

Technical considerations in conjunction with the potential application of an Autumn 2014 derogation for the live-capturing of Golden Plover (*Pluvialis apricaria altifrons*) and Song Thrush (*Turdus philomelos*)

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Key to conservation status codes

Category	European species of global conservation concern	Conservation status in Europe	Global population or range concentrated in Europe
SPEC 1	Yes	–	–
SPEC 2	No	Unfavourable	Yes
SPEC 3	No	Unfavourable	No
Non-SPEC^E	No	Favourable	Yes
Non-SPEC	No	Favourable	No

Source: BirdLife International (2004: xiii)

Categories of Species of European Conservation Concern (SPECs) and Non-SPECs

Each species is initially assessed against the IUCN Red List Criteria (IUCN 2001) at a European level, and then against the additional criteria derived mainly from Birds in Europe I (Tucker and Heath 1994). All population size thresholds refer to minimum population estimates. In descending order of threat, a species is evaluated as:	
Critically Endangered (CR)	if its European population meets any of the IUCN Red List Criteria (A to E) for Critically Endangered. Such species have an Unfavourable conservation status in Europe because they are considered to be facing an extremely high risk of extinction in the wild (IUCN 2001).
Endangered (EN)	if its European population meets any of the IUCN Red List Criteria (A to E) for Endangered. Such species have an Unfavourable conservation status in Europe because they are considered to be facing a very high risk of extinction in the wild (IUCN 2001).
Vulnerable (V)	if its European population meets any of the IUCN Red List Criteria (A to E) for Vulnerable. Such species have an unfavourable conservation status in Europe because they are considered to be facing a high risk of extinction in the wild (IUCN 2001).
Declining (D)	if its European population does not meet any IUCN Red List Criteria, but declined by more than 10% over 10 years (i.e. 1990–2000) or three generations, whichever is longer. Such species have an Unfavourable conservation status in Europe because they are unable to maintain their populations and/or natural ranges in the long-term. [Birds in Europe I classified species as SPECs if the size of their population or range declined between 1970–1990 by 20% or more in 33–65% of the population (or by 50% or more in 12–24% of the population). Given the shorter time period covered by Birds in Europe II, an overall decline exceeding 10% is comparable with this approach.]
Rare (R)	if its European population does not meet any IUCN Red List Criteria and is not Declining, but numbers fewer than 10,000 breeding pairs (or 20,000 breeding individuals or 40,000 wintering individuals), and is not marginal to a larger non-European population. Such species have an Unfavourable conservation status in Europe because the small size of their population renders them more susceptible to accelerated declines as a result of: <ul style="list-style-type: none"> • break-up of social structure; • loss of genetic diversity; • large-scale population fluctuations and catastrophic chance events; • existing or potential exploitation, persecution or disturbance by humans.

Depleted (H)	if its European population does not meet any IUCN Red List Criteria and is not Rare or Declining, but has not yet recovered from a moderate or large decline suffered during 1970–1990, which led to its classification as Endangered, Vulnerable or Declining in Birds in Europe I. Such species have an Unfavourable conservation status in Europe because they have already undergone a population decline of the type that various directives, conventions and agreements intend to prevent, and have not yet recovered.
Localised (L)	if its European population does not meet any IUCN Red List Criteria and is not Declining, Rare or Depleted, but is heavily concentrated, with more than 90% of the European population occurring at 10 or fewer sites (as listed in Heath and Evans 2000). Such species have an Unfavourable conservation status in Europe because their dependence on a small number of sites renders them more susceptible to accelerated declines as a result of: <ul style="list-style-type: none"> • large-scale population fluctuations and catastrophic chance events; • existing or potential exploitation, persecution and disturbance by humans.
Secure (S)	if its European population does not meet any of the criteria listed above. Such species have a Favourable conservation status in Europe.
In addition, a species is considered to be:	
Data Deficient (DD)	if there is inadequate information to make a direct, or indirect, assessment of its risk of extinction based on its distribution and/or population status. A species in this category may be well studied, and its biology well known, but appropriate data on its abundance and/or distribution in Europe are lacking. Data Deficient is therefore not a category of threat (IUCN 2001).
Not evaluated (NE)	if its European population has not yet been evaluated against the criteria.
Source: BirdLife International (2004: 8)	

Species trends in Birds in Europe (2004)

'Worst case' trend scenario 1990–2000	1990–2000 trend category	Criteria met
>30% decline	Large decline	IUCN Red List Criteria
10–29% decline	Moderate decline	Declining
<10% decline and <10% increase	Stable	-
10–29% increase	Moderate increase	-
>30% increase	Large increase	-
Unknown (insufficient data)	Unknown	-

Source: BirdLife International (2004)

Executive Summary

This report provides a summary of technical considerations for review by the Malta Ornithology Committee, in conjunction with the potential application of a derogation under Article 9 of the EC Birds Directive, concerning the opening of an autumn 2014 season for the live-capturing of Golden Plover (*Pluvialis apricaria altifrons*) and Song Thrush (*Turdus philomelos*).

The legal basis for the potential application of a derogation is provided by Article 9(1)(c) of the Birds Directive, which allows Member States to derogate from the provisions of Articles 5, 6, 7 and 8, where there is no other satisfactory solution, to permit, under strictly supervised conditions and on a selective basis, the capture, keeping or other judicious use of certain birds in small numbers.

The conservation status of the Golden Plover and the Song Thrush is reviewed on the basis of current scientific literature, which also provides details of population size, mortality rates and migratory routes. An assessment of the Golden Plover at sub-species level is also provided. It is shown that Golden Plovers migrating over the Maltese Islands are the sub-species *Pluvialis apricaria altifrons* from the Northeast European (or West Continental) population and that the moderate historical decline refers to the nominate *P. apricaria apricaria*, which does not pass through Malta. Both *Pluvialis apricaria altifrons* and *Turdus philomelos* have a Favourable Conservation Status at the Global, Pan-European and EU levels.

It should be noted that the national bag limit for Golden Plover as currently established in the 2012 Framework Regulations (SL 504.113) is 1,150 individuals. However, this appears to include the entire EU population, including populations of the nominate *P. apricaria apricaria* which does not migrate over Malta. Considering that the correct reference population is the EU component of the West Continental (Northeast European) population of *Pluvialis apricaria altifrons* (Finnish and Swedish populations), the 1% threshold and hence the national bag limit has been revised accordingly. The revised maximum bag limit of 738 Golden Plovers is 35.8% less than that established in the current Framework Regulations (n=1,150) but given that the revised bag limit represents the correct reference population, such revision is deemed necessary and justified.

It is recommended that the general conditions stipulated by SL 504.113 [Legal Notice 303 - Conservation of Wild Birds (Framework for Allowing a Derogation Opening an Autumn Live-Capturing Season for Song Thrush and Golden Plover) Regulations, 2012] and SL 504.121 [Legal Notice 304 of 2012 - Conservation of Wild Birds (Declaration on a Derogation for a 2013 Autumn Live-Capturing Season) Regulations, 2013] should be retained. However, apart from the revised bag limit for Golden Plover, the following amendments are also proposed to:

- align the live-capturing season for Golden Plover with that of Song Thrush, from 20 October to 31 December 2014, both dates included;
- address a legal lacuna in terms of net size, thus establishing a maximum limit of 37.81m² per net as specified in Regulation 8 of the Principal Regulations.

Based on this review, the Wild Birds Regulation Unit (WBRU) recommends the opening of an autumn 2014 season for Golden Plover and Song Thrush as follows:

- **Song Thrush:** from 20 October 2014 to 31 December 2014 (National Bag Limit: 5,000)
- **Golden Plover:** from 20 October 2014 to 31 December 2014 (National Bag Limit: 738)

(1) Legal basis and justification for the derogation

The legal basis for the potential application of a derogation is provided by Article 9(1)(c) of the Birds Directive, which allows Member States to derogate from the provisions of Articles 5, 6, 7 and 8, where there is no other satisfactory solution, to permit, under strictly supervised conditions and on a selective basis, the capture, keeping or other judicious use of certain birds in small numbers.

In this respect it is understood that the lack of any “other satisfactory solution” does not refer to the lack of any “satisfactory alternative”, but to the lack of any acceptable and sufficiently appropriate (i.e. satisfactory) solution in relation to the objective pursued. Applied to the current issue, this would mean ensuring the protection of birds while maintaining a well-established socio-cultural tradition by permitting the capture and judicious use of birds caught in small numbers, whilst always ensuring compliance with Article 2 of the Directive.

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.

It is furthermore understood that with regard to the means, arrangements or methods forming the subject of the derogation, the “other satisfactory solution” required by the Directive does not refer to the possibility or availability of any other method of deliberate capture of wild birds, but a solution relating to the means, arrangements or methods operated in the exercise of this activity. Further to the requirements of Article 8 (and Annex IV) of the Birds Directive, the means, arrangements or methods permitted in Malta do not allow for the large-scale and non-selective capture of wild birds, and neither are these methods capable of causing the local disappearance of a species, and are therefore in full conformity with Article 8⁴.

It has also been established that, whilst the Directive seeks the conservation and protection of all relevant bird species, it also permits for a balance to be maintained with regard to certain leisure activities⁵. Therefore, in line with the spirit of the Directive that seeks to reach a balance between the protection of bird species while taking account of economic and recreational requirements, the Maltese Government has applied the derogation in 2012 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.

In this context, it may be recalled that the Commission’s document “*Guide to Sustainable Hunting under the Birds Directive*” considers the issue of “judicious use” and refers to the fact that a fundamental question arises as to whether hunting can constitute “judicious use”. This matter has been tackled by the Court in Case C-182/02 *Ligue pour la protection des oiseaux* and other. Based on previous case-law, the Court stated that:

⁴ The derogation being requested will provide a very limited number of trappers on registered sites, so as to practice their recreational activity with a strictly selective method, using traditional manually operated clap-nets, identical to those approved in the Malta Accession Treaty.

⁵ CaseC-76/08, Commission vs Malta [2008], para. 56.

“It is clear from the foregoing that the hunting of wild birds for recreational purposes during the periods mentioned in Article 7(4) of the Directive may constitute a judicious use authorised by Article 9(1)(c) of that Directive, as do the capture and sale of wild birds even outside the hunting season with a view of keeping them for use as live decoys or to using them for recreational purposes in fairs and markets.”

Reference is also made to the conclusion reached by the Court of Justice of the European Union (CJEU) in the case against Malta⁶, wherein it held that in the context of a derogation permitting spring hunting of two named species, the *“hunting for quails 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”*.

In this respect, it is understood that this 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. Therefore 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.

