



Pro Arte Venandi

**KACCATURU SAN UBERTU  
SAINT HUBERT HUNTERS**



Affiliated with the Malta Sports Shooting Federation MSSF

Registered with SPORTMALTA SM/D 029 

**Commissioner Karmenu Vella  
European Commission  
Rue de Loi 200  
B-1049 Brussels**

February 12, 2019

Dear Commissioner Vella.

Kaccaturi San Uberty (KSU) refers to your reply dated January 18, 2019 signed by Ion Codescu. This dismally fails to answer the issues raised in our letter and highlights the Commission's dependence to "closely monitor" derogations and subsequently propose measures by relying purely on reports or recommendations stemming from stakeholders. These, in the case of Malta, include Environmental Organizations that have pledged to eradicate trapping. The Commission's observations and actions, more so in the case of Malta, are totally reliant on such reports and lack any hands-on monitoring that would establish irrefutable facts and eliminate blatant bias.

We are intrigued by your inviting KSU to "submit evidence" on illegalities during trapping derogation in France since our references to France are in relation to published facts long known to the Commission. As quoted below, facts have been readily available to the Commission for years from various stakeholders with certainly no need for KSU to provide more. Also we note a blatant case of two weights two measures when comparing the Commission's actions against Member States on identical issues which in the case of France have been known long before Malta's EU accession and its string of infringement procedures.

[https://www.birdlife.org/sites/default/files/attachments/01-28\\_low.pdf](https://www.birdlife.org/sites/default/files/attachments/01-28_low.pdf) :

*"In France, an estimated 149,000 to 895,000 birds are illegally killed each year. In the name of tradition, many regions get away with illegally trapping small birds – **with many non-target species getting caught in the process.** Trapping is the predominant form of illegal killing of birds in France. Of the 349 species of birds assessed in France, around 32% of them are killed illegally in significant numbers. Eurasian Chaffinch (*Fringilla coelebs*), European Robin (*Erithacus rubecula*) and Ortolan Bunting (*Emberiza hortulana*) are killed in large numbers. France is one of three countries with the highest numbers of Eurasian Chaffinch illegally killed each year. The Ortolan Bunting is known for being served as an expensive 'delicacy' – it was a rite of passage for centuries for French gourmets to eat this bird. Despite its illegality, capture of the species is tolerated. For the past ten years, the Ligue pour la Protection des Oiseaux (LPO, BirdLife in France) has organized annual actions on the ground in the Landes department, where the majority of illegal trapping occurs. The exact locations of trapping sites are marked each year and data of the number of traps and decoys that are used at each site are collected and monitored by LPO. Legal complaints about the trapping are deposited in the local police stations. In March 2015, the European Commission informed LPO that its official complaint would be closed unless further evidence was received."*

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<https://www.komitee.de/en/actions-and-projects/france/bird-trapping/south-france-ortolan-bunting> :

*“Some 1,500 poachers in the South of France specialize in Ortolan Bunting trapping and illegally catch between 40,000 and 80,000 of the rare birds, far more than the whole of the Central European Population”*

<https://rm.coe.int/1680746a41> :

**Poaching of non-huntable species**

*“The takings are carried out by means of nests (tenderies au filet), an illegal practice. Five protected species of passerines are particularly targeted: the Goldfinch, the Eurasian Siskin, the Greenfinch, the Chaffinch and the Linnet.”*

<https://rm.coe.int/1680746a41> :

**The poaching of the European Robin in the South of France**

*“The practice used to take European robins, a protected species, is very similar to the one seen in the Lande. It is still observed in the department of Bouches du Rhône”*

Faced with such facts in a Union where all Member States and its citizens are meant to be treated equally, we are indeed perplexed when reading your assurance of “equal treatment among Member states”. Evidence of the capture of non-target species in France collected over years has not been acted upon by the Commission, even less with the same speed, scrutiny and Court action adopted against Malta. Neither were interim measures imposed as in the case of Malta’s spring hunting as a precautionary means before verifying fact. Clearly some Member States are more privileged than others as are its citizens.

