

Meeting of the Malta Ornis Committee

17th February 2016, WBRU, 1630 - 1900

Minutes

Attending members:

Prof Mark Anthony Falzon – Chairman
Mr Sergei Golovkin - Secretary
Mr Mark Sultana – Birdlife (Malta)
Mr Nicholas Barbara - Birdlife (Malta)
Mr Joe Perici Calascione – FKNK
Mr Lino Farrugia - FKNK
Mr Marco Falzon – Member nominated by Government
Mr Gwido Baldacchino - Member nominated by Government
Mr Frank Vassallo– Hunting and Trapping Expert
Mr Mark Gauci – Avifauna Expert
Mr Stephen Saliba – MEPA

Absent: Ms Emeline Fenech – Member nominated by Government

Other contributors present: Mr Richard Lia, Wild Birds Regulation Unit

(1) Adoption of the agenda

1.1 The agenda was adopted.

(2) Approval of the minutes

2.1 Minutes were approved subject to corrections to paragraphs 3.1, 4.10 and 4.12 as proposed by Nicholas Barbara. Timeline for submission of Article 9 reports to the Commission as referred to in paragraph 3.2 was clarified.

(3) Matters arising and matters to report

3.1 No matters arising were reported.

(4) Continuation of discussion concerning conservation status of turtle dove and quail

4.1 Chairman referred to the statement published by Kaccaturi San Ubertu in which the organisation contested re-classification of the conservation status of turtle dove. He asked whether any member of the Committee would wish to react to the conservation status assessment report prepared by the Wild Birds Regulation Unit (WBRU) and whether anyone contests the data presented therein.

- 4.2 Joseph Perici Calascione said that the official classification of the status of turtle dove as “vulnerable” and “near threatened” is what it is and the re-classification *per se* is not being contested. However this does not imply that the data presented in WBRU report is incontestable, and indeed the WBRU itself pointed out gross inconsistencies in the data underpinning trends reported in Article 12 report. The FKNK furthermore contends that the fact that the official status of turtle dove has changed does not have any bearing on Malta’s right to apply derogation, firstly because the species still remains huntable in the EU despite re-classification, secondly because the numbers hunted in Malta are insignificant in comparison with the 2-3 million hunted elsewhere in the EU, and thirdly because the Court previously ruled that in Malta’s case hunting of turtle dove and quail in the autumn does not constitute a satisfactory alternative to spring. Derogation is therefore applied subject to meeting stringent parameters of Article 9 and hunters have to comply with a multitude of restrictions and rules that are virtually unheard of in other countries. The FKNK considered all factors carefully, but it is clear that there is no question of destroying a tradition which was affirmed at a national referendum, and which tradition has no impact on the conservation status of turtle dove in Europe due to the insignificant numbers involved, solely on the basis of spurious and inconsistent data that led to re-classification.
- 4.3 Lino Farrugia added that the FKNK analysed the matter in detail and presented its proposals to the government. However the FKNK will not be discussing these proposals at Ornis because, as happened in the past, these would otherwise be leaked to the media and misrepresented by Birdlife Malta in order to pressure the Committee and the government.
- 4.4 Nicholas Barbara reacted by stating that FKNK’s refusal to table its proposals is a gesture of disrespect for the Committee and should not be accepted. Sergei Golovkin interjected by pointing out that Birdlife Malta also refused to table its reports at Ornis, such as for instance its reports on the outcomes of spring hunting season in 2015 as well as autumn season reports. In response to this, Nicholas Barbara said that the last time the organisation shared its spring hunting report with WBRU, it was “leaked” to FKNK and used in referendum campaign. Sergei Golovkin rebutted this claim by stating that Birdlife’s report, which clearly showed a reduction in the number of bird-related offences observed by NGO volunteers was quoted as part of government’s own report on enforcement, which was published. Since government’s report was in the public domain any person or entity was free to quote or use parts of it for whichever purpose.
- 4.5 Mark Sultana pointed out that the data clearly shows that conservation status has significantly deteriorated and this calls into question the impact that hunting of turtle dove in spring would have on this status. Birdlife Malta is aware that hunting is not the only factor affecting the conservation status as there are many other factors such as diseases, habitat loss and agricultural practices that contribute to the decline. However hunting is also a factor that does not ameliorate conservation status and therefore there should be no derogation. If derogation is applied, notwithstanding clear scientific evidence, this would send a very negative political signal throughout Europe, which will put Malta in an extremely bad light. Therefore this is not only a question of hunting but also a question of values.
- 4.6 Chairman asked Birdlife Malta to clarify whether in the face of the changes in the conservation status Birdlife Malta is therefore contesting all hunting of turtle dove including hunting in autumn. Nicholas Barbara replied that the subject being discussed was spring hunting and not the autumn hunting season.

