

Report on the Outcome of the 2019 Autumn live-capturing Season for Golden Plover and Song Thrush in Malta

February 2020

Wild Birds Regulation Unit

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- Annex III – Selectivity and mesh size – an assessment of the methods used for live-capturing
- Annex IV - Autumn 2019 Special Live-capturing Licence for Golden Plover and Song Thrush
- Annex V - Report on a survey of the influx of migratory Golden Plover and Song Thrush over the Maltese Islands (October–January2020) (Ecoserv Ltd., 2020)

1. Introduction

- 1.1 This report has been prepared on the basis of past practices whereby the Maltese authorities submit, within three months from the closure of the live-capturing season, a detailed report on the implementation of the derogation. This report has therefore been compiled in addition to Malta's formal reporting obligation under Article 9 of Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009, on the Conservation of Wild Birds (hereinafter referred to as 'the Birds Directive'). In this regard, this report will consider various relevant aspects of the application of this derogation, including:
- (i) An overview of the legal and policy basis for the application of the derogation;
 - (ii) An assessment of the conservation status of Song Thrush (*Turdus philomelos*) and Golden Plover (*Pluvialis apricaria s.l.*);
 - (iii) An overview of the decision-making process leading up to the application of the live-capturing derogation for Golden Plover and Song Thrush in autumn 2019, including Ornis Committee recommendation to Minister;
 - (iv) A summary of the legislative changes and changes to the parameters of the derogation, with an overview of the 2019 amendments made to both the Golden Plover and Song Thrush Framework Regulations and Notice of Derogation, following bilateral meetings with the services of the European Commission to discuss Infringement No. 2009-4106 and to follow up on the Court of Justice of the European Union in Case C-557/15 (Commission v Malta) on finch trapping;
 - (v) A summary of institutional controls deployed to oversee compliance with the parameters of the derogation, including special licensing, site registration, publication of site coordinates and other regulatory processes;
 - (vi) An analysis of the uptake of bag quotas;
 - (vii) The enforcement efforts in place to ensure the strict supervision of live-capturing during the season;
 - (viii) The illegalities detected and corresponding enforcement action taken; and,
 - (ix) Other aspects of relevance.

2. Legal and policy basis for the application of a derogation permitting an autumn live-capturing season for Golden Plover and Song Thrush in 2019

- 2.1 Article 9(1) of the Birds Directive states that "*Member States may derogate from the provisions of Articles 5 to 8 [of the same Directive], where there is no other satisfactory solution*" in line with a number of limited reasons, such as that stipulated by Article 9(1)(c): "*to permit, under strictly supervised conditions and on a selective basis, the capture, keeping or other judicious use of certain birds in small numbers*".
- 2.2 Article 2 of the Birds Directive requires that Member States take the requisite measures to maintain the population of the bird species, to which the Directive applies, at a level which corresponds in particular to ecological, scientific and cultural requirements, while taking account of economic and recreational requirements, or to adapt the population of these species to that level.

The 2019 amendments to the Framework Regulations and Notice of Derogation pursuant to Court Case C-557/15 and bilateral meetings with the European Commission

Further to the judgment delivered by the Court of Justice of the European Union in Case C-557/15 (Commission v Malta) on finch trapping¹, delivered on 21 June 2018, and the recommendation of the Malta Ornithology Committee (see below), the European Commission requested bilateral discussions with the Maltese authorities to address aspects of the Court's judgment that were deemed to have a direct bearing on the Golden Plover and Song Thrush live-capturing derogation regime. On the basis of these discussions, in 2018, the Maltese Government carried out a thorough review of legislation and enacted a number of legal amendments to the Framework Regulations via LN 333 of 2018 and to the Notice of Derogation via LN 334 of 2018.

Changes to the Framework Regulations (amended via LN 333 of 2018)

- The minimum mesh size increased from 30mm x 30mm to 45mm x 45mm;
- The number of live-capturing stations registered on each licensee was reduced from two stations to one, consisting of not more than two clap-net pairs from one hide, with a proviso that prohibits the setting up of an additional clap-net pair if only one pair was approved, and another proviso prohibiting the subdivision of a hide into two or more hides to make use of more than two clap-net pairs from the original hide;
- The layering of two or more nets on top of each other or any other modification, including creation of 'pockets' was prohibited;
- A legal requirement specifying that nets shall either be removed from the site or completely covered over before the licensee leaves the site and throughout prohibited hours;
- A Standard Operating Procedure with an emphasis on spot-checks on individual licence holders throughout Malta and Gozo, which were subdivided into ten regions;
- Inclusion of a statutory minimum of 40 police/marshals to operate in the ten regions at all times during the permitted hours for trapping instead of the former ratio of 7 officers per 1,000 licences issued;
- Cooperation with NGOs;
- Publication of co-ordinates of the approved trapping stations (clap-net pairs) at least three days before opening of the season; and
- Limiting the scope (rationale) of capturing Golden Plovers and Song Thrushes to their use as live-decoys during *open hunting season*, thus amending the text of the Notice of Derogation from "to be used as live-decoys during open hunting and live-capturing seasons" to "...as live-decoys during open hunting season".

Changes to the Notice of Derogation (Legal Notice 270 of 2019)

- 2.3 Former notices of derogations up to 2017 consisted solely of the establishment of the season and respective quotas. Following Court Judgment in case C-557/15 and

¹<http://curia.europa.eu/juris/liste.jsf?td=ALL&language=en&jur=C,T,F&num=c-557/15>

further to the bilateral discussions with the European Commission, the notice of derogation was restructured to include:

- Reference to the recommendation of the Malta Ornithology Committee and an online link to the associated minutes;
- Minister's declaration that there is no other satisfactory solution for the acquisition of live specimens of Golden Plovers and Song Thrushes other than by means of live-capturing using clap-nets, in small numbers, and insofar as it is absolutely necessary to replenish the limited stock of live birds in captivity for use as live-decoys for hunting purposes;
- Minister's account of the favourable conservation status of both species and an online link to the latest conservation status report (Annex I to this report);
- Determination of the reference population and small numbers; and
- Calculation of the 1% of the total annual mortality of the reference population.

2.4 Following the increase in mesh size, the Maltese authorities received criticism from both hunters' representatives and directly from licensees, because Song Thrushes were passing through the 45mm x 45mm mesh size. In the letter sent to the Environment Commissioner and to the Maltese authorities in February 2019, Kaċċaturi San Ubertu (Annex II) maintained that the mesh size of 45mm x 45mm is too large to capture Song Thrush. KSU also included an illustration of the methods used to calculate mesh size for various species i.e. length x breadth or from knot to knot. In order to confirm whether the advice of the Natural History Museum of London (NHML) specified a mesh size of 45mm (measured from knot to knot) or 45mm x 45mm, the Maltese authorities requested BirdLife Malta for a copy of such advice and received the following correspondence:

"BirdLife Malta's stance on trapping has remained one and same, therefore that no trapping should be practiced in line with Annex IV of Birds Directive on the use of nets as a method of capture. We cannot recall the links/references used for NHML or BTO at the time – but a simple research on what mesh sizes are used for bird ringing on what type of birds helps corroborate the 45mm size. Ecotone nets quote 45mm as being ideal for medium to big waders - <https://www.nhbs.com/ecotone-series-1000-mist-net-45mm-mesh> ... Other mesh sizes such as 30 or 32 mm are able to catch finch-sized birds and therefore not ideal." (BirdLife Malta, pers. comm., 2019).

According to the above reply, BirdLife Malta deems that a 45mm net is appropriate for capturing medium to big waders as well as Song Thrush. The fact that BirdLife Malta made reference to 45mm mesh size and not 45mm x 45mm (45mm square) suggests that KSU were right in pointing out to the Commission that *"the recommended 45mm square netting is actually referred to as 90mm netting"*. Notwithstanding, and as noted in the above reply, BirdLife Malta confirmed that nets with a mesh size larger than 32 mm are not able to catch finch-sized birds, therefore on the basis of BirdLife Malta's statement, a mesh size smaller than 45mm but larger than 32mm should still address the concerns raised by the Commission in infringement 2009-4106.

Given that the advice obtained by BirdLife Malta from NHML could not be recalled or traced, the Maltese authorities corresponded directly with NHML and asked for a copy of the report/advice that was sent to BirdLife Malta. Unfortunately, the curators of

NHML were not aware that a report/advice on the shoulder widths of the seven finch species and Song Thrush was tendered to BirdLife Malta. In the absence of such advice, the Maltese authorities considered that a fresh assessment on shoulder widths is necessary. However, NHML replied that “measuring bird skins available would not be a reliable method to predict effective mesh net sizes. The filing in the skins would prove to be different than true body size of the birds.” (NHML, pers. comm., June 2019). Conversely, the National Museum of Natural History (Malta) inferred that their sample size is too small: “making use of measurements from single specimens is a scientific no-go” since “birds vary in size according to sex as well as to different geographical populations. There is a tendency that species living in northern countries are larger than southern ones. Size also differs according to body fat and muscle condition. While measurements of dried parts (e.g. beak and legs) are considered in many scientific works, the measurements you are requesting are not, unless one is comparing skeletal anatomy.” (MNHM, pers. comm., May 2019).

Due to this lack of data on shoulder widths, the Maltese authorities carried out a study on selectivity and mesh size, which was subsequently presented to the Malta Ornis Committee on 30 July 2019². The July 2019 report on selectivity and mesh size includes a table (see Annex III Table 1) listing the minimum and maximum shoulder widths taken from 295 skinned birds (body without skin and feathers) from specimens pertaining to nine species (seven finch species, Song Thrush and Golden Plover) at Worldfauna taxidermy company in Denmark and at l’Arche de Noé in Vicques in Switzerland. On the basis of this study, a number of changes to the Framework Regulations was deemed necessary.

Changes to the Framework Regulations (amended via LN 269 of 2019)

The amendment to the Framework for Allowing a Derogation Opening a Live-capturing Season for Song Thrush and Golden Plover (Amendment) Regulation, 2019 was recommended by the Malta Ornis Committee, following consideration of a range of technical and scientific parameters, including outcome of the 2018 live-capturing derogations, a review of the enforcement and supervision systems in place, and a review of the conservation status of the species concerned, in order to ensure that if a derogation is applied, it is applied within the spirit of the Birds Directive, namely: that the absence of another satisfactory solution has been ascertained, is limited in scope and selective, under strictly supervised conditions as well as to ensure that it shall not have any negative impact on the maintenance of the populations of these species at a satisfactory level.

The amendments to SL 549.74 recommended by the Ornis Committee are as follows:

- Minimum mesh size for Song Thrush reduced from 45mm x 45mm to 35mm x 35mm. This reduction ensures that the mesh size is small enough for Song Thrush yet large enough to allow all finches to escape.
- All Golden Plovers and Song Thrushes caught during a live-capturing season shall be fitted with an official ring supplied by the Wild Birds Regulation Unit. Previously, this requirement was limited to Golden Plovers and Song Thrushes used as live-decoys. During the June 2019 Nature Bilateral with the services of the European Commission, it was agreed that all birds caught through live-capturing shall be fitted with a ring. Licence holders failing to abide by this requirement would not be eligible for another live-capturing licence for the following live-capturing season.

² The minutes of the Malta Ornis Committee of the 31 July 2019 meeting and the July 2019 report on selectivity and mesh size (included as Annex A to the minutes) is available at: <https://msdec.gov.mt/en/Document%20Repository/WBRU/2019/ornisCom/oMinThirtstJul19.pdf>

- The live-capturing season for Song Thrush remained the same (20 October – 31 December) but the season for Golden Plover shortened by two days, that is, from the previous 20 October – 31 December period to 1 November – 10 January.
- The text of regulation 8(6) was reworded to specify that NGOs shall cooperate with the Police. The wording of the 2018 amendment was suggested by the services of the European Commission, just a few days before the 2018 season opened, which meant that there was insufficient time to consult with the Executive Police and obtain legal advice. The text of regulation 8(6) as published in 2018 inferred that the Police are sub-servient to NGOs.

Malta Ornis Committee meetings

- 2.5 The Malta Ornis Committee, established under Regulation 10 of the Conservation of Wild Birds Regulations (SL 549.42³), met on 10 July 2019⁴, 31 July 2019⁵ and on 18 September 2019⁶ to consider the application of a live-capturing derogation for Golden Plover and Song Thrush during the 2019 autumn season. The Committee considered an updated assessment of the conservation status of the species concerned (included as Annex I to this report), the legal basis for the application of a live-capturing derogation, CJEU's judgment (Case C-557/15) regarding live-capturing of finches, the advice of the Attorney General in relation to this judgment vis-à-vis live-capturing of Golden Plover and Song Thrush, as well as the outcome of the 2018 live-capturing season.
- 2.6 Having taken into consideration scientific information concerning the conservation status of the two relevant species (discussed further in Section 3 below), and having taken into account the provisions of Article 9(1)(c) of the Birds Directive as well as all relevant national legislation, the Malta Ornis Committee recommended the opening of a season to permit the limited live-capturing of Song Thrush and Golden Plover under strictly supervised conditions. Upon considering the recommendations of the Malta Ornis Committee and the discussions held during a bilateral meeting in June 2019 with the European Commission, the Maltese Government announced the live-capturing season through the Conservation of Wild Birds (Declaration on a Derogation for a 2019 Autumn live-Capturing season for Song Thrush and Golden Plover) Regulations (Legal Notice 270 of 2019)⁷ in accordance with the Framework Regulations⁸ as amended via LN 269 of 2019⁹.

