

Strasbourg, 25 February 2016
[files08e_2016.docx]

T-PVS/Files (2016) 8

CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

Standing Committee

36th meeting
Strasbourg, 15-18 November 2016

Complaints on stand-by

**Presumed illegal killing of birds
in Malta**

- REPORT BY THE GOVERNMENT -

*Document prepared by
the Parliamentary Secretariat for Agriculture, Fisheries and Animal Rights, Malta*

COMPLAINT ON STAND-BY NO. 2012/7 PRESUMED ILLEGAL KILLING OF BIRDS IN MALTA

Dear Ms D'Alessandro,

I refer to your letter dated 16 December 2015, through which Malta was informed that the Bureau of the Standing Committee to the Bern Convention assessed the merits of the complaint in caption at its meeting in March 2015, and took note of the legal reforms in Malta, as well as of the progress of the on-going implementation of the Tunis Action Plan. Malta understands that the Bureau therefore decided to keep the complaint on stand-by and to re-assess it at its first meeting in 2016, also in light of the conclusions of the Group of Experts on the conservation of birds, and in the light of the report submitted by Malta in August 2015.

Pursuant to the above, and in addition to the information already reported to the Secretariat in Malta's report dated 6 August 2015¹, as well as in the light of the information presented to the 5th Meeting of the Group of Experts on the conservation of birds held on 11-12 October in Strasbourg,² I am pleased to enclose a brief report summarising the latest further information of relevance to the case, for Bureau's consideration.

Information and statistics summarised in this report indicates that the legal, administrative and enforcement measures enacted by the Maltese government over the past three years have resulted in a sustained reduction in the incidence of bird-related crime, the strengthening or regulatory controls and a consistent improvement in compliance.

Yours Sincerely,

Roderick Galdes
Parliamentary Secretary for Agriculture, Fisheries and Animal Rights

Copy: Minister for Sustainable Development, the Environment and Climate Change
Permanent Secretary, Ministry for Sustainable Development, the Environment and Climate Change

Enclosed: Assessment of the latest enforcement-related measures and outcome of the 2015 autumn hunting season

¹ Report available from <https://wed.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2811700&SecMode=1&DocId=2244314&Usage=2>

² Malta's submission to this meeting is available for download from <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016804825a8>

**ASSESSMENT OF THE LATEST ENFORCEMENT-RELATED MEASURES AND OUTCOME OF THE
2015 AUTUMN HUNTING SEASON**

WILD BIRDS REGULATION UNIT – FEBRUARY 2016

Introduction

This report gives a brief overview of the 2015 – 2016 autumn hunting season, the enforcement effort deployed by the Maltese authorities, as well as the relevant enforcement statistics and description of other measures related to Malta's effort to fight the illegal killing, trapping and trade of wild birds. This report is the latest in a series of similar enforcement reports previously published by the Wild Birds Regulation Unit on <http://environment.gov.mt/en/Pages/WBRU/Reports-and-Statistics.aspx>.

Legislative measures

To further consolidate the progress of legal reforms implemented in 2013 and in 2014 to strengthen the fight against bird-related crime, in August 2015, the Conservation of Wild Birds Regulations (SL 504.71) was amended by means of Legal Notice 281 of 2015³. The amendments, amongst other, resulted in the following changes:

- a) A list of 8 gravity factors, drawn up on the basis of the recommendations of the Tunis Action Plan on the Eradication of Illegal Killing, Trapping and Trade in Wild Birds under the Bern Convention, has now been firmly embedded within Regulation 27(2) of the Conservation of Wild Birds Regulations, which provides the highest penalties for serious bird-related offences;
- b) A high level of general legal protection that was previously afforded to all species of wild birds naturally occurring in the wild state in Europe was extended to all other birds that do not naturally occur in the wild state in the territory of the European Union and that were, until this amendment came into force, with the exception of CITES-listed species, not explicitly protected under Maltese legislation. Offences in respect to such birds that were previously not covered by the Conservation of Wild Birds Regulations are now subject to the same level of penalty as that applicable to European territory birds;
- c) The enforcement powers of the competent authority⁴ were clarified and strengthened to become on par with the powers granted to environment inspectors under the Environment and Development Planning Act;
- d) The powers of the Malta Ornis Committee were expanded to enable making of recommendations concerning alternation of any parameter of any hunting season (including closure of any season) on the basis of latest scientific data;
- e) The number of bird species listed in Schedule IX of the Regulations⁵ was increased from 10 to 21, which, together with the 142 species listed in Schedule I of these Regulations, benefit from the highest level of protection possible under the Conservation of Wild Birds Regulations. Any offence against that involves the targeting of such species automatically incurs the highest penalty under these Regulations, i.e. on first conviction an automatic fine of €5,000, permanent revocation of all licenses, confiscation and imprisonment for one year; further increasing to an automatic €10,000 fine, imprisonment for up to two years and a lifetime license ban in the case of a second offence;

³ Conservation of Wild Birds (Amendment) Regulations 2015, Subsidiary Legislation 504.71

⁴ The Wild Birds Regulation Unit within the Parliamentary Secretariat for Agriculture, Fisheries and Animal Rights

⁵ The number of species listed in Schedule IX was increased from 10 to 21

- f) Several further categories of offences under these Regulations have been included to qualify for maximum penalties under Regulation 27(2). Prior to this amendment only those offences that related to illegal shooting or taking of protected birds qualified for the highest penalty; however in August 2015 the list of offences was expanded to encompass all other offences concerning protected birds, including their illegal possession, importation, transport, sale, taxidermy, as well as breaches of the parameters of hunting seasons and related temporal and spatial restrictions. In the case of some offences (e.g. illegal importation, sale or taxidermy) this effectively implied the doubling of the penalty in comparison with that which applied prior to this amendment;

In addition to the amendments published in August 2015, further amendments to the above Regulations are envisaged to come into force in the first quarter of 2016, to further build upon and consolidate the progress reached under previous legal reforms. Amongst other amendments that are expected to be enacted, is a provision for the setting up of the national Conservation of Wild Birds Fund, which will support activities and projects directly contributing to conservation of wild birds, as well as a series of provisions concerning a major reform of hunting licensing and game reporting procedures.

This major reform of hunting licensing processes includes, amongst other, the implementation of a mandatory and legally binding game reporting requirement utilising a state of the art telephonic game reporting system. This system will enable instant collection of real time hunting bag data during all hunting seasons, which would allow the precise real time monitoring of the uptake of any quotas and other parameters pertaining to hunting. Under this system, all hunters will be legally bound to report their catch before leaving the hunting area, including the time, species caught and the relevant quantity, as well as the geographic location where the species were hunted.

The system will also enable law enforcement authority to instantly verify any hunter's compliance with the reporting requirements whilst in the field, as well as retrieve all necessary information concerning licensing and other related parameters. Penalties will apply to those failing to use the new reporting system, whilst a system of field spot checks and inspections is already in place to enforce compliance.

Autumn hunting season: 1 September 2015 – 31 January 2016

General parameters of the season and number of licenses

The Conservation of Wild Birds Regulations (S.L. 504.71) establishes general parameters regulating hunting and taking of birds, lays down general prohibitions, lists protected species, areas where hunting is not allowed and other restrictions⁶. Almost identical conditions as those applicable to bird hunting on land also apply to rabbit hunting during the autumn period, which is regulated through Wild Rabbit Protection Regulations (S.L. 504.06)⁷. Only those hunters who are in possession of valid hunting license (*carnet de chasse*) were authorized to participate in the season. Hunters were required to carry with them a valid *carnet de chasse* and ID card at all times while hunting. In 2015, there were 10,537 licenses to hunt birds on land, 242 licenses to hunt birds at sea and 2,704 licenses to hunt wild rabbit.

