

**Report on the Outcome of the  
2013 Autumn live-capturing Season  
for Golden Plover and Song Thrush  
in Malta**

**March 2014**

**Wild Birds Regulation Unit**

**Ministry for Sustainable Development, the Environment and  
Climate Change**

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## Enclosures

Annex I: Licence for the Autumn 2013 live-capturing season

## Key to conservation status codes

Category	European species of global conservation concern	Conservation status in Europe	Global population or range concentrated in Europe
<b>SPEC 1</b>	Yes	–	–
<b>SPEC 2</b>	No	Unfavourable	Yes
<b>SPEC 3</b>	No	Unfavourable	No
<b>Non-SPEC<sup>E</sup></b>	No	Favourable	Yes
<b>Non-SPEC</b>	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:	
<b>Critically Endangered (CR)</b>	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).
<b>Endangered (EN)</b>	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).
<b>Vulnerable (V)</b>	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).
<b>Declining (D)</b>	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 <b>20%</b> 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 <b>10%</b> is comparable with this approach.]
<b>Rare (R)</b>	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"> <li>• break-up of social structure;</li> <li>• loss of genetic diversity;</li> <li>• large-scale population fluctuations and catastrophic chance events;</li> <li>• existing or potential exploitation, persecution or disturbance by humans.</li> </ul>
<b>Depleted (H)</b>	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.
<b>Localised (L)</b>	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"> <li>• large-scale population fluctuations and catastrophic chance events;</li> <li>• existing or potential exploitation, persecution and disturbance by humans.</li> </ul>
<b>Secure (S)</b>	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:	
<b>Data Deficient (DD)</b>	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).
<b>Not evaluated (NE)</b>	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)

## 1. Introduction

1.1 This report has been prepared in response to the request by the European Commission, made during the 2013 Package Meeting on environment issues, held in Malta on 7 November 2013. The Commission requested a full report on the outcome of the derogation allowing a 2013 / 2014 autumn live-capturing season in Malta. This report is being submitted to the Commission, in addition to Malta's formal report submitted annually pursuant to Malta's 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 the Birds Directive). In this regard, this report will consider various relevant aspects of the application of this derogation, including:

- (i) an assessment of conservation status of the two relevant species (Song Thrush (*Turdus philomelos*) and Golden Plover (*Pluvialis apricaria s.l.*);
- (ii) the directly-reported catches by the licensed live-capturers;
- (iii) the enforcement efforts in place to ensure the strict supervision of live-capturing during the season;
- (iv) the illegalities detected and corresponding enforcement action taken; and,
- (v) the legal and other management aspects of relevance.

## 2. Legal and policy basis for the application of a derogation permitting an autumn live-capturing season in 2013 / 2014

2.1 Reference is hereby made to Article 9(1) of the Birds Directive, which 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 it 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*<sup>1</sup>.

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 2013 Autumn live-capturing season was governed by the provisions of the following national Regulations:

- The Conservation of Wild Birds Regulations (SL 504.71<sup>2</sup>).
- The Conservation of Wild Birds (Framework for Allowing an Autumn Live-Capturing Season for Song Thrush and Golden Plover) Regulations (SL 504.113<sup>3</sup>), hereafter referred to as the 'Framework Regulations'.
- The Conservation of Wild Birds (Declaration on a Derogation for a 2013 Autumn Live-Capturing Season for Song Thrush and Golden Plover) Regulations (SL 504.121<sup>4</sup>).
- Government Notice No. 1037 of 2012 indicating the *Xaghri* areas where live-capturing is not allowed published in the Government Gazette No. 18,978 of 18 October 2012.

2.7 The Framework Regulations empower the Minister, provided that there is no satisfactory solution in terms of Article 9(1) of the Birds Directive, to open an Autumn live-capturing season for Golden Plover and Song Thrush by means of a notice in the Government Gazette. According to these regulations an Autumn live-capturing season may only be opened between October of that year and January of the following year. The Framework Regulations also establish that, should the Autumn live-capturing season be declared open, a ceiling limit is set for the duration of the season of not more than 83 days, a maximum bag limit for any season of 5,000 Song Thrush and 1,150 Golden Plover, and a fee not exceeding €50 for the issuance of every special licence. The Framework Regulations further provide the criteria for eligibility for a special licence for live-capturing and set a procedure for the application stage and the conditions that are to be included in the licence issued. These Regulations also established the means of capture, that is, by means of traditional clap nets on sites that had been previously registered with the Commissioner of Police and which live-capturing sites could not be situated in *Xaghri*<sup>5</sup> areas within Natura 2000 sites. Annex I to this document consists of a

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

<sup>2</sup> SL 504.71 available at: <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=11548&l=1>

<sup>3</sup> SL 504.113 available at: <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=11936&l=1>

<sup>4</sup> SL 504.121 available at: <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=12097&l=1>

<sup>5</sup> "xaghri" means the natural habitat types bearing codes 1240, 3140, 3170, 5330, 5410, 5420, 5430, 6220 and 8210 as listed in Schedule I of the Flora, Fauna and Natural Habitats Protection Regulations, and includes those areas, within Natura 2000 sites, declared by the Director of Environment from time to time and which are delineated in the site plans issued for this purpose by the Wild Birds Regulation Unit;

specimen of the licence issued for the 2013 Autumn live-capturing season and includes conditions as reflected in the aforementioned Framework Regulations.

- 2.8 During its meeting of 20 August 2013, the Malta Ornis Committee discussed the possibility of an Autumn 2013–2014 live-capturing season following a presentation by the Wild Birds Regulation Unit on the legal, technical and scientific considerations in conjunction with the potential application of an Autumn 2013 derogation for the live-capturing of Golden Plover and Song Thrush. The presentation also provided an update on the conservation status of the two species in question based on the latest (2012) available data published by the European Bird Census Council. .
- 2.9 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 a season to permit the limited live-capturing of Song Thrush and Golden Plover under strictly supervised conditions for the following dates as established by Regulation 3 of the Conservation of Wild Birds (Declaration on a Derogation for a 2013 Autumn Live-Capturing Season for Song Thrush and Golden Plover) Regulations, 2013 (SL 504.121):
- Song Thrush: 20 October 2013 to 31 December 2013
  - Golden Plover : 20 October 2013 to 10 January 2014

These dates were established on the basis of historic *Carnet de Chasse* data pertaining to the two species, which shows a relatively consistent migratory pattern of these species over Malta, whereby the presence of Song Thrush tends to peak in mid-October and trail off at the end of December, whilst the presence of Golden Plover tends to peak at the end of October / beginning of November and trail off at the second / third week of January of the following year.

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

- 3.1 Taking into consideration the provisions of the above-cited Article 9(1) (c) of the Birds Directive, the Government assessed available scientific data regarding the conservation status of the two species in question, that is, Song Thrush and Golden Plover. In line with the “judicious use” requirement, this 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 2013–2014 live-capturing season. Below is an assessment of the conservation status of the two species concerned based on the latest available literature and scientific data.

#### *Song Thrush*

- 3.2 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 in all of Europe and the northern part of Asia eastwards of Lake Baikal. The northern populations are migratory and winter in western and southern Europe. The European population numbers 20–36 million, including the large Russian population of 6–10 million (Birdlife International 2004 A).<sup>6</sup>

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<sup>6</sup> Birds in Europe: Population estimates, trends and conservation status (*BirdLife International 2004*).

- 3.3 It has been documented that most Song Thrush 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*<sup>7</sup> 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. The geographic distribution of the ringed Song Thrush recorded as foreign recoveries in Italy over a number of years and the close proximity of Italy (especially Sicily) and Malta affords strong confidence levels to the assumption that the conclusions reached above can also be applied to the Maltese situation.
- 3.4 At the European level,<sup>8</sup> the species has a large range, with an estimated global extent of occurrence of 10,000,000 km<sup>2</sup>. It has a large global population, estimated at 40,000,000–71,000,000 individuals in Europe (Birdlife International in prep.) The species is not believed to approach thresholds for the population decline criterion of the IUCN's Red List. For these reasons, the species is evaluated as 'Least Concern'. According to the latest *Birdlife Species Factsheet*<sup>9</sup> 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 also evaluates this species as of 'Least Concern'. Studies on the topic confirm that birds migrate southward from European countries through various migratory routes. It has been documented that most Song Thrush from the northern and eastern parts of Europe migrate via three of four main routes in a south westerly direction (Ashmore M.J., 1962; Busse P. & Maksalon L., 1986). There is no record of the Song Thrush ever breeding in Malta.
- 3.5 The latest dataset available from the European Bird Council Census<sup>10</sup> at the time the conservation status of the Song Thrush (*Turdus philomelos*) was assessed (August 2013), lists this species' trend classification as **Moderate Increase** for both its long-term (1980–2010) and short-term (1990–2010) trends (EBCC, 2012). The EBCC 2013<sup>11</sup> update, published just after the closure of the autumn 2013/2014 live-capturing season for Golden Plover and Song Thrush, specifies that both the long-term trend and the short-term trend for this species remained within the Moderate Increase classification.

#### *Golden Plover*

- 3.6 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 Plover<sup>12</sup>, 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 plovers were known to have been bagged annually in France and over 32,000 in Portugal<sup>13</sup>.

<sup>7</sup> *Atlante della Migrazione degli Uccelli in Italia*, Vol 2-190-236, p. 235.

