

Assessment of the latest enforcement-related measures and outcome of the 2018–2019 autumn/winter seasons

Wild Birds Regulation Unit – February 2019

Introduction

This report gives a brief overview of the 2018–2019 autumn/winter seasons, the enforcement effort deployed by the Maltese authorities, as well as the relevant enforcement statistics and description of other measures related to Malta's effort to fight the illegal killing, trapping and trade of wild birds. This report is the latest in a series of similar enforcement reports previously published by the Wild Birds Regulation Unit, available at: <http://environment.gov.mt/en/Pages/WBRU/Reports-and-Statistics.aspx>.

Legislative measures

The 2018 autumn hunting season followed the same legislative parameters as the 2017 season, which parameters were set in March 2016 by virtue of Legal Notice 69 of 2016 of the Conservation of Wild Birds Regulations (SL 549.42).

The mandatory and legally binding game reporting requirement utilising a state-of-the-art telephonic game reporting system, which was established in 2016 and improved further in 2017, was maintained in 2018. The system enables instant collection of real-time hunting bag data during all hunting and live-capturing seasons, which allows the precise real-time monitoring of the uptake of quotas and other parameters pertaining to hunting and live-capturing. Under this system, all hunters are legally bound to report their catch before leaving the hunting area—the system records the time when the report is made, the species caught and the relevant quantity, as well as the geographical location where the specimens were hunted. During all seasons allowed through derogation such as autumn live-capturing season (or spring hunting), persons in possession of a special licence are legally bound to report the species caught and the relevant quantity *immediately* upon making a catch. The system enables law enforcement authorities to instantly verify a licensee's compliance with the reporting requirements whilst in the field, as well as allows retrieval of all other necessary information concerning licensing and related parameters. The integration of the Game Reporting System (GRS) with the online GIS system used for field enforcement during the autumn live-capturing season has enabled enforcement personnel to have direct access to reporting data from the GRS through the GIS application on the portable rugged tablet, thus improving effectiveness of enforcement.

The Conservation of Wild Birds Fund offers financial support in the form of grants to registered non-governmental organisations (NGOs) to support initiatives that contribute towards the conservation of wild birds, sustainable hunting governance, awareness-raising, as

well as education and research related to avifauna. Projects which have been successful in the call for proposals of last year have been almost fully implemented save for one project which is due to be completed in 2019. The Federation for Hunting and Conservation – Malta (FKNK), St. Hubert’s Hunters (KSU), BirdLife Malta, Nature Trust Malta and Fridericus Rex falconry club benefitted from such grants to implement projects ranging from educational campaigns on the conservation of avian species to the installation of nesting sites for locally breeding birds, pest management, awareness raising initiatives on hunting safety and handling birds of prey to re-introduction of Barn Owl species. Nine projects proposed by the NGOs received financial support from the Conservation of Wild Birds Fund, set up by the Parliamentary Secretariat.

Autumn hunting season: 1 September 2018 – 31 January 2019

General parameters of the season and number of licences

The Conservation of Wild Birds Regulations (S.L. 549.42) establishes general parameters regulating hunting and taking of birds, lays down general prohibitions, lists avian species subject to protection, areas where hunting is not allowed and other restrictions. Almost identical conditions as those applicable to bird hunting on land also apply to rabbit hunting during the autumn period, which is regulated through the Protection of Wild Rabbit Regulations (S.L. 549.90).

During the 2018 autumn hunting season, the hunting of birds on land was permitted between the 1st September and the 31st January, between two hours before sunrise and two hours after sunset on any day between Monday and Saturday, and between two hours before sunrise and 1pm on Sundays and Public Holidays. However, the hunting of birds on land between the 15th September and the 7th October (inclusive of both dates) was not permitted from Monday to Saturday between 7 pm and two hours before sunrise of the following day. The same time restrictions also applied to the hunting of wild rabbit, which was permitted until 31st December.

