

**Report on the Outcome of the  
2014 Autumn live-capturing Season  
for Golden Plover and Song Thrush  
in Malta**

**March 2015**

**Wild Birds Regulation Unit**

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

## Table of Contents

1.	Introduction	1
2.	Legal and policy basis for application of a derogation permitting an autumn live-capturing season	1
3.	Consideration of the conservation status of Song Thrush and Golden Plover	4
4.	Registration of live-capturing sites	5
5.	Issuance of special autumn licenses for live-capturing	8
6.	Daily reporting of catches	9
7.	Enforcement	13
8.	Conclusions	20

## Enclosures

Annex I - Conservation status assessment, determination of “small numbers” and other legal and technical considerations presented to the Malta Ornis Committee

Annex II - Special Autumn 2014 Live-capturing License for Golden Plover and Song Thrush



## 1. Introduction

1.1 This report has been prepared in response to the request by the European Commission, to submit within three months from the closure of the live-capturing season, a detailed report on the implementation of the derogation. This report has therefore been compiled in addition to Malta's formal reporting obligation under Article 9 of Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009, on the Conservation of Wild Birds (hereinafter referred to as 'the Birds Directive'). In this regard, this report will consider various relevant aspects of the application of this derogation, including:

- (i) An overview of the legal and policy basis for the application of derogation;
- (ii) An overview of the decision making process leading up to the application of the live-capturing derogation in autumn 2014;
- (iii) An assessment of the conservation status of the two relevant species (Song Thrush (*Turdus philomelos*) and Golden Plover (*Pluvialis apricaria s.l.*);
- (iv) A summary of the legislative changes and changes to the parameters of the derogation;
- (v) A summary of institutional controls deployed to oversee compliance with the parameters of the derogation, including special licensing, site registration and other regulatory processes;
- (vi) An analysis of the uptake of bag quotas;
- (vii) The enforcement efforts in place to ensure the strict supervision of live-capturing during the season;
- (viii) The illegalities detected and corresponding enforcement action taken; and,
- (ix) Other aspects of relevance.

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

2.1 Article 9(1) of the Birds Directive states that "*Member States may derogate from the provisions of Articles 5 to 8 [of the same Directive], where there is no other satisfactory solution*" in line with a number of limited reasons, such as that stipulated by Article 9(1)(c): "*to permit, under strictly supervised conditions and on a selective basis, the capture, keeping or other judicious use of certain birds in small numbers*".

2.2 Article 2 of the Birds Directive requires that Member States take the requisite measures to maintain the population of the bird species, to which the Directive applies, at a level which corresponds in particular to ecological, scientific and cultural requirements, while taking account of economic and recreational requirements, or to adapt the population of these species to that level. Hence, this Article specifically requires Member States to take into account both "cultural" as well as "recreational requirements" when implementing measures to maintain the population of the relevant species.

2.3 Therefore, in line with the spirit of the Birds Directive that seeks to reach a balance between the protection of bird species while taking account of cultural and recreational requirements, the Maltese Government has applied a derogation as a means to maintain a traditional and culturally specific method of capture of the relevant species, for the purpose of keeping the birds in captivity as live decoys and for recreational purposes, in a manner which is strictly regulated and controlled by serious and effective measures of protection, in full conformity with the requirements of the Birds Directive.

- 2.4 Reference is also made to the judgment delivered by the Court of Justice of the European Union (CJEU) with regard to case C-76/08, *Commission of the European Communities v Republic of Malta*, which in the context of a derogation permitting spring hunting of two species 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 Malta Ornis Committee established under Regulation 10 of the Conservation of Wild Birds Regulations (S.L.504.71) met on 11 June 2014 to consider the application of a live-capturing derogation for Golden Plover and Song Thrush during the 2014 autumn season. The Committee considered an updated assessment of the conservation status of the species concerned, as well as a number of proposals concerning a revision of the then current regulatory regime. The Committee furthermore considered the legal basis for the application of a live-capturing derogation, as well as the outcome of the 2013 live-capturing season. This assessment, including a summary of the legal and technical considerations made, is included as Annex I to this report. Having taken into consideration scientific information concerning the conservation status of the two relevant species (discussed further in Section 3 below), and having taken into account the provisions of Article 9(1)(c) of the Birds Directive as well as all relevant national legislation, the Malta Ornis Committee recommended a season to permit the limited live-capturing of Song Thrush and Golden Plover under strictly supervised conditions.
- 2.7 Upon considering the recommendations of the Malta Ornis Committee, as well as the relevant assessments made, on 15 July 2014, the Maltese Government published a legislative package consisting of the following instruments:
- 2.7.1 An amendment to the Conservation of Wild Birds Regulations (S.L.504.71)<sup>2</sup> was published by means of LN252/14, Conservation of Wild Birds (Amendment 2) Regulations, 2014. The purpose of this amendment was to further consolidate and strengthen regulatory controls over a number of legal provisions concerning general licensing, and in particular, the licensing requirements pertaining to live-capturing of wild birds. Other provisions were also fine-tuned on the basis of the experience gained as a result of the implementation of the administrative fines system introduced in October 2013. These amendments were published with the view to:
- Introduce additional legal clarity by way of including further definitions pertaining to live-capturing (trapping), including definitions stipulating applicable parameters for live-capturing sites;

---

<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=jom&itemid=11548&l=1>

- Strengthen protection over certain natural habitats and ecologically-sensitive areas that may be impacted by live-capturing activity. Amongst other provisions, the amendments provide for an extension of legal protection, previously afforded to garigue habitats within Natura 2000 sites, to all protected habitats listed in Schedule I of the Flora, Fauna and Natural Habitats Protection Regulations ((S.L. 504.73)) within Natura 2000 sites, as well as to areas outside Natura 2000 sites that support natural habitats, including Scheduled Level 1 and Level 2 Areas of Ecological Importance and Sites of Scientific Importance. Cumulatively, protected areas where trapping is either prohibited or restricted to registered agricultural land, amount to around a quarter of the national land territory. The amendments also prohibit the use of any new live-capturing sites that did not exist prior to the end of December 2012;
- Repeal of Regulation 8 and replacing this with a new regulation concerning the general parameters applicable to live-capturing under these Regulations;
- Introduce the possibility of charging administrative fees for licenses issued under these Regulations, as well as fees for hunting / trapping licence examinations;
- Introduce the possibility of issuance of provisional live-capturing licences to persons who were in possession of such licence at any point between the end of 2002 and the end of 2013 but have since not renewed their licence. Such provisional licence may be revoked if, within a period of one year from the date of issuance, the provisional licence holder does not successfully pass the relevant examination<sup>3</sup>.

