

Report on the Outcome of the 2016 Autumn live-capturing Season for Golden Plover and Song Thrush in Malta

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**Wild Birds Regulation Unit
Ministry for Sustainable Development, the Environment and Climate Change**

Table of Contents

1.	Introduction	1
2.	Legal and policy basis for the application of a derogation permitting an autumn live-capturing season for Golden Plover and Song Thrush in 2016	1
3.	Consideration of the conservation status of Song Thrush and Golden Plover	3
4.	Issuance of Autumn 2016 live-capturing licences for Golden Plover and Song Thrush	4
5.	Real-time game reporting system	8
6.	Migration study	12
7.	Comparison between migration study data and game reporting data	16
8.	Enforcement and strict supervision	20
9.	Conclusions	35

Enclosures

- Annex I - Conservation status assessment, determination of “small numbers” and other legal and technical considerations presented to the Malta Ornis Committee
- Annex II - Autumn 2016 Special Live-capturing Licence for Golden Plover and Song Thrush
- Annex III - Report on a survey of the influx of migratory Golden Plover and Song Thrush over the Maltese Islands (October-December 2016) (Ecoserv Ltd., 2017)

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 overview of the decision-making process leading up to the application of the live-capturing derogation for Golden Plover and Song Thrush in autumn 2016;
 - (iii) An assessment of the conservation status of the two relevant species, namely Song Thrush (*Turdus philomelos*) and Golden Plover (*Pluvialis apricaria s.l.*);
 - (iv) A summary of the legislative changes and changes to the parameters of the derogation;
 - (v) A summary of institutional controls deployed to oversee compliance with the parameters of the derogation, including special licensing, site registration 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 2016

- 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. Hence, this Article specifically requires Member States to take into account both "cultural" as well as "recreational requirements" when implementing measures to maintain the population of the relevant species.
- 2.3 Therefore, in line with the spirit of the Birds Directive that seeks to reach a balance between the protection of bird species while taking account of cultural and recreational requirements, the Maltese Government has applied a derogation as a means to maintain a traditional and culturally specific method of capture of the relevant species, for the purpose of keeping the birds in captivity as live-decoys and for recreational purposes, in a manner which is strictly regulated and controlled by serious and effective measures of protection, in full conformity with the requirements of the Birds Directive.

- 2.4 Reference is also made to the judgment delivered by the Court of Justice of the European Union (CJEU) with regard to case C-76/08, *Commission of the European Communities v Republic of Malta*, which, in the context of a derogation permitting spring hunting of two species, stated that: “*hunting for Quail and Turtle Doves during the autumn hunting season cannot be regarded as constituting, in Malta, another satisfactory solution, so that the condition that there be no other satisfactory solution, laid down in Article 9(1) of the Directive, should, in principle, be considered met*”¹.
- 2.5 In this respect, the principle established by the Court may also be applicable to the live-capture of the relevant species in autumn, since no other satisfactory solution to the acquisition of birds of the relevant species for use as live-decoys or for recreational purposes exists, other than through their limited live-capture under strictly supervised conditions in the context of a derogation, provided that such an activity does not negatively impact the conservation status of the relevant species. Malta considers that all the prerequisites for the correct application of such derogation, including all of the abovementioned elements, have been met, as demonstrated in the following sections of this document.
- 2.6 The Malta Ornis Committee, established under Regulation 10 of the Conservation of Wild Birds Regulations (S.L.549.42), met on 20 April 2016 and on 18 May 2016 to consider the application of a live-capturing derogation for Golden Plover and Song Thrush during the 2016 autumn season. The Committee considered an updated assessment of the conservation status of the species concerned, the legal basis for the application of a live-capturing derogation, as well as the outcome of the 2015 live-capturing season. This assessment, including a summary of the legal and technical considerations made, is included as Annex I to this report. 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.
- 2.7 Upon considering the recommendations of the Malta Ornis Committee, the Maltese Government announced the live-capturing season through the Conservation of Wild Birds (Declaration on a Derogation for a 2016 Autumn live-Capturing season for Song Thrush and Golden Plover) Regulations (Legal Notice 321 of 2016)² in accordance with the amended Framework Regulations³.

¹ Case C-76/08 *Commission v Malta*, ECR I-8213, paragraph 63

² LN 321/2016 available at: <http://justiceservices.gov.mt/DownloadDocument.aspx?app=lp&itemid=28084&l=1>

³ 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>

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 2016 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 altifrons* 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 Latest scientific literature reviewed as part of the assessment indicated both the long-term and short-term trend for Song Thrush as **Increasing** at Pan-European⁴, EU⁴ and reference population levels⁵. 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).
- 3.6 The Golden Plover breeding population trend in the EU27 is **Increasing** in both the short-term and long-term (EEA, 2014⁶). 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 latest dataset available from the European Bird Census Council⁷ at the time the conservation status of the Golden Plover (*Pluvialis apricaria*) was updated (April 2016), an increase in the Northeast European (West Continental) population (Norway, Sweden and Finland) [i.e., Malta’s reference population] was

⁴ 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>

⁵ 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 is typically 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 indicates that the reference population for Malta originates from Finland and Sweden (excluding non-EU countries such as Norway), which collectively had an Increasing population trend at the time the report on their conservation status was drafted prior to application of the live-capturing derogation.

⁶ 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>

⁷ Trends of common birds in Europe, 2015 update. Available at: <http://www.ebcc.info/index.php?ID=587>

noted in both the short-term and long-term trends when compared with the previous (2014) EBCC update.

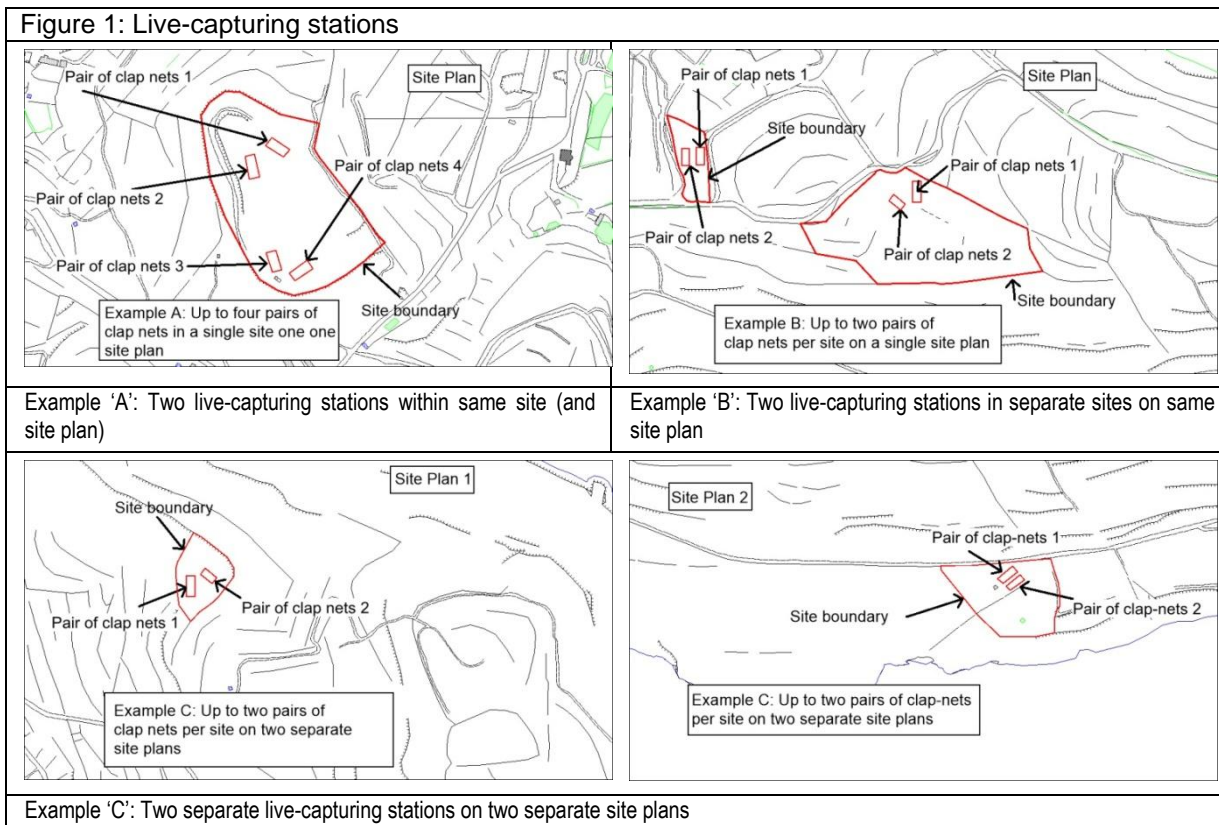
- 3.7 On the basis of the evaluation contained in Annex I to this report, the key conclusions that have previously been drawn, as reported in Malta's successive reports on the outcome of the autumn live-capturing derogations for Golden Plover and Song Thrush, have been retained. These are: (i) that there is no record of these two species ever breeding in Malta, (ii) that these two species are only present on the Maltese Islands in very limited numbers during a period of migration and (iii) that both species have 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'.