The hunting of birds at sea was permitted between the 1st October and the 31st January during the same times as those applicable to hunting on land, whilst between the 1st October and 7th of October, inclusive of both dates, hunting at sea was not permitted from Monday to Saturday between 7 pm and two hours before sunrise of the following day.

Hunters were only permitted to hunt the species for which they are licensed according to their licence category and were legally required to report the birds caught via the game reporting system prior to leaving the hunting area in accordance with the instructions as stipulated in the information booklet distributed together with the hunting licences.

Due to re-classification of the conservation status of the Red-breasted Merganser (*Mergus serrator*) in 2016, the hunting of this species is no longer permitted. Moreover, according to

Legal Notice 77 of 2016, hunting of the European Turtle-dove (*Streptopelia turtur*) was permitted only during the month of September, subject to maximum national quota of 7,000 birds. Targeting of the European Turtle-dove outside this period was prohibited.

Only those hunters who were in possession of valid general hunting licence were authorized to participate in the season. Hunters were required to carry with them the general licence card and the hunting booklet at all times whilst hunting. In 2018, there were 10,533 general licences to hunt birds on land, 272 general licences to hunt birds at sea and 2,678 general licences to hunt wild rabbit.

Enforcement deployment during the autumn hunting season

During the autumn hunting season, the authorities deployed a total maximum complement of 92 officers tasked with overseeing compliance with the parameters of the season. This complement consisted of 43 officers of the Administrative Law Enforcement Unit (ALE) of the Malta Police Force, 7 officers of the Armed Forces of Malta (AFM), 40 police officers temporarily seconded with the ALE from other police units and two officers from the Wild Birds Regulation Unit's Specialist Enforcement Branch. This enforcement complement was deployed gradually, ranging from a minimum of 11 officers deployed daily in early September, reaching maximum strength of 41 officers daily from mid-September to end of December and to a minimum of 10 from mid- to end-January. The officers conducted field patrols split into two shifts between 05:00 hours and 21:00 hours daily.

As was also the case in previous years, the Unit organised specialised training sessions in Malta and in Gozo on enforcement priorities and techniques. Over 60 officers were trained in basic ornithology, wildlife crime detection techniques, inspection procedures, applicable regulations and prosecution processes.

The objectives of enforcement deployment were:

