8. Ornis Committee's reply to Ombudsman's Case No. CEP-21-1932. Item included as a follow-up to the Committee's meeting held on 14 July 2021. *Documents circulated in advance of the meeting (Docs Item 8-8C).*

8.1 Chairman provided a summary of Ombudsman's Case No. CEP-21-1932. The Secretary informed the Committee that following a meeting between Ombudsman and Lino Farrugia on 02 July, the Office of the Ombudsman submitted a request (reminder) for the Committee's reply as per communication dated 30 September (*Doc Item 8*). The item was placed on the agenda so that the Committee can proceed with finalising its reply to the Ombudsman.

8.2 Given that during this meeting the Committee was informed that a meeting between BirdLife Malta and Ombudsman on this case has been scheduled for 27 October, the Committee feels that it is opportune that this item is deferred to the next meeting during which BirdLife Malta will provide an update.

9. Any other business.

9.1 The Committee agreed to reconvene on 01 December at 1600 hrs. The meeting was adjourned at 1800 hrs.