

# Assessment of the latest enforcement-related measures and outcome of the 2019–2020 autumn/winter seasons

## Wild Birds Regulation Unit – February 2020

### Introduction

This report gives a brief overview of the 2019–2020 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 (WBRU), available at: <http://environment.gov.mt/en/Pages/WBRU/Reports-and-Statistics.aspx>.

### Legislative measures

The 2019 autumn hunting season followed the same legislative parameters as the 2018 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)<sup>1</sup>.

The mandatory and legally binding game reporting requirement utilising the telephonic game reporting system, established in 2016, was maintained in 2019. 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 and allows for the immediate retrieval of all other necessary information concerning licensing and related parameters.

Participation in game reporting has once again been extremely low. On the lowest scale, no reports were submitted by 287 hunters licensed to hunt at sea and only 2.77% of all hunters

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<sup>1</sup> Conservation of Wild Birds (Amendment) Regulations, 2016. Available at: <http://justiceservices.gov.mt/DownloadDocument.aspx?app=lp&itemid=27449&l=1>

licensed to hunt birds on land submitted a report. Conversely, only two persons were fined for failing to comply with the statutory game reporting obligations and both cases occurred during spring hunting season. In 2019, reporting during derogation periods was higher than during autumn hunting. The highest reporting rate was during autumn live-capturing derogations with a turnout of nearly 24% of all licensees. The 2019 report on game reporting is available at: <https://environment.gov.mt/en/Document%20Repository/WBRU/2019/reportsStats/grdReport19.pdf>

## **Autumn hunting season: 1 September 2019 – 31 January 2020**

### *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 2019 autumn hunting season, the hunting of birds on land was permitted between 1 September and 31 January, from two hours before sunrise until two hours after sunset on any day between Monday and Saturday, and from two hours before sunrise to 1pm on Sundays and Public Holidays. However, the hunting of birds on land between the 15 September and 7 October (inclusive of both dates) was not permitted from Monday to Saturday from 7 pm to two hours before sunrise of the following day. The same time restrictions also applied to the hunting of wild rabbit, which was permitted until 31 December.

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

Hunters were only permitted to hunt the species for which they were 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<sup>2</sup>, hunting of 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 2019, there were 10,615 general licences to hunt birds on land, 287 general licences to hunt birds at sea and 2,801 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 78 officers tasked with overseeing compliance with the parameters of the season. This complement consisted of 24 officers of the Administrative Law Enforcement Unit (ALE) of the Malta Police Force, eight officers of the Armed Forces of Malta (AFM), 44 police officers temporarily seconded with the ALE from other police units and two officers from the WBRU. This enforcement complement was deployed gradually, ranging from a minimum of 24 officers deployed daily in early September, reaching maximum strength of 66 officers daily from mid-October to mid-January, and to 44 officers until 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 WBRU organised specialised training sessions in Malta and in Gozo on enforcement priorities and techniques. Over 90 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*

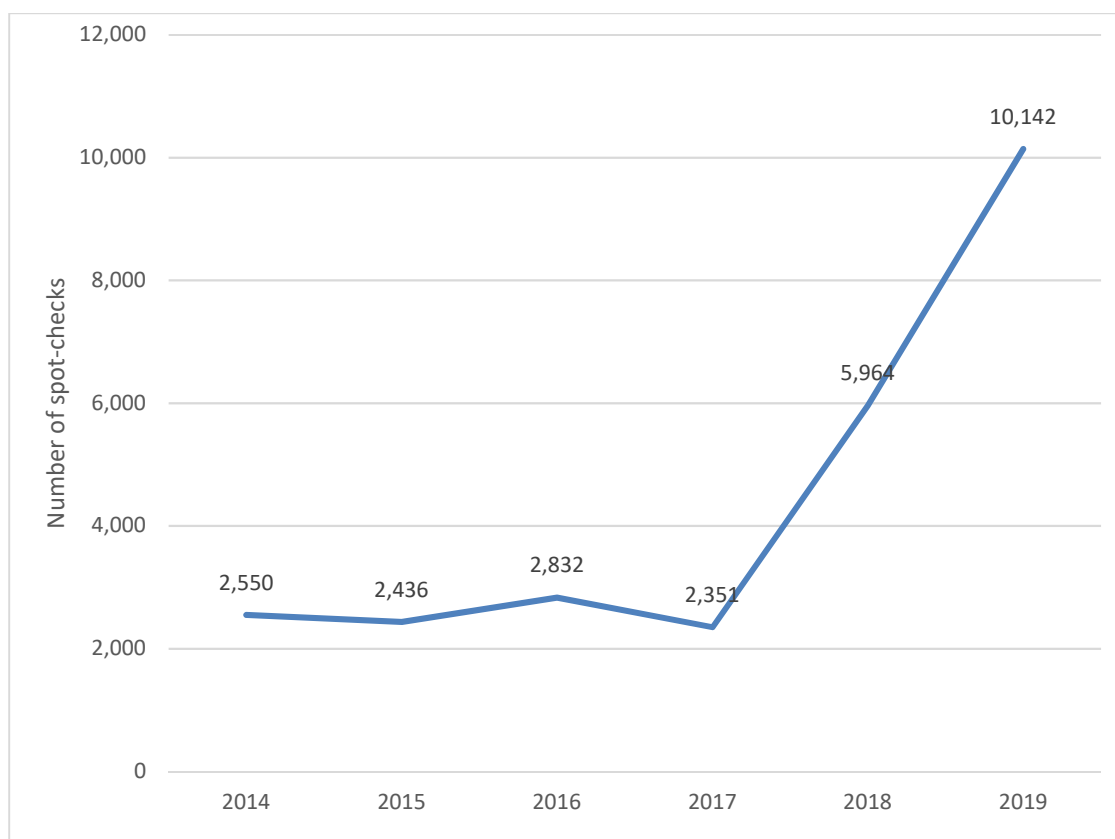
The officers utilised a mixture of techniques, including vehicular patrols, covert observation, stationary observation posts, foot patrols, physical inspections and spot-checks on individual licence holders, as well as roadblocks. In addition, police have also carried out a number of patrols at sea in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