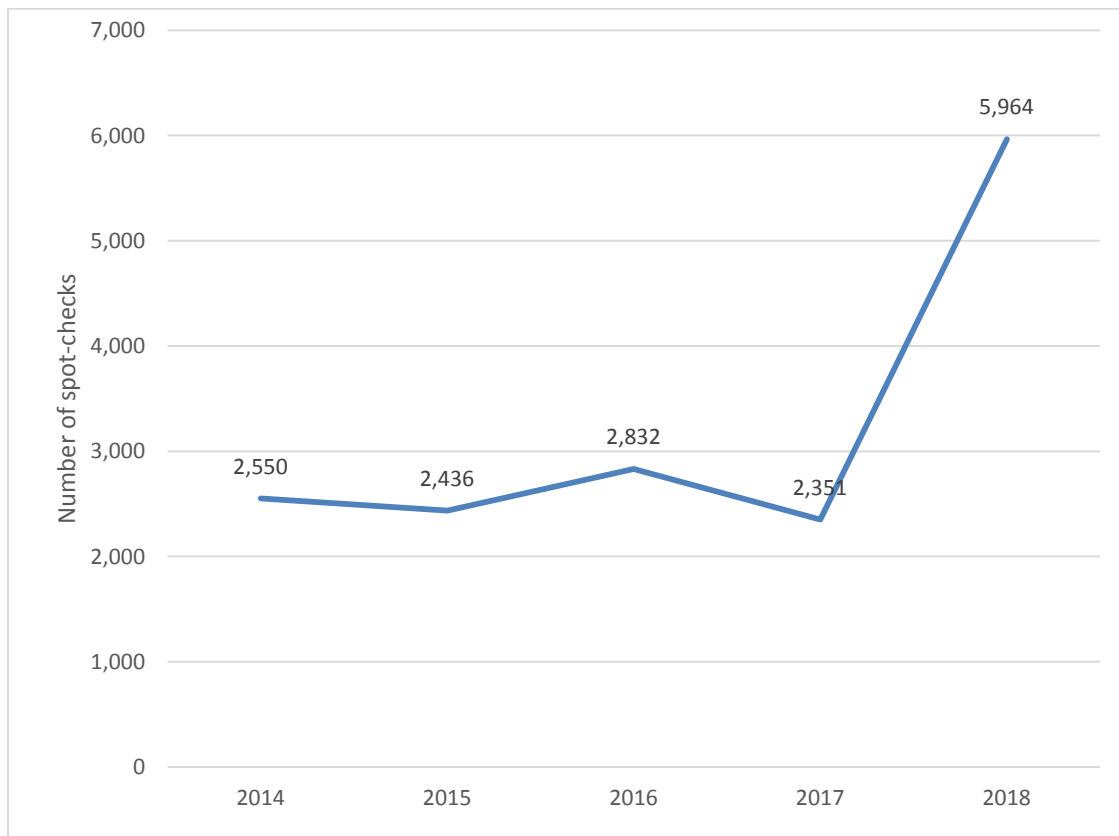
1. To ensure continuous deployment presence in the countryside to deter any potential abuse from occurring in the first place;
2. To ensure that no illegal targeting of protected species occurs, and that any detected incidents of abuse are dealt with swiftly and effectively;
3. To ensure that the general prohibitions and parameters related to the open season are enforced.

Patrols, inspections and spot-checks conducted

The officers utilised a mixture of techniques, including vehicular patrols, covert observation, stationary observation posts, foot patrols, physical inspections and spot-checks on individual licence holders, as well as road-blocks. In addition, police have also carried out a number of patrols at sea in order to ascertain compliance whilst hunting at sea.

As from autumn 2018, enforcement authorities assigned high priority to spot-checks on individual licensees which led to a total of 5,964¹ spot-checks on individual licensees (4,777 in Malta and 1,187 in Gozo), which is more than double the number of spot-checks conducted during the same period in 2017 (2,351) and 2016 (2,832). The below figure presents a comparison of the number of spot-checks, including road checks conducted over the past five years during autumn hunting seasons (1st September – 31st January).

Figure 1 - Comparison of the number of spot-checks (including road checks) conducted over the past five years during autumn hunting seasons (1st September – 31st January)



Offences detected

In the course of field surveillance, inspections and spot-checks, the authorities disclosed a total of 112 cases, that led to legal action against 70 offenders, including 23 persons being subject to criminal prosecution and 47 persons subject to administrative fines. No legal action could be taken on the remaining cases given that the perpetrator remained unknown.

The below table and figure represent a comparison of enforcement statistics with the corresponding metrics for previous years. The data show offences which were detected and confirmed by enforcement officers, and where sufficient material evidence was gathered to

¹ Out of which 331 were road checks.

enable identification and appropriate judicial action against the perpetrator. It is to be noted that cases comprised of more than one offence have been listed under each respective category.

The Specialist Enforcement Branch of the Wild Birds Regulation Unit ensured effective operational liaison between enforcement entities and other stakeholders. Whilst providing a 24/7 on-call enforcement service for the public and NGOs, the Unit also assisted the police in field surveillance operations.

