

Meeting of the Malta Ornis Committee

Wednesday, 21st November 2018, WBRU, MESDC, Sta Venera
1630 - 1800

Minutes

Participants:

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

Excused: Mr Mark Sultana – BirdLife (Malta)
Ms Maria Attard – Representative of the Environment and Resources Authority

1. Approval of the agenda

1.1 The agenda was approved.

2. Matters arising and matters to report

2.1 There were no matters arising or matters to report.

3. Approval of the minutes of the meeting held on 10/10/2018

3.1 The minutes of the previous meeting were approved.

4. FKNK's legal comments on the amendments to the Golden Plover and Song Thrush Framework Regulations and Notice of Derogation of 19 October 2018

4.1 Lino Farrugia informed the Committee that FKNK commissioned a legal report on specific points of the Golden Plover and Song Thrush legislation to be presented to the Chairman for onward forwarding to the Minister. However, since the report has not yet been finalised, Lino Farrugia proposed to postpone this item to the next meeting.

4.2 The Chairman remarked that the Committee might find it difficult to discuss legal issues as opposed to technical issues. Joe Perici Calascione pointed out that the Committee should discuss the report, and vote or recommend as to whether the legal amendments are *ultra vires*. The Chairman reiterated that the legal report cannot be discussed by the Committee from a legal perspective. Lino Farrugia stated that FKNK's aim is to send the report to the Minister through the Chairman of the Ornis Committee—FKNK could have sent it directly to the Minister.

- 4.3 Mark Gauci pointed out that although it is a legal report, Chairman's role is not that of a legal counsel. The Chairman concurred with Mark Gauci's comment and recommended that the Committee should nonetheless look at the recommendations of the report given that such legal report is *ex parte*. Should there be any material issues stemming from the report, the Committee is duty bound to inform the Minister who in turn may obtain legal advice from the Attorney General, if and as required.
- 4.4 Lino Farrugia pointed out that FKNK's objections to the legal amendments have already been made public and that the Federation wanted to substantiate such objections on a legal basis. Lino Farrugia concluded by reiterating that FKNK's rationale is to send the legal report to the Minister through the Ornis Committee Chairman.

5. Setting up of a Wildlife Crime Unit

- 5.1 The Chairman opened the discussion by remarking whether the setting up of a Wildlife Crime Unit should be coupled with the Golden Plover and Song Thrush live-capturing derogation regime. Joe Perici Calascione pointed out that if the Wildlife Crime Unit is coupled with the Golden Plover and Song Thrush live-capturing derogation regime, FKNK would disagree but if it is set up totally separate from the Legal Notices FKNK can discuss further.
- 5.2 Lino Farrugia remarked that the Legal Notices undermine the Police in that the Police are expected to cooperate with NGOs rather than the other way around. If the intention is to proceed with setting up a Wildlife Crime Unit on those lines then FKNK disagrees.
- 5.3 Nicholas Barbara remarked that the law changes every year and hence the Wildlife Crime Unit should not be linked to the Legal Notices. The Secretary clarified that rather than the law changing every year, a derogation regime is subject to a separate annual assessment and recommendation by the Ornis Committee, including assessment of the latest conservation status, and that, following Ministerial approval, a new Legal Notice linked to a specific season is published.
- 5.4 Nicholas Barbara further remarked whether the Wildlife Crime Unit should be set up in lieu of the Administrative Law Enforcement, at which point Frank Vassallo stated that duplication of work should be avoided. Lino Farrugia pointed out that clear guidelines from the Government are required since the Government might want to retain ALE.
- 5.5 Mark Gauci remarked that BirdLife Malta's main issue is that ALE is under-resourced and also have to focus on other issues not related to wildlife crime. Lino Farrugia remarked that he had seen BirdLife Malta's composition of the Wildlife Crime Unit wherein it was stated that it shall not focus solely on hunting and hence the problem must reside in the fact that ALE have other duties.
- 5.6 The Chairman suggested looking at wildlife in its wider context since wildlife invariably does not constitute solely of birds—if, for example, someone uses explosives to catch fish, such method is deemed illegal.
- 5.7 Joe Perici Calascione asked what needs to be done in order for ALE to be at par with a Wildlife Crime Unit. The Chairman remarked that if ALE is already structured then the Committee should recommend relieving ALE from duties not related to wildlife crime. Nicholas Barbara stated that the problems of ALE go beyond this, referring to lack of resources as an example.
- 5.8 The Chairman remarked that rebranding should be considered, at which point Lino Farrugia questioned whether waste issues and recycling would also be expected to be added to ALE's

list of duties. The Chairman reiterated that ALE should focus on wildlife crime since any additional remit will undermine their efficiency. Mark Gauci referred to another problem, namely that after gaining years of experience ALE staff are transferred elsewhere.

5.9 Joe Perici Calascione remarked that there is a consensus on the principle that ALE should focus on wildlife crime. At this point the Chairman stated that, given acceptance in principle, the Committee should recommend to the politician the removal of any remit that is not related to wildlife crime from ALE. Nicholas Barbara suggested that a proposal is drafted by the Committee and referred to the Police for consultation. However, the Chairman stated that the Committee should first obtain feedback from both the politician and the Police to confirm whether or not they are in agreement. The Chairman stated that there are three options to consider and that the Committee should thus ask the politician which of these three is to be adopted:

1. the 'do nothing' approach;
2. a new Wildlife Crime Unit set up from scratch; or
3. to reorganise ALE so as to focus solely on wildlife crime.

5.10 Nicholas Barbara pointed out that this issue involves more than one Ministry. Lino Farrugia remarked that the questions that need to be put forward to the decision-makers is whether they want a Wildlife Crime Unit and, if in agreement, whether they want to set it up from scratch or reform ALE.

5.11 All members agreed that the Secretary will draft a recommendation and circulate it to the Committee. The letter shall include a recommendation to the Parliamentary Secretary to set an inter-ministerial meeting to decide whether a new Wildlife Crime Unit shall be set up or whether ALE shall be reorganised.

5.12 It was also agreed that if the Unit is set-up, it should form part of the Police Force.

6. Scoreboard for measuring progress in combating illegal killing, trapping and trade of wild birds (Bern Convention | Convention on Migratory Species)

6.1 The Secretary tabled a summary of Malta's Scoreboard for the period 2015–2017, which was submitted to CMS on 6 August 2018. A brief overview of the Scoreboard, its rationale and Malta's submission was also provided. The Secretary explained that the present IKB Scoreboard is intended to provide the national governments with a tool to provide an objective, fact-based national self-assessment of the current status of illegal killing, trapping and trade of wild birds at national level, and to enable States to measure their progress in implementing their commitments related to this area. The Secretary also informed the Committee that the current cycle serves as a baseline or benchmark for comparison with the subsequent reporting cycle.

6.2 Lino Farrugia remarked that for comparisons between one reporting cycle and the next, circumstances of matter should be taken into account, and gave as an example that recent media reports stated that this year there have already been reported a number of illegalities which concern finch trapping activities, when last year no such illegalities had been reported. What the media 'failed' to report was that last year finch trapping was legal.

7. Any other business

7.1 The Committee agreed to reconvene on 16th January. The meeting was adjourned at 1800 hrs.