

**Meeting of the Malta Ornis Committee  
(Video Conference)**

**Wednesday, 17<sup>th</sup> March 2021**

**0930 – 1315**

**1415 – 1820**

**Minutes**

**Participants:**

Dr Joseph Grech – Chairman  
Mr Richard Lia – Secretary  
Mr Nicholas Barbara – BirdLife (Malta)  
Mr George Borg – Member nominated by Government  
Mr Joseph D’Emanuele – Member nominated by Government  
Mr Lino Farrugia – FKNK  
Mr Mark Gauci – Avifauna expert  
Mr Horace Micallef – Member nominated by Government  
Mr Lucas Micallef – Hunting and live-capturing expert  
Mr Joe Perici Calascione – FKNK  
Mr Darrin Stevens – Representative of the Environment and Resources Authority  
Mr Mark Sultana – BirdLife (Malta)

**Other contributors present:**

Ms Jessica Fenech, Wild Birds Regulation Unit (Item 4)  
Mr Nyal Xuereb, Kaċċaturi San Ubertu (Item 10)

**1. Approval of the agenda.**

- 1.1 The Committee thanked former members Marco Falzon, Joseph Tabone and Frank Vassallo and welcomed George Borg, Joseph D’Emanuele and Lucas Micallef. The Secretary informed the Committee that ERA representative will join the meeting later on and requested to proceed with approval of the previously-circulated agenda. FKNK requested the item on spring hunting, originally scheduled to be discussed in the afternoon, to be shifted to the first part of the meeting. Mark Sultana pointed out that whilst not objecting to FKNK’s request, BirdLife Malta’s research derogations should be discussed beforehand given that their proposal to the Committee was submitted in December. The Secretary pointed out that items on the agenda were placed according to date of submission.
- 1.2 The agenda was approved, as amended.

**2. Matters arising and matters to report.**

- 2.1 Joe Perici Calascione and Lino Farrugia objected to the circulation of KSU’s proposal for spring hunting 2021 and insisted that this should be removed and ignored by the Committee. On [16 October 2019](#), the Committee had already ruled that it is not within its remit to regard any proposals, which any party—save for the Committee members and Government authorities—may decide to address to the Committee for its consideration in any recommendations to the Minister. In 2019, the Committee had instructed that the KSU should be informed about this Committee decision and advised to address such correspondence accordingly and not to the Ornis Committee.

2.2 The Secretary explained that KSU’s proposal on spring hunting was submitted to the Wild Birds Regulation Unit and that it was circulated to the members for their information, not as a specific item on the agenda.

**3. Approval of the minutes of the meeting held on 26/08/2021.**

3.1 The minutes of the previous meeting were approved, as amended by FKNK.

**4. Article 9(1)(b) research derogation: Sampling of Shearwaters—MSc research report on the “Incidence of ingested marine litter in the three tubenose seabird species breeding within the Maltese Islands: Yelkouan Shearwater *Puffinus yelkouan*, Scopoli’s Shearwater *Calonectris diomedea diomedea* and European Storm-petrel *Hydrobates pelagicus melitensis*”.**

*Proposal circulated in advance of the meeting. Item subject to a vote.*

4.1 Jessica Fenech, who is currently reading for a Master’s Degree in Environmental Engineering, was invited to present her MSc research proposal to the Committee. The research study seeks to investigate the incidence of ingestion of marine litter by three species of seabirds, as indicators of this pollutant in the marine environment. Jessica Fenech explained that the research is of scientific relevance since marine litter is one of the major global environmental problems, which requires immediate action. The selected species have an unfavourable conservation status globally, and are also listed under Annex I of the EU’s Birds Directive as priority species for which EU countries shall implement special conservation measures concerning their habitat in order to ensure their survival and reproduction in their area of distribution.

4.2 Jessica Fenech further explained that reporting litter ingested by biota is also a requirement of Descriptor 10 Criterion 3 of the Marine Strategy Framework Directive, which aims at ensuring that ‘*The amount of litter and micro-litter ingested by marine animals is at a level that does not adversely affect the health of the species concerned. Member States shall establish threshold values for these levels through regional or subregional cooperation*’. This study is expected to shed light on the issue within the local context, whilst testing the implementation of relevant monitoring protocols. Jessica Fenech added that such knowledge is expected to contribute to the setting up of monitoring processes and the implementation of adequate conservation measures for the protection of these species.

4.3 Jessica Fenech explained that in order to proceed with her study, an authorisation to obtain and make use of bird carcasses of these three species for the purpose of dissection is required, in line with Regulation 4(1)(e) of the Conservation of Wild Birds Regulations (SL 549.42), which regulates possession of non-Schedule II species. The authorisation will be processed as part of the application of a derogation for the purpose of scientific research in line with Article 9(1)(b) of the Birds Directive. Jessica Fenech pointed out that all carcasses and parts thereof will be returned to the authorities.

4.4 Mark Sultana offered BirdLife Malta’s assistance as and when required and also suggested liaison with the National Museum of Natural History for acquisition of study material. The Committee thanked Jessica Fenech for her presentation and requested her to kindly withdraw from the meeting to proceed with a vote. The Committee unanimously voted in favour of the proposal.

**5. Article 9(1)(b) research derogations: request for sampling of blood and feathers from Yelkouan Shearwaters [up to 80 and 300 specimens respectively] (Feb–Sep 2021) and sampling of blood from ten European Storm-petrels (Apr–Oct 2021) for laboratory / genetic analysis abroad.**

*Request submitted by BirdLife Malta on 22 December 2020 and 15 March 2021 respectively. Proposal circulated in advance of the meeting. Items subject to a vote.*

- 5.1 The Secretary invited BirdLife Malta to present the item. Mark Sultana remarked that the proposed derogation on Yelkouan Shearwaters is a continuation of last year's study. All sampling will be carried out exclusively by WBRU-licensed bird ringers under LIFE programme. Martin Austad will be responsible to coordinate ringing and sampling under the project and ensure sampling protocols are followed.
- 5.2 Stable isotopes will be analysed in the blood samples taken from gps-tracked adults on the retrieval of the devices. The proposed study would test whether the vast foraging areas utilised result in differences in trophic level and diet, but potentially also dependence on fishing discards from deep sea fish that the shearwaters would otherwise not reach.
- 5.3 Regarding the research derogation on European Storm-petrel, Mark Sultana stated that this is a proposed joint collaboration with their Italian colleagues, adding that the Mediterranean population of the Storm-petrel has been shown to differ from the Atlantic population both morphologically and genetically. However, the extent of these differences and the overall genetic structure within and between the populations or subspecies are still uncertain and have never been evaluated on a genomic level and across the distribution range. The aim of the study is to investigate the phylogeography of the European Storm-petrel and to evaluate the genetic differentiation between the Mediterranean and the Atlantic subspecies using genomic data.
- 5.4 For both studies, a report listing all individuals sampled will be filed after the end of the breeding season and submitted to WBRU and ERA. Once available, all published results will be shared with WBRU.
- 5.5 BirdLife Malta's research derogations were put to the vote. The Committee unanimously voted in favour.

**6. Update on the conservation status of the European Turtle-dove (*Streptopelia turtur*) and Common Quail (*Coturnix coturnix*) and discussion on the following key issues prior to the spring 2021 workshops following outcome of the December 2020 workshop on the International Species Action Plan for Turtle-dove (Eastern and Central flyway):**

- *What measures are needed to protect and restore the habitat for the Turtle-dove (including stop-over sites), as well as their planning and funding?*
- *What measures are needed to set up/improve the collection of hunting bag statistics?*
- *What funding is available for monitoring the species and for addressing the key identified research needs, in particular on the following topics: population size estimate, turtle dove productivity (including number of breeding attempts per season and breeding success), juvenile and adult survival, habitat requirements?*
- *Malta's role in the international governance system that will be set up for implementing the Adaptive Harvest Management Mechanism and its funding after the expiry of the current contract funded by the Commission.*

6.1 The Secretary referred to the previously-circulated report on the conservation status of European Turtle-dove and Common Quail, dated February 2021, which takes into account the latest data on European population trends based on the Article 12 report for period 2013–2018.