It is furthermore noted that the reasons for applying a derogation to permit the limited live-capture of birds are also specifically reflected in the codes established in the Commission’s template for reporting on such derogations:

- code 61 (to permit, under strictly supervised conditions and on a selective basis the capture of certain birds in small numbers);
- code 62 (to permit, under strictly supervised conditions and on a selective basis the keeping of certain birds in small numbers); and
- code 63 (to permit, under strictly supervised conditions and on a selective basis other judicious use of certain birds in small numbers).

a) Applicable national legislation

At its sitting on 16 August 2012, the Malta Ornithology Committee took note of the Commission’s Reasoned Opinion (Infringement No: 2009/4106) on the Application of Autumn Trapping Derogations between 2004 and 2011, the reply submitted by the Government in July 2012, reports on the conservation status of the Golden Plover and Song Thrush, as well as applicable national Policy Guidelines for Hunting and Trapping of Birds in Malta issued by the Government in August 2011.

The Committee’s deliberations resulted in a recommendation that the Government should publish framework regulations that would consolidate the necessary legal parameters within which the Government may consider applying a derogation in terms of Article 9 of Directive 2009/147/EC of the European Parliament and of the Council on the Conservation of Wild Birds, to permit limited trapping of Golden Plover and Song Thrush in autumn, under strictly supervised conditions.

On 25 September 2012, after having considered the recommendations made by the Malta Ornithology Committee, applicable legal provisions and further scientific and policy advice, the Government published Legal Notice 303 - Conservation of Wild Birds (Framework for

⁶ CaseC-76/08, Commission vs Malta [2008], para. 63.

Allowing a Derogation Opening an Autumn Live-Capturing Season for Song Thrush and Golden Plover) Regulations, 2012 which establishes the legal parameters that must be adhered to when considering allowing a derogation for an autumn trapping season.

Amongst the legal parameters that must be satisfied in order for a derogation to be considered, the Framework Regulations stipulate a requirement for the establishment of a special Autumn Live-Capturing Licence. Applicants for such licence must be registered trappers already in possession of a valid *Carnet de Chasse*, and whose authorised trapping site/s have been duly registered with the Commissioner of Police in terms of the Conservation of Wild Birds Regulations Legal Notice 79 of 2006.

The Framework Regulations also stipulate that an Autumn live-capturing season for Golden Plover and Song Thrush shall not exceed a maximum of eighty three (83) days between the months of October of the year in which the government may decide to open an autumn trapping season by means of a notice in the Government Gazette and January of the following year.

The Regulations further establish that the overall seasonal bag limits to be allowed for a particular autumn trapping derogation cannot exceed 5,000 Song Thrush and 1,150 Golden Plover. These two maximum numbers may only be amended by notice in the Gazette, following consideration of the conservation status of the two species concerned and the maintenance of the population of the species at a satisfactory level. The Framework Regulations also provide for the establishment of daily and seasonal bag limits per licence. By virtue of the special Autumn Live-Capturing Licence, licensed trappers shall be obliged to immediately report every bird captured via SMS as well as by entry in the *Carnet de Chasse*. The uptake of a season's quota shall be monitored in real time, and a season may be terminated with immediate effect by means of a press release if the overall seasonal quota for either one or both of the species is reached at any time before the end of that particular season.

The Framework Regulation further stipulates that holders of the special Autumn-Capturing Licence shall not be allowed to hold or have in their possession more than a total of 10 birds from the relevant species (Song Thrush/Golden Plover) used as live-decoys, whilst at the capturing site or when travelling to or from the capturing site. Furthermore, each bird used as a live-decoy must bear a single-use ring which is approved and provided for that purpose by the Director of Environment.

The Framework Regulations also provide that the police shall ensure the monitoring and compliance with these Regulations by carrying out spot-checks in the field. The Framework Regulations require that for every one thousand licences issued, there shall be a minimum of seven officers and/or marshals on duty during all hours for which an Autumn Live-Capturing Season is open. Furthermore, the Regulations require that officers 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. Following the closure of an Autumn Live-Capturing Season, for every one thousand Autumn Live-Capturing Licences issued, a minimum of three police officers and/or marshals shall be on duty during the hours of daylight.

Should any police officer in the course of a spot check carried out in the field, find sufficient cause for proceedings to be taken against any person under these Regulations, or other relevant Regulations, that officer shall immediately seize from the possession of that person any equipment, weapon or ammunition used for hunting or live-capture, the *Carnet de Chasse*, the Autumn Live-Capturing Licence and any other taking or hunting licence or permit, and any bird(s) found in possession of that person in violation of these regulations or other applicable regulations or in violation of the conditions of any licence or permit.

Any person who fails to comply with any provision of these Regulations, with the Licence conditions or with any order lawfully given in terms of any provision of these Regulations, shall be guilty of an offence and shall upon conviction be liable to the penalties established by regulation 27 of the Conservation of Wild Birds Regulations. The penalties range from confiscation of equipment and fines, to revocation of license and even imprisonment, depending on the severity of the offence.

The Malta Ornithology Committee also recommended that the government should apply derogation, to permit limited live-capturing of Golden Plover and Song thrush in the 2012 – 2013 Autumn season. A separate Regulation to that effect was also published on 25 September by means of Legal Notice 304 of 2012 - Conservation of Wild Birds (Declaration on a Derogation for a 2012 Autumn Live-Capturing Season) Regulations, 2012. This Legal Notice declares the opening of the 2012 Autumn live-capturing season in Malta and establishes that the taking of Song Thrush shall be permitted between 20 October 2012 and 31 December 2012 (both days included), whilst the taking of Golden Plover will be allowed between 20 October 2012 and 10 January 2013, (both days included). This regulation sets the overall season quota for 2012 at 5,000 Song Thrush and 1,150 Golden Plover. This regulation also sets a daily bag limit per licence of three (3) birds and a seasonal bag limit per licence of six (6) birds.

Other relevant restrictions

Regulations, currently in force in Malta stipulate that the nets used for capturing should be of the traditional type and operated solely by human intervention without the use of electric, electronic or mechanical means. This requirement ensures that the activity is highly selective since they are operated solely by human intervention. By law such nets are not allowed to have a surface area which exceeds 37.81m². Moreover, the mesh-size of the nets shall be not less than 30mm x 30mm size so as to avoid the accidental capture of smaller birds.

The Conservation of Wild Birds Regulations and related legislation provide for the following measures:

- *Regulation 7(1) (a) to (c) prohibits the use during hunting or the taking of birds of methods that include: snares, limes including birdlime, poisonous or stupefying bait, hooks or any similar substances or methods, any electrocuting devices, any artificial light sources, mirrors, devices for illuminating targets, or any sighting devices for night shooting comprising an electronic image intensifier, or image converter; any gas or any electronic device, especially the use of pre-recorded bird callers. Nets, including those known as 'ranja', mist nets and any type of vertical nets; any kind of cage-traps, whether with net or not, decoy birds which are blind or mutilated; decoy live birds held by any means except those held by cotton string and swivel, explosives.*
- *Regulation 12 provides that "no person shall hunt or attempt to hunt, take or attempt to take by any means any birds as permitted in accordance with the provisions of these regulations, unless that person is in possession of a valid licence as applicable, issued by the director (of the Environment Protection Directorate) and such a person satisfies the conditions specified in the licence and in any other law".*
- *Regulation 16 prohibits a person from hunting or taking birds unless he is carrying on him a recognised means of identification and the proper licence for the activity for which the licence has been issued.*
- *Regulation 24 provides for the bird sanctuaries where hunting or taking of birds, two hours before sunrise and two hours after sunset and the hours in between, is strictly prohibited.*

As specified above, no person may hunt or take birds in Malta without a valid licence issued by the Maltese authorities. The licence is renewable on a yearly basis and the holder must be a member of a recognised local hunting/trapping organization in order to obtain such renewal. This has the implication that each trapper must abide by further conditions which the hunting organization concerned might impose to further compliment the hunting regulations.

b) Small numbers - Preliminary considerations and criteria

In order to meet the criteria laid down in article 9(1)(c) of the Birds Directive the derogations should only relate to “small numbers” of birds. According to the ‘Guidance Document’ on Hunting under the Birds Directive, there are two approaches which may be used to determine what is considered to be “small numbers”, as follows: (i) the figure must be much lower than the bag statistics of the species, a figure in the order of 1% usually meets this condition, or alternatively (ii) the figure is in the order of 1% of the total mortality of the population concerned with the derogation.

The mentioned document, however, argues that although hunting bags are generally proportionate to the population size, the hunting pressures do not necessarily provide an appropriate approach, since this focus is on the hunting rather than the population size. Furthermore, the implication that the greater the hunting bagged the greater the number of birds which could be trapped under the derogation, would not be considered to be a good conservation practice.

According to the EC Guidelines quoted earlier, for migratory species, such as the Golden Plover, the population concerned means “*the population of the region from which the largest numbers of migratory birds come before passing through the region where the derogation is sought to be applied during the period, the latter is in force.*”

One should also take note of what is stated in the study carried out by Dr Christos Thomaidis, MSc, MSc, Ph. D., entitled “Study of the Migration Patterns of Turtle Dove *Streptopelia turtur* and Quail *Coturnix coturnix* over the Maltese Islands”. The study was commissioned by the ORNIS Malta Committee and carried out during the migration periods 2008 and 2009. The study, although specifically relating to the Turtle Dove and Common Quail, has also strong implications in its conclusion s on the migratory pattern of other species of birds over the Maltese Islands. At page 42 of the report Dr Thomaidis states:

“The Mediterranean Sea is in the path of a great number of migrating birds, to and fro Europe. Moreau (1953, 1961 and 1972) provided abundant evidence that passerine and similar species cross the Mediterranean in a broad front, instead of concentrating at narrow crossings. He mentioned that quail were rarely seen except close to the land they are approaching, thus assuming that cross in the dark or travel high for detection. Moreau (1938) concluded that the extent of concentration on the short crossings has been exaggerated for such species. Moreau (1953) in discussing migration over the Maltese Islands, pointed out that there was a lack of evidence in favour of high concentration of small birds. Gibb (1951) also concluded that birds in the Maltese Islands were seldom present in such numbers as to suggest that the Islands receive any concentrated stream passing on a narrow front. Moreau (1961) cited Steinbacher (1954, 1955) who made rather extensive study of migration in Sicily and concluded that migrant birds did not concentrate extensively on Sicily any more than they do in Malta. Casement (1966), through radar observations of the migrant birds over the Mediterranean, concluded that the short crossing from Sicily to Tunisia may encourage concentrations of larger soaring birds, but evidence showed that this was not true for night migrants and similar other birds.

So Malta receives only a small fraction of the birds that travel along a broad front over the Mediterranean. DeLucca (1969) also supported this view by stating that several species were present on most days on the Maltese Islands, but spectacular passages were scarce and irregular.”

The reproduction of this published quote, by an expert in the field, is taken to emphasize the fact that there is a tendency amongst some to exaggerate the extent of bird migration over Malta. One need not underestimate the DeLucca comment quoted above *“that several species were present on most days on the Maltese Islands (i.e. during migration periods), but spectacular passage were scarce and irregular”.*

(2) Conservation status of Golden Plover (*Pluvialis apricaria s.l.*)

Non-SPEC^E (1994: 4) Status: (Secure); Criteria: —
European IUCN Red List Category: —; Criteria: — (BirdLife International, 2004)

The Golden Plover (*Pluvialis apricaria s.l.*) is a medium-sized Palaearctic wader which breeds in continental arctic, arctic alpine and boreal tundra, but secondarily on temperate oceanic unenclosed upland moors and peat-land. In winter, the Golden Plover occupies harvest fields, stubbles, close grazed pastures, fallows and other farmland of open character including flood-lands. Its breeding range extends from Iceland to Russia and its wintering quarters stretch from Morocco to Asia Minor including South Europe (Geroudet 1983; Cramp & Simmons 1983).