4. Issuance of Autumn 2016 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 11th and 30th July 2016. 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 special single use rings approved by the Maltese authorities for the Golden Plovers and Song Thrushes that were to be used as live-decoys. The total number of decoy birds that could be used was of a maximum of ten from the relevant species (any combination of the two species not exceeding ten in total). The limit of 10 live-decoys is linked to the live-capturing station not to each licensee. Thus, irrespective of the number of licence holders registered on the same live-capturing station, the limit of 10 live-decoys could not be exceeded. The applicants were issued with the required number of rings against a payment of €0.50 per ring.
- 4.2 Applicants also had to enclose two copies of up to two site plans registered with the Wild Birds Regulation Unit between 2nd and 31st July 2014 (and/or those updated by WBRU in 2015⁸) that must bear an official registration stamp and code. Licensees were not allowed to submit more than two live-capturing stations per person, distributed as follows, either:
- a) two live-capturing stations within the same site, with each live-capturing station having not more than two pairs of clap-nets from one hide (see Figure 1, Example A); or
 - b) two separate live-capturing stations on one site plan with each live-capturing station having not more than two pairs of clap-nets from one hide (see Figure 1, Example B); or
 - c) two different site plans, with each site plan showing a single live-capturing station containing not more than two pairs of clap-nets from one hide (see Figure 1, Example C).

⁸ In 2015, WBRU processed around 200 requests for changes in registration of site plans previously registered in 2014 after screening for compliance. Changes were requested on the grounds of personal circumstances of a general licence holder, such as changes or disputes over land title for particular sites and similar issues. In such cases the Unit considered registration of alternative sites instead of the previously registered ones, provided such alternative sites met all the prerequisites stipulated in legislation (e.g. not on protected habitats or within prohibited zones; sites must have existed prior to end of December 2012, not more than two live-capturing stations can be registered per person etc). Compliance with the above requirements was assured through screening using the same system as in 2014.

Figure 1: Live-capturing stations



4.3 A total of 1,341 registered live-capturing stations (2,912 clap-net pairs) were submitted by 997 applicants (Table 1), an overall decreasing trend when compared with the 2014 and 2015 Golden Plover and Song Thrush live-capturing seasons ($n_{2014} = 1,759$ registered live-capturing stations [3,519 clap-net pairs], submitted by 1,223 applicants; $n_{2015} = 1,524$ registered live-capturing stations [3,310 clap-net pairs], submitted by 1,128 applicants). In 2016, a total of 1,071 registered live-capturing stations were located in Malta and 270 stations were located in Gozo. Each clap-net pair was subsequently digitalised and plotted on GIS together with the corresponding licensee's personal details, for field enforcement purposes.

	<u>Stations</u>	<u>Clap-net pairs</u>	<u>Licensees</u>
Malta	1,071	2,382	829
Gozo	270	530	168
Total	1,341	2,912	997

Source: Wild Birds Regulation Unit

4.4 Following digitisation of all site plans submitted by the applicants for special live-capturing licence, a post-vetting verification exercise was carried out. Registration for a total of 58 clap-net pairs was revoked either because upon further examination the location did not meet the protected area criteria specified in the Framework Regulations (S.L.549.74⁹) or because the licensee had exceeded the permitted limit of two stations/four clap-net pairs.

⁹ SL 549.74 available at: <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=11936&l=1>

4.5 Following screening, all applications were considered valid. Consequently, a total of 997 Special Licences were issued, representing a decrease of 131 persons when compared with the previous season ($n_{2015}=1,128$) and a decrease of 226 individuals in comparison with the number of licensees in 2014 ($n_{2014}=1,223$). 829 licences were issued to persons residing in Malta (*circa* 83%) and 168 licences were issued to persons residing in Gozo (*circa* 17%), as shown in Table 2.

Table 2: Autumn 2016 Special Licence applications			
Applications	Total	Malta	Gozo
Persons issued with a Golden Plover/Song-Thrush special live-capturing licence only	279	229	50
Persons issued with a Golden Plover/Song-Thrush special live-capturing licence and a special finch live-capturing licence (under the terms of separate derogation)	718	600	118
Total	997	829	168
Source: Wild Birds Regulation Unit			

4.6 A sample of the licence issued is enclosed as Annex II to this Report. All licences were collected to be potentially used during the applicable season. The Autumn 2016 Live-capturing Licence (vide Annex II) set a number of conditions for the 2016 live-capturing season, as provided in the Framework Regulations (S.L.549.74¹⁰) and the Notice of Derogation (S.L.549.107¹¹). The Licence included, *inter alia*:

- the dates and permitted hours of the season;
- provisions related to location and configuration of live-capturing sites and live-capturing stations;
- restrictions pertaining to mesh size to be used (not less than 30mm x 30mm);
- the maximum footprint of each live-capturing stations (maximum of 60 square metres per clap-net);
- provisions related to the authorised method of capture and prohibition for leaving armed nets during hours when live-capturing is not permitted;
- seasonal individual bag limits (total of 6 birds per licensee);
- requirements concerning the use of live-decoys (maximum of 10 live-decoys per live-capturing station—all decoys must be fitted with a special single-use ring supplied by the Wild Birds Regulation Unit);
- requirement to immediately report birds caught through telephonic game reporting system ;
- requirement to immediately report any scientific ring recoveries and to immediately release birds fitted with scientific ring;
- requirement to immediately release birds not of the relevant species should accidental capture occur;
- requirement to immediately release birds that may be accidentally caught over one's bag limit;
- requirement to keep relevant documentation, including approved site plans, Special Licence and the general live-capturing licence card at all times whilst practicing the live-capturing activity or travelling to and from a live-capturing site; and
- restrictions pertaining to permitted size of cages in which birds can be kept during live-capturing activity.

¹⁰ SL 549.74 available at: <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=11936&l=1>

¹¹ SL 549.107 available at: <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=12425&l=1>

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 (S.L.549.42¹²). Except where the offence consisted solely 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 10 Golden Plover decoys **or** a maximum of 10 Song Thrush decoys **or** any combination from the two species up to a combined limit of 10 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 “R16U”. The rings were colour-coded according to the species (and size), as shown in Table 3 and Figure 2.

Species	Ring colour	Ring size
Golden Plover	Red	5.0 mm
Song Thrush	Yellow	4.5 mm



Figure 2: Single-use rings coded “R16U” 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 6,503 Golden Plover (red) single-use rings and 4,539 Song Thrush (yellow) single-use rings.

¹² <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=11548&l=1>

5. Real-time game reporting system

- 5.1 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 (S.L.549.74), licensed live-capturers are obliged to immediately report the birds caught to the Wild Birds Regulation Unit. This immediate real-time reporting requirement applied immediately after capture of each bird.
- 5.2 During the 2012 and 2013 live-capturing seasons, the immediate reporting requirement was administered via an SMS reporting system. In 2014, this system was re-designed and improved to incorporate better data security and reliability, better user-friendliness and expanded functionality. A real-time telephonic game reporting system was developed to replace the previous SMS system and has thus been used since.
- 5.3 The Special Live-capturing Licence contained a legal obligation for live-capturers to immediately report birds caught by dialling a single number for the Golden Plover and the Song Thrush, as indicated in the Special Licence. Upon making the call, the licensee would follow voice prompts through the reporting procedure. Song Thrush was assigned code (1) whilst Golden Plover was assigned code (2). Live-capturers were required to notify the species caught and the quantity. Once a telephonic report was confirmed, the live-capturer received a confirmation SMS containing the details of his report. This 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. The telephonic system also contained a number of messages that reminded callers of their legal obligations, including bag limits, permitted hours and so on. Should a live-capturer attempt to report birds caught over his allowed quota, he would be immediately prompted to release the birds caught, and the report would be lodged for enforcement purposes. Only the holders of a special live-capturing licence could access the system, which rejected all calls from land lines and any calls from mobile phone numbers that were not registered to a particular licensee.
- 5.4 Throughout the duration of the derogation, the Wild Birds Regulation Unit had access to monitor individual and national quota uptake for both species in real time. Daily capture summary reports were also received at the end of each day's permitted hours. These reports stipulated the total number of birds reported caught per species during each day, cumulative totals, as well as the detailed information pertaining to the precise time of each report, and the registered mobile phone number pertaining to each licensee making such a report.
- 5.5 All data was simultaneously and securely stored on two servers, with automatic back up every five minutes. A total of 12 telephone lines were available at any one time in case of simultaneous reports. The game reporting system generated two types of reports instantly on request. 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. The system was programmed to automatically inform the callers that their individual seasonal bag limit of six specimens was reached, at which point no further calls would be accepted from such numbers. These reports were closely monitored throughout the season, with a view to keeping track of various variables, including (i) the total number of birds per species caught per day, (ii) cumulative totals (seasonal bag limits), and (iii) individual seasonal bag limits per licence.

- 5.6 During the 2016 live-capturing season between 20 October 2016 and 31 December 2016, a total of 297 Golden Plovers were declared caught, which is 7.48% less than during the 2015 live-capturing season (20 October 2014 – 31 December 2015). Conversely, a total of 230 Song Thrushes were declared caught between 20 October 2016 and 31 December 2016, which is 7.26% less than the number of Song Thrushes reported during the same period in 2015.
- 5.7 Table 4 below lists daily catches of Golden Plover and Song Thrush reported during the 2016 season in comparison to the corresponding catches reported during the 2015 and 2014 seasons.