**Common Quail (*Coturnix coturnix*)**

6.2 The EU population status for Common Quail is Unknown, as the data reported were not sufficient to assess the population status of the species. The Common Quail has an IUCN Least Concern classification at both the EU28 and European scale. This species is not included in the Pan-European Common Bird Monitoring Scheme. During the current (2013–2018) Article 12 reporting period, the Italian population (95% of Malta’s reference population) registered an increase in the long-term trend from the previous (2008–2012) status of unknown. However, the Hungarian population now stands at 5,000–10,000 calling males *less* than previously reported. Malta’s reference population retained a stable short-term trend status in the maximum number of calling males and improved the short-term trend status in the minimum number of calling males, from declining to stable. The long-term trend of the reference population remains unknown.

**European Turtle-dove (*Streptopelia turtur*)**

6.3 This species is listed as Vulnerable at the European and global levels and Near Threatened within the territory of the European Union (BirdLife International, 2015a: 41). A ten-year (2018–2028) international single species action plan is in place *to restore the European Turtle-dove to a favourable population status so that it can be safely removed from the Globally Threatened categories of the IUCN Red List* (Fisher *et al.* 2018).

6.4 The European Bird Census Council (2019 update) has shown that at Pan-European level, the Turtle-dove declined by 80% when compared with the 1980 baseline data and by 17% during the 10-year trend (2008–2017). Compared with the previous (2018) EBCC update, the Turtle-dove population remained at 80% decline in the long-term trend [no change] and increased by 12% in the short-term (10-year) trend [from -29% to -17%].

6.5 Based on the latest Article 12 reporting cycle (2013–2018), the Turtle-dove reference population improved its short-term trend status from Declining to Stable (Min. Pairs: -0.40%; Max. Pairs: -0.45%) and remained Stable in the long-term trend (Min. Pairs: -0.42%; Max. Pairs: -0.53%). During the previous reporting cycle (2008–2013), the decline in the short-term trend of Malta’s reference population was -13.02% (Min. Pairs) and -10.61% (Max. Pairs). Thus, in the short-term, the reference population increased by 12.62% (Min. Pairs) and 10.03% (Max. Pairs).

6.6 Joe Perici Calascione remarked that the latest update has shown that there has been an improvement in the reference population of both species, adding that if Malta is gearing towards implementing the Adaptive Harvest Management Mechanism, as the smallest EU Member State, its contribution towards habitat management is comparatively insignificant, Joe Perici Calascione also referred to FKNK’s breeding and release project as a contribution towards reversing the decline of the Turtle-dove, in line with IUCN guidelines.

6.7 The Secretary invited members to an open discussion on the key issues related to the conservation of Turtle-dove prior to the spring 2021 workshops on the International Species Action Plan for (Eastern and Central flyway).

6.8 The Secretary remarked that the Action Plan refers to habitat protection and restoration even at stop-over sites, adding that the previously-circulated scientific paper by Camprodon and Brotons, published in 2006 in the peer-reviewed journal *Forest Ecology and Management*, shows that the methods used for managing forest undergrowth can have beneficial as well as deleterious effects on different bird communities: whilst complete undergrowth clearing negatively affects undergrowth species such as warblers, the authors found that many bird

species, including the Turtle-dove, only benefitted from undergrowth clearing when applied together with three thinning, concluding that undergrowth clearing should be applied selectively. The Secretary added that this approach could be adopted in Malta when managing afforested areas to provide a habitat that is more suitable for Turtle-dove whilst ensuring that undergrowth species are not adversely affected. The Chairman remarked that a lot of holdings pertain to private individuals, adding that such management programmes have to be targeted within public land, unless there is a system in place similar to the agri-environmental measures that encourage private landowners to adopt the same land management practices.

- 6.9 Nicholas Barbara remarked that, as evidenced during the recent workshops on the Turtle-dove Action Plan, the European Commission is not satisfied with the fact that Member States have not taken on board its suggestion to apply moratorium on Turtle-dove hunting in autumn, adding that the Commission seems inclined to enforce it to allow the species to recover. Nicholas Barbara added that, in Malta, the main threat to the Turtle-dove is illegal hunting to the extent that it is impeding the species from breeding locally.
- 6.10 Joe Perici Calascione remarked that inter-Ministerial collaboration should be considered to ensure that agricultural practices are aligned with environmental conservation objectives, including habitat management. Joe Perici Calascione added that he is against the moratorium since hunters should not be alienated, adding that enforcement should be direct and strict rather than setting a blanket prohibition. Joe Perici Calascione also pointed out that even in the total absence of hunting, Malta's carrying capacity cannot possibly sustain more than a few pairs of Turtle-doves.
- 6.11 Darrin Stevens joined the meeting at 1030 and requested a clarification on the methodology used to calculate the trends of the reference population, pointing out that if the trends were compared with the previous report compiled by WBRU, it does not provide a proper assessment of population trends considering that reporting under the Birds Directive is every six years so that trends can be properly assessed. The Secretary explained that the same methodology adopted for all conservation status reports has been used and that the latest update does not compare data with different reporting cycles or with the previous report prepared by WBRU in 2020. The Secretary explained that the latest update is based on Article 12 reports for reporting period 2013–2018 and that the previous report prepared by WBRU in 2020 was based on Article 12 reports for reporting period 2008–2012 since data for the current reporting period were not yet available at the time. The Secretary further explained that the data for previous reporting periods (e.g. Tables 10 and 12 in the 2021 report) were included in the latest update for information purposes only, not to determine the population status. The Secretary further explained that, as shown in Tables 5 and 13, which are standalone latest assessments of the reference population, the magnitude percentage change reported by each Member State during the 2013–2018 reporting cycle, which differ from those reported by the same Member State during the previous (2008–2012) reporting cycle, is added under each respective column for the short-term and long-term trends. Each total is then reflected as a percentage of the corresponding minimum and maximum number of calling males for quail (Table 5) and the minimum and maximum number of breeding pairs for turtle-dove (Table 13). Darrin Stevens took note and thanked the Secretary for the clarification.
- 6.12 With reference to the workshops on the Turtle-dove International Species Action Plan, Lino Farrugia remarked that the Commission should be informed that Malta's limited land area and extent of development are not conducive for Turtle-doves to establish a breeding population, adding that it is not possible to provide a better habitat for this species. Regarding game reporting data, FKNK believes that Malta has one of the best real-time reporting systems within the EU, corroborated with physical evidence of the hunted quarry during spot-checks. Lino Farrugia further remarked that figures reported by hunters in the past were used against them. Regarding the moratorium, Lino Farrugia stated that none of the EU Member States implemented it and that only Malta imposed a moratorium (on spring hunting). Lino Farrugia

further added that contrary to what some may believe, FKNK's breeding and release programme is the only possible contribution that Malta can provide to reverse the decline of the species, further stating that during a NADEG meeting, the European Commission had stated that release of specimens should be resisted since "it is the easy way out for Governments". Lino Farrugia remarked that FKNK's release programme is implemented in line with IUCN guidelines.

