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CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

Standing Committee

33rd meeting
Strasbourg, 3-6 December 2013

Complaint in stand-by

Presumed illegal killing of birds in Malta

REPORT BY THE NGO

*Document prepared by
BirdLife Malta*

EXECUTIVE SUMMARY

This document provides a reaction to the Report by the Maltese Government presented to the Bern Convention Standing Committee in January 2013 - T-PVS/Files (2013) 3, which report was lodged following an original complaint reporting several breaches to Articles in the Bern Convention lodged by a private individual T-PVS/ File (2013) 11.

Whereas Malta has transposed the EU Birds Directive into local legislation as well as has laws and regulations which cover the various articles of the Bern Convention, to which Malta has been a signatory since 1993, the implementation and effective enforcement of bird protection legislation remains a sticking point, such that the indiscriminate targeting of protected bird species is a reality which persists despite increased, but still not sufficiently effective enforcement and judiciary measures adopted in recent years.

The Maltese government has since Malta's accession to the EU in 2004 applied various derogations to the Birds Directive in order to allow a continuation of spring hunting seasons for Turtle Dove and Quail as well as trapping seasons for other game species such as Golden Plover and Song Thrush, despite these practices being clearly banned by the same directive. Such derogation periods result in increased illegal hunting and trapping incidents, during periods when otherwise such practices should not be allowed, with both legal hunting and trapping seasons acting as loopholes for the illegal killing of birds as a result of ineffective enforcement measures implemented by the country. Infringement proceedings by the European Commission have already resulted in a verdict against Malta for opening spring hunting seasons between 2004 and 2007, as well as two formal warnings for the opening of trapping seasons, and a renewed formal warning on spring hunting in 2010.

With Malta boasting no less than a community of 10,000 licensed hunters within one of the smallest nations in the European Union, and accordingly possibly the highest density of hunters per capita in the world, the enforcement of wildlife protection regulations relies on a contingent of just less than 20 police officers (the Administrative Law Enforcement Unit), which contingent has bird protection and hunting law enforcement as one of several tasks assigned to the unit. Despite repeated calls by several NGO's, Malta continues to lack an effective police unit adequately staffed, equipped and trained with tackling the illegal hunting and trapping incidents. At the same time, to the satisfaction of a strong politically influential lobby, derogations demanding strict supervision conditions are applied with certain amounts of police officers (increased during derogation periods) only temporarily. Spring hunting derogations continue to target migrating populations of Turtle Dove and Common Quail on their pre-nuptial migration, despite the widely documented unfavourable European conservation status of these species. Trapping derogations for game species on the other hand allow for the further persecution of game species that can otherwise still be hunted.

Whereas awareness, legislative, enforcement and judiciary measures have improved over the years, the reality of the scale of illegal hunting and trapping incidents remains such that Malta to date remains deprived of breeding populations of various species that would otherwise breed on the islands. With species such as the Peregrine Falcon, the Barn Owl and the Eurasian Jackdaw having been extirpated in recent decades, and the failure for other migratory species such as the ever-declining Turtle Dove and Common Quail to establish local populations in Malta, the reality of illegal killing is not only corroborated by reports filed by NGOs such as BirdLife Malta but is exhibited by the poor diversity and abundance of the avifauna that breeds on Malta.

Despite this stark reality, we remain to see any serious efforts at establishing adequate measures such as the setting up of a Police Wildlife Crime Unit, or an end to spring hunting and trapping derogations which cannot be effectively enforced; measures which are unpopular with the hunting lobby and remain a political stumbling block at ensuring strict observation of the Articles of the Bern Directive and effective implementation of the Birds Directive.

We thus urge the Bern Convention to take further action, as appropriate, to assist Malta to stop the irreversible damage to Europe's avifauna and enable it to be a safe migratory stop-over for hundreds of European species particularly in spring but also during the autumn migration. Moreover we urge the Bern Convention to assist Malta in securing further populations of locally breeding bird species and to adhere strictly to the Articles of the Bern Convention, to which Malta is a signatory.

BirdLife Malta reactions on Government of Malta response to complaints lodged before the Convention on the Conservation of European Wildlife and Natural Habitats