Table 4: Daily catches of Golden Plover and Song Thrush: comparison between the 2016, 2015 and 2014 seasons

Date of capture	2016 Season (20/10/2016 - 31/12/2016)		2015 Season (20/10/2015 - 31/12/2015)		2014 Season (20/10/2014 - 31/12/2014)	
	Golden Plover	Song Thrush	Golden Plover	Song Thrush	Golden Plover	Song Thrush
20-Oct	0	1	0	0	0	1
21-Oct	0	2	0	0	0	1
22-Oct	0	2	0	2	0	1
23-Oct	0	2	0	0	0	5
24-Oct	0	2	0	2	0	2
25-Oct	0	13	0	6	0	4
26-Oct	0	5	0	11	0	7
27-Oct	0	11	0	8	0	6
28-Oct	0	2	0	7	0	3
29-Oct	0	2	0	8	0	8
30-Oct	0	7	0	8	0	16
31-Oct	0	12	1	2	0	7
01-Nov	0	4	0	1	0	10
02-Nov	0	16	1	6	1	12
03-Nov	0	5	2	10	0	7
04-Nov	0	8	0	11	0	9
05-Nov	0	11	0	7	0	5
06-Nov	0	5	0	8	0	5
07-Nov	0	5	0	9	0	2
08-Nov	0	2	0	6	0	4
09-Nov	0	4	0	9	0	15
10-Nov	0	1	0	4	0	9
11-Nov	0	2	0	7	0	4
12-Nov	1	6	0	4	2	13
13-Nov	4	7	0	3	0	2
14-Nov	8	6	2	3	2	8
15-Nov	12	2	1	7	0	8

Table 4: Daily catches of Golden Plover and Song Thrush: comparison between the 2016, 2015 and 2014 seasons

Date of capture	2016 Season (20/10/2016 - 31/12/2016)		2015 Season (20/10/2015 - 31/12/2015)		2014 Season (20/10/2014 - 31/12/2014)	
	Golden Plover	Song Thrush	Golden Plover	Song Thrush	Golden Plover	Song Thrush
16-Nov	5	7	0	1	1	5
17-Nov	5	5	1	2	0	7
18-Nov	7	4	4	1	0	3
19-Nov	2	5	1	1	0	6
20-Nov	4	5	0	1	0	4
21-Nov	4	5	0	1	0	3
22-Nov	5	3	0	2	0	5
23-Nov	1	1	1	7	1	4
24-Nov	3	3	2	21	0	4
25-Nov	0	2	3	3	7	1
26-Nov	2	0	2	2	7	5
27-Nov	0	0	6	3	4	0
28-Nov	3	4	7	4	2	0
29-Nov	5	0	10	2	5	1
30-Nov	7	4	14	1	8	1
01-Dec	12	0	5	3	7	4
02-Dec	1	0	1	1	6	0
03-Dec	8	0	5	0	9	0
04-Dec	5	1	6	0	13	2
05-Dec	1	0	4	2	8	2
06-Dec	8	2	6	3	10	1
07-Dec	8	3	4	2	8	0
08-Dec	11	0	4	1	7	1
09-Dec	5	3	3	2	7	3
10-Dec	4	7	3	0	2	1
11-Dec	8	2	6	3	11	4
12-Dec	3	0	7	4	6	1
13-Dec	7	0	10	3	14	2
14-Dec	6	0	3	1	9	0
15-Dec	0	0	1	0	7	1
16-Dec	15	0	6	3	7	0
17-Dec	2	0	16	0	10	0
18-Dec	7	1	4	1	4	2
19-Dec	6	5	12	0	3	1
20-Dec	9	0	3	1	17	4
21-Dec	4	0	7	1	13	1

Table 4: Daily catches of Golden Plover and Song Thrush: comparison between the 2016, 2015 and 2014 seasons

Date of capture	2016 Season (20/10/2016 - 31/12/2016)		2015 Season (20/10/2015 - 31/12/2015)		2014 Season (20/10/2014 - 31/12/2014)	
	Golden Plover	Song Thrush	Golden Plover	Song Thrush	Golden Plover	Song Thrush
22-Dec	2	0	6	2	12	1
23-Dec	4	1	3	4	9	5
24-Dec	21	2	4	4	9	4
25-Dec	6	0	5	0	1	3
26-Dec	13	3	7	0	9	1
27-Dec	2	3	14	1	16	3
28-Dec	16	0	16	0	13	0
29-Dec	2	2	18	2	30	0
30-Dec	4	1	20	2	26	13
31-Dec	19	1	54	1	75	9
Total	297	230	321	248	418	292

Source: Wild Birds Regulation Unit

5.8 During the 2016 season, the total number of birds captured did not exceed the national overall bag limits, for both the species in question; on the contrary, the figures are substantially lower. In the case of Golden Plover, the total number of 297 live-captured birds equates to 42.43% of the limit permitted by law (700). In the case of Song Thrush, the total number of 230 birds declared captured amounts to 4.6% of the total bag limit permitted by law (5,000). As indicated in Table 5 below, the seasonal bag limit of six birds was reached by 12 licensed individuals.

Number of birds declared caught throughout season	Number of licensed live-catchers
0	767
1	82
2	73
3	33
4	21
5	10
6	11
>6	0
Total	997

Source: Wild Birds Regulation Unit

6. Migration study

- 6.1 As was the case in 2015, an independent scientific study on the migration of Golden Plovers and Song Thrushes over the Maltese Islands was carried out between 20 October and 31 December 2016, both dates included. The study sought to obtain an estimate of migratory influxes of the two species during the 2016 derogation period. The study, carried out by Ecoserv (2017), was commissioned by the Wild Birds Regulation Unit.
- 6.2 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 Autumn/Winter 2016 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 2016 with the influxes recorded during the 2015 study (reports of such past studies are available online from: <http://environment.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 2016 derogation period.
- 6.3 The geographical scope of the study extended across the three inhabited islands of the Maltese archipelago (Malta, Gozo and Comino), with data gathered during an 11-week period from 20 October until 31 December 2016. 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 III, with key conclusions summarised below.
- 6.4 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 6 different sites on each day during the monitoring period. Each group of 6 sites was surveyed once every 4 days, such that a total of 21 sites were surveyed over each period of 4 days. The study site at Comino was included in the 6 sites surveyed on any one day, such that this site was surveyed on a daily basis; 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 Ramla tal-Bir or Qala at the northernmost tip of Malta) 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 2016 migration study (Data source: Ecoserv, 2017).

Date	Total daily counts	
	Golden Plover	Song Thrush
20-Oct-16	0	8
21-Oct-16	0	7
22-Oct-16	0	25
23-Oct-16	0	4
24-Oct-16	0	8
25-Oct-16	0	45
26-Oct-16	0	27
27-Oct-16	0	24
28-Oct-16	0	5
29-Oct-16	0	23
30-Oct-16	0	46
31-Oct-16	0	31
1-Nov-16	0	23
2-Nov-16	0	21
3-Nov-16	7	28
4-Nov-16	0	7
5-Nov-16	0	8
6-Nov-16	0	29
7-Nov-16	0	16
8-Nov-16	0	8
9-Nov-16	0	5
10-Nov-16	0	7
11-Nov-16	0	6
12-Nov-16	0	9
13-Nov-16	0	20
14-Nov-16	2	16
15-Nov-16	0	17
16-Nov-16	13	118
17-Nov-16	3	50
18-Nov-16	32	4
19-Nov-16	5	20
20-Nov-16	15	40
21-Nov-16	0	26
22-Nov-16	1	16
23-Nov-16	0	12
24-Nov-16	0	6
25-Nov-16	0	2
26-Nov-16	0	13

Date	Total daily counts	
	Golden Plover	Song Thrush
27-Nov-16	28	14
28-Nov-16	7	5
29-Nov-16	5	5
30-Nov-16	2	3
1-Dec-16	4	1
2-Dec-16	0	3
3-Dec-16	2	1
4-Dec-16	0	10
5-Dec-16	4	2
6-Dec-16	0	1
7-Dec-16	2	6
8-Dec-16	4	2
9-Dec-16	5	4
10-Dec-16	6	4
11-Dec-16	20	1
12-Dec-16	3	3
13-Dec-16	14	5
14-Dec-16	10	4
15-Dec-16	12	3
16-Dec-16	2	1
17-Dec-16	0	0
18-Dec-16	2	3
19-Dec-16	3	1
20-Dec-16	3	1
21-Dec-16	0	1
22-Dec-16	1	2
23-Dec-16	0	3
24-Dec-16	0	3
25-Dec-16	7	0
26-Dec-16	0	2
27-Dec-16	0	0
28-Dec-16	0	2
29-Dec-16	0	2
30-Dec-16	0	0
31-Dec-16	3	1
Total counts	227	879

6.5 Raw daily counts for Golden Plover recorded from the 21 study sites varied between 0 and a maximum of 28. Relatively high counts for this species were recorded on some days during the period 16 – 20 November, 27 November and 11 – 15 December. The total counts, i.e. the total number of Golden Plovers recorded from a

given grid location during the whole study period varied appreciably between the different sites: at the lower end, no individuals were recorded throughout the survey period from each of the sites at grid location 6067, 3268, 5872, 3881, 5663 and 5277 while at the higher end, 58 Golden Plovers were recorded from the site at grid location 4073. The general trend noted from the count data is a main migratory influx between mid-November and mid-December. The highest mean count was recorded from Fomm ir-Riĥ (Grid 6067) located on the eastern tip of Malta. Other high counts were recorded from the study sites at Għallis (Grid 4878) and Mtaħleb (Grid 4070) respectively located on the northeastern and southwestern coasts of Malta. The lowest/zero counts for this species were recorded from study sites located in southern Gozo, and in northern and southeastern Malta.

