

Commission européenne
(Secretary-General)
B-1049 Bruxelles
BELGIUM

Thun / Zurich, 25 March 2013

**COMPLAINT
TO THE COMMISSION OF THE EUROPEAN COMMUNITIES
CONCERNING FAILURE TO COMPLY WITH COMMUNITY LAW**

**MBCC, Migratory Birds Conservation in Cyprus, International Monitoring Organisation,
represented by its president, Ms. Edith Loosli, Schorenstrasse 33, 3645 Gwatt/Thun,
Switzerland, Tel : +41 33 336 30 45, E-mail: flora.ch@gmx.net**

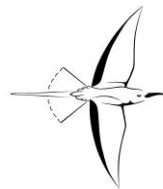
and

**TIR, Stiftung für das Tier im Recht (Foundation for the Animal in the Law),
represented by its deputy chief executive officer Ms Vanessa Gerritsen, Rigistrasse 9,
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lodge a complaint against Cyprus, a member State of the European Community,

concerning

enforcement deficiencies in Cyprus bird conservation regulation



A. Introduction

"Considering the multiple dimensions of illegal killing, trapping and trading of birds in Europe, such as the ecological, environmental, legal, economic, social and political aspects, a combination of measures, policies and strategies is necessary to solve the problem."

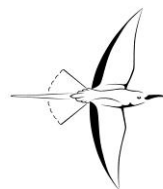
Larnaca Declaration 2011

Since the pre-EU accession period of 2000 – 2003 there has been no change in policing and application of bird protection law in Cyprus. Despite the implementation of the EU Birds Directive in national Law 152(1)/2003, wild birds have continued to be as unprotected as before, because of the inefficient, haphazard and often legally inadequate actions of police and judicial authorities.

MBCC, Migratory Birds Conservation in Cyprus and the Foundation for the Animal in the Law (TIR) act on behalf of the millions of migratory birds which, despite their protected status under EU and Cypriot law, annually face torture and death in Cyprus. The failure of police and judicial authorities to uphold the rule of law in Cyprus is a national disgrace that we must no longer tolerate:

- The police, as the investigative body in the prosecution effort against illegal bird catching and poaching in Cyprus, continue to base their work on inappropriate training and command sequences which are out of line with national and Community law;
- The ordinary police officer in the field is severely hampered by the policy of prosecuting only those trappers caught red-handed. When made at all, charges of wildlife crime tend to be pursued without thorough investigation and without complete awareness of either the provisions of Cyprus law 152(1)/2003 or the full extent of police authority;
- 50-70% of wildlife criminals reported or caught in the act leave the crime scene scot-free;
- As currently applied, Cypriot law is itself unjust, condoning and even encouraging wildlife criminals and the illegal trade in wild birds.

So far as wildlife crime is concerned, Community law in Cyprus is a dead letter. A policy of zero tolerance for wildlife crime has been evoked and is urgently necessary, but at the moment Cypriot law and justice are working on behalf of the criminals.



B. Developments in bird-catching practices and the current situation

The trends show a sharp increase in mist net use since 2007/8 and very high levels for the last 3 years. Lime stick use was much higher in Republic areas 2012, with the Game & Fauna Service, the Cyprus Police Anti Poaching Unit and NGOs reporting thousands of lime sticks located and confiscated in autumn.¹

10,000 lime sticks were found in autumn; in spring, in the Famagusta area alone, 9,000 lime sticks were found,² clearly indicating that the total number of lime sticks being set out was a vastly higher figure, suggesting that thousands of wildlife criminals are currently active in Cyprus.

Reading through our annual reports since 2002, one may note the striking changes in bird catching patterns that have taken place in our operational area of the island, Cape Greco and the South-East Peninsula.³ It is reassuring to note that the presence of bird catchers working in open areas, formerly such a blatant practice during migration, has fallen off considerably. Systematic field campaigns and investigative work by MBCC and other groups (NGO's) over the years have brought this kind of illegal trapping largely under control.

Unfortunately, however, a determined hard core of trappers, made up for the most part of farmers and landowners, has continued unchecked, both during and after EU accession. The hardcore trappers have in fact gone from strength to strength, fencing in orchards and groves and even enclosing large areas of countryside, since the EU Birds Directive was incorporated into Cypriot legislation by Law 152(1)/2003. The building of fences around private property has effectively afforded them immunity from prosecution for wildlife crime. Any poacher need only build a fence around part or all of his land, and the current, totally inadequate policing of wildlife crime will allow him to continue the illegal killing of thousands of birds, undisturbed and without fear of prosecution.

Survey records show that 152 bird species have been found trapped in mist nets or limesticks, of which 78 are listed as threatened by the EU Bird Directive.⁴

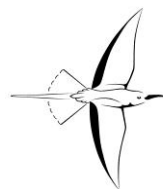
Our work has long been focused chiefly on detective investigation and observation of the criminal activities carried on by hardcore trappers in Cape Greco and the South-East Peninsula (Paralimni - Protaras - Aya Napa). Monitoring by MBCC during autumn migration (22 September to 21 October 2012) showed that trappers on private land were highly organized, constantly varying their calling devices intervals and catching times.

¹ BirdLife Cyprus/RSPB, Update on illegal bird trapping activity in Cyprus, Covering the Autumn 2012 findings of BirdLife Cyprus' continuing monitoring programme of illegal bird trapping in Cyprus and providing an overview of the latest developments regarding the problem (December 2012), page 5.

² See the respective facts and figures of the Game & Fauna Service, Committee Against Bird Slaughter (CABS), and MBCC.

³ All MBCC reports are available at http://www.tierimrecht.org/en/artikel/MBCC_complaint.php.

⁴ BirdLife Cyprus, List of birds recorded trapped in mist nets and on limesticks (2012).



This required our conservation teams to react accordingly, and involved us in a great deal of night-time volunteer work.

In 2012 we collected 34 loudspeakers, 3 large mist nets, 4268 lime sticks, 277 live birds, 82 dead birds. We witnessed 5 bird catchers arrested, 11 bird catchers unpunished.⁵

C. Inadequacy and inappropriateness of enforcement

Most bird catching takes place on private plots of land in the South East Famagusta District, the hotspot for illegal bird catching with lime sticks (also the only area in Cyprus where large-scale poaching takes place during the spring migration). The hotspot coincides with one of the most significant resting and jumping off points on a major European-African bird migration route.

The hard core of bird catchers are mainly prosperous landowners, who can afford to fence in orchards and olive groves to ensure the protection of private premises. They are fully aware that, as the law is currently applied, they will effectively have immunity from prosecution for acts of wildlife crime committed on such premises. It is within these fenced orchards and groves that most illegal bird catching with nets and lime sticks takes place, but the police turn a blind eye and fail to enter private premises even when there is clear evidence that a crime is being committed.