Complaint	Articles	Government of Malta reaction	BirdLife Malta reaction
<p>Complaint Statement 1:</p> <p><i>“I am submitting a complaint regarding the bird killing on Malta by Maltese nationals during the spring migratory season, apparent violations of articles 6-9 of the Bern Convention by the Maltese government”.</i></p>	<p>Article 6</p> <p><i>Each Contracting Party shall take appropriate and necessary legislative and administrative measures to ensure the special protection of the wild fauna species specified in Appendix II. The following will in particular be prohibited for these species:</i></p> <p><i>a all forms of deliberate capture and keeping and deliberate killing;</i></p> <p><i>b the deliberate damage to or destruction of breeding or resting sites;</i></p> <p><i>c the deliberate disturbance of wild fauna, particularly during the period of breeding, rearing and hibernation, insofar as disturbance would be significant in relation to the objectives of this Convention;</i></p> <p><i>d the deliberate destruction or taking of eggs from the wild or keeping these eggs even if empty;</i></p> <p><i>e the possession of and internal trade in these animals, alive or dead, including stuffed animals</i></p>	<p>Malta submits the following status of implementation of articles 6-9 of the Convention:</p> <p>Article 6</p> <p><i>Each Contracting Party shall take appropriate and necessary legislative and administrative measures to ensure the special protection of the wild fauna species specified in Appendix II. The following will in particular be prohibited for these species:</i></p> <p><i>a all forms of deliberate capture and keeping and deliberate killing;</i></p> <p><i>b the deliberate damage to or destruction of breeding or resting sites;</i></p> <p><i>c the deliberate disturbance of wild fauna, particularly during the period of breeding, rearing and hibernation, insofar as disturbance would be significant in relation to the objectives of this Convention;</i></p> <p><i>d the deliberate destruction or taking of eggs from the wild or keeping these eggs even if empty;</i></p> <p><i>e the possession of and internal trade in these animals, alive or dead, including stuffed animals and any readily recognisable part or derivative thereof, where this would contribute to the effectiveness of the provisions of this article.</i></p> <p>Malta notes that the provisions of Articles 6-10 of the Bern Convention are implemented in Malta through the Conservation of Wild Birds Regulations (LN79/06 as amended). These Regulations, together with the Flora, Fauna and Natural Habitats Protection Regulations (LN311/06 as amended) provide the main legal framework for the implementation of the Bern Convention, as well as transpose into Maltese national legislation the corresponding EU Nature Directives, including Directive 2009/147/EC on the Conservation of Wild Birds.</p> <p>The Conservation of Wild Birds Regulations provide for the protection in Malta of all species of naturally occurring birds in the wild state in the European territory of the Member States of the European Union.</p> <p>Moreover, it is to be noted that provisions have been included in these Regulations which prohibit the following activities:</p> <p>a. the hunting or taking of protected birds¹;</p> <p>b. the deliberate disturbance to any protected bird during the period of breeding and rearing;</p> <p>c. the hunting, taking, destruction, damage or removal by any means of any bird nest</p>	<p>While legal provisions for the protection of birds exist, the implementation and enforcement of these provisions is not sufficient to prevent extensive illegal incidents of hunting and trapping. There is still widespread illegal killing and trapping of protected migratory bird species in the Maltese Islands both during spring and autumn hunting seasons as well as outside. BirdLife Malta has systematically gathered extensive evidence of such practices since 2007, with a particular focus on the peak spring and autumn migration periods through activities such as Spring Watch and Raptor Camp.</p> <p>While regulations are in place, as have been quoted, the Maltese Government fails to accept the reality of the scale of illegal hunting depicting a situation of strict observance of rules and sporadic illegal hunting incidents. Recent statements such as from the parliamentary secretary Roderick Galdes have even sought to cover up the scale of illegal activities (see Annex 1) .</p> <p>Despite BirdLife Malta providing evidence on the correlation between open hunting and trapping seasons and illegal hunting and trapping practices, the government still persists in derogating from the Birds’ Directive by allowing spring hunting seasons for Turtle Dove and Quail, and autumn trapping seasons for huntable species such as Golden Plover and Song Thrush.</p> <p>Open spring hunting seasons for Turtle Dove and Quail are in clear defiance of Article 6 c in allowing the killing (not just disturbance) of these migratory birds when they are returning to mainland Europe to breed.</p> <p>Rather than restricting the practice of spring hunting, this year the new government implemented changes in legislation and even removed the special spring hunting license fee of 50 euros which resulted in an increase of 3000 spring hunting licences in Malta; a situation which increased even further hunting intensity during the spring season but also made enforcement extremely difficult.</p> <p>It is evident that open spring hunting seasons also result in the targeting of protected bird species for taxidermy and subsequent collection in defiance of article 6 e. In Annex 2 to this document BirdLife Malta has included a graph showing a comparison of shot protected birds received by BirdLife Malta for the same period (10th – 30th April) since 2007, when 22 shot protected birds were received during the same period. Subsequent years wherein no spring hunting season was allowed, only 2 and 7 shot protected birds were received in 2008 and 2009 respectively. In 2010, during the boycotted spring hunting season in April, only 5 protected birds with gunshot injuries were received. The variance in the number of protected birds with gunshot injuries brought into the BirdLife Malta office post-2007 illustrates clearly the effect that an</p>

¹ It should be noted that the Regulations provide for the legal hunting and taking of huntable bird species in Malta, under strictly controlled and supervised conditions, in the context of a derogation from the EU Birds Directive where applicable. It should further be noted that none of the species which can be hunted or trapped in Malta are listed under Appendix II of the Bern Convention.

	<p><i>and any readily recognisable part or derivative thereof, where this would contribute to the effectiveness of the provisions of this article.</i></p>	<p>and their eggs;</p> <p>d. the taking of eggs from the wild of any protected bird and the keeping of such eggs (even if empty);</p> <p>e. the import or export, sale, transport for sale, keeping for sale or offering for sale of live or dead birds or any recognisable parts or derivatives of protected birds².</p> <p>For further information, a consolidated version of the Conservation of Wild Birds Regulations, 2006 may be viewed through the following link:</p> <p>http://justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=11548&l=1</p> <p>Furthermore, these Regulations also allow for the prosecution of any person who fails to comply with or acts in contravention of any provision of these Regulations. Upon conviction such person may be liable to a variety of penalties including fines ranging from €232.94 to €9,317.49, the confiscation of the <i>corpus delicti</i>, suspension or permanent revocation of the licence or permit and/or imprisonment (of not less than two months but not exceeding two years).</p>	<p>open spring hunting season has on the fate of protected birds migrating over Malta. These birds represent only a small percentage of the total number of protected birds being shot, For a bird to be received by BirdLife Malta, a shot bird has to escape being found by a hunter, be alternatively found by someone who is willing to help and who then decides to hand over the bird to BirdLife Malta. Shot protected birds are normally prized by poachers and only rarely are shot birds not recovered.</p> <p>Open trapping seasons on the other hand continue to act as a loophole for indiscriminate trapping of protected finch species. The EC has in fact issued Malta with two formal warnings which included the lack of strict supervision of the trapping season as a breached condition. Illegal finch trapping continues as a practice in various coastal areas of Malta and Gozo despite Malta outlawing the practice since 2009. A recent survey conducted by BirdLife Malta had shown that during the trapping season of 2012, even in Natura 2000 sites, circa 95% of trapping sites operating during the derogated trapping season, were illegally targeting protected finch species.</p> <p>While hunting legislation and regulations may look appropriate on paper in reality enforcement on the ground is not effective. This is compounded by the fact that the Maltese archipelago has an area of 316 km² with around 10,000 licensed hunters. At the same time the only permanent enforcement effort present on the island consists of the Administrative Law Enforcement Unit within the Malta Police Force which numbers a contingent of less than 20 officers on a permanent bases.</p> <p><u>We accordingly do not agree with the Maltese Government’s response that Article 6 is being implemented in that Malta lacks the appropriate administrative measures to ensure the protection of wild fauna species under Appendix II, such that the activities prohibited under such Article are not being adequately and appropriately controlled.. Similarly there are no adequate administrative provisions to ensure the protection of wild fauna species under Appendix III as listed under Article 7.</u></p>
	<p>Article 7</p> <p><i>1 Each Contracting Party shall take appropriate and necessary legislative and administrative measures to ensure the protection of the wild fauna species specified in Appendix III.</i></p> <p><i>2 Any exploitation of wild fauna specified in Appendix III shall be</i></p>	<p>All species of birds which may be hunted or taken under Maltese legislation (vide footnote 1) are either listed under Appendix III of the Bern Convention or not listed in any of its Appendices (e.g. Columba palumbus and Sturnus vulgaris). The Conservation of Wild Birds Regulations establishes a closed season, time restrictions and entry restrictions (i.e. sites/areas where hunting/ trapping is prohibited). For more detailed information of such restrictions one may view the consolidated version of the Conservation of Wild Birds Regulations.</p> <p>Moreover, it is to be noted that the Conservation of Wild Birds (Framework for Allowing a Derogation Opening a Spring Hunting Season for Turtle Dove and Quail) Regulations (LN221/10 as amended) established bag limits for the hunting of the turtle dove and quail during a spring season, whilst the Conservation of Wild Birds (Framework for Allowing a Derogation Opening an Autumn Live-Capturing Season for Song Thrush and Golden Plover) Regulations (LN303/12) established bag limits and for</p>	<p>Most huntable species in Malta are protected under Appendix III of the Bern Convention. While the hunting of most of these species is restricted to the autumn period, Malta has been derogating from the Birds Directive to allow a spring hunting season for Turtle Dove and Quail. As confirmed by various scientific publications, to date, the conservation status of both Turtle Dove and Quail remains unfavourable with declining populations within Europe:</p> <p>(i) In 2004, BirdLife International’s ‘Birds in Europe 2’ considers both species to be in an unfavourable conservation status, by classifying:</p> <ul style="list-style-type: none"> - Turtle Dove as ‘Declining’ with a ‘Moderate continuing decline’³ - Quail as ‘Depleted’ with ‘a large historic decline’⁴ <p>(ii) In 2007, the European Commission’s own ‘Management Plan for Turtle Dove</p>