<sup>8</sup> According to Avibirds.com - *European Bird Guide On Line*.

<sup>9</sup> <http://www.birdlife.org/datazone/speciesfactsheet.php?id=6407>

<sup>10</sup> *Population Trends of Common European Breeding Birds 2012*. Available at: <http://www.ebcc.info/wpimages/video/Leaflet2012.pdf>

<sup>11</sup> *Population Trends of Common European Breeding Birds 2013*. Available at: <http://www.ebcc.info/wpimages/video/Leaflet2013.pdf>

<sup>12</sup> European Union Management Plan for Golden Plover 2009 – 2011, European Commission.

<sup>13</sup> European Union Management Plan for Golden Plover 2009 – 2011, Table 4, page 17.

The species has a large range<sup>14</sup>, with an estimated global extent of occurrence of 1,000,000–10,000,000 km<sup>2</sup>. It has a large global population, including estimated 1,600,000–2,000,000 individuals in Europe (Wetlands International 2006<sup>15</sup>). The species is not believed to approach thresholds for the population decline criterion of the IUCN Red List. For these reasons, the species is evaluated as Least Concern.

- 3.7 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 a, b)”.
- 3.8 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’. Cramp and Simmons (1983)<sup>16</sup> state that the Golden Plover is thought to include two sub-species *Pluvialis apricaria* (nominata) breeding from Ireland and Britain to the Baltic States and *Pluvialis altifrons* breeding at higher altitudes from Iceland to north-central Siberia. The species is listed as secure at pan-European level according to Birdlife International (2004) and is Stable within the territory of the European Union as shown in Table 1. According to BirdLife International (2004) a change not more than ±10% is considered to be Stable. 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).

**Table 1: Golden Plover (*Pluvialis apricaria* s.l.) EU breeding population**

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	-	-	-
Latvia	350	450	Stable	0	19	-	-	-
Lithuania	40	50	Decline	0	19	-8	-10	-9
Rep. Ireland	200	400	Decline	30	49	-98	-196	-147
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%
				<b>Trend (EU Population)</b>		<b>Stable</b>	<b>Stable</b>	<b>Stable</b>

Source: BirdLife International (2004: 113)

<sup>14</sup> According to Avibirds.com - *European Bird Guide On Line*.

<sup>15</sup> Wetlands International (2006). - Waterbird Population Estimates – Fourth Edition. Wetlands International, Wageningen, the Netherlands.

<sup>16</sup> 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.

- 3.9 According to 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*”.
- 3.10 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.
- 3.11 The Italian publication *Atlante della Migrazione degli Uccelli in Italia* states that “*Golden Plover recovered in Italy originate from relatively small number of countries: among these, the UK to the west, northwards till Finland, and eastward in Bulgaria, by far the most represented is the Netherlands, with the vast majority of ringing data. The few autumn recoveries are distributed across central and southern Italy, till western Sicily, these include one direct observation from Finland*”.
- 3.12 IUCN data from Italy (see the following link: <http://tinyuri.com/gp-iucnit>) indicates that “*Most authors recognize these two subspecies [P. a. apricaria and P. a. altifrons] on the basis of some differences in reproductive plumage. However, there is no clear evidence of validity, since in some parts the distribution range these characters seem to be clinical, both latitudinal and altitudinal. P.a apricaria has also been included among the Italian subspecies on account of uncertain systematic position and identification difficulties.*” The same publication indicates that “*The Italian population seems to be composed mainly of individuals of altifrons from Scandinavia and Russia. The presence of P.a. apricaria must still be ascertained.*” Since the taxonomic validity of the subspecies *P.a.altifrons* is accepted in Italy, it can be maintained that the same sub-species is also the one found in Malta. The European Union Management Plan also states at Page 8:

“*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.*”

- 3.13 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 (Golden Plover))<sup>17</sup>.
- 3.14 Scott (2002), Second Conservation Status Report, AEWA, 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.
- 3.15 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.
- 3.16 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. The relatively small Faeroese population is declining. Approximately half of the Northeast European population (*altifrons*) 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. There is no record of the Golden Plover ever breeding in Malta.
- 3.17 The latest dataset available from the European Bird Council Census<sup>18</sup> at the time the conservation status of the Golden Plover (*Pluvialis apricaria s.l.*) was assessed (August 2013), lists this species’ trend classification as **Stable** for both its long-term (1980–2010) and short-term (1990–2010) trends (EBCC, 2012). The EBCC 2013<sup>19</sup>

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<sup>17</sup>[http://ec.europa.eu/environment/nature/conservation/wildbirds/hunting/docs/Golden%20Plover%20EU\\_MP.pdf](http://ec.europa.eu/environment/nature/conservation/wildbirds/hunting/docs/Golden%20Plover%20EU_MP.pdf).

<sup>18</sup> *Population Trends of Common European Breeding Birds 2012*. Available at: <http://www.ebcc.info/wpimages/video/Leaflet2012.pdf>

<sup>19</sup> *Population Trends of Common European Breeding Birds 2013*. Available at: <http://www.ebcc.info/wpimages/video/Leaflet2013.pdf>

update, published just after the closure of the autumn 2013/2014 live-capturing season for Golden Plover and Song Thrush, specifies that whilst the long-term trend remained Stable, the short-term trend changed from Stable to a Moderate Increase (Table 2). The overall change between 2010 (EBCC, 2012) and 2011 (EBCC, 2013) 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 s.l.</i>	Stable	Moderate increase

Source: EBCC (2013)<sup>20</sup>

**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 s.l.</i>	-8	0.9937	-0.63%	61	1.0114	1.14%	oth
2011	<i>Pluvialis apricaria s.l.</i>	24	0.9979	-0.21%	121	1.0174	1.74%	oth
Overall change (2010–2011)				<b>+0.42%</b>			<b>+0.60%</b>	

Data sources: EBCC (2012, 2013)<sup>21</sup>

- 3.18 On the basis of this evaluation, the key conclusions that may be drawn from relevant and currently available scientific data, 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 according to the latest *Birdlife Species Factsheet*<sup>22</sup> 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 by Birdlife as species of ‘Least Concern’.

#### 4. Determination of the 2013 Autumn live-capturing bag limit

- 4.1 The methodology used by the Maltese authorities to establish the bag limits provided for in LN280/13 ensures that the “small numbers” requirement under the Birds Directive is fulfilled. This calculation was based on the methodology recommended in the Commission’s *Guide to Sustainable Hunting under the Birds Directive*, which in turn was endorsed by the CJEU. Therefore, the established bag limits reflect the

<sup>20</sup> <http://www.ebcc.info/wpimages/video/Leaflet2013.pdf>

<sup>21</sup> <http://www.ebcc.info/trends2012.html>, <http://www.ebcc.info/trends2013.html>, <http://www.ebcc.info/wpimages/video/Leaflet2012.pdf> and <http://www.ebcc.info/wpimages/video/Leaflet2013.pdf>

<sup>22</sup> <http://www.birdlife.org/datazone/speciesfactsheet.php?id=6407>

figure of 1% of the total annual mortality rate of the relevant population/s concerned.<sup>23</sup>

- 4.2 According to the Guidelines, for migratory species such as Song Thrush and 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.*” The following sections list a range of factors which were taken into account by the competent authorities when establishing the bag limits in relation to the relevant species. In the absence of ring recoveries for either of the two species in Malta, the reference population was further subdivided by three to account for the fact that Malta lies along the eastern fringes of the Central European flyway, which is one of three principal flyways. Tables 4 and 5 list the breeding populations of Song Thrush (*Turdus philomelos*) and Golden Plover (*Pluvialis apricaria s.l.*) within the territory of the European Union.

**Table 4 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
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
<b>Total Minimum Breeding Pairs</b>				<b>10,830,100</b>	
Data Source: BirdLife International (2004) <i>Birds in Europe: Population estimates, trends and conservation status</i> . Available at < <a href="http://www.birdlife.org/datazone/speciesfactsheet.php?id=6407#FurtherInfo">http://www.birdlife.org/datazone/speciesfactsheet.php?id=6407#FurtherInfo</a> > Accessed 25 July 2013.					

**Table 5 Golden Plover (*Pluvialis apricaria s.l.*) Breeding Population Estimates within EU territory**

1998			1980–2003		
Country	Breeding population (thousand pairs)	Breeding population (pairs)	Country	Breeding population (pairs)	Years
Belgium	(+)	(<10)			
Denmark	+	<10	Denmark	4–5	2001
Estonia	1	1,000	Estonia	3,000–5,000	1998
Finland	50–80	50,000–80,000	Finland	40,000–80,000	1998–2002
Germany	0.025–0.03	25–30	Germany	22–22	1995–1999

<sup>23</sup> Vide Case C-60/05 WWF Italia and others v. Regione Lombardia [2006] ECR I- 5102, paragraph 26; Case C-79/03 Commission v Spain [2004] ECR I-11619, paragraph 36, and Case C-344/03 Commission v Finland [2005] ECR I-11033, paragraph 53.