- 6.6 Raw daily counts for Song Thrush varied between 0 and a maximum of 78. Relatively high counts for this species were recorded on 16 November 2016. The total counts for this species during the whole study period also varied appreciably between the different sites: at the lower end, only three individuals was recorded throughout the survey period from sites at grid location 6067 and 6069, while at the higher end, 113 Song Thrushes were recorded from the site at grid location 4070. The general trend noted from the count data is a main migratory influx between late October and mid-November. The highest mean count was recorded from Mtaħleb (Grid 4666) located on the southwestern coast of Malta, while high counts were also recorded from the study sites in Gozo. The lowest counts for this species were recorded from study sites in the southeastern half of Malta.
- 6.7 Overall, count values for Golden Plover from the 2016 survey show a similar trend to those recorded in the previous (2015) survey, with higher count values recorded during the period mid-November to mid-December, but appreciably higher peak values were recorded during the present survey (Figure 3). Similar count values for Song Thrush were recorded during the 2016 survey and the previous (2015) survey, with a similar pattern of higher count values made during the period late October to mid-November (Figure 4).

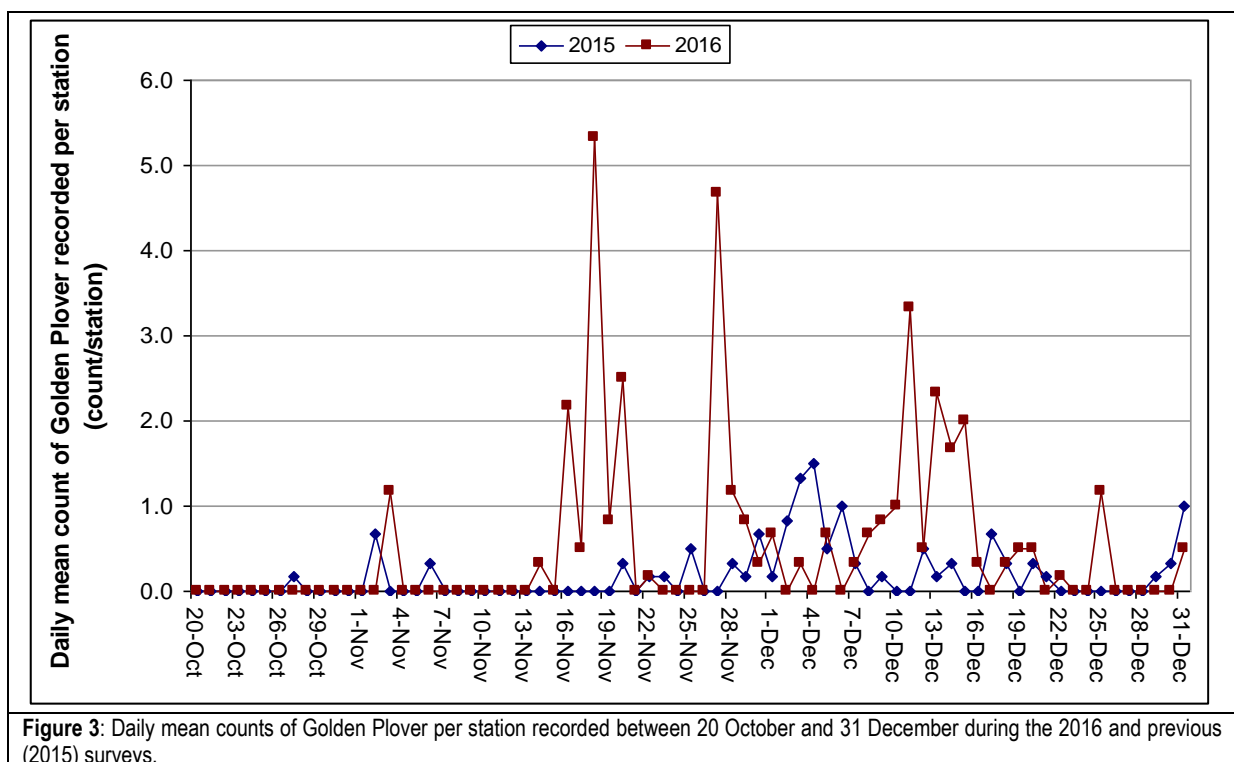


Figure 3: Daily mean counts of Golden Plover per station recorded between 20 October and 31 December during the 2016 and previous (2015) surveys.

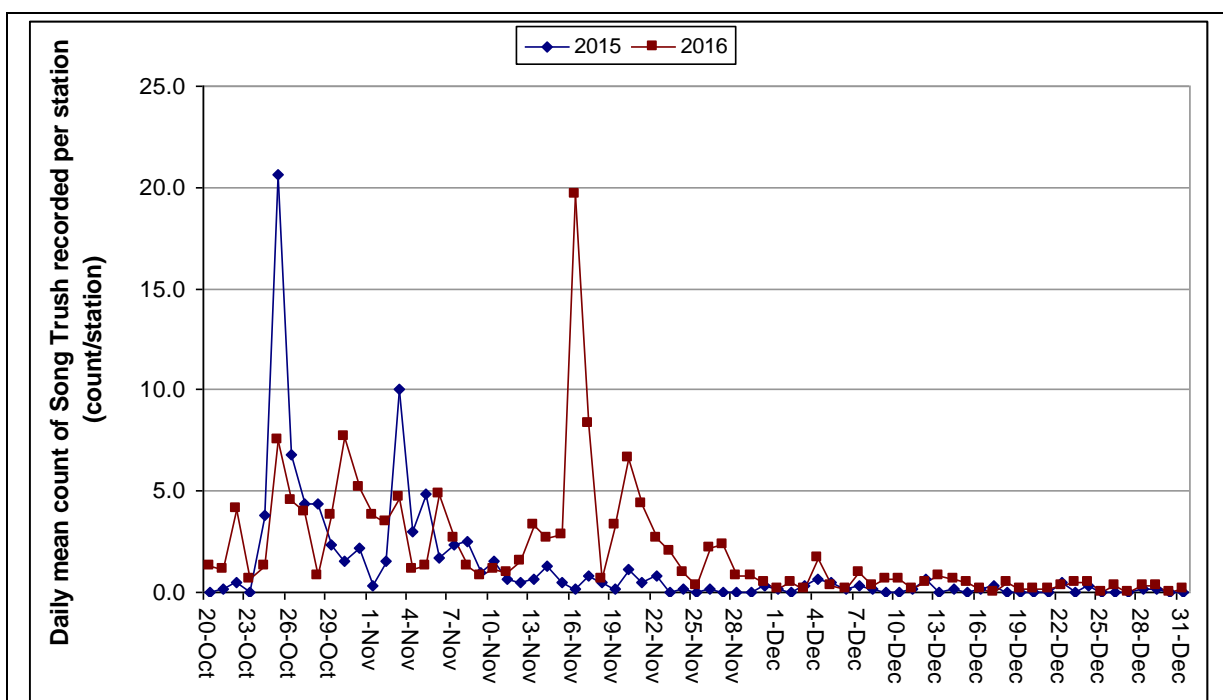


Figure 4: Daily mean counts of Song Thrush per station recorded between 20 October and 31 December during 2016 and previous (2015) surveys.

6.8 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.

	Daily counts		Extrapolated data		
	Min	Max	Daily Min	Daily Max	Total estimated influx over survey period
Golden Plover	0	28	0	2,893	20,522
Song Thrush	0	78	0	10,668	79,465

7. Comparison between migratory study data and game reporting data

7.1 A comparative analysis of the results obtained during the 2016 Golden Plover and Song Thrush migration study with the game reporting data for the 2016 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 2016 survey should broadly follow the days when higher numbers of Golden Plovers and Song Thrushes were captured (and reported in the bag data) in the same year (2016). 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, 2017).

7.2 Graphical representations of the mean daily counts made during the 2016 migration survey and the daily bag counts for the same time period (20 October – 31 December 2016) for each of the two bird species were prepared to compare temporal trends among the two different data sets. 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 analysis 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, 2017).

Golden Plover

7.3 The daily bag counts indicating the number of Golden Plovers caught during the 2016 live-capturing season and the mean daily counts of the same species made during the 2016 survey are shown in Figure 5, while Figure 6 presents the 5-day moving average computed from these data. The magnitude of the bag counts and those of the mean counts made in the 2016 survey are not directly comparable. In fact, the two sets of values are on different scales. Therefore, in Figures 5–6, two separate y-axes are used: the bag count data are plotted on the left-side y-axis, whereas the counts from the 2016 survey are plotted on the right-side y-axis.

7.4 Overall, the highest daily counts made during the 2016 survey occurred between mid-November and mid-December, particularly during the periods 16–20 November, 27 November, and 11–15 December, with lower counts recorded thereafter. Bag counts in 2016 were also highest starting from mid-November, but remained high until the end of December. Thus, the general trend observed in the bag counts for 2016 and the daily counts recorded during the 2016 survey is of higher counts in the later part of the live-capturing season, from mid-November onwards.