² This provision is, however, not applicable with respect to those species in Annex III of the Birds Directive.

³ <http://www.birdlife.org/datazone/userfiles/file/Species/BirdsInEuropell/BiE2004Sp2498.pdf>

⁴ <http://www.birdlife.org/datazone/userfiles/file/Species/BirdsInEuropell/BiE2004Sp194.pdf>

	<p><i>regulated in order to keep the populations out of danger, taking into account the requirements of Article 2.</i></p> <p>3 <i>Measures to be taken shall include:</i></p> <p><i>a. closed seasons and/or other procedures regulating the exploitation;</i></p> <p><i>b the temporary or local prohibition of exploitation, as appropriate, in order to restore satisfactory population levels;</i></p> <p><i>c the regulation as appropriate of sale, keeping for sale, transport for sale or offering for sale of live and dead wild animals.</i></p>	<p>live-capturing of the golden plover and song thrush during an autumn season. Such quotas do not exceed 1% of the total annual mortality of the species concerned and also take into consideration the conservation status of the species and the maintenance of the populations at a satisfactory level.</p> <p>As mentioned previously, the import or export, sale, transport for sale, keeping for sale or offering for sale of live, or dead birds, or any recognizable parts or derivatives of birds protected under the Maltese Regulations is prohibited.</p>	<p>(<i>Streptopelia turtur</i>) 2007 -2009⁵, recognizes Turtle Dove as having an unfavourable conservation status with populations showing decreasing trends. Causes of decline are mostly attributed to agricultural intensification practices however the management plan also states that:</p> <p><i>“hunting can be seen as an aggravating factor especially where it takes place in spring during migration and the reproduction period, as the annual bag is large and the species suffers from low productivity and low adult and juvenile survivorship.”</i></p> <p>(iii) In 2009, the European Commission’s own ‘European Union Management Plan 2009 - 2011 for Common Quail (<i>Coturnix coturnix</i>)⁶, recognizes that Common Quail populations have been on the decrease, and remain largely depleted.</p> <p>(iv) In May 2010, the European Bird Census Council’s Pan-European Bird Monitoring Scheme Fact Sheet, entitled ‘European trends of Turtle Dove (<i>Streptopelia turtur</i>)’ with respect to Turtle Dove concludes:</p> <p><i>“The population appears to be depleted with no signs of recovery. Data from recent years suggest further decline of the population.”</i></p> <p>(v) In 2012, the Pan-European Bird Monitoring Scheme’s latest ‘Population Trends of Common European Breeding Birds 2012’⁷ classifies Turtle Dove populations as suffering from both a long term (1981 – 2010) and a short term (1991 – 2010) moderate decline.</p> <p>The hunting of these two species during spring when they are returning to Europe to breed is therefore an unsustainable practice.</p> <p>On a local level, the situation is even worse, with Malta still lacking any regular breeding populations of both species, as well as having absolutely no conservation measures in place at helping these species establish local breeding populations. Local publications issued by BirdLife Malta document this:</p> <p>(i) Sultana, Borg, Gauci & Falzon, in their 2011 publication ‘The Breeding Birds of Malta’ quote no records for breeding Common Quail and Turtle Dove in 2011 and 2010, quoting sporadic breeding records in earlier years.</p> <p>(ii) Raine, Sultana and Gillings, in their 2008 publication ‘Malta Breeding Bird Atlas 2008’ lists Common Quail as an irregular breeding species in Malta; whereas it considered the breeding population of Turtle Doves in Malta and Gozo as between 0 – 14 pairs in 2008.</p> <p>Both publications recognize hunting pressure as the main reason why both species fail to successfully breed year after year in the Maltese Islands, with birds shot during spring hunting seasons as well as illegally during their breeding season later on in the year.</p>
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⁵ http://ec.europa.eu/environment/nature/conservation/wildbirds/hunting/docs/turtle_dove.pdf

⁶ http://ec.europa.eu/environment/nature/conservation/wildbirds/hunting/docs/Quail%20EU_%20MP.pdf