Table 1 – Comparison of offences confirmed by enforcement officers during autumn seasons (2012–2018)

Offences confirmed during autumn hunting / trapping seasons (1st September - 31st January of the following year)	2012	2013	2014	2015	2016	2017	2018
Hunting within prohibited distances / prohibited areas	17	12	1	6	2	0	0
Hunting / trapping without licence	76	21	4	8	1	0	0
Illegal trapping of protected birds	137	29	1	2	0	0	14 ²
Illegal shooting of protected birds	2	6	4	1	2	0	0 ³
Hunting / trapping using illegal means / firearms irregularities / other breaches of licence conditions	236	89	78	102	61	25	54 ⁴
Hunting / trapping during closed season / outside of permitted hours	16	1	2	5	1	7	2 ⁵
Illegal possession of bird carcasses/ stuffed birds	4	16	5	3	3	1	3 ⁶
Illegal possession of live birds	137	30	3	3	2	4	5 ⁷
Illegal sale of protected birds	0	0	7	1	1	1	0
Smuggling of protected birds	1	3	1	0	0	0	1
Total offences disclosed	391	125	106	131	73	38	79⁸
Persons against whom legal action was taken	226	87	83	128	65	37	70⁹

² Cases refer to 13 cases of illegal trapping for finches and one illegal trapping of Dotterel (*Charadrius morinellus*).

³ No offences concerning illegal shooting of protected birds were detected by enforcement officers, nonetheless a number of protected birds have been confirmed illegally shot by the government-appointed veterinarian as outlined later on in this report.

⁴ Total consists of 44 cases of use of birdcaller, one case of failure to declare all hunted birds, one case of carrying an uncovered firearm, one case of firearm having a magazine capable of holding more than two rounds of ammunition, one case of use of nets of mesh size smaller than that allowed by law, three unattended nets, one case of trapping on an unregistered site and two cases involving cage-traps.

⁵ Both cases refer to trapping during closed season.

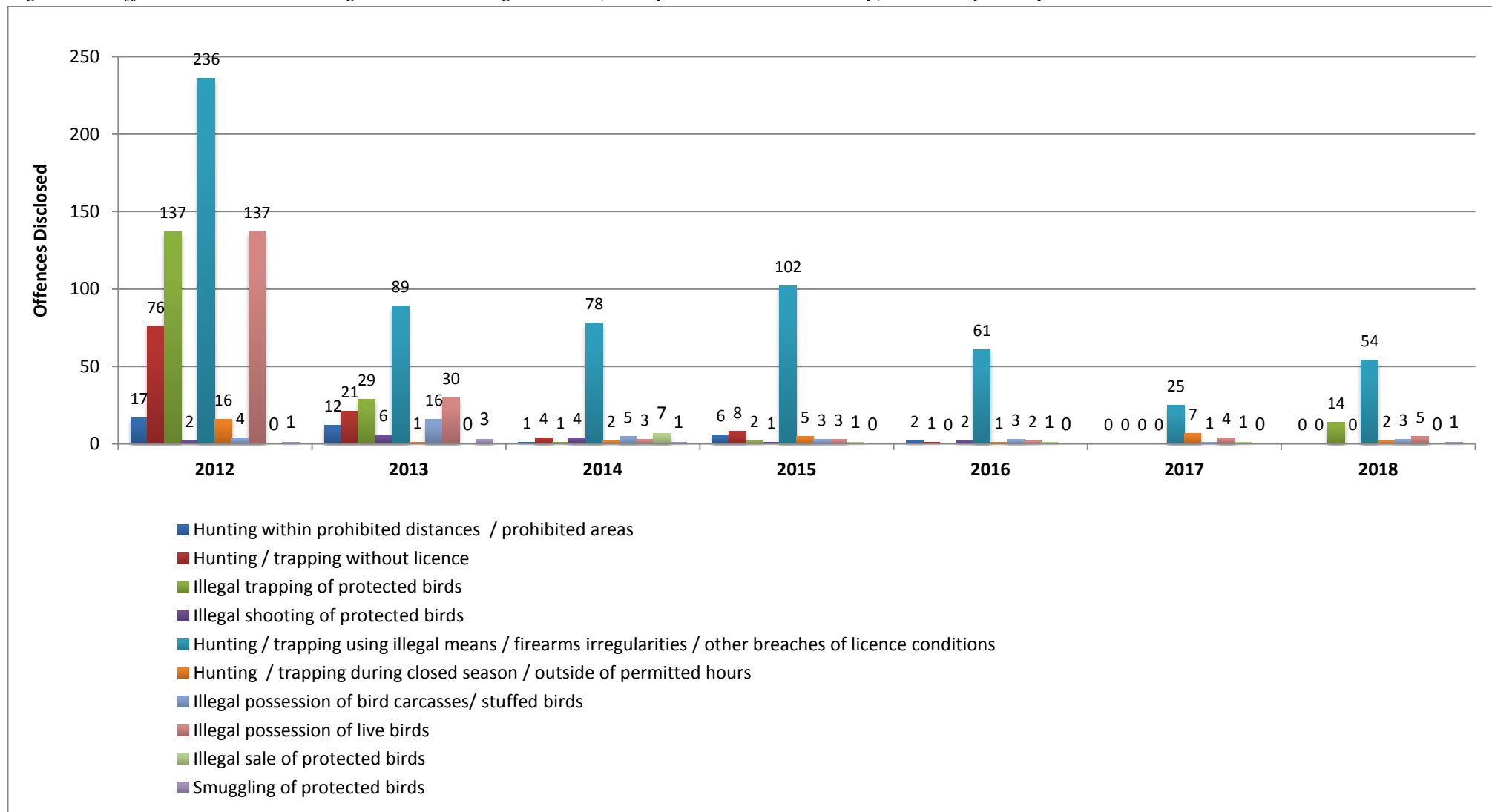
⁶ Two cases of illegal possession of stuffed protected birds and one case of illegal possession of carcasses of protected birds.