- 6.13 The Secretary asked Lino Farrugia whether FKNK will consider introducing a monitoring component in their breeding programme to track the movements of specimens following their release. Lino Farrugia replied that satellite-tagging forms part of the next phase of FKNK's release programme given that funds under the current project, co-financed through the Conservation of Wild Birds Fund (CWBF) through the 2019 call for projects, were not enough to procure the tags, adding that the CWBF Committee had also included a condition in the grant agreement that ties future financial support to the project with a mandatory geo-tagging component.
- 6.14 Mark Sultana stated that game reporting is an issue that needs to be properly addressed, adding that whilst it is a state-of-the-art system, hunters' participation is extremely low. If this is considered as best available data, there is a risk that such data is not sufficiently robust. The claim that previous game reporting data was used against hunters is incorrect and just a perception. Game reporting data is used for bird conservation purposes; if the data shows that harvesting is carried out in an unsustainable manner and there is a possibility that a species is no longer considered huntable, such consideration is in line with the Birds Directive, which is designed for the conservation of wild birds. Mark Sultana concurred with previous remarks made regarding the country's small geographical area, adding that he would like to see more involvement from FKNK in voicing their concerns over the extent of uncontrolled development that is taking place. Mark Sultana further stated that FKNK's comments on the lack of habitat management opportunities are contradictory in that whilst the limited land area leads to a very high density of hunters per square kilometre, instead of easing hunting pressures, FKNK are now proposing a hunting and trapping season for Turtle-dove, a species which is in serious decline. Regarding the moratorium, Mark Sultana pointed out that whilst it is true that only Malta adopted such measure and that other Member States are resisting its implementation, it was applied for spring not in autumn, since Malta is the only Member State that hunted Turtle-dove during pre-nuptial migration, adding that whilst the impacts of agriculture are the main contributing factor for the decline of the species, the fact that hunting also has an adverse effect cannot be ignored.
- 6.15 Nicholas Barbara remarked that FKNK's interpretation of the IUCN guidelines are incorrect since they clearly state that before reintroduction or population reinforcement can be considered, the threats that caused decline or extirpation should be correctly identified and removed, or sufficiently reduced. This means that unless illegal hunting is properly tackled, any attempts at augmenting the wild population through release of captive-bred specimens would be futile, more so considering that none of the specimens released are monitored by means of tracking devices. Nicholas Barbara also remarked that the problem may be compounded by the fact that released specimens may be vectors of disease and that individuals from different subspecies are being bred together in captivity.
- 6.16 The Secretary clarified that according to the latest ornithological data published by BirdLife International, four subspecies are recognised:
- Northern Turtle-dove (*Streptopelia turtur turtur*) – Europe, Madeira and the Canary Islands to western Siberia
  - Persian Turtle-dove (*S. t. arenicola*) – Northwest Africa to Iran and western China

- Saharan Turtle-dove (*S. t. hoggara*) – southern Algeria (Hoggar Mountains) and northern Niger (Air Mountains)
- Egyptian Turtle-dove – Egypt and northern Sudan.

6.17 The Secretary pointed out that on the basis of current scientific literature, there is no evidence to suggest that specimens migrating over Malta pertain to different subspecies and that the discussion should thus focus at the population level rather than at subspecies level.

6.18 Lino Farrugia remarked that the objective of FKNK’s live-capturing proposal for Turtle-dove is based on a consanguinity derogation to ensure genetic diversity. Nicholas Barbara remarked that Turtle-doves that migrate over Malta are from different populations and hence the captive-breeding project can never replicate the process of intra-population reproduction in the wild. Darrin Stevens reiterated that whilst he is not against research, the research methodology should be discussed and agreed by the Committee.

6.19 The Secretary invited the Committee to conclude this item and to continue the discussion under Item 7. Darrin Stevens remarked that if this item is concluded it means that the current proposal for spring hunting season cannot be entertained since it is not based on the updated quota figures, given that according to the ‘small numbers’ calculation, the quota for quail will be reduced by half.

6.20 Mark Sultana asked whether it is possible for the draft replies to the Commission to be shared with the Committee prior to formal submission. The Secretary replied that the Commission did not request submission of a formal report but requested Members States to take into account and consider the issues raised in the above bullet points prior to the 2021 workshops on the Central–Eastern flyway. The Secretary provided an explanation on how the 1% total annual mortality rate of the reference population is calculated in fulfilment of the ‘small numbers’ criterion of Article 9(1)(c) derogations. Referring to pages 27 (Quail) and 46 (Turtle-dove) of the report, the Secretary pointed out that whilst the same methodology used in previous assessments has been maintained, the figures reflect the current minimum breeding population of each species based on the latest Article 12 report (2013–2018) and the latest scientific data on fecundity and mortality as referenced in the report itself.

6.21 Joe Perici Calascione stated that although the Commission’s Guide to Sustainable Hunting refers to average values when calculating the 1% mortality rate, WBRU’s report clearly shows that the calculations are based on the absolute minimum rather than the average. Lino Farrugia stated that WBRU’s calculations do not infer that a spring hunting season cannot be opened. Darrin Stevens clarified that his comment was referring to the fact that if the Committee agreed with the report and the calculations set out therein, it means that it is also in agreement with the resultant quotas in the Article 9(1)(c) derogation being presented to the Committee. The Chairman clarified that the role of the Committee is not to agree or disagree with the data presented, or to take a vote on this item. The scientific reports presented serve as a basis for the Committee to make an informed decision.

6.22 The Committee agreed to discuss the next item.

**7. Article 9(1)(c) derogation: Consideration of the potential application of a derogation for spring hunting including dates of the season, bag limits, permitted hunting hours and any other relevant criteria. *Item subject to a vote.***

7.1 FKNK representatives were invited to present their proposal on spring hunting. Lino Farrugia stated that FKNK’s proposals related to Turtle-dove should be considered within the context of the Commission’s Guide to Sustainable Hunting, which specifies that a moratorium should not be perceived as a permanent hunting ban. Lino Farrugia referred to the judgment of the Court

of Justice of the European Union on spring hunting and the outcome of the abrogative referendum, stating that FKNK is requesting Government to lift the moratorium on spring hunting. Lino Farrugia informed the Committee that FKNK's proposal consists of a spring hunting season for Quail between 10 and 30 April, inclusive of both dates, spring hunting season for Turtle-dove between 17 and 30 April, inclusive of both dates, and a live-capturing season for Turtle-dove between 17 and 30 April. Lino Farrugia explained that the justification for the latter is to ensure sufficient genetic diversity in their captive-breeding programme and that the derogation should be open to all eligible applicants, who must choose whether to practice hunting or live-capturing.

- 7.2 The Secretary invited members to discuss FKNK's proposals. Nicholas Barbara stated that the Committee should be informed why trapping of Turtle-dove was discontinued in the first place. The Secretary explained that following the infringement procedure initiated by the European Commission in case 2009/4106 on live-capturing derogations of Turtle-dove, Quail, Golden Plover and Song-thrush, in 2012, the Government took the decision to limit live-capturing to Golden Plover and Song-thrush only. The Secretary further explained that although Infringement 2009/4106, which was escalated to a post-reasoned opinion stage, was closed by the College of Commissioners in February 2021, the European Commission had already initiated two major infringements in December 2020, one encompassing spring hunting, live-capturing of Golden Plover and Song-thrush and on the general system of protection of wild birds, including enforcement (Letter of Formal Notice 2020/2345) and the other on the finches research project (Letter of Formal Notice 2020/2346).
- 7.3 Darrin Stevens remarked that ERA's position on spring hunting is the same as last year, in that there must be a rigorous enforcement system in place, particularly in view of the current pandemic, adding that ERA is of the understanding that the issue on national quotas will be decided by established bodies. The Secretary pointed out that prior to this meeting, WBRU requested confirmation from the Malta Police Force whether the minimum enforcement deployment as set out in regulation 6 of the spring hunting framework regulations (SL 549.57) will be met in the event that a spring hunting season is declared. The Malta Police Force confirmed that the statutory minimum enforcement deployment will be met.
- 7.4 Mark Gauci remarked that as far as he is aware, FKNK had proposed the spring hunting moratorium yet is now requesting Government to lift it. Regarding FKNK's proposal on live-capturing of Turtle-dove, Mark Gauci requested further information on the re-introduction programme itself, who is managing it and whether the current facilities can house any additional stock.
- 7.5 Lino Farrugia replied that whilst a derogation is considered an exception, a moratorium is not and cannot be imposed indefinitely. Lino Farrugia added that their proposal for the live-capturing of Turtle-dove is not related to traditional live-capturing of this species since it entailed the keeping of the specimens caught, noting that the trappers will not keep any of the specimens under this research derogation. Lino Farrugia explained that FKNK's proposal, although using the clap-net system, is required to ensure genetic diversity within their captive-breeding programme.
- 7.6 The Secretary asked FKNK whether they already carried out a study to establish whether there is a need to introduce wild-caught Turtle-doves in their captive-breeding programme, how many wild-caught specimens are required to ensure genetic diversity, if any, and how many breeding pairs are currently housed in the facility.
- 7.7 Replying to Mark Gauci, Lucas Micallef stated that extensions to the captive-breeding facility are ongoing and that the project is monitored by a veterinarian who also certifies the specimens before they are released into the wild. Regarding the questions raised by the Secretary, Lucas Micallef stated that the need to introduce wild stock in the captive-breeding programme has

been confirmed by Nicholas Barbara's comment that captive-bred stock and wild stock are genetically different, adding that trapping of Turtle-doves has been discontinued for quite a long time. Lucas Micallef further stated that the introduction of wild stock will not only address issues related to consanguinity but also ensures that captive-bred specimens released into the wild continue to be as genetically close to their wild conspecifics as possible. Lucas Micallef added that some of the specimens released from FKNK's captive-breeding programme have also been recovered in Italy.