⁷ <http://www.ebcc.info/wpimages/video/Leaflet2012.pdf>

			<p>In the context of the conservation status of both Turtle Dove and Quail in Europe as well as in Malta, the opening of spring hunting seasons during their pre-nuptial migration perils further their status in Europe as well as any possibilities of these species re-establishing breeding populations in Malta.</p> <p>Despite, as quoted by government, derogations for the opening of spring hunting and trapping seasons are limited by way of bag limits and quotas which do not reach the 1% natural mortality rate of the species in question, BirdLife Malta has serious reservations on the method by which such quotas and bag limits have been established and are controlled.</p> <p>In establishing maximum quotas of 11,000 Turtle Dove and 5,000 Quail as the limits for opening spring hunting seasons, the Maltese government has relied on a calculation that is deeply flawed and systematically biased towards producing as large a possible value for small numbers as possible, assuming reference populations of migrating Turtle Dove and Quail based on Italian ring recovery data, assuming countries of origin for which no scientific evidence points to these populations migrating over Malta, as well as inventing figures such as those from countries like Bosnia-Herzegovina.</p> <p>On the other hand, the Maltese government has to date still not provided any justification on how the quotas for trapping of Golden Plover and Song Thrush for the 2012 autumn trapping season relate to the 1% annual mortality rate of these species – so it seems that there is no clue as to what impact the trapping season has on the maintenance of adequate population levels of these species.</p> <p>For both spring hunting and trapping derogations, the use of bag limits assigned to individual hunters and trappers is a measure which is next to impossible to enforce let alone control the numbers of birds that are being persecuted accordingly. For the derogated periods, BirdLife Malta has gathered ample evidence that catches of Turtle Dove and Quail in spring reported by SMS by individual hunters are highly under-declared year after year.</p> <p>Just as an example – during the 15-day spring hunting season of 2011, 5,642 licensed hunters declared catching just 1842 Turtle Dove and 366 Quail. During the 16-day spring hunting season of 2012, 6,110 licensed hunters declared catching just 805 Turtle Dove and 151 Quail.</p> <p><u>In summary, we do not agree with the Maltese government’s assertion that Article 7 is being implemented in that:</u></p> <p>(a) <u>Article 7 (2): Spring hunting derogations do not keep out of danger but rather peril further the conservation status of Turtle Dove and Quail (Appendix III species) both at a local and European level; For trapping seasons, on the other hand the lack of technical justification of quotas presents a lack of knowledge about this;</u></p> <p>(b) <u>Article 7 (3) a: The opening of spring hunting seasons for Turtle Dove and Quail, and trapping seasons for other game species are far from one would</u></p>
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			<p><u>consider being a closed season period over and above the 5-month autumn hunting season wherein such species are hunted without limits.</u></p> <p>(c) <u>Article & (3) b: Rather than having conservation efforts aimed at restoring satisfactory populations; poorly supervised and controlled open spring hunting seasons undermine any such possibilities.</u></p>
	<p>Article 8</p> <p><i>In respect of the capture or killing of wild fauna species specified in Appendix III and in cases where, in accordance with Article 9, exceptions are applied to species specified in Appendix II, Contracting Parties shall prohibit the use of all indiscriminate means of capture and killing and the use of all means capable of causing local disappearance of, or serious disturbance to, populations of a species, and in particular, the means specified in Appendix IV.</i></p>	<p>The provisions of the Conservation of Wild Birds Regulations also prohibit a number of means and methods of killing or capturing wild birds including the following:</p> <ol style="list-style-type: none"> a. snares, limes including birdlime, poisonous or stupefying bait, hooks or any similar substances or methods; b. any electrocuting devices c. any artificial light sources, mirrors, devices for illuminating targets or any sighting devices for night shooting comprising an electronic image magnifier or image converter; d. any gas, or any electric or electronic device, especially the use of pre-recorded bird calls; e. nets⁸, including those known as ranja, mist-nets and any type of vertical net; f. any kind of cage-trap, whether with a net or not; g. explosives and h. semi-automatic or automatic weapons with a magazine capable of holding more than two rounds of ammunition. <p>Moreover, the Regulations prohibit persons from holding any fire-arm which is loaded or outside its case, and from pursuing / hunting / taking any birds whilst in or on any motor vehicle or aircraft.</p> <p>Furthermore, regulation 19 of the Conservation of Wild Birds Regulations establishes time restrictions for hunting or taking activities. Regulation 20 contains several provisions related to the welfare of captive birds, whilst regulation 22 provides restrictions on permissible size of lead shots.</p>	<p>In the Maltese Islands as declared by Sultana et. al in ‘The Breeding Birds of Malta’ ‘many decades of intensive and widespread trapping is one of the main reasons for the lack of regular breeding finches like Linnet, Common Chaffinch, European Serin and Greenfinch’. Moreover some species like the Peregrine Falcon, Barn Owl and Jackdaw have become extinct because of the relentless illegal hunting. Moreover birds like the Common Kestrel, Turtle Dove, Common Quail and Woodchat Shrike would have a better chance to become established and to breed if there was no spring hunting season.</p> <p>While rules exist prohibiting finch trapping the enforcement of the said regulation is still lacking. Illegal trapping of finches by clap nets continues to be widespread. By not tackling effectively illegal hunting and by not prohibiting the means of causing local disturbance and disappearance the Maltese government is in breach of Article 8 of the Bern Convention.</p>
	<p>Article 9</p> <p><i>1 Each Contracting Party may make exceptions from the provisions of Articles 4, 5, 6, 7 and from the prohibition of the use of the means mentioned in Article 8 provided that there is no other satisfactory solution and that the</i></p>	<p>Article 9 of the Bern Convention lays down the provisions concerning the application of exceptions from the requirements laid down in Articles 4, 5, 6, 7 and from the prohibitions of the use of the means mentioned in Article 8 and the reporting of such exceptions. However, the Bern Standing Committee notes that the “European Community states do not need to report on exceptions regarding birds, as the European Community will cover that obligation for all its member States.”⁹</p> <p>In this context, Malta would like to note that the Maltese legislation providing for the legal hunting and taking of bird species in Malta, under strictly controlled and supervised conditions, is established in the context of a derogation from the EU Birds Directive, where applicable, and hence takes into account the provisions of Article 9 of</p>	<p>BirdLife Malta has its reservations over the correct application of derogations to the EU Birds Directive by the Maltese Government in recent years, and believes that Malta has especially failed in the conditions relating to the application of derogations to the Birds Directive.</p> <p>For spring hunting seasons, the conditions of being a suitable alternative, conservation status, small numbers and proportionality and strict control and supervision are not being respected.</p> <p>For trapping seasons the conditions of being a suitable alternative as well as strict control and supervision are also not being respected, while the impact on the</p>

⁸ In Malta, birds may only be live-captured using traditional nets known as clap-nets which are solely operated by human intervention without the use of electrical, electronic or mechanical means. Such nets, however, should not in any case exceed 37.81 square meters nor have a mesh size smaller than 30 x 30mm.

⁹ Quote extracted from the *Updated Model Form for Biennial Reports*.