Latvia	0.3–0.4	300–400	Latvia	350–450	1990–2000
Lithuania	0.06-0.15	60–150	Lithuania	40–50	1999–2001
Netherlands	(+)	(<10)			
Republic of Ireland	0.4	400	Republic of Ireland	200–400	1988–1991
Sweden	50–75	50,000–75,000	Sweden	50,000–90,000	1999–2000
UK	23	23,000	UK	38,400–59,400	1980–2000
<b>Total</b>		<b>124,785–155580</b>	<b>Total</b>	<b>132,016–235,327</b>	
+ = <10 pairs; in brackets = do not breed annually			() = Poorly known, with no quantitative data available		
Data Source: Table 8, (p.405) in Byrkjedal I & Thompson DBA (1998) <i>Tundra Plovers</i> . London: T & AD Poyser Ltd.			Data Source: BirdLife International (2004) <i>Birds in Europe: Population estimates, trends and conservation status</i> (p.113)		

### *Song Thrush*

- 4.3 For the purposes of calculating the “small number” in relation to the relevant “population concerned” (the reference population), Table 6 below shows the minimum number of breeding pairs of Song Thrush together with other relevant information:

**Table 6 Parameters taken into consideration in estimating Song Thrush “small number”**

Parameter	Numbers of Song Thrush	Source
Minimum breeding population (pairs)	10,830,100	Birdlife International Species Factsheet
Mortality rate – juveniles	56%	Kompendium der Vogel Mitteleuropas (KVM) and Birds Western Palearctic (BWP); as quoted in “Guide to sustainable hunting under the Birds Directive” – European Commission data from different European countries taken as an average
Mortality rate – adults	43.3%	
Breeding rate (young per pair)	4	Song Thrush: Birdlife International (2004)

### **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 1<sup>st</sup> 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

- 4.4 The “population concerned” of Song Thrush was considered to be 10,830,000 minimum breeding pairs. On this basis, the 1% annual mortality rate was estimated to be 336,383, which was subsequently further divided by three (3) given that Malta is situated alongside one of the three principal migratory routes. This resulted in 112,128 Song Thrush. In order to reduce this bag limit further, and taking the above

into consideration, the overall seasonal Song Thrush bag limit for the autumn 2013 live-capturing season was established in legislation at 5,000, the same as for the previous (2012) season. According to the estimates of the Maltese authorities, such a bag limit should ensure that the conservation status of Song Thrush is not threatened by the application of this derogation in Malta.

#### *Golden Plover*

- 4.5 For the purposes of calculating the “small number” in relation to the relevant “population concerned” (the reference population), Table 7 below shows the minimum number of breeding pairs of Golden Plover together with other relevant information:

**Table 7 Parameters taken into consideration in estimating Golden Plover (*Pluvialis apricaria s.l.*) annual mortality rates**

Parameter	Numbers of Golden Plover	Source
Minimum breeding population (pairs) ( <i>Pluvialis apricaria s.l.</i> within the EU territory only)	132,016	BirdLife International (2004)
Mortality rate – juveniles	53.3%	Kompendium der Vogel Mitteleuropas – KVM and Birds Western Palearctic-BWP; as quoted in “Guide to sustainable hunting under the Birds Directive” – EU. Commission data from different EU countries taken as an average.
Mortality rate – adults	33.7%	
Breeding rate (young per pair)	3.64	Golden Plover: European Management Plan-2009/2011, Technical Report-2009-034, Golden Plover.

#### **Calculation of 1% mortality rate and “small numbers”**

##### **Golden Plover (*Pluvialis apricaria s.l.*)**

Minimum breeding success 3.64 birds per pair (132,016 x 3.64) = 480,538

Mortality rate of 1<sup>st</sup> year birds (480,538 x 53.33%) = 256,271

Mortality rate of adults (264,032 x 33.7%) = 88,979

Total annual mortality (256,271 + 88,979) = 345,250

1% of total annual mortality (345,250 x 1%) = 3,452

- 4.6 The “population concerned” (reference population) of Golden Plover was considered to be 132,016 minimum breeding pairs. On this basis, the 1% annual mortality rate was calculated at 3,452 which was subsequently further divided by 3 to account for the assumption that Malta is situated alongside one of the three principal migratory routes into Europe. This results in 1,150 Golden Plover.. Taking the above into consideration, the overall seasonal Golden Plover bag limit for the autumn 2013 live capturing season was established by legislation at 1,150, as in the previous (2012) season. According to the estimates of the Maltese authorities, such a bag limit should ensure that the conservation status of Golden Plover is not threatened by the application of this derogation in Malta.

- 4.7 Based on the above, the Conservation of Wild Birds (Declaration on a Derogation for a 2013 Autumn Live-Capturing Season for Song Thrush and Golden Plover)

Regulations, 2013 (SL 504.121) established an overall national bag limit of a maximum of 5,000 individuals for Song Thrush and 1,150 individuals for Golden Plover for the 2013–2014 season, on condition that the season would be terminated immediately by means of a press release should this national overall bag limit be reached before the end of the season. The Regulations also established a seasonal limit of 6 birds in total per live-capturer.

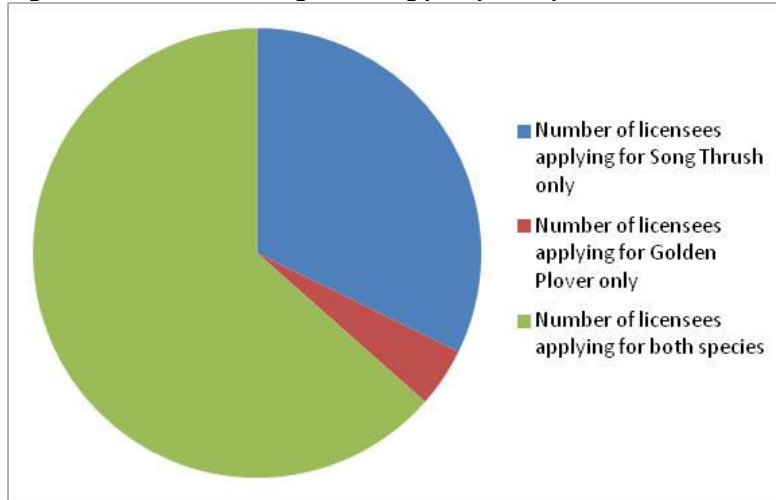
## 5. Issuance of Autumn 2013 live-capturing licenses

- 5.1 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.
- 5.2 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 8). The majority of applicants applied for both species (Figure 1).

**Table 8 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
<b>Application for Single-use Rings</b>	
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%)

**Figure 1: Distribution of single-use ring per species per licensee**



- 5.3 The Autumn 2013 Live-Capturing Licence (*vide* Annex 1) 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 × 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).
- 5.4 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 9).

**Table 9 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

- 5.5 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.

## 6. SMS data

6.1 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.

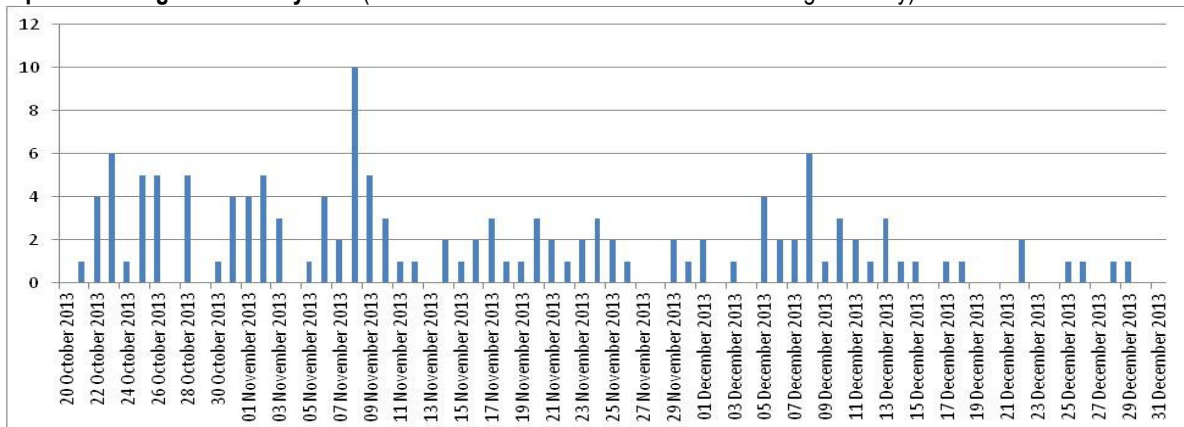
6.2 MEPA established a system for the daily logging of these SMS reports. These reports were closely monitored throughout the season, with a view to keeping track of various variables, including (i) the total number of birds per species caught per day, (ii) cumulative totals, and (iii) seasonal bag limits 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 10 and Figures 2 and 3 below.