2.7.2 An amendment to the Conservation of Wild Birds (Framework for Allowing an Autumn Live-Capturing Season for Song Thrush and Golden Plover) Regulations (S.L.504.113<sup>4</sup>) was published by means of LN 254/14, Conservation of Wild Birds (Framework for Allowing a Derogation Opening an Autumn Live-Capturing Season for Song Thrush and Golden Plover) (Amendment) Regulations, 2014. The purpose of this amendment was to bring the existing Framework Regulations (S.L.504.113) in line with the new legal definitions of live-capturing activity, the restriction on the number and configuration of trapping sites, the extension of the protection of habitats and other provisions introduced by virtue of LN252/14 (S.L.504.715). Moreover, the following changes to the parameters of the live-capturing season for Golden Plover and Song Thrush were introduced:

- The maximum permitted duration of the season for Golden Plover was shortened by 10 days. The maximum duration of the season was thus established to span between 20 October and 31 December;
- The maximum possible national bag limit for Golden Plover was reduced from 1,150 birds to 700 birds, to reflect updates in the conservation status assessment and calculations pertaining to reference populations of Golden Plover;
- A Special Licence fee of €55 was introduced instead of the previous yearly fee of €10;

<sup>3</sup> Examinations involve a written multiple choice test on applicable regulations pertaining to live-capturing, knowledge of permitted methods and applicable prohibitions and restrictions, as well as a test of bird identification.

<sup>4</sup> SL 504.113 available at: <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=11936&l=1>

<sup>5</sup> SL 504.71 available at: <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=11548&l=1>

- Restrictions were imposed on the location and configuration of live-capturing sites, including restrictions on the number of sites and stations per licensee, the maximum size of clap-nets (60m<sup>2</sup> per clap-net with a mesh-size of 30mm) and methods of operation.

2.7.3 The Conservation of Wild Birds (Declaration on a Derogation for a 2014 Autumn Live-Capturing Season for Song Thrush and Golden Plover) Regulations (S.L. 504.123)<sup>6</sup> declared the opening of the 2014 live-capturing season for Golden Plover and Song Thrush in accordance with the amended Framework Regulations and in line with the recommendations of the Malta Ornis Committee.

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

- 3.1 Taking into consideration the provisions of Article 9(1) (c) of the Birds Directive, the Government assessed available scientific data regarding the conservation status of the two species in question. In line with the “judicious use” requirement, and prior to the decision to apply a derogation, 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 2014 live-capturing season.
- 3.2 A detailed assessment of the conservation status, as well as a determination of the “small numbers” criteria is presented in Annex I to this report. The conservation status of the Golden Plover and the Song Thrush was reviewed on the basis of the latest scientific literature available at the time, which also provides details of population size, mortality rates and migratory routes. An assessment of the Golden Plover at sub-species level was also provided.
- 3.3 The analysis indicates that Golden Plovers migrating over the Maltese Islands are the sub-species *Pluvialis apricaria altifrons* from the Northeast European (or West Continental) population, which has a favourable conservation status at the Global, Pan-European, EU and reference-population levels. The same status has also been indicated for Song Thrush (*Turdus philomelos*).
- 3.4 Both species are listed in Annex II (b) of the Birds Directive, which indicates that 9 Member States may authorise the hunting of Golden Plover and 8 Member States may authorise the hunting of Song Thrush in accordance with Article 7 (3) of the Directive. Both species enjoy a healthy distribution and range, and a large population size. Latest scientific literature reviewed as part of the assessment indicated both the long-term and short-term trend for the population of Song Thrush as “Moderate Increase” at Pan-European level and “Stable” at EU level and reference population level<sup>7</sup>. The Golden Plover population at Pan-European, EU and reference population levels is “Stable” at both the short and long term trends.
- 3.5 The analysis furthermore contained a revision to the reference population of *Pluvialis apricaria altifrons*, on the basis of which the 1% threshold and hence the national bag

<sup>6</sup> SL 504.123 available at: <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=12210&l=1>

<sup>7</sup> The “reference population” is the population (minimum breeding pairs) of the relevant species from other EU Member States based on ring recoveries. In the absence of ring recoveries for a particular species, the reference population is typically based on the entire EU population divided by three to account for the three principal flyways. However, in the case of Golden Plover, the literature indicates that the reference population for Malta originates from Finland and Sweden (excluding non-EU countries such as Norway), which collectively had a Stable population trend at the time the report on their conservation status was drafted prior to application of the live-capturing derogation.

limit was revised accordingly. The revised maximum bag limit of 700 Golden Plovers was thus proposed in replacement of the previous bag limit of 1,150.

- 3.6 On the basis of the evaluation contained in Annex I to this report, the key conclusions that have previously been drawn, as reported in Malta's successive reports on the outcome of the autumn live-capturing derogations for Golden Plover and Song Thrush, have been retained. These are: (i) that there is no record of these two species ever breeding in Malta, (ii) that these two species are only present on the Maltese Islands in very limited numbers during a period of migration and (iii) that both species have an extremely large range, and hence do not approach the thresholds for vulnerable under the range size criterion, or under the population trend criterion, or under the population size criterion and are thus evaluated as species of 'Least Concern'.

#### **4. Registration of live-capturing sites under the new legal parameters**

- 4.1 Between 2 and 31 July 2014, the Wild Birds Regulation Unit coordinated an exercise to update the register of live-capturing sites so as to ensure that only those sites that strictly conform to the parameters stipulated in the new legislation<sup>8</sup> are registered. Another aim of the exercise was to obtain up-to-date information on the number, location and configuration of existing trapping sites, as well as on how these sites are linked to individual persons. This information was gathered with a view to subsequently digitalise all site plans and plotting these on Geographic Information Systems (GIS) for enforcement and verification purposes. Registration of the relevant sites *per se* did not entitle the registrant to practice any live-capturing activity on these sites. Such activities were only authorised subject to a separate Special Licensing process, as outlined in the following sections of this Report.
- 4.2 Interested persons were able to register up to two live-capturing stations located in not more than two separate sites, with each live-capturing station consisting of not more than two pairs of horizontal clap-net areas manually operated from a single location (hide). Detailed guidance concerning the quality of acceptable site plans and other eligibility criteria was published in advance and during the exercise<sup>9</sup>.
- 4.3 Around 40 data operators were deployed at four screening stations in Malta and in Gozo. Each screening station was equipped with GIS-enabled facilities including:
- A standard basemap of the Maltese Islands and a set of high definition optical and infrared aerial photo digital survey sheets (maps) pertaining to 1998, 2003, 2004, 2008, 2010, 2012 and 2014. Various sub-sets of each year's survey sheet was available at each computer terminal at each screening station;
  - A standard set of layers indicating: (a) No-trapping zones consisting of bird sanctuaries and protected beaches; (b) All protected habitats within Natura 2000 sites containing natural habitat types bearing codes 1150, 1210, 1240,

---

<sup>8</sup> As at the date of commencement of the registration exercise, the legislation referred to in section 2 of this Report was still at proposal stage. It was published on 15 July 2014.