“The total European breeding population size of this species [*Pluvialis apricaria s.l.*] is 460,000–740,000 pairs, constituting more than half of the global total (BirdLife International, 2004). The total wintering population in Europe and North Africa is in excess of 2.2. million birds (Wetlands International, 2006). The largest breeding populations within EU Member States are in Sweden (11–12%), Finland (9–11%) and the UK (8%). While the Swedish population declined during 1990–2000, the Finnish population increased by a similar amount. The greatest declines have been of the nominate *Pluvialis apricaria apricaria* relict populations in Denmark and Lithuania. The Estonian, Latvian and German populations of the nominate species have, however, been stable (BirdLife International, 2004).

According to Birdlife International (2004), the overall wintering population trend for this species in the European Union is showing a “*moderate increase*”, while the breeding population trend (1990–2000) is “*unknown*”. It is unknown mainly because of lack of knowledge of the trend in Iceland, which has by far the largest population, holding 42–54% of the European total (Norway has the next largest population with 11–14% of the total) [vide Table 1 which also defines the *apricaria* and *altifrons* country of origin]. In contrast, the UK wintering population has shown a marked increase over the same period, but this includes birds from the Icelandic and West Continental populations as well as the breeding nominate race *Pluvialis apricaria apricaria*. The French wintering population is probably increasing.⁷

Table 1 Countries of origin of *Pluvialis apricaria altifrons* and *Pluvialis apricaria apricaria*

Population	<i>altifrons</i> (Iceland & Faeroes)	<i>altifrons</i> (NW Europe)	<i>altifrons</i> (N–C Siberia)	<i>apricaria</i> (UK/IR/DK/D)
Population size	☺	☺	☹☹	☹
Breeding location	☺☺	☺☺	☺	☺☺

Source: Adapted from Gillings, S (2005) Table 1: An assessment of the level of knowledge for developing a flyway conservation strategy for each breeding population of Eurasian Golden Plover (after Davidson *et al.* 1998). ☺☺ = very good; ☺ = good; = ☺ adequate; ☹ = poor, ☹☹ = very poor. International workshop on passage and wintering Eurasian Golden Plovers (p. 6).

⁷ The European Commission (DG ENV B2) commissioned a Management Plan for the Golden Plover 2009 – 2011 (available at: http://ec.europa.eu/environment/nature/conservation/wildbirds/hunting/docs/Golden%20Plover%20EU_MP.pdf).

The Golden Plover (*Pluvialis apricaria s.l.*) is a huntable species listed under Annex II/B of the Birds Directive. According to the EU Management Plan for the Golden Plover⁸, this species is hunted in at least 4 EU member states, including in Portugal, Ireland, France and Malta. According to the Management Plan, over 62,000 Golden Plovers were known to have been bagged annually in France and over 32,000 in Portugal⁹. The species has a large range¹⁰, with an estimated global extent of occurrence of 1,000,000–10,000,000 km². It has a large global population, including estimated 1,600,000–2,000,000 individuals in Europe (Wetlands International 2006¹¹).

In the Executive Summary of the European Union Management Plan 2001–2011, the Golden Plover is stated to be “a bird species with an unfavourable conservation status within the EU due to its moderate historical decline in its EU breeding population. However, its pan-European population as a whole has a favourable conservation status (Birdlife International 2004)”.

According to the latest *Birdlife Species Factsheet* this species has an extremely large range, and hence does not approach the thresholds for ‘Vulnerable’ under the range size criterion, or under the population trend criterion, or under the population size criterion. For these reasons Birdlife evaluates this species as ‘Least Concern’ at the Global level. Cramp and Simmons (1983)¹² state that the Golden Plover is thought to include two sub-species *Pluvialis apricaria apricaria* (nominate) breeding from Ireland and Britain to the Baltic States and *Pluvialis apricaria altifrons* breeding at higher altitudes from Iceland to north-central Siberia. The species is provisionally listed as secure at pan-European level according to Birdlife International (2004), but has an Unfavourable Status in the EU (EC 2008). Delany *et al.* (2007) indicate that the *altifrons* population is divided into three sub-populations, of which the Northeast European (West Continental) is the one that migrates to Malta (breeds in North Norway and Russia-east 70 degrees) and winters in west and south continental Europe, east Britain and north-west Africa (Morocco to Tunisia).

The Agreement on the Conservation of African–Eurasian Migratory Waterbirds (AEWA) and its Resolution 4.11 (see the following link: <http://tinyuri.com/aewares411>) provides the distribution for *P.a.apricaria* as “Britain, Ireland, Denmark, Germany and the Baltic”, thereby excluding in a definitive way the Central Mediterranean region. The same applies for the ‘European Management Plan for the Golden Plover, 2009–2011’ (see the following link: <http://tinyuri.com/gp-eump>) which indicates that “The nominate southern subspecies *P.a. apricaria* nests in Ireland, Great Britain, Denmark, Germany, Latvia, Lithuania and Estonia. This subspecies winters in North-West, from Ireland to South Britain, France and Iberia”.

In this context, it should be noted that the sub-species that migrates over Malta in autumn is the *Pluvialis apricaria altifrons* as can also be attested in the publication entitled “2009 Atlas of Wader Populations in Africa and Western Eurasia” published by Wetlands International, Wageningen, The Netherlands (Delany, S, Scott, D, Dodman T, and Stroud, D (eds) (2009)). It is to be noted that page 183 of this publication states, *inter alia*, “There is growing evidence that numbers of *altifrons* wintering in Europe are increasing”. The publication also indicates that the sub-species *Pluvialis apricaria apricaria* has a more restricted migratory distribution that does not include the Maltese Islands and nearby central regions in the Mediterranean. The European Union Management Plan (EC 2008) specifies that:

⁸ European Union Management Plan for Golden Plover 2009 – 2011, European Commission.

⁹ European Union Management Plan for Golden Plover 2009 – 2011, Table 4, page 17.

¹⁰ According to Avibirds.com - *European Bird Guide On Line*.

¹¹ Wetlands International (2006). - Waterbird Population Estimates – Fourth Edition. Wetlands International, Wageningen, the Netherlands.

¹² Cramp, S., cf. ed. 1983. The Birds of the Western Palearctic. Vol. III ‘Waders to Gulls. (*Pluvialis apricaria* Golden Plover pp 201-216). Oxford University Press.

“The Northern *P. a. altifrons* subspecies is generally split into three populations based on their different flyways that overlap in winter. They are defined as:

- *Icelandic (or East Atlantic):* breeds in Iceland, the Faeroe Islands and Greenland and winters in Ireland, West Britain, France, West Iberia and North-West Africa.
- *Northeast European (or West Continental):* breeds in North Norway and Russia (east to 70 degrees east) and winters in West and south continental Europe, East Britain and North-West Africa (Morocco and Tunisia).
- *North- Central Siberia population,* breeds in North Central Siberia (east to 100 degrees east) and winters in the Caspian Region, Asia Minor and the Eastern Mediterranean.”

The population of the sub-species which is specifically declining is the *P.a. apricaria*. The two other populations / groups found in Europe are “probably increasing” and the North Central Siberian population is “unknown” although this population winters mainly in the Caspian region. According to Delany (Delany *et al.* 2007), the subspecies of *P.a. apricaria* is declining whereas the subspecies *P. a. altifrons* is more or less stable (see page 7, second paragraph, of The European Union Management Plan 2009-2011 for Golden Plover)¹³.

The AEWA Second Conservation Status Report indicates that the *P.a. altifrons* breeds widely at high altitudes in Western Eurasia from Iceland east to 100 degrees east in Western Siberia, and winters south to North Africa (occasionally to Senegal) and the South Caspian. *P.a. apricaria* breeds at more westerly latitudes in Britain, Ireland, Denmark and Germany, and is only a short-distance migrant, most birds wintering fairly close to their breeding areas (Scott, 2002).

Considerable variation exists in most populations, and many authors consider the species to be monotypic. Four main breeding populations can be identified: (1) Icelandic and Faeroese breeders (*altifrons*), wintering mainly in Ireland, with smaller numbers in western Britain, France and Iberia, and a few to Northwest Africa; (2) a population of *altifrons* breeding from Northern Norway east to about 70 degrees east and wintering mainly in western and southern continental Europe and Northwest Africa (Morocco and Tunisia); (3) population of *altifrons* breeding in Western Siberia east to 100 degrees east and wintering in the Caspian region band possibly Asia Minor; and (4) southern breeders (*apricaria*) breeding in Britain, Ireland, Denmark and Germany, and wintering in Northwest Europe.

According to the EU Management Plan for the Golden Plover, approximately 50% of Golden Plover (*P. apricaria altifrons*) European population breeds in Iceland with a total of >300,000 breeding pairs (Thorup 2006, 930,000 individuals, Wetlands International 2006). Trends in this population are not well known, whereas the relatively small Faeroese population is declining. Approximately half of this population is found in Norway, 22% in Finland, 17% in Sweden and 9% in Russia with a total ranging from **217,000** to 362,000 breeding pairs (Thorup 2006 estimates this at 500,000-1,000,000 individuals, Wetlands International 2006). This population is considered stable (Wetlands International 2006). According to AEWA, while the *P. apricaria apricaria* is declining, *P. apricaria altifrons* is considered as stable.

¹³http://ec.europa.eu/environment/nature/conservation/wildbirds/hunting/docs/Golden%20Plover%20EU_MP.pdf.

Regarding its global conservation status, the Golden Plover is classified as 'Least Concern' by the International Union for the Conservation of Nature (IUCN). At the Pan-European level this species is provisionally considered as Secure (Birdlife International, 2004) but has been identified as a huntable species with an Unfavourable Conservation Status within the EU territory due to a moderate historical decline (SPEC 3: Localized) (EC 2008: 90). However, it should be noted that according to the data provided by BirdLife International (2004), the EU population of the Golden Plover is Stable (see Table 5). **It should also be noted that this moderate decline is related to the nominate *Pluvialis apricaria apricaria* population which does not migrate through Malta** (see Figs. 1 and 2). Golden Plovers that migrate over the Maltese Islands form part of the Northeast European (or West Continental) population (*P. apricaria altifrons*) which has a minimum population of 217,000 breeding pairs at Pan-European Level. This West Continental population includes breeding pairs whose range includes EU Member States as well as Russia and Norway, as specified in the EU Management Plan for this species.