	<p><i>exception will not be detrimental to the survival of the population concerned:</i></p> <ul style="list-style-type: none"> <i>–for the protection of flora and fauna;</i> <i>–to prevent serious damage to crops, livestock, forests, fisheries, water and other forms of property;</i> <i>–in the interests of public health and safety, air safety or other overriding public interests;</i> <i>–for the purposes of research and education, of repopulation, of reintroduction and for the necessary breeding;</i> <i>–to permit, under strictly supervised conditions, on a selective basis and to a limited extent, the taking, keeping or other judicious exploitation of certain wild animals and plants in small numbers.</i> <p>2 The Contracting Parties shall report every two years to the Standing Committee on the exceptions made under the preceding paragraph. These reports must specify:</p>	<p>the Bern Convention.</p>	<p>conservation status of the derogated species remains a concern.</p> <p>As a result of wrong application of derogations, the Maltese Government was taken to the European Court of Justice for the incorrectly allowing spring hunting seasons between 2004 and 2007 with a verdict delivered in 2009, and renewed legal action in 2010 for the further opening of spring hunting seasons. On trapping derogations, Malta has to date received two formal warnings of incorrect application of derogations to date, with further trapping derogations risking action at a European Court of Justice level.</p> <p>Should the Maltese government insist in its assertion that derogated seasons have been strictly supervised and controlled, we ask the Maltese government to:</p> <ol style="list-style-type: none"> a) Give a full proof worthy account of how many Turtle Dove and Quail have been killed in the spring hunting seasons of 2011, 2012, and 2013 b) Give a full proof worthy account of how many Song Thrush and Golden Plover were trapped during the autumn trapping season of 2011 c) Give full accounts of what measures have been in place to verify the SMS data and the carnet de chasse figures from the Autumn hunting season to substantiate (a) and (b) <p>In relation to the above, and given that the Maltese government has reported to the European Commission about the exemptions and derogations made, the government of Malta should publish and make available publicly and to the Council of Europe all its reports on these derogations.</p>
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	<p><i>–the populations which are or have been subject to the exceptions and, when practical, the number of specimens involved;</i></p> <p><i>–the means authorised for the killing or capture;</i></p> <p><i>–the conditions of risk and the circumstances of time and place under which such exceptions were granted;</i></p> <p><i>–the authority empowered to declare that these conditions have been fulfilled, and to take decisions in respect of the means that may be used, their limits and the persons instructed to carry them out;</i></p> <p><i>the controls involved.</i></p>		
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<p>Complaint Statement 2: According to the CABS website “the consequences of hunting on Malta are catastrophic for many European migrant bird species.”</p>		<p>Malta rejects the unfounded assertion that “<i>the consequences of hunting on Malta are catastrophic for many European migrant bird species.</i>” To the contrary, there is a wealth of scientific evidence that such an assertion is totally incorrect.</p> <p>In Malta, the local huntable species, which are also listed as huntable under Annex II of the EC Birds Directive, are predominately migratory birds which do not breed in the Islands. In this regard, Thomaidis C.¹⁰ notes that migratory birds fly in a broad front over the Mediterranean and consequently huge passages over Malta are considered to be rare. In view of the fact that the bird passage over Malta is small, the hunting opportunities are consequently limited.</p> <p>Furthermore, Moreau (1953), in discussing migration over the Maltese Islands, notes that there was lack of evidence in favour of high concentrations of small birds. Gibb (1951) also concludes that birds in the Maltese islands were seldom present in such numbers as to suggest that the Islands receive any concentrated stream passing on a narrow front. Moreau (1961) cites Steinbacher (1954, 1955) who conducted an extensive study of bird migration in Sicily and concluded that migrant birds did not concentrate extensively on Sicily any more than they do on Malta.</p> <p>Therefore, it can be concluded that Malta receives only a small fraction of the birds that travel along a broad front over the Mediterranean. De Lucca (1969) also supports this view by stating that several species were present on most days on the Maltese islands, but spectacular passages were scarce and irregular.</p>	<p>We encourage the Maltese government to quote the so called ‘wealth of scientific evidence’ that shows hunting in Malta has no consequences to European migrant birds. In the absence of such publications, this statement is unfounded and nothing more than an assertion.</p> <p>According to the report ‘The international impact of hunting and trapping in the Maltese islands’ by Dr André F. Raine:</p> <p>“The central Mediterranean flyway is particularly important for many raptors, with thousands making the crossing every year (Beaman & Galea, 1974; Coleiro et al 1995; Garcia & Arroyo, 1998; Agostini et al, 2003; Sammut & Bonavia, 2004; Pannuccio et al, 2005). This group of birds in particular are heavily persecuted in Malta, with large numbers being killed every year on migration (Coleiro et al, 1995; Sammut & Bonavia, 2004).</p> <p>Raine states that ‘Ring recoveries were used to analyse the international importance of Malta’s position along one of the main European-African bird migration routes. International ring recoveries came from 1,188 individuals, representing 120 species. Birds from a total of 48 countries, 36 in Europe and 12 in Africa, were found to pass over Malta during spring and autumn migration. Birds that had been ringed overseas and shot by hunters in Malta were analysed separately. Ring recoveries from a total of 75 species, representing 35 countries, were found to have been killed in Malta. The majority of these ring recoveries came from protected, non-huntable species, with a significant proportion being Annex 1 species of the EU Birds Directive.’</p> <p>Furthermore the report states:</p> <p>‘While it can be seen that many species passing over Malta come from a wide range of European countries, an equally important factor to be considered is when all of the ringed birds passing over Malta are found to originate from one or two countries only. This can be seen for species such as the Osprey, a rare bird of prey considered to be of Unfavourable Conservation Status in Europe (Birdlife International, 2004). In the case of this species, ring recoveries originate from three countries only, Finland, Sweden and Germany, with the vast majority coming from Finland and Sweden. As the number of ring recoveries for this species is relatively high (44 ringed individuals have been recorded as shot in Malta) it can be seen that a significant proportion of Osprey passing over Malta originate from these two countries alone.’</p>
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¹⁰ Thomaidis C. (nd) Study of the Migration Patterns of Turtle Dove *Streptopelia turtur* and Quail *Coturnix coturnix* over the Maltese Islands. Final Report. Technological Education Institute of Lamia, Department of Forestry and Management of Natural Environment, Karpenisi, Greece.