³ Subsidiary Legislation 549.42. Available at: <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=11548&l=1>

⁴ Meeting of the Malta Ornis Committee held on 10 July 2019. Minutes available at: <https://msdec.gov.mt/en/Document%20Repository/WBRU/2019/ornisCom/oMinTenJul19.pdf>

⁵ Meeting of the Malta Ornis Committee held on 31 July 2019. Minutes available at: <https://msdec.gov.mt/en/Document%20Repository/WBRU/2019/ornisCom/oMinThirtstJul19.pdf>

⁶ Meeting of the Malta Ornis Committee held on 18 September 2019. Minutes available at: <https://msdec.gov.mt/en/Document%20Repository/WBRU/2019/ornisCom/oMinEiTeenSept19.pdf>

⁷ LN 270/2019 available at: <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lp&itemid=29800&l=1>

⁸ SL 549.74 (Framework for allowing a Derogation opening an autumn live-capturing season for Song Thrush and Golden Plover Regulations) available at: <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=11936&l=1>

⁹ LN 269/2019: Conservation of Wild Birds (Framework for Allowing a Derogation Opening an Autumn Live-Capturing Season for Song Thrush and Golden Plover) (Amendment) Regulations, 2018. Available at: <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lp&itemid=29799&l=1>

3. Consideration of the conservation status of the Song Thrush and Golden Plover

- 3.1 Taking into consideration the provisions of Article 9(1)(c) of the Birds Directive, the Government assessed available scientific data regarding the conservation status of the two species in question. In line with the requirement of “judicious use” in Article 9(1)(c) of the Birds Directive, and prior to the decision to apply a derogation, a thorough review of scientific data was undertaken in order to ascertain that the conservation status of these two species would not be threatened by the application of a limited autumn 2019 live-capturing season.
- 3.2 A detailed assessment of the conservation status, as well as a determination of the “small numbers” criteria is presented in Annex I to this report. The conservation status of the Golden Plover and Song Thrush was reviewed on the basis of the latest scientific literature available at the time, which also provides details of population size, mortality rates and migratory routes. An assessment of the Golden Plover at sub-species level was also provided.
- 3.3 The analysis indicates that Golden Plovers migrating over the Maltese Islands are the sub-species *Pluvialis apricaria altifrons* from the Northeast European (or West Continental) population, which has a favourable conservation status at the Global, Pan-European, EU and reference-population levels. The same status has also been indicated for Song Thrush (*Turdus philomelos*).
- 3.4 Both species are listed in Annex II (b) of the Birds Directive, which indicates that nine Member States may authorise the hunting of Golden Plover and that eight Member States may authorise the hunting of Song Thrush in accordance with Article 7(3) of the Directive. Both *Pluvialis apricaria* and *Turdus philomelos* have maintained a Favourable Conservation Status at the Global, Pan-European and EU levels, continue to enjoy a healthy distribution and range, and a large population size.
- 3.5 The assessment indicated both the long-term and short-term trend for Song Thrush as **Increasing** at Pan-European¹⁰, EU¹¹ and reference population levels¹². The EU population status of *Turdus philomelos* was assessed as **Secure**, because the species does not meet any of the IUCN Red List criteria for Threatened or Near Threatened, or the criteria for Depleted or Declining (the EU27 population or range has not declined by 20% or more since 1980). According to the latest dataset available from the European Bird Census Council¹³ at the time the conservation status of the Song Thrush (*Turdus philomelos*) was updated (May 2018), the species trend classification is considered as **Moderate Increase**, defined as a “significant increase, but not significantly more than 5% per year”. In the short-term trend (2007-2016), the change from the previous EBCC (2017) update was from +22% to +20% (**2% decrease**) and from 0% to 2% (**2% increase**) in the long-term (1980–2016) trend.

¹⁰ Trends of common birds in Europe, 2017 update. Available at: <http://www.ebcc.info/index.php?ID=631>

¹¹ European Environment Agency (2014) Article 12 reports for the 2008-2012 reporting period (EU27) Available at: <http://bd.eionet.europa.eu/article12/summary?period=1&subject=A285>

¹² The “reference population” is the population (minimum breeding pairs) of the relevant species from other EU Member States based on ring recoveries. In the absence of ring recoveries for a particular species, the reference population was formerly based on the entire EU population divided by three to account for the three principal flyways. However, in the case of Golden Plover, the literature (Wetlands International, 2009) indicates that the reference population for Malta originates from Finland and Sweden (excluding non-EU countries such as Norway).

¹³ Trends of common birds in Europe, 2017 update. Available at: <http://www.ebcc.info/index.php?ID=631>

- 3.6 The Golden Plover breeding population trend within the territory of the European Union is **Increasing** in both the short-term and long-term (EEA, 2014¹⁴). The EU population status of *Pluvialis apricaria* was assessed as **Secure**, because the species does not meet any of the IUCN Red List criteria for Threatened or Near Threatened, or the criteria for Depleted or Declining (the EU27 population or range has not declined by 20% or more since 1980). According to the European Bird Census Council¹⁵, the Northeast European (West Continental) population (Norway, Sweden and Finland) [i.e., Malta's reference population] of the Golden Plover (*Pluvialis apricaria altifrons*) has **Increased** both in the short-term (1990–2015) and long-term (1980–2015) trends with +22% and +8% respectively when compared with the previous (2017) EBCC update.
- 3.7 On the basis of the evaluation contained in Annex I to this report, the key conclusions that have previously been drawn, as reported in Malta's successive reports on the outcome of the autumn live-capturing derogations for Golden Plover and Song Thrush, have been retained. These are: (i) that there is no record of these two species ever breeding in Malta, neither in the wild nor in captivity, (ii) that these two species are only present in the Maltese Islands in very limited numbers during a period of migration and (iii) that both species have a **Favourable Conservation status** with an extremely large range, and hence do not approach the thresholds for Vulnerable under the range size criterion, or under the population trend criterion, or under the population size criterion, and are thus evaluated as species of 'Least Concern' and a **Secure** status at EU level.

4. Issuance of autumn 2019 live-capturing licences for Golden Plover and Song Thrush

- 4.1 Applications for Special Autumn Live-capturing licences for Golden Plover and Song Thrush were received by the Wild Birds Regulation Unit between the 28 August and 7 September 2019, both dates included. Applications were subject to a €55 Special Licence fee, payable at the time of application. The applicants were also required to declare the quantity of single-use rings approved by the Maltese authorities for Golden Plovers and Song Thrushes that were to be used for live-decoys. The applicants were issued with the required number of rings against a payment of €0.50 per ring. The rings were supplied together with the special licence prior to opening of the season via registered mail. Without prejudice to Ornithology Committee recommendations on subsequent derogations for these two species, it is expected that the 2019 application period was the last time single-use rings were purchased (ordered) at application stage given that during previous periods there was no legal obligation to place single-use rings on specimens caught. From 2020 onwards, the Maltese authorities intend to only supply single-use rings for these two species according to the exact amount reported by each licensee during that same season.
- 4.2 In 2017, a web-based GIS platform was developed instead of the former offline system, utilising existing hardware (tablet PCs). During application period, live-capturers were instructed to submit one official site plan, pre-approved by WBRU, with their special licence application form. The GIS platform contains spatial data of approved live-capturing sites which were applied for in 2019, for field enforcement

¹⁴ European Environment Agency (2014) Article 12 reports for the 2008-2012 reporting period (EU27) Available at: <http://bd.eionet.europa.eu/article12/summary?period=1&subject=A140>

¹⁵ Trends of common birds in Europe, 2017 update. Available at: <http://www.ebcc.info/index.php?ID=631>

purposes. The coordinates of these sites were subsequently published online before the season opened, in accordance with Regulation 8(7) of SL 549.74.

- 4.3 Until 2017, licence holders were allowed to submit up to two live-capturing stations, with each station having not more than two pairs of clap-nets. Following discussions with the European Commission and subsequent legal amendments to the Framework Regulations, licensees are only permitted to use one live-capturing station, with not more than two pairs of clap nets from one hide.
- 4.4 The total number of clap-net pairs for live-capturing of Golden Plovers and Song Thrushes in 2019 stood at 1,895, registered on 1,587 licensees (Table 1). This figure represents an overall decreasing trend when compared with the 2014–2017 Golden Plover and Song Thrush live-capturing seasons: $n_{2014}=3,519$ clap-net pairs, submitted by 1,223 licensees; $n_{2015}=3,310$ clap-net pairs, submitted by 1,128 licensees; $n_{2016}=2,912$ clap-net pairs, submitted by 997 licensees, $n_{2017}=2,269$ clap-net pairs, submitted by 1,059 licensees, $n_{2018}=1,849$ clap-net pairs, submitted by 1,542 licensees. In 2019, a total of 1,425 registered clap-net pairs were located in Malta whereas 470 clap-net pairs were located in Gozo.

	<u>Clap-net pairs</u>	<u>Licensees</u>
Malta	1,425	1,214
Gozo	470	373
Total	1,895	1,587

Source: Wild Birds Regulation Unit

- 4.5 By the end of the application process, 1,587 applications for Special Licence for Golden Plover and Song Thrush were received. Following screening, no applications were considered invalid. Consequently, a total of 1,587 Special Licences were issued, representing an increase of 45 licensees when compared with the previous season ($n_{2018}=1,542$), an increase of 528 licensees when compared with the 2017 season ($n_{2017}=1,059$), an increase of 590 licensees when compared with the 2016 season ($n_{2016}=997$), an increase of 459 licensees when compared with the 2015 season ($n_{2015}=1,128$) and an increase of 364 individuals in comparison with the number of licences issued in 2014 ($n_{2014}=1,223$). 1,214 licences were issued to persons residing in Malta (*circa* 76%) and 373 licences were issued to persons residing in Gozo (*circa* 24%), as shown in Table 2.

Applications	Total	Malta	Gozo
Persons issued with a Golden Plover/Song-Thrush special live-capturing licence	1,587	1,214	373

Source: Wild Birds Regulation Unit

- 4.6 A specimen licence for 2019 is enclosed as Annex IV to this report. Five licences remained uncollected by the respective live-capturers. The autumn 2019 Live-capturing Licence set a number of conditions for the 2019 live-capturing season, as provided in the Framework Regulations (SL 549.74¹⁶), as amended via Legal Notice 269 of 2019¹⁷ and the Notice of Derogation (LN 270/2019¹⁸). The Licence included, *inter alia*:

¹⁶SL 549.74 available at: <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lp&itemid=11936&l=1>

¹⁷LN 269/2019 available at: <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lp&itemid=29799&l=1>

¹⁸LN 270/2019 available at: <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lp&itemid=29800&l=1>

- the dates and permitted hours of the season;
- provisions related to the location of live-capturing sites and the live-capturing station;
- restrictions pertaining to mesh size to be used, namely not less than 35mm x 35mm for live-capturing of Song Thrush and not less than 45mm x 45mm for live-capturing of Golden Plover—the smaller mesh size shall apply when live-capturing both species concurrently;
- the maximum footprint of the live-capturing station, namely maximum of 60m² per clap-net for live-capturing of Golden Plover or maximum of 38m² for live-capturing of Song Thrush—the lower footprint shall apply when live-capturing both species concurrently;
- provisions related to the authorised method of capture;
- requirement to remove or cover the nets before the licensee leaves the site and during prohibited hours;
- requirements concerning the use of live-decoys (maximum of ten live-decoys per live-capturing station—all decoys must be fitted with a single-use ring supplied by the Wild Birds Regulation Unit);
- requirement to immediately report birds caught through telephonic game reporting system;
- requirement to immediately release birds fitted with scientific ring after the relevant ring details have been inputted on the form supplied specifically for this purpose with the licence pack;
- requirement to keep relevant documentation, including the approved site plan, Special Licence and the general live-capturing licence card at all times whilst practicing the live-capturing activity or when travelling to and from the live-capturing site; and
- restrictions pertaining to permitted size of cages in which birds can be kept during live-capturing activity.

4.7 In addition to these conditions, licensed live-capturers were also required to abide with the provisions laid down in the Conservation of Wild Birds Regulations (SL 549.42). Except where the offence consisted of an administrative or minor violation listed in Schedule VIII of the said Regulations, any other offences or breaches of licence conditions trigger automatic seizure of the Special and General Licences, seizure of rings, birds and equipment prior to criminal proceedings being initiated in terms of Regulation 27.

Single-use rings

4.8 The applicants were required to declare the quantity of single-use rings up to a maximum of ten per species. Licence holders could opt to use up to ten Golden Plover decoys **or** a maximum of ten Song Thrush decoys **or** any combination from the two species up to a combined limit of ten live-decoys. For the Golden Plover and Song Thrush special licence, the single-use rings were issued in two different sizes bearing the official seal “RU18”. The rings were colour-coded according to the species (and size), as shown in Table 3 and Figure 1.

Species	Ring colour	Ring size
Golden Plover	Red	6.0 mm
Song Thrush	Yellow	4.26 mm



Figure 1: Single-use rings coded “RU18” for Golden Plover (red) and Song Thrush (yellow) live-decoys.

Source: Wild Birds Regulation Unit

- 4.9 The limit imposed on single-use rings corresponded with the maximum number of live-decoys that were permitted to be used within the live-capturing station at any one time (any combination from the two species not exceeding a total of ten live-decoys). For example, a licensed Golden Plover/Song Thrush live-capturer could opt to place a maximum of ten Golden Plover live-decoys around his live-capturing station but if he chose to use a Song Thrush live-decoy he was legally required to reduce the number of Golden Plover decoys to nine. In total, the licensees applied for 7,174 Golden Plover (red) single-use rings and 9,804 Song Thrush (yellow) single-use rings.
- 4.10 As from the 2019 live-capturing season, live-capturers are also required to purchase single-use rings corresponding to the amount of birds they reported. Failing to carry out this obligation would render the licensee ineligible to apply for a special licence for the following live-capturing season, as specified in Regulation 3(3) of the Framework Regulations (S.L. 549.74) and licence condition 14. Apart from an official letter sent by the Wild Birds Regulation Unit, all licensees reporting a catch were informed of their legal obligation via text message on the unique mobile number registered in their name. A final warning letter was sent via registered mail to the remaining 20 individuals who had not purchased the rings within the deadline. Following expiry of the extended deadline, and despite a final attempt by the WBRU to contact the remaining individuals by phone, two licence holders failed to purchase the single-use rings assigned to the number of birds they reported, namely a combined total of two red rings and a yellow ring. These two licensees were subsequently rendered ineligible to apply for another live-capturing licence should a live-capturing season for Golden Plover and Song Thrush be declared in autumn 2020. The confirmation of receipt (known as ‘pink card’) of the registered warning letter that was sent to these two individuals is kept on record by the WBRU.

5. Activity Data (Trapping effort)

- 5.1 During this year’s live-capturing period, licensees were provided with a calendar survey sheet listing the dates of the open season. Each licensee was asked to submit a completed survey sheet detailing the days during which they practiced live-capturing and which species they targeted on each day. Survey sheets were accepted up to a week after the season closed.
- 5.2 By this deadline, 354 survey sheets were returned which constitutes 22.4% of the total 1,582 (five licences remained unclaimed) licences issued corresponding to a margin of error of 4.6 at a 95% confidence level. The analysis shows that during the 2019 season, 9% (± 4.6) of valid licences were not utilised, meaning that 70–215 licensed

individuals did not practice live-capturing during the 2019 season although they had applied for a Special Licence. Conversely, there were 91% (± 4.6) licences that were utilised at any one time, meaning that 1,367–1,512 individuals practiced live-capturing on one or more occasion during the season. Figure 2 shows this extrapolated licence activity during the 2019 open season.

