

Hon. Virginius SINKEVIČIUS  
Commissioner for Environment, Oceans and Fisheries  
Rue de la Loi / Wetstraat 200  
1049 Brussels  
Belgium

19th November 2020

**Subject: Malta's Finch Trapping derogation continues after ECJ ruling of 2018 had stopped it.**

**Letter by BirdLife International, BirdLife Europe and BirdLife Malta and endorsed by another 24 Birdlife Partners from the European Union.**

Commissioner Sinkevičius,

We would like to draw your attention to the current situation regarding the derogation allowing thousands of finch trappers to catch seven species of protected finches in Malta.

Malta had to phase out finch trapping by 2008 as agreed in the Accession Treaty after Malta became an EU member state. In 2014, the Government of Malta re-opened finch trapping by way of derogation until a final warning was given in 2017, which landed the matter at the ECJ, who found Malta guilty of not abiding by the Birds' Directive in June 2018.

This year, the Maltese Government decided to not only defy the Accession Treaty, but also the ECJ ruling by re-opening once again a trapping season. In order to try and get away with this, Malta is this time applying a derogation under article 9 1(b) of the Birds Directive, for scientific research purposes.

## **Malta's rationale**

In the ECJ ruling (that had found Malta guilty on all five counts argued by EC) the court had stated that there was not enough data from bird ringing controls that would allow a clear understanding of the reference population. The ruling stated that therefore one cannot conclude if the amount of birds trapped constitute a sustainable (small numbers) catch. In view of this, the Maltese Government, is doing a massive effort to increase bird ringing controls by allowing trappers to trap without any limits (no bag limits or day limits and with use of electronic callers) and to record any foreign scientific Euring rings which they find on any finches. The trappers should be releasing all the birds trapped (something we know that will not be happening).

## **The Flaws**

The flaws are plenty, obvious and clear and BirdLife Malta has already compiled a dossier with all the arguments and facts that show this abuse of the Birds Directive. This has been sent to DG ENV at the start of the trapping season.

Primarily, a derogation allowing the trapping of finches, can never be justified, given the ECJ sentence is clear and unequivocal that Malta has never been interested in finding any other alternative to the practice of trapping (killing) wild finches, which remain protected species at EU level. The current season is simply an attempt to satisfy one of many clauses highlighted by the ECJ sentence yet does not follow the principle that Malta needs to demonstrate there is no other satisfactory alternative to allowing finch trapping.

Secondly, this derogation is flawed by its own inception and rationale. This 'scientific research' is not aimed to help the conservation of these protected birds but it aims to try and increase the reference population to be able to justify more finch trapping derogations in the future. This fact is actually stated in the framework law enacted a few days before the start of this autumn trapping season.

Needless to say, there has been no effort expended by the Maltese government to find other alternative ways to study these species, and the impact and disturbance to these migratory finches by over two thousand massive clap nets, mainly equipped with electronic lures. To make matters worse the derogation is being applied in synch with another derogation allowing the trapping of Golden Plover and Song Thrush, by the same trappers at the same sites – and we have never before seen such a blurred line between killing of wild birds and research being tested before the Commission.

The resulting current situation in the Maltese countryside is one where we have a legalised indiscriminate and deliberate capture of wild birds, under the excuse of research and in defiance of an ECJ sentence. The dossier which we attach to this letter explains in more detail all the aspects that show how this is a travesty of research practices, rationales and rules, aimed at creating a smokescreen so that thousands of protected finches are being trapped over the islands of Malta and Gozo.

As the largest environmental partnership in the EU, our partners endorsing this letter are concerned that if the EU commission does not act quickly and directly against Malta on this derogation, it will be setting a precedent and a message that countries may get away with allowing the (illegal) killing of Europe's wild birds under the excuse of scientific research. We urge you to promptly intervene on the current situation and re-establish the rule of law when it comes to bird protection in Malta.

We trust in your timely intervention and remain at your disposal.

Regards,

Patricia Zurita  
CEO  
BirdLife International

Mark Sultana  
CEO  
BirdLife Malta

Ariel Brunner  
Senior Head of Policy  
BirdLife Europe & Central  
Asia



This letter is also being endorsed by the following 24 organisations within the BirdLife Partnership and operating in EU member states



Austria - BirdLife Austria



Belgium - Natagora (Wallonia)



Bulgaria - Bulgarian Society for the Protection of Birds (BSPB)



Croatia - Association BIOM



Cyprus - BirdLife Cyprus



Czechia - Czech Society for Ornithology (ČSO)



Estonia - Estonian Ornithological Society (EOS)



Finland - BirdLife Finland



France - Ligue pour la Protection des Oiseaux (LPO)



Germany - Nature And Biodiversity Conservation Union (NABU)



Greece - Hellenic Ornithological Society (HOS)



Hungary - Magyar Madártani és Természetvédelmi Egyesület (MME)



Ireland - BirdWatch Ireland



Italy - Lega Italiana Protezione Uccelli (LIPU)



Latvia - Latvian Ornithological Society (LOB)



Lithuania - Lithuanian Ornithological Society (LOD)



Luxembourg - natur&mwelt



Netherlands - Society for the Protection of Birds (VBN)



Poland - Polish Society for the Protection of Birds (OTOP)



Portugal - Portuguese Society for the Study of Birds (SPEA)



Romania - Romanian Ornithological Society (SOR) / BirdLife Romania



Slovakia - SOS/BirdLife



Slovenia - BirdLife Slovenia (DOPPS)



Spain - SEO/BirdLife