



Complaint in stand-by No. 2012/7 ILLEGAL KILLING OF BIRDS IN MALTA

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Complaint in stand-by – Presumed illegal killing of birds in Malta – progress so far



Complaint started with a private individual in 2012 claiming that Malta is in breach of Articles 6, 7, 8 and 9 of the Bern Convention

- (i) illegal hunting of protected species (as reported by BLM and CABS)
- (ii) legal hunting of 'endangered' species (German redlist and EC action on spring hunting)

Since 2012, various updates provided by Maltese government and BirdLife Malta concerning:

- (i) Enforcement over illegal killing**
- (ii) Policy and legislative measures to guarantee effective enforcement and protection**
- (iii) The application in theory and in practice of derogations to the Birds' Directive (spring hunting & trapping)**



Enforcement over illegal killing



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Overall improvement in illegal killing situation perceived as evident by:

- a) overall reduction of cases involving shot birds found by members of public
- b) overall reduction in witnessed illegal killing incidents

However situation remains **precarious** given:

- a) Appearance of rare migrants still resulting in incidents despite high penalties associated with illegal killing
- b) still no sign of an independent wildlife crime unit
- c) assumption of enforcement powers by the Wild Birds Regulation Unit by changes in legislation – resulting in a situation where policy making and enforcement is within the same government unit (currently being challenged by BirdLife Malta)



Enforcement over illegal killing – contrasts from Sep/Oct 2015

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16th September 2015 -
Three shot birds
recovered in a single
day



**1st September to 11th
October –**
Six shot birds received
in total (a relative low)



Enforcement over illegal killing – contrasts from Sep/Oct 2015



24th September 2015 –
Two Eurasian spoonbills shot



25th September 2015 -
Juvenile satellite-tagged Egyptian
Vulture from Italian re-introduction
project guarded overnight and left
safely



Enforcement over illegal killing – contrasts from Sep/Oct 2015

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Malta, 2nd October 2015 –
9 White Storks from
Swedish re-introduction
programme roost
overnight safely



Gozo, 3rd October 2015
– 2 White Storks
possibly from same
Swedish project shot at
metres away from
residence, one seen
being killed and taken
away



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Policy and legislative measures – the 3pm curfew



- In 2013, Maltese government's Wild Birds Regulation Unit shifted a hunting curfew aimed at protecting roosting birds of prey during their peak autumn migration from 3pm to 7pm – practically rendering the curfew obsolete.
- Justifications provided by Wild Birds Regulation Unit were that:
 - (i) illegal killing is on the decrease
 - (ii) Since this curfew was enacted no increase in incidents were exhibited
- BirdLife Malta has counter-argued this proposal mainly because:
 - (i) Birds of prey exhibit roosting behaviour as early as 3pm
 - (ii) Hunting peak hours for legal game is during the early morning so measure does not affect hunting effort
 - (iii) Curfew ensures more control over hunting in the afternoon which is more likely targeting protected species
- Bern Convention in its letter of May 2015 asked Maltese government to reconsider 3pm curfew
- Curfew not reinstated for reasons of low illegal killing rather than precaution or exhibited behaviour of protected species



The spring hunting derogation seasons



Past concerns highlighted:

- (i) **Autumn hunting season is a suitable alternative**
 - (ii) Quotas of Turtle Dove and Quail poorly controlled
 - (iii) Hunting impact a serious concern on declining conservation status of Turtle Dove and Quail
 - (iv) Illegal killing heightened during open season
 - (v) Framework legislation and its application not in line with Art. 9(1)c of Birds Directive
- Season in breach of Articles 6 and 7 of Bern Convention

2015 developments:

Study commissioned by Maltese government reveals a greater influx of Common Quail during 3 months of autumn hunting season compared to 3 weeks of spring hunting season – **an autumn hunting season remains a suitable alternative**



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2015 developments:

During the spring hunting season of 2015,

9,401 hunters declared catching 2,014 Turtle Doves and 148 Common Quail



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2015 developments:

European Red-List of Birds launched – **Turtle Dove now classified as Vulnerable in Europe**



© Ivan Dudáček

Streptopelia turtur

Scope: *Europe*



Source: <http://www.iucnredlist.org/details/226904>



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The spring hunting derogation seasons