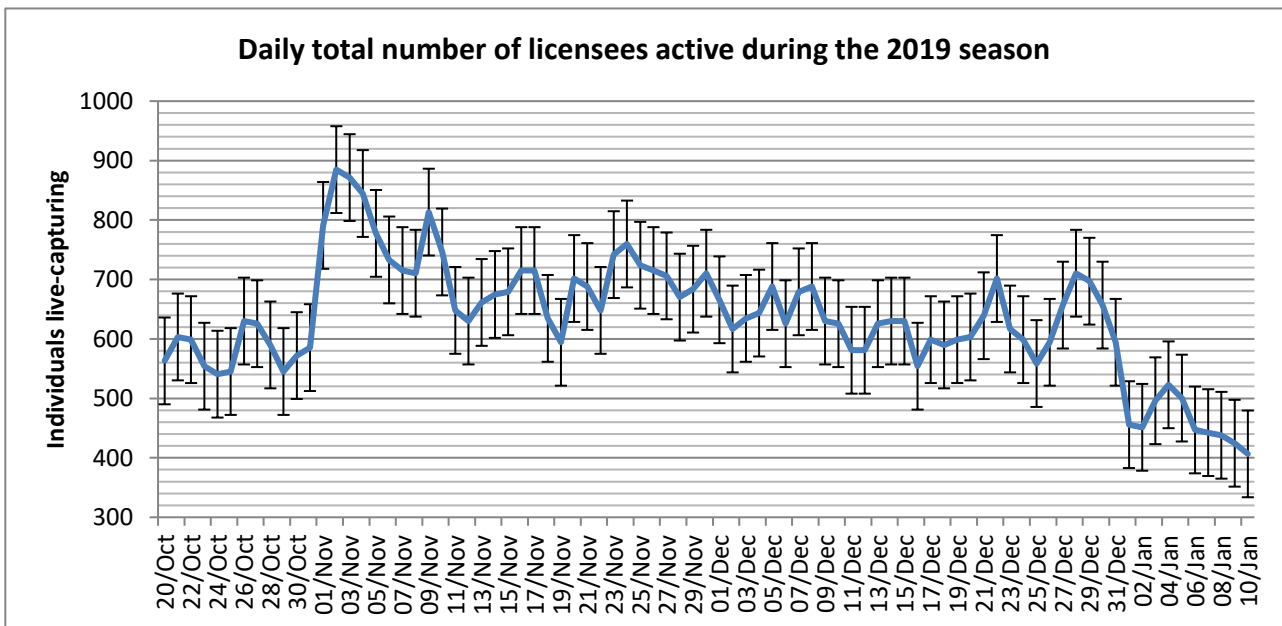


Figure 2 - Live-capturing activity during the open season. Source: Wild Birds Regulation Unit

5.3 Licensees were also asked to specify, on their application form, which species they were targeting on each day. 876 individuals indicated that they were live-capturing for both species during the season; 172 individuals only sought to live-capture Golden Plover and 539 individuals only sought to live-capture Song Thrush. Figures 3 and 4 extrapolate the total amount of individuals practicing live-capturing for Golden Plover and Song Thrush respectively.

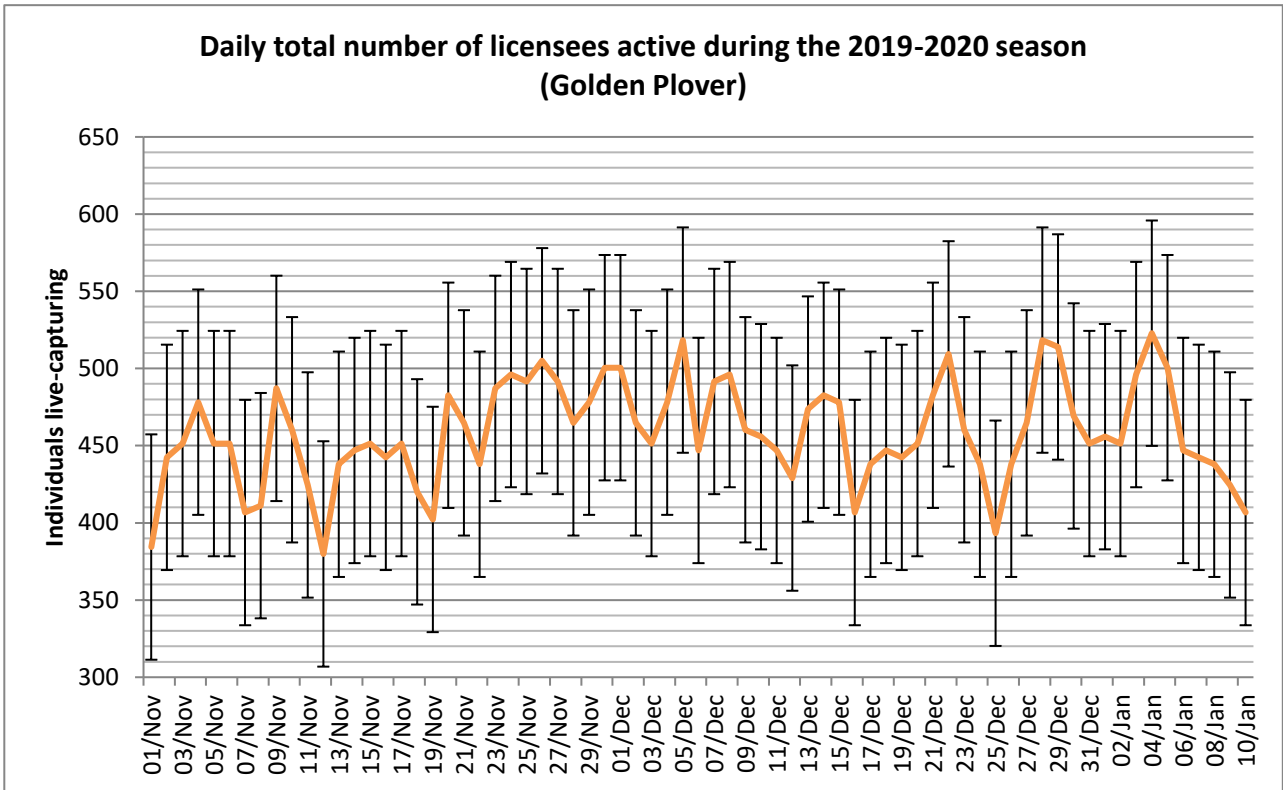


Figure 3 - Live-capturing activity for Golden Plover during the open season. Source: Wild Birds Regulation Unit

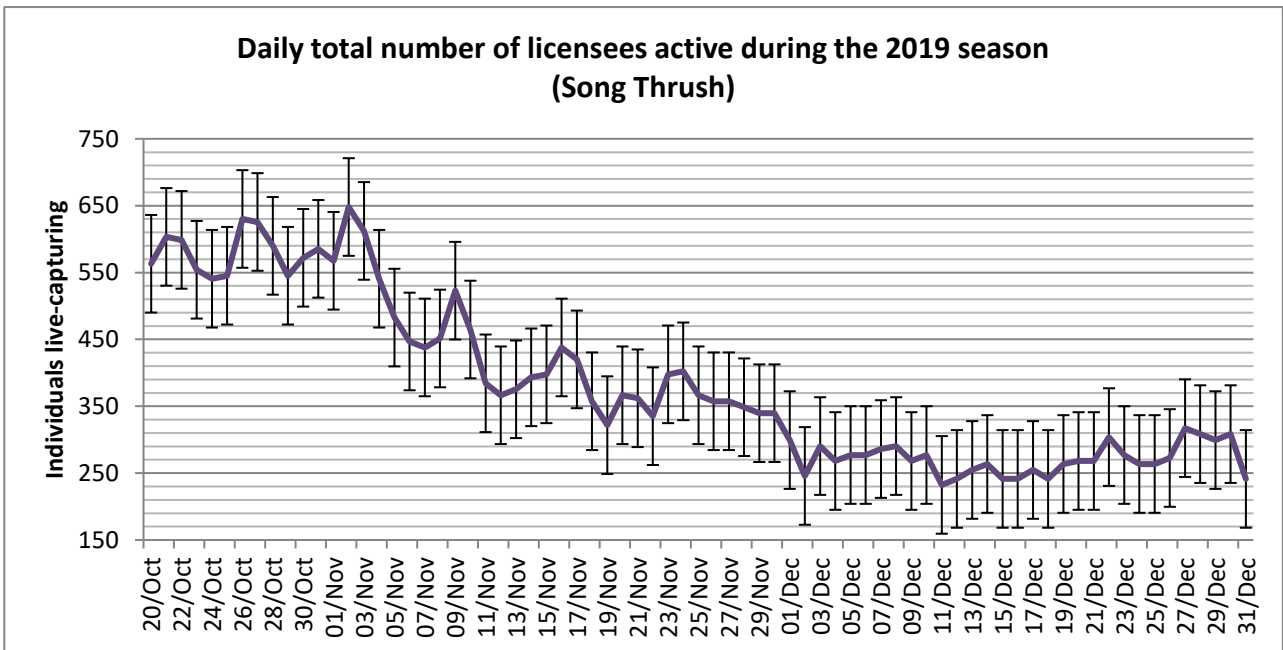


Figure 4 - Live-capturing activity for Song Thrush during the open season. Source: Wild Birds Regulation Unit

6. Real-time game reporting system

6.1 In accordance with the provisions of Regulation 7(m) of the Conservation of Wild Birds (Framework for Allowing an Autumn Live-Capturing Season for Song Thrush and Golden Plover) Regulations (SL 549.74), licensed live-capturers are obliged to immediately report the birds caught to the Wild Birds Regulation Unit.

- 6.2 The Special Live-capturing Licence contained a legal obligation for live-capturers to immediately report birds caught by sending an SMS to a single number for the Golden Plover and the Song Thrush, as indicated in the Special Licence. Live-capturers were required to notify the species caught and the quantity. The notification for the sent SMS was to be retained throughout the season for inspection by enforcement officers, who also had access to the game reporting system to verify the total number of birds caught by the licensee from the start of the season up to the time of last spot-check.
- 6.3 Throughout the duration of the derogation, the Wild Birds Regulation Unit monitored the national quota uptake for both species in real time as well as the total number of birds reported caught per species at any given time, including detailed information pertaining to the precise time of each report, and the registered mobile phone number pertaining to each licensee making such a report.
- 6.4 All data was compiled in a database which created two reports. The first report included the mobile numbers that registered a catch together with the associated date, time, species and quantities. The second report consisted of daily catches per species and the respective cumulative totals. These reports were closely monitored throughout the season, with a view to keeping track of various variables, including the total number of birds per species caught per day and the national bag limits.
- 6.5 During the 2019 live-capturing season between 1 November 2019 and 10 January 2020, a total of 700 Golden Plovers were declared caught, which is 300% more than the number of Golden Plovers reported during the 2018_(n=233) live-capturing season (20 October 2018 – 31 December 2018). A total of 722 Song Thrushes were declared caught between 20 October 2019 and 31 December 2019, which is 71% more than the number of Song Thrushes reported during the same period in 2018_(n=511).
- 6.6 The national quota of 700 Golden Plovers was reached on 10th January 2020 at 17:30. All licensees were informed to stop all their activity through bulk SMS, social media (WBRU Facebook page) and through Government Notice 51 published in the Government Gazette no. 20,328¹⁹.
- 6.7 Table 4 below lists daily catches of Golden Plover and Song Thrush reported during the 2019 season in comparison to the corresponding catches reported during the 2014–2018 seasons.

Table 4: Daily catches of Golden Plover and Song Thrush: comparison between the 2014–2019 seasons.

Date of capture	2019 Season		2018 Season		2017 Season		2016 Season		2015 Season		2014 Season	
	GP	ST	GP	ST	GP	ST	GP	ST	GP	ST	GP	ST
20-Oct	-	4	0	7	0	0	0	1	0	0	0	1
21-Oct	-	16	0	14	0	0	0	2	0	0	0	1
22-Oct	-	46	0	8	0	0	0	2	0	2	0	1
23-Oct	-	32	0	6	0	3	0	2	0	0	0	5
24-Oct	-	8	0	14	0	4	0	2	0	2	0	2
25-Oct	-	29	2	25	0	3	0	13	0	6	0	4
26-Oct	-	34	0	28	0	5	0	5	0	11	0	7
27-Oct	-	30	0	34	0	6	0	11	0	8	0	6

¹⁹ <https://www.gov.mt/en/Government/DOI/Government%20Gazette/Government%20Notices/Pages/2020/01/GovNotices1301.aspx>

	2019 Season		2018 Season		2017 Season		2016 Season		2015 Season		2014 Season	
28-Oct	-	33	0	13	0	15	0	2	0	7	0	3
29-Oct	-	20	0	8	0	4	0	2	0	8	0	8
30-Oct	-	16	0	13	0	3	0	7	0	8	0	16
31-Oct	-	14	2	8	0	4	0	12	1	2	0	7
01-Nov	0	25	0	11	0	2	0	4	0	1	0	10
02-Nov	0	27	1	23	0	9	0	16	1	6	1	12
03-Nov	0	22	0	17	0	7	0	5	2	10	0	7
04-Nov	0	32	0	19	0	3	0	8	0	11	0	9
05-Nov	0	19	1	7	0	4	0	11	0	7	0	5
06-Nov	0	12	0	13	0	10	0	5	0	8	0	5
07-Nov	0	19	1	10	0	5	0	5	0	9	0	2
08-Nov	0	16	0	17	0	7	0	2	0	6	0	4
09-Nov	3	5	0	15	0	7	0	4	0	9	0	15
10-Nov	1	17	0	7	0	1	0	1	0	4	0	9
11-Nov	0	3	3	12	0	0	0	2	0	7	0	4
12-Nov	9	0	0	15	1	0	1	6	0	4	2	13
13-Nov	5	9	2	7	1	2	4	7	0	3	0	2
14-Nov	3	13	2	8	0	4	8	6	2	3	2	8
15-Nov	0	11	0	14	0	1	12	2	1	7	0	8
16-Nov	2	3	0	6	1	5	5	7	0	1	1	5
17-Nov	0	30	16	11	2	3	5	5	1	2	0	7
18-Nov	1	4	11	10	0	5	7	4	4	1	0	3
19-Nov	1	7	1	7	0	1	2	5	1	1	0	6
20-Nov	1	9	2	6	0	7	4	5	0	1	0	4
21-Nov	0	10	2	4	0	0	4	5	0	1	0	3
22-Nov	1	12	0	7	0	4	5	3	0	2	0	5
23-Nov	9	4	6	2	0	1	1	1	1	7	1	4
24-Nov	5	12	22	7	0	2	3	3	2	21	0	4
25-Nov	25	0	4	2	0	0	0	2	3	3	7	1
26-Nov	20	10	12	5	1	0	2	0	2	2	7	5
27-Nov	21	5	6	5	1	2	0	0	6	3	4	0
28-Nov	9	4	7	0	0	0	3	4	7	4	2	0
29-Nov	8	6	8	0	0	2	5	0	10	2	5	1
30-Nov	46	2	8	11	0	0	7	4	14	1	8	1
01-Dec	34	4	3	1	1	2	12	0	5	3	7	4
02-Dec	17	3	8	9	0	0	1	0	1	1	6	0
03-Dec	9	1	5	1	2	1	8	0	5	0	9	0
04-Dec	7	7	5	0	1	2	5	1	6	0	13	2
05-Dec	9	3	3	0	1	6	1	0	4	2	8	2
06-Dec	15	5	9	2	4	0	8	2	6	3	10	1
07-Dec	18	3	2	1	8	0	8	3	4	2	8	0
08-Dec	28	3	5	5	2	3	11	0	4	1	7	1
09-Dec	8	6	4	1	14	10	5	3	3	2	7	3