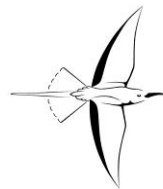
In spring 2012, many hundreds of lime sticks were regularly being set out in 70% of 50 fenced areas monitored in the Cape Greco – Paralimni area (Famagusta). In the face of this flagrant criminality, a practice incidentally reported also in previous years, the police took no action whatsoever. The total number of lime sticks observed by MBCC in use on these premises in spring 2012 exceeded the 3,000 mark.⁶

Law enforcement presents a sorry picture in Cyprus where wildlife crime is concerned, since the actions of the police actually run counter to Law 152(1)/2003, the Protection and Administration of Wild Birds and Game Act. There has been little official comment from the judiciary, simply because almost none of the thousands of cases of wildlife crime are ever brought to court.

Cypriot law is not the only law being flouted in Cyprus. Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009, which is unconditionally binding on Cyprus, is also blatantly disregarded by the thoroughly

⁵ MBCC 2012 Annual Cyprus Report, available at: http://www.tierimrecht.org/en/artikel/MBCC_complaint.php, pages 6 and 9.

⁶ MBCC 2012 Annual Cyprus Report, available at: http://www.tierimrecht.org/en/artikel/MBCC_complaint.php, page 9.



documented and widely reported illegality, incompetence and failed enforcement in respect of wildlife conservation.

The reasons for this disastrous failure of the rule of national and Community law in Cyprus have been observed in years of field experience by MBCC and are set out in detail below by the complainants.

D. Underlying causes of Cyprus' failure to enforce conservation legislation

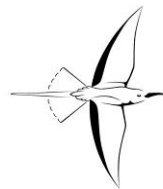
- inadequate training of police officers responsible for enforcement;
- evidence collection in the field is inadequate, with current practice placing excessive emphasis on the need for culprits to be caught in the act, ignoring overwhelming circumstantial evidence;
- landowners fail to comply with their legal obligations and are effectively granted impunity by the authorities' systematic failure to prosecute them;
- the judiciary process against illegal bird killers continues to be primitive and ineffectual, with outdated and inappropriate prosecution procedures;
- there is a general failure to recognize and act on the criminality of illegal killing of wild birds.

1. Inappropriate application of legislation

a. Current legislation is effectively rendered null and void by the unjustified insistence on prosecuting only criminals caught directly in the act

In the early 2000 police officers in the field were instructed that bird catchers must be caught in the act of putting out or using nets or lime sticks: without a direct, eye witness report from the field, no charges would be brought. This excessively restrictive definition of a prima facie case leads in practice to virtual inaction on the part of the prosecuting authorities.

This restrictive interpretation of the law from the pre-EU era failed to require further police, legal or judicial investigation of any kind; indeed it actually prevented any such pursuit of the matter (according to reports by police inspectors in Paralimni on instructions received from judges). Today, ten years after Cyprus entered the European Union and assumed full responsibility for the protection of European wildlife within its borders, this restrictive application and interpretation of the law continues to offer



effective immunity for wildlife criminals, allowing them to go unmolested even when their crimes are carried out in public view, and to continue to profit from their illegal acts.

Cypriot bird trappers are fully aware of the excessively restrictive interpretation of the national law in the courts, under which perpetrators are only found guilty by magistrates when evidence includes direct observation of setting out or collecting traps, even though the actual wording of the law does not require this.

Police officers of all the Cypriot bodies entrusted with tackling wildlife crime, both the Game Service (Thira) and Anti-Poaching Unit, follow this restrictive policy, which is totally self-defeating. Local police officers in the field have no clear mandate from the Ministry of Justice and Order or the Cyprus Head of Police to act to deter and prosecute illegal bird catching.

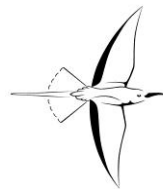
Therefore Cyprus Bird Law 152(1)/2003 effectively is made null and void by insisting on *in flagrante delicto*.

b. Refusal to recognise official right of access to private premises when a crime is suspected

Unlike private citizens, officers of the police and Game Service & Fauna do enjoy right of access when a crime is suspected. Cyprus Law 152(1)/2003, article 72(1) provides that a gamekeeper or a member of the police force is legally authorized to enter into a fenced area, in case of suspicion of a criminal act, without a court warrant, if it does not constitute part of the residence.

[See annexe 1: Reply from Mr. Ninos Kekkos, Counsel of the Republic for the Attorney General of the Republic of Cyprus, Law Office of the Republic, Nicosia, File No.: A.G.50\(A\)/1999/N53 dated 7 March 2008](#)

In the experience of MBCC, officers are frequently uninformed about this right, and as a result tend to be excessively reluctant and concerned about possible consequences, regarding entry into private property. In many instances, attempts made by conservation activists in the field to point out the relevant legislation, in particular Art. 72(1), have not been accepted by police officers as help from citizens towards the effective performance of their duties and the prevention of crime, but instead as some kind of slight on their honour and ability. As a result, landowners blatantly engaged in wildlife crime have made a laughing stock of both the police forces and their officers, reducing them to uncertainty and inaction.



c. Denial of responsibility of landowners

Article 72(1) of the Law for the Protection and Development of Game and Wild Birds No. 152(1)/2003 states that:

"The proprietor or the person who has the responsibility or control or management of the fenced area, (in which there is a conduct of a criminal act) can be held responsible as the person who committed the offence."

Cyprus Law Office

[See annexe 1: Reply from Mr. Ninos Kekkos, Counsel of the Republic for the Attorney General of the Republic of Cyprus, Law Office of the Republic, Nicosia, File No.: A.G.50\(A\)/1999/N53 dated 7 March 2008](#)

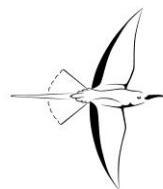
The police have taken no practical notice of this legal provision and its implications for prosecution, continuing to insist that only criminals caught in the act can be prosecuted. This permissive approach is a reprehensible misinterpretation of Cypriot law, which in fact makes landowners liable for wildlife crime carried out on their property.

Lime sticks are often set out in small orchards: these traps should always be considered the property and responsibility of the owner of the orchard. Denial of possession in such cases is absurd, as no Cypriot orchard owner would ever tolerate intrusion into and disturbance of his carefully managed fruit trees, vegetable garden or olive grove.⁷ The presence of lime sticks in orchards is clear evidence of illegal activity by the orchard owner, and should be treated as such: the burden of proof should lie with the case for the defence in such instances, and not – as restrictively applied at present – with the prosecution.

The pernicious effects of this inappropriate application of the law are only too familiar to MBCC, after years of work in the field. If an officer finds bird catching equipment on fenced or unfenced private land, the owner will claim that it does not belong to him. As a result, in most cases the officer will not proceed to arrest or charge the suspect. This unfortunately typical pattern in cases where officers are called to investigate has been thoroughly documented in four cases monitored by MBCC:

[See annexe 2: documentation by Migratory Birds Conservation in Cyprus \(MBCC\) of four conspicuous cases of inadequate application of the law](#)

⁷ In accordance with Cyprus Civil Wrongs Law Cap. 148, section 43, no private citizen has the right to enter into a private property, fenced or not. Anyone entering a private property with a specific purpose is considered to be a trespasser, which is an offence. The landowner therefore has a right to pursue a legal claim against any such third party. As a result landowners may easily gain legal redress against any third party or parties unlawfully entering their property to commit bird trapping or other wildlife crimes.