- 7.8 The Secretary asked FKNK whether their proposal considers releasing wild-caught stock and captive-bred specimens concurrently to determine whether the latter will follow the migratory patterns of their wild conspecifics. Lino Farrugia confirmed, adding that these will also be satellite-tagged. The Secretary stated that for a study to be considered scientifically robust, both the parental (wild) stock and their offspring should be satellite-tagged before released to ensure proper monitoring and comparison between different movements and migratory routes.
- 7.9 Mark Gauci stated that the term scientific research is being used in a very broad-brush manner, adding that he fails to see a research component in a proposal that seeks to introduce wild-caught specimens in a captive-breeding programme. Mark Gauci also pointed out that the effects of mixing specimens from different populations in captivity on the migration ecology of their offspring has not been studied, adding that specimens that annually return to breed along the southern range can never pair in a natural manner with specimens that breed further north. This natural partitioning of populations is not reflected in a captive-breeding programme.
- 7.10 The Committee agreed to split FKNK's proposal into three sub-votes: spring hunting for Quail (from 10<sup>th</sup> to 30<sup>th</sup> April), spring hunting for Turtle-dove (from 17<sup>th</sup> to 30<sup>th</sup> April) and live-capturing of Turtle-dove (from 17<sup>th</sup> to 30<sup>th</sup> April).
- 7.11 Nicholas Barbara asked whether the votes will be based on FKNK's proposal or whether the Committee will be voting on variants, in particular given that there was an article on one of the local newspapers that specifically mentioned the dates of the season. The Secretary replied that whilst WBRU is not proposing any variants, Ecoserv's graph showing the migration pattern of Quail was specifically included on the agenda to inform the Committee that, with the exception of spring 2020, the peak migration of Common Quail occurs during the last three weeks of April. The Secretary explained that WBRU had no involvement whatsoever with the news article mentioned earlier. Mark Sultana remarked that there is no need to open the season during the peak Quail migration, more so considering the 'small numbers' calculation and corresponding national bag limit, which is 2,416. Mark Sultana remarked that this is the first time neither ERA nor Government, through WBRU, proposed any dates for the Committee's consideration.
- 7.12 FKNK's proposal was put the vote. The Committee voted in favour of a spring hunting season for Quail, with four votes in favour (FKNK, two Government representatives and Chairman), one vote against (BirdLife Malta) and two abstentions (ERA and a Government representative). The Committee agreed that, on the basis of the 1% calculation, the final decision on the national bag limit should be left at the discretion of Government.
- 7.13 The Committee voted against a spring hunting season for Turtle-dove, with two votes in favour (FKNK and a Government representative) and three votes against (BirdLife Malta and two Government representatives). ERA and Chairman abstained.
- 7.14 The Committee voted against a live-capturing season for Turtle-dove, with one vote in favour (FKNK), three votes against (BirdLife Malta and two Government representatives) and three abstentions (ERA, Government representative and Chairman).

- 7.15 Darrin Stevens informed the Committee that ERA abstained because of the need for clarifications, enforcement-related issues, national bag limits and any relevant infringements, as these will be subsequently discussed by the relevant entities.

**8. Discussion on the system used for taxidermy birds listed under the amnesty.**

*Item requested to be placed on agenda by BirdLife Malta (August 2020) but was deferred for the next available meeting.*

- 8.1 The Secretary invited BirdLife Malta to present this item. Mark Sultana made reference to the two amnesties in 1998 and 2003 to register stuffed protected birds and that a system of tagging was initiated to tally the collections with the registrations. Mark Sultana pointed out that it has been brought to the attention of BirdLife Malta that a number of transfers were recently effected without the necessary authorisations, and questioned whether there is a system in place to verify the history of such transfers. Mark Sultana asked whether WBRU carried out onsite verifications to ascertain that such transfers were carried out lawfully and requested information on how the transfers of registered protected birds was carried out in the past and how it is presently conducted.
- 8.2 The Secretary explained that the 1997/1998 and 2003 amnesties on stuffed birds entailed the submission of a registration (application) form by the holders of the collections to the then Environment Protection Department (1997/1998) and the Malta Environment and Planning Authority (2003) that included a list of specimens for which registration was sought. Throughout the years following both amnesties, individuals also submitted ad hoc requests for disposals of part of or the whole collection and requests for transfers to other individuals. The Secretary explained that in line with regulation 4(2) of SL 549.42, the submission of a request for transfer or disposal is not an authorisation in itself.
- 8.3 The Secretary further explained that the processing of transfers and disposals was initiated in 2011, a couple of years before the setting up of WBRU. The procedure entails an inspection at the place where the owner of the stuffed birds registered his collection, taxonomic identification and tagging of the specimens with a uniquely marked identification device, followed by photographic evidence of each specimen. An authorisation to transfer the specimens from the original owner (the transferor) to another individual (the transferee) is then issued together with a certificate to keep the collection.
- 8.4 The Secretary informed the Committee that after WBRU was set up, it procured a database through an open tender procedure to digitise all registrations and requests for disposals and transfers, since all documents were only available at that time as hard copies. The database, known as the Stuffed Birds Registration System (SBRS), not only serves as a backup of the original documents, but also facilitates the processing of these requests in a more systematic approach. The first step in populating the database entails the opening of a profile for the owner of the registered collection, uploading of his registration(s) into the system, and inputting of all specimens as declared, retaining the same unique reference number of the original registration (of the hard copy). Each specimen is inputted according to the specific page and line number of the registration. Multiple registrations pertaining to the same owner (e.g. two in 1998 and one in 2003) are added to the same profile under their specific registration number. The process of inputting all registrations in SBRS was concluded last month. The next step entails inputting of authorised transfers and all disposals (authorised disposals and disposals for which there already exists a Court ruling).
- 8.5 The Secretary explained that SBRS is designed in a way that allows the transfer of specimens from the original owner (declaration) only once. When a transfer is processed in SBRS, the corresponding specimens are 'greyed out' from the original declaration (would still be visible,

but as ‘read only’ on the profile of the original owner) and appear as transferred specimens with a reference to the original owner’s declaration number on the profile of the new owner (e.g. transferred from registration 01234). The system will only allow a subsequent transfer of the specimens from the new (current) owner to another owner. The same procedure applies to disposed specimens. This procedure not only ensures traceability of each declared specimen but also automatically prohibits multiple transfers (or disposals) of the same specimen.

8.6 The Secretary explained that all requests for transfers have been dated and filed by WBRU for future processing to ensure that before these are processed, SBRS is populated with all the data, as explained above. The Secretary explained that requests for transfers continued to be submitted until a year and a half ago after a decision was taken to halt these submissions following confirmation that they were leading to a number of irregularities, such as transfers without authorisation, transfers of a specimen to multiple individuals concurrently and in some cases transfers of specimens that were not included in the registrations of the transferor. Once SBRS is populated in its entirety, WBRU will resume onsite inspections, taxonomic identification, tagging and processing of transfers, disposals and certificates to keep in a systematic and chronological manner as explained above, starting from the oldest pending request to the most recent.

**9. Proposed amendment to the Conservation of Wild Birds Regulations (S.L. 549.42): geo-tagging and bird callers.**

*Draft Legal Notice circulated in advance of the meeting. Item subject to a vote.*

9.1 The Secretary informed the Committee that the proposed legal amendments were issued for a four-week public consultation period ([19 January – 16 February 2021](#)) and that no comments were submitted. The first amendment seeks to introduce legal clarity on geo-tagging, given that despite an Ombudsman case recommending a pluralistic approach to research, the only reference to geo-tagging in SL 549.42 is in regulation 23 on bird-ringing. The Secretary explained that although the law does not explicitly prohibit geo-tagging by individuals who are not licensed bird-ringers, it does not provide sufficient legal clarity in this regard and is open to interpretation. The Secretary explained that the proposal also includes a number of criteria that must be adhered to before an applicant is issued with a geo-tagging licence.

