

Meeting of the Malta Ornis Committee

Wednesday, 22nd August 2018, WBRU, MESDC, Sta Venera
1630 - 1900

Minutes

Participants:

Magistrate (retd.) Dr Denis Montebello – Chairman
Mr Richard Lia – Secretary
Mr Nicholas Barbara – BirdLife (Malta)
Mr Mark Sultana – BirdLife (Malta)
Mr Lino Farrugia – FKKNK
Mr Mark Gauci – Avifauna Expert
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
Ms Maria Attard – Representative of the Environment and Resources Authority

Excused: Mr Joe Perici Calascione – FKKNK

1. Approval of the agenda

- 1.1 Lino Farrugia requested the last item on the draft agenda, regarding FKKNK's statement on finch live-capturing, to be discussed after agenda item 3. The Committee agreed and the agenda was approved, as amended.

2. Matters arising and matters to report

- 2.1 The Secretary updated members on the current state of affairs regarding the White Storks. The remaining specimen is proposed to be relocated to a rehabilitation centre in Germany for subsequent release into the wild, subject to application of an Article 9(1)(b) derogation from the Birds Directive and issuance of a special licence by the Wild Birds Regulation Unit. The request was approved unanimously, on condition that the procedure is carried out by competent personnel.
- 2.2 The Secretary received information that the Greater Flamingos at Ghadira are dying from starvation and that allegedly BirdLife Malta refused to have them transferred to the Bird Park followed by their relocation to a rehabilitation centre in Italy. BirdLife categorically denied the allegation, stating that if this was the case, the flamingo that is still at Ghadira a year after its release into the sanctuary, would have perished. BirdLife confirmed that it is the same specimen since it was ringed before released into the bird sanctuary.
- 2.3 Lino Farrugia presented documents regarding the mesh size used in France and Italy for trapping of Thrushes and other bird species, which were considerably less than 45mm x 45mm which size will be permissible for the trapping of the song thrush besides the golden plover this autumn locally. The documents indicate that adequate sized mesh is used in both France and Italy which corresponds to the size of the bird targeted.

3. Approval of the minutes of the meeting held on 25/07/2018

- 3.1 Lino Farrugia requested an amendment to paragraph 6.4 of the minutes since the conditions linked to the Golden Plover and Song Thrush live-capturing season had not been FKNK proposals. The Secretary reminded the Committee that the request to increase the minimum mesh size to 45mm square is spelled out by the European Commission in its post-reasoned opinion dated 28 February 2012. Coupled with the requirement to remove or cover the nets when unattended, such conditions should ensure selectivity. The need to increase the number of spot-checks to ensure strict supervision ensue from the judgment of the European Court of Justice on the finches case. Lino Farrugia also proposed an amendment to paragraph 6.6 by adding "..., and only through the respective Government authorities." Members agreed with the proposed amendments and the minutes were subsequently approved.

4. FKNK's statement regarding the application of derogation to permit live-capturing of finches

- 4.1 The request was formally submitted by Lino Farrugia via email dated 26 July 2018. Lino Farrugia remarked that FKNK has always proposed to Ornis Committee, throughout the years, the application of finches trapping derogations, and for this year the FKNK is again hereby officially making a similar proposal. However, and in view of ECJ's judgment in case C-557/15, the FKNK is aware that at present the Government is not in a position to apply such derogation for this year. Furthermore, the FKNK reserves the right to submit similar recommendations in the future.

5. Enforcement

- 5.1 The Chairman invited Inspector Sheldon (ALE) and Superintendent Curmi (Gozo Police) to join the meeting. The Secretary put forward three generic questions for further discussion:
- How can we ensure pro-active enforcement?
 - How will spot-checks be increased?
 - How is the rabbit hunting season enforced during the June–August period? Are site plans being checked?
- 5.2 Regarding rabbit hunting during the summer months, Insp. Sheldon remarked that the site plans are kept by the hunters and when spot-checks are carried out such plans are always requested. Mark Sultana asked whether rabbit hunting is subject to derogation to which the Secretary remarked that it is not. Supt. Curmi stated that enforcement in Gozo during the June–August period needs to be improved. Lino Farrugia explained that the site-plan requisite is not a hard and fast rule, and that in fact several rabbit hunters, including himself, had never submitted any site-plan. Moreover, the site plans measure has proved inadequate and impractically, and this is why the FKNK has long lobbied for its removal.
- The Chairman remarked that there is a general sense of inadequate enforcement. Insp. Sheldon pointed out that during any live-capturing or spring hunting derogation there is always adequate personnel but the problem is mostly due to the land coverage and the difficulty in inspecting all licence holders. However, it was confirmed that enforcement can be improved. One of the main issues is lack of personnel and resources. Moreover, ALE and Gozo Police have other non-wildlife-related duties, rendering pro-active enforcement of hunting and trapping regulations even more difficult.