	2019 Season		2018 Season		2017 Season		2016 Season		2015 Season		2014 Season	
10-Dec	21	0	3	0	3	0	4	7	3	0	2	1
11-Dec	9	3	2	0	6	0	8	2	6	3	11	4
12-Dec	21	9	6	3	3	0	3	0	7	4	6	1
13-Dec	19	4	3	2	0	2	7	0	10	3	14	2
14-Dec	0	2	5	11	10	0	6	0	3	1	9	0
15-Dec	22	10	3	0	0	0	0	0	1	0	7	1
16-Dec	8	8	3	0	2	0	15	0	6	3	7	0
17-Dec	16	0	3	0	13	3	2	0	16	0	10	0
18-Dec	14	9	14	0	7	0	7	1	4	1	4	2
19-Dec	8	3	1	3	0	0	6	5	12	0	3	1
20-Dec	7	0	5	0	1	1	9	0	3	1	17	4
21-Dec	11	0	4	0	3	0	4	0	7	1	13	1
22-Dec	20	0	4	0	12	0	2	0	6	2	12	1
23-Dec	4	0	2	1	9	2	4	1	3	4	9	5
24-Dec	10	0	1	0	20	3	21	2	4	4	9	4
25-Dec	12	2	2	0	6	0	6	0	5	0	1	3
26-Dec	10	2	4	4	7	0	13	3	7	0	9	1
27-Dec	15	4	3	2	3	0	2	3	14	1	16	3
28-Dec	8	1	2	3	7	1	16	0	16	0	13	0
29-Dec	20	0	0	1	2	0	2	2	18	2	30	0
30-Dec	11	0	0	5	12	0	4	1	20	2	26	13
31-Dec	7	0	0	0	1	6	19	1	54	1	75	9
01-Jan	10	-	-	-	-	-	-	-	-	-	-	-
02-Jan	19	-	-	-	-	-	-	-	-	-	-	-
03-Jan	2	-	-	-	-	-	-	-	-	-	-	-
04-Jan	15	-	-	-	-	-	-	-	-	-	-	-
05-Jan	5	-	-	-	-	-	-	-	-	-	-	-
06-Jan	10	-	-	-	-	-	-	-	-	-	-	-
07-Jan	9	-	-	-	-	-	-	-	-	-	-	-
08-Jan	22	-	-	-	-	-	-	-	-	-	-	-
09-Jan	12	-	-	-	-	-	-	-	-	-	-	-
10-Jan	8	-	-	-	-	-	-	-	-	-	-	-
Total	700	722	233	511	167	183	297	230	321	248	418	292

6.8 During the 2019 season, the total number of Song Thrush captured was substantially lower than the permitted national bag limits while the national bag limit for Golden Plover was reached. In the case of Golden Plover, the total number of 700 live-captured birds equates to 100% of the limit permitted by law (700). In the case of Song Thrush, the total number of 722 birds declared captured amounts to 14% of the total bag limit permitted by law (5,000). Table 5 below represents the number of birds reported by licensees.

Table 5: Breakdown of catches by number of reports made	
Number of birds declared caught throughout season	Number of licensed live-capturers
0	1,208
1	92
2	102
3	43
4	38
5	35
6	12
>6	57
Total	1,587

Source: Wild Birds Regulation Unit

7. Migration study

7.1 As was the case in previous years, in agreement with the European Commission, an independent scientific study on the migration of Golden Plovers and Song Thrushes over the Maltese Islands was carried out between 15 October 2019 and 10 January 2020, both dates included. This study, which sought to obtain an estimate of migratory influxes of the two species, overlapped with the 2019 autumn/winter live-capturing season that is 20 October to 31 December 2019 for Song Thrush and 01 November 2019 to 10 January 2020 for Golden Plover. The study, carried out by Ecoserv (2020), was commissioned by the Wild Birds Regulation Unit through an open tendering procedure.

7.2 The results that were expected from the commissioned study were as follows:

1. Daily datasheets with raw counts for Golden Plover and Song Thrush.
2. A monitoring report for the autumn/winter 2019/2020 migration season which includes:
 - a) List of monitoring stations which recorded high/low counts
 - b) Dates which showed high/low migration peaks of each of the bird species.
 - c) A daily estimate of the influx of each species for the whole of the Maltese Islands.
 - d) The estimated total influx for these species for the whole of the study period, subject to scientifically justified assumptions.
 - e) Comparison of the influxes recorded in 2019/2020 with the influxes recorded during the 2015, 2016 and 2017, 2018 studies (the reports of such past studies are available online from: <https://msdec.gov.mt/en/Pages/WBRU/livecapturingder.aspx>);
 - f) A comparative analysis of the results obtained with the bag data extracted from live-capturers' telephonic report for the 2019/2020 derogation period.

7.3 The geographical scope of the study extended across the three inhabited islands of the Maltese archipelago (Malta, Gozo and Comino), with data gathered during a period of 88 days, between 15 October 2019 and 10 January 2020. Given that the study was mainly intended to quantify the influx of migrating Golden Plovers and Song Thrushes, the count stations were located at strategic locations along the coast. A full copy of the survey report is attached in Annex V, with key conclusions summarised below.

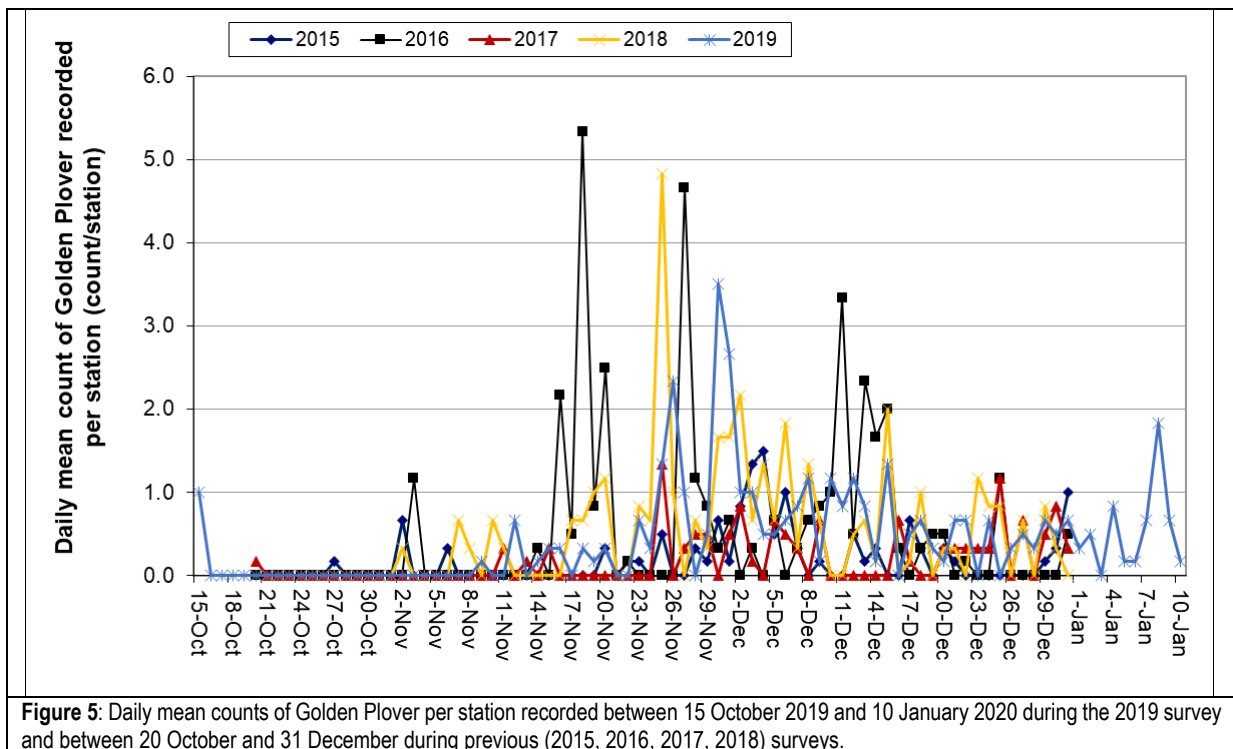
- 7.4 During the survey, two individuals - a field assistant capable of identifying Golden Plover and Song Thrush and an observer who was responsible for data recording in the field - were stationed at a total of 21 sites (count stations). During the survey, counts of the two species (Golden Plover and Song Thrush) were made at each of six different sites on each day during the monitoring period. Each group of six sites was surveyed once every four days, such that a total of 21 sites were surveyed over each period of four days.
- 7.5 The study site at Comino (a designated Bird Sanctuary where no hunting or live-capturing is permitted) was included in the six sites surveyed on any one day, such that this islet was surveyed on a daily basis. However, when weather conditions precluded surveys at the Comino site due to unavailability of sea transport services, these were undertaken at alternative sites located close to Comino (in Qala, located at the south-eastern tip of Gozo) instead. Golden Plover and Song Thrush counts obtained across this network of observation stations over the survey period are given in Table 6.

Table 6: Total daily counts of Golden Plovers and Song Thrushes compiled through the autumn 2019/2020 migration study (Data source: Ecoserv, 2020).

Date	Total daily counts	
	Golden Plover	Song Thrush
15-Oct-19	6	6
16-Oct-19	0	18
17-Oct-19	0	8
18-Oct-19	0	6
19-Oct-19	0	9
20-Oct-19	0	7
21-Oct-19	0	20
22-Oct-19	0	55
23-Oct-19	0	35
24-Oct-19	0	25
25-Oct-19	0	14
26-Oct-19	0	32
27-Oct-19	0	22
28-Oct-19	0	22
29-Oct-19	0	20
30-Oct-19	0	12
31-Oct-19	0	10
1-Nov-19	0	11
2-Nov-19	0	23
3-Nov-19	0	12
4-Nov-19	0	7
5-Nov-19	0	17
6-Nov-19	0	17
7-Nov-19	0	2
8-Nov-19	0	10
9-Nov-19	1	4
10-Nov-19	0	3
11-Nov-19	0	6
12-Nov-19	4	0
13-Nov-19	0	4
14-Nov-19	1	4
15-Nov-19	2	1
16-Nov-19	2	3
17-Nov-19	0	13

18-Nov-19	2	4
19-Nov-19	1	6
20-Nov-19	2	1
21-Nov-19	0	7
22-Nov-19	0	2
23-Nov-19	4	2
24-Nov-19	2	6
25-Nov-19	8	1
26-Nov-19	14	4
27-Nov-19	6	4
28-Nov-19	0	1
29-Nov-19	3	3
30-Nov-19	21	0
1-Dec-19	16	4
2-Dec-19	6	3
3-Dec-19	6	3
4-Dec-19	3	0
5-Dec-19	3	0
6-Dec-19	4	4
7-Dec-19	5	1
8-Dec-19	7	0
9-Dec-19	1	0
10-Dec-19	7	0
11-Dec-19	5	0
12-Dec-19	7	0
13-Dec-19	5	0
14-Dec-19	1	2
15-Dec-19	8	7
16-Dec-19	0	1
17-Dec-19	3	0
18-Dec-19	4	0
19-Dec-19	2	0
20-Dec-19	1	0
21-Dec-19	4	1
22-Dec-19	4	0
23-Dec-19	0	0
24-Dec-19	4	0
25-Dec-19	0	0
26-Dec-19	2	0
27-Dec-19	3	2
28-Dec-19	2	0
29-Dec-19	4	0
30-Dec-19	3	1
31-Dec-19	4	1
01-Jan-20	2	0
02-Jan-20	3	0
03-Jan-20	0	2
04-Jan-20	5	0
05-Jan-20	1	0
06-Jan-20	1	1
07-Jan-20	4	1
08-Jan-20	11	1
09-Jan-20	4	0
10-Jan-20	1	0
Total counts	235	534

- 7.6 Raw daily counts for Golden Plover recorded from the 21 sites during the present study varied between 0 and a maximum of 17, while the mean daily counts ranged between 0 and 3.50. Most of the counts for this species were recorded between mid-November and early January. The total counts, i.e. the total number of Golden Plover, recorded from a given grid location (= study site) during the whole study period (88 days), varied appreciably between the different sites: at the lower end, only two individuals were recorded throughout the survey period from the sites at grid locations 6069, 3268 and 5872, while at the higher end, 70 Golden Plover individuals were recorded from the site at grid location 4085 (which was surveyed daily)..
- 7.7 Raw daily counts for Song Thrush recorded from the 21 sites during the present study varied between 0 and a maximum of 45, while the mean daily counts ranged between 0 and 9.17. Comparatively higher counts were recorded between late October and mid-November. The total count, i.e. the total number of Song Thrush recorded from a given grid location (= study site) during the whole study period (88 days), varied appreciably between the different sites: at the lower end a total of five individuals was recorded throughout the survey period from the site at grid location 6069, while at the higher end 95 Song Thrush individuals were recorded from the site at grid location 4085, which was surveyed daily, and 59 Song Thrush individuals were recorded from the site at grid location 4073.
- 7.8 Overall, count values for Golden Plover from the present (autumn/winter 2019) survey show a similar trend to those recorded in the previous autumn surveys, with higher count values recorded during the period mid-November to early January (Figure 5). Count values for Song Thrush from the present (autumn/winter 2019) survey show a similar trend to those recorded in the previous autumn surveys, with higher count values recorded during the period late October to mid-November (Figure 6).