9.2 The Secretary explained that the second amendment is also necessary to align part of sub-regulations 27(2) and 27(3) with the rest of regulation 27 since the former omits reference to Part XV of the Code of Police Laws and the latter makes reference to suspension or revocation of the hunting licence. The Secretary explained that if an individual is only in possession of a live-capturing licence, it does not make legal sense to refer to the hunting licence, considering that the rest of the text refers to all licences. The amendment thus seeks to remove the word ‘hunting’ so that the sub-regulation reads: “*ordered the disqualification from obtaining a licence for life*” instead of “*ordered the disqualification from obtaining a hunting licence for life*”.

9.3 The Secretary explained that the third amendment seeks to render bird-callers subject to the provisions of regulation 27 of SL 549.42 and hence no longer punishable through an administrative fine under regulation 27A. This was deemed a necessary deterrent to control the illegal use of such devices, also taking into account that the European Commission opened a new infringement procedure (2020/2345) which, amongst several issues, specifically mentions the surge in illegal use of bird-callers.

9.4 A discussion on the proposed legal amendments ensued. Joe Perici Calascione remarked that FKNK were under the impression that the law already specifies that suspension or revocation is limited to the specific licence for which a crime was committed, maintaining that if a hunter

committed a hunting offence, the Law Courts should not order suspension or revocation of his live-capturing licence as well if no live-capturing infringement was committed. Nicholas Barbara disagreed, stating that hunting and live-capturing licences are issued under the same Conservation of Wild Birds Regulations and that both hunting and live-capturing licences should be suspended or revoked if the Court finds the accused guilty, adding that this is a deterrent in itself.

- 9.5 The Secretary clarified that the current legal amendment does not seek to limit suspensions or revocations to the specific crime committed but to introduce a minor legal clarification, as explained earlier, adding that, nonetheless, the Committee's feedback will be taken into account as an integral part of the consultation process.
- 9.6 Most members were not in agreement with rendering bird-callers subject to Court referral since the objective of rendering them subject to an administrative fine was to relieve the workload of the Courts. Nicholas Barbara pointed out that if the proposed amendment on bird-callers was initiated in view of the infringement procedure, then might as well retain the law as is since in the absence of effective enforcement there will be no tangible deterrents, even if bird-callers are rendered subject to Court referral.
- 9.7 Darrin Stevens stated that whilst he is not against limiting suspension or revocation to the relevant licence for which a crime was committed, this needs to be proportionate and relevant to the issue in question. In relation to discussions made by the Committee members on the possibility of keeping the bird-callers under the administrative fines regime but increasing the administrative fines for bird-callers, Darrin Stevens asked whether the Committee is in a position to consider this. The Secretary confirmed, explaining that the legal amendment is not a *fait accompli* and that is why it was placed on the agenda to be discussed at Committee level. The Secretary pointed out that on the basis of legal advice obtained from AG's office, an administrative fine cannot in any event be higher than the minimum fine set out under regulation 27 of SL 549.42. This means that under the terms of the Conservation of Wild Birds Regulations, an administrative fine must be below €500.
- 9.8 The Secretary requested the Committee to assess whether an administrative fine just under €500 will serve as an effective deterrent. Mark Gauci remarked that this would still not resolve the issue of illegal bird-callers during prohibited hours and that the main problem rests with the lack of proper enforcement. Joe Perici Calascione and Lino Farrugia replied that FKNK has rigid proposals on enforcement and that the solution can never be abolition, maintaining that a €500 administrative fine is an effective deterrent. The Committee requested FKNK to table their proposals on enforcement during the next sitting. The Chairman stated that there are administrative fines for first time offenders followed by Court referral for a second and subsequent offence even if a number of years have passed from the first offence, adding that the law can cater for that possibility. The Chairman suggested that before the Committee votes on the issue of administrative fines, all options are taken into consideration.
- 9.9 Regarding the issue on geo-tagging, Mark Gauci stated that the process of bird-ringing entails a period of training not only on bird handling but also on bird identification, sexing and ageing, as well as other biometric considerations. Mark Gauci questioned how these considerations can be vetted if anyone can apply for geo-tagging, claiming that not affixing a scientific ring is one thing but not being a licensed bird-ringer is another matter altogether. Mark Sultana added that if the legal amendment seeks to allow a person not licensed as a bird-ringer to affix geo-tags, it implies that the Committee allowed persons not licensed as bird-ringers to carry out geo-tagging illegally. On the issue of bird-callers, Mark Sultana stated that BirdLife Malta is not insisting on increasing the fines, adding that the problem is not the fines per se but enforcement, especially when one considers that according to the reports prepared by the Maltese authorities, in 2019, only 57 individuals were issued an administrative fine. Mark Sultana added that if this amendment is an attempt to convince the European Commission that Malta is addressing the

illegal use of bird-callers, then the law can remain as is since the Commission will only be convinced that proper enforcement is in place if individuals who break the law are apprehended. Mark Sultana added that if FKNC really wants to clamp down on the illegal use of bird callers it should inform its members that if they continue to use bird-callers they will not have another derogation.

- 9.10 Joe Perici Calascione remarked that with the right approach, hotspots for illegalities can be properly controlled, adding that if fines have to increase to serve as a better deterrent then he is all in favour, noting that, as already mentioned, FKNC has a number of proposals to make on the issue of enforcement.
- 9.11 Replying to Mark Gauci's and Mark Sultana's comments on geo-tagging, the Secretary referred to his earlier presentation on the proposed amendment, adding that as specified in the previously-circulated draft legal notice, satellite-tagging is bound by a number of criteria, including training, Ornis Committee recommendation followed by issuance of a geo-tagging licence by WBRU. The Secretary explained that since the law does not explicitly state that only bird-ringers can carry out research by means of geo-tagging, no law has been broken with respect to previously-issued geo-tagging derogations authorised to individuals not licensed as bird-ringers. The Secretary added that the objective of the legal amendment is to allow research by means of geo-tagging by individuals who are not necessarily licensed bird-ringers, provided all the applicable legal criteria as proposed through this amendment are met. The Secretary added that this amendment should not be perceived as a blanket authorisation for anyone to carry out geo-tagging at will. The Secretary explained that, similar to scientific rings and as far as he is aware, geo-tags have a unique identification number and hence can still be traced back to the research project.
- 9.12 The Secretary asked members whether they are ready to proceed to a vote. The Committee did not agree that the item on bird-callers should be put to the vote at this stage, stating that on the basis of the discussions held, there could be alternative proposals for consideration during the next sitting. The Secretary took note and requested FKNC to submit their proposals on bird-callers and enforcement so that they can be discussed during the next meeting. The Committee agreed.
- 9.13 The item was split into two sub-votes: a vote on whether the law should specify suspension/revocation of the relevant licence, and a vote on geo-tagging. The Committee voted in favour of amending the law to include suspension/revocation of the relevant licence, with two votes in favour (FKNC and ERA) and five abstentions (BirdLife Malta, three Government representatives and Chairman).
- 9.14 During the voting process on geo-tagging, and following an in-favour vote by FKNC, Lino Farrugia requested further information on the geo-tagging course. The Secretary explained that the proposed amendment provides legal clarity on how geo-tagging proposals can be assessed by the Committee, including a legal requirement for the applicant to undergo training prior to the submission of his application if he does not have prior experience in geo-tagging. The Secretary added that such training can be carried out by a person who has prior experience in geo-tagging who could be a foreign expert or a member of BirdLife Malta, adding that the law does not enter into the remit of who will provide the training. Joe Perici Calascione requested clarification whether an applicant can therefore submit a certificate from a recognised body or person well-versed in geo-tagging confirming that the applicant has obtained the required training skills. The Secretary confirmed.
- 9.15 Nicholas Barbara asked for clarification whether the legal amendments provide the legal means for Ornis Committee to vet applications for geo-tagging. The Secretary confirmed, stating that a geo-tagging licence can only be issued by WBRU following Ornis recommendation, as specified in the proposed legal amendment. The Secretary added that this is a standard

procedure for all proposed derogations that necessitate issuance of a licence from WBRU. Mark Sultana asked whether this legal amendment is related to KSU's proposal on satellite-tagging of Turtle-doves. The Secretary explained that the proposed legal amendment is not directly linked to KSU's proposal since not only there are other items on the agenda on satellite-tagging but also since the amendment will apply to all future geo-tagging proposals to ensure that such requests are assessed under clear legal terms.