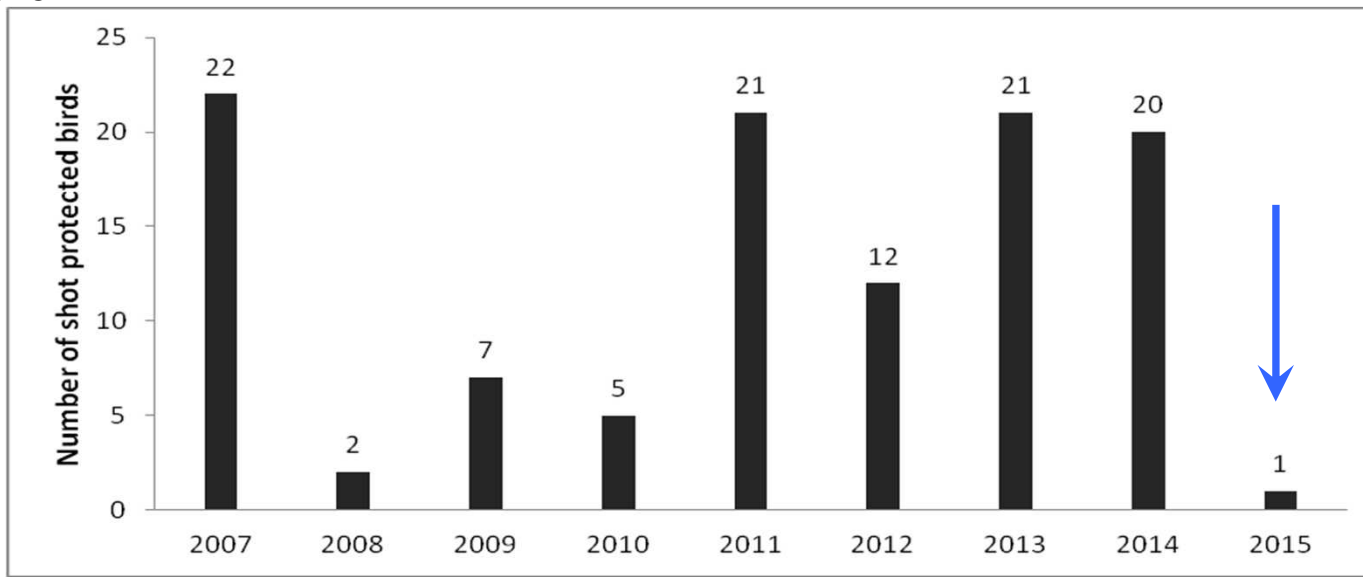


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2015 developments:

Incidents following warnings by Prime Minister and abrogative referendum were registered at an all-time low – only one shot protected bird received during open season in comparison to past seasons



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Season in breach of Articles 6 and 7 of Bern Convention

2015 developments:

European Commission has closed the infringement case

However

Conditions demanded of Art 9(1)c of derogation - Judicious use, small numbers, conservation status, proportionality & suitable alternative still are in our opinion not met

Season causes the deliberate disturbance of wild fauna, particularly during the period of breeding and rearing periods (Article 6 – Bern Convention) as well as does not allow the restoration of satisfactory population levels (Article 7 – Bern Convention)



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Future implications - Spring hunting season of 2016

Will illegal killing keep at a low now that a referendum is not a threat?

Will the Maltese government adhere to consider the new Europe IUCN status of the European Turtle Dove, as demanded by its own framework law?

Will the European Commission address the matter with urgency and demand the matter to be considered from now?

Will the European Commission await for the Maltese government to deliberate this new development and then re-open lengthy infringement processes if the new conservation status is not considered?



The trapping derogations – finch trapping



Background:

After negotiating a 5-year phasing out period for finch trapping as part of the EU Accession Treaty with Malta, the trapping of wild finches was made illegal in 2009

Maltese government re-introduced the practice via a derogation applied in October 2014, cancelling a 10-year long moratorium on trapping licences, opening up the practice to a total of over 4,000 trapping licences, a good proportion of which were new licences

BirdLife Malta (supported by BirdLife International) has challenged this position since the start arguing that the conditions of a derogation (Art 9(1)c of BD) cannot be met.

European Commission has challenged Maltese government on the matter, and on the 24th September communicated it is referring the matter to the European Court of Justice.

The main contestation is:

The capture of wild finches for recreational purposes is not a form of judicious use of wild bird species covered by the Birds Directive



The trapping derogations – finch trapping



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Current situation:

Maltese government opened up applications for licences in 2015 with the intent to open the season

Legal notices announcing dates and quotas not published – though normally season would open on the 20th October (in a few days really)

Thousands of trapping sites across the Maltese countryside are being cleared of vegetation and prepared

Without an interim court junction imposed by the EC, a season may still open in the next days as well as in the next few years until the sentence is given



The trapping derogations – song thrush and golden plover



Background:

Maltese government has applied this derogation since EU accession

Conditions were never properly challenged by the European Commission in terms of conservation status (especially for Golden Plover), small numbers and proportionality

European Commission has two date issued two formal warnings against this derogation, with staggered progress on resolving the matter

While finch trapping was in the past illegal, this derogation misused as a loophole for finch trapping – surveys done by BLM revealed between 70% and 90% of sites targeting finches in reality and not Song Thrush and Golden Plover

Most trapping sites illegally situated within Natura 2000 sites causing serious impact to protected habitat

Main objective of derogation: To supply decoys to kill/trap other wild birds of same species

The trapping derogations – song thrush and golden plover

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Current situation:

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European Commission appears uninterested in challenging derogation further although it has challenged Italy over the need to have derogations to stock decoy birds when other means are available (such as fake decoys and whistles) – **Italy has as of 2015 banned trapping as a result**

If finch trapping is not permitted, yet this derogation is permitted – **trappers will once again inevitably use this derogation to still trap wild finches**



In conclusion



The **illegal killing has shown evident signs of improvement**. Nonetheless it still is manifested in case of rare migrants and enforcement effort is different (such as on the island of Gozo). It is augured the situation will continue improving however it is still at a **precarious stage**.

The situation with **enforcement requires further improvements** – a clear division of policy making and enforcement with better legislative precautions such as the 3pm curfew; and a wildlife crime unit

Malta's spring hunting derogation is now more than ever unsustainable. A serious consideration of the new IUCN status and a recognition that the autumn hunting season is a suitable alternative need be acknowledged.



In conclusion



Malta's finch trapping derogation is in clear breach of the Birds' Directive. Until the matter is solved in court, the **European Commission needs to impose a ban on trapping.**

Malta's song thrush and golden plover derogation needs to be revisited over its justification. Its misuse in past years means that a ban on this practice will also guarantee no forms of illegal trapping.

The Council of Europe and Bern Convention signatories should ensure continued progress with the illegal killing situation in Malta, especially by ensuring that derogations do not continue to be applied incorrectly – thus safeguarding the principles of both the Birds Directive and the Bern Convention



More info:



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