Bearing in mind just under a quarter of trappers were individually checked, real time reporting and a police presence of 7 per 1000 hunters and trappers, in delivering judgement the European Court of Justice in its case against Malta saw all this as inadequate stating “merely 23 per cent of hunters have been subject to individual checks”.

Subsequently in full knowledge of Malta’s exemplary measures, we ask:

What percentage of individual checks is carried in any other Member State during hunting or trapping derogations that can be termed as adequate?

What is the allocation of enforcement officers during derogation per 1000 hunters in other EU states?

What control on “small numbers” during derogation does the Commission have on those states that do not have a reporting system?

The rulings of the ECJ regarding selectivity and its evaluation of enforcement leave much to be desired as does the Commission’s perception of “close monitoring” and “strict control”.

Based on such Court findings and the Commission’s objection to using 30mm netting for trapping Song Thrush and Plover, the Maltese Authorities, against the advice of hunting organizations, were constrained to impose the use of 45mm square netting as a means to prevent further persecution by the Commission and its sources. Yet as noted in our previous letter the French trapper, notwithstanding years of documented proof



of “trapping being the predominant form of illegal killing of birds in France with many non-target species getting caught in the process”, uses nets far smaller than in Malta and other methods without fear of facing any Court Cases, any recommendations about the size of nets used or action against trapping methods.

Furthermore, in the case of Malta, the Commission questions “it is however unclear as to why this recommendation was not accepted by the Maltese authorities”: Apart from trapping experts disagreeing with imposed net size as being unsuitable for the targeted species, KSU’ would like to further substantiate this by referring to the findings of the Maltese Courts<sup>1</sup> regarding the use of 45mm square netting. These illustrate the inadequacy of this recommendation and the disregard of the bird’s wellbeing by those recommending it. As noted by the Court the harm done especially to Golden Plover due to this net size is a fact which anyone with a basic knowledge of bird trapping would realize any yet of no concern to the abolitionists that recommended it.

We also reiterate our point regarding the inadequacy of using 45mm square netting for the capture of Song Thrush, a fact collaborated by all our trapper members. Quite clearly in its bid to ensure Malta’s “non selective nature of such nets” and nothing more, the Commission approved recommendation to use 45mm square netting, as opposed to the previous 30mm. This now results in the elimination of catching any possible non-target species as well as the species being targeted. It is certainly not rocket science to conclude that this ludicrous recommended size based on the nonsensical advice of the London Natural History Museum and the British Trust for Ornithology is useless for catching Song Thrush and serves only one purpose, namely the impossibility of safely catching any bird smaller than a chicken.

It is also pertinent to point out that the recommended 45mm square netting is actually referred to as 90mm netting, in that a net is measured between knots as illustrated in the poster sent to all trappers Doc 2<sup>2</sup>. This “recommended” size contrasts drastically with the suitable 20mm square netting (40mm netting) used for Woodpigeon in France considering this targeted bird is twice the size of a Golden Plover and six times the size of a Song Thrush. It is also worth noting that in the case of Skylark trapping in France, a bird slightly smaller than a Song Thrush, 13.5mm square netting (27mm netting) is the unquestionable norm. Though the trapping of non-target species in France is *amply proven* these net sizes, which trapping experts consider suitable for the targeted species, pose no concern to the Commission unlike those which Maltese trapping experts recommend.

This ridiculous recommendation makes a mockery of Malta, its police force, its trappers and all law abiding citizens. It shows a lack of trust in Malta’s institutions and proves how the Commission and the ECJ are influenced by recommendations from stakeholders having no interest in trapping that thrive on discrediting all efforts to apply derogation correctly. Since this recommendation is based on the perception of rampant abuse created by bird-protectionists in Malta, are all trappers deemed as law-breakers by the Commission?