The current, legally inadequate level of policing makes prosecution virtually impossible and encourages criminal elements. After so many years, the public are entitled to wonder whether this shamefully inadequate policing is deliberate, or results from incompetence due to negligence on the part of higher authorities entrusted with training enforcement officers.

2. Lack of will to tackle wildlife crime in the judiciary

Although the Cyprus legislation (152(1)/2003) foresees sufficiently strict penalties, an average court fine for illegal bird trapping is of the order of 600-800 euros, while organized trappers are making thousands of euros per year by selling the trapped birds to restaurants or for domestic consumption. To this date no restaurant license has been revoked from a restaurateur convicted for illegally offering trapped birds and no offender has been sentenced to imprisonment, although the Cyprus law allows for such penalties. The Game & Fauna Service has estimated that the illegal bird trapping business is of the order of 15 millions euros per year; with this huge profits being made, the current court fines are clearly non-deterrent.⁸

In this respect, it should be remembered that the Larnaca Conference of July 2011 brought an undertaking from the EU to offer assistance in training for Cypriot judiciary and legal officers in the domain of wildlife crime. The Cypriot judiciary has since continued to be lamentably ignorant of and uninvolved in the training process on Environmental Crime instigated by the Larnaca Declaration (2011).

"I regret to inform you that no Cypriot judge or prosecutor has attended or will attend one of the EU seminars on Environmental Crimes organized in 2012 by the EU-Commission with the support of a consultant (EIPA)."

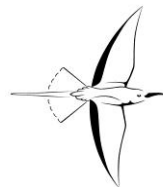
European Commission, DG Environment

See annexes 3 and 4:

E-mail from Mr. Fotios Papoulias, European Commission, DG Environment, Unit B.3 "Nature" BU-5 6/148, Brussels dated 9 November 2012

E-mail from Mr. Joseph van der Stegen, European Commission, DG Environment, Unit B.3 "Nature" BU-5 6/148, Brussels dated 11 November 2012

⁸ Based on information from the presentation of Game & Fauna Service during the Berne Convention Congress on illegal bird killing at Larnaca in July 2011.



The Larnaca Declaration called for more effective law enforcement (including through advocacy and judicial processes), effective investigative agencies and adequate court judgements. In Cyprus, the country where they are perhaps most urgently required at European level, none of these improvements have been forthcoming. The judicial process against illegal bird trappers continues to be primitive, outdated, unjust and, above all, almost entirely ineffective.

Recommendation No. 155 of the Convention on the Conservation of European Wildlife and Natural Habitats of the Standing Committee proposes: where internal judicial processes allow, encourage the creation of special units of judges and prosecutors, provided with specialist training in combating wildlife/bird crime, and ensure all relevant cases are assigned to them.

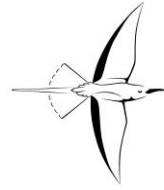
This suggestion could solve what is at present a significant conflict of interest in Cyprus, whereby members of the judiciary are themselves consumers of *ambelopoulia*, a traditional dish made with wild birds, and are therefore reluctant to prosecute illegal bird catching. Recruitment of judges keen to take up the training offered by the Standing Committee, and the training of special units, would therefore be effective and urgently necessary steps towards application of the EU recommendations.

3. Psychological aspects, tradition and corruption

Over the years MBCC staff who have observed illegal activity taking place and sought official assistance have increasingly met with a lukewarm response from the responsible authorities, based on flimsy arguments for not taking any action against the criminals involved. This barefaced inaction has its roots in a widespread official attitude whereby the application of EU and Cypriot law on bird protection is an unimportant and marginal issue. There is general ignorance of the significance of the extermination of bird populations in Cyprus and its impact on global biodiversity, as also of the ethical foundation of Community law on the protection of animals as sentient beings.

Furthermore, because of the large sums of money involved in wildlife crime, the danger of corruption is ever-present. Precisely because the lucrative crime of birdcatching originated in a local tradition, there is a persistent attitude among some members of the police and judiciary that the dish *ambelopoulia*, made with wild birds, is a cultural heritage and legitimate business, rather than prima facie evidence of serious crime. According to Dr. Petros Kareklas, Permanent Secretary of the Ministry of Justice and Public Order of Cyprus, millions of Euros are involved in these illegal activities.⁹

⁹ Meeting report of the European Conference on Illegal Killing of Birds in Larnaca, 6-8 July 2011, page 4.



Bird catching also tends not to be regarded as a criminal act *per se* on Cyprus, but rather as a subcategory of hunting, and hunting offences tend to be seen as minor infringements rather than acts of genuine delinquency.

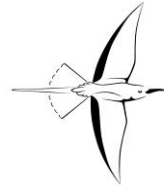
In this context of inadequate knowledge of the legal issues and disparagement of the seriousness of wildlife crime, law officers who do attempt to perform their duties in this area properly are not infrequently exposed to ridicule from their colleagues, as well as from landowners. Given that officers in the field are at personal risk of acts of aggression by landowners and poachers, they should be able to count on immediate and concrete support from colleagues and superiors, and the full force of the law. Instead, at present the professional status and competence of police officers and game wardens are given little official encouragement. Officers have confided privately that their effectiveness is seriously undermined by lack of training and inadequate knowledge of the legal context, while their morale and self-respect are lowered by their exposure to ridicule, fear and aggression in the difficult and dangerous situations they must face in the field.

The widespread ignorance and misapprehension of the seriousness of wildlife crime in official quarters can only be combated by appropriate measures for sensitization and further training. We are grateful for the offer from the DG Environment to organize seminars on environmental crimes and wish to stress how important it would be for this offer to be extended to official personnel at all levels, and made obligatory for all concerned.

The question of proper interpretation of Law 152(1)/2003 should be urgently addressed, the more so as correct application of legislation is an issue which requires no major financial commitment, but is simply a question of political will.

E. Financial aspects

It is worth noting that this gross inefficiency is also very costly for the Cyprus government. The running costs of both the Game Service (Thira) and the Anti-Poaching Unit are justified by the need to repress wildlife crime, but their performance is so poor that few perpetrators are brought before the courts, while the small number of convictions obtained usually involve only paltry fines. Meanwhile, the immense damage to the Cypriot national economy caused by illegal bird killing and the untaxed earnings from the trade in wild birds continues. The environmentally and financially disastrous mismanagement of wildlife in Cyprus attracts heavy criticism from Cypriots who are fully aware of the extent of the problem. The obstinate refusal on the part of government and authorities to put an end to this scandal leads neutral observers to fear there may be an element of collusion with wildlife crime interests.



The Europe-wide financial crisis is currently pointed to in some quarters as an explanation for increased levels of bird catching on the part of the growing numbers of unemployed, with an accompanying suggestion that the phenomenon is therefore somehow more understandable. The explanation is not, however, one which holds true in practice. Most bird catching takes place on landowners' property, with their direct or indirect participation. Trapping in open areas by poorer individuals without access to private premises has decreased dramatically and is conspicuous only at the very start of the migratory season.

The real lesson to be drawn from the current economic difficulties is that Cyprus simply cannot afford the immense financial drain caused by wildlife crime in terms of environmental damage, unregulated and untaxed trade, or the loss of tourism earnings from visitors who are either appalled by the phenomenon of bird killing or simply no longer attracted to the degraded coastline and countryside that environmental mismanagement has created in Cyprus. And of course the terrible damage to Europe's bird populations wrought by Cypriot poachers comes at enormous cost to every EU member State, given the vast sums of taxpayers' money spent on conservation.