<sup>9</sup> This guidance can be accessed from:

<https://www.gov.mt/en/Government/Press%20Releases/Pages/2014/June/30/pr141464.aspx>

<https://www.gov.mt/en/Government/Press%20Releases/Documents/Map.jpg>

<http://msdec.gov.mt/en/Document%20Repository/WBRU/Zoni%20Protetti.jpg>

[http://msdec.gov.mt/en/Document%20Repository/WBRU/Vetting%20of%20live-capturing%20stations%20\(site%20plans\)MT.pptx](http://msdec.gov.mt/en/Document%20Repository/WBRU/Vetting%20of%20live-capturing%20stations%20(site%20plans)MT.pptx)

1310, 1410, 1420, 1510, 2110, 2210, 2220, 3140, 3170, 5230, 5330, 5410, 5420, 5430, 6220, 8210, 92A0, 92D0, 9320, 9340, 9540 and 9570 as listed in Schedule I of the Flora, Fauna and Natural Habitats Protection Regulations (S.L.504.73)<sup>10</sup>; (c) areas outside Natura 2000 sites that support natural habitats, including Scheduled Level 1 and Level 2 Areas of Ecological Importance and Sites of Scientific Importance; and (d) official Department of Agriculture and Paying Agency's digital register of agricultural land parcels.

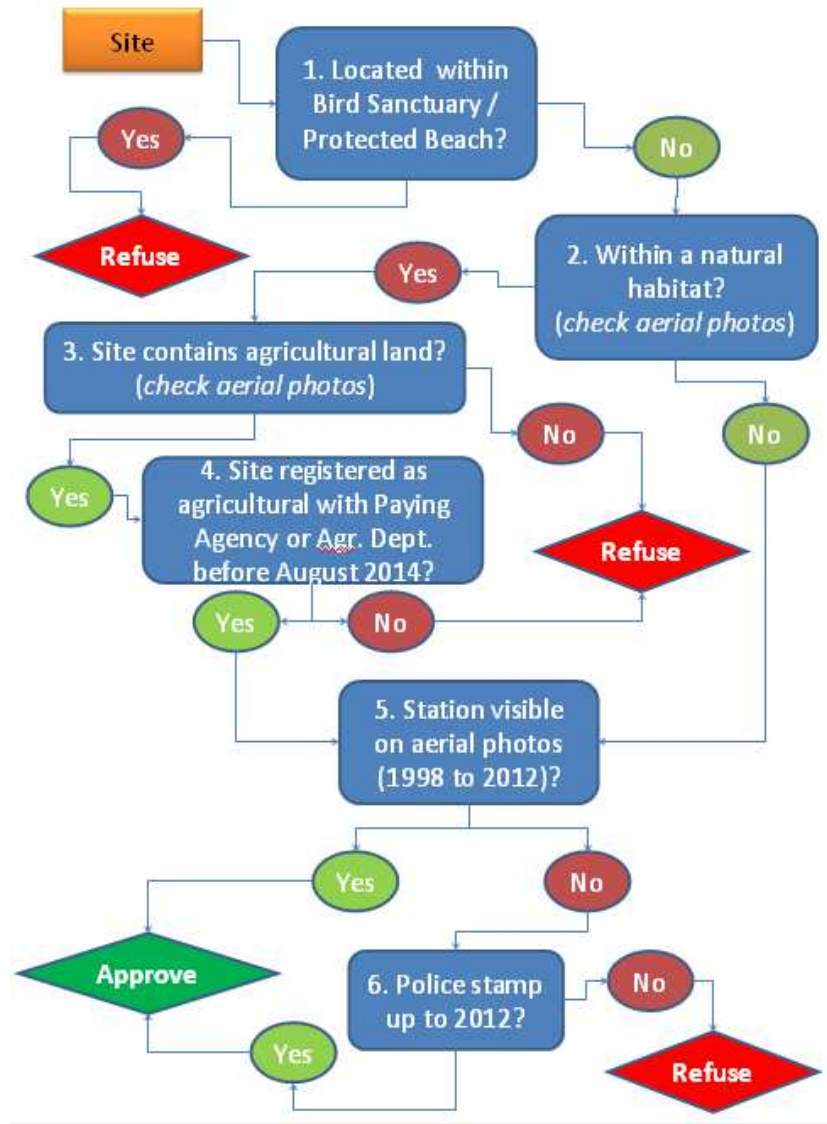
4.4 All data operators received specialised training on the screening procedure, delivered by the Wild Birds Regulation Unit. The screening and registration process followed the decision-making procedure, which is summarised in the below flowchart presented as Figure 1:

- Step 1: Ascertain the identity of the registrant
- Step 2: Ascertain that the site plans presented for registration conform to stipulated quality parameters
- Step 3: Ascertain that the sites presented for registration do not contain more than two separate location per registrant, and that each location contains not more than two live-capturing stations operated from a single location (hide)
- Step 4: Locate the precise boundaries of the site on GIS map server
- Step 5: Verify that the site is not located within the boundaries of bird sanctuaries or protected beaches, in which case the registration process would be terminated
- Step 6: Verify that each site and station presented for registration is not located on designated protected area (refer to the above list of protected habitats and areas). If the site is not located within any protected area, one would proceed to Step 8. If located within protected area, proceed to Step 7.
- Step 7: Verify whether any site located within the boundary of a protected area (other than bird sanctuary or protected beach) is situated within a cultivated agricultural land officially registered with the Department of Agriculture. If the site is not on agricultural land, the registration process is terminated. If the site is within agricultural land and is officially registered as such, proceed to Step 8.
- Step 8: Confirm whether each live-capturing station is clearly visible on aerial photo maps published prior to the end of December 2012 (to ascertain that this is not a newly-created site), or, where the site is not clearly visible, check whether the live-capturing site was registered with the police prior to the end of December 2012.
- Step 9: Sites that meet the above criteria are accepted for registration, logged in to a database, whilst the site plans are officially coded, sealed with an official stamp, signed and dated. The registrant retains one original, whilst a separate original is retained by the authorities for plotting, control and verification purposes.