**Table 10 Captured Song Thrush and Golden Plover per day of season (as reported through the SMS system)**  
(Data source: Malta Environment and Planning Authority)

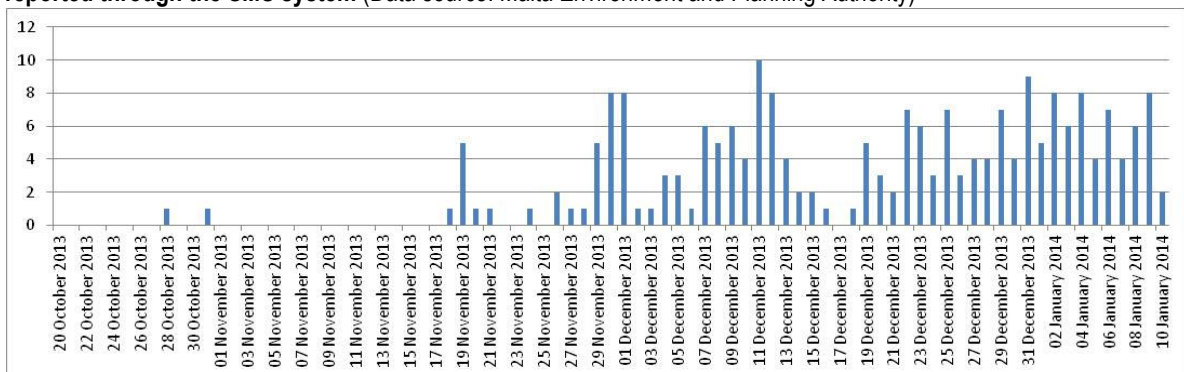
Date	Golden Plover	Song Thrush	Date	Golden Plover	Song Thrush
20 October 2013	0	0	01 December 2013	8	2
21 October 2013	0	1	02 December 2013	1	0
22 October 2013	0	4	03 December 2013	1	1
23 October 2013	0	6	04 December 2013	3	0
24 October 2013	0	1	05 December 2013	3	4
25 October 2013	0	5	06 December 2013	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			
			<b>TOTALS</b>	<b>216</b>	<b>135</b>

**Figure 2: 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)**



**Figure 3: 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)**



6.3 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 11 below, the seasonal bag limit of six birds was reached by six licensed individuals.

**Table 11 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

- 6.4 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 Mizieħ.
- 6.5 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).

- 6.6 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.
- 6.7 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.

## **7. Strengthening Malta's legal regime to deter illegalities**

- 7.1 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.
- 7.2 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 12):

**Table 12** 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 licence	1 year	3 years	2 years	5 years	100	67
Offences without licence (2nd proviso to 27(3)): fine	€6,988.12	€13,976.24	€7,000	€15,000	0.2	7

7.3 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).

7.4 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 13 below, together with the number of fines per category during the period 20 October 2013 – 10 January 2014.

**Table 13: 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 x 60cm x 60 cm	250 + confiscation	0
Failure to return completed license to WBRU within 10 days from the closure of	50 + 20 for every week of late return up to maximum	N/A

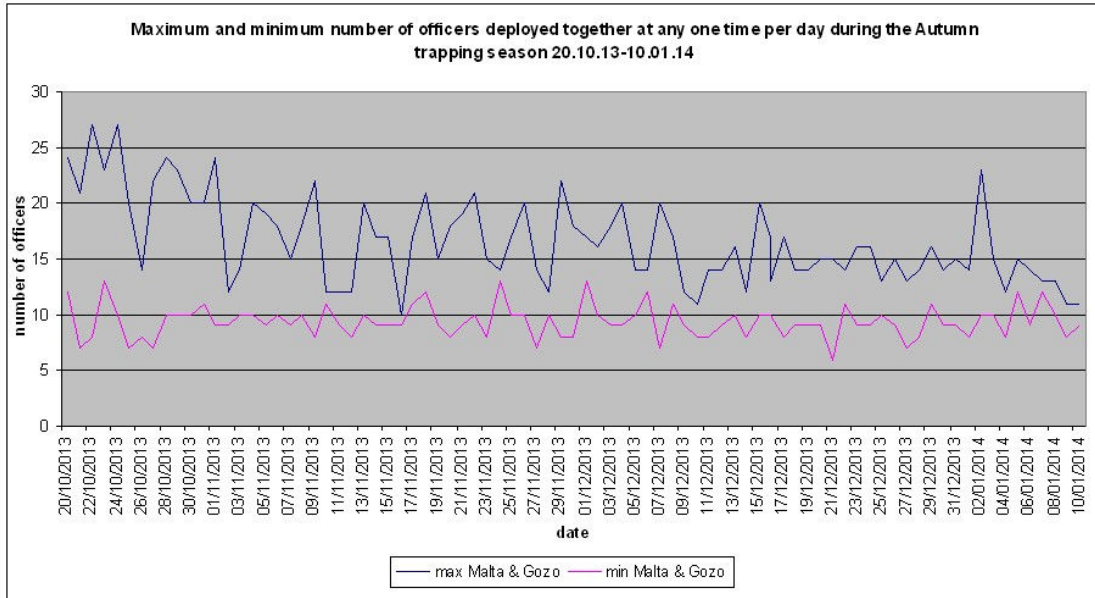
the autumn season	of 300	
Failure to declare every bird hunted or taken	50 per undeclared bird up to max 250; wherever more than 5 birds are not declared – prosecution before court	0
Failure to pay / renew license unless handed to WBRU indefinitely	250	N/A
Trespassing on clearly marked private property	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

## 8. Enforcement efforts

- 8.1 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.
- 8.2 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.
- 8.3 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 (Figure 4) 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.

**Figure 4: Maximum and minimum number of officers deployed together at any one time during the Autumn live-capturing season (Data source: Malta Police)**



8.4 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.

8.5 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.

## 9. Infringements detected

- 9.1 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 14 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 14 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
<b>Total number of disclosed trapping-related offences</b>	<b>36</b>	<b>18</b>	<b>54</b>

## 10. Conclusions

- 10.1 Based on the data provided in this report and discussed in the previous sections, the Government of Malta maintains that the derogation permitting the limited live-capturing derogation for Golden Plover and Song Thrush in Autumn 2013 was applied in strict adherence to the provisions of Article 9(1)(c) of the Birds Directive. In particular, Malta has implemented all the necessary measures to ensure strict supervision and has, indeed, sought to go beyond legal requirements in this regard. Noticeable improvements occurred with regards to governance (the establishment of the Wild Birds Regulation Unit), field enforcement (greater deployment and higher intensity of field inspections during the season) and legal deterrent against potential abuse (doubling of penalties for violation of the applicable rules, introduction of new administrative fines for minor offences, etc).
- 10.2 Furthermore, it is evident that Malta is fully committed to constant assessment and continuous improvement of the enforcement regime. In this respect, several planned and ongoing measures may be noted:
- a. A comprehensive proposal for the setting up of a national Wildlife Crime Investigation Unit within the police force has been drawn up and is presently undergoing inter-ministerial consultation. This proposal envisages the establishment of a permanent structure within the police force which will be dedicated entirely to wildlife crime issues. It should be borne in mind that the setting up of this structure would require a range of significant changes within the structure of the police force, including the re-assignment of responsibilities amongst the different police units, the provision of specialised training and capacity building for wildlife crime enforcement officials, internal restructuring

of human resources and financial structures. Due to the wide-ranging nature of these reforms, the structure needs time to be set up. However, the Government is committed to implementing this proposal in 2015.

- b. In parallel, a separate new governance structure has already been set up in 2013. The Wild Birds Regulation Unit (WBRU) was established in July 2013 with a wide range of statutory functions including hunting and live-capturing governance policy, administration of licensing and control processes, coordination of enforcement effort, hunter and live-capturer education, as well as reporting and liaison with the stakeholders. The Unit has a dedicated Specialist Enforcement Branch, which assists the police in complex investigations and forensic analysis involving bird-related crime, as well as in prosecutions. The Specialist Enforcement Branch is allocated almost half of the WBRU's human resources (3 officers out of 7). This underscores the importance given to the enforcement function. Over 97% of cases prosecuted with the assistance from the Enforcement Branch officials have resulted in convictions.
  
- c. A working group was formed at the end of 2013 with the view to develop a national strategy for the eradication of illegal killing, trapping and trade in wild birds in Malta. The working group consists of key stakeholders including Government, Police, MEPA, FKKN and Birdlife Malta. The group reports to the Malta Ornis Committee. It is envisaged that the draft strategy should be available for wider stakeholder consultation in 2014.

**Annex I: Licence for the Autumn 2013 live-capturing season**



ID XXXXXXXX  
Name/Surname  
Address  
XXXXXXXXXXXXXXXXX  
XXXXXXXXXX  
M? P?

Mob XXXXXX

**Liċenzja għall-Insib fil-Ħarifa tal-2013 għall-insib limitat tal-Malvizz u l-Pluviera taħt kondizzjonijiet strettament sorveljati.**

Din il-Liċenzja mhux trasferibbli għall-Insib qiegħda tinħareġ skont id-dispożizzjonijiet tar-Regolamenti tal-2013 dwar il-Konservazzjoni tal-Għasafar Selvaġġi (Dikjarazzjoni dwar deroga għall-Istaġun tal-Insib fil-Ħarifa tal-2013 għall-Malvizz u l-Pluviera) (A.L. 280 tal-2013) u hija soġġetta għall-limitazzjonijiet stabbiliti fihom u skont il-kondizzjonijiet stipulati fir-Regolamenti tal-2012 dwar il-Konservazzjoni tal-Għasafar Selvaġġi (Qafas biex tiġi permessa Deroga li Tiftaħ l-Istaġun għall-insib tal-Malvizz u il-Pluviera), (A.L. 303 tal-2012), kif emendati permezz tal-Avviz Legali 279 tal-2013, Regolamenti (Emendati) tal-2013 dwar il-Konservazzjoni tal-Għasafar Selvaġġi (Qafas biex tiġi permessa Deroga li Tiftaħ l-Istaġun għall-Insib tal-Malvizz u l-Pluviera).