4.7 Chairman furthermore asked whether the WBRU itself contests Article 12 data. Sergei Golovkin replied that the scope of the report presented to Ornis was not to contest or to justify anything, but to objectively document all latest available scientific evidence. Whilst compiling this report, the WBRU discovered significant discrepancies and inconsistencies in the manner in which Article 12 data for some countries was reported, and these inconsistencies were pointed out in the report at face value, without any value judgement attached. However whilst the WBRU report did not contest any data, it does not mean that the data itself is incontestable.

4.8 Nicholas Barbara asked whether the WBRU formally contested Article 12 data or attempted to clarify inconsistencies with the Commission. Sergei Golovkin replied that the government did not submit such requests for clarifications and did not formally contest this data with the Commission. WBRU's involvement at this stage is limited to objectively documenting all latest available data and presenting this for the sake of helping the Committee to produce an informed recommendation to the government, and for the government to eventually reach an informed decision.

4.9 Mark Sultana asked the FKNK whether the organisation acknowledges that hunting does have an impact on the conservation status. Joseph Perici Calascione replied that every activity has its impact, however the impact that the derogation may have is negligible due to the insignificant numbers involved that are well beyond the 1% small number criterion. The FKNK will therefore continue to defend the principle.

4.10 Nicholas Barbara circulated a paper with formal BLM reactions to WBRU report. The paper acknowledges the effort invested by WBRU in compiling the latest available data, but also points out a number of shortcomings, including that:

- Consideration of conservation status at global level is largely irrelevant;
- The assessment “fails to ascertain” that both species have a favourable conservation status in Europe; that the populations of both species migrating over Malta originate from countries or regions where source populations are not declining; that the opening of a spring hunting season will not impact on or further impoverish the conservation status; and that the opening of a spring hunting season would have no impact whatsoever on the possibility of both species breeding in Malta.

On the other hand, BLM believes that it is clear that there can be no guarantee that spring hunting season will not cause further impact on the conservation status of both species. Moreover, Birdlife Malta believes that the spring hunting season would cause further declines within certain European populations, particularly in Hungary, Austria, Germany and Poland which are known to be linked to Malta and which have populations that suffered recently documented decreases. Furthermore, Birdlife Malta expects that a spring hunting season will continue to undermine breeding attempts of these species in Malta. In view of this, the Ornis Committee should acknowledge the need to take precautionary approach and not recommend the opening of the season.

4.11 With reference to Birdlife Malta's presentation, Sergei Golovkin clarified that it was not the scope of the assessment prepared by WBRU to “ascertain” anything; as previously pointed out the assessment simply documented all latest available data on the conservation status of the two species concerned. Therefore it is unclear why Birdlife Malta continuously refers to this as an

alleged shortcoming of WBRU's assessment, when in actual fact it was made clear from the outset that this is not the scope of this assessment. Mark Sultana acknowledged this clarification.

4.12 Sergei Golovkin further pointed out that certain other passages in BLM paper are factually incorrect. He pointed out as an example the sentence in the fifth paragraph of the paper on page 4, which refers to WBRU's assessment as "alleging that the species' upgrading is not justified". In actual fact, WBRU assessment did not make or insinuate such an allegation and did not attach any value judgement whatsoever or contain any critique of the actual re-classification. Furthermore, BLM's assertion that "the correction exercise proposed by the WBRU is meaningless", because "the most likely reason for discrepancy is the adoption of better research methodology and larger effort" and therefore WBRU's paper is "seemingly designed to propose a less critical conservation status of the species" is completely unfounded and unsubstantiated.

4.13 Lino Farrugia said the FKNK fails to understand BirdLife's statement that these birds do not breed on Malta because of the spring hunting, when we had three years with no spring hunting and yet the 'breeding' pairs were inexistent. He added that this is BirdLife's "way of deceitful operations", which situation "was highlighted repeatedly" and indicates that "BirdLife could never be trusted since its founding".

4.14 Since there were no further reactions to the assessment prepared by WBRU, Chairman closed the debate on this item by stating that the only outstanding data that is still to be presented prior to the Committee formulating its final recommendation is the bag statistics pertaining to last autumn season. He asked Sergei Golovkin to advise when this data will be presented to the Committee. Sergei Golovkin said the data is presently being extracted from carnet de chasse booklets that were collected and should be ready for presentation to the Committee by mid-next week.