⁷ Cases refer to one case of illegal possession of Dotterels, one illegal possession of Hawfinch and three cases of illegal possession of finches.

⁸ Total consists of 79 offences pertaining to 23 cases, some cases comprised of more than one offence.

⁹ 47 administrative fines and 23 court cases.

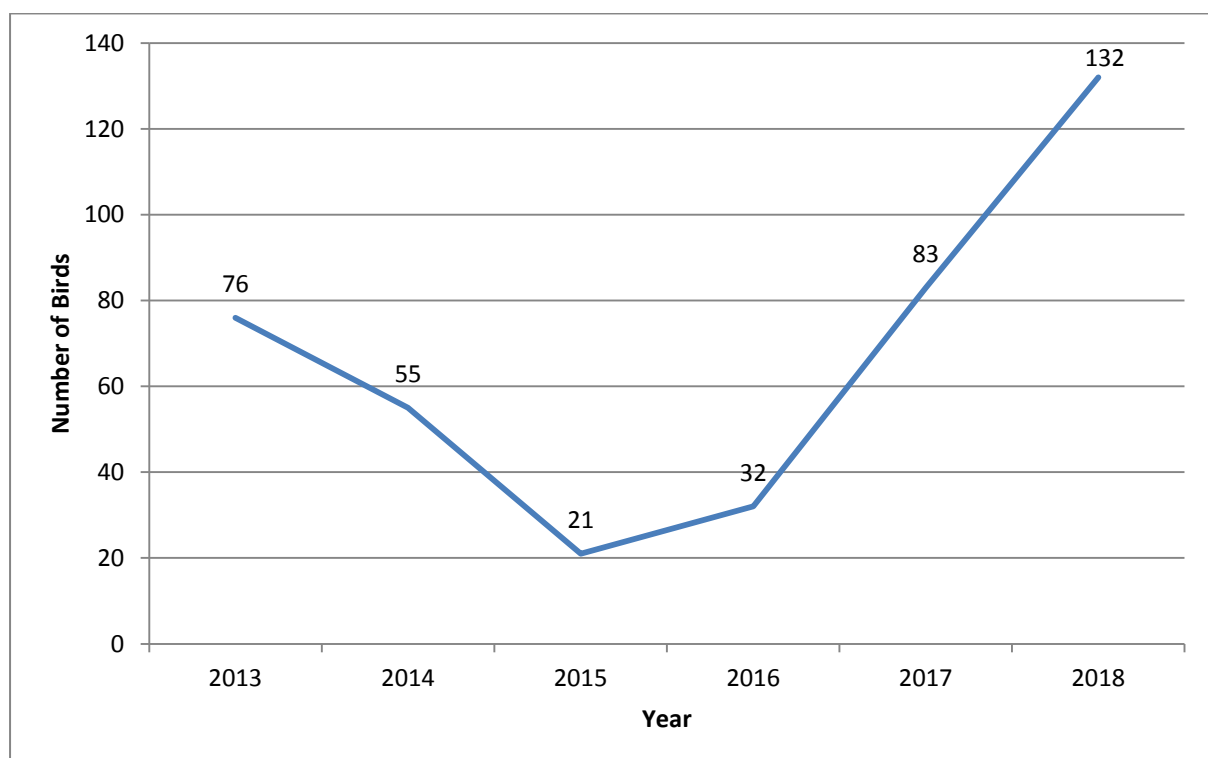
Figure 2 – Offences disclosed during autumn hunting seasons (1st September – 31st January) over the past 7 years