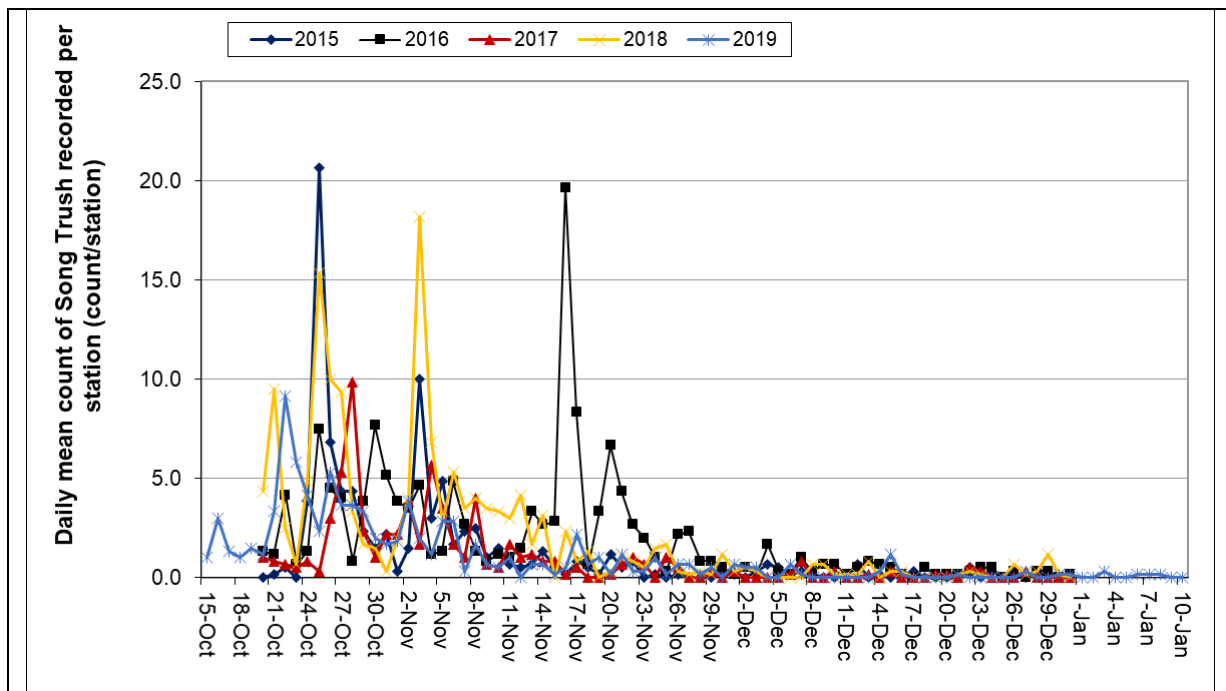


Figure 6: Daily mean counts of Song Thrush per station recorded 15 October 2019 and 10 January 2020 during the present (2019) and between 20 October and 31 December during previous (2015, 2016, 2017, 2018) surveys.

7.9 The data from the survey was **extrapolated** to obtain an estimate of the total number of Golden Plovers and Song Thrushes that may have migrated over Malta on each day of the study period (Table 7). These estimates should be treated with caution, given the inherent limitations and assumptions which are detailed in the migration study report.

Table 7: Daily counts and extrapolated data (Source: Ecoserv, 2020)

	Daily counts		Extrapolated data		
	Min	Max	Daily Min	Daily Max	Total estimated influx over survey period
Golden Plover	0	21	0	1,899	21,245
Song Thrush	0	55	0	4,972	48,272

8. Comparison between migratory study data and game reporting data

8.1 A comparative analysis of the results obtained during the 2019/2020 Golden Plover and Song Thrush migration study with the game reporting data for the 2019/2020 derogation period was carried out. It should be stated from the outset that the two sets of data were collected for different purposes, using very different methodologies, and therefore the magnitudes of the values are not directly comparable. However, the temporal trends can be expected to follow similar patterns, that is, periods when higher mean daily counts were recorded during the survey should broadly correspond to dates when higher numbers of Golden Plovers and Song Thrushes were captured (and reported in the bag data) in the same year (2019/2020). Whether the migratory influx follows the same temporal trend from year to year can only be confirmed through a longitudinal study of influx of the different bird species over a period of several years (Ecoserv, 2020).

8.2 Graphical representations of the mean daily counts made during the 2019 migration survey and the daily bag counts for the same time period (15 October 2019– 10 January 2019) for each of the two bird species were prepared to compare temporal trends among the two different datasets. It should be stated from the outset that the two sets of data were collected for different purposes, using very different methodologies, and therefore the magnitudes of the values are not directly comparable. However, the temporal trends can be expected to follow similar patterns, that is periods when higher mean daily counts were recorded during the survey should broadly correspond to dates when higher numbers of birds were captured (and reported in the bag data) in the same year. Whether the influx of the bird species follows the same temporal trend from year to year can only be confirmed through a longitudinal study of influx of the different bird species over a period of several years. In a graphical plot showing daily counts, a high variation in counts from day to day may overshadow temporal trends over the two-month period. To aid visual interpretation, a second set of analyses was undertaken by computing a moving average using a rolling 5-day period for the time series count data. This has the effect of smoothing out the day to day fluctuations and hence making longer-term trends in mean daily counts or daily bag counts more apparent, thus facilitating visual interpretation of temporal trends. Note that the analyses based on a moving average do not replace those based on the raw daily counts. Rather, the graphical representations showing a 5-day moving average should be seen in conjunction with those based on daily counts, which are also presented (Ecoserv, 2020).

Golden Plover

8.3 The daily bag counts indicating the number of Golden Plover caught during the 2019 live-capturing season and the mean daily counts of the same species made during the 2019 survey are shown in Figure 7, while Figure 8 presents the 5-day moving average computed from these data. As already noted, the magnitude of the bag counts and those of the mean counts made in the 2019 survey are not directly comparable; consequently the two sets of values are on different scales. Therefore, in Figures 7 - 8, two separate y-axes are used: the bag count data are plotted on the left-side y-axis, whereas the counts from the 2019 survey are plotted on the right-side y-axis..

8.4 Overall, the highest daily counts made during the 2019 survey occurred between mid-November and early January, with a peak on 30 November. Bag counts in 2019 were nil throughout October when the season was not open, low in early November and increased between mid-November and early January, with a peak on 30 November. Thus, the general trend observed in the bag counts for 2019 and the daily counts recorded during the 2019 survey is of higher counts starting in mid-November and continuing until early January, with a peak at the end of November.

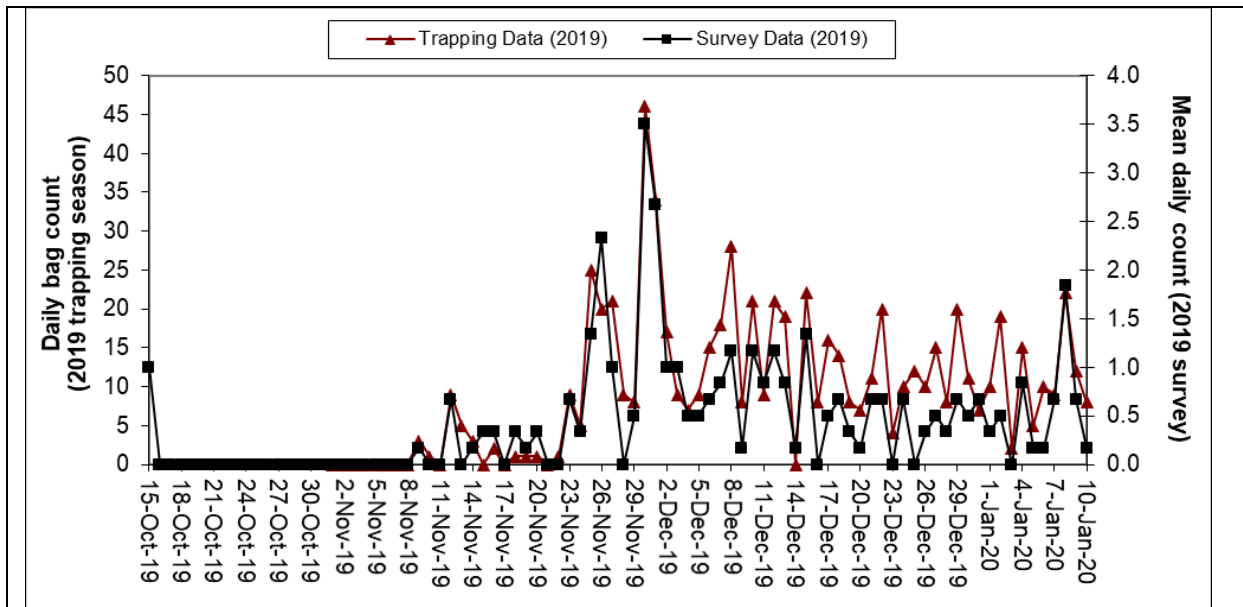


Figure 7: Daily bag count of Golden Plover during period 01 November 2019 to 10 January 2020 (red line; values on left-side y-axis), together with the mean daily counts recorded during the 2019 migration survey (black line; values on right-side y-axis) for the period 15 October 2019 to 10 January 2020.

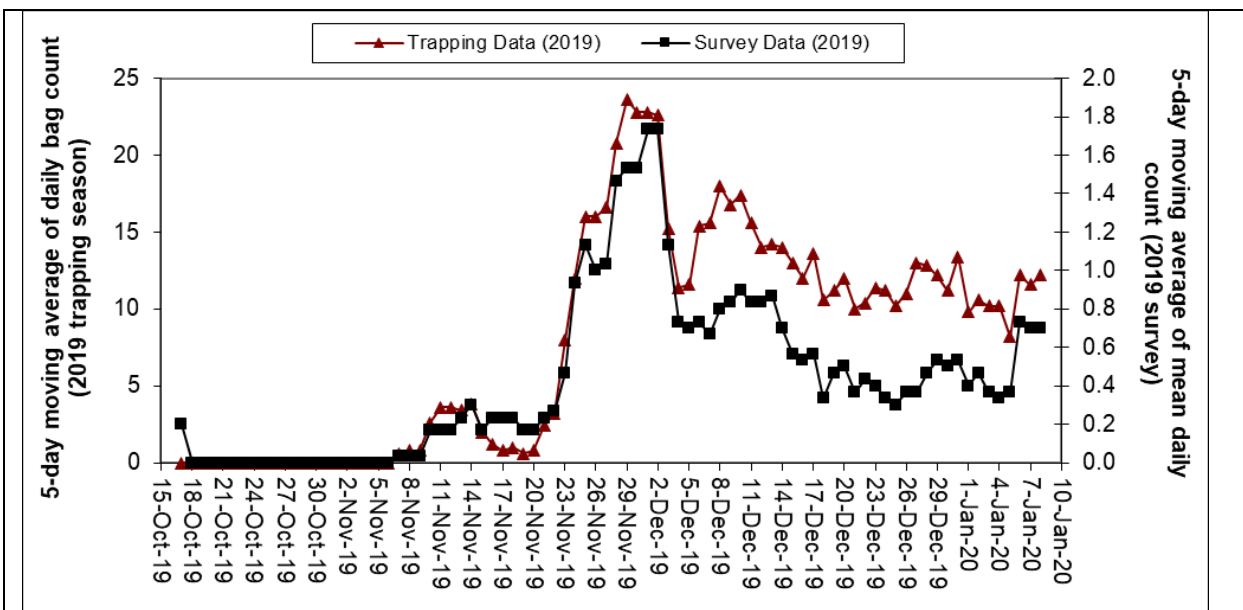


Figure 8: Moving average based on a 5-day rolling time period for the daily bag counts of Golden Plover for the period 01 November 2019 to 10 January 2020 (red line; values on left-side y-axis), and of the mean daily counts recorded during the 2019 migration survey (black line; values on right-side y-axis) for the period 15 October 2019 to 10 January 2020

Song Thrush

8.5 The daily bag counts indicating the number of Song Thrush caught during the 2019 live-capturing season and the mean daily counts of the same species made during the present (2019) survey are shown in Figure 9, while Figure 10 presents the 5-day moving average computed from these data. As already noted, the magnitude of the bag counts and those of the mean counts made in the 2019 survey are not directly comparable, consequently the two sets of values are on different scales. Therefore, in Figures 9–10, two separate y-axes are used: the bag count data are plotted on the left-side y-axis, whereas the counts from the 2019 survey are plotted on the right-side y-axis.

8.6 Overall, the highest daily counts made during the 2019 survey occurred between mid-October and mid-November, with counts declining thereafter; most days in December and January were characterised by low or zero counts. The highest bag counts in 2019 also occurred between mid-October and mid-November, and decreased thereafter. Thus, the general trend observed in the bag counts for 2019 and the daily counts recorded during the 2019 survey is of higher counts in the earlier part of the live-capturing season, up to around mid-November.

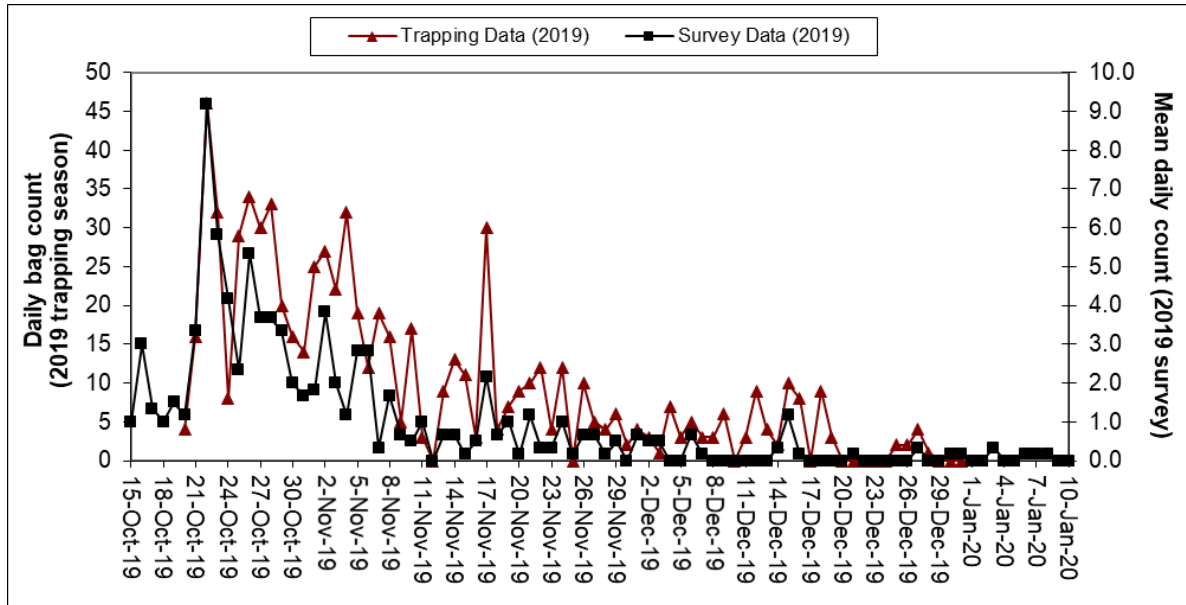


Figure 9: Daily bag count of Song Thrush for the period 01 November 2019 to 10 January 2020 (red line; values on left-side y-axis), together with the mean daily counts recorded during the 2019 migration survey (black line; values on right-side y-axis) for the period 15 October 2019 to 10 January 2020.