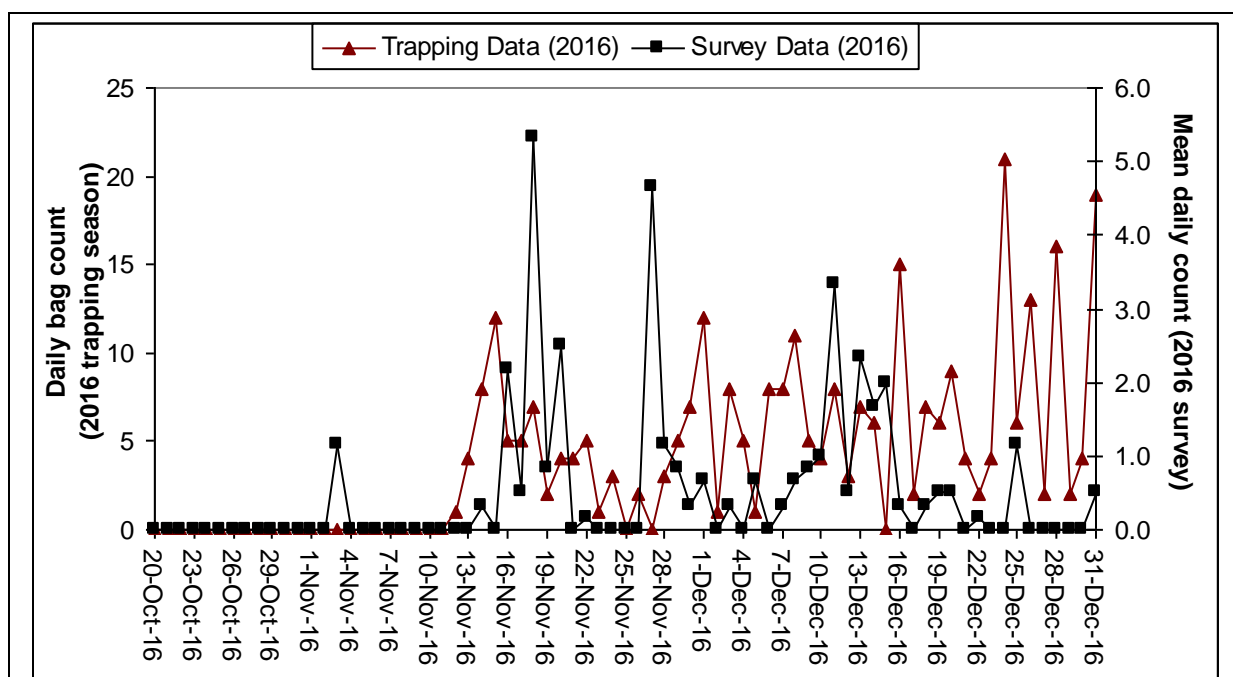


Figure 5: Daily bag count of Golden Plover during 2016 (red line; values on left-side y-axis), together with the mean daily counts recorded during the 2016 survey (black line; values on right-side y-axis), for the period 20 October to 31 December.

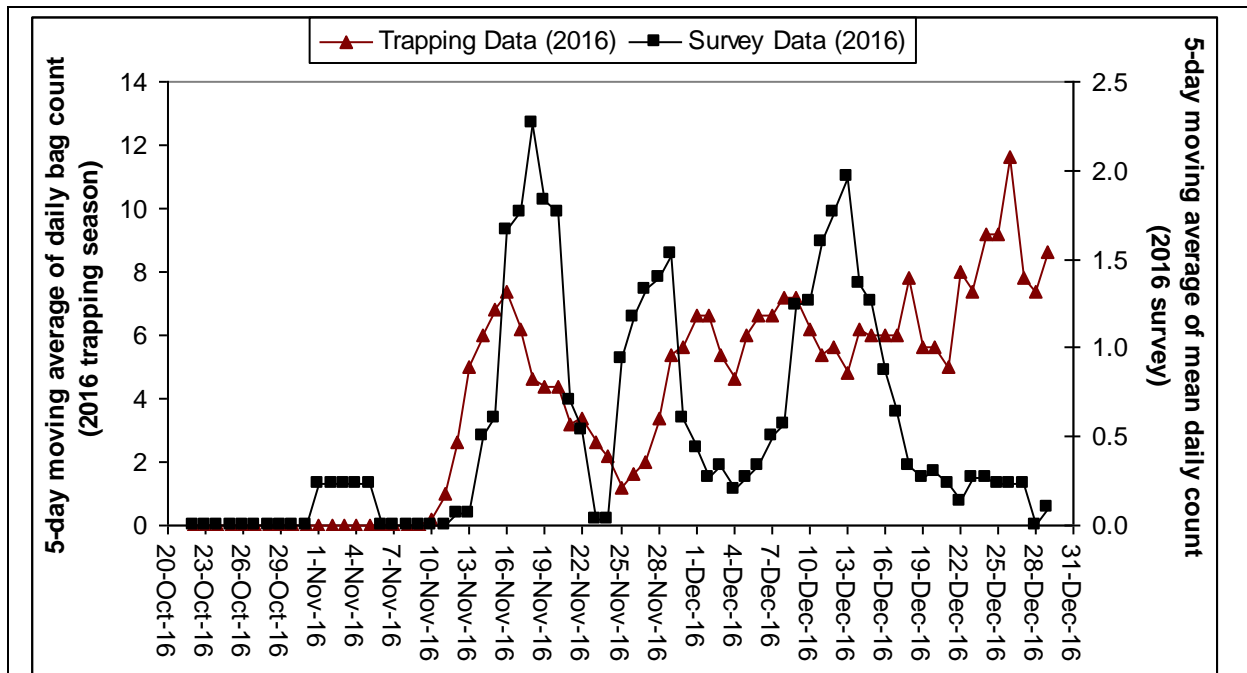


Figure 6: Moving average based on a 5-day rolling time period for the daily bag counts of Golden Plover during 2016 (red line; values on left-side y-axis), and for the mean daily counts recorded during the 2016 survey (black line; values on right-side y-axis), for the period 20 October to 31 December.

Song Thrush

7.5 The daily bag counts indicating the number of Song Thrushes caught during the 2016 live-capturing season and the mean daily counts of the same species made during the 2016 survey are shown in Figure 7, while Figure 8 presents the 5-day moving average computed from these data. The magnitude of the bag counts and those of the mean counts made in the 2016 survey are not directly comparable. In fact, 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 2016 survey are plotted on the right-side y-axis. Overall, the highest daily counts made during the 2016 survey occurred between late October and mid-November, with a peak value on 16 November and counts declining thereafter. The highest bag counts in 2016 also occurred in late October and early to mid-November, but the 2016 bag data included some additional peaks during December. Thus, the general trend observed in the bag counts for 2016 and the daily counts recorded during the 2016 survey is of higher counts in the earlier part of the live-capturing season, up to around mid-November.

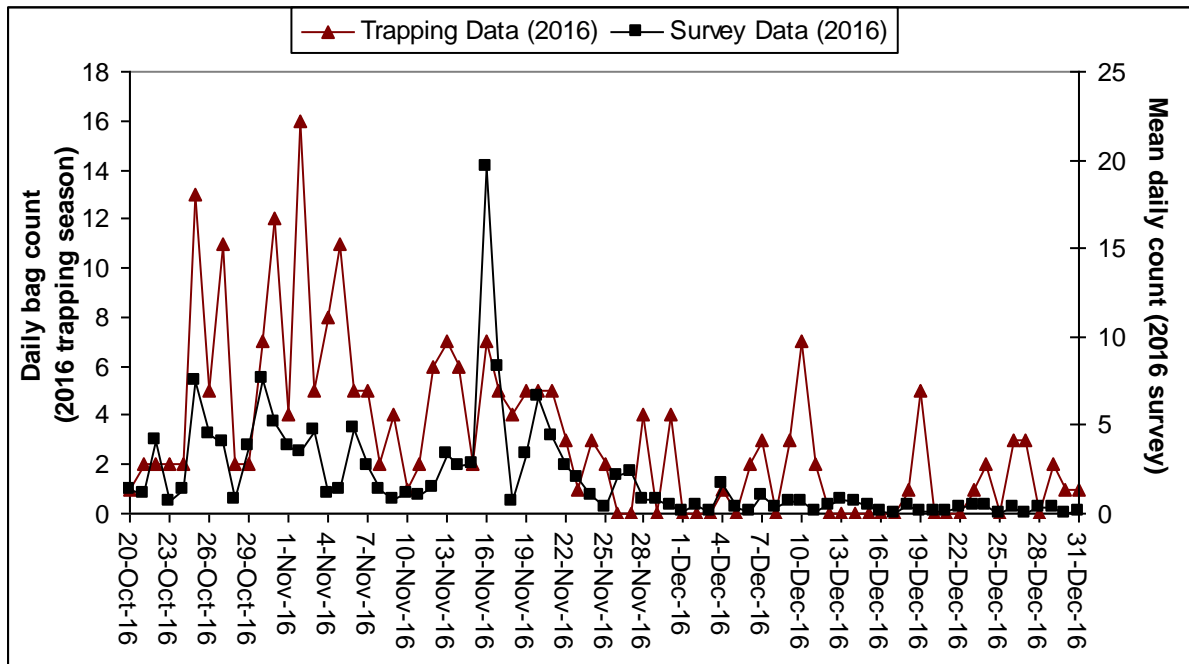


Figure 7: Daily bag count of Song Thrush during 2016 (red line; values on left-side y-axis), together with the mean daily counts recorded during the 2016 survey (black line; values on right-side y-axis), for the period 20 October to 31 December.