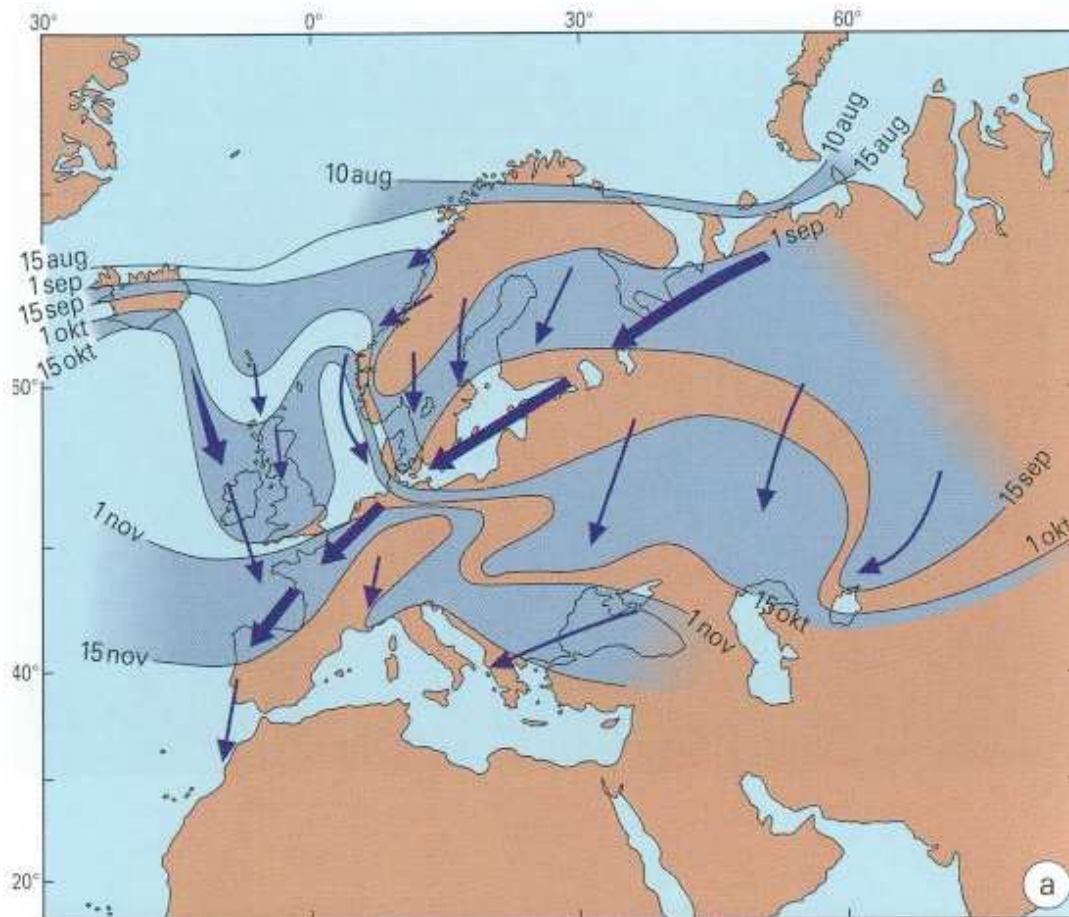


Fig. 1: Outline of the timing and geography of the southward migration of Golden Plovers. Arrows indicate the most important migration routes, and size of arrow is an indication of migration intensity. Source: Jukema *et al.* 2001. In: Gillings, S (2005) International workshop on passage and wintering Eurasian Golden Plovers (p. 5).

Eurasian Golden Plover *Pluvialis apricaria*

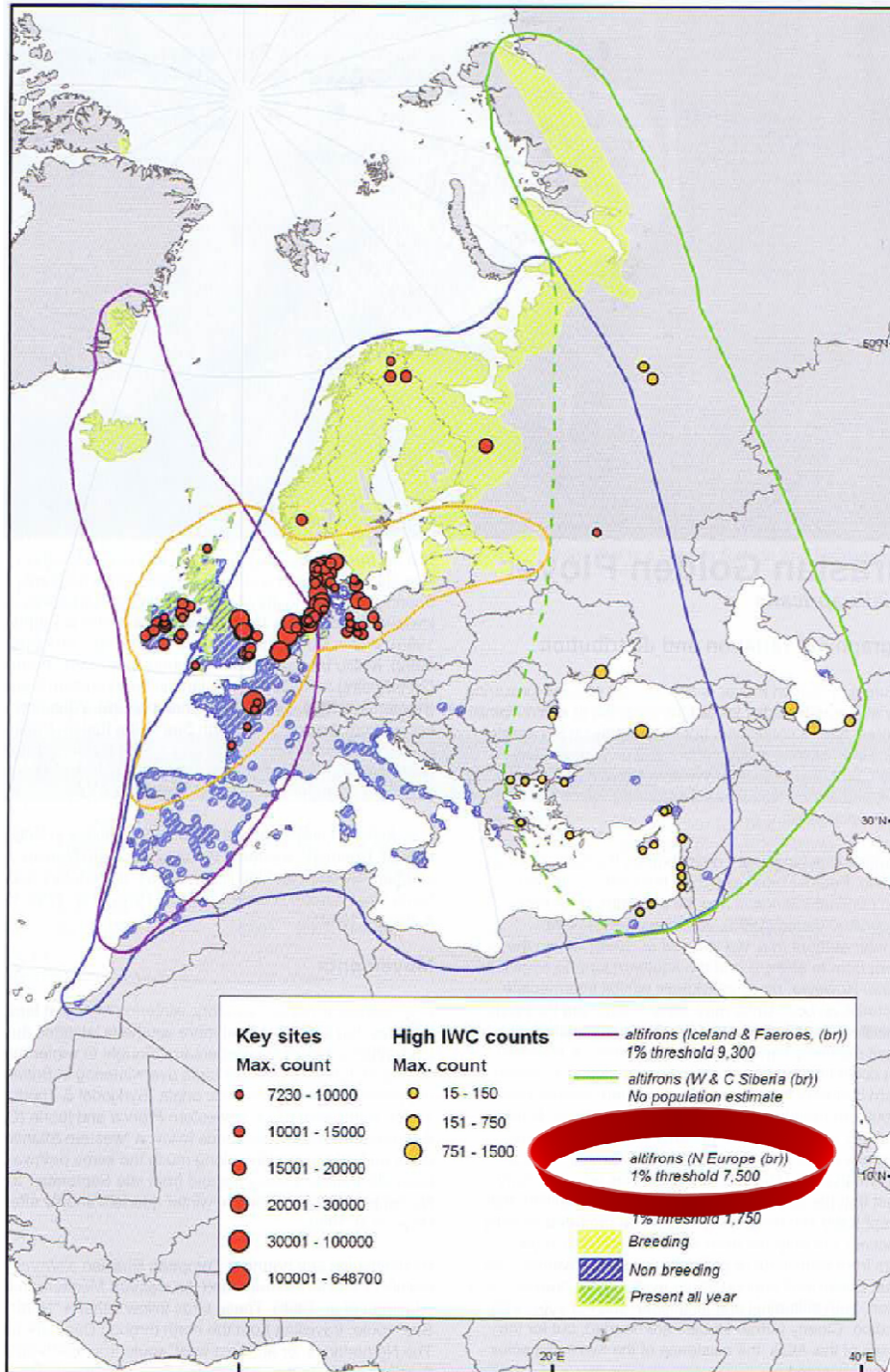


Fig. 2: Migratory flyways of *Pluvialis apricaria altifrons*. Source: An Atlas of Wader Populations in Africa and Western Eurasia (p. 180)

The latest dataset available from the European Bird Census Council¹⁴ (EBCC, 2013) at the time the conservation status of the Golden Plover (*Pluvialis apricaria*) was assessed (May 2014), lists this species trend classification at Pan-European level as **Stable** for its long-term (1980–2011) trend and as **Moderate Increase** in the short-term (1990–2011) trend (Table 2). The previous assessment by EBCC (2012) for the 1990–2010 period was Stable for both the short-term and long-term trends, which means that the population has seen an improvement in its short-term trend when compared with the previous reporting period. The overall change at the Pan-European level between 2010 and 2011 was +0.42% in the long-term slope and +0.60% in the short-term slope (Table 3).

Table 2 Short-term and long-term trend classification of the Golden Plover (Pan-European)

	Short-term trend (1990–2011)	Long-term trend (1980–2011)
<i>Pluvialis apricaria</i>	Stable	Moderate increase

Source: EBCC (2013a)

Table 3 Golden Plover long-term and short term percentage trend change (2010–2011)

Year	Species	Trend 1980 (%)	Long-term Slope (SE)	% change	Trend 1990 (%)	Short-term Slope (SE)	% change	Habitat
2010	<i>Pluvialis apricaria</i>	-8	0.9937	-0.63%	+61	1.0114	+1.14%	oth
2011	<i>Pluvialis apricaria</i>	+24	0.9979	-0.21%	+121	1.0174	+1.74%	Oth
Overall change (2010–2011)				+0.42%			+0.60%	

Data sources: EBCC (2012a, 2012b, 2013a, 2013b)

There is no record of the Golden Plover ever breeding in Malta. Table 4 lists the live-capturing data for Golden Plover in Malta and Gozo during the autumn/winter seasons from 2006 to 2013.

Table 4 Carnet de Chasse live-capturing data for Golden Plover (2006–2013)

Species	2006	2007	2008	2009	2010	2011	2012	2013	Total	Average
Golden Plover	319	44	503 ¹	414	1769	52	25 ²	158 ³	3284	411

Source: *Carnet de Chasse* (CdC) data, Environment Protection Directorate (Malta Environment and Planning Authority)

¹ Jan 2008 (16) + Oct–Dec 2008 (487)

² The 2012 figure represents the SMS data for the period 20th October to 31st December 2012 (i.e. excluding the period 1st January to 10th January 2013, n=8).

³ The 2013 figure represents the SMS data for the period 20th October to 31st December 2013 (i.e. excluding the period 1st January to 10th January 2014, n=58).

¹⁴ *Population Trends of Common European Breeding Birds 2012*. Available at: <http://www.ebcc.info/wpimages/video/Leaflet2013.pdf>

(i) Reference population

On the basis of current literature, the reference population of the Golden Plover is the West Continental (Northeast European) population (*P. apricaria altifrons*). According to the EU Management Plan (2009-2011) for this species, this population is distributed as follows:

- Norway (c. 50%)
- Finland (22%)
- Sweden (17%)
- Russia (9%)

Based on a total ranging from 217,000 to 362,000 breeding pairs, as specified in the EU Management plan, the Northeast European breeding population of the Golden Plover (*P. a. altifrons*) within the EU territory is as follows:

- Finland (47,740–79,640)
- Sweden (36,890–61,540)

This results in a reference population of 84,630 **minimum** breeding pairs, based on the most up-to-date breeding pair estimates as specified in the EU Management Plan for this species. Table 5 provides a direct comparison between the breeding population estimates of the reference population (Finland and Sweden) and other breeding populations within the EU territory.