Il-persuna liċenzjata qed tingħata il-permess tonsob b'mod limitat għall-Pluviera u għall-Malvizz skont il-kondizzjonijiet li ġejjin:

1. L-Insib għall-Malvizz u l-Pluviera fis-sena 2013, hawnhekk iżjed 'il quddiem imsejjaħ "Insib fil-Ħarifa" jista' jsir f' dawn id-dati:
  - (a) insib għall-Malvizz bejn l-20 ta' Ottubru 2013 u l-31 ta' Diċembru tal-2013, iż-żewġ dati inklużi;
  - (b) insib għall-Pluviera bejn l-20 ta' Ottubru 2013 u l-10 ta' Jannar tal-2014, iż-żewġ dati inklużi.
2. Mingħajr preċudizzju għall-kondizzjoni 3 hawn taħt, din il-liċenzja għall-insib fil-Ħarifa hija valida biss għall-perjodu li fih huwa permess l-insib tal-ispeċi msemmija hawn fuq.
3. Din il-liċenzja għall-Insib fil-Ħarifa għandha:
  - (a) tiġi sospiza minnufih jekk il-persuna bil-liċenzja tiġi akkużata b'reat taħt r-regolament 27 tar-Regolamenti dwar il-Konservazzjoni tal-Għasafar Selvaġġi (A.L. 79 tal-2006);
  - (b) tiġi revokata jekk il-persuna bil-liċenzja tiġi misjuba ħatja ta' reat kontra r-regolament 27 tar-Regolamenti dwar il-Konservazzjoni tal-Għasafar Selvaġġi (A.L. 79 tal-2006);
  - (c) tiskadi u titqies bħala revokata hekk kif il-Ministru, permezz ta' stqarrija għall-istampa, jiddikjara li ntlafqet il-kwota komplessiva għall-istaġun tal-insib fil-Ħarifa. Il-

persuni kollha bil-liċenzja għandhom jiġu infurmati minnufih dwar din l-iskadenza u revoka tal-liċenzja għall-insib fil-Ħarifa permezz tas-servizz ta' messaġġi bil-miktub (SMS) fuq in-numru indikat minn dik il-persuna fl-applikazzjoni għall-liċenzja għall-insib fil-Ħarifa;

Iżda meta tintlaħaq il-kwota għal xi waħda mill-ispeċi rilevanti, il-liċenzja għall-insib fil-Ħarifa għandha tiskadi u titqies bħala revokata fir-rigward tal-insib fuq dik l-ispeċi biss hekk kif il-Ministru, permezz ta' stqarrija għall-istampa, jiddikjara li ntlehget il-kwota komplessiva għall-istaġun tal-insib fil-Ħarifa għal dik l-ispeċi u l-istaġun għandu jibqa' miftuħ fir-rigward tal-ispeċi l-oħra. Il-persuni kollha bil-liċenzja għandhom ukoll jiġu infurmati minnufih dwar din l-iskadenza u revoka parzjali tal-liċenzja permezz tas-servizz ta' messaġġi bil-miktub (SMS) fuq in-numru indikat minn dik il-persuna fl-applikazzjoni għall-liċenzja għall-insib fil-Ħarifa.

4. Il-kwota komplessiva tal-għasafar li jista' jsir insib fuqhom għall-istaġun tal-insib tal-Ħarifa hija ta' 5,000 Malvizz, u 1,150 Pluviera, bħala l-għadd totali ta' għasafar li jistgħu jinqabdu taħt l-awtorità tal-liċenzja kollha maħruġa meħudin flimkien.
5. Il-kwota ta' għasafar li l-persuna liċenzjata tista' taqbad fl-istaġun miftuħ tal-insib tal-Ħarifa hija ta' sitt (6) għasafar b'kolloxx jew dak l-għadd ta' għasafar taħt l-imsemmija totali li jistgħu jkunu ġew maqbuda bl-insib qabel ma jkun għalaq l-istaġun.
6. Il-persuna liċenzjata għandha żzomm fuqha waqt li tkun qed tonsob jew waqt li tkun sejra lejn jew ġejja minn fuq is-sit tal-insib, il-liċenzja tal-Insib fil-Ħarifa 2013 tagħha, il-ktieb tal-*Carnet de Chasse* – Għall-Insib tal-Għasafar maħruġ fisimha, dokument ta' identifikazzjoni tagħha u kopja tal-pjanta/i (*site plan/s*) li turi/juru is-sit/i fejn isir l-insib minnha ittimbrata/i mill-Pulizija ta' Malta liema kopja kienet ipprezentata fl-applikazzjoni għal din il-liċenzja.
7. L-insib huwa awtorizzat biss fuq dak/dawk is-sit/siti li ġie/ġew iddikjarat/i mall-Kummissarju tal-Pulizija u li ġew indikati fl-applikazzjoni għal din il-liċenzja mill-persuna liċenzjata u ma' jstax isir minn fuq sit/i oħra. Il-pjanti kollha li jikkorrispondu ma' dawn is-siti tal-insib awtorizzati jridu jiġu annessi ma' din il-liċenzja. Din il-liċenzja hija kkunsidrata mhux valida jekk din/dawn il-pjanta/i ipprezentata/i mal-applikazzjoni għal din il-liċenzja ma tkunx/ikunx annessi.
8. Ma jstax isir insib fuq xagħri fi f'dan is-siti ta' Natura 2000 hekk kif inhu definit b'Regolament 2 tal-Avviz Legali 303 tal-2012. Tista' tara il-mapep li jindikaw ix-xagħri billi iżzur is-sit elettroniku <http://www.mepa.org.mt/biodiversity-autumntrapping2012>. Għelieqi li jinħadmu u li huma uffiċjalment rreġistrati mal-, u aċċettati mill-, Paying Agency għal skop ta' kultivazzjoni tal-uċuh tar-raba' u li jintgħarfu li huma għelieqi mir-ritratti mill-ajru tal-2008 kif ippubblikati mill-Awtorità ta' Malta dwar l-Ambjent u l-Ippjanar, u li qedin fil-konfini fil-mapep ppubblikati mid-Direttur tal-Ambjent skont Regolament 2 tal-Avviz Legali 303 tal-2012, ma jitqiesux bħala xagħri skont Avviz Legali 303 tal-2012.
9. Il-persuna liċenzjata m'hijiex awtorizzata tonsob jew tipprova tonsob għal xi speċi ta' għasfur jekk mhux il-Malvizz jew il-Pluviera. It-teħid tal-għasafar, jekk mhux il-Malvizz jew il-Pluviera huwa strettament ipprobit.
10. Il-persuna liċenzjata hija obligata li immedjatament teħles lura fis-selvaġġ kwalunkwe għasfur li taqbad li mhux il-Malvizz jew il-Pluviera.
11. Hekk kif taqbad **Malvizz** il-persuna liċenzjata hi obligata tibgħat SMS vojta fuq in-numru **99180355** immedjatament.
12. Hekk kif taqbad Pluviera il-persuna liċenzjata hi obligata tibgħat SMS vojta fuq in-numru 99180356 immedjatament.