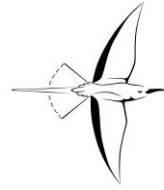
Lastly, we should not lose sight of the fact that current economic circumstances impose severe financial constraints and obligations on Cyprus in respect of the EU; this means in effect that the EU has at present an appropriate and effective means of exerting pressure on Cyprus to finally put its house in order as regards the rule of law on wildlife crime on the island.

F. Summary

Based on MBCC's many years of experience in the field, it may be estimated that 50-70% of cases of illegal bird trapping are not prosecuted because of inadequate investigation, failures in police procedure, command processes and judicial hindrances. Year after year, the same criminals walk free from any kind of police investigation using the same ridiculous lies in their defence, and are allowed to continue to earn massive sums from the illegal trade in wild birds.

Bird catchers who are caught trapping but claim to be not guilty are usually neither arrested nor subjected to a thorough investigation, either at the crime scene or at the police station. Despite years of active engagement in wildlife crime, much of it well-known to the police, most trappers have no criminal record.

Inadequate training of the responsible authorities and the ineffectual command process in policing have combined to enable large-scale wildlife crime to continue unabated. The culprits go unpunished and are able to commit crimes openly and repeatedly.



As a result of the policy described above, the European Birds Directive has found little or no practical judicial implementation on Cyprus, so far as the prevention of the illegal killing of wild birds is concerned.

G. After years of deficient enforcement, immediate intervention by the European Union is an urgent necessity

"These measures should sensitively combine law enforcement (including advocacy and judicial processes, effective investigative agencies, exemplary punishment and adequate court judgments), education and awareness of the general public and of specific target groups (eg: hunters, farmers, children and youth, etc.) and securing political support."

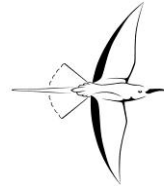
Larnaca Declaration 2011

The huge deficiencies in application of Cypriot and Community law on protection of birds have been thoroughly documented and reported over the past ten years by several different organizations and official bodies (see sources and references below). Every year since 2007, the Standing Committee of the Berne Convention in Strasbourg, France, has found it necessary to place the issue of illegal killing and trade of wild birds in Cyprus on the agenda of its annual meetings, eventually convening the European Conference on the Illegal Killing of Birds in Larnaca, Cyprus, in July 2011.

To date these efforts have not produced the desired results. Organised wildlife crime in Cyprus has continued unabated and virtually unchecked. There is no question that **action by the European Union is urgently necessary**, if further damage to global biodiversity is to be prevented.

Migratory Bird Conservation in Cyprus (MBCC) und the Foundation for the Animal in the Law (TIR) therefore invoke the right of complaint against infringement of Community law by a Member State and beg the European Commission to take appropriate measures against Cyprus, in accordance with the previous assurances made in 2004 by former Commissioner Margot Wallström.

[See annexe 5: Letter from Margot Wallström, European Commission, to Dr. Caroline Lucas, European Parliament dated 7 June 2004](#)



H. Current legislation and relevant provisions

- ❖ Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (replacing Dir. 79/409/EEC)
- ❖ Convention on the Conservation of European Wildlife and Natural Habitats - European Conference on Illegal Killing of Birds in Larnaca, 7 July 2011 – Larnaca Declaration, Council of Europe Document Decl (2011) 01E, 21 October 2011
- ❖ Convention on the Conservation of European Wildlife and Natural Habitats, Recommendation No. 155 (2011) of the Standing Committee, adopted on 2 December 2011 on the illegal killing, trapping and trade of wild birds (under the terms of Article 14 of the Convention)
- ❖ Cyprus Law for the Protection and Development of Game and Wild Birds (No. 152/2003)
- ❖ Cyprus Law on the Protection and Management of Nature and Wildlife (No. 153 /2003)
- ❖ Cyprus Civil Wrongs, Chapter 148 of the Laws, 1959 Edition

I. Relevant articles

Dir. 2009/147/EC

Art. 5 Without prejudice to Articles 7 and 9, Member States shall take the requisite measures to establish a general system of protection for all species of birds referred to in Article 1, prohibiting in particular:

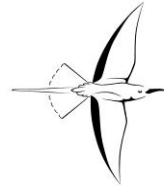
(a) deliberate killing or capture by any method;

Cyprus Law No. 152/2003

Art. 14 and 15 include the following relevant provisions:

- possession and use of nets, lime sticks, lights, traps, poison baits, tape recorders and other game callers, artificial light sources, motor vehicles and any other non-selective method of taking is prohibited;
- the catching, killing and trade in migratory birds is prohibited; and
- the consumption of illegally obtained birds is prohibited.

The violation of these articles is sanctioned by a fine up to 17 000 EUR and/ or three years of imprisonment.



Art. 72 (1) provides that a game keeper or a member of the police force is legally authorized to enter into a fenced area, in case of suspicion of a criminal act, without a court warrant.

Furthermore, the proprietor or the person who has the responsibility or control or the management of the fenced area, in which there is a conduct of a criminal act, can be held responsible as the person who committed the offence.

Law No. 153/2003

Art. 21 concerning listed species under Part A Annex III prohibits:

- deliberate forms of capture and killing;
- harassment during key periods of the year;
- destruction or taking of their eggs;
- use, damage, destruction or disruption of breeding sites; and
- possession, transportation, sale, or exchanging or offering for sale.

It is stated that violations of the provisions of article 21 may be subject to imprisonment of up to three years or a fine of up to 17 000 EUR or both.

Civil Wrong's Law

Cap. 148. section 43

(1) Trespass to immovable property consists of any unlawful entry upon, or any unlawful damage to or interference with, any such property by any person.

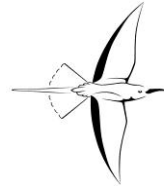
(2) Where the acts complained of are permitted by local custom, such custom if established shall be a defence but in any action brought in respect of any trespass to immovable property the onus of showing that the act of which complaint is made was not unlawful shall be upon the defendant.