Table 5 Golden Plover EU Breeding Population (grey shading represents the West Continental component population of *Pluvialis apricaria altifrons*)

Country	Breeding Pairs (Min - Max)		Trend	Mag. % (Max - Min)		Max % Change (Min Pairs)	Max % Change (Max Pairs)	Max % Change (Average Pairs)
Denmark	4	5	Decline	50	79	-3	-4	-4
Estonia	3,000	5,000	Stable	0	19	-	-	-
Finland	40,000	80,000	Increase	10	10	4,000	8,000	6,000
Germany	22	22	Stable	0	19	-	-	-
Ireland	200	400	Decline	30	49	-98	-196	-147
Latvia	350	450	Stable	0	19	-	-	-
Lithuania	40	50	Decline	0	19	-8	-10	-9
Sweden	50,000	90,000	Decline	0	9	-4,500	-8,100	-6,300
UK	38,400	59,400	Decline	12	12	-4,608	-7,128	-5,868
Total	132,016	235,327				-5,217	-7,437	-6,327
Percentage change						-3.95%	-3.16%	-3.44%
Trend (EU Population)						Stable	Stable	Stable

For the purpose of calculating the “small numbers” criterion in relation to the relevant “population concerned” (the reference population), Table 6 below shows the minimum number of breeding pairs of *Pluvialis apricaria altifrons*, together with other relevant information required for calculating the 1% mortality threshold.

Table 6 Minimum breeding population and mortality rate

	Golden Plover (<i>Pluvialis apricaria altifrons</i>)	Source
Minimum breeding population – pairs (West Continental population of <i>Pluvialis apricaria altifrons</i> within the EU territory only)	84,630	EU Management Plan (2009–2011)
Mortality rate – juveniles	53.33%	Kompendium der Vogel Mitteleuropas (KVM) and Birds Western Palearctic (BWP); as quoted in the “Guide to sustainable hunting under the Birds Directive”.
Mortality rate – adults	33.7%	KVM and BWP
Breeding rate (young per pair)	3.64	Golden Plover: European Management Plan-2009/2011, Technical Report-2009-034, Golden Plover.

(ii) Calculation of 1% mortality rate and “small numbers”

Golden Plover (*P. apricaria altifrons*)

Minimum breeding success 3.64 birds per pair (84,630 x 3.64) = 308,053

Mortality rate of 1st year birds (308,053 x 53.33%) = 164,285

Mortality rate of adults (169,260 x 33.7%) = 57,041

Total annual mortality (164,285 + 57,041) = 221,326

1% of total annual mortality (221,326 x 1%) = 2,213

Total potential Golden Plover harvest figure is: 2,213 = 738 (figure divided by three to account for the fact that only a fraction of the bird reference population actually fly over Malta).

(iii) Autumn seasonal bag limit in relation to “small numbers”

Based on the 1% mortality rate, the “small numbers” calculation with respect to the Autumn 2014 proposed seasonal bag limit of the Golden Plover is as follows:

- **Golden Plover** – proposed maximum bag limit of **738** birds

The national bag limit for Golden Plover as currently established in the 2012 Framework Regulations (SL 504.113) is 1,150 individuals. However, this erroneously included the entire EU population, including populations of the nominate *P. apricaria apricaria*. Considering that the correct reference population, as discussed above, is that pertaining to Sweden and Finland (the EU component of the West Continental population of *P. apricaria altifrons*), the 1% threshold and hence the national bag limit has been revised accordingly. The revised maximum bag limit of 738 Golden Plovers is 35.8% less than that established in the current Framework Regulations, but given that this represents the correct reference population such revision is deemed necessary and justified.

(3) Conservation status of Song Thrush (*Turdus philomelos*)

Non-SPEC^E (1994: 4) Status: Secure; Criteria: —
European IUCN Red List Category: —; Criteria: — (BirdLife International, 2004)

The Song Thrush (*Turdus philomelos*) is a huntable bird species which is listed under Annex II(b) of the Birds Directive. It has an extremely large distribution range and is present throughout Europe and the northern part of Asia eastwards of Lake Baikal. The northern populations are migratory and winter in western and southern Europe. The Pan-European population numbers 20–36 million, including the large Russian population of 6–10 million (Birdlife International, 2004).¹⁵

It has been documented that most Song Thrushes from the northern and eastern parts of the European range migrate via three or four main routes in a south westerly direction (Ashmole M.J., 1962; Busse P & Maksalon L, 1986). With regard to the central Mediterranean region, the Italian publication *Atlante della Migrazione degli Uccelli in Italia*¹⁶ states that the Song Thrush is a regular breeder and a common passage migrant with the first migrant thrushes occurring from late August, but high frequencies are reached from late September, with the largest influxes in October with a maximum reached in the last decade of the month and good numbers till early November.

According to the latest *Birdlife Species Factsheet*¹⁷ this species has an extremely large range, and hence does not approach the thresholds for Vulnerable under the range size criterion, under the population trend criterion, or under the population size criterion. For these reasons BirdLife International also evaluates this species as 'Least Concern' at the Global level. The latest dataset available from the European Bird Council Census (EBCC, 2013)¹⁸ at the time the conservation status of the Song Thrush (*Turdus philomelos*) was assessed (May 2014), lists this species trend classification as **Moderate Increase** for both its long-term (1980–2011) and short-term (1990–2011) trends. Table 7 and Table 8 provide an estimate of the breeding population of the Song Thrush within the EU territory and the wintering population size respectively.

Table 7 Breeding populations of Song Thrush within the EU

Country	Breeding population (pairs)	Years	Country	Breeding population (pairs)	Years
Austria	250,000–500,000	97-02	Italy	200,000–400,000	03
Belgium	20,000–100,000	01-02	Latvia	200,000–250,000	00
Bulgaria	200,000–800,000	99–02	Lithuania	(1,000,000–2,000,000)	99–01
Croatia	50,000–100,000	02	Luxemburg	5,000–8,000	02
Czech Republic	400,000–800,000	00	Netherlands	120,000–160,000	98–00
Denmark	200,000–300,000	00	Poland	500,000–800,000	03
Estonia	200,000–400,000	98	Portugal	(100–1,000)	02
Finland	600,000–800,000	98–02	Romania	1,420,000–2,150,000	00
France	600,000–3,000,000	98–02	Slovakia	300,000–600,000	99
Germany	1,200,000–2,500,000	95–99	Slovenia	100,000–200,000	00

¹⁵ Birds in Europe: Population estimates, trends and conservation status (*BirdLife International 2004*).

¹⁶ *Atlante della Migrazione degli Uccelli in Italia*, Vol 2-190-236, p. 235.

¹⁷ <http://www.birdlife.org/datazone/speciesfactsheet.php?id=6407>

¹⁸ *Population Trends of Common European Breeding Birds 2012*. Available at: <http://www.ebcc.info/wpimages/video/Leaflet2013.pdf>

Greece	1,000–3,000	95–00	Spain	(100,000–250,000)	98–02
Hungary	270,000–410,000	99–02	Sweden	1,500,000–3,000,000	00
Ireland (Rep.)	250,000–500,000	01	UK	1,144,000–1,144,000	00
Total Minimum Breeding Pairs				10,830,100	
Data Source: BirdLife International (2004) <i>Birds in Europe: Population estimates, trends and conservation status</i> . Available at < http://www.birdlife.org/datazone/speciesfactsheet.php?id=6407#FurtherInfo > Accessed 25 July 2013.					

Table 8 Song Thrush (*Turdus philomelos*) wintering population size

Country	Wintering Visitors	Year(s)
Austria	a few	2002
Belgium	Regular	1995–2000
Bulgaria	Regular	1997–2001
Cyprus	Regular	1994–2002
Czech Republic	Regular	1999–2000
Estonia	Occasional	1998
France	Regular	1998–2002
Germany	a few	1995–2000
Greece	Regular	2000
Rep. of Ireland	Regular	1994–2000
Italy	Regular	2002
Luxembourg	a few	1999–2002
Malta	a few	1999–2002
Portugal	Regular	1990–2002
Slovenia	Regular	2000
Spain	Regular	1990–2000
UK	Regular	1990–2001
Data Source: BirdLife International (2004) <i>Birds in Europe: Population estimates, trends and conservation status</i> . Available at < http://www.birdlife.org/datazone/speciesfactsheet.php?id=6407#FurtherInfo > Accessed 25 July 2013.		

It has been documented that most of the Song Thrush populations from the northern and eastern parts of the European range migrate via three or four main routes in a south westerly direction (Ashmole M.J., 1962, Busse P & Maksalon L., 1986). There is no record of the Song Thrush ever breeding in Malta. Table 9 lists the live-capturing data for Song Thrush in Malta and Gozo during the autumn/winter seasons from 2006 to 2013. According to the *Carnet de Chasse* (CdC) data, the following number of Song Thrushes were captured in Malta during the autumn seasons of the years indicated.

Table 9 Carnet de Chasse live-capturing data for Song Thrush (2006–2013)

Species	2006	2007	2008	2009	2010	2011	2012	2013	Total	Average
Song Thrush	420	10	552	1,199	5,027	2,069	44 ¹	135	9,456	1,182

Source: *Carnet de Chasse* (CdC) data, Environment Protection Directorate (Malta Environment and Planning Authority)

¹ The 2012 and 2013 figures represent the SMS data for the period 20th October to 31st December 2012.

Based on current literature, it can be clearly deduced that the Song Thrush (*Turdus philomelos*) enjoys a Favourable Conservation throughout its range.

(i) Reference Population

Table 10 below shows the minimum number of breeding pairs of *Turdus philomelos*, together with other relevant information required for the calculation of “small numbers”.

Table 10 Minimum breeding population and mortality rate

	Song Thrush (<i>Turdus philomelos</i>)	Source
Minimum breeding population – pairs	10,830,100	Birdlife International Species Factsheet & <i>Atlante della Migrazione degli Uccelli in Italia</i> (Ringed Records)
Mortality rate – juveniles	56%	Kompendium der Vogel Mitteleuropas – KVM / Birds of the Western Palaearctic, British Trust for Ornithology (BTO)
Mortality rate - Adults	43.3%	KVM and BTO
Breeding rate (young per pair)	4	Birdlife International (2004)

In the absence of ring recoveries in Malta, the reference population of the Song Thrush shall thus be considered to be 10,830,100 breeding pairs (the entire minimum breeding population at EU level but, as shown below, the 1% threshold is subdivided by three given that Malta is located along the easternmost fringes of the central European flyway, which is one of three principal flyways).

(ii) Calculation of 1% mortality rate and “small numbers”

Song Thrush (*Turdus philomelos*)

Minimum breeding success 4 birds per pair (10,830,100 x 4) = 43,320,400

Mortality rate of 1st year birds (43,320,400 x 56%) = 24,259,424

Mortality rate of adults (21,660,200 x 43.3%) = 9,378,867

Total annual mortality (24,259,424 + 9,378,867) = 33,638,291

1% of total annual mortality (33,638,291 x 1%) = 336,383

Total potential Song Thrush harvest figure is: 336,383 = 112,128 (figure divided by three to account for the fact that only a fraction of the bird reference population actually fly over Malta).