The above table and figure also list offences that are not directly related to hunting or trapping offences (e.g., illegal possession of protected birds; illegal sale / smuggling cases), but which were disclosed during the period in question. Moreover, the statistics do not include illegalities reported to enforcement officials during the period under review, where no or insufficient evidence was available to enable identification of the perpetrator(s) for subsequent legal action.

In 2018, the authorities recovered around 320 wild birds belonging to 86 species that were provided with the appropriate veterinary care and in a number of cases also successful rehabilitation and release back into the wild. Of these, 132 protected birds (41.25%) were confirmed to have sustained gunshot wounds as a result of illegal targeting. A procedure coordinated by the Wild Birds Regulation Unit was put in place in conjunction with the ALE, Birdlife Malta and the government-appointed veterinarian to provide appropriate veterinary care and, where possible, rehabilitation of such birds. The figure below illustrates the number of illegally-shot protected birds recovered by the authorities over the past six years.

Figure 3 - Number of illegally-shot protected birds recovered by the authorities, confirmed to have sustained gunshot wounds



Despite an increase in the number of spot-checks on individual licence holders when compared with the previous seasons, the above figures clearly show an increasing trend in the illegal killing of protected birds. A full assessment of the factors that may have led to such trend is beyond the scope of this summary report but nonetheless merits the attention of all

stakeholders at both local and national level since **there is a need for a concerted effort to actively curb and reverse this increase in IKB-related crime.**

Ensuring sustainability of hunting tourism and aviculture

Aware of the fact that some Maltese hunters opt to travel on hunting trips abroad and the increasing trend of people interested in keeping different bird species for aviculture, the Wild Birds Regulation Unit maintained a very active role in disseminating information about the procedure concerning the importation of live or dead birds amongst hunters and individuals involved in aviculture. In order to disseminate information, WBRU used its office's front desk as an information hub whereby interested parties are taken through the whole procedure by experienced enforcement personnel. WBRU also made use of its social media including the Unit's Facebook page and website which were routinely updated with the latest information¹⁰. In order to better reach the hunting community, WBRU collaborated with hunting organizations in the dissemination of information through their social media.

In parallel with implementing an information campaign, in order to enforce compliance, the Unit also carried out 109 inspections at points of entry, namely Customs and Cargo Sections of the Malta International Airport (MIA) and the Sea Passenger Terminal, out of which 23 were surprise inspections at MIA. During these inspections 8,567 bird specimens were examined for compliance with the regulations, of which four live birds were seized and subsequently released due to the fact that they were not fitted with a closed ring. The case has been forwarded to the Police for legal action.