J. Sources and references

Selected papers and documents which attest beyond doubt to the need for intervention by the European Union:

Migratory Birds Conservation in Cyprus MBCC reports 2002 – 2012, available at http://www.tierimrecht.org/en/artikel/MBCC_complaint.php

BirdLife Cyprus Trapping Reports 2010 – 2012, available at <http://www.birdlifecyprus.org>



Bath Alistair / Frank Beatrice, Social, Educational and Cultural Aspects: Human Dimensions as a Tool for Bird Conservation, Report 2011 in the ambit of the European Conference on Illegal Killing of Birds, Larnaca, 6-8 July, p. 3-5

BIO Intelligence Service, Stocktaking of the main problems and review of national enforcement mechanisms for tackling illegal killing, trapping and trade of birds in the EU, Final report prepared for the European Commission (DG Environment), 2011, p. 66-69

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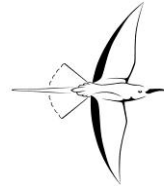
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K. MBCC Correspondence History

Former information to Cyprus authorities stating the deficiencies and incompetence of enforcement (registered letters):

Letter to Mr Costakis Soteriou, Divisional Commander in Chief of Famagusta Police, Paralimni , with annex: Two police cases of autumn 2012, 10 January 2013

Letter to the Minister Mr Loucas Louca, Ministry of Law and Order, Nicosia, Report on the illegal Killing of and Trade in protected Birds in Cyprus of autumn 2011, with annex: Cyprus autumn report 2011 of MBCC, 6 December 2011

Letter to the Minister Loucas Louca, Ministry of Law and Order, Nicosia, Complaints concerning deficiencies of law enforcement appearing during our operations in spring, 12 July 2011

Letter to the Minister Mr Loucas Louca, Ministry of Law and Order, Nicosia, Conditions for effective combat of poaching offences in Cyprus, 19 November 2010

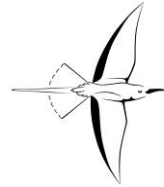
Letter to the Minister Mr Neoklis Silikotis, Ministry of Interior, Nicosia, Poaching and bird trapping offences in Cyprus, with annex: Letter of Submission of Ministry of Law dated 20 January 2009, 6 September 2010

Letter to the Minister Mr Loucas Louca, Ministry of Law and Order, Nicosia, Conditions for effective combat of poaching offences in Cyprus, June 2010

Letter to the Minister Mr Loucas Louca, Ministry of Law and Order, Nicosia, Submission for reinstatement of a local force in Paralimni with a clear brief to curb illegal bird trapping and poaching offences under police structures, with annex: Cyprus report 2008 of MBCC, 20 January 2009

L. About the complainants

MBCC, Migratory Birds Conservation in Cyprus, is an international monitoring organization with twenty years of experience of observation of bird catching in Cyprus. Since 2003 MBCC has organized annual work camps in both spring and autumn to combat the illegal mass killing of wild birds, in collaboration with local authorities. MBCC covers a unique habitat on a major Afro-European migration route, a proposed Natura 2000 site, and actively campaigns for its designation as an SPA.



The *Stiftung für das Tier im Recht* (TIR; Foundation for the Animal in the Law) is a charitable, independent, politically and religiously neutral non-profit organisation. It supports and fosters the further development of law and ethics for protection of animals and in relations between humans and animals, at national and international level.

M. Confidentiality

MBCC and TIR authorise the Commission to disclose their identity in its contacts with the authorities of the Member State against which the complaint is made.

Thun / Zurich, 25 March 2013

Yours sincerely,

Foundation for the Animal in the Law /
Stiftung für das Tier im Recht (TIR)

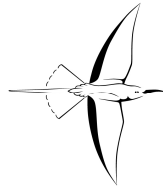


MLaw Vanessa Gerritsen
Deputy executive officer

Migratory Birds Conservation in Cyprus
MBCC



Edith Loosli
President



Annexe summary

Annexe 1:

Reply from Mr. Ninos Kekkos, Counsel of the Republic for the Attorney General of the Republic of Cyprus, Law Office of the Republic, Nicosia, File No.: A.G.50(A)/1999/N53 dated 7 March 2008

Annexe 2:

Documentation by Migratory Birds Conservation in Cyprus (MBCC) of four conspicuous cases of inadequate application of the law

Annexe 3:

E-mail from Mr. Fotios Papoulias, European Commission, DG Environment, Unit B.3 "Nature" BU-5 6/148, Brussels dated 9 November 2012

Annexe 4:

E-mail from Mr. Joseph van der Stegen, European Commission, DG Environment, Unit B.3 "Nature" BU-5 6/148, Brussels dated 11 November 2012

Annexe 5:

Letter from Margot Wallström, European Commission, to Dr. Caroline Lucas, European Parliament dated 7 June 2004

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REPUBLIC OF CYPRUS
LAW OFFICE OF THE REPUBLIC

File No.: A.G.50(A)/1999/N53

7 March 2008

Mrs Edith Loosli
Schorenstr 33
CH – 3645 Gwatt
Switzerland

Dear Madam,

First of all I would like to apologise for the delay in responding to your letter dated 1 June 2007.

As it concerns your first question (whether the police or the Game Fund is legally authorized to enter in fenced garden in case of suspicion of a criminal act) the entrance of gamekeepers and police officers is allowed according with the Article 72(1) of the protection and Administration of Wild Birds and Games Act 2003.

Article 72(1) Provides that a gamekeeper or a member of the police force is legally authorized to enter into a fenced area, in case of suspicion of a criminal act, without a court warrant.

Furthermore, the proprietor or the person who has the responsibility or control or the management of the fenced area, (in which there is a conduct of a criminal act) can be held responsible as the person who committed the offence. Additionally for the purposes of Article 72(1), a “fenced area“ is every area, which is fenced, but it does not constitute part of the residence.

As regards the second question, regarding access to buildings without the owner's permission, I inform you that in accordance with article 16 of the Cyprus Constitution in order to enter premises, one must obtain court warrant. That means that if a police or game fund officer are suspicious of criminal activities in a certain fenced garden and they wish to search that particular place, they have to obtain from a judge a search warrant.

Yours faithfully,



Ninos Kekkos

Counsel of the Republic
for the Attorney General of the Republic.

November 2012

The Mayrospilios Farm Case File

There is a long family history of this case involving the uncle, his sister Maria the owner of the Mayrospilios farm and her son Loukas of Symis Road in Protaras.

04.10.2003 The story starts here with the bird-trapping uncle (a former teacher) who was caught setting out limesticks by Eberhard Schneider at 5.00 am. The Game Fund turned up immediately at the uncle's orchard. The son Loukas blocked our cars and called the police for help claiming untruly that we had destroyed his electric cables. An exceptionally capable police officer from Paralimni appeared and started an on-the-spot investigation of the trapping site. In the meantime the trapper innocently watered his fruit trees and pretended not to know what was going on.

The police investigation, with the assistance of the Game Fund officers, ended with the finding that the uncle was the criminal offender with a large number of limesticks and birds. Loukas' accusations against us were a pack of lies. Loukas also physically attacked the Game Fund officers. The uncle was arrested, charged and subsequently found guilty

As long as the uncle was still alive no bird trapping appeared to take place. After his death Loukas began again to trap birds. His mother, the owner of the farm, was already at that time an old woman.

Spring 2007

From now onwards Loukas' electronic bird decoy can be heard almost daily.

07.04.2007 30 limesticks are set out on the bushes and have caught four birds that are still alive. Loukas arrives at the farm around 05.15 a.m.

09.04.2007 The electronic decoy is active.

10.04.2007 20 limesticks with several trapped birds are set out in the bushes on Loukas' farm.

10.04.2007 At about 11.40 a.m. Loukas appears near the bushes with limesticks and collects the trapped birds (Norbert).

20.04.2007 The electronic decoy is active.

21.04. 2007 The electronic decoy is active. Loukas arrives at the farm at 6.35 a.m.; at 6.45 a.m. another man arrives. Loukas leaves the farm at 7.10 a.m.