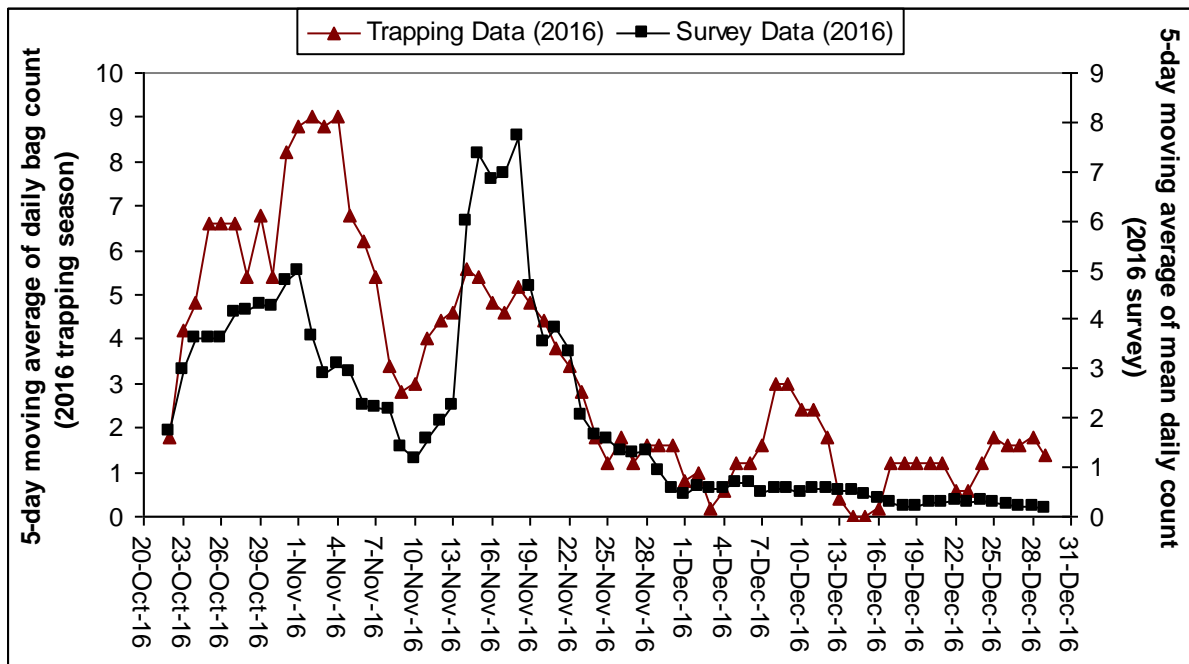


Figure 8: Moving average based on a 5-day rolling time period for the daily bag counts of Song Thrush during 2016 (red line; values on left-side y-axis), and for the mean daily counts recorded during the 2016 survey (black line; values on right-side y-axis), for the period 20 October to 31 December.

7.6 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 remarkably 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.

8. Enforcement and strict supervision

- 8.1 Prior to the start of the season, enforcement officials detailed to carry out controls in the field received specialised training on enforcement priorities and techniques organised by the Wild Birds Regulation Unit on 11 October 2016 (around 40 officers) [Figure 9a] and on 17 October 2016 in Gozo [Figure 9b]. 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 and counter-poaching operations and wildlife crime detection and prosecution techniques.



Figure 9a: Training seminar held in Malta on 11 October 2016



Figure 9b: Training seminar held in Gozo on 17 October 2016

Overall deployment and field surveillance

- 8.2 The Conservation of Wild Birds (Framework for Allowing a Derogation Opening an Autumn Live-Capturing Season for Song Thrush and Golden Plover) Regulations (S.L.549.74) stipulates that for every one thousand (1,000) licences issued in accordance with these regulations, there shall be a minimum of seven (7) officers and/or marshals on duty during all hours for which an Autumn live-capturing season is open. If applicable, outside these hours, at least two (2) police officers and/or marshals shall be on duty during the hours of daylight. The Regulations also specify that the Police shall continue to carry out on-the-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 an Autumn live capturing season, for every one thousand (1,000) Autumn live-capturing licences issued that year, a minimum of three (3) police officers shall be on duty during the hours of daylight.
- 8.3 Given that there were 997 licences to capture Golden Plovers and Song Thrushes, this translates to a minimum requirement of 7 officers during permitted hours of the derogation. However, also taking into account that in parallel with the Golden Plover/Song-Thrush live-capturing season there was also a separate derogation concerning live-capturing of seven finch species, under which a further 3,844 special licences were issued to finch live-capturers (i.e. the total number of licensed persons participating in either one or in both derogations was 4,123¹³), the total deployment requirement translated to a minimum of 29 officers. The Maltese authorities opted to exceed this requirement to ensure for the strictest supervision possible.
- 8.4 During the Autumn 2016 live-capturing season (20th October 2016 to 31st December 2016), the enforcement authorities deployed a total overall complement of 85 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, inspections, investigations, prosecution
District police officers seconded to the (ALE)	37	Field patrols, surveillance, inspections, investigations, prosecution
Armed Forces of Malta	22	Field patrols and surveillance
Wild Birds Regulation Unit	2	Verification of compliance with registration conditions; field inspection of sites; assistance to police in prosecution processes, other expert services
Total	85	

- 8.5 Police and Armed Forces of Malta officers maintained a daily field deployment that ranged between a maximum of 83 officers and a minimum of 44 officers in the field at any point in time from 05:00hrs to 21:30hrs, effectively covering live-capturing activity times. This excludes all other non-field staff assigned on-duties related to supervision of the live-capturing season, or field staff on shift rotation.
- 8.6 During the period of the derogation these officers carried out 17,176 on-site inspections (14,892 in Malta and 2,284 in Gozo) in various localities around the

¹³ 3,844 finch live-capturing licences + 997 Golden Plover and Song Thrush licences – 718 persons in possession of both categories of licence = 4,123 licensed live-capturers

Maltese Islands, which represents an increase in inspections in comparison with the number of inspections conducted during the previous autumn live-capturing season ($n_{2015}=12,215$), an almost threefold increase from 2014 ($n_{2014}=6,595$) and a seven-fold increase when compared with the 2012 ($n_{2012}=2,600$) and 2013 live-capturing derogations ($n_{2013}=2,686$), as shown in Figure 10 below.

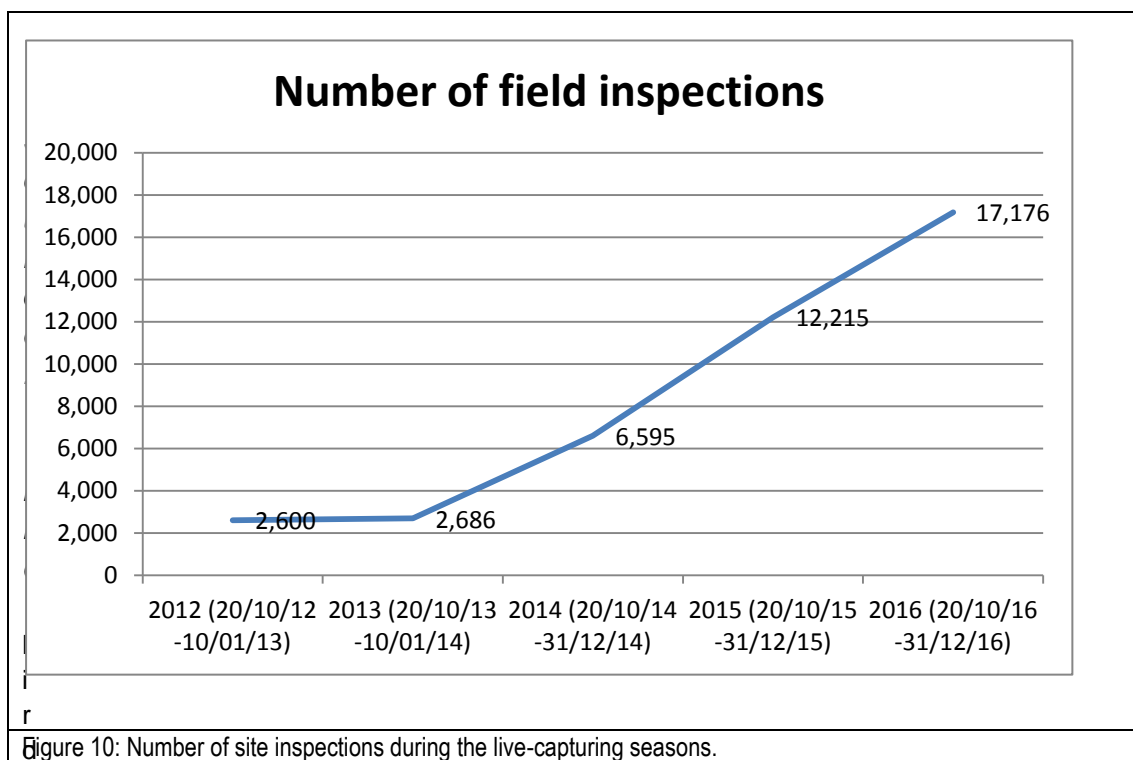


Figure 10: Number of site inspections during the live-capturing seasons.

Source: Wild Birds Regulation Unit and Malta Police Force, 2017

- 8.7 In addition to site inspections, a total of 2,832\ spot-checks (2,037 in Malta and 795 in Gozo) were conducted on individual licensees whilst they were carrying out their activity, which implies that almost half of all licensees (68.69% of 4,123 persons in possession of either the finches or Golden Plover and Song Thrush or both licences) were physically inspected at least once during the season. The number of spot-checks carried out in 2016 increased significantly when compared to 2015 [$n_{2015}=1,888$] and increased threefold when compared to the amount of spot-checks carried out during the 2014 autumn live-capturing season ($n_{2014}=956$).
- 8.8 Throughout the autumn live-capturing season WBRU Specialist Enforcement Branch was involved and had a leading role in a number of enforcement initiatives. Inspections were carried out independently by WBRU as well as jointly with ALE and Gozo Police. Officers utilized various techniques, including vehicular patrols, covert observation, stationary observation posts, foot patrols, physical inspections and spot-checks on individual live-capturers. In some cases follow-up inspections at residences and commercial outlets were also carried out. Two major investigations were carried out jointly between the ALE, Gozo Police and WBRU. These investigations were initiated following two reports filed by CABS and BirdLife Malta regarding possible illegal live-capturing sites around Malta and Gozo. Following these reports, the WBRU Specialist Enforcement Branch conducted 18 field inspections covering multiple live-capturing sites and conducted various covert observation operations (an increase of 11 inspections from the previous year). During these inspections a total of eight bird callers and four unregistered illegal live-capturing sites were detected.