Unlike other Member States, where undoubtedly strictly policing vast territories is impossible, Malta has some of the strictest regulations, highest penalties, registered trapping sites and an area for trapping the size of a European village. Yet all this is put in doubt by the hierarchy of a Union that purports to treat all Member

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<sup>1</sup> Doc 1

<sup>2</sup> Doc 2



states equally yet imposes nonsensical limitations on some thanks to orchestrated reports received from abolitionists that converge on tiny Malta to reach their specific aims.

Finally in view of the Commission's endorsement of "revised rules":

- a) We vehemently disagree with the Commission that the use of 45mm square netting is considered an "improvement" and call for the lifting of this imposition on our Government that even our Courts have noted as unsuitable.
- b) We consider Birdlife Malta's recommendation to use 45mm square netting a sham and reiterate our request to be given all proof and correspondence relating to the advice given to Birdlife Malta by the London Natural History Museum and the British Trust for Ornithology pertaining to the use of 45mm square netting.
- c) We ask to be given expert proof substantiating the Commission's endorsement of 45mm square netting as being suitable for the live capture of Golden Plover and Song Thrush.
- d) We pledge our continual unconditional support towards eradicating abuse.

It is certainly not KSU's intention to pick on French trappers when referring to trapping practices and illegalities since we undoubtedly understand their being subjected to biased bird protectionists reports, no less orchestrated than Malta's. However as equal European citizens we expect our traditional practices and expertise to be treated with equal respect and not see them ruined and ridiculed by the actions of the Commission based entirely on recommendations from Organizations sworn to eradicate trapping.

We have full trust in Malta's enforcement authorities, its Government and their capability to control the few remaining cases of abuse. Unfortunately experience is teaching us the same cannot be said about the Commission and its institutions who count on the "hunters good cooperation with the Maltese authorities" when at the same time expecting nonsensical uninformed recommendations as a form of collective punishment to be observed for fear of further retribution.

Yours Faithfully

Mark Mifsud Bonnici

President  
**Kaccaturi San Ubertu**

Doc 1

1 of 2



Qorti tal-Magistrati (Ghawdex)  
Bhala Qorti ta' Gudikatura Kriminali

**Magistrat Dottor Joseph Mifsud B.A. (Leg. & Int. Rel.), B.A. (HONS.),  
M.A. (EUROPEAN), LL.D.**

**Il-Pulizija**

**vs**

**Matthew Buttigieg**

**(Kawza Nru. 422/018)**

Illum 12 ta' Dicembru 2018

Il-Qorti thoss li ghandha tesprimi ruhha dwar tliet punti li ltaqghet magghom tul il-hidma taghha f'kazijiet differenti dwar is-suggett:

1. Minn ricerka li ghamlet il-Qorti jidher li l-qies tal-malji tax-xbiek ta' 45 x 45 mm kif stabbilit fil-ligi qed jikkawza forma ta' mohqrija ghax ghadd t'ghasafar, l-iktar il-pluvieri, qed ikorru meta jinqabdu peress li parti mill-ghasfur tghaddi mill-malja bir- rizultat li l-impatt mal-malji jikkawza qtugh u ticrit tal-gilda fin naha tal-ghonq u partijiet ohra tal-ghasafar.

Fl-opinjoni tal-Qorti, la l-ligi tippermi l-qbid tal-ghasafar hajjin bl-ixbiek, il-ligi ghandha wkoll tipprovdi ghas-sigurta tal-ghasafar li jinqabdu biex dawn jinqabdu bl-inqas mod li jikkawza dannu lill-ghasfur. Wiehed jifhem li l-intenzjoni tal-legizlatur li d-daqs tal-malja jkun kbir sar biex jigi mnaqqas jew sahansitra jigi eliminat l-abbuz biex ma jinqabdux ghasafar izghar. Pero biex jitnaqqas l-abbuz ghandha tizdied is-sorveljanza, mhux sempliciment titkabbar il-malja tax-xibka b'mod li qed isir dannu lill ghasafar.