02.05.2007 The electronic decoy is active and limesticks are set out in the bushes.

13.05.2007 30 sodden limesticks are lying in a small artificial pond built to attract birds. Eight net poles and two nets are on the ground nearby. Loukas was clearly caught totally unawares by the rain from 09 - 11.05

13.05.2007 The electronic decoy is again active from this date. The Game Fund officers (Makarios) find seven limesticks on the property. Although the decoy was calling as they drove in to the farm it was not seized as it was turned off immediately. Of the seven limesticks only five were seized. The courts do not consider this number of limesticks a prosecutable offence. Loukas is not charged and is not even required to report to the police station.

Autumn 2007

24.09.2007 The electronic decoy is active at night.

30.09.2007 The electronic decoy is active at night.

10.10.2007 The electronic decoy is active at night.

20.10.2007 The electronic decoy is active at 3.00 am.

Spring 2008

26.04. 2008 The electronic decoy is active at night.

05.05.2008 The electronic decoy is active.

06.05. 2008 6.00 pm. Two limesticks and two active electronic decoys - one above and one below the farmhouse.

10.05. 2008 The electronic decoy is active.

14.05.2008 The electronic decoy below the farmhouse is active at night. Only one limestick seen. It is suspected that there are several more limesticks set out on the property.

Autumn 2008

21.09.2008 The electronic decoy is active.

24.09.2008 The electronic decoy is active and again 30 limesticks are set out with three trapped birds. We leave everything in place.

08.10.2008 The electronic decoy is active. Around 1.00 p.m. 30 limesticks are set again out above the farmhouse.

27.10.2008 The electronic decoy is active. Only one limestick observed.

In spring and autumn 2008 Loukas' electronic decoy devices could be heard every night. It is noticeable that his device (sometimes two) are active and that he appears on the farm to trap but hardly any limesticks can be seen. It is greatly suspected that he has moved his trapping installation and is running two sites - one of them with nets.

Spring 2009

19.04.2009 One electronic decoy device is active in the open countryside above the farm. Again 20 limesticks are set out with 6 trapped birds.

20.04.2009 The electronic decoy is active at around 3.30 a.m.

21.04.2009 The electronic decoy is still active at around 8.00 a.m.

23.04.2009 The Game Fund officers arrived at the bird trapping site on public land at about 6.45 a.m. There was an electronic decoy device with a 50 m cable to the farm, 50 limesticks, four trapped birds and six net poles.

We found out later that Loukas, the actual trapper, was not arrested, but rather his mother Maria, a corpulent woman with poor mobility and owner of the property. She was clearly not capable of trapping birds. Was she really taken to court and fined?

Autumn 2009

12.10.2009 We again heard the electronic decoy during the night.

17.10.2009 The electronic decoy can still be heard.

19.10.2009 I remove the device from the empty trapping site.

Spring 2010

01.04.2010 1.30 p.m. The electronic decoy is active the whole day. Two police officers called to the scene arrive at the site and gad about picking flowers instead of getting on with their work. They can hear the active electronic decoy with the cable leading down to the farm and can see the net poles lying on the ground. They take a few paces down towards the farmhouse but, as they see dogs running around off the leash they run away, one of them crying out like a child. They say that they will drive directly to the farmhouse in their vehicle. They certainly did not do this. On the way they stopped and looked back to see if we had gone. We gave up working with the police on this case.

04.05.2010 6.30 a.m. No limesticks to be seen. Several mist nets and poles are lying on the ground.

Autumn 2010

27.09.2010 8.00 - 11.00 a.m. We find 30 limesticks, three trapped birds and one electronic decoy device.

29.09.2010 1.00 p.m. Two limesticks and one trapped bird. Loukas clearly trapped this morning.

12.10.2010 We hear the device calling at around 5.00 p.m. No limesticks are set out. The device seems to have played calls continually for complete days. Where decoy devices are active there must be limesticks or nets sometime, somewhere!

Spring 2011

31.03.2011 The device is active below on the farm during the day.

07.04.2011 The device is active below on the farm at night.

08.04.2011 After a period of rain the device is again active below on the farm.

09.04. 2011 8.30 a.m. The Game Fund arrives at the Mayrospilios farm. They fail to find the decoy device - only seven limesticks and 17 trapped wild birds that they release. They submit a report to the Paralimni police station.

01.05.2011 After a long period of rain we establish that Loukas' device is again active.

10.05.2011 3.00 a.m. Loukas is the only trapper whose device is still active.

Autumn 2011

25.09.2011 2.00 a.m. The device on the Mayrospilios farm is active again.

13.10.2011 The device is active on the lower part of the farm.

This autumn we had a heavy workload with other cases so that we had little time to concern ourselves with Loukas, particularly as the end result is that he usually only has a single active electronic decoy device active. We did however know that we had not yet located his actual trapping site.

Spring 2012

05.04.2012 Afternoon - we visit Loukas' old trapping site above the farm. It looks abandoned. No calling device, no cables, nothing but old feeding troughs for Chukar.

05.04.2012 A vigilant rambler gave us a hot tip: "Loukas is trapping birds on limesticks and in nets in great style behind the Adelais Bay Hotel, Protaras". The riddle of where Loukas traps birds was finally solved for me as the old site, above the farmhouse, had been to my mind a red herring for some time. We now had to do our utmost to find the proper, large trapping installation. We must be prepared to do this step by step, wary of the new tricks used against us by Loukas. For the really huge trapping site was in the middle of his fruit and olive plantation in the centre of his farm. If we were to respect his privacy we would have no chance of finding the hundreds of limesticks there. The electronic decoy device finally betrayed the location of the criminal bird massacre.

07.04.2012 Loukas no longer uses the old trapping site above the farmhouse.

19.04.2012 We observed limesticks near Loukas' farmhouse and summoned the police, not knowing that there were only six limesticks there. This was another attempt by Loukas to mislead us. The police (Officer Bambou) were however efficient.

25.04.2012 1.00 p.m. We trekked up again to Mayrospilios Farm on the search for limesticks. We hesitated about penetrating too far into the farm property and found nothing.

04.05.2012 The decoy device is active at 8.00 a.m.

13.05.2012 In the evening we again visited the old trapping site above the farm. The site was overgrown, unused and abandoned throughout spring migration.

No devices at all are calling. Spring trapping appears to have ceased throughout the region.

Autumn 2012 (from 22.09.)

29.09.2012 We drive to Adelais Bay Hotel and climb up towards Mayrospilios Farm. We hear two calling devices, one in a fenced garden above Adelais Bay Hotel and another up towards the farm. I start approaching the calls coming from the farm where I have never been before but return immediately and call the Anti-Poaching Squad who promise to be with us within the hour. At about 11.00 a.m. officers Evagoras and Constantinos simultaneously approach both sites with devices calling. On the Mayrospilios Farm we finally discover the long-suspected huge trapping installation with large wooden construction of platforms and ladders in the fruit trees of the orchard nearest to the farmhouse. We collect some 200 limesticks and rescue three trapped birds (two Blackcaps and a Willow Warbler) and confiscate the electronic caller. Officer Evagoras immediately goes to the owners who are at the farmhouse some 20 m away from the trapping site. **Loukas declares that he does not know to whom the limesticks belong.** Officer Evagoras states that he can therefore take no action and leaves the scene of the crime without any consequences for the trapper.