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<sup>2</sup> Conservation of Wild Birds (Declaration of the Autumn Hunting Season for Turtle Dove) Regulations, 2016. Available at: <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lp&itemid=27460&l=1>

As from autumn 2018, enforcement authorities assigned an even higher priority to spot-checks on individual licensees. As a result, during autumn 2019, enforcement authorities conducted a total of 10,142<sup>3</sup> spot-checks on individual licensees (8,547 in Malta and 1,595 in Gozo). This enforcement effort translates into an increase of more than double the number of spot-checks conducted during the same period in 2018, and the highest number of spot-checks since 2014, as illustrated in the graph below. The below figure presents a comparison of the number of spot-checks, including road checks conducted over the past six years during autumn hunting seasons (1 September – 31 January).

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



### *Offences detected*

In the course of field surveillance, inspections and spot-checks, the authorities disclosed a total of 100 cases. Legal action was taken against 74 offenders, of which 27 persons being subject to criminal prosecution and 47 persons subject to administrative fines. No legal action could be taken on the remaining 26 cases given that the perpetrator/s remained unknown to the police.

<sup>3</sup> Out of which 153 were road checks.

The table and figure below represent a comparison of enforcement statistics with the corresponding metrics for previous years. The data shows offences which were detected and confirmed by enforcement officers and where sufficient material evidence was gathered to enable identification and appropriate judicial action against the perpetrator. It is to be noted that for the purpose of the below table, cases comprising of more than one offence have been listed under the most grievous category. For example, cases related to trapping of finches were listed under trapping for protected birds only rather than separately under each offence (e.g., use of illegal means or trapping outside season since, in the case of finches, no such season was open).

The WBRU ensured effective operational liaison between enforcement entities and other stakeholders and provided 24/7 on-call enforcement service to the Police, public, and NGOs.

*Table 1 – Comparison of offences confirmed by enforcement officers during autumn seasons (2012–2019)*

<b>Offences confirmed during autumn hunting / trapping seasons (1 September – 31 January of the following year)</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>
Hunting within prohibited distances / prohibited areas	17	12	1	6	2	0	0	2 <sup>4</sup>
Hunting / trapping without licence	76	21	4	8	1	0	0	0
Illegal trapping of protected birds	137	29	1	2	0	0	14	20 <sup>5</sup>
Illegal shooting of protected birds	2	6	4	1	2	0	0	2 <sup>6</sup>
Hunting / trapping using illegal means / firearms irregularities / other breaches of licence conditions	236	89	78	102	61	25	54	49 <sup>7</sup>
Hunting / trapping during closed season / outside permitted hours	16	1	2	5	1	7	2	4 <sup>8</sup>
Illegal possession of bird carcasses / stuffed birds	4	16	5	3	3	1	3	0
Illegal possession of live birds	137	30	3	3	2	4	5	0
Illegal sale of protected birds	0	0	7	1	1	1	0	0
Smuggling of protected birds	1	3	1	0	0	0	1	0
<b>Total offences disclosed</b>	<b>391</b>	<b>125</b>	<b>106</b>	<b>131</b>	<b>73</b>	<b>38</b>	<b>79</b>	<b>77<sup>9</sup></b>
<b>Persons against whom legal action was taken</b>	<b>226</b>	<b>87</b>	<b>83</b>	<b>128</b>	<b>65</b>	<b>37</b>	<b>70</b>	<b>74<sup>10</sup></b>

<sup>4</sup> Cases refer to hunting within less than 150m from inhabited areas.