2. Punt iehor li l-qorti thoss li ghandha tikkummenta fuqu hu t-tip ta' criket li jkollhom jitlibbsu certi ghasafar meta jinqabdu. Jidher li l-kwalita ta' dawn ic-criket mhix tajba bizzejjed u anke din qed tirrizulta fi hsara lil dawn l-istess ghasafar u ghalhekk ghandha tinstab sistema li ma taghmilx dannu lill-ghasfur, ghax min jaqbad ghasfur haj, ikun irid izommu fl-ahjar stat possibbli, mhux jispicca mwegga ntortament minhabba c-criket.

3. Il-Qorti tiehu l-opportunita' li tfakkar fid-decizjoni tal-Ombudsman Case No EQ 0030 li ppropona li jispicca l-monopolju tar ringing: *In the light of the foregoing it is felt appropriate to recommend changes to local legislation to introduce a greater measure of pluralism, both in the methods employed for bird tagging, as well as for the agencies, organisations and individuals who may carry out such activities.*

[...]

*Pluralism in this sector needs to be encouraged and diversified particularly in research as long as the proper standards in the handling of birds are maintained.*

[...]

*Thus this Office, is strongly recommending that the ORNIS Committee gives its permission for this study whilst at the same time recommending to Government to amend the laws to allow plurality in respect of research methods of the local fauna in order to remove any possibility of conflict of interest and discrimination and thus provide maximum possibility for a pluralistic approach to research.*

**Komunika:**

- Segretarju Parlamentari Onor Perit Clint Camilleri

- Chairman Kunitat Ornis

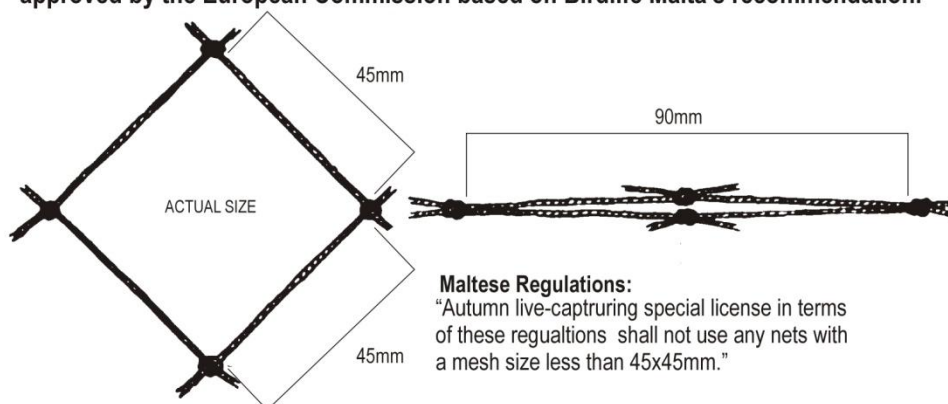
- WBRU

**Dr Joseph Mifsud**  
Magistrat

# EU DISCRIMINATION AGAINST MALTA'S TRAPPERS

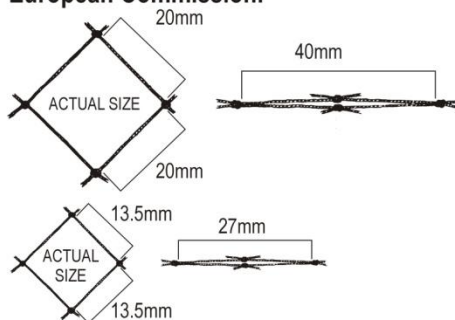
## Malta

Net size used for trapping Golden Plover and Song Thrush under derogation as approved by the European Commission based on Birdlife Malta's recommendation.



## France

Net sizes used for trapping in France under derogation as approved by the European Commission.



### French Regulations: **WOODPIGEON**

"Les mailles des filets ne doivent pas être d'une dimension, de noeud a noeud, inférieure à 40mm."  
("The net mesh size must not be less than 40mm from knot to knot.")

### French Regulations: **SKYLARK**

"Les mailles des filets ne doivent pas être d'une dimension, de noeud a noeud, inférieure à 27mm."  
("The net mesh size must not be less than 27mm from knot to knot.")

## TARGETED SPECIES