Investigations concerning illicit possession of protected birds

Recognising the fact that illicit trade and taxidermy of illegally acquired protected birds is a substantial driver behind illegal targeting of protected birds, the law enforcement authorities continued to dedicate substantial effort towards preventing, detecting and curtailing any potential abuse.

During 2018, the Specialist Enforcement Branch of the Wild Birds Regulation Unit together with the Administrative Law Enforcement Unit of the Police inspected 1,292 stuffed bird specimens held in eleven private collections. During these investigations, a total of 126 registered stuffed bird specimens were found to have been illegally disposed without appropriate authorisation, whilst 46 specimens were illegally possessed. Legal action was initiated.

¹⁰ <https://msdec.gov.mt/en/Document%20Repository/WBRU/2019/news/notaGwidalmppo.pdf>

Judicial action against bird-related crime

During 2018, the Wild Birds Regulation Unit's officials attended and testified during 16 Court sittings each sitting comprising of multiple hearings, securing 27 convictions, with 11 acquittals with the rest of the cases pending further hearing. In the same period, the Unit also issued administrative fines to 47 offenders, of which 46 were settled within 21 days and one referred to the police for further proceedings in the Law Courts for failure to settle the fine within the statutory deadline.

Malta has one of the highest penalty systems within the European Union for prosecution of bird-related crimes. The penalty for first count offences concerning the illegal taking, trapping and trade of wild birds ranges from €500 up to €5,000, the confiscation of the *corpus delicti* and the suspension of any licence or permit issued under the Conservation of Wild Birds Regulations (SL 549.42) and Part XV of the Code of Police Laws for a period of not less than two years but not exceeding five years. On a second count offence, the penalty increases to a fine of not less than €1,000 up to €10,000 or to imprisonment for a term of not less than six months but not exceeding two years, or to both fine and imprisonment, the confiscation of the *corpus delicti* and the permanent revocation of any licence or permit issued under the Conservation of Wild Birds Regulations (SL 549.42) and Part XV of the Code of Police Laws.

In addition, should the target species be listed in Schedule I (Annex I of the Birds Directive) or Schedule IX of the Conservation of Wild Birds Regulations (SL 549.42), the penalty for a first count offence would increase to an obligatory fine of €5,000 or to imprisonment for one year, or to both fine and imprisonment, the confiscation of the *corpus delicti* and to the permanent revocation of any licence or permit granted under the Conservation of Wild Birds Regulations (SL 549.42) and Part XV of the Code of Police Laws. On a second or subsequent offence, the fine would increase to €10,000 or to imprisonment for two years, or to both such fine and imprisonment and the confiscation of the *corpus delicti*. As seen from sentences meted out by the Law Courts, the punishment described above is strictly adhered to by Magistrates and is undoubtedly a high-handed penalty system.

Below is an example of the outcome of some of the cases related to illegal targeting of protected birds decided by the Maltese Law Courts in 2018:

- On the 7th February 2018 the Law Courts decided the case of illegal shooting of a Booted Eagle (*Hieraetus pennatus*) that took place on the 2nd of November 2016. Following the incident, the person was apprehended, charged and granted bail against a €2,000 deposit and personal guarantee of €10,000. During the hearing in February 2018, the accused was sentenced to pay a €5,000 fine, ordered one year effective imprisonment and had all his licences issued under SL 549.42 and Schedule XV of Code of Police Laws revoked for life. The case was pending appeal at the time of writing.