8.9 Further inspections were also carried out after the closure of the autumn live-capturing season and until the end of January 2017 by the ALE /Gozo Police core staff complement, effectively extending the statutory minimum spot-check requirement of two weeks to a full month following closure of the live-capturing season.

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

Date	Number of officers deployed 0500-1500 (ALE / District / AFM)		Number of officers deployed 1500-2100 (ALE / District / AFM)		Night patrols conducted		Number of field inspections conducted (visits to specific areas)		Number of spot-checks on individual licensees		Offences detected (number of cases and nature of offence)		Number of persons charged and nature of action taken	
	Malta	Gozo	Malta	Gozo	Malta	Gozo	Malta	Gozo	Malta	Gozo	Malta	Gozo	Malta	Gozo
20-Oct	29	7	26	8	N	N	204	30	86	12	0	0	0	0
21-Oct	26	9	25	2	N	N	204	30	23	29	0	0	0	0
22-Oct	27	2	27	2	N	N	204	30	54	12	0	0	0	0
23-Oct	30	9	29	6	N	N	204	30	55	27	0	0	0	0
24-Oct	29	2	27	9	N	N	204	30	63	20	0	0	0	0
25-Oct	28	9	28	5	N	N	204	30	54	34	0	0	0	0
26-Oct	27	3	26	2	N	N	204	30	56	23	0	0	0	0
27-Oct	27	9	27	2	N	N	204	30	41	35	0	0	0	0
28-Oct	25	9	25	6	N	N	204	30	29	17	0	0	0	0
29-Oct	27	2	28	2	N	N	204	30	13	13	0	0	0	0
30-Oct	30	2	26	6	N	N	204	30	89	11	0	0	0	0
31-Oct	27	8	27	5	N	N	204	30	59	30	0	0	0	0
01-Nov	29	10	27	10	N	N	204	30	58	14	0	0	0	0
02-Nov	27	3	28	9	N	N	204	30	25	22	1: Use of bird caller	0	1	0
03-Nov	27	7	27	9	N	N	204	30	34	16	0	0	0	0
04-Nov	29	5	27	5	N	N	204	30	28	24	0	0	0	0
05-Nov	26	8	27	5	N	N	204	30	15	9	0	0	0	0
06-Nov	26	5	26	6	N	N	204	30	25	22	0	0	0	0
07-Nov	27	4	26	8	N	N	204	30	43	5	0	0	0	0
08-Nov	28	3	28	2	N	N	204	30	35	8	0	0	0	0

Date	Number of officers deployed 0500-1500 (ALE / District / AFM)		Number of officers deployed 1500-2100 (ALE / District / AFM)		Night patrols conducted		Number of field inspections conducted (visits to specific areas)		Number of spot-checks on individual licensees		Offences detected (number of cases and nature of offence)		Number of persons charged and nature of action taken	
	Malta	Gozo	Malta	Gozo	Malta	Gozo	Malta	Gozo	Malta	Gozo	Malta	Gozo	Malta	Gozo
09-Nov	27	6	27	2	N	N	204	30	4	2	0	0	0	0
10-Nov	27	6	25	2	N	N	204	30	8	29	0	1: Use of bird caller	0	1
11-Nov	27	2	27	2	N	N	204	30	35	10	0	0	0	0
12-Nov	27	11	27	5	N	N	204	30	36	3	0	0	0	0
13-Nov	28	9	27	3	N	N	204	30	13	13	0	0	0	0
14-Nov	26	13	26	2	N	N	204	30	37	5	1: Use of bird caller 2: Use of bird caller 3: Using in excess of 10 golden plover / song thrush live- decoys	1: Exceeding the permitted limit of live-decoys 2: Exceeding the permitted limit of live-decoys	3	2
15-Nov	24	14	26	10	N	N	204	30	21	11	0	0	0	0
16-Nov	27	2	28		N	N	204	30	18	0	1: Trapping on an un-registered sites	0	1	0

Date	Number of officers deployed 0500-1500 (ALE / District / AFM)		Number of officers deployed 1500-2100 (ALE / District / AFM)		Night patrols conducted		Number of field inspections conducted (visits to specific areas)		Number of spot-checks on individual licensees		Offences detected (number of cases and nature of offence)		Number of persons charged and nature of action taken	
	Malta	Gozo	Malta	Gozo	Malta	Gozo	Malta	Gozo	Malta	Gozo	Malta	Gozo	Malta	Gozo
17-Nov	27	10	26	9	N	N	204	30	24	8	0	0	0	0
18-Nov	26	7	25	2	N	N	204	30	5	7	0	0	0	0
19-Nov	26	2	25	2	N	N	204	30	13	3	0	0	0	0
20-Nov	29	5	28	8	N	N	204	30	25	16	0	1: Exceeding the permitted limit of live-decoys & trapping on an un-registered site	0	1
21-Nov	27	6	27	6	N	N	204	30	18	8	1: Trapping during unpermitted hours	0	1	0
22-Nov	29	5	27	1	N	N	204	30	19	17	0	0	0	0
23-Nov	28	5	28	5	N	N	204	30	4	8	1: Use of bird caller 2: Use of bird caller	0	2	0
24-Nov	28	14	28	7	N	N	204	30	18	8	0	0	0	0
25-Nov	27	9	26	9	N	N	204	30	10	6	0	0	0	0
26-Nov	28	3	28	3	N	N	204	30	8	2	0	0	0	0
27-Nov	28	2	28	2	N	N	204	52	15	6	1: Use of bird caller	0	1	0

Date	Number of officers deployed 0500-1500 (ALE / District / AFM)		Number of officers deployed 1500-2100 (ALE / District / AFM)		Night patrols conducted		Number of field inspections conducted (visits to specific areas)		Number of spot-checks on individual licensees		Offences detected (number of cases and nature of offence)		Number of persons charged and nature of action taken	
	Malta	Gozo	Malta	Gozo	Malta	Gozo	Malta	Gozo	Malta	Gozo	Malta	Gozo	Malta	Gozo
28-Nov	28	10	24	7	N	N	204	30	13	1	0	0	0	0
29-Nov	26	10	26	6	N	N	204	30	8	2	0	0	0	0
30-Nov	25	5	27	2	N	N	204	30	6	13	0	0	0	0
01-Dec	27	5	26	5	N	N	204	30	4	2	0	0	0	0
02-Dec	27	7	26	7	N	N	204	30	1	8	0	0	0	0
03-Dec	24	9	25	6	N	N	204	30	28	3	0	0	0	0
04-Dec	27	8	25	8	N	N	204	30	2	23	0	0	0	0
05-Dec	26	3	25	6	N	N	204	30	0	3	1: Use of bird caller	0	1	0
06-Dec	26	5	24	2	N	N	204	30	7	5	0	0	0	0
07-Dec	24	2	24	2	N	N	204	30	1	2	0	0	0	0
08-Dec	28	9	26	2	N	N	204	30	0	3	1: Use of bird caller 2: Use of bird caller 3: Use of bird caller	0	3	0
09-Dec	25	2	24	2	N	N	204	30	6	3	1: Use of bird caller 2: Use of bird caller 3: Use of bird caller	0	3	0

Date	Number of officers deployed 0500-1500 (ALE / District / AFM)		Number of officers deployed 1500-2100 (ALE / District / AFM)		Night patrols conducted		Number of field inspections conducted (visits to specific areas)		Number of spot-checks on individual licensees		Offences detected (number of cases and nature of offence)		Number of persons charged and nature of action taken	
	Malta	Gozo	Malta	Gozo	Malta	Gozo	Malta	Gozo	Malta	Gozo	Malta	Gozo	Malta	Gozo
10-Dec	25	8	25	2	N	Y	204	33	4	15	1: Use of bird caller	1: Use of more than 2 pairs of clap nets	1	0
11-Dec	25	11	26	8	N	N	204	89	0	4	1: Trapping during unpermitted hours	0	1	0
12-Dec	25	7	27		N	N	204	19	0	7	0	0	0	0
13-Dec	29	2	27	2	N	N	204	53	0	2	1: Use of bird caller	0	1	0
14-Dec	26	5	24	2	N	N	204	15	5	6	0	0	0	0
15-Dec	25	4	26	2	N	N	204	53	7	3	0	0	0	0
16-Dec	25	2	25	2	N	N	204	28	1	6	1: Use of bird caller	1: Use of bird caller 2: Use of bird caller	1	2
17-Dec	24	4	23	4	N	N	204	30	0	0	1: Use of bird caller	0	1	0
18-Dec	28	2	28	2	N	N	204	28	0	5	0	0	0	0
19-Dec	25	12	25	9	N	N	204	62	0	0	0	0	0	0

Date	Number of officers deployed 0500-1500 (ALE / District / AFM)		Number of officers deployed 1500-2100 (ALE / District / AFM)		Night patrols conducted		Number of field inspections conducted (visits to specific areas)		Number of spot-checks on individual licensees		Offences detected (number of cases and nature of offence)		Number of persons charged and nature of action taken	
	Malta	Gozo	Malta	Gozo	Malta	Gozo	Malta	Gozo	Malta	Gozo	Malta	Gozo	Malta	Gozo
20-Dec	20	2	21	2	N	N	204	17	0	3	0	1: Use of bird caller 2: Use of bird caller 3: Use of bird caller	0	3
21-Dec	20	5	21	5	N	N	204	58	0	1	0	0	0	0
22-Dec	20	2	21	2	N	N	204	30	0	5	0	0	0	0
23-Dec	20	6	21	2	N	N	204	56	0	2	0	0	0	0
24-Dec	20	4	21		N	N	204	30	0	0	0	0	0	0
25-Dec	20		21		N		204	Nil	0	0	0	0	0	0
26-Dec	20	10	21	10	N	N	204	30	0	7	0	0	0	0
27-Dec	20	9	21	9	N	N	204	47	0	0	0	0	0	0
28-Dec	20	6	21	6	N	N	204	41	0	4	0	0	0	0
29-Dec	20		21		N	N	204	30	0	0	0	0	0	0
30-Dec	20	8	21	8	N	N	204	13	0	1	0	0	0	0
31-Dec	20	4	21		N	N	204	30	0	0	0	0	0	0
	26	6	25	5	0	1	14892	2284	2037	795	20	12	21	9
	Average	Average	Average	Average	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total

- 8.10 During inspections, Police forces were 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 any captured birds had been immediately reported *via* mobile phone and fitted with a single use ring;
 - Ensure compliance with bag limits and 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 (S.L.549.42) and other applicable legislation.