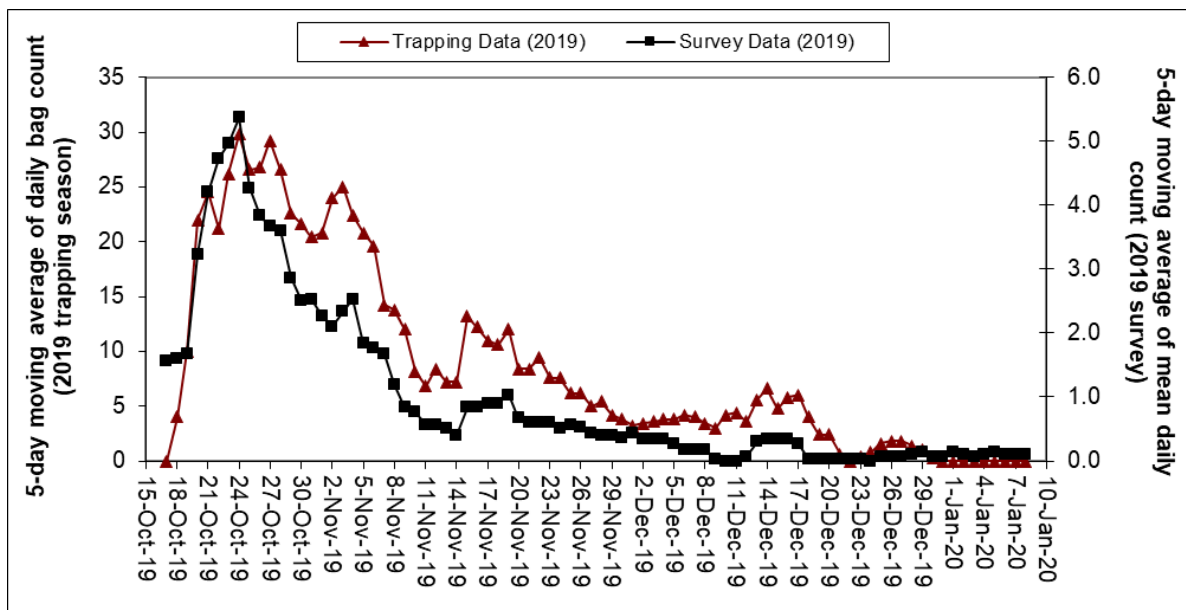


Figure 10: Moving average based on a 5-day rolling time period for the daily bag counts of Song Thrush during for the period 01 November 2019 to 10 January 2020 (red line; values on left-side y-axis), and of the mean daily counts recorded during the 2019 migration survey (black line; values on right-side y-axis) for the period 15 October 2019 to 10 January 2020..

8.7 Although the sampling effort deployed during the study was incomparably smaller than the number of live-capturers active in the field, the trends of observed migration of both species and the trends of reported catches followed an overall similar pattern, with peak reports of catches largely coinciding with the peaks in observations, and vice versa – days with the lowest observations were also days when fewer catches were reported. This close similarity of trends indicates that notwithstanding variations that

occurred due to varying sampling effort and methodologies, the reports of catches are validated by the independently observed migration patterns.

9. Enforcement and strict supervision

- 9.1 Prior to the start of the season, enforcement officials detailed to carry out spot-checks received specialised training on enforcement priorities and techniques organised by the Wild Birds Regulation Unit. The attendees were trained in basic field ornithology and avian ecology, as well as on the relevant regulations and licence conditions, inspection techniques, principles of surveillance as well as counter-poaching operations and wildlife crime detection and prosecution techniques.

Overall deployment and field surveillance

- 9.2 The Conservation of Wild Birds (Framework for Allowing a Derogation Opening an Autumn Live-Capturing Season for Song Thrush and Golden Plover) Regulations (SL 549.74) stipulates that during all hours for which an autumn live-capturing season is open the total number of police officers, and/or marshals assigned to carry out spot-checks should be in the region of forty (40). The Framework Regulations also specify that, outside these hours, at least two (2) police officers and/or marshals shall be on duty and that the Police shall continue to carry out spot-checks until at least two weeks following the end of an autumn live-capturing season, in order to prevent illegal capture. Moreover, following the closure of the autumn live-capturing season, for every one thousand (1,000) live-capturing licences issued that year a minimum of three (3) police officers shall be on duty during the hours of daylight.
- 9.3 Regulation 8(5) of the Framework Regulations details a standard operating procedure for enforcement, which requests that in pursuance of their duties under these regulations, the Police, assisted by marshals as may be necessary, shall carry out daily systematic spot-checks throughout all the season, in all the regions shown in the Second Schedule (Figure 11). The Framework Regulations specify that in Gozo, spot-checks in regions 1 and 3 shall be carried out simultaneously with spot-checks in regions 2 and 4 by separate police officers. Similarly in Malta, spot-checks in regions 5, 6 and 8 shall be carried out simultaneously with spot-checks in regions 7,9 and 10 by separate police officers and that spot-checks within each region in Malta and Gozo shall be carried out daily.

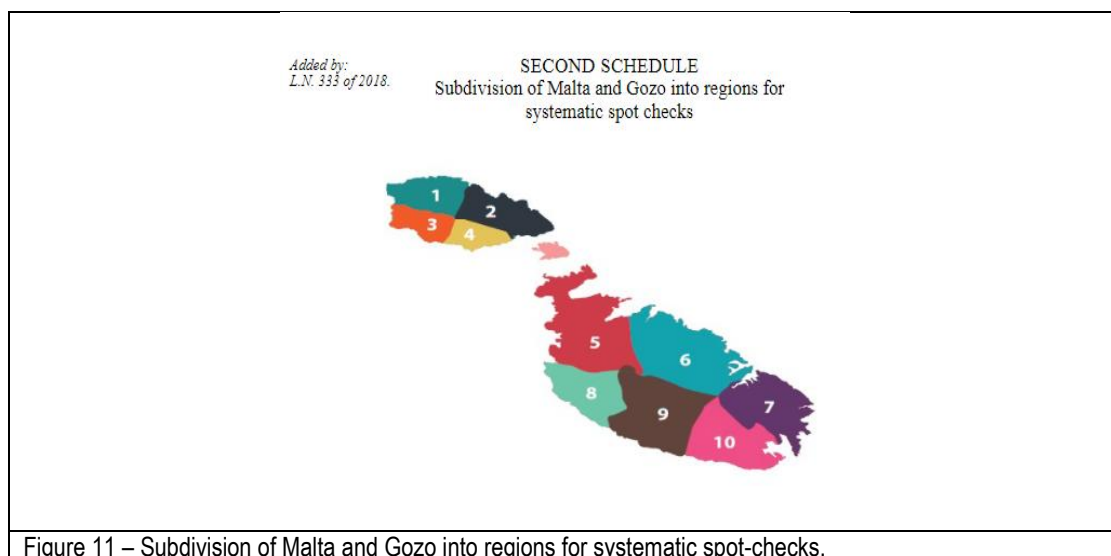


Figure 11 – Subdivision of Malta and Gozo into regions for systematic spot-checks.

- 9.4 During the autumn 2019 live-capturing season (20 October 2019 to 10 January 2020), the enforcement authorities deployed a total overall complement of 78 officers to oversee and supervise the parameters of the derogation (Table 8).

Entity	Number of officers	Duties
Administrative Law Enforcement Unit (ALE) of the Police	24	Field patrols, surveillance; spot-checks; inspections; investigations; prosecution
District police officers seconded to the (ALE)	44	Field patrols; surveillance; spot-checks; inspections; investigations; prosecution
Armed Forces of Malta	8	Field patrols and surveillance
Wild Birds Regulation Unit	2	Verification of compliance with registration conditions; assistance to police in prosecution processes; other expert services
Total	78	

- 9.5 Police (ALE and District) and Armed Forces of Malta officers maintained a daily field deployment that ranged between a maximum of 66 officers and a minimum of 62 officers in the field at any point in time from 05:00hrs to 21:00hrs, effectively covering live-capturing activity times. This excludes all other non-field staff assigned on-duties related to the supervision of the live-capturing season, or field staff on shift rotation.
- 9.6 During the period of the derogation, enforcement officers carried out a total of 5,656 spot-checks (4,102²⁰ in Malta and 1,554 in Gozo) on individual licensees. Table 9 lists the number of enforcement officers deployed, number of spot-checks on individual live-capturers per region, offences detected and persons charged.

²⁰ Out of which 249 were road checks.

Table 9 – Daily enforcement statistics during the autumn 2019 live-capturing season

Date	Number of officers deployed 0500-1500 (ALE / District / AFM)		Number of officers deployed 1500-2100 (ALE / District / AFM)		Number of spot-checks on individual live-capturers per region										Offences detected (number of cases and nature of offence)		Number of persons charged and action taken	
	Malta	Gozo	Malta	Gozo	Malta Region 5	Malta Region 6	Malta Region 7	Malta Region 8	Malta Region 9	Malta Region 10	Gozo Region 1	Gozo Region 2	Gozo Region 3	Gozo Region 4	Malta	Gozo	Malta	Gozo
20/10/2019	56	9	56	9	20	9	6	4	18	9	7	6	6	1	0	1 – Trapping on unregistered site ²¹	0	0
21/10/2019	56	9	56	9	16	12	9	7	19	10	5	3	7	6	1 - Illegal Trapping of Finches ²²	1 - Illegal Trapping of Finches ²³	1 - Court Action	1 - Court Action
22/10/2019	56	9	56	8	20	7	12	3	15	7	13	5	15	8	0	0	0	0
23/10/2019	56	9	56	8	18	5	6	10	18	7	2	6	4	8	0	0	0	0
24/10/2019	56	9	56	9	24	6	1	8	19	10	12	5	13	3	2 - Illegal Trapping of Finches ²⁴	1 - Illegal Trapping of Finches ²⁵	2 - Court Action	1 - Court Action
25/10/2019	56	9	56	8	10	5	3	5	15	20	12	2	7	5	1 - Illegal Trapping of Finches ²⁶	1 - Illegal Trapping of Finches ²⁷	1 - Court Action	0
26/10/2019	56	8	56	9	17	10	4	20	6	16	7	7	20	6	2 - Illegal Trapping of Finches ²⁸	0	2 - Court Action	0
27/10/2019	56	9	56	10	13	15	8	17	18	10	1	4	3	2	0	1 - Illegal Trapping of Finches ²⁹ 1 – Trapping on unregistered site ³⁰	0	1 - Court Action
28/10/2019	56	9	56	10	8	12	9	15	6	15	7	6	9	4	1 - Use of bird caller whilst trapping for GP & ST	0	1 - Administrative Fine	0

²¹ Case refers to an unattended and unregistered trapping site found at Birbuba in Gharb, Gozo. Police dismantled the trapping site and seized all trapping paraphernalia but no further action could be taken since the culprit remained unknown to the police.

²² Case refers to illegal trapping of finches in Birzebbuga, Malta. Police seized all trapping paraphernalia and initiated legal action against the culprit.

²³ Case refers to illegal trapping of finches at Kerċem, Gozo. Police seized all trapping paraphernalia including a Hawfinch (*Coccothraustes coccothraustes*), six Linnets (*Linaria cannabina*), three Siskins (*Spinus spinus*) and a European Serin (*Serinus serinus*) which were subsequently released, and initiated legal action against the culprit.

²⁴ Cases refer to illegal trapping of finches in Haġar Qim and Mosta, Malta. Police seized all trapping paraphernalia and initiated legal action against the culprits.

²⁵ Case refers to illegal trapping of finches in Sannat, Gozo. Police seized all trapping paraphernalia and initiated legal action against the culprit.

²⁶ Case refers to illegal trapping of finches in Bahrija, Malta. Police seized all trapping paraphernalia and initiated legal action against the culprit.

²⁷ Case refers to an unattended and unregistered trapping site found at Xagħra, Gozo. Police dismantled the trapping site and seized all trapping paraphernalia including a Linnet (*Linaria cannabina*) which was subsequently released, but no further action could be taken since the culprit remained unknown to the police.

²⁸ Cases refer to illegal trapping of finches in Bengħajsa and Żurriq, Malta. Police seized all trapping paraphernalia and initiated legal action against the culprits.

²⁹ Case refers to illegal trapping of finches in Gozo. Police seized all trapping paraphernalia and initiated legal action against the culprit.