Enforcement deployment during the season

During the period of the autumn hunting season, the authorities deployed a total complement of 77 officers tasked with overseeing compliance with the parameters of the season. This complement consisted of 27 officers of the Administrative Law Enforcement Unit (ALE) of the police, 15 officers of the Armed Forces of Malta (AFM), 27 police officers temporarily seconded with the ALE from

⁶ In line with this legislation, the hunting of birds on land is permitted between the 1st September and the 31st January, between two hours before sunrise and two hours after sunset on any day between Monday and Saturday, and between two hours before sunrise and 1pm on Sundays and Public Holidays. The hunting of birds on land between the 15th September and the 7th October (inclusive of both dates) is not permitted from Monday to Saturday between 7 pm and two hours before sunrise of the following day. The hunting of birds at sea is permitted between the 1st October and the 31st January during the same times as those applicable to hunting on land, provided that between the 1st October and 7th of October, inclusive of both dates, hunting at sea is not permitted from Monday to Saturday between 7 pm and two hours before sunrise of the following day.

⁷ In autumn, rabbit hunting is permitted until 31st December.

other police units, 3 officers from Gozo district police, 5 officers of the Wild Birds Regulation Unit's Specialist Enforcement Branch. The officers conducted field patrols split into two shifts between 0500 hours and 2100 hours daily. On specific occasions (e.g. 24/09, 31/12), night patrols were also conducted. The actual daily field deployment on patrols ranged from a minimum of 18 officers and a maximum of 52 officers.

Due to national security exigencies concerning Malta's hosting of the Commonwealth Heads of Government Meeting and the EU Migration Summit in November 2015, some seconded police personnel were temporarily re-deployed to their detachments. However this temporary re-deployment was compensated by the appointment of 8 Marshalls from the Local Law Enforcement Agency who assisted other enforcement officers in field surveillance duties between 10-13 and 27-29 November 2015 to ensure consistently strong field enforcement presence.

As was also the case in previous years, the officers received specialised training during training session on enforcement priorities and techniques organised by the Wild Birds Regulation Unit on 15 October 2015.

The objectives of enforcement deployment were:

1. To ensure continuous deployment presence in the countryside to deter any potential abuse from occurring in the first place;
2. To ensure that no illegal targeting of protected species occurs, and that any detected incidents of abuse are dealt with swiftly and effectively;
3. To ensure that the general prohibitions and parameters related to the open season are enforced.

Inspections conducted

The officers utilised a mixture of techniques, including vehicular patrols, covert observation, stationary observation posts, foot patrols, physical inspections and spot-checks on individual hunters, and road-blocks. During the season, the officers conducted 17,549 site inspections (14,076 in Malta and 3,473 in Gozo) and 2,436 spot-checks on individual licensees (1,209 in Malta and 1,227 in Gozo), which is 21% more than the number of spot checks and inspections conducted during the same period in 2014 (16,476), and more than double the total number of inspections conducted during the same period in 2013 (7,619).

Offences detected

In the course of field surveillance, inspections and spot checks, the authorities detected a total of 131 infringements, which led to legal action being taken against 128 offenders, including 58 persons being subject to criminal prosecution and 70 persons subject to administrative fine.

It is however notable that the 2015-16 autumn season was characterised by the lowest ever number of offences concerning illegal targeting (killing or trapping) of protected birds (one case of illegal shooting of protected bird and two cases of illegal trapping of protected birds). The vast majority of all breaches detected (102 cases) pertained to illicit use of pre-recorded bird calls (69 cases), firearms irregularities (7 cases), reporting irregularities (2 cases) and other breaches of license conditions (24 cases).

A comparison of the enforcement statistics with the corresponding metrics for previous years is presented in the table below.