(iii) Autumn seasonal bag limit in relation to “small numbers”

Based on the 1% mortality rate, the “small numbers” calculation with respect to the autumn 2014 proposed seasonal bag limit would amount to 112,128 Song Thrushes. However, it should be noted that the average number of Song Thrushes captured with clap-nets over an eight-year period (2006–2013) is less than 2,000 (Table 9). Therefore, it is proposed that the previous season’s bag limit of 5,000 Song Thrushes is retained for the 2014 autumn live-capturing season.

- Song Thrush – actual maximum bag limit of 165,963
- Song Thrush – **proposed maximum bag limit of 5,000**

(4) Consideration of Specific Conditions in the application of the derogation

(a) Judicious Use

Based on the available data, there is no evidence to suggest that the Golden Plover and Song Thrush would be threatened by trapping activity in Malta. The derogation being requested will provide a very limited number of trappers on registered sites, so as to practice recreational activity with a strictly selective method, using traditional manually operated clap-nets, identical to those approved in the Malta Accession Treaty.

Extract from the “Guidance document on Hunting under the Birds Directive”, p.59:

3.5.23 9(1) (c) A fundamental question arises as to whether hunting can constitute a "judicious use" for the purposes of Article 9(1)(c). This question has now been answered by the Court in Case C-182/02 Ligue pour la protection des oiseaux and others. Based on previous case-law¹²⁰, the Court stated that:

“It is clear from the foregoing that the hunting of wild birds for recreational purposes during the periods mentioned in Article 7(4) of the Directive may constitute a judicious use authorised by Article 9(1)(c) of that directive, as do the capture and sale of wild birds even outside the hunting season with a view to keeping them for use as live decoys or to using them for recreational purposes in fairs and markets.”

(b) Selective basis, methods used and the “satisfactory alternative solution”

The capture of this species will only be allowed through the means of traditional, manually operated clap-nets by licensed trappers. Moreover, it should be noted that there is no “satisfactory alternative solution” since this recreational activity, can in fact, only take place on the Maltese Islands during the autumn migration period of this species. Furthermore large scale capture is not possible on Malta for the reason that large numbers are very rare as can be attested by the recorded bags of the Carnet de Chasse (see above). Thomaidis in his 2010 report states: “All authors on Maltese ornithology agree that the islands are only stop-over site for the migratory birds, whose presence usually lasts only a few days at a time during two migratory periods of autumn and spring”.

(c) Strict Supervision

(i) Offences and Penalties

Part II of the regulations, provides for offences and penalties for those who fail to comply *“with any provisions of these regulations or with any order lawfully given in terms of the provisions of these regulations or who contravenes any restriction, prohibition or requirement by or under these regulations, or who conspires or attempts, or aids, abets, counsels or procures any other person to contravene the provisions of these regulations or to fail to comply with any such provisions (including any order lawfully given in terms of the provisions of these regulations) or to contravene any restriction, prohibition or requirement imposed by or under these regulations.”*

Enforcement practice shows that persons who intend to live-capture illegally are more likely to be detected and charged with illegal live-capture during the time of the derogation than at any other time during the year. Hence the very fact of the application of the derogation and

the associated increased enforcement serves as a powerful deterrent, also to persons who intend to capture protected birds.

The hunting organizations/associations in Malta have their own disciplinary regulations which promote programmes to prevent accidents to themselves and others and generally promote self-regulation and discipline. The organizations also actively promote responsible behaviour while members are participating in hunting/trapping activities. One of the more important provisions in these self-discipline regulations of the main officially recognized hunting/trapping associations is that if a member is found guilty by courts of law of having acted illegally or of criminal or unruly behaviour while hunting/trapping membership is immediately suspended (or terminated in very serious cases). In the case of termination of membership, the members are thus deprived of all privileges, including the important right of seeking possible renewal of the yearly hunting/trapping licence in the future.

(ii) Existing Enforcement Measures

The Administrative Law Enforcement Police (ALE Unit), in conjunction with officers from other sections in the Police Force, are directed to concentrate on enforcing the law during hunting/trapping season, as well as to prevent any illegal activities during such a season, thus giving importance to preventive measures. Normally the Unit engages from 17 to 25 officers on full-time enforcement duties during the season.

The Unit is supported by around four fully equipped Police vehicles which carry out patrols all over the islands, with concentrations in the main hunting/trapping areas. The Unit is normally beefed-up by around twenty-five beat officers from the various police stations around the islands, thus doubling the effectiveness of the Police Force dedicated full-time to such activities. The officers are deployed in full uniform and in marked vehicles so as to make them easily recognizable, giving importance to the preventive aspect of the enforcement measures. In addition, officers and vehicles are provided with all means of modern communication to allow for quick transmission of information between officers, HQ and patrols on land and sea. The minimum typical resources of the ALE during hunting/trapping season would normally comprise the following:

- Off-road vehicles 4
- Sea-craft 2
- Inspectors 1
- Sergeants 4
- Constables 17

As already stated, these are augmented, as need be, by police officers from the districts stations and other officers.

(5) An overview of the 2013 derogation for the live-capturing of Golden Plover and Song Thrush

(a) Issuance of Autumn 2013 live-capturing licenses

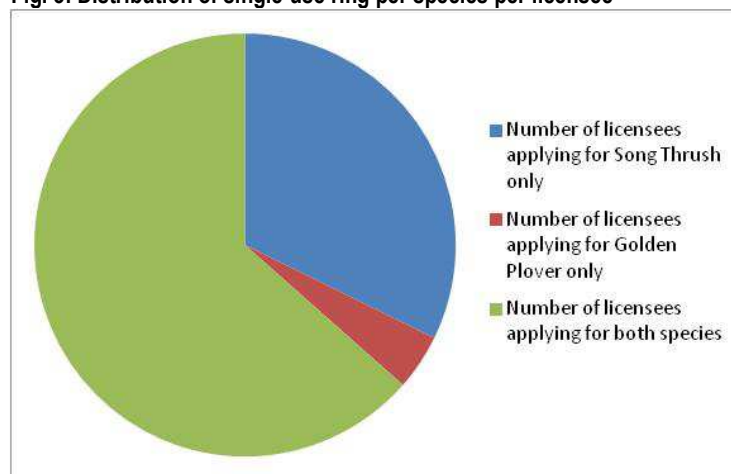
Between the 1 and the 15 October 2013, licensed live-capturers could apply for a Special Autumn 2013 Live-Capturing Licence through the submission of a duly filled-in application form against payment of ten Euros (€10). The applicant was required to declare the quantity of single use tags for the Golden Plover and Song Thrush that were to be used as live decoys. The total number of decoy birds that could be used was of a maximum of ten birds from the relevant species (any combination of the two species not exceeding ten) and the applicant was issued with the required number of tags against a payment of €0.50 per tag.

Altogether, 1,164 formal requests to obtain a Special Licence for Live-capturing in Autumn 2013 were submitted. All applications were considered valid since the applicants held a valid 2013 live-capturing licence upon the closing date and also fulfilled the rest of the application requirements and criteria (e.g. mobile number, registered site plans, etc.). Consequently, the Wild Birds Regulation Unit issued a total of 1,164 licences for the 2013 Autumn live-capturing season. All licences were collected to be potentially used during the applicable season (vide Table 11). The majority of applicants applied for both species (Fig. 3).

Table 11 Issuance of live-capturing licenses for Autumn 2013
(Data source: Wild Birds Regulation Unit)

Number of applicants	1,164
Number of non-eligible applicants	0
Number of licences issued	1,164
Number of uncollected licences	0
Number of licensed live-capturers	1,164
Application for Single-use Rings	
Number of licensees applying for Song Thrush only	370 (31.81%)
Number of licensees applying for Golden Plover only	49 (4.21%)
Number of licensees applying for both species	728 (62.59%)
Number of licensees not applying for single-use rings	17 (1.39%)

Fig. 3: Distribution of single-use ring per species per licensee



The Autumn 2013 Live-Capturing Licence set a number of conditions for the 2013 Live-capturing season, as provided in the Framework Regulations (SL 504.113) and the Notice of Derogation (SL 504.121). The Regulations also included *inter alia*, restrictions on the mesh size to be used (not less than 30mm x 30mm) and also a requirement that live decoys were to be tagged by means of a single use ring provided by the Wild Birds Regulation Unit. Moreover, at any one time a licensed person could only make use of a maximum of ten (10) specimens from the relevant species (any combination of both species up to ten) as live decoys on the live-capturing site. In addition to these conditions, licensed live-capturers were also to abide with the provisions laid down in the Conservation of Wild Birds Regulations (SL 504.71).

Licensed live-capturers were required to carry their 2013 Autumn licence for live-capturing and the *Carnet de Chasse* (February 2013–January 2014) at all times, together with the relevant registered site plans as approved by the Commissioner of Police. All registered site plans for the 2013–2014 autumn season were digitised using a GIS mapping software. A total of 1,283 sites were submitted by 1,164 licensees (1.003 sites per live-capturer in Malta and 1.468 sites per live-capturer in Gozo; a combined 1.1 sites per licensed live-capturer in Malta and Gozo). The number of applicants submitting more than one site (up to two) was higher in Gozo than in mainland Malta (Table 12).

Table 12 2013 Registered live-capturing sites
(Source: Wild Birds Regulation Unit)

2013 Live-capturing sites		
	Sites	Licensees
Malta	919	916
Gozo	364	248
Total	1,283	1,164

Licensees were also expected to immediately report their catches in real time through an SMS system and through their *Carnet de Chasse* before leaving the live-capturing site. They were also required to abide by the time restrictions and respect the seasonal bag limit per licence of 6 birds.

(b) SMS data

According to Conservation of Wild Birds (Framework for Allowing an Autumn Live-Capturing Season for Song Thrush and Golden Plover) Regulations, licensed live-capturers were obliged to immediately inform the Malta Environment and Planning Authority on the birds trapped via an SMS sent in real time. A blank SMS was to be sent on 99180355 when a Song Thrush was trapped and on 99180356 when a Golden Plover was trapped.

MEPA established a system for the daily logging of these SMS reports. 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, and (iii) seasonal bag limits per licence. Furthermore, MEPA deployed a filtering / verification system which ensured that the mobile phone numbers from which SMS reports were received actually corresponded to pre-registered mobile phone numbers of registered licence holders. The relevant data is presented in Table 13 and Figs. 4 and 5 below.