³⁰ Case refers to an unattended and unregistered trapping site found at Sannat, Gozo. Police dismantled the trapping site and seized all trapping paraphernalia but no further action could be taken since the culprit remained unknown to the police

29/10/2019	56	9	56	8	4	9	3	17	20	9	10	5	9	8	1 - Illegal Trapping of Finches ³¹	1 - Trapping on unregistered site ³²	0	0
30/10/2019	56	9	56	8	9	6	2	16	13	2	3	1	4	3	1 - Illegal Trapping of Finches ³³	3 - Illegal Trapping of Finches ³⁴	0	2 - Court Action
31/10/2019	56	9	56	9	6	8	9	7	9	6	8	5	4	1	0	1 - Illegal Trapping of Finches ³⁵	0	0
01/11/2019	56	9	56	10	3	6	7	11	15	1	10	2	3	2	0	2 - Illegal Trapping of Finches ³⁶	0	0
02/11/2019	56	10	56	10	10	9	2	10	10	8	3	9	10	2	0	2 - Trapping on unregistered site ³⁷	0	0
03/11/2019	56	10	56	10	10	8	7	15	4	20	13	4	8	6	3 - Illegal Trapping of Finches ³⁸	0	1 - Court Action	0
04/11/2019	56	9	56	9	15	4	6	3	6	10	1	2	3	6	0	0	0	0
05/11/2019	56	9	56	9	6	5	10	4	8	15	1	3	5	6	1 - Illegal Trapping of Finches ³⁹	0	0	0
06/11/2019	56	10	56	9	10	7	15	2	5	6	7	4	3	3	0	0	0	0
07/11/2019	56	9	56	9	7	4	9	9	5	1	4	6	7	3	1 - Illegal Trapping of Finches ⁴⁰	0	1 - Court Action	0
08/11/2019	56	9	56	9	6	6	2	3	6	9	6	4	2	8	0	0	0	0
09/11/2019	56	9	56	10	8	9	1	10	9	10	3	3	3	9	0	1-Trapping on unregistered site ⁴¹ 1-Unattended birdcaller ⁴²	0	0
10/11/2019	56	9	56	9	15	1	5	10	9	15	4	6	4	2	1 - Illegal Trapping of Finches ⁴³	0	1 - Court Action	0
11/11/2019	56	10	56	10	7	6	9	2	12	8	9	10	8	2	0	0	0	0
12/11/2019	56	9	56	9	8	4	1	4	8	6	4	7	4	9	0	0	0	0
13/11/2019	56	9	56	9	4	9	4	6	1	8	5	3	2	3	0	0	0	0

³¹ Case refers to illegal trapping of finches at Ta' Hammud in Rabat, Malta. Police seized all trapping paraphernalia including a bird caller and five finches, which were immediately released on site. No further action could be taken since the culprit remained unknown to the police.

³² Case refers to an unattended and unregistered trapping site found at Nadur, Gozo. Police dismantled the trapping site and seized all trapping paraphernalia but no further action could be taken since the culprit remained unknown to the police.

³³ Case refers to illegal trapping of finches in Malta. Police seized all trapping paraphernalia but no further action could be taken since the culprit remained unknown to the police.

³⁴ Cases refer to illegal trapping of finches in Qala and Nadur, Gozo by two known culprits and an additional case of illegal trapping of finches in Nadur by an unknown culprit. Police seized all trapping paraphernalia including two Siskins (*Spinus spinus*) and a Hawfinch (*Coccothraustes coccothraustes*) which were immediately released. Legal action has been initiated against the two known culprits.

³⁵ Case refers to the illegal trapping of finches at Ghajnsielem, Gozo. Police seized all trapping paraphernalia including two Hawfinches (*Coccothraustes coccothraustes*), two Siskins (*Spinus spinus*), a Greenfinch (*Chloris chloris*) and a Goldfinch (*Carduelis carduelis*), which were immediately released on site. No further action could be taken since the culprit remained unknown to the police.

³⁶ Case refers to illegal trapping of finches at Ghajnsielem and Qala, Gozo. Police seized all trapping paraphernalia including two Hawfinches (*Coccothraustes coccothraustes*), eight Siskins (*Spinus spinus*), one Greenfinch (*Chloris chloris*), five Linnets (*Linaria cannabina*) and three Chaffinches (*Fringilla coelebs*) which were immediately released on site. No further action could be taken since the culprit remained unknown to the police.

³⁷ Cases refer to two unattended and unregistered trapping sites found in Xaghra and San Lawrenz, Gozo. Police dismantled both trapping sites and seized all trapping paraphernalia including one Siskin (*Spinus spinus*) and one Linnet (*Linaria cannabina*). No further action could be taken since the culprits remained unknown to the police.

³⁸ Cases refer to illegal trapping of finches in Marsaskala by a known culprit and an additional two cases of illegal trapping in Żurrieq and Rabat by unknown culprits. Police seized all trapping paraphernalia including ten finches from the site in Marsaskala, which were immediately released. Legal action has been initiated against the known culprit.

³⁹ Case refers to illegal trapping of finches in Żurrieq, Malta. Police seized all trapping paraphernalia including twenty finches, which were immediately released on site. No further action could be taken since the culprit remained unknown to the police.

⁴⁰ Case refers to illegal trapping of finches in Mellieħa, Malta. Police seized all trapping paraphernalia including thirty-one finches, which were immediately released on site. Legal action has been initiated against the culprit.

⁴¹ Case refers to an unattended and unregistered trapping site found at Sannat, Gozo. Police dismantled the trapping site and seized all trapping paraphernalia including a Greenfinch (*Chloris chloris*) but no further action could be taken since the culprit remained unknown to the police.

⁴² Case refers to an unattended bird caller found in Għarb, the device was seized by police.

⁴³ Case refers to illegal trapping of finches in Magħtab, Malta. Police seized all trapping paraphernalia including four Siskins (*Spinus spinus*), a Serin (*Serinus serinus*), three Chaffinches (*Fringilla coelebs*) and a Greenfinch (*Chloris chloris*) which were immediately released on site. Legal action has been initiated against the culprit.

14/11/2019	56	9	56	7	5	3	1	6	5	2	4	4	6	2	1 - Illegal Trapping of Finches ⁴⁴	0	1 - Court Action	0
15/11/2019	56	9	56	9	10	8	7	15	4	20	7	1	13	4	1 - Use of bird caller whilst trapping for GP & ST	0	1 - Administrative Fine	0
16/11/2019	56	9	56	9	9	5	7	12	10	9	5	9	3	3	1 - Illegal Trapping of Finches ⁴⁵	0	0	0
17/11/2019	56	9	56	9	5	15	3	7	4	20	3	1	1	1	1 - Illegal Trapping of Finches ⁴⁶	0	0	0
18/11/2019	56	10	56	9	4	9	2	6	1	8	3	3	8	7	0	0	0	0
19/11/2019	56	9	56	9	10	3	7	8	5	9	11	5	12	8	0	0	0	0
20/11/2019	56	9	56	9	8	3	5	6	7	15	1	7	3	2	0	0	0	0
21/11/2019	56	9	56	9	4	9	3	12	10	2	2	1	4	3	0	0	0	0
22/11/2019	56	9	56	10	15	1	5	10	9	15	2	9	6	2	0	0	0	0
23/11/2019	56	9	56	9	7	6	9	2	12	8	4	10	15	2	0	0	0	0
24/11/2019	56	9	56	9	10	9	2	10	10	8	1	7	2	8	0	0	0	0
25/11/2019	56	9	56	9	17	10	4	20	6	16	2	4	3	6	1 - Use of bird caller whilst trapping for GP & ST	0	1 - Administrative Fine	0
26/11/2019	56	9	56	9	13	15	8	17	18	10	6	5	10	2	0	0	0	0
27/11/2019	56	9	56	9	17	10	4	20	6	16	4	7	5	8	0	0	0	0
28/11/2019	56	9	56	9	13	6	8	1	18	10	3	6	11	5	0	0	0	0
29/11/2019	56	9	56	10	8	12	9	15	6	15	2	2	1	3	0	0	0	0
30/11/2019	56	10	56	9	4	9	3	16	20	9	7	2	3	9	0	0	0	0
01/12/2019	56	10	56	9	9	6	2	16	13	2	4	2	12	2	0	1 - Unattended bird caller ⁴⁷	0	0
02/12/2019	56	9	56	9	17	10	4	20	6	16	2	8	2	7	1 - Use of bird caller whilst trapping for GP & ST	0	1 - Administrative Fine	0
03/12/2019	56	9	56	9	4	9	3	13	20	9	12	6	1	4	1 - Trapping on unregistered site ⁴⁸	0	0	0
04/12/2019	56	9	56	9	9	6	2	16	13	2	3	3	7	11	0	0	0	0

⁴⁴ Case refers to illegal trapping of finches in Dingli, Malta. Police seized all trapping paraphernalia including twenty-four finches, which were immediately released on site. Legal action has been initiated against the culprit.

⁴⁵ Case refers to illegal trapping of finches in Benghajsa, Malta. Police seized all trapping paraphernalia however no further action could be taken since the culprit remained unknown to the police.

⁴⁶ Case refers to illegal trapping of finches in Ghar Lapsi, Malta. Police seized all trapping paraphernalia however no further action could be taken since the culprit remained unknown to the police.

⁴⁷ Case refers to an unattended bird caller found in Victoria. The device was seized by police.

⁴⁸ Case refers to an unattended and unregistered trapping site found at Kalkara, Malta. Police dismantled the trapping site and seized all trapping paraphernalia but no further action could be taken since the culprit remained unknown to the police.

05/12/2019	56	9	56	9	6	8	9	7	9	6	3	2	4	4	1 - Use of bird caller whilst trapping for GP & ST	0	1 - Administrative Fine	0
06/12/2019	56	9	56	9	3	6	7	11	15	1	7	2	5	9	2 - Use of bird caller whilst trapping for GP & ST	1 - Use of bird caller whilst trapping for GP & ST 1 - Illegal Trapping of Finches ⁴⁹	2 - Administrative Fine	1 - Administrative Fine 1 - Court Action
07/12/2019	56	9	56	10	6	8	5	3	4	10	2	2	3	4	0	2 - Trapping on unregistered site ⁵⁰	0	0
08/12/2019	56	10	56	9	7	4	5	6	9	12	6	2	5	8	0	0	0	0
09/12/2019	56	9	56	9	5	9	2	8	8	8	4	9	3	1	0	0	0	0
10/12/2019	56	9	56	10	12	7	4	6	2	6	2	11	8	6	1 - Illegal Trapping of Finches ⁵¹	0	1 - Court Action	0
11/12/2019	56	9	56	9	9	8	8	8	9	4	6	2	5	7	0	0	0	0
12/12/2019	56	9	56	9	3	5	1	5	8	7	1	4	2	5	0	0	0	0
13/12/2019	56	10	56	10	4	9	7	9	5	4	3	4	5	8	0	0	0	0
14/12/2019	56	10	56	9	5	15	3	7	4	20	3	1	1	3	0	0	0	0
15/12/2019	56	9	56	9	4	9	8	6	1	8	7	5	4	1	0	0	0	0
16/12/2019	56	9	56	9	10	3	7	8	5	9	5	3	3	1	0	0	0	0
17/12/2019	56	9	56	10	8	3	5	6	7	15	2	2	3	6	0	0	0	0
18/12/2019	56	8	56	8	4	9	3	12	10	2	8	6	4	11	0	0	0	0
19/12/2019	56	7	56	9	15	1	5	10	9	15	1	1	1	2	0	0	0	0
20/12/2019	56	9	56	9	7	6	9	2	12	8	8	6	7	10	0	0	0	0
21/12/2019	56	9	56	6	10	9	2	10	10	8	2	4	5	6	0	0	0	0
22/12/2019	56	7	56	9	17	10	4	20	6	16	8	8	2	6	1 - Use of bird caller whilst trapping for GP & ST	0	1 - Administrative Fine	0
23/12/2019	56	9	56	9	15	1	5	10	9	15	5	2	1	1	0	0	0	0
24/12/2019	56	10	56	9	7	6	9	2	12	8	2	5	1	9	0	0	0	0
25/12/2019	56	10	56	10	10	9	2	10	10	8	13	4	3	3	0	0	0	0
26/12/2019	56	10	56	6	7	3	2	1	1	4	1	3	1	1	0	0	0	0
27/12/2019	56	9	56	9	7	3	2	1	1	4	8	4	2	1	0	0	0	0
28/12/2019	56	9	56	6	9	6	7	10	2	4	4	2	1	8	0	0	0	0
29/12/2019	56	9	56	9	5	8	3	9	2	5	8	4	4	5	0	0	0	0
30/12/2019	56	9	56	9	2	6	4	8	2	2	1	1	2	2	0	0	0	0
31/12/2019	56	9	56	10	3	12	6	7	4	1	1	7	4	4	0	0	0	0
01/01/2020	56	10	56	7	7	6	2	8	3	3	6	2	5	3	0	0	0	0
02/01/2020	56	9	56	9	6	2	1	7	5	1	3	5	4	1	0	0	0	0

⁴⁹ Case refers to illegal trapping of finches at Sannat, Gozo. Police seized all trapping paraphernalia including one Chaffinch (*Fringilla coelebs*), two Greenfinches (*Chloris chloris*) and three Siskins (*Spinus spinus*) and a which were immediately released on site. Legal action has been initiated against the culprit.

⁵⁰ Cases refer to two unattended and unregistered trapping sites found in Sannat, Gozo. Police dismantled both trapping sites and seized all trapping paraphernalia but no further action could be taken since the culprits remained unknown to the police.

⁵¹ Case refers to illegal trapping of finches at Dellimara, Malta. Police seized all trapping paraphernalia including one Siskin (*Spinus spinus*), one Greenfinch (*Chloris chloris*), two Linnets (*Linaria cannabina*) and a Chaffinch (*Fringilla coelebs*) which were immediately released on site. Legal action has been initiated against the culprit.

03/01/2020	56	9	56	9	2	3	4	6	9	4	2	4	8	7	0	0	0	0
04/01/2020	56	9	56	10	1	4	2	8	5	8	9	3	2	4	0	0	0	0
05/01/2020	56	9	56	9	9	7	1	5	2	5	8	2	1	2	0	0	0	0
06/01/2020	56	6	56	6	6	8	7	3	1	1	3	1	4	1	0	0	0	0
07/01/2020	56	9	56	9	2	7	6	5	9	6	5	4	1	1	0	0	0	0
08/01/2020	56	9	56	10	3	6	2	9	5	1	1	3	1	3	0	0	0	0
09/01/2020	56	9	56	10	4	8	1	5	8	4	5	3	4	1	0	0	0	0
10/01/2020	56	9	56	10	7	5	9	2	3	1	1	5	1	6	0	0	0	0
	Average	Average	Average	Average	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total
	56	9	56	9	719	585	417	726	703	703	409	358	411	376	27 ⁵²	22 ⁵³	19 ⁵⁴	7 ⁵⁵

⁵²8 cases of unknown culprits, 19 cases of known culprits.

⁵³15 cases of unknown culprits, 7 cases of known culprits.

⁵⁴8 administrative fines and 11 court actions.

⁵⁵1 administrative fine and 6 court actions.