---

<sup>10</sup> S.L.504.73 available at: <http://justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=11550&l=1>

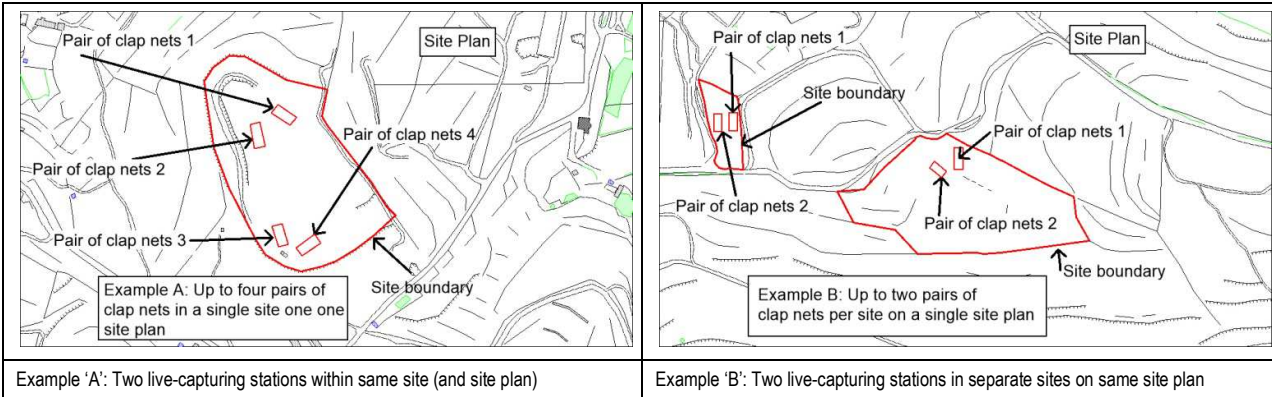
Figure 1 – Screening and registration decision-making flowchart



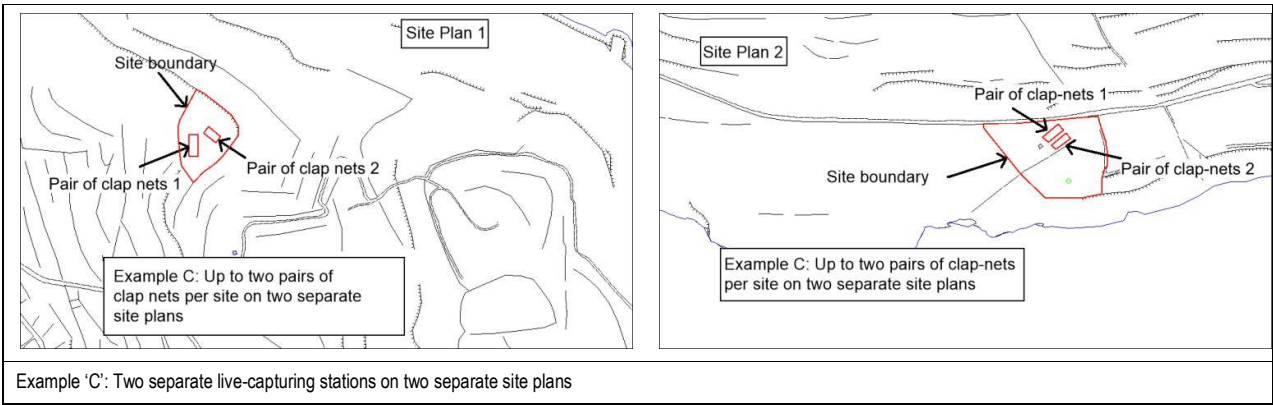
- 4.5 By the end of this exercise, the Wild Birds Regulation Unit vetted a total of 6,697 site plans containing 8,122 live-capturing stations pertaining to 4,685 persons. Of these, 6,965 stations were accepted for registration, after conformity with the above criteria was ascertained.
- 4.6 Registration of live-capturing sites did not entitle anyone to practice any live-capturing activity on these sites, which activity could only be authorised subject to separate licensing processes and terms and conditions of relevant legislation.

## 5. Special Autumn 2014 live-capturing licenses for Golden Plover and Song Thrush

- 5.1 Applications for Special Autumn Live-capturing licenses for Golden Plover and Song Thrush were received by the Wild Birds Regulation Unit between 15 July and 2 August 2014<sup>11</sup>. Applications were subject to a €55 Special License fee, payable at the time of application.
- 5.2 The applicants were also required to declare the quantity of special single use rings approved by the Maltese authorities 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 applicants were issued with the required number of rings against a payment of €0.50 per ring.
- 5.3 Applicants also had to enclose two copies of up to two site plans that must bear an official registration stamp and code. Licensees were not allowed to submit more than two live-capturing stations per person, distributed as follows, either:
- two live-capturing stations within the same site, with each live-capturing station having not more than two pairs of clap-nets from one hide (see Example A); or
  - two separate live-capturing stations on one site plan with each live-capturing station having not more than two pairs of clap-nets from one hide (see Example B); or
  - two different site plans, with each site plan showing a single live-capturing station containing not more than two pairs of clap-nets from one hide (see Example C).



<sup>11</sup>Information on application procedure and requirements can be accessed from here: <http://msdec.gov.mt/en/Document%20Repository/WBRU/Maltapost%202014%20live-capturing%20application%20formEN-MT.pdf>  
<http://msdec.gov.mt/en/Document%20Repository/WBRU/Autumn%202014%20Live-Capturing%20FAQs-EnglishMaltese.pdf>



5.4 A total of 1,759 registered live-capturing stations (3,519 clap-net pairs) were submitted by 1,223 applicants. This total includes individuals in possession of the Golden Plover/Song-Thrush special licence only as well as those who had applied for both the finches and Golden Plover/Song-Thrush special licences. The data excludes individuals who had applied for only the finches special licence. 1,486 registered live-capturing stations were located in Malta and 273 stations were located in Gozo. Each clap-net pair was subsequently digitalised and plotted on GIS together with the corresponding licensee's personal details, for field enforcement purposes.

Table 1 – Registration of live-capturing stations

Registered Golden Plover/Song-Thrush live-capturing stations in 2014			
	Stations*	Clap-net pairs*	Licensees*
Malta	1,486	2,972	1,011
Gozo	273	547	212
<b>Total</b>	<b>1,759</b>	<b>3,519</b>	<b>1,223</b>
* Data refers to licensees in possession of the Golden Plover/Song-Thrush special licence only and licensees in possession of both the Golden Plover/Song-Thrush and finches special licences.			

Source: Wild Birds Regulation Unit

5.5 Following digitisation of all site plans submitted by the licensees, a post-vetting verification exercise was carried out. Registration for a total of 74 clap-net pairs were revoked either because upon further examination the location did not meet the protected area criteria specified in the Framework Regulations (S.L.504.124) or because the licensee had exceeded the permitted limit of two stations/four clap-net pairs.