		<p>The notion of limited hunting opportunities in Malta, such as in respect of Turtle dove and Quail, has also been confirmed by the Court of Justice of the European Union in its judgment on Case C-76/08 <i>Commission v Malta</i> which held that “<i>Having regard to those very specific circumstances, hunting for quails and turtle doves during the autumn hunting season cannot be regarded as constituting, in Malta, another satisfactory solution, so that the condition that there be no other satisfactory solution, laid down in Article 9(1) of the Directive, should, in principle, be considered met</i>” .</p> <p>In this respect, it should be noted that spring hunting in Malta is subject to a stricter regime of control than that provided for in the Conservation of Wild Birds Regulations cited above, and is in fact also subject to the provisions of the Conservation of Wild Birds (Framework for Allowing a Derogation Opening a Spring Hunting Season for Turtle Dove and Quail) Regulations (LN221/10 as amended) as applicable.</p>	<p>Unfortunately the notion that hunting of Turtle Dove and Quail is not a satisfactory solution is based on numbers reported in the carnet de chasse of hunters, which have a long history of under-reporting. This matter has also been acknowledged by the Maltese Government itself and this data is the bases on which the ECJ has based its verdict. See Annex 3 the National Environment Policy Consultation Phase 1 Issues paper, which clearly demonstrates that carnet de chasse figures were under reported.</p> <p>Until this day, BirdLife Malta fails to see any efforts being done to monitor Turtle Dove and Quail migration during the autumn hunting season, in order to have a set of data which one could compare to Carnet De Chasse reports for the season. In the meantime, spring hunting seasons continue to be opened, using the low catches reported in autumn of both species as a justification for opening a spring hunting season in the next year.</p> <p>While a stricter regime is demanded by the EU for the spring hunting derogation the Maltese government has failed year after to deploy the required number of trained police officers, despite this being guided by framework legislation. Irrespective of such, strict control is far from being achieved with illegal hunting incidents showing an increase during spring hunting seasons, as witnessed by BirdLife Malta and CABS.</p>
		<p>Specific provisions in this regard provide that:</p> <ul style="list-style-type: none"> • If during any particular autumn hunting season the number of bagged Turtle Doves and Quails reaches a specific limit then Malta would not apply a derogation to allow hunting during the following Spring season; • If a spring hunting season is declared open, a national spring hunting limit is set for each species. This limit is calculated taking into consideration the 1% overall annual mortality of the individual bird species concerned (Turtle Dove or Quail) with a view to ensure that the conservation status of the species concerned and their population is maintained at a satisfactory level; • Spring hunting may only be allowed for the hunting of the Quail and Turtle Dove; • Spring hunting is only allowed by virtue of a Special Spring Hunting Licence, issued against a payment of a fee; • A daily bag limit and a seasonal bag limit is set in respect of each Spring Hunting Licence; • If a Spring hunting season is declared open it shall be for a maximum of three weeks in April; 	<p>Unfortunately the reporting by hunters on the numbers of turtle dove and quail bagged continue to be unreliable and evidence collected by BirdLife shows hunters are advised by the hunting lobby to under report their catches so that spring hunting is opened every year.</p> <p>The calculation of the size of the reference populations is deeply flawed and systematically biased towards producing as large a possible value for small numbers as possible</p> <p>While Turtle Dove and Quail only are allowed to be hunted in Spring other protected bird species continue to be shot and targeted.</p> <p>The new Maltese government (since 9th March 2013) has removed the special licence fee of 50 euros as from 2013, resulting in 3000 more hunters going out hunting.</p> <p>The ways and means of verifying such bag limits are next to impossible to control</p> <p>The Maltese government has opened a full three-week season in April 2013.</p>

		<ul style="list-style-type: none"> • Spring hunting would only be allowed to take place from Monday to Friday from two hours before sunrise till three o'clock in the afternoon and on Saturdays from two hours before sunrise to noon. No hunting would be allowed on Sundays and public holidays; • Each licensee is obliged to wear an identification armband bearing the licence number and to carry the Spring Hunting Licence with him whilst in search or pursuit of birds; • Each licensee is obliged to inform the Authorities by means of a text messaging service (sms) as soon as a bird is shot; • For every one thousand hunters in possession of a Spring Hunting Licence, a minimum of seven police officers and, or hunting marshals would be on duty during all hours for which a spring hunting season is open. (Outside these hours at least two police officers and, or, hunting marshals for every one thousand licensed hunter, would be on duty during the hours of daylight); • The Police will be assisted by hunting marshals as may be necessary who shall continue to carry out on-the-spot checks until at least four weeks following the start of a spring hunting season, in order to prevent illegal hunting. Following the closure of a spring hunting season, for every one thousand Spring Hunting Licences issued that year, a minimum of three police officers and, or hunting marshals shall be on duty during the hours of daylight. • The Government remains committed to ensure strict enforcement of the mentioned rules. The supervisory regime is probably unparalleled in other EU Member States suffice it to note that at times, particularly during the period of spring hunting derogation, almost 10% of the on-duty police force on the Maltese Islands is in some way involved in the monitoring of hunting activities. Records of prosecutions and convictions for hunting-related offences over the past years show that these Regulations are implemented and enforced effectively and offenders are brought to justice. 	<p>BirdLife Malta volunteers have witnessed several cases of hunting on Sundays and after 15:00 during the Spring hunting derogation. In 2012 just on Sunday 22nd April BirdLife Malta volunteers counted 982 shots during a period when hunting was banned..</p> <p>The new Maltese government (since 9th March 2013) has removed the identification armband as from 2013.</p> <p>During the spring hunting seasons the number of sms sent for each shot bird by Maltese hunters are not corroborating with the number of shots counted in the field by BirdLife Malta volunteers or with migration events; it is obvious that hunters are under-reporting so that the spring hunting season does not close if quotas are reached.</p> <p>While the legislation sets a minimum amount of officers in the field to be deployed during the spring hunting season, Birdlife Malta has serious reservations over the real amount of police officers that were policing spring hunting seasons.</p> <p>In 2012 the minimum requirement of officers in the field during the spring hunting season was of 36 officers. BirdLife Malta and CABS result of monitoring of police activity was of 18 officers during hunting hours.</p> <p>The number of offenders brought to justice continues to be much lower than the number of illegalities witnessed during the hunting seasons by BirdLife Malta.</p> <p>In practise the government is not succeeding in controlling illegal hunting and trapping and investigations of shot protected birds continues to be lacking.</p>
<p>Complaint Statement 3: <i>"Birds such as the Honey Buzzard and the Golden Oriole, which migrate twice a year over the Maltese islands,</i></p>		<p>Both the Honey Buzzard (<i>Pernis apivorus</i>) and the Golden Oriole (<i>Oriolus oriolus</i>) are not listed in Schedule II of the Conservation of Wild Birds Regulations, 2006 and consequently the hunting and killing of such species in Malta is prohibited. The <i>Pernis apivorus</i> is also listed in Schedule I of these Regulations and therefore, the illegal hunting of this species is subject to stricter penalties, which include higher fines and/or the permanent revocation of the hunting licence.</p> <p>Moreover, the 'Policy Guidelines for Hunting and Trapping of Birds in Malta'</p>	<p>According to the report 'The international impact of hunting and trapping in the Maltese islands' by Dr André F. Raine, Honey Buzzards are one of the bird species in particular that are heavily persecuted in Malta, with large numbers being killed every year during migration.</p>