- 9.7 During spot-checks, the Malta Police Force was responsible for ensuring the lawful operation of live-capturing practices. They were, *inter alia*, instructed to:
- Verify that live-capturers were in possession of all requisite documents;
 - Verify that live-decoys were fitted with a single-use ring provided by the Wild Birds Regulation Unit as per licence conditions;
 - Verify that any captured birds had been immediately reported *via* mobile phone;
 - Ensure compliance with time restrictions;
 - Ensure that no species, other than those that could be captured under the specific licences were being targeted;
 - Verify that the live-capturing site in use was the one that had been approved by the Wild Birds Regulation Unit;
 - Verify that the conditions of the licence, such as, the maximum limit of decoys present on site and the maximum number of allowed clap-nets and their respective sizes were being complied with; and
 - Ensure compliance with the provisions of the Conservation of Wild Birds Regulations (SL 549.42) and other applicable legislation.
- 9.8 In order to facilitate the conduct of their duties, enforcement officers had 14 vehicles. All vehicles were equipped with radio communication facilities, in order to enable contact with police officers from other sections/districts, and in order to allow for continuous liaison and coordination with the Police Headquarters. Police officers were also equipped with binoculars to facilitate their investigations on the ground. Police were also provided with a list of licensed live-capturers and access to real-time licensing and reporting database which facilitated the immediate identification of any live-capturers not in possession of the requisite autumn live-capturing licence as well as the immediate verification of telephonic reports of birds caught.
- 9.9 Officers conducting spot-checks were also provided with portable tablet computers with a pre-installed Geographic Information System, GPS link capability and geo-tagging photography capability. These devices were loaded with a database of the spatial location of registered trapping sites and the personal details of individual licensees registered on each individual site. During spot-checks, police officers made extensive use of these devices, which have proven to be a very effective way of instantly verifying regulatory information pertaining to each licensee's permitted location. In the past, verification of live-capturers' registration and licensing information necessitated time-consuming retrieval of physical documentation and site plans from office archives. With the introduction of a digital GPS-enabled system this process takes only a few seconds. Due to the introduction of this technology, enforcement officers were able to dedicate considerable more time to actual field surveillance duties, as opposed to documentation retrieval.
- 9.10 During the live-capturing season, environmental NGOs carried out various independent patrols and surveillance activities. In October 2019, CABS reported⁵⁶ that a total of 38 illegal sites were detected in 10 days of fieldwork and that "*A total of 18 cases were reported to the police who confiscated 15 sets of clap nets and approximately 50 live birds. Five trappers were caught red-handed by the police and will be taken to court in due course*". CABS reported that other poachers ran off when they saw the police arriving but it was not excluded that they would subsequently identified because footage and other details were passed on to the police. Following this effort, police seized various trapping equipment as well as live birds. CABS also shared with the police the location of active trapping sites for further investigations. Additionally, during the month of December, CABS carried out night observations using

⁵⁶ CABS article on Malta Today dated 31st October 2019:
https://www.maltatoday.com.mt/environment/nature/98361/poachers_threaten_bird_monitors_and_tourists_as_illegal_trapping_intensifies#.Xck4e5pKjIU

thermal imaging devices to monitor illegal night trapping of Golden Plovers. CABS reported that the situation around Siggiewi, Delimara, Mgarr, Bahrija, Qrendi, Rabat, Fiddien, Safi and Żurrieq in Malta and in San Lawrenz and Ta' Ċenċ in Gozo is particularly bad. Evidence of illegal trapping was published in an online video⁵⁷, nonetheless no official reports have been made to the Executive Police.

- 9.11 Similarly, BirdLife Malta maintained a regular presence in the field in Malta and Gozo during the whole live-capturing season and implemented the #NoMoreCallers campaign to advocate against the use of illegal bird callers. BirdLife Malta reported that in a month and a half it received nearly 400 reports from the public, an average of eight a day⁵⁸.

Infringements detected

- 9.12 During the course of inspections carried out by enforcement staff throughout the derogation period, a total of 49 live-capturing infringements were detected. Nine persons were issued with an administrative fine of €250 each for the illegal use of pre-recorded bird callers whilst trapping for Golden Plover and Song Thrush. All illicit devices were seized and destroyed and all fines were paid within 21 days from notification. Court action is being taken against 17 individuals whilst no further legal action could be taken in relation to the remaining 23 illegalities since the person/s committing the illegality remained unknown to the police. The nature of all infringements detected during the derogation period are outlined in Table 10 below, which also presents a comparison with the same statistics for the Golden Plover and Song Thrush derogations since 2013. In all cases of illegal trapping of finches, the culprits were using nets with a mesh size of 18mm x 18mm.

⁵⁷CABS footage of illegal night trapping of Golden Plovers <https://www.impel-esix.eu/?nltr=NTMyOzExOTtodHRwczovL3d3dy55b3V0dWJlLmNvbS93YXRjaD92PWxSWnVtRGt4UnUwJmZlYXR1cmU9eW91dHUuYmU7O2UzMmM4ZWZlMGU5YTk0MDU2MDMzNjcwNmE5ZmEzNzhi>

⁵⁸ BirdLife Malta Press Release: Hunting and trapping seasons now closed, five months of illegalities and lack of enforcement published on the 3rd February 2020 <https://birdlifemalta.org/2020/02/hunting-and-trapping-seasons-now-closed-five-months-of-illegalities-and-lack-of-enforcement/>

Table 10: Offences disclosed during autumn live-capturing seasons

	2013			2014			2015			2016			2017			2018			2019 ⁵⁹			Change from previous year
	(20.10.13–10.01.14)			(20.10.14–31.12.14)			(20.10.15–31.12.15)			(20.10.16–31.12.16)			(20.10.17–31.12.17)			(20.10.17–31.12.178)			(20.10.18–10.01.20)			
	Cases in Malta	Cases in Gozo	Total number of cases	Cases in Malta	Cases in Gozo	Total number of cases	Cases in Malta	Cases in Gozo	Total number of cases	Cases in Malta	Cases in Gozo	Total number of cases	Cases in Malta	Cases in Gozo	Total number of cases	Cases in Malta	Cases in Gozo	Total number of cases	Cases in Malta	Cases in Gozo	Total number of cases	
Trapping for protected birds	13	5	18	0	0	0	2	0	2	0	0	0	0	0	0	17	14	31	18	10	29	Decrease
Use of illegal means (e.g. cage traps; artificial light; vertical nets; decoys of protected birds; pre-recorded bird calls)	10	4	14	17	3	20	27	6	33	17	6	23	8	0	8	4	0	4	8	3	11	Increase
Trapping for species under derogation using nets of prohibited mesh size	6	4	10	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	No Change
Using in excess of 10 live-decoys (Song Thrush / Golden Plover) while trapping	0	0	0	0	0	0	0	0	0	1	0	1	0	0	0	0	0	0	0	0	0	No Change
Trapping during unpermitted hours	0	0	0	0	0	0	0	1	1	2	0	2	0	0	0	0	0	0	0	0	0	No Change
Trapping within bird sanctuaries	0	0	0	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	No Change
Trapping on unregistered sites	0	0	0	2	0	2	4	1	5	1	2	3	0	1	1	3	23	26	1	8	9	Decrease
Trapping using unmarked decoys	2	0	2	9	6	15	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	No change
Exceeding the individual seasonal quota of captured birds ⁶⁰	0	0	0	0	0	0	0	0	0	0	0	0	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Failure to report captured bird	0	0	0	4	0	4	2	0	2	0	0	0	0	0	0	0	0	0	0	0	0	No change
Trapping without licence	7	5	13	3	0	3	8	1	9	0	0	0	0	0	0	0	0	0	0	0	0	No change
Nets left uncovered when unattended	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	0	2	2	0	0	0	Decrease
Total offences	38	18	57	41	13	54	50	12	62	20	11	31	8	1	9	24	39	63	27	22	49	Decrease⁶¹
Number of persons apprehended	16	5	21	29	9	38	46	12	58	21	9	30	8	0	8	17	5	22	19	7	26	Increase

Source: Wild Birds Regulation Unit & Malta Police Force, 2020

⁵⁹ For the purpose of classifying each case, unregistered trapping sites with no decoys on site have been listed under ‘Trapping on unregistered sites’ whilst unregistered / registered trapping sites with decoys of protected birds (e.g., finches) have been listed under ‘Trapping for protected birds’.

⁶⁰ As from 2017, the individual seasonal quota for Golden Plover and Song Thrush was removed whilst the national bag limit of 700 Golden Plovers and 5,000 Song Thrushes was retained.

⁶¹ LN 383 of 2018: Framework for Allowing a Derogation Opening An Autumn Live-Capturing Season For Finches (Revocation) Regulations, 2018. Available at: <https://msdec.gov.mt/en/Document%20Repository/WBRU/2018/legislationAndPolicy/ln383.pdf>

- 9.13 As a result of the new standard operating procedure adopted through the recent legal amendments, the number of spot-checks on individual licensees has increased exponentially; from 3,726 spot-checks in 2018 to 5,656 spot-checks in 2019. This amounts to at least three spot-checks on each licensed live-capturer / live-capturing site throughout the whole season.
- 9.14 When compared with the 2013–2018 live-capturing seasons, the rate of disclosure for most types of violations have either remained the same or have decreased. Nonetheless, there has been an increase in the use of pre-recorded birdcalls. Despite the exponential increase in spot-checks, the season saw few irregularities concerning the Golden Plover and Song Thrush derogation, mostly concerning the illegal use of bird callers. Overall, there has been a decline in the total infringements detected and an increase in the number of persons apprehended and charged. This decrease in disclosed illegalities is, apart from improvements in field enforcement, also attributable to the increase in legal deterrents against abuse and the ongoing educational efforts carried out by WBRU together with hunting organisations. Moreover, the increase in the number of persons charged substantiates the effectiveness of the enforcement system adopted by enforcement authorities.
- 9.15 Following the ban on live-capturing of finches⁶² following judgment in Case C-557/15 delivered by the Court of Justice of the European Union (CJEU) in June 2018, incidents of illegal trapping of finches have persisted. In this regard, BirdLife Malta reported that trapping of finches is “uncontrolled”⁶³, yet the enforcement statistics published in this report show that these infringements have not gone unnoticed—the Executive Police have dismantled illegal sites and took legal action against all known culprits. It should be reiterated that in all cases of illegal trapping of finches, the perpetrators were using finch nets with mesh size measuring 18mm x 18mm. As discussed with the services of the European Commission during the November 2019 bilateral meeting, the use of illegal finch nets has no bearing on the selectivity component of the nets that are permitted under derogation for live-capturing of Song Thrush (35mm x 35mm) and Golden Plover (45mm x 45mm) since that latter two sizes are too large to capture finches, as detailed in the July 2019 report on selectivity and mesh size (Annex III)⁶⁴.
- 9.16 Throughout the live-capturing season, enforcement personnel seized a total of 153 finches: 104 from Malta and 49 from Gozo. Finches comprised of 15 Linnets (*Linaria cannabina*), 6 Hawfinches (*Coccothraustes coccothraustes*), 2 European Serins (*Serinus serinus*), 24 Eurasian Siskins (*Spinus spinus*), 7 European Greenfinches (*Chloris chloris*), 8 Common Chaffinches (*Fringilla coelebs*) and a European Goldfinch (*Carduelis carduelis*). No details pertaining to the remaining 90 specimens were recorded by enforcement officers before release.
- 9.17 As evidenced throughout the enforcement chapter of this report, the Maltese Government, with the assistance of the Executive Police, is committed to maintain adequate deterrents against illegalities to ensure that the derogation regime is properly implemented under strictly supervised conditions, by adopting strict enforcement operations to monitor compliance and effectively prosecute all infringements detected.

⁶² LN 383 of 2018: Framework for Allowing a Derogation Opening An Autumn Live-Capturing Season For Finches (Revocation) Regulations, 2018. Available at: <https://msdec.gov.mt/en/Document%20Repository/WBRU/2018/legislationAndPolicy/ln383.pdf>

⁶³ <https://birdlifemalta.org/2020/02/hunting-and-trapping-seasons-now-closed-five-months-of-illegalities-and-lack-of-enforcement/>

⁶⁴ The July 2019 report *Selectivity and mesh size: an assessment of the methods used for live-capturing* is included as Annex A to the Malta Ormis Committee minutes of the 31 July 2019 meeting, available at: <https://msdec.gov.mt/en/Document%20Repository/WBRU/2019/ormisCom/oMinThirstJul19.pdf>

10. Conclusions

- 10.1 The application of the Golden Plover and Song Thrush live-capturing derogation in autumn 2019 was preceded by a series of in-depth analyses that considered all relevant legal, scientific and technical aspects pertaining to this derogation regime, as well as by an open and transparent discussion with all stakeholders. In particular, and following discussions with the European Commission, both the Framework Regulations and Notice of Derogation were revamped to address the concerns raised by the European Commission in its 2012 Reasoned Opinion (as well as aspects of relevance following the judgment of the Court of Justice of the European Union on finches in *Commission v Malta* (Case C-557/15), in particular judicious use, selectivity and strict supervision.
- 10.2 As a result of these processes, the decision to apply the derogation was made with full confidence that the following critical prerequisites will be met, without reservation:
- a. The derogation satisfies all the relevant parameters and spirit of the Birds Directive; and
 - b. The actual implementation of the derogation on the ground ensures that the relevant legal parameters enacted in pursuance of point (a) above are respected in the field through an effective and robust enforcement regime.
- 10.3 The Maltese authorities have subsequently ensured that the above two prerequisites were met both legally and in practice. After ascertaining that there is no other satisfactory solution, the authorities applied an even more robust regulatory regime to further ensure that the scientific considerations pertaining to small numbers and conservation status of the species in question (as incorporated in the revamped Notice of Derogation) were being implemented in practice and that the relevant parameters of the derogation were fully respected both legally, as consolidated in the amended Framework Regulations, and on the ground.
- 10.4 Supervision on the ground was ensured through the deployment of appropriately trained and suitably equipped field officers that have exponentially increased the intensity of systematic spot-checks. The use of the latest state-of-the-art technology (GIS, GPS, portable tablet PCs, electronic game reporting system, etc), has resulted in a greater efficiency of the overall supervision process. In terms of game reporting, BirdLife Malta has reported “*A failed game reporting system, with the authorities failing to have any form of control over legally hunted or trapped birds*”⁶⁵. As evidenced through Section 6 of this report and the immediate closure of the season following uptake of national quota for Golden Plover, it is evident that the game reporting system is continuing to prove pivotal in real time monitoring of quotas during the live-capturing season.
- 10.5 Regulatory rigour such as pre-screening, registration and digitalization of all site plans, and greater efforts at promoting education and regulatory awareness, coupled with a higher rate of spot-checks as set out in the Framework Regulations S.L. 549.74, have worked in tandem to ensure compliance during the live-capturing season.

⁶⁵ BirdLife Malta Press Release: Hunting and trapping seasons now closed, five months of illegalities and lack of enforcement
<https://birdlifemalta.org/2020/02/hunting-and-trapping-seasons-now-closed-five-months-of-illegalities-and-lack-of-enforcement/>