13. Il-persuna liċenzjata għandha immedjatement tibagħat SMS għal kull Malvizz jew Pluviera li taqbad.
14. Il-persuna liċenzjata hija obbligata li tiddikjara kull Malvizz jew Pluviera li taqbad fuq il-ktejjeb magħruf bħala *Carnet de Chasse – għall-Insib (jew Qbid) tal-Għasafar Frar 2013-Jannar 2014* ippublikat mill-Awtorità ta' Malta dwar l-Ambjent u l-Ippjanar qabel ma tħalli s-sit tal-insib.
15. Jekk jinqad għasfur b'ċurkett, il-persuna liċenzjata hija obbligata li tniżżel id-dettalji kollha fuq il-formola għal dan il-għan annessa ma' din il-liċenzja u għandha tibgħat l-istess formola lill-Wild Birds Regulation Unit fuq l-indirizz indikat fl-istess formola hekk kif jgħalaq l-Istaġun tal-Insib tal-Ħarifa tal-2013 għaž-żewġ speċi. Il-persuna liċenzjata hija obbligata li immedjatement teħles dak l-għasfur lura fis-selvaġġ minn fuq is-sit tal-insib.
16. Din il-liċenzja tippermetti biss l-użu ta' xbieki tradizzjonali li jiġihaddmu bl-idejn u li huma selettivi, magħrufin bħala *clap-nets*, u li d-daqs tal-malji tax-xbieki ma jkunx inqas minn 30 millimetru kwadru u li jiġihaddmu bl-intervent uman biss mingħajr l-użu ta' apparat elettriku, elettroniku jew mekkaniku.
17. Il-persuna liċenzjata ma tistax iżzomm jew ikollha fil-pussess tagħha, febda ħin, aktar minn total ta' għaxar (10) Mlievez u/jew Pluvieri wżati bħala lixki ta' għasafar ħajjin (*decoys*) waqt li tkun fis-sit fejn isir l-insib jew waqt li tkun sejjer lejn jew gēj mis-sit fejn isir l-insib.
18. Għall-fini tar-Regolament 6(g) tal-A.L. 303 tal-2012, sabiex għasfur jitqies bħala għajat jew taħrik, dan għandu jkollu ċurkett li jista' jintuża darba biss ipprovdut mid-Direttur fil-forma ta' ċintorin tal-plastik bis-siġġill (*cable tie*) ta' kulur blu jew kannella immarkat bil-marka "EPD" u li gēj ipprovdut ma' din il-liċenzja. L-ċintorin tal-plastik bis-siġġill (*cable tie*) **kannella** hawn fuq imsemmi huwa biss meqjus li huwa approvat mid-Direttur jekk jitlibbes fuq in-naħa ta' isfel ta' sieq (*tarsus*) il-Malvizz u jiġi magħluq sa diametru intern ta' 4mm u jinqata' it-tul żejjed sabiex jiffirma ċurkett sħiħ. L-ċintorin tal-plastik bis-siġġill (*cable tie*) blu hawn fuq imsemmi huwa biss meqjus li huwa approvat mid-Direttur jekk jitlibbes fuq in-naħa ta' isfel ta' sieq (*tarsus*) il-Pluviera u jiġi magħluq sa dijametru intern ta' 5mm u jinqata' it-tul żejjed sabiex jiffirma ċurkett sħiħ.
19. Meta, waqt verifika fuq is-sit, l-għadd ta' għasafar li jinstabu fil-pussess tal-persuna liċenzjata jkun għola minn dak kif provdut f'kondizzjoni 17 ta' din il-liċenzja, kull għasfur li jinstab li jkun ogħla mill-għadd imsemmi jitqies li jkun għasfur li jkun gēj maqbud mill-persuna bil-liċenzja f'dik l-istess ġurnata, minkejja li dak l-għasfur jista jkollu ċurkett fuqu skont ir-regolament 6 (g) tal-Avviz Legali 303 tal-2012.
20. Il-persuna liċenzjata għanda tikkonforma ruħa ma' d-dispożizzjonijiet tar-regolamenti 4, 18 u 20 tar-Regolamenti tal-2006 dwar il-Konservazzjoni ta' l-Għasafar Selvaġġi (Avviz Legali 79 tal-2006 kif emendat) annessi ma' din il-liċenzja (Anness 1) mingħajr preġudizzju għal kull projbizzjoni oħra stabbilita f'dawn l-istess Regolamenti.
21. Il-persuna liċenzjata ma tistax tonsob jew tipprova tonsob għal xi għasfur bejn sagħtejn wara nżul ix-xemx u sagħtejn qabel tluġ ix-xemx tal-għada filgħodu.
22. Matul il-ħin illi fih l-insib huwa pprojbit, il-persuna liċenzjata hi obbligata illi tiddiżattiva ix-xbikien u tħallihom kompletament ċatti mal-art, li tneħħi minn fuq is-sit tal-insib l-għajat u taħrik kollu kif ukoll *decoys* artifiċjali, u tieħu kull miżura neċessarja sabiex l-ebda speċi ta' fawna ma tinqabad aċċidentalment fix-xbikien tul il-perjodu illi dawn ikunu diżattivati u kompletament ċatti mal-art.

23. Din il-liċenzja hija mafruga mingħajr preġudizzju lejn id-drittijiet ta' terzi u mingħajr preġudizzju lejn kwalunkwe liġi jew leġislazzjoni oħra u ma teżentax lill-persuna liċenzjata milli tikseb kwalunkwe liċenzja, permess, awtorizzazzjoni jew kull forma oħra ta' kunsens rikjesta minn xi awtorita' jew taħt xi liġi oħra.
24. Kwalunkwe persuna li tonqos milli tosserva xi dispożizzjoni tal-Avviż Legali 303 tal-2012 (kif emendati permezz tal-Avviż Legali 279 tal-2013) u tal-Avviż Legali 280 tal-2013, jew il-kontenut tal-liċenzja, jew tonqos milli tikkonforma ruħha ma xi ordni mogħtija legittimament skont xi dispożizzjoni ta' dawn ir-regolamenti jew xi waħda mill-kondizzjonijiet ta' din il-liċenzja tkun soġġetta għall-prosekuzzjoni u meta tinstab ħatja, tehel il-pieni stabbiliti bir-regolament 27 tar-Regolamenti dwar il-Konservazzjoni tal-Għasafar Selvaġġi jew dawk taħt xi liġi jew regolament ieħor applikabbli.

Sergei Golovkin  
Acting Head  
Wild Birds Regulation Unit

SPECIMEN



**2013 Autumn Live-Capturing Licence for the limited live-capture of Song Thrush and Golden Plover under strictly supervised conditions**

This non-transferable Live-Capturing Licence is issued in accordance with the Conservation of Wild Birds (Declaration on a derogation for a 2013 Autumn live-capturing season for Song Thrush and Golden Plover) Regulations, 2013 (Legal Notice 280 of 2013), and is subject to the limits stipulated therein and to the conditions stipulated in the Conservation of Wild Birds (Framework for Allowing a Derogation Opening an Autumn Live-Capturing Season for Song Thrush and Golden Plover) Regulations, 2012 (Legal Notice 303 of 2012), as amended by Legal Notice 279 of 2013, Conservation of Wild Birds (Framework for Allowing a Derogation Opening an Autumn Live-Capturing Season for Song Thrush and Golden Plover) (Amendment) Regulations, 2013.

The holder of this Licence shall be permitted to practice limited live-capture of Golden Plover and Song Thrush subject to the following conditions:

1. The period for the live-capturing of Song Thrush and Golden Plover for the year 2013, hereinafter referred to as "the Autumn live-capturing season", shall be on the following dates:
  - (a) live-capturing of Song Thrush between the 20<sup>th</sup> October 2013 and the 31<sup>st</sup> December 2013, both dates included;#
  - (b) live-capturing of Golden Plover between the 20<sup>th</sup> October 2013 and the 10<sup>th</sup> January 2014, both dates included.
2. Without prejudice to condition (3) below, this Autumn live-capturing licence shall be valid only for the period in which the capturing of the above species is permitted.
3. This Autumn live-capturing licence shall:
  - (a) be suspended forthwith where the licensee is accused of an offence under regulation 27 of the Conservation of Wild Birds Regulations (Legal Notice 79 of 2006 as amended);
  - (b) be revoked where the licensee is found guilty of an offence against regulation 27 of the Conservation of Wild Birds Regulations; and
  - (c) lapse and be considered revoked as soon as the Minister, by means of a press release, declares that the overall seasonal bag limits for the 2013 Autumn live-capturing season have been reached. All licensees shall be informed immediately of such lapse and revocation of this Licence by means of a text message service (SMS) to the number indicated by that person in the application for this Licence;

Provided that where the overall bag limit for one species of either the Golden Plover or Song Thrush has been reached, this Licence shall lapse and be considered revoked only in respect of the capturing of such species as soon as the Minister, by means of a press release, declares that the overall seasonal bag limit for the 2013 Autumn live-capturing season for such species has been reached, and shall remain unaffected with regard to the other species. The licensee shall also be informed immediately of such partial lapse and revocation of this Licence by means of a text message service (SMS) to the number indicated by that person in the application for this Licence.

4. The overall seasonal bag limit for the 2013 Autumn live-capturing season is 5,000 for Song Thrush and 1,150 for Golden Plover as the total number of birds which may be captured under the authority of all issued licences taken together.
5. The 2013 Autumn live-capturing season's bag limit allowed under this Licence is six (6) birds or however many below this number might have been captured before the season is closed.
6. The holder of this Licence is obliged to keep in his possession, during such time that live-capturing is practiced, or whilst travelling to and from the live-capturing site/s, this 2013 Autumn live-capturing Licence, the *Carnet de Chasse* booklet for the taking of birds, a personal identification document and a copy of the site plan/s that indicate/s the site/s on which the holder is licensed to practice the taking of birds, duly stamped by the Malta Police, which copy was presented with the application form for this licence.
7. Live-capturing is only authorised on the site/s registered by the licensee with the Commissioner of Police, which were included with the application form for this licence, and cannot be practiced on any other site/s. All site plans corresponding to such authorised sites must be attached to this Licence. This Licence shall be considered invalid unless such site plans, which were included with the application form for this licence, are attached.
8. No live-capturing shall be allowed on *Xagħri* located in Natura 2000 sites as defined in Regulation 2 of Legal Notice 303 of 2012. Maps indicating "Xagħri" can be viewed on the website <http://www.mepa.org.mt/biodiversity-autumntrapping2012>. Cultivated agricultural fields, which are officially registered with and accepted by the Paying Agency for the purpose of cultivating agricultural crops and can also be identified as agricultural fields on the aerial photo maps of 2008 published by the Malta Environment and Planning Authority, and which are located within the boundaries indicated in the maps published by the Director for Environment Protection in terms of Regulation 2 of the Legal Notice 303 of 2012, are not designated as "Xagħri" in terms of Legal Notice 303 of 2012.
9. The holder of this Licence is not authorised to take or attempt to take any species, other than Song Thrush and Golden Plover. The live-capturing of birds, other than Song Thrush and Golden Plover is strictly prohibited.
10. The holder of this Licence is obliged to immediately release back into the wild any bird that is captured and which is not a Song Thrush or Golden Plover.
11. The holder of this Licence is obliged to immediately send a blank message by virtue of the text messaging service (SMS) on the number **99180355** as soon as a **Song Thrush** is captured.
12. The holder of this Licence is obliged to immediately send a blank message by virtue of the text messaging service (SMS) on the number 99180356 as soon as a Golden Plover is captured.