5.6 By the end of the application process, 1,223 applications for Special Licence for Golden Plover and Song Thrush were received, a marginal 3.6% increase in comparison with the number of applications submitted in 2013 (1,164). 1,033 applications were received from applicants residing in Malta (*circa* 84%) and 190 applications were received from applicants residing in Gozo (*circa* 16%).

Table 2 – Special Licence applications

Applications	Total	Malta	Gozo
Applications for Golden Plover/Song-Thrush special live-capturing licence only	388	335	53
Applications for Golden Plover/Song-Thrush special live-capturing licence <u>and</u> special finch live-capturing licence	835	698	137
<b>Total</b>	<b>1,223</b>	<b>1,033</b>	<b>190</b>

Source: Wild Birds Regulation Unit

- 5.7 Following screening, all applications were considered valid. Consequently, the Wild Birds Regulation Unit issued a total of 1,223 licences for the 2014 autumn live-capturing season. A sample of the licence issues is enclosed as Annex II to this Report. All licences were collected to be potentially used during the applicable season. The majority of applicants applied for both special licences.
- 5.8 The Autumn 2014 Live-Capturing Licence (vide Annex II) set a number of conditions for the 2014 live-capturing season, as provided in the Framework Regulations (S.L.504.113) and the Notice of Derogation (S.L.504.123). The Licence included, *inter alia*, the dates and permitted hours of the season, provisions related to location and configuration of live-capturing sites and live-capturing stations, restrictions pertaining to mesh size to be used (not less than 30mm × 30mm), the maximum footprint of each live-capturing stations (maximum of 60 square metres for a pair of clap-nets), provisions related to authorised method of capture and prohibition for leaving armed nets during hours when live-capturing is not permitted, seasonal individual bag limits (6 birds of the relevant species per licensee), requirements concerning the use of live decoys (maximum of 10 live decoys per live-capturing site; all decoys must be ringed with a special single-use ring supplied by the Wild Birds Regulation Unit), requirement to immediately report birds caught through telephonic game reporting system and in the *Carnet de Chasse*, requirement to immediately report any scientific ring recoveries and to immediately release birds fitted with scientific ring, requirement to immediately release birds not of the relevant species should accidental capture occur, requirement to immediately release birds that may be accidentally caught over one's bag limit, requirement to keep relevant documentation, including approved site plans, Carnet de Chasse, Special Licence and ID Card at all times whilst practicing the live-capturing activity or travelling to and from a live-capturing site, restrictions pertaining to permitted size of cages in which birds can be kept during live-capturing activity, and other restrictions and prohibitions. In addition to these conditions, licensed live-capturers were also to abide with the provisions laid down in the Conservation of Wild Birds Regulations (S.L.504.71).
- 5.9 Offences against any provision of the Special Licence are subject to harsh penalties envisaged in Regulation 27 of the Conservation of Wild Birds Regulations (S.L. 504.71). Except where the offence consisted solely of an administrative or minor violation listed in Schedule VIII of the said Regulations, any other offences or breaches of licence conditions trigger automatic seizure of the Special and General Licences, seizure of rings, birds and equipment prior to criminal proceedings being initiated in terms of Regulation 27.

## 6. Daily reporting of catches

- 6.1 In accordance with the provisions of Regulation 7 (m) of the Conservation of Wild Birds (Framework for Allowing an Autumn Live-Capturing Season for Song Thrush and Golden Plover) Regulations (S.L. 504.113), licensed live-capturers are obliged to immediately report the birds caught to the Wild Birds Regulation Unit. This

immediate real-time reporting requirement applied in addition to the requirement to also report the birds caught in Carnet de Chasse, prior to leaving the live-capturing site.

- 6.2 During 2012 and 2013 live-capturing seasons, the immediate reporting requirement was administered via an SMS reporting system. In 2014, this system was re-designed and improved to incorporate better data security and reliability, better user-friendliness and expanded functionality. A real time telephonic game reporting system was developed to replace the previous SMS system.
- 6.3 The Special Live Capturing Licence contained a legal obligation for live-capturers to immediately report birds caught by dialling a single number for the Golden Plover and the Song Thrush: 27790200. Upon making the call, the licensee would follow voice prompts through the reporting procedure. Song Thrush was assigned code (1) whilst Golden Plover was assigned code (2). Live-capturers were required to notify the species caught and the quantity. Once a telephonic report was confirmed, the live-capturer received a confirmation SMS containing the details of his report. This SMS was to be retained throughout the season for potential inspection by enforcement officers. The telephonic system also contained a number of messages that reminded callers of their legal obligations, including bag limits, permitted hours and so on. Should a live-capturer attempt to report birds caught over his allowed quota, he would be immediately prompted to release the birds caught, and the report would be lodged for enforcement purposes. Only the holders of a special live-capturing licence could access the system, which rejected any calls from mobile phone numbers that were not registered to a particular licensee.
- 6.4 Throughout the duration of the derogation, the Wild Birds Regulation Unit had access to monitor individual and national quota uptake for both species in real time. Summary daily capture reports were also received at the end of each day's permitted hours. These reports stipulated the total number of birds reported caught per species during each day, cumulative totals, as well as the detailed information pertaining to the precise time of each report, and the registered mobile phone number pertaining to the licensee making such a report.
- 6.5 All data was simultaneously and securely captured on two servers, with automatic back up every five minutes. A total of 32 telephone lines were available at any one time in case of simultaneous reports.
- 6.6 During the 2014 live-capturing season spanning between 20 October 2014 and 31 December 2014, a total of 418 Golden Plovers were declared caught, which is 93.5% more than during the 2013 – 2014 live-capturing season (20 October 2013 – 10 January 2014). Conversely, a total of 292 Song Thrushes were declared caught between 20 October 2014 and 31 December 2014, which is 116% more than the number of Song Thrushes reported during the same period in 2013. Since no Golden Plover and Song Thrush migration data was available, it was not possible to attribute the increase in declared catches to the increase in migration. Nonetheless, given that the activity patterns of registered live-capturers were likely to have been very similar to those in 2012 and 2013 (see further explanation in point 6.9 below), an increase in migratory influx may have been a major factor behind the increase in the catches. In order to ascertain such migration patterns in the future, the Maltese authorities are considering implementation of a migration study of Golden Plover and Song Thrush influx during the following autumn of 2015.
- 6.7 Table 3 below lists daily catches of Golden Plover and Song Thrush reported in 2014 in comparison with the corresponding catches reported during 2013 – 2014 period.

