



Mr Janez Potocnik  
European Commissioner for the Environment  
Environment Directorate  
European Commission  
B-1049 Brussels, Belgium

Thursday, 24 April 2014

Dear Mr. Potočnik,

### **Application of derogations of the Birds Directive on Malta**

Thank you for taking the time to meet MEPs, their representatives and staff from BirdLife Europe and Malta recently. We found the meeting informative and we all consider that we had a free and frank exchange of views.

The MEPs named below would like to draw your attention to the outstanding concerns that were discussed at the meeting but for which we consider the current position of the European Commission to be unsatisfactory.

#### **1) Access to Justice on the Maltese islands**

We discussed in some detail the 'Catch 22' situation that BirdLife Malta finds itself in with respect to challenging the implementation of the European Union Directive on Malta. The current position of the European Commission is that it will not take firm and concrete action concerning the systemic failures in the application of the derogation that allows spring hunting on Malta until a case has been heard in the courts on Malta itself.

During the meeting it was explained that BirdLife Malta has launched a judicial protest on Malta concerning the systemic failures in the application of the framework legislation that allows the derogation for spring hunting. It was also explained that a judicial protest is the only apparent avenue open to challenge the situation, but it was little more than a 'flag waving' exercise and would not lead to any hearing of the issues in the Maltese courts.

In reply, you stated that there is an infringement open against Malta concerning access to justice. During the meeting it became apparent that this case will take about three years to be resolved and, if Malta introduces appropriate judicial procedures to allow for access to justice on environmental issues, any case would most likely take at least two years to be concluded. This therefore means that at least five more spring hunting derogations will most likely take place on Malta.

In view of the abundant evidence presented to the European Commission about the systemic failures in the application of the derogation, we, the undersigned, consider this to be wholly unsatisfactory state of affairs and we request that you reconsider your position about opening new infringement cases against Malta forthwith.

#### **2) Lack of additional pressure on Malta regarding spring hunting**

We note that the original infringement case against Malta remains open and that desk officers in the Commission are constantly pushing Malta to apply EU rules regarding derogations correctly.



However, considering the abundant evidence regarding systemic failures in the application of the legislation that allows spring hunting to take place and the evident lack of opportunities for this situation to be challenged at a national level, we urge you to increase pressure on Malta regarding the current infringement case and to add to that pressure by opening a new infringement relating to enforcement of the laws by the authorities.

### **3) Finch trapping derogation**

Trapping is expressly forbidden under the Birds Directive and its phasing out was a condition of accession of Malta to the European Union. We were especially alarmed that we were informed that similar conditions would be applied to a finch trapping derogation as are currently applied to the derogation for spring hunting. This is because of the very evident systemic failures in the application of the later derogation. We fail to see how an existing faulty and flawed system that allows spring hunting on Malta can now be transposed to allow finch trapping as well.

We therefore urge you to take every step possible to prevent a problem before it starts and using every means at your disposal to prevent the application of a derogation to allow finch trapping on Malta before it actually happens.

We, the undersigned MEPs, BirdLife Europe and BirdLife Malta are united in our resolve to bring these matters to a satisfactory resolution and we will continue to work towards that goal. We hope you will help us to work towards achieving that in your final months as the Commissioner.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Steve Micklewright", with a long, sweeping flourish extending to the right.

Steve Micklewright  
Executive Director

#### Signatories:

Catherine Bearder (UK)  
Andrew Duff (UK)  
Ashley Fox (UK)  
Victoria Grace Ford (UK)  
Sari Essayah (Finland)  
Jill Evans (UK)  
Lidia Geringer de Oedenberg (Poland)  
Julie Girling (UK)  
Fiona Hall (UK)  
Jean Lambert (UK)  
Sarah Ludford (UK)  
Bill Newton Dunn (UK)  
Charles Tannock (UK)  
Keith Taylor (UK)  
Derek Vaughan (UK)



Glenis Willmott (UK)

The original letter requesting a meeting was signed by the following MEPs and they are also interested in seeing progress on these matters:

Martina Anderson (Ireland)  
Margrete Auken (Denmark)  
Catherine Bearder (United Kingdom)  
Ivo Belet (Belgium)  
Piotr Borys (Poland)  
Kathleen Van Brempt (Belgium)  
Tadeusz Cymański (Poland)  
Diane Dodd (United Kingdom)  
Andrew Duff (United Kingdom)  
Bas Eickhout (Netherlands)  
Sari Essayah (Finland)  
Vicky Ford (United Kingdom)  
Ashley Fox (United Kingdom)  
Gerben-Jan Gerbrandy (Netherlands)  
Lidia Geringer de Oedenberg (Poland)  
Julie Girling (United Kingdom)  
Rebecca Harms (Germany)  
Satu Hassi (Finland)  
Danuta Hübner (Poland)  
Danuta Jazłowiecka (Poland)  
Sidonia Jedrzejewska (Poland)  
Elisabeth Jeggle (Germany)  
Filip Kaczmarek (Poland)  
Jean Lambert (United Kingdom)  
Jo Leinen (Germany)  
Peter Liese (Germany)  
Sarah Ludford (UK)  
Bogdan K. Marcinkiewicz (Poland)  
Linda McAvan (United Kingdom)  
Raül Romeva I Rueda (Spain)  
Joanna Senyszyn (Poland)  
Joanna Skrzydlewska (Poland)  
Alyn Smith MEP (UK)  
Charles Tannock (United Kingdom)  
Claude Turmes (Luxembourg)  
Graham Watson (UK)  
Jacek Władysław Włosowicz (Poland)  
Marina Yannakoudakis (United Kingdom)  
Andrea Zanoni (Italy)  
Tadeusz Zwiefka (Poland)