- On the 7th February 2018 the Law Courts decided the case of illegal trapping of finches that took place on the 31st March 2016. The accused was found guilty of the charges brought against him and handed a €1,200 fine, ordered the confiscation of the *corpus delicti*, and had all his licences issued under SL 549.42 and Schedule XV of Code of Police Laws suspended for two years.
- On the 7th March 2018 a person was found guilty of illegal shooting, illegal possession and illegal importation of protected bird species from Romania. Case dates back to January 2016 when the Customs Enforcement Unit within the Malta International Airport detected a luggage containing a large amount of bird carcasses. The accused was found guilty of the charges brought against him and handed a €2,500 fine, ordered the confiscation of the *corpus delicti*, and had all his licences issued under SL 549.42 and Schedule XV of Code of Police Laws revoked for life. The case was pending appeal at the time of writing.
- On the 7th March 2018 a repeat offender was found guilty of shooting without a valid hunting licence and various other charges related to the Arms Act. He was sentenced to pay a fine of €2,000, ordered the confiscation of *corpus delicti*, and had all his licences issued under SL 549.42 and Schedule XV of Code of Police Laws revoked for life. The case was pending appeal at the time of writing.
- On the 24th of April 2018, the Court heard the case of appeal of an individual who was found guilty of hunting at sea within 3km from the shore in the vicinity of the Grand Harbour back in 2013. The Court confirmed the original sentence and ordered the accused to pay a €2,500 fine, ordered the confiscation of the *corpus delicti* including the man's dinghy and ordered the suspension of all licences issued under SL 549.42 and Schedule XV of Code of Police Laws for one year.
- On the 26th April 2018, the Court heard the case of appeal of an individual who was found guilty of hunting during closed season back in 2012. The Court confirmed the original sentence and ordered the accused to pay a €1,000 fine, ordered the confiscation of the *corpus delicti* and the suspension of all licences issued under SL 549.42 and Schedule XV of Code of Police Laws for two years.
- On the 2nd May 2018, three persons were found guilty of illegal trapping of finches during closed season. Case dates back to March 2017 when three persons wearing masks to cover their identity, were filmed by CABS whilst illegally trapping for finches. All three persons were handed a €1,600 fine and had all their licences issued under SL 549.42 and Schedule XV of Code of Police Laws suspended for three years. The case was pending appeal at the time of writing.

- On the 2nd of May 2018, a person was found guilty of illegal killing of a European Bee-eater (*Merops apiaster*) and European Turtle-dove (*Streptopelia turtur*). The accused was given a €2,000 fine and had all his licences issued under SL 549.42 and Schedule XV of Code of Police Laws suspended for three years.
- On the 2nd of May 2018, a person was found guilty of illegal killing of protected birds and subsequent illegal importation to Malta from Argentina. The accused was fined €4,950 and had all his licences issued under SL 549.42 and Schedule XV of Code of Police Laws suspended for three years.
- On the 25th of May 2018, the Court heard the case of appeal of an individual, a second time offender, who was found guilty of illegal trapping of finches during closed season on the 5th of April 2015. During the first hearing back in October 2015, the accused was found guilty and fined €1,000 and had all his licences issued under SL 549.42 and Schedule XV of Code of Police Laws revoked for life, which sentence was confirmed upon sentence of appeal.
- On the 15th of July 2018, the Court heard the case of appeal of an individual who was found guilty of illegal killing and possession of a Marsh Sandpiper (*Tringa stagnatilis*) and a Spotted Crake (*Porzana porzana*), the latter listed under Schedule I of SL 549.42. During the first hearing of the 16th of September 2015, the Court had found the accused guilty and imposed a fine of €9,000, ordered the confiscation of the *corpus delicti*, and had all his licences issued under SL 549.42 and Schedule XV of Code of Police Laws revoked for life. Following the appeal hearing, the Court reduced the fine to €5,000 and confirmed the confiscation of the *corpus delicti* and permanent revocation of all his licences.
- On the 17th October 2018, the Court heard the case of appeal of an individual who was found guilty of illegal trapping during prohibited hours back in 2014. The Court confirmed the original sentence and ordered the accused to pay a fine of €2,400, ordered the confiscation of the *corpus delicti* and suspension of all licences issued under SL 549.42 and Schedule XV of Code of Police Laws for three years.