



PUBLIC CONSULTATION BRIEF

on the

Conservation of Wild Birds (Framework for Allowing a Research Derogation To Determine Malta's Reference Population of Seven Finch Species) Regulations, 2020.

18/08/2020

Updated version 27/08/2020

The Wild Birds Regulation Unit invites stakeholders to submit comments and proposals in relation to the Conservation of Wild Birds (Framework for Allowing a Research Derogation To Determine Malta's Reference Population of Seven Finch Species) Regulations, 2020. Comments and proposals are to be submitted via email to wildbirds@gov.mt by not later than 15th September 2020 at noon.

1. Background

The purpose of the proposed regulations is to establish a framework for allowing a research derogation to determine Malta's reference population of the seven finch species enumerated in regulation 2 (defined as the "relevant species" for the purpose of these regulations) on the basis of Article 9(1)(b) of Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (Birds Directive) in particular read in conjunction with Article 10 and Annex V(c) of the Birds Directive, and in terms of sub-regulation 9(1)(e) of the Conservation of Wild Birds Regulations. The proposed regulations specifically aim to gather sufficient scientific information in order for Malta to introduce a derogatory regime in terms of Article 9(1)(c) of the Birds Directive that complies with the "small numbers"-criterion as interpreted by the Court of Justice in its C-557/15 judgment.

The Court of Justice, in its C-557/15 judgment, held that "*by adopting a derogation regime allowing the live capturing of seven species of wild finches (Chaffinch *Fringilla coelebs*, Linnet*

Carduelis cannabina, Goldfinch *Carduelis carduelis*, Greenfinch *Carduelis chloris*, Hawfinch *Coccothraustes coccothraustes*, Serin *Serinus serinus* and Siskin *Carduelis spinus*), the Republic of Malta has failed to fulfil its obligations under Article 5(a) and (e) and Article 8(1) of Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds, read in conjunction with Article 9(1) of that directive” (Emphasis Added). The C-557/15 judgment does not preclude Malta under absolute terms from putting in place a live-capturing season and (subsequent) keeping with regard to the seven finch species.

The proposed Framework Regulations will help in acquiring the necessary scientific information as regards to the reference population that needs to be taken into account when applying the 1%-rule (small numbers). The scope of the proposed Framework for live-capturing of the seven finch species is solely allowed for research purposes and does not include any reference to the “keeping” element.

2. Proposed legislative draft

The proposed regulations aim to create a new regulatory framework that allows research on the seven finch species by licensed bird ringers as well as by licensed trappers using clap-nets and live-decoys. The trappers’ involvement will be limited solely to the “control” of the seven finch species which means the determination of which of the captured specimens are fitted with a ring and to take note of the ring details. Enclosed with this consultation brief is the proposed Legal Notices.

3. Updated draft dated 27/08/2020

The current draft was updated on 27 August 2020 to include the recommendations of the Malta Ornis Committee during the meeting held on 26 August 2020, namely:

- Permitted maximum area of nets 38m²/net instead of 20m², as per SL 549.74.
- Permitted use of pre-recorded finch calls to make up for the shortfall in current stock of live-decoys.