Table 13 Captured Song Thrush and Golden Plover per day of season (as reported through the SMS system)
(Data source: Malta Environment and Planning Authority)

Date	Golden Plover	Song Thrush	Date	Golden Plover	Song Thrush
20 October 2013	0	0	01 December 2013	8	2
21 October 2013	0	1	02 December 2013	1	0
22 October 2013	0	4	03 December 2013	1	1
23 October 2013	0	6	04 December 2013	3	0
24 October 2013	0	1	05 December 2013	3	4
25 October 2013	0	5	06 December 2013	1	2
26 October 2013	0	5	07 December 2013	6	2
27 October 2013	0	0	08 December 2013	5	6
28 October 2013	1	5	09 December 2013	6	1
30 October 2013	0	0	10 December 2013	4	3
31 October 2013	0	1	11 December 2013	10	2
01 November 2013	1	4	12 December 2013	8	1
02 November 2013	0	4	13 December 2013	4	3
03 November 2013	0	5	14 December 2013	2	1
04 November 2013	0	3	15 December 2013	2	1
05 November 2013	0	0	16 December 2013	1	0
06 November 2013	0	1	17 December 2013	0	1
07 November 2013	0	4	18 December 2013	1	1
08 November 2013	0	2	19 December 2013	5	0
09 November 2013	0	10	20 December 2013	3	0
10 November 2013	0	5	21 December 2013	2	0
11 November 2013	0	3	22 December 2013	7	2
12 November 2013	0	1	23 December 2013	6	0
13 November 2013	0	1	24 December 2013	3	0
14 November 2013	0	0	25 December 2013	7	1
15 November 2013	0	2	26 December 2013	3	1
16 November 2013	0	1	27 December 2013	4	0
17 November 2013	0	2	28 December 2013	4	1
18 November 2013	0	3	29 December 2013	7	1
19 November 2013	1	1	30 December 2013	4	0
20 November 2013	5	1	31 December 2013	9	0
21 November 2013	1	3	01 January 2014	5	n/a
22 November 2013	1	2	02 January 2014	8	n/a
23 November 2013	0	1	03 January 2014	6	n/a

24 December 2013	0	2	04 January 2014	8	n/a
25 November 2013	1	3	05 January 2014	4	n/a
26 November 2013	0	2	06 January 2014	7	n/a
26 November 2013	2	1	07 January 2014	4	n/a
27 November 2013	1	0	08 January 2014	6	n/a
28 November 2013	1	0	09 January 2014	8	n/a
29 November 2013	5	2	10 January 2014	2	n/a
30 November 2013	8	1			
			TOTALS	216	135

Fig. 4: Daily totals of Song Thrush captured during the autumn season (20/10/2013–31/12/2013) – as reported through the SMS system (Data source: Malta Environment and Planning Authority)

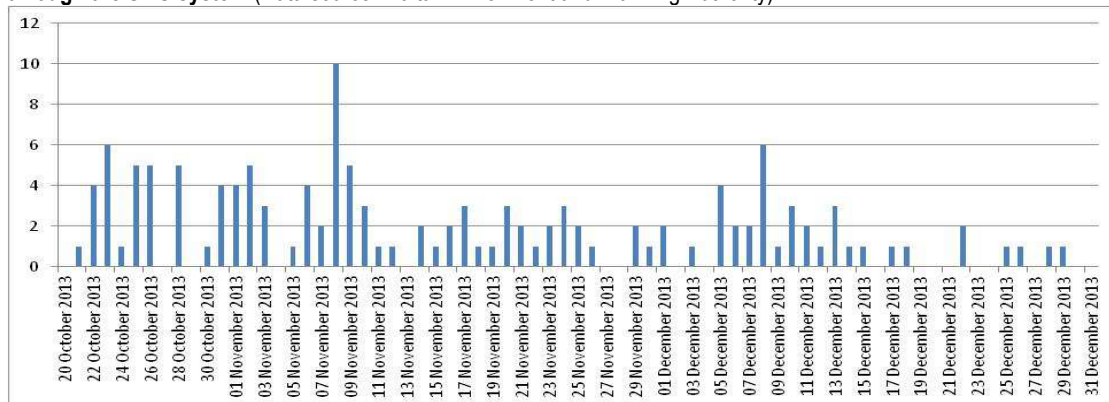
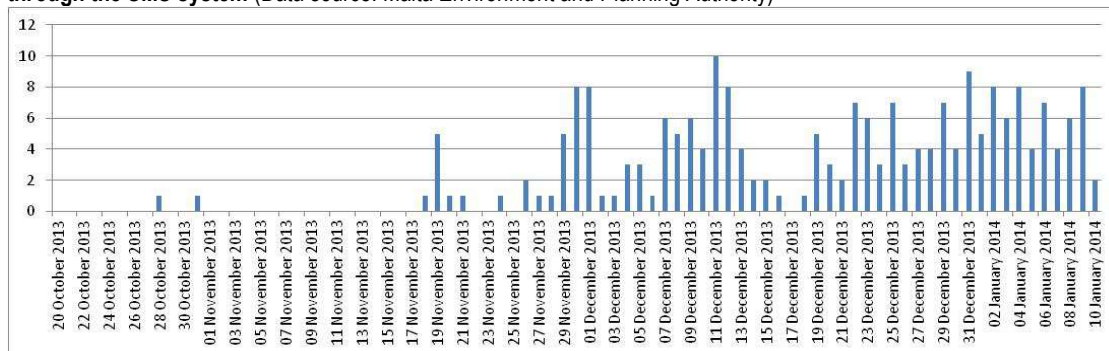


Fig. 5: Daily totals of Golden Plover captured during the autumn season (20/10/2013–10/01/2014) – as reported through the SMS system (Data source: Malta Environment and Planning Authority)



In neither case did the total number of birds captured exceed the national overall bag limits; on the contrary, the figures are substantially lower than these limits. In the case of Song Thrush, the total number of 135 birds declared captured amounts to 2.7% of the total bag limit permitted by law (5,000). In the case of Golden Plover, the total number of 216 live-captured birds equates to 18.78% of the limit permitted by law (1,150). As indicated in Table 14 below, the seasonal bag limit of six birds was reached by six licensed individuals.

Table 14 Number of live-capturers for every seasonal bag reported during the Autumn 2013 live-capturing season, based on SMS reports. (Data source: Malta Environment and Planning Authority)

Total number of birds declared caught throughout season	Number of licensed live-capturers
0	1020
1	53

2	34
3	20
4	18
5	13
.6	6
>6	0

The reasons for the relatively low quantities of captured birds appear to remain the same as those explained in Malta's report on the outcome of the 2012 live-capturing derogation for Golden Plover and Song Thrush. Relatively low bags are attributed to two principal non-biological factors. The first factor stems from the fact that once again only a minor proportion of all persons who obtained their special licence actually actively practiced live-capturing during the season. *Carnet de Chasse* data pertaining to the outcome of the 2012 live-capturing season extracted in 2013 supports this conclusion. According to the 2012 *Carnet de Chasse* data, the number of **active** live-capturers ranged from a minimum of 89 (or 8%) of the total special licence holders to a maximum of 256 (22%) licence holders on any given day. *Carnet de Chasse* data pertaining to the 2013 season will be extracted later during 2014; however given that the number and identity of special licence holders during 2012 corresponds almost precisely to the number and identity of licence holders in 2013, a reasonable assumption can be made that the low pattern of participation of live-capturers in the 2012 season has also been maintained in 2013. A second, linked factor stems from the fact that the live-capturing season coincided with the autumn hunting season during which both species could also be legally hunted, which resulted in a difficulty for live-capturers whose sites were located close to or, in most cases - within active hunting grounds, to bag birds that are scared by shots and disturbance caused by hunters in the vicinity. As was also the case in 2012, according to discussions held with the hunting organisations, this factor was particularly evident in areas with the highest density of active hunters and live-capturers, such as Miżieb.

The possibility of potential under-reporting was examined. However, no indications that any potentially significant under-reporting took place were detected by the authorities. One factor, in particular, supports this conclusion. The legal deterrents that were in place at the time of the derogation in relation to potential non-declaration, by far outweigh any hypothetical benefits to individual live-capturers that may have arisen as a result of under-reporting. Nonetheless, in order to strengthen this deterrent even further, the authorities have since October 2013 introduced a new system whereby any detected non-reporting would incur an automatic fine of €50 per undeclared bird, up to a maximum of €250, and where the number of undeclared birds exceeds five, the offender would be subject to court action and substantially increased penalties, including, in the case of a first time offence, a minimum fine of €500, confiscation, and suspension of licence; and, in the case of second or subsequent offences – a minimum fine of €1000, confiscation, suspension of licence and / or imprisonment for up to 2 years. This assertion is further corroborated by the fact that, despite the increased intensity of field inspections, indicating that virtually every live-capturer was inspected, sometimes on more than one occasion throughout the season, no breaches related to non-reporting of catches were disclosed during the derogation period (see Tables 13 and 14).

It should be noted that scientific data on the total extent of migratory influxes of Golden Plover and Song Thrush is not available and hence it was not possible to directly correlate the extent of such influx with the bags reported. A possibility of commissioning an independent ornithological study of migratory influxes for these two species in the Autumn was thus considered. Following an analysis of the outcome of the 2013–2014 live capturing derogation for Golden Plover and Song Thrush presented in this report, the Government has concluded that the study would not be viable, because unlike the study of Turtle Dove and

Quail in spring, which is conducted during the period when only hunting is allowed for the two species, the study of Song Thrush and Golden Plover in Autumn cannot be used directly as an additional verification mechanism for the live-capturing season because hunting for these two species is also permitted during the same period.

Moreover, even if the total bag statistics for these species hunted and trapped were to be taken into consideration in any potential correlation with the findings of such a study, such an analysis would be of very limited value because of the considerable time lag required for the extraction of previous year season's *Carnet de Chasse* (autumn hunting) data, with any hypothetical benefits arising as a result of such comparison being by far outweighed by the financial and administrative costs associated with the study's implementation. Taking the above into consideration, the Maltese authorities are confident that the introduction of more stringent and effective penalties, coupled with more effective enforcement coordination in the field will further boost the credibility of the reporting system during an autumn live-capturing derogation, without the need for such a study.

(c) Strengthening Malta's legal regime to deter illegalities

The Conservation of Wild Birds Regulations (SL 504.71), which is the principal national legal instrument to implement the provisions of the EC Birds Directive and the Bern Convention in Malta, has been amended on 25 October 2013 to strengthen the legal deterrent against bird-related crime and to render the present system of dealing with certain types of offences much more effective. The amendments, *inter alia*, resulted in a considerable increase in the penalties for all types of offences, an inclusion of a number of minor offences that are subject to swift automatic administrative fines, and the introduction of a probationary system and possibility of mandatory community service as part of the range of applicable penalties.