- 5.3 Mark Sultana remarked that if ALE and Gozo Police had to focus their resources on environmental issues rather than on several non wildlife-related duties concurrently, enforcement would improve. Insp. Sheldon reiterated that all efforts are being made to improve enforcement, including resource mobilisation. When asked by the Secretary what it entails to mobilise resources, Insp. Sheldon remarked that ALE are currently in the process of acquiring new vehicles and that the resources are provided by the Commissioner of Police as well as through deployment from the Armed Forces of Malta. Insp. Sheldon pointed out that Malta can be subdivided into regions so that each locality can be targeted and all sites are inspected systematically to increase the number of spot checks.
- 5.4 Lino Farrugia pointed out that in terms of enforcement the law specifies a minimum of 7 officers for every 1,000 licences issued and that we have the best enforcement in Europe. Mark Sultana remarked that notwithstanding the fact that Malta enacted the 7/1,000 enforcement regime, the European Court of Justice was not convinced that the number of spot checks, 23% of all licence holders, is enough and that this case-law will apply to all Member States. It was noted that whilst certain areas can be easily inspected, others may not. He also asked whether personnel without the right to apprehend can be utilised to report illegalities. Lino Farrugia remarked that whoever is engaged in enforcement needs to be an official who is duly authorised to carry out enforcement.
- 5.5 Chairman stated that enforcement may be carried out by an independent entity. When asked whether Gozo Police have enough resources, Supt. Curmi remarked that in terms of personnel this is considered adequate but vehicles and know-how are lacking. He informed the Committee that Police on the beat are deployed according to exigencies and that with a little effort there can be an improvement in enforcement. However, he reiterated that there is a total lack of adequate vehicles to properly enforce the law.
- 5.6 The Chairman asked Members whether they are in agreement to have a dedicated wildlife unit. Mark Sultana referred to the long-standing need to set up a wildlife crime unit. At this point Lino Farrugia remarked that Mark Sultana's comment was transparent enough to conclude what BirdLife and their partners CABS were after - *official authority to further their stunts and spy-games on hunters and trappers when playing policemen*. With reference to the suggestion to split Malta into regions for a more effective strict supervision stance, Insp. Sheldon requested a list of all registered trapping sites. The Secretary made reference to the portable tablets that are provided by WBRU to ALE and Gozo Police. These tablets include all registered trapping sites for the season as well as details of persons licensed on each trapping site. A full list of licensed individuals is also provided separately before each season opens.
- 5.7 The Chairman informed the Committee that the setting up of a dedicated wildlife crime unit will be officially recommended to the Minister, without calling for a vote of the Committee members. Lino Farrugia remarked that the setting-up of such a unit now, besides possibly duplicating the work that has been carried out so far by the ALE, would be a waste of financial resources and would seriously and unfairly undermine the excellent work that has been carried out so far by the ALE, the rest of the Police Corps and the WBRU inspectors, that, as already stated is the best in Europe. Whilst addressing the Police Officers present, Lino Farrugia said that he hoped that during inspections, and when nothing irregular is found or seriously suspected, the Police will refrain from requesting the particular individual to carry out further inspections at his private residence, as has occasionally occurred in the past.
- 5.8 Insp. Sheldon and Supt. Curmi were thanked by the Committee for their contribution and left the meeting.

6. Amendment to the Conservation of Wild Birds Regulations (SL 549.42)

- 6.1 The Committee discussed the proposed draft amendments to SL 549.42 that were previously circulated to the Members by the Secretary. Regarding the first amendment on bird callers [subregulation (1) of regulation 7], the Secretary explained that the objective of the legislator is not to render their sale, use or possession within urban areas illegal but to ensure that, save for the purpose of bird ringing, no person is in possession, makes use or installs bird callers outside residential areas, defined as an area with 100 residents or more, irrespective whether the bird callers are intended for hunting and/or trapping purposes. This proposed amendment was not approved, with one vote in favour, two against and four abstentions. The Committee proposed a revised amendment to render not only the use of bird callers but also their possession illegal whilst hunting or trapping. This amendment was approved unanimously. The Secretary pointed out that the text in Schedule VIII (Administrative Fines) will be amended accordingly and the corresponding €250 fine will remain as is. Members agreed.
- 6.2 The second amendment related to subregulation (1)(c) of regulation 7, replacing “sighting devices for night shooting” to “night vision devices”. The Secretary pointed out that Annex IV of the Birds Directive prohibits artificial light sources, devices for illuminating targets, and sighting devices comprising an electronic image magnifier or image converter. Lino Farrugia remarked that the Birds Directive specifically mentions “night shooting”. The Secretary remarked that although it refers to night shooting, the objective of this amendment is to eliminate any potential legal ambiguity regarding night trapping, which is illegal in any case, and that Member States can legislate beyond the minimum requirements of the Birds Directive. The Committee approved the proposed amendment, with two votes in favour, one against and four abstentions.
- 6.3 The Committee also agreed with the proposed third amendment to the English version of subregulation (6) of regulation 31, replacing “Environment Fund” to “Conservation of Wild Birds Fund”. Chairman pointed out that such minor amendments need not be referred to the Committee.
- 6.4 The final amendment referred to Schedule IX, namely the removal of *Egretta alba* (*Ardea alba*) | Russett Abjad | Great White Heron since this species is already listed in Schedule I and inclusion of *Geronticus eremita* | Velleran Eremita | Northern Bald Ibis in Schedule IX. The Committee agreed unanimously.

7. Amendment to the Protection of Wild Rabbit Regulations (SL 549.90)

- 7.1 The Secretary informed Members that this amendment was put forward by the FKNK through its Wild Rabbit Hunting Sub-Committee a number of years ago but for some reason was never discussed by the Ornis Committee and remained at draft stage. The amendments entail the removal of a legal requirement to train dogs on a leash and to remove the requirement to limit rabbit hunting within agricultural land during the June–August period, hence removal of the need to submit a site plan showing agricultural holdings within which hunting of rabbits will take place. Mark Sultana questioned whether Ornis Committee has jurisprudence over the Protection of Wild Rabbit Regulations also considering that the Wild Birds Regulation Unit is mentioned in this law only insofar as licensing is concerned. The Chairman requested to put this item on hold to check if WBRU and Ornis Committee have a remit over the Protection of Wild Rabbit Regulations. Lino Farrugia remarked that in the recent past the Ornis Committee had in fact discussed and recommended amendments to the Wild Rabbit Regulations, even proposals that had been tabled by BirdLife Malta.

8. Any other business

8.1 The Committee agreed to reconvene on 10th October. The meeting was adjourned at 1900 hrs.