The police simply obey orders from above; they do not serve justice and the truth or the birds.

Orchard of Mayrospilios Farm



The Orchard is right at the farm.



Freshly irrigated orchard.



Wooden constructions.



Big olive tree with wooden construction and limesticks.



Anti Poaching Unit in the- olive trees (29.09.2012).



Police picking limesticks on Mayrospilios Farm (29.09.2012).



Figure tree with limesticks and birds on Mayrospilios Orchard (29.09.2012)



Police officer Evagoras picking the 200 limesticks in the Mayrospilios Orchard (29.09.2012).

Wooden constructions in the orchard.





Plum tree growing the plum juice for the glue of limesticks.



Plums for the glue.

Olive trees with wooden construction.



The orchard is right at the farm house.

01. - 09.10.2012 Loukas starts building a fence around his orchard to avoid being disturbed when he is trapping. He uses his tractor to uproot all the trees in the surroundings of his orchard.

21.10.2012 6.15 a.m. The calling device is again active. Loukas comes to the farm at 6.41 a.m., has a short discussion with his mother, and then goes off to trap. Where a device there are lime sticks also to be found.



Start of the fence around the orchard to hide the bird crime (01.10.2012).

November 2012

The Butcher Case File (near Profitis Ilias, map adjoined)

Autumn 2006

02.10.2006 Electronic decoy device active until 4.00 a.m. The birds are collected after 4.00 a.m. There are 40 limesticks on the slope.

05.10.2006 There are again 40 limesticks on the slope. We rescue four birds.

05.10.2006 3.00 a.m. Electronic decoy device active below in his garden.

06.10.2006 There are again 40 limesticks on the slope. We observe them and rescue two more birds.

08.10.2006 11.55 a.m. A very old bird trapper (the butcher's father) appears near the bushes on the slope, collects the trapped birds and works on the bushes.

11.10.2006 The old man arrives on the property in a pick-up No. EEZ 239 and climbs up to the limesticks on the slope. His son, the butcher, arrives at 4.15 p.m., also in a white pick-up, switches of the decoy device and collects in the limesticks.

Autumn 2008

03.10.2008 We find and collect in a further 31 limesticks on the slope belonging to the old father, but no trapped birds.

Spring 2010

07.04.2010 The long slope is full of limesticks (about 80). Der Game Fund promises to send a patrol but they do not appear.

08.04.2010 The butcher himself collects in the limesticks. Rain is forecast.

Autumn 2010

05.10.2010 The electronic decoy device in the butcher's garden is active throughout the night.

Autumn 2012

07.09. 2012 At 1.00 p.m. the electronic decoy device in the butcher's fenced garden is active. We call the Paralimni police at 3.00 p.m. The device is switched off as the police (Officer Bambou) arrive. The police refuse to enter the fenced property although we show them a video of the well visible trees with limesticks.

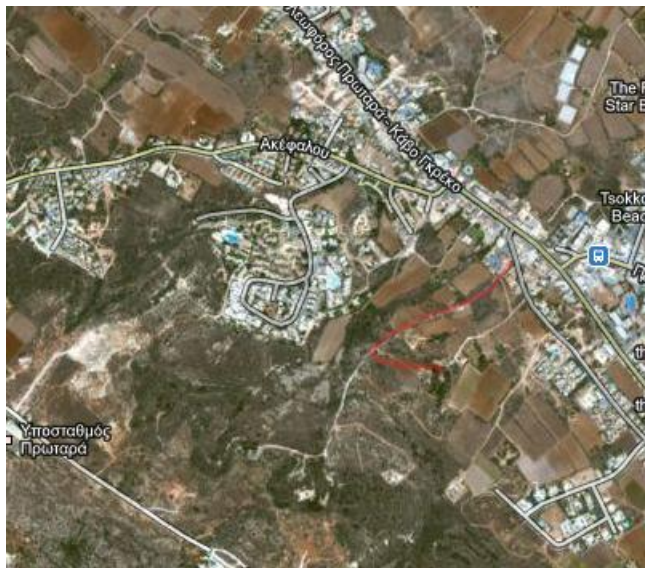
29.9. 2012 some days later the same garden was entered by the Anti-Poaching Unit because the electronic decoy device was again active in the morning. The owner (the butcher) explains that the limesticks on the large wooden construction and in trees in the fenced orchard do not belong to him and points to a small, practically invisible open hole in the fence. The police remove the 80 limesticks and the decoy device and withdraw. The butcher is not charged (police officer Evagoras).

Again he gets away without a record of suspicion of bird trapping against him in police files and without a court conviction.

To any normal, intelligent person with knowledge of the circumstances it is clear that the limesticks belong to the butcher and no one else.

The text of the Article 72(1) of the Cyprus law reads: *The proprietor or the person who has the responsibility or control or the management of the fenced area (in which there is a conduct of a criminal act) can be held responsible as the person who committed the offence. (Cyprus Law Office)*

The Cyprus police do not enforce Cyprus law.



Sight of Profitis Ilias, Protaras

The butcher's narrow natural road starts on the left side of Flokkas Hotel apartments. A drive up of ca 500 m past an olive grove brings us to his property on the left side of the small road (red line on this map).

November 2012

The Greek garden Case Investigation (weekend house with a Greek flag on Phanos, Protaras)

Autumn 2003

18.10. 2003 In the early morning hours we searched the Phanos Plateau area for trappers with the Game Fund (Officer Methoudious K.). The Game Fund officers discovered a vehicle parked under the cliff and sprang literally down the cliff to catch the trapper, who together with his Asian wife was about to gather in his limesticks. The trapper was arrested by Officer Methoudious and taken to the police station.

Spring 2006

04.5.2006 We climb down the slope on the south side beneath the Phanos Plateau. The whole slope near the cutting appears to be an active mist net trapping area

05.5.2006 At 1.30 a.m. I again climb up into the Phanos area from the Rifle Ranch. I go past a curious fenced-in area guarded by a dog on a chain. I find a single limestick with a trapped bird. I observe from 4.00 p.m. until 7.00 p.m. At this time a red Mitsubishi pick-up with a large metal bumper arrives. I cannot read the registration number as it is already too dark. An old man with mobility problems and using a stick, a woman and a girl about 11 years old get out of the vehicle. They begin to collect in limesticks. There are a large number of limesticks in the small fenced-in area but no trapped birds. The woman gathers in the limesticks in the garden while the old man appears to be collecting in limesticks outside. They gather in all trapping paraphernalia. Rain is forecast for tomorrow.

Spring 2007

13.5.2007 I observe the married couple, by now well known to me, preparing for bird trapping. The woman installs the electronic decoy device on the roof of the small house.

As another group of conservationists take over the observation of the weekend house I am rarely there. I receive however constant reports of limesticks there.

Autumn 2008

13.10. 2008 The electronic decoy device is active. Around 5.20 a.m. the red pick-up drives up to the fenced garden.

21.10.2008 The electronic decoy device is active.

23.10. 2008 The electronic decoy device is active.

25.10. 2008 The electronic decoy device is active.