*Table 3 – Daily catches of Golden Plover and Song Thrush: comparison between 2013 and 2014 seasons*

Date of capture	2014 Season (20/10/2014 - 31/12/2014)		2013 Season (20/10/2013 - 10/012014)	
	Golden Plover	Song Thrush	Golden Plover	Song Thrush
20-Oct	0	1	0	0
21-Oct	0	1	0	1
22-Oct	0	1	0	4
23-Oct	0	5	0	6
24-Oct	0	2	0	1
25-Oct	0	4	0	5
26-Oct	0	7	0	5
27-Oct	0	6	0	0
28-Oct	0	3	1	5
29-Oct	0	8	0	0
30-Oct	0	16	0	1
31-Oct	0	7	1	4
01-Nov	0	10	0	4
02-Nov	1	12	0	5
03-Nov	0	7	0	3
04-Nov	0	9	0	0
05-Nov	0	5	0	1
06-Nov	0	5	0	4
07-Nov	0	2	0	2
08-Nov	0	4	0	10
09-Nov	0	15	0	5
10-Nov	0	9	0	3
11-Nov	0	4	0	1
12-Nov	2	13	0	1
13-Nov	0	2	0	0
14-Nov	2	8	0	2
15-Nov	0	8	0	1
16-Nov	1	5	0	2
17-Nov	0	7	0	3
18-Nov	0	3	1	1

	2014 Season (20/10/2014 - 31/12/2014)		2013 Season (20/10/2013 - 10/012014)	
Date of capture	Golden Plover	Song Thrush	Golden Plover	Song Thrush
19-Nov	0	6	5	1
20-Nov	0	4	1	3
21-Nov	0	3	1	2
22-Nov	0	5	0	1
23-Nov	1	4	0	2
24-Nov	0	4	1	3
25-Nov	7	1	0	2
26-Nov	7	5	2	1
27-Nov	4	0	1	0
28-Nov	2	0	1	0
29-Nov	5	1	5	2
30-Nov	8	1	8	1
01-Dec	7	4	8	2
02-Dec	6	0	1	0
03-Dec	9	0	1	1
04-Dec	13	2	3	0
05-Dec	8	2	3	4
06-Dec	10	1	1	2
07-Dec	8	0	6	2
08-Dec	7	1	5	6
09-Dec	7	3	6	1
10-Dec	2	1	4	3
11-Dec	11	4	10	2
12-Dec	6	1	8	1
13-Dec	14	2	4	3
14-Dec	9	0	2	1
15-Dec	7	1	2	1
16-Dec	7	0	1	0
17-Dec	10	0	0	1
18-Dec	4	2	1	1
19-Dec	3	1	5	0
20-Dec	17	4	3	0
21-Dec	13	1	2	0
22-Dec	12	1	7	2
23-Dec	9	5	6	0
24-Dec	9	4	3	0
25-Dec	1	3	7	1
26-Dec	9	1	3	1

	2014 Season (20/10/2014 - 31/12/2014)		2013 Season (20/10/2013 - 10/012014)	
Date of capture	Golden Plover	Song Thrush	Golden Plover	Song Thrush
27-Dec	16	3	4	0
28-Dec	13	0	4	1
29-Dec	30	0	7	1
30-Dec	26	13	4	0
31-Dec	75	9	9	0
01-Jan	Closed season		5	Closed season
02-Jan			8	
03-Jan			6	
04-Jan			8	
05-Jan			4	
06-Jan			7	
07-Jan			4	
08-Jan			6	
09-Jan			8	
10-Jan			2	
<b>Total</b>	<b>418</b>	<b>292</b>	<b>216</b>	<b>135</b>

Source: Wild Birds Regulation Unit

- 6.8 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 292 birds declared captured amounts to 5.8% of the total bag limit permitted by law (5,000). In the case of Golden Plover, the total number of 418 live-captured birds equates to 59.7% of the limit permitted by law (700). As indicated in Table 3 below, the seasonal bag limit of six birds was reached by 11 licensed individuals.

Table 4 – Breakdown of catches by number of reports made

Number of birds declared caught throughout season	Number of licensed live-capturers
0	711
1	129
2	84
3	36
4	26
5	27
6	11

Source: Wild Birds Regulation Unit

- 6.9 Virtually all special licence holders in 2012 and 2013 have also obtained a special licence in 2014, and therefore it is reasonable to assume that activity patterns of live-capturers evident in 2012 and 2013 seasons were also maintained in 2014. 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 2013 extracted in 2014 indicates that during the 2013 live-capturing season only 55% of special license holders (648 persons) practiced live-capturing on at least one occasion during the season, and only 7% (84 persons) practiced regularly for more than 60 days.

## **7. Enforcement efforts**

### **Staff training**

- 7.1 Prior to the start of the season, enforcement officials detailed to carry out controls in the field undergone a training programme comprising two training seminars organised by the Wild Birds Regulation Unit, one on 28 August 2014, for approximately 50 officers, held at the Police Academy and the other on 15 October 2014, for approximately 30 officers, held at the Administrative Law Enforcement offices of the Malta Police Force. The attendees were trained in basic field ornithology and avian ecology, as well as on the relevant regulations and licence conditions, inspection techniques, principles of surveillance and counter-poaching operations and wildlife crime detection and prosecution techniques.
- 7.2 Further training was held on 27 October 2014 for patrol commanding officers specifically on the use and operation of portable GIS devices used during inspections.

### **Overall deployment and field surveillance**

- 7.3 Conservation of Wild Birds (Framework for Allowing a Derogation Opening an Autumn Live-Capturing Season for Song Thrush and Golden Plover) (Amendment) Regulations, 2014 (S.L.504.113) stipulates that for every one thousand (1,000) licences issued in accordance with these regulations, there shall be a minimum of seven (7) officers and, or marshals, on duty during all hours for which an Autumn live-capturing season is open. If applicable, outside these hours, at least two (2) police officers and, or marshals, shall be on duty during the hours of daylight. The Police shall continue to carry out on-the-spot checks until at least two weeks following the end of an Autumn live-capturing season, in order to prevent illegal live-capturing. Following the closure of an Autumn live-capturing season, for every one thousand (1,000) Autumn live-capturing licences issued that year, a minimum of three (3) police officers shall be on duty during the hours of daylight.
- 7.4 Given that during the 2014 season there were 388 persons licensed exclusively to capture Golden Plover and Song Thrush, a further 835 persons licensed to capture Golden Plover and Song Thrush and also to capture the seven finch species under a separate derogation, and taking into account that the finch live-capturing derogation was implemented concurrently during the same period with 3,336 persons licensed to capture finches only, a total of 32 enforcement officers were needed to supervise both derogations in accordance with the applicable legal requirements. The Maltese authorities opted to exceed this requirement to ensure the strictest supervision possible.
- 7.5 During the Autumn 2014 live capturing season (20 October 2014 to 31 December 2014), the enforcement authorities deployed a total overall complement of 57 officers to oversee and supervise parameters of the derogation as follows:

Table 5 – Total deployment

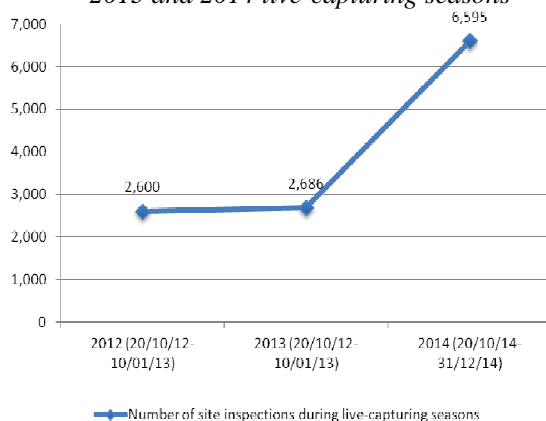
Entity	Number of officers	Duties
Administrative Law Enforcement Unit (ALE) of the Police	24	Field patrols, surveillance, inspections, investigations, prosecution
District police officers seconded to the ALE	20	Field patrols, surveillance, inspections, investigations, prosecution
Armed Forces of Malta	8	Field patrols and surveillance
Wild Birds Regulation Unit	5	Verification of compliance with registration conditions; field inspection of sites; assistance to police in prosecution processes, other expert services

Source: Wild Birds Regulation Unit and Malta Police Force

7.6 Police and Armed Forces of Malta officers maintained a daily field deployment that ranged between a maximum of 30 officers and a minimum of 19 officers in the field **at any point in time from 05:00 to 21:30**, effectively covering live-capturing activity times. This excludes all other non-field staff who were also assigned on duties related to supervision of the live-capturing season, or field staff on shift rotation.

7.7 During the period of the derogation these officers carried out **6,595 on-site inspections** (6,336 in Malta and 259 in Gozo) in various localities around the Maltese Islands, which represents a 2.5 times increase in inspections in comparison with the number of inspections conducted during 2012 Golden Plover and Song Thrush derogation (2,600), and during 2013 derogation (2,686), as shown on the graph below:

Figure 2 – Comparison of the intensity of field inspections conducted during 2012, 2013 and 2014 live-capturing seasons



Source: Wild Birds Regulation Unit / Malta Police Force

7.8 In addition to site inspections, a total of 956 spot-checks (728 in Malta and 228 in Gozo) were conducted on individual licensees whilst they were carrying out their activity, which implies that a quarter of all licensees (23%) were physically inspected at least once during the season.

- 7.9 Further inspections were also carried out after the closure of the autumn live-capturing season and until the end of January 2015 by the Administrative Law Enforcement Unit's core staff complement. In addition, during the season, the Wild Birds Regulation Unit also carried its own site inspections to verify compliance with site registration requirements - these inspections were not included in the overall inspection statistics.
- 7.10 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 any captured birds had been immediately reported *via* mobile phone;
  - Ensure compliance with bag limits and time restrictions;
  - Ensure that no species, other than those that could be captured under the specific licenses were being targeted;
  - Verify that the live-capturing site in use was the one that had been approved by the Wild Birds Regulation Unit;
  - Verify that the conditions of the licence, such as, the maximum limit of decoys present on site and the maximum number of allowed clap-nets and their respective sizes were being complied with;
  - Ensure compliance with the provisions of the Conservation of Wild Birds Regulations (S.L.504.71) and other applicable legislation;
- 7.11 In order to facilitate the conduct of their duties, enforcement officers had 10 vehicles at their disposal. 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. 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.
- 7.12 Patrolling officers were also provided with portable tablet computers with a pre-installed GIS, GPS link capability and geo-tagging photography capability. These devices were loaded with a database of the spatial location of registered trapping sites and the personal details of individual licensees registered on each individual site. During inspections, police officers made extensive use of these devices which have proven to be a very effective way of instantly verifying regulatory information pertaining to each licensee of location. In the past, verification of live-capturers' registration and licensing information necessitated time-consuming retrieval of physical documentation and site plans from office archives. With the introduction of a digital GPS-enabled system this process takes only a few seconds. Due to the introduction of this technology, enforcement officers were able to dedicate considerably more time to actual field surveillance duties, as opposed to documentation retrieval.

### **Infringements detected**

- 7.13 During the inspections carried out by enforcement staff throughout the derogation period, a total of 54 live-capturing-related infringements that qualified for legal action were detected. For operational reasons, considering the fact that a significant proportion of licensees were licensed under two licence categories, it was not feasible

to categorise each infringement according to type of derogation (that is,. Golden Plover and Song Thrush derogation and the finches derogation implemented during the same period). The nature of the infringements detected is outlined in the table below, which also presents comparison with statistics for live-capturing derogations implemented in 2013.

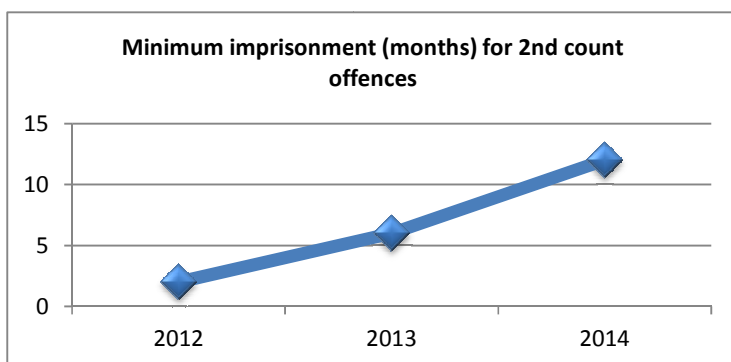
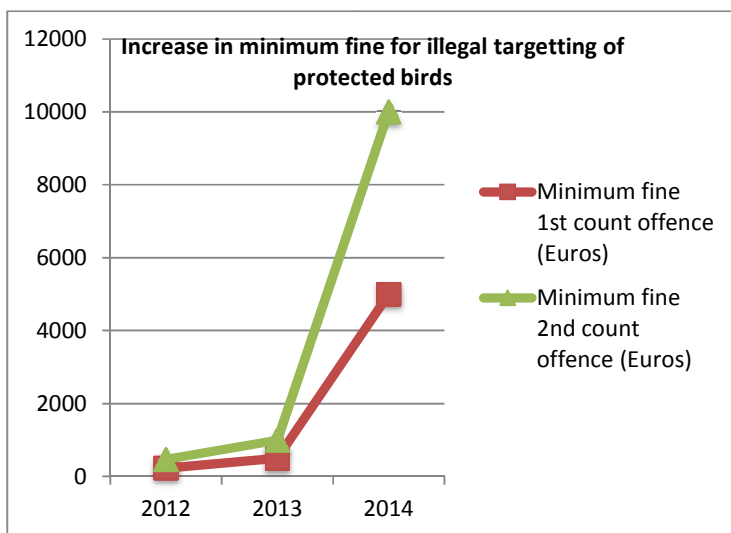
Table 6 – Offences disclosed during 2014 live-capturing season and comparison with the same statistics for 2013