Offences involving illegal targeting of wild birds incur the harshest penalties, which include imprisonment of up to two years, a fine of up to €15,000 confiscation of the *corpus delicti*, revocation of hunting/live-capturing licence for life and the possibility of mandatory community service. These penalties are amongst the harshest in Europe. The penalties for bird-related crime have been increased as follows (Table 15):

Table 15 Increased penalties

Offences	Pre Oct 2013 min penalty	Pre Oct 2013 max penalty	New min penalty	New max penalty	% increase min	% increase max
1st conviction under 27 (2): fine	€239.94	€4,658.75	€500	€5,000	108	7
1st conviction under 27 (2): suspension of licence	1 year	2 years	2 years	5 years	100	150
subsequent conviction under 27 (2): fine	€465.87	€9,317.49	€1,000	€10,000	115	7
subsequent conviction under 27 (2): imprisonment	2 months	2 years	6 months	2 years	200	0
1st offence under 27 (3): fine	€239.94	€2,329.37	€500	€2,500	108	7
subsequent conviction under 27 (3): fine	€465.87	€4,658.75	€1000	€5,000	115	7
subsequent conviction under 27 (3): suspension of	1 year	3 years	2 years	5 years	100	67

licence						
Offences without licence (2nd proviso to 27(3)): fine	€6,988.12	€13,976.24	€7,000	€15,000	0.2	7

A new Schedule VIII has been added to the Conservation of Wild Birds Regulations, listing minor offences that are now subject to administrative fines, provided that such offences are not committed in the presence of any aggravating factors or are accompanied by other offences, in which case the offenders will be charged before Court of Magistrates and upon conviction will be liable to penalties stipulated under Regulation 27 (2) and (3).

Offenders served with an administrative fine will have recourse to appeal before the Administrative Review Tribunal. The new amendments also presume that unless any outstanding fines have been paid, the licence will not be renewed. These minor offences are summarised in Table 16 below, together with the number of fines per category during the period 20 October 2013 – 10 January 2014.

Table 16: Offences subject to automatic (administrative) fines

Offence	Fine (€)	Number of administrative fines issued related to live-capturing (20/10/2013 – 10/01/2014)
Use of any electric or electronic devices, bird callers	250 + confiscation	14
Use of any kind of portable cage trap smaller than 60cm × 60cm × 60 cm	250 + confiscation	0
Failure to return completed license to WBRU within 10 days from the closure of the autumn season	50 + 20 for every week of late return up to maximum of 300	N/A
Failure to declare every bird hunted or taken	50 per undeclared bird up to max 250; wherever more than 5 birds are not declared – prosecution before court	0
Failure to pay / renew license unless handed to WBRU indefinitely	250	N/A
Trespassing on clearly marked private property	250	N/A
Hunting or taking without valid ID / license documentation and failure to provide such documentation to police within 2 days	250	0
Carrying an uncovered firearm within 200 metres from inhabited area, but not less than 150 metres	250	N/A
Possession of firearm with magazine capable of holding more than 2 shots	250	N/A
Total		14

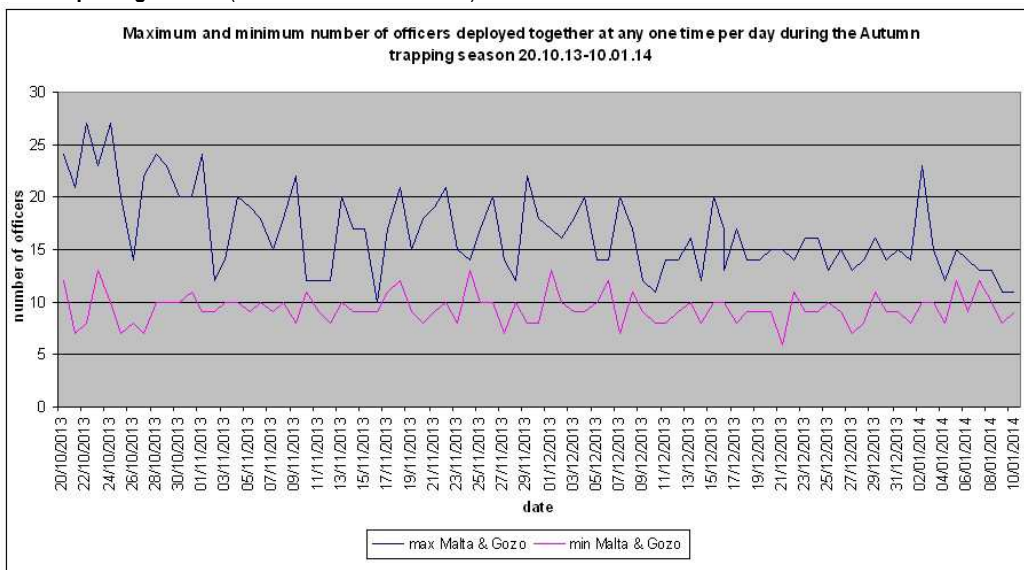
(d) Enforcement efforts

The Framework Regulations stipulate that a minimum of seven enforcement officers for every 1,000 licensed live-capturers are required to be deployed. A total of 1,164 licences for live capturing were issued in 2013. Therefore, a total of 8 enforcement personnel were needed in accordance with national legislation to supervise the derogation period (2 in Gozo and 6 in Malta, based on 248 licensees in Gozo and 916 licensees in Malta). However, the Government opted to increase enforcement efforts beyond this legal requirement, in order to ensure the strict supervision of the live-capturing season. The full complement of the Administrative Law Enforcement (ALE) section of the Malta Police Force, with additional support from divisional (district) police forces, conducted regular patrols and spot-checks throughout the derogation period.

In accordance with the requirements of the Birds Directive, efforts were made to ensure the strict supervision and monitoring of all live-capturing activities during the derogation period. Furthermore, the Malta Ornis Committee strongly advocated the application of a zero-tolerance policy in the case of any illegalities detected, as a necessary condition for the opening of the autumn live-capturing season.

During the Autumn 2013 live-capturing season (20 October 2013 to 10 January 2014), the Police maintained an average daily field deployment that ranged between a maximum of 17 officers and a minimum of 9 officers **in the field at any point in time** from 05:00hrs to 21:30hrs, effectively covering peak trapping activity times. The following graph (Fig. 6) represents the maximum and minimum number of police officers deployed in the field at any point in time during the time period indicated above on each day of the live-capturing Autumn season. The numbers shown below indicate police field deployment only and exclude all other non-field Police staff, and staff from entities other than the Police, such as officers of the Specialist Enforcement Branch of the Wild Birds Regulation Unit and the Armed Forces of Malta.

Fig. 6: Maximum and minimum number of officers deployed together at any one time during the Autumn live-capturing season (Data source: Malta Police)



During the period of the derogation these officers carried out 2,686 inspections (2,244 in Malta and 442 in Gozo). Further inspections were also carried out after the closure of the autumn live-capturing season. During inspections, police forces were responsible for

ensuring the lawful operation of live-capturing practices. Police officers were, *inter alia*, instructed to:

- Verify that live-capturers were in possession of all requisite documents;
- Verify that the *Carnet de Chasse* records were in accordance with regulations;
- Verify that the live-capturing site in use was the one that had been registered with the Commissioner of Police by the licensee;
- Ensure compliance with the provisions of the Conservation of Wild Birds Regulations (SL 504.71);
- Ensure that no species, other than Song Thrush and/or Golden Plover, were being targeted; and
- Ensure compliance with bag limits and time restrictions.

In order to facilitate the conduct of their duties, enforcement officers had 10 police vehicles at their disposal (in addition to vehicles used by mobile squads and district police units). All of these 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. This also meant that ALE officers could be contacted rapidly by the Police when required to follow up on reports of illegalities in specific sites. 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 which facilitated the immediate identification of any live-capturers not in possession of the requisite Autumn live-capturing licence.

(e) Infringements detected

During the inspections carried out by the police throughout the derogation period, a total of 54 live-capturing-related infringements were detected, resulting in prosecution and charges, the nature of which is outlined in Table 17 below. Court action is in the process of being taken against the various offenders. By comparison, the total number of trapping-related offences disclosed during the same period in 2012, against which legal action was instituted, amounted to 200 cases, of which 133 cases related to illegal trapping for protected birds.

Table 17 Infringements detected during the 2013 Autumn Live-capturing season (2013/2014)
(Data source: Malta Police Force)

Offence category	Cases in Malta	Cases in Gozo	Total number of cases
Trapping for protected birds (eg. Finches)	13	5	18
Use of illegal means (eg. pre-recorded bird calls; decoys of protected species; vertical nets; cage-traps)	10	4	14
Trapping using nets of mesh size less than 30mm × 30mm	6	4	10
Trapping without licence	7	5	12
Total number of disclosed trapping-related offences	36	18	54

(6) Conclusion

This report provides a summary of technical considerations for review by the Malta Ornis Committee, in conjunction with the potential application of a derogation under Article 9 of the EC Birds Directive, concerning the opening of an autumn 2014 season for the live-capturing of Golden Plover (*Pluvialis apricaria*) and Song Thrush (*Turdus philomelos*). The legal basis for the potential application of a derogation is provided by Article 9(1)(c) of the Birds Directive, which allows Member States to derogate from the provisions of Articles 5, 6, 7 and 8, where there is no other satisfactory solution, to permit, under strictly supervised conditions and on a selective basis, the capture, keeping or other judicious use of certain birds in small numbers.

The conservation status of the Golden Plover and the Song Thrush has been reviewed on the basis of current scientific literature, which also provides details of population size, mortality rates and migratory routes. An assessment of the Golden Plover at sub-species level is also provided. It has been shown that Golden Plovers migrating over the Maltese Islands are the sub-species *Pluvialis apricaria altifrons* from the Northeast European (or West Continental) population and that the moderate historical decline refers to the nominate *P. apricaria apricaria*, which does not pass through Malta. Both *Pluvialis apricaria altifrons* and *Turdus philomelos* have a Favourable Conservation Status at the Global, Pan-European and EU levels.

It should be noted that the national bag limit for Golden Plover as currently established in the 2012 Framework Regulations (SL 504.113) is 1,150 individuals. However, this appears to have included the entire EU population, including populations of the nominate *P. apricaria apricaria* which does not migrate over Malta. Considering that the correct reference population is the EU component of the West Continental (Northeast European) population of *Pluvialis apricaria altifrons* (Finnish and Swedish populations), the 1% threshold and hence the national bag limit has been revised accordingly. The revised maximum bag limit of 738 Golden Plovers is 35.8% less than that established in the current Framework Regulations (n=1,150) but given that the revised bag limit represents the correct reference population, such revision is deemed necessary and justified.

It is recommended that the general conditions stipulated by SL 504.113 [Legal Notice 303 - Conservation of Wild Birds (Framework for Allowing a Derogation Opening an Autumn Live-Capturing Season for Song Thrush and Golden Plover) Regulations, 2012] and SL 504.121 [Legal Notice 304 of 2012 - Conservation of Wild Birds (Declaration on a Derogation for a 2013 Autumn Live-Capturing Season) Regulations, 2013] should be retained. However, apart from the revised bag limit for Golden Plover, the following amendments are also proposed to:

- align the live-capturing season for Golden Plover with that of Song Thrush, from 20 October to 31 December 2014, both dates included;
- address a legal lacuna in terms of net size, thus establishing a maximum limit of 37.81m² per net as specified in Regulation 8 of the Principal Regulations.

Based on this review, the Wild Birds Regulation Unit (WBRU) recommends the opening of an autumn 2014 season for Golden Plover and Song Thrush as follows:

- Song Thrush: from 20 October 2014 to 31 December 2014 (National Bag Limit: 5,000)
- Golden Plover: from 20 October 2014 to 31 December 2014 (National Bag Limit: 700)