(5) The setting-up of national enforcement priorities to tackle illegal killing, trapping and trade of wild birds

5.1 Chairman invited Sergei Golovkin to explain his request to the Committee.

5.2 Sergei Golovkin explained that the Conservation of Wild Birds Regulations effectively prioritises certain offences depending on various gravity factors. There are at least four major groups of offences and the corresponding penalty brackets, ranging from administrative penalties to automatically applicable criminal liability including fines, revocation of licenses for life and imprisonment. However apart from this legal prioritisation, entities involved in enforcing these regulations (e.g. WBRU and ALE) have their own policing and enforcement priorities. Given that the enforcement resources are limited, it would be reasonable to prioritise the use of these resources according to strategic priorities, ideally agreed amongst all stakeholders, at a strategic level. Therefore the opinion of Ornis members and the Committee as a whole is being sought with regards to which specific issues may merit a higher priority, from enforcement / policing point of view, and what can be done about such issues by way of improving effectiveness of enforcement measures.

5.3 Sergei Golovkin also referred to discussion at Ornis in 2013, where at one point it was agreed to form a working group to draw up a national strategy on IKTTB. Regrettably this working group did not materialise due to various factors including disagreements on what constitutes an "illegal activity" that would be subject of measures to be presented in such strategy. Taking these past lessons into

consideration, the present exercise aims at developing a rolling list of national policing priorities that should address activities that are illegal under national law, such as, for example, those that are aimed at marketing of birds, or deliberately killing or catching them alive, thus not covering indirect or side effects (like for example accidental bird poisoning due to the use of pesticides). Such activities include inter alia: shooting/trapping in closed period, shooting/trapping in prohibited areas, shooting/trapping by unauthorized persons, killing of protected species, use of prohibited means, non-respect of bag limits, deliberate poisoning, trade in protected birds, illegal taxidermy, illegal importation / trafficking, etc. This list is not exhaustive. He invited all members to propose 3-5 priority activities / issues, as well as explain the rationale behind any measures needed to address these priorities. Apart from the fact that these priorities will help to guide enforcement effort at the national level, Malta is also bound to implement the Tunis Action Plan under Bern Convention. Within the framework of this Plan, the Standing Committee of the Convention recently adopted a formal Recommendation which encourages contracting parties to develop national enforcement priorities to eradicate illegal killing, trapping and trade in wild birds.

5.4 Chairman said that since the Committee is formally asked by WBRU to provide its proposals, this should be done. He added that the exercise seems to be useful to help the authorities in guiding their enforcement effort and in prioritising limited resources.

5.5 Nicholas Barbara asked to what extent will these priorities be binding on NGOs. Sergei Golovkin explained the informal nature of this exercise; the priorities are not meant to be binding on NGO; but are meant to guide enforcement effort by the authorities. Therefore one can argue that having an agreed set of national priorities in place would actually give further leverage to NGOs to hold the authorities accountable for implementing the agreed priorities.

5.6 Nicholas Barbara furthermore asked whether the WBRU “would amend the laws” if it results that any of the agreed priorities are not adequately addressed in the present legislation. Sergei Golovkin clarified that the WBRU does not have the prerogative to amend any laws since its role is executive in implementing them. The power to enact changes to subsidiary legislation resides with the Minister. However the Minister would consider Ornis advice and if it results that any specific measure demands a particular course of action, all possible actions, including but not limited to legislative actions, would of course be considered.

5.7 Lino Farrugia said that by “illegal trapping” of birds it is widely understood at international level the practice of killing the birds that are trapped by various means. Such practices are not used in Malta. Sergei Golovkin clarified that in Malta’s case, this consideration would apply to “illegal live-capturing”, i.e. capturing birds in breach of applicable legal parameters.

5.8 Lino Farrugia said that the FKNK considers two issues to be a priority: use of bird callers at night and illegal live-capturing of birds.

5.9 Mark Gauci proposed that illegal trapping of waders during the summer months seems to be on the increase and should be treated as a priority. There are indications that the numbers of visiting waders at nature reserves seem to be dwindling possibly in part due to increase in their illegal targeting. Wader trapping is quite specific and requires the use of large ponds and much more can be done to identify such sites and monitor and stop such practice.

5.10 Mark Sultana said that Birdlife Malta will need to consider this request further and will be providing its list of priorities.

5.11 Chairman closed this debate by inviting all members to submit their ideas in advance of the next meeting, to enable further discussion.

(6) AOB

6. 1 The Committee did not discuss any other business.

6.2 The next meeting was agreed to be scheduled for Thursday 25th February at 1600. Lino Farrugia notified the Committee regarding his inability to attend the next meeting.

6.3 The meeting was adjourned at 1900 hrs.