9.16 The Secretary requested FKNK to confirm whether their initial vote in favour still stands. FKNK confirmed. The proposed legal amendment on geo-tagging was refused, with two votes in favour (FKNK and ERA) and four votes against (BirdLife Malta, three Government representatives). Chairman abstained. Lino Farrugia asked whether this means that no-one can carry out geo-tagging. The Secretary explained that according to the vote, the current legal anomaly still stands, namely that on the one hand the law does not explicitly prohibit geo-tagging by an individual who is not a licensed bird-ringer yet on the other the only reference to geo-tagging is included in the regulation on bird-ringer.

**10. Article 9(1)(b) research derogation: satellite-tagging of European Turtle-doves. Project co-financed through the Conservation of Wild Birds Fund (2019). Proposed derogation period: 1 April 2021 – 31 May 2021.**

*Request submitted by KSU on 08 February 2021. Revised proposal submitted on 08 March 2021. Proposal circulated in advance of the meeting. Item subject to a vote.*

10.1 The Secretary invited Dr Natalino Fenech to the meeting but was informed that he could not attend during the revised timeslot in view of an appointment that could not be rescheduled. Natalino Fenech suggested inviting a KSU representative. Nyal Xuereb from KSU was invited to the meeting. Following consent from the Chairman, the Secretary informed Nyal Xuereb that the Committee did not recommend a proposal to remove a legal anomaly on geo-tagging, stating that whilst the law does not explicitly prohibit geo-tagging by an individual who is not a licensed bird-ringer, the only reference to geo-tagging is in regulation 23 (of SL 549.42) on scientific bird-ringing, which states that *notwithstanding the provisions of regulation 4(1)(a) and 4(1)(e)*<sup>1</sup>, *scientific bird-ringers may capture any bird for the purposes of scientific bird ringing and/or geo-tagging.*

10.2 Nyal Xuereb asked whether Natalino Fenech is now unable to carry out geo-tagging, bearing in mind that the Committee had already authorised him to carry out research using geo-tags, which is still ongoing. The Secretary stated that following an Ombudsman case, which recommended that the law should be amended to allow a pluralistic approach to research, the proposed legal amendment was put forward to the Committee with this objective in mind. The Committee's vote against the legal amendment means that geo-tagging is still linked with bird ringing despite the fact that it does not explicitly prohibit geo-tagging by individuals not licensed as bird-ringers.

10.3 The Secretary pointed out that as the law stands, it is not clear whether the Committee should outright refuse proposals for geo-tagging by individuals who are not licensed as bird-ringers or

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<sup>1</sup> Regulations 4(1)(a) and 4(1)(e) of SL 549.42 states that:

*All species of naturally occurring wild birds are protected. 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; ... (e) be in possession or in control of or keep any specimen of any bird not listed in Schedule II and/or any specimen of any Non-European territory bird, whether alive or dead, or any recognisable parts or derivatives thereof, unless he proves that such specimen ... (i) has been declared ... by 31 May 2003 ...; (ii) is lawfully imported... (iii) lawfully hunted/captured/acquired in a Member State... (iv) is captive-bred.*

whether the Committee should consider standalone geo-tagging derogations that do not include a bird-ringing component. The Chairman remarked that the Committee's decision on the legal amendment involving geo-tagging was based on the need for clarification, such as on the issue of the course, and the inclusion of additional elements, not that the proposal was wrong per se. The Secretary asked whether the item on geo-tagging should be referred back to the Committee for further discussion. The Chairman remarked that the proposal should be more holistic and complete especially in relation to the course, where it will be held, who will deliver the course, its duration, whether an individual who is well-versed in geo-tagging is still requested to attend a training course and other issues of relevance. The Chairman agreed that the proposed legal amendment on geo-tagging should be discussed during the next available Committee meeting.

- 10.4 Lino Farrugia remarked that it appears that not all members fully understood the issues related to geo-tagging and that is why he asked for a clarification, adding that geo-tagging is associated with birds caught from the wild and secondly in the case of FKNC, the Conservation of Wild Birds Fund Committee specifically requested geo-tagging to be included in future requests for funding, adding that geo-tagging is pegged with captive-bred specimens. Lino Farrugia agreed with the Chairman in that the Committee should be provided with more details on geo-tagging so that the Committee will be able to vote in a clearer way, given that, as things stand, neither the proposal to geo-tag Golden Plovers and Song-thrush nor Natalino Fenech's proposal through KSU can be implemented. Lino Farrugia added that more information is required before the Committee can declare geo-tagging can only be carried by bird-ringers. The Secretary took note and invited Nyal Xuereb to present the proposal.
- 10.5 Nyal Xuereb requested the Secretary to confirm whether the proposal was forwarded to the Committee. The Secretary confirmed, stating that it was forwarded to the Committee a week in advance of the meeting. Nyal Xuereb pointed out that KSU applied for financial assistance from the Conservation of Wild Birds Fund to satellite-tag twenty Turtle-doves, following the 2019 call for projects. Nyal Xuereb explained that the objective of the geo-tagging project is to obtain data on the migratory routes of the European Turtle-dove, captured by means of the traditional clap-net system.
- 10.6 Following a site selection exercise carried out by Natalino Fenech, Nyal Xuereb explained that WBRU vetted all site plans and only twelve were considered acceptable, adding that not all sites will be used simultaneously. Depending on wind direction and speed, up to three clap-nets will be manned at any one time by licensed trappers. As soon as a Turtle-dove is caught the trappers will inform Natalino Fenech to verify whether the specimen is suitable to be fitted with a tag. Nyal Xuereb further explained that once a Turtle-dove is caught, tagged and released, the activity will cease for the rest of the day so that the study will focus on specimens migrating over Malta on different dates rather than tagged concurrently. This will increase the possibility of tagging individuals from different populations.
- 10.7 Nyal Xuereb explained that once the 20 geo-tags have been utilised, the project will cease and data compilation will commence. A full report will also be compiled by end-2021, with details of the movements of all tagged specimens. Nyal Xuereb explained that KSU is involved in this project to capture the Turtle-doves but the research will be conducted by Natalino Fenech. The Secretary thanked Nyal Xuereb for the presentation and clarified that with regards to the issue of site selection, the role of WBRU was the same as that adopted in all other vetting procedures related to live-capturing derogations to ensure that all clap-nets conform to the 'protected area' definition set out in SL 549.42, namely, that the clap-net is either located outside a protected area, or, if located within a protected area, the site has to be already registered as cultivated agricultural land by end-July 2014.
- 10.8 Mark Gauci stated that since this is not the first geo-tagging project submitted by Natalino Fenech and on the basis of what was presented, it seems that the role of KSU is limited to the capturing of Turtle-doves and hence the research project seems to be spearheaded by Natalino

Fenech. Nyal Xuereb replied that the project is a joint effort between KSU and Natalino Fenech, stating that it is not expected that live-catchers will be involved in the actual monitoring of each Turtle-dove caught. The actual capturing and tagging is only a small component of the project, whilst the bulk of the study involves monitoring and collection of data. Mark Gauci asked whether only three clap-nets will be active at any one time and whether the procedure entails a trapper from one part of the island to call Natalino Fenech to attend to the site even if he may be located at the other side of the island at the time of the call. Nyal Xuereb confirmed, stating that Natalino Fenech cannot be with all trappers concurrently. Mark Gauci remarked that ideally, Natalino Fenech should be with the trappers continuously to ensure that a captured specimen is not retained longer than is absolutely necessary, adding that considering vehicular traffic, the time taken for Natalino Fenech to arrive at the site would have been used to verify whether the specimen is ideal for geo-tagging. Nyal Xuereb replied that the time taken to arrive on site will not be more than 10 to 15 minutes.