8.11 In order to facilitate the conduct of their duties, enforcement officers had 11 vehicles and four horses at their disposal. 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.

8.12 Patrolling officers 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 inspections, 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.

8.13 Further information concerning enforcement deployment and relevant checks conducted during field patrols and inspections is found in the video available under the following link: <https://www.youtube.com/watch?v=JNeUFfX6Uqc>

Infringements detected

8.14 During the inspections carried out by enforcement staff throughout the derogation period, a total of 31 live-capturing infringements that qualified for legal action were detected. The nature of these infringements is outlined in Table 10 below, which also presents a comparison with the same statistics for the Golden Plover and Song Thrush derogation implemented in 2013, 2014 and 2015. Legal action is in the process of being taken against the 29 offenders.

Table 10: Offences disclosed during autumn live-capturing seasons¹⁴

	2013 (20.10.13–10.01.14)			2014 (20.10.14–31.12.14)			2015 (20.10.15–31.12.15)			2016 (20.10.16–31.12.16)			
	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	Decrease
Use of illegal means (eg. 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	Decrease
Trapping using nets of prohibited mesh size	6	4	10	0	0	0	0	0	0	0	0	0	No Change
Using in excess of 21 live- decoys (Finches) while trapping	N/A	N/A	N/A	5	4	9	6	3	9	0	3	3	Decrease
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	Increase

¹⁴ Since enforcement was carried out concurrently for both Finches and Golden Plover/Song-Thrush derogations, this table includes statistics related to offences under both live-capturing regimes

Trapping during unpermitted hours	0	0	0	0	0	0	0	1	1	2	0	2	Increase
Trapping within bird sanctuaries	0	0	0	1	0	1	0	0	0	0	0	0	No Change
Trapping on unregistered sites	0	0	0	2	0	2	4	1	5	1	2	3	Decrease
Trapping using unmarked decoys	2	0	2	9	6	15	1	0	1	0	0	0	Decrease
Exceeding the seasonal quota of captured birds	0	0	0	0	0	0	0	0	0	0	0	0	No Change
Failure to report captured bird	0	0	0	4	0	4	2	0	2	0	0	0	Decrease
Trapping without licence	7	5	13	3	0	3	8	1	9	0	0	0	Decrease
Total	38	18	57	41	13	54	50	12	62	20	11	31	Decrease
Number of persons apprehended	16	5	21	29	9	38	46	12	58	21	9	30 ¹⁵	Decrease

Source: Wild Birds Regulation Unit & Malta Police Force, 2017

¹⁵ An unregistered trapping site was found to be active however since perpetrator was unknown no charges could be pressed.

8.15 When compared with the 2013, 2014 and 2015 live-capturing seasons, the rate of disclosure for most types of violations in 2016 decreased, with the exception of the use of more than ten live-decoys (Song Thrush or Golden Plover) whilst trapping (n=1) and trapping during unpermitted hours (n=2). The above decrease in disclosed illegalities is, apart from improvements in field deployment, attributable also to the increase in legal deterrents against abuse. The change in the minimum and maximum penalties for all categories of offences involving illegal killing, trapping and trade in wild birds is summarised in Table 11 below. The same levels of deterrent that had increased exponentially by 2014 were also applicable during the 2016 live-capturing season. This decrease is also attributable to a much higher level of intensity of inspections and spot-checks in 2016 in comparison with 2015 and 2014.

1st count offence	2012	2013	2014	2015	2016
Min fine 1st count offence (Euros)	232.94	500	5,000	5,000	5,000
Min imprisonment (months)	0	0	12	12	12
Min term of suspension of licence (months)	12	24	Permanent	Permanent	Permanent
Max fine (Euros)	4,658.75	5,000	5,000	5,000	5,000
Max imprisonment (months)	0	0	12	12	12
Max term of suspension of licence (months)	36	60	Permanent	Permanent	Permanent

2nd count offence	2012	2013	2014	2015	2016
Minimum fine 2nd count offence (Euros)	465.87	1,000	10,000	10,000	10,000
Minimum imprisonment (months)	2	6	12	12	12
Minimum term of suspension of licence (months)	Permanent	Permanent	Permanent	Permanent	Permanent
Maximum fine (Euros)	9,317.49	10,000	10,000	10,000	10,000
Maximum imprisonment (months)	24	24	24	24	24
Maximum term of suspension of licence (months)	Permanent	Permanent	Permanent	Permanent	Permanent

Source: Wild Birds Regulation Unit, 2017

8.16 During the past trapping season the Malta Police Force and the WBRU Specialist Enforcement Branch jointly investigated three major illegal reports on a nationwide scale. Such reports were filed by CABS and BirdLife Malta respectively.

Enforcement cooperation with NGOs

- 8.17 On 31 October 2016 and separately on 28 November 2016, the Committee Against Bird Slaughter (CABS) and BirdLife Malta respectively submitted the coordinates of a total of 179 suspected active trapping sites for necessary checks and verification by the Wild Birds Regulation Unit. The NGOs identified these locations on the basis of an aerial survey. Following checks performed on the site registration and screening records, it transpired that a total of 68 locations reported by the NGOs did not pertain to registered live-capturing sites, whilst the rest were found to have been registered in accordance with applicable legislation. Subsequent to verification of registration records, on-site inspections were carried out by WBRU on all reported locations.
- 8.18 With the exception of 4 unregistered sites that were found to have signs of potential recent use, the unregistered locations reported by the NGOs contained old trapping sites which were found to have not been used for several years (Figure 13), but which were nonetheless still visible and identifiable as a result of aerial survey performed by the NGOs and were thus suspected as being active.



Figure 11: Disused trapping site found next to the Fgagar Qim Temple area, which was initially suspected as being active following NGO aerial survey reports.

- 8.19 As a direct follow-up to the reports made by the NGOs, and in addition to routine enforcement operations, enforcement officers of the Wild Birds Regulation Unit conducted six joint inspections together with the Gozo Police, which resulted in the identification and dismantlement of three active illegal sites. Surveillance of these sites has led to identification and subsequent prosecution of two persons found using the sites. Similar operations (four joint patrols) were also carried out on mainland Malta, resulting in identification and investigation of a person found using an unregistered site.
- 8.20 In another instance of collaboration between the enforcement authorities and NGOs, the authorities responded to reports of alleged illegal use of pre-recorded bird callers, including at night, in several locations. Each report was investigated and followed by inspection. As a result of the authorities' routine inspections as well as NGO reports, the authorities successfully identified and dismantled a total of 26 electronic devices

during the 2016 live-capturing season, and took necessary legal action against 23 individuals caught using these devices.

- 8.21 In addition to inspections performed between 0500 hrs and 2130 hrs, a night surveillance operation was carried out on 20 December 2016, focusing specifically on the locations reported by CABS. This night inspection however did not result in the identification of any illegal devices on that occasion.
- 8.22 In all, during the 2016 live-capturing season, 23 persons were subjected to an automatic administrative fine of €250 each for illegal use of pre-recorded bird calls whilst live-capturing. All illicit devices were seized and destroyed and all fines were paid within 21 days from notification. A further seven persons apprehended during the 2016 live-capturing season were subject to criminal prosecution for various trapping-related offences as detailed in Table 10. By the time of compilation of this report, all cases were still *sub judice*.

9. Conclusions

- 9.1 The application of the Golden Plover and Song Thrush live-capturing derogation in autumn 2016 was preceded by a series of in-depth analyses that considered all relevant legal, scientific and technical aspects pertaining to this derogation, as well as by an open and transparent discussion with all stakeholders.
- 9.2 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 of the Birds Directive, and specifically the parameters stipulated in Article 9(1)(c); 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 elaborate and robust enforcement regime.
- 9.3 The Maltese authorities have subsequently ensured that the above two prerequisites were met in practice. After ascertaining that there is no other satisfactory solution other than the application of this limited and strictly controlled derogation, the authorities applied a robust legal and regulatory regime that ensured that the scientific considerations pertaining to small numbers and conservation status of the species in question were being implemented in practice and that the relevant parameters of the derogation were fully respected.
- 9.4 Supervision on the ground was ensured through the deployment of appropriately trained and suitably equipped field officers that have exponentially increased the intensity of field inspections in comparison with previous derogations. 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. This was aided further by an increase in the penalties for offences, the introduction of swift administrative fines system for minor violations in lieu of prosecution, greater regulatory rigour (e.g. pre-screening, registration and digitalization of all site plans), and greater efforts at promoting education and regulatory awareness. The above efforts paid off in terms of a noticeable reduction in the incidence of serious trapping-related violations that were prevalent in the past years.