<sup>5</sup> Cases refer to the illegal trapping of finches.

<sup>6</sup> Cases refer to the illegal shooting of Collared Doves at Ghadira bird sanctuary and illegal shooting at Ballut Ta' Marsaxlokk bird sanctuary.

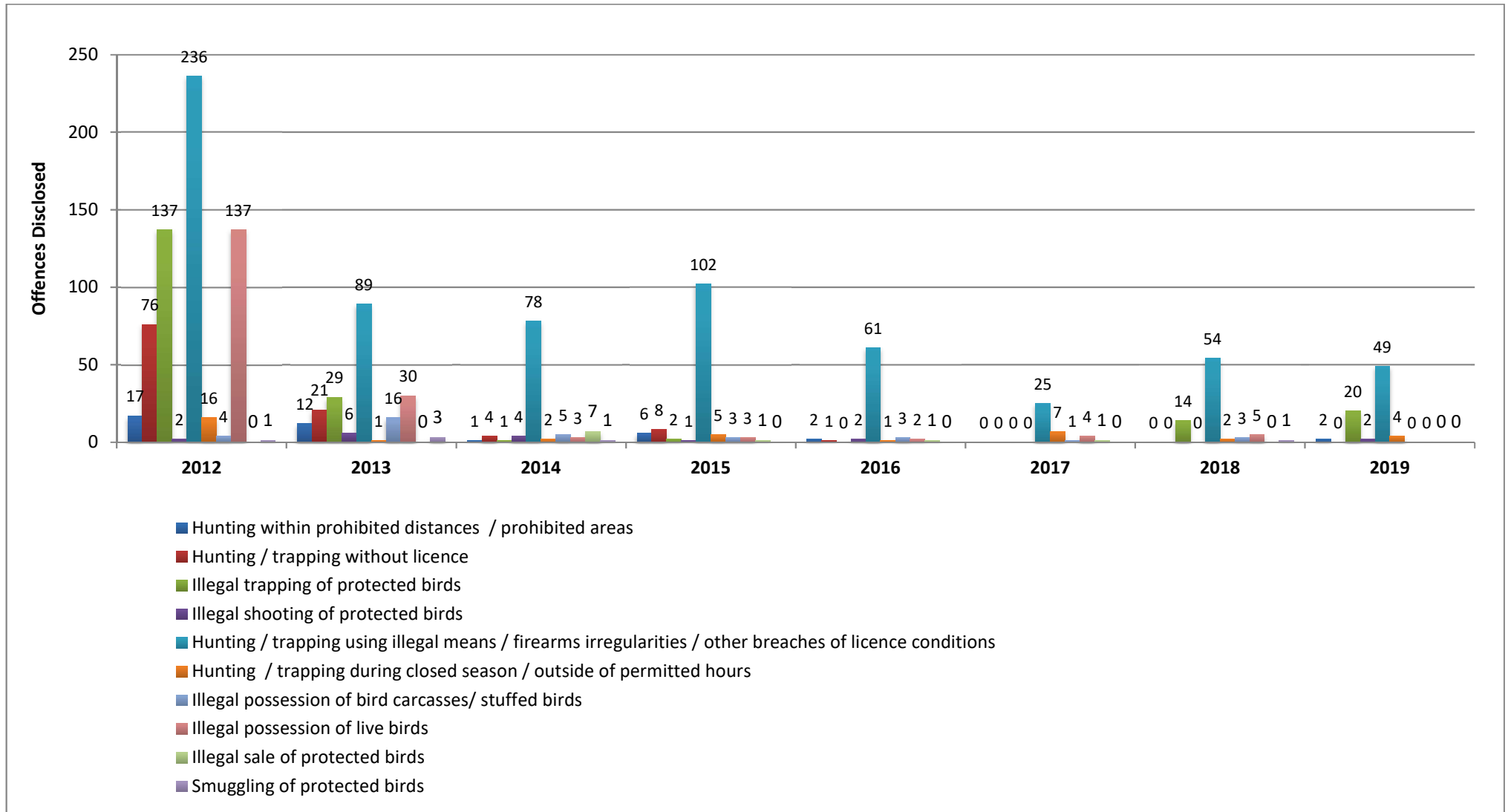
<sup>7</sup> Cases refer to 44 cases of uses of pre-recorded bird calls, 4 cases of firearms irregularities, 1 use of vertical nets / mist-nets.