- 10.9 Joe Perici Calascione asked whether there are any sites in Gozo. Nyal Xuereb replied that there will be three sites in Gozo but these will not be used concurrently with the sites in Malta, meaning that they will only be used when Natalino Fenech is in Gozo during which time those in Malta will not be active. As explained earlier, only three clap-nets will be active at any one time and these will be selected depending on prevailing weather conditions on that specific day. Nyal Xuereb explained that Natalino Fenech will be on call throughout and will attend the site from which a Turtle-dove has been captured, reiterating that no further trapping will be carried out on that day once the specimen has been tagged and released.
- 10.10 Mark Sultana asked Nyal Xuereb to confirm whether inactive clap-nets will not have nets and whether the nets will be removed once a specimen has been tagged and released. Nyal Xuereb remarked that for all derogations involving the use of the clap-net system the law specifies that nets should either be removed or completely covered, adding that the issue whether nets should be removed as opposed to being covered has not been discussed with Natalino Fenech. Taking into account the fact that KSU chose Natalino Fenech as the project's ornithologist, Mark Sultana asked which parameters were considered by KSU to conclude that Natalino Fenech is an ornithologist, whether it was on the basis of scientific papers he published in scientific journals on ornithology or his previous studies, given that his PhD is not related to ornithology. Nyal Xuereb replied that KSU chose Natalino Fenech on the basis of his previous studies. Mark Sultana asked Nyal Xuereb whether he has seen Natalino Fenech's studies. Nyal Xuereb replied that whilst he did not see the actual studies he still followed them.
- 10.11 Mark Sultana asked Nyal Xuereb to specify one element from the previous studies carried out by Natalino Fenech that is of value, stating that whilst he does not wish to put Nyal Xuereb on the spot, the reason behind these questions is that the study itself does not render the individual an ornithologist; it is when the study is published in a peer-reviewed scientific journal that one can be considered an ornithologist since the journal will study the methodology. Mark Sultana added that BirdLife Malta had criticised the methodology proposed by Natalino Fenech and that they have serious reservations whether a scientific journal will consider it as having a value. Mark Sultana also asked Nyal Xuereb to specify what other parameters can be specified to convince him that Natalino Fenech is an ornithologist. Nyal Xuereb replied that Natalino Fenech already has an ongoing satellite-tagging project to monitor the migratory routes of harriers and on that basis KSU decided that he is an ideal candidate.
- 10.12 The Secretary stated that Natalino Fenech's satellite-tagging project on harriers was approved by the Ornithology Committee as part of the Air-safety Framework Regulations SL 549.85 that allow derogations to carry out culling of starlings and pigeons as well as relocation of other birds from the perimeter of the airport, adding that both derogations have been requested to be renewed for an additional year by Malta International Airport. The Secretary further pointed out and that a separate proposal by Natalino Fenech to carry out satellite-tagging on harriers –

a joint venture that forms part of the *Harrier Conservation International* project – is also included on the agenda of this meeting.

- 10.13 Mark Sultana asked Nyal Xuereb whether he has information on the tags that will be used and whether the data, given that the tags were procured from public funds, can be made available to the public in a reasonable timeframe from transmission given that, unlike satellite-tags, GPS tags cannot transmit data in real-time. Nyal Xuereb replied that the tags weigh 5 grams and that once they have a network signal they will transmit all the data that was collected. Data will be displayed on a map to aid visual interpretation of the migratory routes taken by the tagged Turtle-doves. Mark Sultana asked Nyal Xuereb to clarify whether Natalino Fenech approached KSU or whether it was KSU who selected Natalino Fenech. Nyal Xuereb replied that the idea behind the project was that of KSU, adding that they engaged Natalino Fenech on the basis of similar studies that he is conducting. Mark Sultana sought clarification on the number of clap-nets that will be active. Nyal Xuereb replied that on any given day, only a maximum of three clap-nets will be used, adding that when weather conditions are not favourable, not all three sites will be used concurrently. Nyal Xuereb also remarked that there will only be three sites in Gozo.
- 10.14 Lino Farrugia did not agree with Nyal Xuereb when stating that KSU approached Natalino Fenech to conduct this project. Lino Farrugia remarked that in 2007, Natalino Fenech had approached FKNK on numerous occasions, including himself personally, pointing out that FKNK consistently refused to participate on grounds that capturing of Turtle-dove should be open to all trappers and not just a handful of individuals. Nyal Xuereb replied that the project is for research purposes limited to 20 Turtle-doves, not for trapping. Lino Farrugia pointed out that Natalino Fenech used KSU to obtain funding to purchase the geo-tags, stating that as far as he is aware, financial assistance from the Conservation of Wild Birds Fund (CWBF) should only be given if there is absolute certainty that the project will materialise. Lino Farrugia explained that funds for their Barn Owl project were kept on hold until ERA issued the nature permit because a request for renewal was not submitted in time. Nyal Xuereb replied that such comments should be made to WBRU at which point Lino Farrugia stated that WBRU and the CWBF Committee are two separate entities.
- 10.15 Lino Farrugia stated that in his presentation, Nyal Xuereb did not inform the Committee that KSU are proposing trapping of Turtle-doves for two whole months, from 1<sup>st</sup> April until end-May. Nyal Xuereb replied that this is proposed solely on the premise that it is not possible to know beforehand when the limit of 20 Turtle-doves will be reached.
- 10.16 The Secretary requested members whether they have any further questions. Since no further requests for clarification or any additional questions were made, the Secretary thanked Nyal Xuereb and requested him to leave the meeting.
- 10.17 A discussion on whether this item should be deferred until the legal amendment on geo-tagging is discussed during the next meeting ensued. The Secretary stated that since the Committee had agreed to re-discuss the issue of geo-tagging during the next meeting, he is reserving the right to withdraw the proposal on satellite-tagging of Golden Plover and Song-thrush and WBRU's proposed methodology and to place the item on the next available Committee agenda, adding that the Committee should decide whether a vote on this item should also be deferred.
- 10.18 Darrin Stevens remarked that ERA is not, in principle, against any form of research, adding that the main difficulty lies in the fact that some of the proposals that are put forward to the Committee include a number of issues that can only be resolved through clarifications, adding that if such clarifications are not resolved before a vote is taken, ERA may have no other option but to abstain. Lino Farrugia remarked that Natalino Fenech's proposal through KSU was circulated in advance of the meeting, a KSU representative was invited to the present the proposal and a number of questions were asked.

- 10.19 Regarding the Golden Plover and Song-thrush satellite-tagging proposal, the Secretary pointed out that although it is bound by a commitment with the European Commission, as explained in previous meetings, and despite that Ornis Committee unanimously approved the project in principle, it requested WBRU to propose a methodology for Ornis consideration. The Secretary remarked that the role of the Committee members is not merely to approve, refuse or abstain but to ensure that recommendations to the Minister are taken following assessment of all material considerations and, as was the case during previous deliberations, the imposition of conditions and other considerations of relevance. Darrin Stevens asked the Secretary whether the Turtle-dove geo-tagging project fulfils the conditions pegged to derogations as set out in regulation 9 of SL 549.42 and Article 9 of the Birds Directive. The Secretary confirmed.
- 10.20 The Committee agreed to proceed with a vote. KSU's proposal was refused with one vote in favour (ERA, subject to conditions and clarifications), five against (FKNK, BirdLife Malta, two Government representatives and Chairman) and one abstention (Government representative).
- 11. Articles 9(1)(a) and 9(1)(b) derogations: Renewal of the air-safety licence (culling of starlings and pigeons, as a last resort) and renewal of the licence to relocate birds that pose a treat to air-safety, including satellite-tagging of up to ten harries (*Circus* spp.), for period June 2021–June 2022, under the same terms, conditions and methodology as unanimously approved by the Committee in May 2020.**

*Request submitted by MIA on 8 February 2021. Item subject to a vote. Related documents:*

- *Conservation of Wild Birds (Declaration of a Derogation for the Control of Birds in the Interest of Air Safety) Regulations, 2021 (draft legal notice circulated in advance of the meeting)*
  - *Item 5 of Ornis Committee minutes of meeting held on [1 April 2020](#) and online vote (May 2020).*
- 11.1 The Secretary informed the Committee that this proposal seeks to renew the air-safety derogations for an additional year under the same terms as those unanimously approved by the Committee last year. Joe Perici Calascione noted that since the proposed relocation includes a geo-tagging component and given that there was agreement to discuss the issue during the next meeting, the Committee should also decide whether to defer this item or proceed with a vote.
- 11.2 Mark Sultana remarked that there may be an overlap between the geo-tagging component as submitted by MIA and the geo-tagging project proposed by Natalino Fenech at other sites (Item 17). The Secretary stated that any questions or requests for clarification on the harrier project, should be addressed directly to Natalino Fenech, who should be invited to present his proposal to the Committee.
- 11.3 The Committee agreed to proceed with two sub-votes, one on culling of starlings and pigeons and the other on relocation. The Committee unanimously approved the culling component. Prior to casting FKNK's second sub-vote, Joe Perici Calascione requested the right to enter a reservation on the geo-tagging component given that the Committee agreed to discuss this matter during its next sitting to determine the relevant criteria that will be adopted from a legal perspective. Joe Perici Calascione asked for direction on how to proceed with this vote. The Secretary replied that this second sub-vote is an in-principle vote similar to the vote taken by the Committee when recommending geo-tagging of Golden Plover and Song-thrush, which was then followed by the submission of the proposed methodology.