Offences disclosed during autumn live capturing seasons	2013 (20.10.13-10.01.14)			2014 (20.10.14-31.12.14)			Trend in offence disclosure
	Cases in Malta	Cases in Gozo	Total number of cases	Cases in Malta	Cases in Gozo	Total number of cases	
Trapping for protected birds	13	5	18	0	0	0	Decline
Use of illegal means (eg. cage traps; artificial light; vertical nets; decoys of protected birds; pre-recorded bird calls)	10	4	14	17	3	20	Increase
Trapping using nets of prohibited mesh size	6	4	10	0	0	0	Decline
Using in excess of 21 live (finches) decoys while trapping <sup>12</sup>	N/A	N/A	N/A	5	4	9	N/A
Using in excess of 10 live (Song Thrush or Golden Plover) decoys while trapping	0	0	0	0	0	0	N/A
Trapping during unpermitted hours	0	0	0	0	0	0	N/A
Trapping within bird sanctuaries	0	0	0	1	0	1	Increase
Trapping on unregistered sites	0	0	0	2	0	2	Increase
Trapping using unmarked decoys	2	0	2	9	6	15	Increase
Exceeding the seasonal quota of captured birds	0	0	0	0	0	0	N/A
Failure to report captured bird	0	0	0	4	0	4	Increase
Trapping without licence	7	5	13	3	0	3	Decrease
<b>Total</b>	<b>38</b>	<b>18</b>	<b>57</b>	<b>41</b>	<b>13</b>	<b>54</b>	<b>Decrease</b>
<b>Number of persons apprehended</b>	<b>16</b>	<b>5</b>	<b>21</b>	<b>29</b>	<b>9</b>	<b>38</b>	<b>Increase</b>

<sup>12</sup> This offence category is unrelated to Golden Plover and Song thrush live-capturing derogation; however, it is still being reproduced here since there have been persons licensed to capture Golden Plover and Song Thrush as well as finches, and who have committed offences under multiple offence categories.

- 7.14 In 2014 the rate of disclosure for relatively minor violations (for example, illegal use of pre-recorded bird calls, using unmarked decoys, failure to report captured birds) has increased, in comparison with the same statistics for 2013. This is attributable to much higher intensity of inspections and spot-checks in 2014 in comparison with 2013 (2.5 times increase). As a result, greater number of persons were being prosecuted for offences committed during 2014 season in comparison with the number of persons prosecuted for offences committed during the 2013 season.
- 7.15 On the other hand, there has been a drastic decline in the number of serious offences, such as trapping without a licence (four-fold decline), trapping for protected species (no such cases were disclosed in 2014, in comparison with 18 cases in 2013). The above decrease in disclosed major illegalities is, apart from improvements in field deployment, attributable also to the increase in legal deterrents against abuse. Over the past 16 months, these deterrents have been progressively increased to levels that are amongst the highest in the EU. The change in the minimum and maximum penalties for all categories of offences involving illegal killing, trapping and trade in wild birds is summarised in the charts and tables below.

Figure 3 – Increase in minimum fines and minimum imprisonment terms for offences involving illegal taking of protected birds listed in Schedules I and IX of the Conservation of Wild Birds Regulations (S.L. 504.71)



Source: Wild Birds Regulation Unit

Table 7 - Increase in the penalties for offences involving illegal taking of protected birds

Penalties for illegal targeting of protected species listed in Schedules I and IX of the Conservation of Wild Birds Regulations (S.L. 504.71)	2012	2013	2014
Min fine 1st count offence (Euros)	232.94	500	5,000
Min imprisonment (months)	0	0	12
Min term of suspension of license (months)	12	24	Permanent
Max fine (Euros)	4,658.75	5,000	5,000
Max imprisonment (months)	0	0	12
Max term of suspension of license (months)	36	60	Permanent
Minimum fine 2nd count offence (Euros)	465.87	1,000	10,000
Minimum imprisonment (months)	2	6	12
Minimum term of suspension of license (months)	Permanent	Permanent	Permanent
Maximum fine (Euros)	9,317.49	10,000	10,000
Maximum imprisonment (months)	24	24	24
Maximum term of suspension of license (months)	Permanent	Permanent	Permanent

Source: Wild Birds Regulation Unit

- 7.16 During 2014 live-capturing season, 20 persons were subjected to an automatic administrative fine of €250 each for illicit use of pre-recorded bird calls whilst live-capturing. All illicit devices were seized and destroyed.
- 7.17 A further 18 persons apprehended during the 2014 live-capturing season are being subjected to criminal prosecution. As at the end of March 2015, these cases were pending hearing by the courts.

## **8. Conclusions**

- 8.1 Based on the data provided in this report, 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. The application of this live-capturing derogation in autumn 2014 was preceded by a series of profound analyses that considered all relevant legal, scientific and technical aspects pertaining to this derogation, as well as by an open and transparent discussion with stakeholders.
- 8.2 As a result of these processes, the decision to apply a derogation was made with full confidence that the following critical prerequisites will be met, without reservation:
  - a. The derogation will satisfy all the relevant parameters of the Birds Directive, and specifically the parameters stipulated in Article 9 (1) (c); and
  - b. The actual implementation of the derogation on the ground will ensure that the relevant legal parameters enacted in pursuance of point (a) above will be respected in the field through an elaborate and robust enforcement regime.
- 8.3 The Maltese authorities have subsequently ensured that the above two prerequisites were met in practice. After ascertaining that there is no other satisfactory solution other than the application of this limited and strictly controlled derogation, the authorities put into place a robust legal and regulatory regime that ensured that the scientific considerations pertaining to small numbers and conservation status of the species in question were being implemented in practice and that the relevant parameters of the derogation were being respected in full.
- 8.4 Supervision on the ground was ensured through deployment of appropriately trained and suitably equipped field officers that have doubled the intensity of field inspections in comparison with similar derogations in 2012 and 2013. The use of latest technologies (GIS, GPS, portable tablet PCs, electronic game reporting system, etc) has resulted in a greater efficiency of the overall supervision process. This was aided further by an increase in the penalties for offences, the introduction of a swift administrative fines system for minor violations in lieu of prosecution, greater regulatory rigour (for example, pre-screening, registration and digitalisation of all site plans), and greater efforts at promoting and increasing the awareness with regard to the regulatory systems in place. The above efforts paid off in terms of a noticeable reduction in the incidence of serious trapping-related violations that were prevalent in the past years.