<sup>8</sup> Cases refer to active trapping sites during closed season.

<sup>9</sup> Total consists of 77 offences pertaining to 74 individuals since some persons committed multiple offences, e.g. use of bird caller together with firearm capable of holding more than two rounds of ammunition.

<sup>10</sup> 47 administrative fines and 27 court cases.

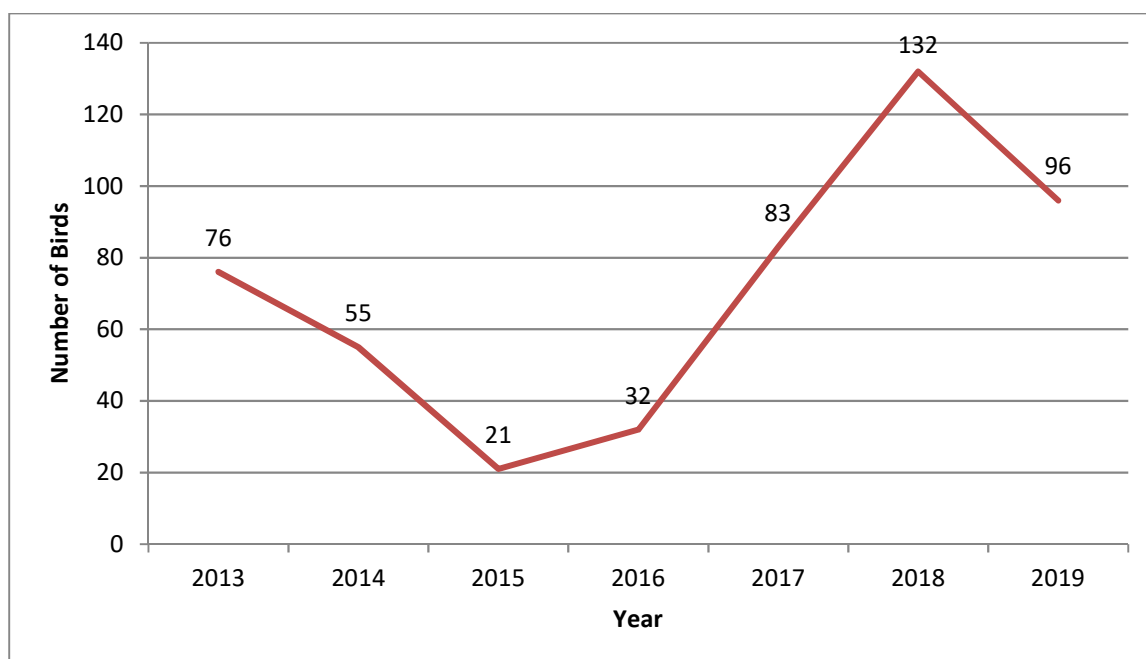
Figure 2 – Offences disclosed during autumn hunting seasons (1 September – 31 January) over the past 8 years



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.

A procedure coordinated by the WBRU 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. In 2019, the authorities recovered 326 wild birds belonging to 78 species that were provided with the appropriate veterinary care and, in a number of cases, successful rehabilitation and release back into the wild. Of these, 96 protected birds (29.44 %) were confirmed to have sustained gunshot wounds as a result of illegal targeting. The figure below illustrates the number of illegally shot protected birds recovered by the authorities over the past seven years.

*Figure 3 - Number of illegally-shot protected birds confirmed to have sustained gunshot wounds*



Notwithstanding the increase in enforcement and the decrease in the number of incidents compared to 2018, the problem of illegal killing of protected birds is still evident. Figures show that the number of cases have decreased from last year, however, the trend of illegal killing of protected wild birds for the year 2019 remains the second highest when compared with statistics of the previous seven years. A full assessment of the factors that led to such trend is beyond the scope of this summary report. Nonetheless, the amount of illegal killing of wild birds retrieved in the past years merits the attention of all stakeholders at both local and national level since **there is a need for a concerted effort to actively curb 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 WBRU 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. The WBRU also made use of its social media including the Unit's Facebook page and website, which were routinely updated with the latest information<sup>11</sup>. In order to better reach the hunting community, the WBRU collaborated with hunting organizations in the dissemination of information through their social media.