Offences disclosed during autumn hunting / trapping seasons (1st September - 31st January the following year)	2012	2013	2014	2015
Hunting within prohibited distances / prohibited areas	17	12	1	6
Hunting / trapping without license	76	21	4	8
Illegal trapping of protected birds	137	29	1	2
Illegal shooting of protected birds	2	6	4	1
Hunting / trapping using illegal means / firearms irregularities / other breaches of license conditions	236	89	78	102
Hunting / trapping during closed season / outside of permitted hours	16	1	2	5
Possession of dead protected birds	4	16	5	3
Possession of live protected birds	137	30	3	3
Illegal sale of protected birds	0	0	7	1
Smuggling of protected birds	1	3	1	0
Total offences disclosed	391	125	106	131
Persons against whom legal action is taken	226	87	83	128

Source: Wild Birds Regulation Unit and Malta Police Force

The above table also lists bird-related offences that are unrelated to the hunting season (e.g. illegal possession of protected birds; illegal sale / smuggling cases), but which were disclosed during the period in question.

The above statistics evidently points to the continuation of the overall trend towards reduction in the incidence of most categories of bird-related crime, with only a slight increase registered in the relatively minor breaches category, which increase is largely attributed to higher crime disclosure rate resulting from increased intensity of inspections and surveillance.

Investigations concerning illicit possession of protected birds

Recognising the fact that illicit trade and taxidermy of illegally acquired protected birds has in the past been a substantial driver behind illegal targeting of protected birds, the law enforcement authorities continued to dedicate substantial enforcement effort towards preventing, detecting and curtailing any potential abuse.

During 2015, the Specialist Enforcement Branch of the Wild Birds Regulation Unit together with the Administrative Law Enforcement Unit of the Police conducted 70 inspections at private residences during which 8,987 bird specimens held in private collections were examined. Some 2,621 bird specimens examined during these inspections were seized due to various irregularities detected and legal action was taken against the persons involved in accordance with the law. During the same period, the Branch also carried out 59 inspections at points of entry (port and airport) during which 4,571 bird specimens were examined and 4 specimens were seized due to irregularities detected.

Sample sentences meted out by Maltese courts in relation to illegal killing, trapping and trade in wild birds in 2015

During 2015, enforcement officials of the Specialist Enforcement Branch of the Wild Birds Regulation Unit attended 25 court sittings (each sitting comprising multiple hearings) which resulted in 125 convictions and 4 acquittals with the rest of the cases pending further hearing.

Below is an example of the outcomes of some of the court cases related to illegal targeting of protected birds decided by the Maltese courts in 2015:

- On 18th March 2015 one person was convicted for illegal importation of protected birds and sentenced to one year imprisonment and a fine of € 2,600.
- On 15th April 2015 one person was charged under arrest for shooting a common cuckoo (*Cuculus canorus*), convicted and sentenced to €2,500 fine, a 3.5 year suspension of hunting licence and confiscation of shotgun and ammunition.

- On 16th April 2015 one person was charged under arrest for shooting a Lapwing (*Vanellus vanellus*), convicted and sentenced to a 3 month effective jail term, a 3 year suspension of hunting licence, confiscation of shotgun and ammunition and a €200 fine for breaching bail conditions on an unrelated charge.
- On 28th April 2015 one person was apprehended shortly after shooting a Kestrel (*Falco tinnunculus*) on 27 April 2015. The suspect was arraigned under arrest on the same day, tried, convicted and sentenced to a one year effective jail term, permanent revocation of hunting licence, confiscation of weapon and ammunition and a fine of €5,000.
- On 24th June 2015 one person was charged with illegal trapping, convicted and sentenced to a €2,000 fine and 2 years suspension of all licences issued under Conservation of Wild Birds Regulations.
- On 16th September 2015 a person who attempted to target white storks (*Ciconia ciconia*) in 2014 and was also found in possession of live and dead protected birds was fined €8,000 and had his hunting licence permanently withdrawn.
- On 14th October 2015 a bird trapper was fined €2400 and lost his hunting and trapping licence for 3 years, after having been found guilty by the court of illegally trapping finches inside the Majistral nature & history park in spring 2015. On the same day another person was also sentenced to a €1,200 fine and had his licences suspended for 2 years for illegal finch trapping in spring 2014.
- On the 13th of January 2016 one person was charged with illegal importation of protected birds, convicted and sentenced to a fine of €2,500 and suspension of all licences issued under Conservation of Wild Birds Regulations.