<p><i>show a dramatic population decline in the northern habitats.”</i></p>		<p>issued by the Government in August 2011 give due consideration to the ecological conditions and the protection of birds of prey. In particular, such guidelines state that “<i>The duration and daily time-table for any open season must ensure the safe-passage of protected bird species. In this context, account must be taken of the fact that the peak raptor migrations over Malta normally occur in the month of May and in the second half of September (15- 30 September)</i>”¹¹.”</p> <p>The Government has consistently condemned without reservation any incident of illegal hunting. However, as in any other area of law enforcement, there may be individuals who break the law.</p>	
		<p>The Police Administrative Law Enforcement Unit routinely deploys around 43 officers in the field to monitor hunting activities. These officers received specialised training and are adequately equipped to monitor the situation and prosecute any individuals contravening the law. These officers are further assisted by district police units and mobile squads, which are also involved in the monitoring of hunting activities and conducting field inspections. It is estimated that at times over 10% of all on-duty police officers are in some way involved in enforcing hunting regulations.</p>	<p>The assertion that the Administrative Law Enforcement Unit consists of 43 officers is conflicting with statements declared by ALE officials themselves that the contingent does not consist of any more than 20 officers on a permanent bases. This amount of officers is only increased during peak spring and autumn migration periods during which time only, the contingent probably reaches the reported figure of 43 officers. We encourage the Maltese government to provide proof of how 10% of all on-duty police officers are in some way involved in enforcing hunting regulations as well as how these officers have been trained and what equipment has been made available to them to deal with illegal hunting incidents.</p>
		<p>Moreover, hundreds of volunteers from dozens of NGOs, both foreign and local, monitor spring and autumn bird migrations in the field and cooperate with the authorities in case of detection of illegalities.</p> <p>In recent years, the Government has revised the legal and policy framework in relation to hunting in Malta. Penalties for hunting offences have been doubled since 2007 and are today amongst the harshest in Europe. Persons convicted of hunting offences may face penalties that range from revocation of licence and confiscation of weapons and other <i>corpus delicti</i> to fines and imprisonment.</p> <p>Whilst hunting is recognised as a legitimate activity under EU and national law, and is indeed practised in all EU Member States, it is subject to strict controls. Such controls include bag limits and quotas, assessment of conservation status of species that may be hunted, restrictions pertaining to time and place, safety controls, and a range of reporting requirements. These are being implemented and constantly monitored by the competent authorities. In order to ensure that enforcement is continuously improved, the Government maintains ongoing liaison with a wide range of stakeholders and works together with the various authorities including those related to law enforcement in order to further improve the effectiveness of enforcement.</p>	<p>Vide previous comments on strict supervision and control as well as bag limits.</p>
<p>Complaint statement 4:</p> <p><i>Almost all migrant birds legally huntable on Malta are in the meantime on the German Red List of endangered</i></p>		<p>The Golden Plover (<i>Pluvialis apricaria</i>), Lapwing (<i>Vanellus vanellus</i>) and the Skylark (<i>Alauda arvensis</i>) are all listed in Appendix III of the Bern Convention and consequently hunting may be allowed for these species as long as such exploitation “<i>shall be regulated in order to keep the populations out of danger, taking into account the requirements of Article 2.</i>” (Article 7.2 of the Bern Convention).</p> <p>In this regard, these species may be legally hunted in Malta in view of the fact that this is provided for in Annex II (Part B) of Directive 2009/147/EC on the Conservation of Wild Birds. Such hunting may only be allowed provided that the requirements set by the</p>	<p>Ringling information is not available to demonstrate if these migratory birds passing over Malta are originating from endangered populations such as Germany. In this respect the best approach should be a precautionary one, in that these birds should not be hunted unless it can be proven that such hunting is not periling these species. The Maltese authorities should bear the responsibility of ensuring to identify the origin populations of these birds that migrate over Malta in order to ensure that any hunting effort is not undermining any conservation efforts or status of this species in their respective European countries.</p>

¹¹ In view of this, in recent years hunting was not permitted after three o’clock in the afternoon between the 15th September and the 30th September. Furthermore, Framework Regulations on spring hunting (Legal Notice 221 of 2010 as amended) allow hunting for 3 weeks in April only, in order for any spring hunting season which may be allowed not to coincide with peak raptor migrations during May.

<p><i>species and the Golden Plover, Lapwing and Skylark are critically endangered.”</i></p>		<p>Conservation of Wild Birds Regulations (LN79/06 as amended) and the Arms Act (Cap. 480 of the Laws of Malta are adhered to.</p> <p>It must also be noted that since the species in question are listed in the above mentioned Annex they may be hunted in a number of European countries. Hence according to the Directive the species in question may be hunted in the following Member States:</p> <ul style="list-style-type: none"> • <i>Golden Plover:</i> Belgium, Denmark, Greece, France, Ireland, Malta, Netherlands, Romania and the United Kingdom • <i>Lapwing:</i> Belgium, Denmark, Greece, Malta, Spain, France, Ireland and Italy. <p><i>Skylark:</i> Greece, France, Italy, Cyprus, Malta and Romania.</p>	
<p>Complaint statement 5:</p> <p><i>The BirdLife Malta website indicates that “poachers (are) specifically targeting (birds of prey) and Herons as well as rare migratory birds such as Greater Flamingo Phoenicopterus roseus, Black Stork Ciconia nigra and Eurasian Spoonbill Platalea leucorodia among others.” The websites of these organizations also list white storks, great egrets, kestrels, lesser spotted eagles and others as victims of Maltese hunters. To the best of my knowledge all these birds are protected under the Bern Convention. Thus the by not taking appropriate and necessary measures to protect these birds the government of Malta is in apparent violation of articles 6-9 of the Bern Convention.</i></p>		<p>All the above mentioned species are protected by law in Malta are all listed in Schedule I of the Conservation of Wild Birds Regulations and consequently, the illegal hunting of these species is subject to stricter penalties, which include higher fines and/ or the permanent revocation of the hunting licence.</p> <p>Apart from such legal deterrents, Malta also boasts a specialised section in the Police Force which tackles wildlife crime. In addition, enforcement is increased during a spring hunting or autumn trapping season. During a spring hunting or autumn trapping season there will be a minimum of 7 police officials or marshals for every 1,000 licensed hunters or trappers respectively to monitor these bird related activities. In view of the very limited areas which are suitable for hunting and trapping Malta deems that such enforcement measures are adequate to control illegal activity with respect to birds to the maximum extent possible.</p>	<p>The enforcement is not sufficient to prevent incidents of illegal hunting of protected species to take place. Bird protected areas continue to be infringed by poachers every year. BirdLife Malta believes that only a well resourced, trained wildlife crime unit can resolve the situation.</p> <p>http://www.maltatoday.com.mt/en/newsdetails/news/national/Malta-needs-wildlife-police-force-say-RSPB-UK-and-BirdLife-Malta-20120929</p> <p>The ALE are not a specialised wildlife crime unit, in fact the Administrative Law enforcement has many other duties. We believe it is untrue that the ALE is considered some sort of wildlife police force. BirdLife Malta continues to this day to call for an appropriately trained and resourced wildlife crime unit. As already mentioned, during the past three spring hunting seasons the conditions of 7 police officials or marshals for every 1,000 licensed hunters were not met with enough police in the field.</p>