During the reporting period, the WBRU also regularly monitored adverts to ensure that the sale/offering for sale of European territory birds is carried out in line with the legal requirements set out by the Conservation of Wild Birds Regulations (SL 549.42), particularly in relation to the statutory requirement for specimens offered for sale to be fitted with a seamless closed ring of a correct size for the species, with the exception of the following Schedule III(a) species:

1. Mallard | Kuluvert (*Anas platyrhynchos*)
2. Willow Grouse | Perniça (*Lagopus lagopus lagopus*)
3. Red Grouse | Perniça Ħamra (*Lagopus lagopus scoticus* and *Lagopus lagopus hibernicus*)
4. Red-legged Partridge | Perniça Saqajha Ħamra (*Alectoris rufa*)
5. Barbary Partridge | Ħaġla ta' Barbarija (*Alectoris barbara*)
6. Grey Partridge | Perniça Griża (*Perdix perdix*)
7. Common Pheasant | Faġan Komuni (*Phasianus colchicus*)
8. Wood Pigeon | Tudun (*Columba palumbus*).

A number of cases were referred to the Police for further investigation.

## *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 2019, the WBRU together with the ALE inspected 750 stuffed bird specimens held in seven private collections. During these investigations, a total of 112 registered stuffed bird specimens were found to have been illegally disposed without appropriate authorisation, whilst 15 specimens were illegally possessed. Legal action was initiated.

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<sup>11</sup><https://msdec.gov.mt/en/Document%20Repository/WBRU/2019/news/notaGwidalmppo.pdf>

During the same period, the WBRU assisted Police during three investigations concerning possession of live birds. During these inspections a total of 1,199 live birds were examined, of which 693 birds were subsequently seized and released back into the wild due to the fact that they were either fitted with a closed ring that had an internal diameter larger than the standard required for the species (rings were removed prior to their release), or were not fitted with a closed ring. Legal action was initiated. Additionally, the WBRU extended its support to the police in the identification and verification of legality of other specimens pertaining to ongoing investigations.

#### *Judicial action against bird-related crime*

During 2019, officials of the WBRU attended and testified during various Court sittings each sitting comprising of multiple hearings, securing 28 convictions, with 11 acquittals and with the rest of the cases pending further hearing. In the same period, the Unit also issued administrative fines to 52 offenders, of which 49 were settled within 21 days and three 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 2019:

- On the 27 November 2019, the Law Courts decided the case of illegal trapping for finches that took place on 27 March 2018 in Xewkija, Gozo. The accused was found guilty of charges brought against him and given that he was a repeat offender, punishment was given in line with Regulation 27(2)(b). The accused was sentenced to pay a €2,800 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.
- On the 3 July 2019, the Law Courts decided the case of illegal trapping of finches that took place on the 22 March 2017 in Marsaskala. The accused was found guilty of the charges brought against him and handed a €1,500 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 suspended for two years.
- On the 9 October 2019, the Law Courts decided the case of illegal shooting of a Turtle-dove (*Streptopelia turtur*) that took place during closed season (April 2018). The accused was sentenced to pay a €1,000 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 25 March 2019, the Law Courts heard the case of appeal of an individual who was found guilty of illegally shooting a Common Kestrel (*Falco tinnunculus*) back in 2015, which at the time had led to the closure of the spring hunting season. Upon first sentence, the accused was ordered to pay a €5,000 fine, given one year of effective imprisonment, 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. Upon appeal, the Court confirmed the original sentence in terms of fine and revocation of licences and ordered the suspension of imprisonment term for two years.
- On the 6 June 2019, the Law Courts decided the case of an individual who was found to be illegally carrying a firearm during closed season. The accused was found guilty of charges and sentenced to pay a €3,500 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 suspended for two years. The case is currently subject to an appeal.
- On the 27 November 2019, the Law Courts decided the case of a repeat offender caught illegal trapping for finches on 20 March 2017 in Xaghra, Gozo. The Court noted that evidently, the accused did not learn from past mistakes and thus ordered one-year imprisonment term suspended for two years and ordered the permanent revocation of all his licences issued under SL 549.42 and Schedule XV of Code of Police Laws. The case is currently subject to an appeal.
- Similarly, on the same day (27 November 2019) the Law Courts decided the case of another repeat offender caught illegal trapping for finches on the 21 April 2018 in Qbajjar, Gozo.

The Court noted that the fines imposed on him on two previous occasions (2010 and 2011) did not serve as effective deterrent, thus the Court ordered one-year imprisonment suspended for two years and also ordered the permanent revocation of all his licences issued under SL 549.42 and Schedule XV of Code of Police Laws. The case is currently subject to an appeal.