- 11.4 Before proceeding with casting his vote, Joe Perici Calascione requested Mark Sultana to elaborate on his remark made regarding the overlap between the relocation component and the standalone project on harriers. Mark Sultana stated that Natalino Fenech’s proposal on harriers seems to also include the airport’s precincts as one of the selected sites together with other sites in Malta and Gozo, but the former was submitted by MIA. Mark Sultana reiterated that the main issue is that of credibility and that he has a lot of reservations on this, also keeping in mind that one of the individuals involved in the project has pending Court cases. Mark Sultana further stated that there is no degree of certainty that relocated birds do not return to the airport. The Secretary stated that in their request to extend the relocation component for period June 2020 – July 2021, MIA included the outcome of the 2019–2020 derogation period. In their submission, MIA provided maps showing the migratory routes taken by the two harriers fitted with a geo-tag which show that neither of the two specimens returned to the airport, neither following their release nor during their southbound migration to their wintering grounds in Africa. The Secretary further explained that this was clearly so to the extent that neither of the two migrated over Malta during their post-nuptial migration.
- 11.5 Mark Sultana stated that contemporary weather forecasts are quite accurate, which means that on those days where the weather forecast predicts conditions that are not conducive to migration, no specimens are fitted with a geo-tag since the likelihood that they will stay here are higher. The opposite is true when weather forecasts indicate that there will be ideal conditions for onward migration during which specimens are caught to increase the likelihood that they will migrate. Mark Sultana remarked that this is precisely why there is a very serious issue of credibility—why did Natalino Fenech tag the second Marsh Harrier but not the first one? No information was provided in this regard. Was it due to its weight? Mark Sultana remarked that it could very well be the case, but we do not know since we did not receive this information. The likelihood is that Natalino Fenech waits for favourable weather conditions to ensure that the specimens leave Malta immediately.
- 11.6 Nicholas Barbara added that no information on how many specimens were captured was submitted. Aside from the two harrier specimens that were tagged, how many other birds were captured and relocated? Mark Sultana added that this project is submitted by MIA but is carried out by Natalino Fenech, yet when push comes to shove, MIA have to answer.
- 11.7 Darrin Stevens remarked that, as stated earlier in relation to support to research, if this is an in-principle vote he will be voting, on behalf of ERA, in favour of this research. Regarding the issue raised by BirdLife Malta regarding a licence holder who has a pending court case, also tied with the discussions that will ensue on Agenda Item 13, he stated that a person who has a pending court case should not be considered guilty, adding that according to the Constitution, such person can only be considered guilty if sentenced as such by the Courts of Law.
- 11.8 Darrin Stevens remarked that SL 549.44 restricts the Authority in issuing or renewing permits under such regulations if the applicant does not provide or submit otherwise the activity report requested as part of the previous permit conditions. This measure had to be included to address the consequential delays in submitting the reports related to the Habitats Directive. The Secretary remarked that whilst it is true that the report on the outcome of the Blue Rock Thrush study was not submitted<sup>2</sup>, the one on harriers was submitted by MIA within the deadline, adding that SL 549.42 includes a similar provision to SL 549.44 but refers to hunting and trapping licences, not research derogations.

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<sup>2</sup> It should be clarified that Natalino Fenech duly reported all specimens captured and fitted with a geo-tag and these were in turn reported by WBRU not only to Ornis Committee (during deliberations for an extension of time to recapture the tagged specimens, which was approved by the Committee) but also to the European Commission as part of Malta’s composite report on all Article 9 derogations, well ahead of the deadline. However, despite the approved request to extend the research period to recapture the tagged specimens, a final report on the outcome of this research derogation was not submitted by Natalino Fenech and no requests for an additional renewal was submitted to WBRU.

- 11.9 Darrin Stevens further pointed out that the Committee cannot refuse the proposal on the basis that the report on the Blue Rock Thrush study was not submitted by Natalino Fenech since this application was submitted by MIA, who actually duly submitted the report on the related derogation. Darrin Stevens reiterated that given that this is an in-principle vote, he will be voting in favour subject to all the necessary conditions and clarifications.
- 11.10 MIA's proposal to extend the relocation component for an additional year was not accepted by the Committee, with one vote in favour (ERA, subject to clarifications), two against (BirdLife Malta and Chairman) and four abstentions. Chairman had originally abstained, but since there was a tie (a vote in favour and a vote against), he used his second and casting vote.

**12. Article 9(1)(b) derogation: satellite-tagging of Golden Plovers and Song-Thrushes. Discussion on the proposed methodology. *Item subject to a vote.***

*Related documents:*

- *Satellite-tagging of Golden Plovers and Song-Thrushes – proposed methodology (circulated in advance of the meeting)*
- *Item 5 (Q3) of Ornithology Committee minutes of meeting held on [31 July 2019](#).*
- *Item 7 of Ornithology Committee minutes of meeting held on [29 July 2020](#).*
- *Item 2 of Ornithology Committee minutes of meeting held on [26 August 2020](#)*

12.1 This item was deferred to the next meeting.

**13. Regulation 23 of S.L. 549.42 (bird-ringing): Discussion on whether the law should be amended to specify that previous convictions will render applicants ineligible for training/licence. *Item subject to a vote.***

- 13.1 The Secretary introduced this item, informing the Committee that following discussions with the head of the national ringing scheme, the issue of whether the law can be amended to specify that individuals who have been found guilty of serious offences, or a number of repeat offences, should be deemed automatically ineligible from enrolling in a bird ringing training programme.
- 13.2 The Committee conveyed a general consensus in favour of introducing this legal amendment. A discussion on the logistical procedures related to criminal records ensued since this differs from the procedure to obtain police conducts. Mark Gauci suggested that the national ringing scheme should consider forwarding requests for bird ringing trainee permits to the Wild Birds Regulation Unit, who in turn will vet applications against past criminal records (*fedina penali*). The Committee agreed that WBRU should seek legal advice and present a legal document – that ensures proportionality – during the next meeting. BirdLife Malta informed the Committee that they will also seek legal advice on this matter.

**14. Outcome of the 2020 live-capturing season for Golden Plover (*Pluvialis apricaria*) and Song-thrush (*Turdus philomelos*).**

*Related document: summary report to Ornithology Committee (circulated in advance of the meeting).*

14.1 The Committee agreed to defer this item to the next meeting.

**15. Outcome of the 2020 research project on the seven finch species.**

*Related document: summary report to Ornis Committee (circulated in advance of the meeting).*

15.1 The Committee agreed to defer this item to the next meeting.

**16. Game reporting data: 2020 autumn hunting season.**

*Report available on the website of the Wild Birds Regulation Unit under Reports & Statistics:*  
<https://mgoz.gov.mt/en/Documents/WBRU/Reports%20and%20Statistics/grdReport2020.pdf>.

*Related document: summary report to Ornis Committee (circulated in advance of the meeting).*

16.1 The Committee agreed to defer this item to the next meeting.

**17. Article 9(1)(b) research derogation: satellite-tagging of ten harriers. Proposed derogation period: March–May, August–December 2021.**

*Request submitted by Natalino Fenech on 03 March 2021. Proposal circulated in advance of the meeting together with biography of foreign researcher. Item subject to a vote.*

17.1 The Committee agreed to defer this item to the next meeting.

**18. Any other business**

18.1 The Committee agreed to reconvene on 29 March at 1500 to discuss the deferred items. The meeting was adjourned at 1820 hrs.