<p>Complaint statement 6:</p> <p><i>These species or some of them are also protected by the SPA and Biodiversity Protocol under the Barcelona Convention for the protection of the Mediterranean (Malta is a party), the CMS (Malta is a party), and the AEW (Malta is not a party). I am also trying to verify if illegal hunting and trapping of protected species take place within Malta's two Ramsar sites. And since elements of international trade in these birds are sometimes involved, the illegal trapping and hunting might also comprise violations of CITES. Furthermore, the Maltese government's omissions in preventing this loss of global biodiversity are also violations of the Convention on Biological Diversity.</i></p>		<p>Malta rejects the claims of violation of these Conventions.</p>	<p>The Convention on the Conservation of Migratory Species of Wild Animals asks signatory countries to take special attention to migratory species the conservation status of which is unfavourable, and taking individually or in co-operation appropriate and necessary steps to conserve such species and their habitat. We believe that because of the number of protected bird species being targeted every year over Malta, Malta is failing to safeguard the CMS convention. Just this Spring Hunting season (2013) two Pallid Harriers (one of the most critically endangered raptors in Europe) were shot down on the Maltese Islands. Birds of prey remain one of the most illegally targeted group of bird species as evidenced by the various cases of injured birds that BirdLife Malta receives from members of the public.</p>
<p>Complaint statement 7:</p> <p><i>The European Court of Justice in 2009 issued a judgment against Malta determining that it was in violation of the European Bird Directive by allowing</i></p>		<p>The judgment delivered by the Court of Justice of the European Union in Case C-76/08 <i>Commission vs Malta</i> recognises that the autumn hunting season does not provide a satisfactory solution to spring hunting for Quail and Turtle Dove in Malta: <i>'Having regard to those very specific circumstances, hunting for quails and turtle doves during the autumn hunting season cannot be regarded as constituting, in Malta, another satisfactory solution, so that the condition that there be no other satisfactory solution, laid down in Article 9(1) of the Directive, should, in principle, be considered met'</i> (paragraph 63).</p> <p>The judgment envisages the possibility of limited hunting of Turtle Dove and Quail under strictly supervised conditions in view of the specific circumstances prevalent in Malta.</p>	<p>The European Court of Justice considered that opening a spring hunting season, during which Turtle Dove and Quail are returning to their rearing grounds, resulted in a mortality rate three times higher (around 15 000 birds killed) for quails and eight times higher (around 32 000 birds killed) for turtle doves than for the autumn hunting season, does not constitute an adequate solution that is strictly proportionate to the Directive's objective of conservation of the species.</p> <p>As such the Court ruled that, even though only a negligible number of the two species at issue were present in autumn and for a very limited period, and since hunting was not impossible in autumn, by authorising the opening of the spring</p>

<p><i>the hunting of skylarks and quail in the spring. In light of continued violations by the Maltese government the European Community is now considering returning to court against Malta and this time asking to impose fines on the Maltese government.</i></p>		<p>The Government has, therefore, allowed a derogation in terms of the provisions of the EU Birds Directive for the spring hunting of a limited number of Turtle dove and Quail, under strictly supervised conditions, in 2010, 2011 and 2012.</p> <p>A spring hunting season in Malta is subject to various measures and strict controls aimed at ensuring that the conservation status of the relevant species is not affected. The Regulations currently in force state that if during any particular autumn hunting season, the number of bagged Turtle Doves and Quails reaches a specific limit, then Malta would not apply a derogation to allow hunting during the following Spring season.</p> <p>The Regulations also state that if a spring hunting season is declared open, a national spring hunting limits is set for each species. This limit is calculated taking into consideration the 1% overall annual mortality of the individual bird species concerned (Turtle Dove or Quail) with a view to ensure that the conservation status of the species concerned and their population is maintained at a satisfactory level.</p> <p>The measures related to a spring hunting season are provided for in the Conservation of Wild Birds (Framework for allowing a derogation opening a spring hunting season for the Turtle Dove and Quail) Regulations (LN221/10, as amended). These Regulations ensure that any spring hunting season derogation in Malta fully respects the spirit and provisions of the EU Birds Directive and the judgment of the CJEU, whilst establishing adequate measures to ensure strict control and enforcement during any such season.</p> <p>Malta maintains that bird related activities in Malta will continue to be regulated by the legal parameters of all relevant national, EU and international legislation. Malta states that such regulation in Malta shall continue to respect the rights of citizens engaged in the pursuit of legitimate activities whilst ensuring that biodiversity is conserved for the benefits of present and future generations.</p>	<p>hunting season for quails and turtle doves for several weeks each year, from 2004 to 2007, Malta failed to comply with the conditions for a derogation and, accordingly, failed to fulfil its obligations under the Directive.</p> <p>In 2010 The European Commission asked Malta to comply with a ruling by the European Court of Justice in the area of hunting of birds. In 2009, the Court found that Malta, by permitting the spring hunting of turtle doves and quails in 2004-2007, had failed to implement the Birds Directive properly. The Commission was concerned that new framework legislation seeking to permit spring hunting in future years does not comply with the Court ruling. It therefore decided, at the recommendation of Environment Commissioner Janez Potočnik, to issue a Letter of Formal Notice under ongoing infringement proceedings. The Commission told the Maltese government that if the necessary actions are not taken by the Maltese authorities, the Commission may decide to take Malta back to Court to request financial penalties.</p> <p>The European Commission does not limit or impose how derogations to the Birds Directive are to be made; the right to derogate is given by the Birds Directive and not the European Court of Justice.</p>
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