13. The holder of this License is required to immediately send an SMS for each Song Thrush or Golden Plover captured.
14. The holder of this Licence is obliged to declare each Song Thrush or Golden Plover captured on his *Carnet de Chasse "Għall-Insib (jew Qbid) tal-Għasafar Frar 2013-Jannar 2014"* booklet published by the Malta Environment and Planning Authority before leaving the site of live-capture.
15. In the event of a capture of a bird which is ringed, the holder of this Licence is required to fill in the details on the attached form provided for this purpose and to mail this form to the Wild Birds Regulation Unit on the address indicated in the same form upon the closure of the Autumn live-capturing season for the two relevant species. The licensee is obliged to immediately release such bird back into the wild from the site of taking.
16. Only the use of traditional manually operated selective clap-nets with the mesh-size of the net of not less than 30mm square which are operated solely by human intervention without the use of electrical, electronic, or mechanical means is permitted under this Licence.
17. The Licensee shall not, at any time, hold or have in his possession more than a total of ten (10) birds from either Golden Plover or Song Thrush used as live-decoys, whilst at the capturing site or when travelling to or from the capturing site.
18. In accordance with Regulation 6(g) of Legal Notice 303 of 2012, in order for a bird to be considered as a live decoy, it shall bear a single-use ring which is approved and provided by the Director in the form of a blue or brown coloured plastic cable tie which bears the mark "EPD" and which has been supplied with this Licence. The **brown** cable tie referred to above shall only be deemed as approved by the Director if it is placed on the **Song Thrush's** tarsus and pulled to form a ring of an internal diameter of 4mm and the extra length is cut off. The blue cable tie referred to above shall only be deemed as approved by the Director if it is placed on the Golden Plover's tarsus and pulled to form a ring of an internal diameter of 5mm and the extra length is cut off.
19. Where, during the course of a spot-check, the number of birds found in the possession of the licensee exceeds the number of live-decoys as provided for in condition 17 of this licence, any bird which is found to be in excess of such number shall be deemed to have been captured by the licensee that same day, notwithstanding that such bird may be ringed in terms of regulation 6 (g) of Legal Notice 303 of 2012.
20. The Licensee is obliged to comply at all times with regulations, 4, 18 and 20 of the Conservation of Wild Birds Regulations (Legal Notice 79 of 2006 as amended) annexed to this licence (Annex I) without prejudice to any other prohibition laid down in the same regulations.
21. This Licence does not authorise the holder to practice live-capturing between two hours after sunset and two hours before sunrise of the following day.
22. During such time when the taking of birds is prohibited, the licensee is obliged to deactivate the nets, which are to be laid flatly on the ground, to remove all live and artificial decoys from the live-capturing site and take all requisite measures to ensure that no faunal species are accidentally entangled whilst the nets are deactivated and laid flatly on the ground.
23. This Licence is being granted without prejudice to third party rights and without prejudice to any other law or legislation and does not exempt the holder from obtaining any other

licence, permit, authorisation or any other form of clearance required by any authority or under any other law.

24. Any person who fails to comply with any provision of Legal Notice 303 of 2012 (as amended by Legal Notice 279 of 2013) and Legal Notice 280 of 2013, or with the contents of this Licence or with any order lawfully given in terms of any provision of these regulations or any of the conditions of this Licence shall be liable to prosecution and shall, upon conviction, be liable to the penalties established by regulation 27 of the Conservation of Wild Bird Regulations or any other applicable law or regulation.

Sergei Golovkin  
Acting Head  
Wild Birds Regulation Unit

SPECIMEN

**Anness 1-Regolamenti 4: 18 u 20 meħuda mir-Regolamenti tal-2006 dwar il-Konservazzjoni ta' l-Għasafar Selvaġġi (kif emendati)**

4. (1) Mingħajr preġudizzju għad-disposizzjonijiet tar-regolamenti 5, 8 u 9, ebda persuna m'għandha:
- (a) tikkaċċja jew tipprova tikkaċċja, tieħu jew tipprova tieħu xi għasfur li huwa protett taħt dawn ir-regolamenti, jekk mhux skont dawn ir-regolamenti u skont il-kundizzjonijiet ta' kull liċenzja li tingħata taħtha;
  - (b) tikkaċċja jew tipprova tikkaċċja, tieħu jew tipprova tieħu, teqred, tikkawża ħsara jew tneħħi b'kull mod, bejta u bajd ta' l-għasafar;
  - (c) tieħu l-bajd mill-istat selvaġġ ta' għasfur li huwa protett taħt dawn ir-regolamenti u żżomm dak il-bajd anki jekk ikun vojti;
  - (d) intenzjonalment tiddisturba lil xi għasfur li huwa protett taħt dawn ir-regolamenti waqt iż-żmien ta' tniissil u trobbija;
  - (e) iżżomm lil xi għasfur, kemm ħaj kemm mejjet, jew parti minn xi għasfur, li l-kaċċa jew it-teħid tiegħu huma projbiti taħt dawn ir-regolamenti, ħlief skont id-disposizzjonijiet ta' dawn ir-regolamenti sakemm dan l-għasfur ma jkunx ġie dikkjarat u reġistrat ma' l-Awtorità Kompetenti sal-31 ta' Mejju 2003 u dik il-persuna tkun ingħatat il-permessi, jew ċertifikati mill-Awtorità Kompetenti sabiex iżżomm dak l-għasfur u,
  - (f) iżżomm kull għasfur, kemm ħaj kemm mejjet, jew parti minn xi għasfur mhux imsemmi fl-Iskeda II jew l-Iskeda III ta' dawn ir-regolamenti, sakemm dak l-għasfur ikun ittiehed fi Stat Membru ieħor fejn ikun jista' jittiehed jew jinqabad legalment taħt id-disposizzjonijiet tad-Direttiva tal-Kunsill 79/409/KEE dwar il-Konservazzjoni ta' l-Għasafar Selvaġġi kif ukoll taħt il-liġijiet ta' dak l-Istat Membru l-ieħor u dan l-għasfur kien miġjub f'Malta wara l-1 ta' Mejju, 2004:

Iżda dik il-persuna għandha żżomm fil-pussess tagħha u għall-perjodu kollu li hija tibqa' fil-pussess tal-kampjun kif provdut fil-paragrafi (e) u (f) ta' dan is-subregolament il-permessi, ċertifikati u dokumenti oħrajn kollha li jippruvaw għas-sodisfazzjon ta' l-Awtorità Kompetenti li dawk il-kampjuni ma kienux miksuba kontra d-disposizzjonijiet ta' dawn ir-regolamenti.

- (2) Kull min bi ħsiebu jittrasferixxi jew b'xi mod ieħor jiddisponi minn xi għasfur imsemmi fis-subregolament (1)(e) għandu jagħmel dan wara talba lid-Direttur li għandu, fid-diskrezzjoni tiegħu, jawtorizza bil-miktub dak il-trasferiment jew id-disponiment.
18. (1) Mingħajr preġudizzju għar-regolament 9, l-ebda persuna m'għandha:
- (a) waqt l-istaġun magħluq għall-kaċċa ta' l-għasafar mhux minn fuq il-baħar, tikkaċċja jew tipprova tikkaċċja xi għasfur, jew iġġorr munizzjoni jew arma tan-nar barra l-għata tagħha;
  - (b) waqt l-istaġun miftuħ għall-kaċċa ta' l-għasafar mhux minn fuq il-baħar, tikkaċċja jew tipprova tikkaċċja xi għasfur mhux inkluż fi Skeda II ;
  - (c) waqt l-istaġun magħluq għat-teħid ta' għasafar kif jista' jiġi permiss skont dawn ir-regolamenti, tieħu jew tipprova tieħu xi għasfur;
  - (d) waqt l-istaġun miftuħ għat-teħid ta' l-għasafar kif jista' jiġi permiss skont dawn ir-regolamenti, tieħu jew tipprova tieħu xi għasfur minn fuq il-baħar;
  - (e) waqt l-istaġun magħluq għall-kaċċa ta' l-għasafar minn fuq il-baħar, iġġorr waqt li tkun fuq il-baħar (minbarra waqt li tkun qiegħda taqşam bejn Malta u Għawdex bit-trasport pubbliku), xi munizzjoni jew arma tan-nar li jkollha liċenzja għat-teħid ta' għasafar;
  - (f) waqt l-istaġun miftuħ għall-kaċċa ta' l-għasafar minn fuq il-baħar;
    - (i) tikkaċċja jew tipprova tikkaċċja, minn fuq il-baħar, xi għasfur li mhux inkluż fit-taqsim B ta' l-Iskeda II li tinsab ma' dawn ir-regolamenti;
    - (ii) tikkaċċja jew tipprova tikkaċċja minn fuq il-baħar:
      - (aa) f'medda ta' tlett kilometri, jew inqas, mill-kosta minn fuq xi dgħajsa jew opra tal-baħar, jew
      - (bb) lil hinn minn tlett kilometri mill-kosta minn fuq dgħajsa jew opra tal-baħar li tkun qed tinsaq b'izjed minn 5 kilometri fis-siegħa:

Iżda fil-baħar miftuħ, jista' jiġi awtorizzat għall-kaċċa, għal raġunijiet ta' sigurtà, l-użu ta' dgħajsa jew opra tal-baħar b'velocità massima ta' 18-il kilometru fis-siegħa;
    - (iii) iġġorr fuq il-baħar, f'distanza ta' tlett kilometri mill-kosta, arma tan-nar li tkun liċenzjata għall-kaċċa tat-tjur li tkun ikkargata, jew li għandha l-iskrataċ fil-kompartiment tal-iskrataċ tagħha, jew li tkun tinsab barra mill-għata tagħha;
    - (iv) tikkaċċja jew tipprova tikkaċċja minn fuq xi opra tal-baħar li ma tkunx reġistrata ma' l-awtoritajiet kompetenti;
    - (v) tikkaċċja jew tipprova tikkaċċja minn fuq xi opra tal-baħar sakemm ma jkollhiex liċenzja mill-Kummissarju għal dak l-iskop;
    - (vi) tkun fil-pussess, waqt li tkun fuq il-baħar, ta' xi għasfur, mejjet jew ħaj, jew ta' xi parti ta' għasfur, mhux inkluż fit-taqsim B ta' l-Iskeda II li tinsab ma' dawn ir-regolamenti u persuna li tinstab fil-pussess ta' xi għasfur jew parti ta' għasfur mhux inkluża fit-taqsim B ta' l-Iskeda II tiġi prezunta li hija tkun ikkaċċjat, qabdet jew ħadet dak l-għasfur bi ksur ta' dawn ir-regolamenti, sakemm ma jiġix ippruvat il-kuntrarju;
    - (vii) li tvara, u ttella' fuq l-art, opra tal-baħar użati għall-kaċċa ta' l-għasafar minn fuq il-baħar minbarra minn dawk il-postijiet indikati fil-liċenzja msemmija fis-subparagrafu (v);
  - (g) ebda persuna m'għandha, waqt li tkun f'xi vettura jew fuq xi mezz ta' l-ajru, ikollha pussess ta' arma tan-nar ikkargata jew barra mill-għata tagħha, jew tmur iddur għal xi għasfur, jew tikkaċċja jew tipprova tikkaċċja, tieħu jew tipprova tieħu xi għasfur.
- (2) (a) Ebda persuna m'għandha iġġorr arma tan-nar, kemm jekk ikkargata kemm jekk mhix, li ma tkunx fil-għata tagħha, jew jispara xi arma tan-nar, waqt li hija tkun inqas minn 200 metru minn xi belt jew raħal, jew zona abitata oħra jew xi waħda mix-xtajtiet elenkati fl-Iskeda VII, jew f'medda ta' 50 metru minn toroq prinċipali jew arterjali:

Iżda din id-distanza ta' 50 metru ma tkunx applikata fil-każ ta' toroq sekondarji u mogħdijiet fil-kampanja:

Iżda wkoll is-senter m'għandux ikun immirat fid-direzzjoni tat-triq, kemm jekk din tkun prinċipali, arterjali, sekondarja jew mogħdija fil-kampanja.

- (b) Ebda persuna m'għandha jkollha arma tan-nar li jkollha liċenzja għall-kaċċa tat-tjur, li jkollha kompartiment ta' l-iskrataċ li jista' jzomm aktar minn żewġ iskrataċ fl-istess ħin.

20. Ebda persuna m'għandha:

- (a) iżżomm jew taqfel xi għasfur li jkun f'xi gaġġa jew recipjent ieħor li jkun inqas għoli minn 250mm, inqas twil minn 250mm u inqas wiesgħa minn 150mm, u li, meta jitqies id-daqs ta' l-għasfur, ma jkunx kbir biżżejjed biex l-għasfur ikun jista' liberament jiftaħ gwenħajh:

Iżda dan il-paragrafu m'għandux japplika għall-pullam jew għaž-żamma jew tiqfil ta' xi għasfur -

- (i) filwaqt li dak l-għasfur ikun qed jiġi kkurat minn veterinarju

- (ii) matul l-istagun miftuħ tat-teħid meta l-gaġġa m'għandhiex tkun inqas twila minn 190mm, inqas wiesgħa minn 130mm u inqas għolja minn 120mm;
- (b) iġġib 'il quddiem, tippermetti, tgħin jew tieħu sehem f'xi attività li tkun u li fiha jinħelsu għasafar maqbuda sabiex malli dawn jinħelsu, minnufih jisparaw fuqhom.

**Annex 1 -Regulations 4 , 18 and 20 of the Conservation of Wild Birds Regulations, 2006 (as amended)**

4. (1) Without prejudice to the provisions of regulations 5, 8 and 9, no person shall:
- (a) hunt or attempt to hunt, take or attempt to take any bird which is protected under these regulations, other than in accordance with these regulations and with the conditions of any licence granted thereunder;
  - (b) hunt or attempt to hunt, take or attempt to take, destroy, damage or remove by any means, any bird nest and eggs;
  - (c) take the eggs in the wild of any bird which is protected under these regulations and keep these eggs even if empty;
  - (d) deliberately disturb any bird which is protected under these regulations during the period of breeding and rearing;
  - (e) keep any bird, whether alive or dead, or part of any bird, the hunting or taking of which is prohibited under these regulations, other than in accordance with these regulations unless such bird has been declared and registered with the competent authority by the 31<sup>st</sup> May 2003 and such person has been given the permits, or certificates by the competent authority to keep such bird;
  - (f) keep any bird, whether alive or dead, or part of any bird not mentioned in Schedule II or Schedule III, unless such bird was taken in another Member State where it may be lawfully hunted or captured under the terms of Council Directive 79/409/EEC on the Conservation of Wild Birds and under the legislation of that other Member State and such bird has been brought into Malta after the 1st May, 2004.

Provided that such person shall retain in his possession and for such time as he remains in possession of the specimen as provided for in paragraphs (e) and (f) all permits, certificates and any other documents that prove to the satisfaction of the competent authority that such specimen was not obtained in contravention of these regulations.

- (2) Whosoever intends to transfer or otherwise dispose of any bird referred to in subregulation (1)(e) shall do so upon request being made to the Director who shall, in his discretion, authorize in writing such alienation or disposal.
18. (1) Without prejudice to regulation 9, no person shall:
- (a) during the closed season for the hunting of birds not at sea, hunt or attempt to hunt any bird, or carry ammunition or a fire-arm outside its case;
  - (b) during the open season for the hunting of birds not at sea, hunt or attempt to hunt any bird not included in Schedule II;
  - (c) during the closed season for the taking of birds as may be permitted in accordance with these regulations, take or attempt to take any bird;
  - (d) during the open season for the taking of birds as may be permitted in accordance with these regulations, take or attempt to take any bird at sea;
  - (e) during the closed season for the hunting of birds at sea, carry while at sea (other than while crossing between Malta and Gozo by public transport), any ammunition or any fire-arm licensed for taking birds;
  - (f) during the open season for the hunting of birds at sea:
    - (i) hunt or attempt to hunt, at sea, any bird which is not included in Part B of Schedule II;
    - (ii) hunt or attempt to hunt at sea:
      - (aa) within, or less than, three kilometers from the coastline, from a boat or any sea-craft, or
      - (bb) beyond three kilometers from the coast from a boat or sea-craft which is being driven at more than 5 kilometers per hour:
 Provided that on the open sea, for safety reasons, the use of a boat or sea-craft with a maximum speed of 18 kilometers per hour may be authorized for hunting;
    - (iii) carry at sea, within a distance of three kilometers from the coastline, a fire-arm licensed for hunting game which is loaded, or has cartridges in the magazine, or is out of its case;
    - (iv) hunt or attempt to hunt from any sea-craft which is not registered with the competent authorities;
    - (v) hunt or attempt to hunt from any sea-craft unless in possession of a licence for that purpose from the Commissioner;
    - (vi) be in possession, while at sea, of any bird, dead or alive, or part of any bird, not included in Part B of Schedule II and any person who is found in possession of any bird or part of any bird not included in Part B of Schedule II will be presumed to have hunted, caught or taken such bird in violation of these regulations, unless the contrary is proved;
    - (vii) launch, and haul on land, sea-craft used for hunting birds at sea other than from those places indicated in the licence mentioned in subparagraph (v);
  - (g) no person shall, while in or on any motor vehicle or aircraft, be in possession of any fire-arm which is loaded or outside its case, or go in pursuit of any bird, or hunt or attempt to hunt, take or attempt to take any bird.
- (2) (a) No person shall carry a fire-arm, whether loaded or not, that is not in its case, or discharge any fire-arm, while within 200 meters from any town or village, or other inhabited area, or any of the beaches listed in Schedule VII, or within a distance of 50 meters from main or arterial roads:  
 Provided that this distance of 50 meters shall not apply in the case of secondary roads and country lanes:  
 Provided further that the fire-arm is not aimed in the direction of the road, whether main, arterial, secondary or a country lane.
- (b) No person shall be in possession of any fire-arm, licenced for hunting game, which has a magazine capable of holding more than two shots at any time.

**20. No person shall:**

- (a) keep or confine any bird whatsoever in any cage or other receptacle which is less than 250mm in height, 250mm in length and 150mm in breadth, and which, considering the size of the bird, is not large enough to permit the bird to stretch its wings freely:

Provided that this paragraph shall not apply to poultry or to the keeping or confinement of any bird-  
 (i) while such bird is undergoing treatment by a veterinary surgeon;

- (ii) during the open season for taking when the cage should not be less than 190mm in length, 130mm in breadth and 120mm in height;
- (b) promote, permit, assist or take part in any event whatsoever in the course of which captive birds are liberated for the purpose of being shot at on their release.

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