8.10.2011 The red pick-up is present at the garden before 6.00 a.m. I break off observation because we were spotted.

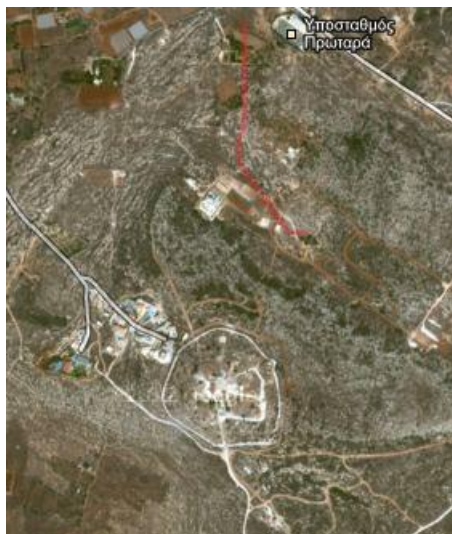
23.4.2012 I break off observation because the married couple are present.

At this time we had a number of other cases and therefore no time to observe the couple more often, although I knew that they catch a large number of birds.

07.10.2012 From 5.00 a.m. we observe the traffic on the Aya Saranta Road. At 5.28 a.m. the red pick-up drives up to the fenced garden. At 5.28 a.m. the pick-up again drives from the other direction past us on the Aya Saranta Road. It had clearly made a round trip. Another vehicle also appears to be seeking us 'activists'. Both vehicles then drive up to the Greek garden to start trapping.

12.10.2012 6.00 a.m. The red pick-up drives up to the garden.

13.10. 2012 6 a.m. The couple arrive at 6.00 a.m. The Game Fund search and find 14 limesticks and an active decoy device outside the garden. Although there are no other trappers anywhere near **the couple declare that the trapping equipment does not belong to them and they therefore suffer no consequences.**



Phanos – Rifle Ranch – Electric transformer

(red line is the road to the lonely week end house)

November 2012

The To(u)fis Case File.

Orchard and greenhouses between Apissotou area and the Agioi Saranta Rd (close to main electric transformer), Protaras)

Autumn 2007

21.10.2007 5.00 a.m. Two vehicles drive up to Tofis' property. Three men set out limesticks in the trees with the wooden construction outside the fenced garden and within the fence. The electronic decoy device is active.

Autumn 2008

25.09. 2008 Tofis is actively trapping birds using an electronic decoy device.

13.10.2008 The electronic decoy device is active. At 5.00 a.m. a vehicle drives up to Tofis' garden.

25.10. 2008 The electronic decoy device is active.

Spring 2009

28.04.2009 In the afternoon we walk on the track past Tofis' house. An electronic decoy device is active around 2.15 p.m. near a tree some 30 m von Tofis' garden. We find 33 limesticks and four trapped birds in the tree. The police arrive rapidly. The cable of the electronic decoy device leads some 30 m into Tofis' garden and to his house. Tofis is arrested.

Spring 2010

16.4.2010 11.00 a.m. We hear an active electronic decoy device within the fenced garden and see limesticks in the tree above. The police do not arrive until 5.30 p.m. In the meantime the limesticks have been removed.

Autumn 2010

25.9.2010 Morning. As usual Tofis' electronic decoy device is active during the day in the garden. Another device is also active in a tree some 30 m distant.

09.10.2010 3.30 a.m. Tofis' electronic decoy device is active in the garden

Spring 2011

09.04.2011 1100 a.m. Tofis is standing on the ladder of the bird trapping tree with a small plastic sack for collecting the birds. The electronic decoy device is active.

10.04.2011 6.30 a.m. Tofis is standing up in the bird trapping tree setting limesticks.

Autumn 2011

22.09. 2011 Tofis' electronic decoy device is active day and night.

25.09.2011 Tofis' electronic decoy device is active.

29.09.2011 A Game Fund patrol comes in the early morning. We find 26 limesticks and nine trapped birds in the wooden bird trapping construction adjoining the fence but outside the garden on Tofis' property.



Bird catching constructions adjoining the garden fence outside.

On the morning of 29 September a patrol car from the Larnaca Game Fund answered our call. Approaching the garden, we found a tree, adjoining the fence but outside the garden itself, in which were 26 lime sticks with 9 trapped birds, all still alive. The owner and his staff busied themselves inside the fenced area removing items which the game wardens were not supposed to see. Meanwhile the wardens asked for permission to enter the premises at the main entrance. This was refused by the owner, who instead let loose his Alsatian dogs, which ran around barking inside the entrance. In response, the game wardens did... nothing. I called the police in Paralimni and suggested a warden ask them to intervene; instead, he told the police that there was no point in taking further action in this case – apparently because he had not seen the owner setting out or collecting lime sticks. As a result, the police did not intervene. It was galling to witness this complete failure to take action, after witnessing the use of lime sticks and illegally trapped birds on the scene, not to mention the blatant efforts of the perpetrators to destroy or conceal evidence, and their aggressive behaviour in unleashing guard dogs in the presence of the authorities.

04.10.2011 5.30 a.m. Tofis is setting limesticks up in the trees in his fenced garden by the light of a torch (eye witnessed).

06.10.2011 6.00 a.m. Together with a Game Fund patrol from Nicosia we drive to Tofis. After a great deal of to-ing and fro-ing the officers search the garden but find nothing. Tofis complains about the ‘activists’ who only want to give him a bad name. The Game Fund officers have been allocated another task by Nicosia and leave us without a parting word, although 27 limesticks are set out under a transformer on the neighbouring farm. Tofis came over to the neighbour accompanied by a large Alsatian dog and wanted to get involved with the trapping.

Spring 2012

12.04.2012 Around 9 a.m. We visit Tofis’ garden. He has built a new, flimsy fence around the tree with the wooden bird trapping construction.

23.04.2012 5.30 a.m. We hear an electronic decoy device calling on the left outside Tofis' fenced garden. Tofis was standing next to it with two dogs. We waited until he had gone and called the police. We then collected in 34 limesticks and the device.

25.04.2012 We again went to this trapping site in the field and were confronted with a small sign “*keep out, privat ground, fuck off!*” erected by Tofis.

12.05.2012 5.00 a.m. We went up to Caillou on Phanos to observe bird trapping traffic on the road. We heard a loud electronic decoy device calling from Tofis’ garden. He then turned down the sound to low. We went to his location to assess the situation. There were a great number of limesticks in the fenced garden and we heard two electronic decoys. At 6.50 a.m. we called the Paralimni police who arrived after an hour. At the main gate they were asked if they had a search warrant. Inattentive and clearly bored they waited at the gate without paying any attention to the garden. In the meantime Tofis and his staff, attentively watched by us, collected in all signs of trapping. They climbed into the trees, gathered in all the limesticks and ran around the garden removing all other traces. When Tofis finally opened his gate for the police there was nothing illegal to be found. Tofis now complained bitterly and said that he did not want to be bothered again in the future. We have to stand there and listen to this pack of lies.

Autumn 2012

05.10.2012 Tofis only now operates the rear trapping site that we regarded as part of the field and which is surrounded by a flimsy fence. He has clearly extended the inadequate fence to the rear.

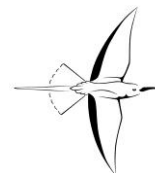
07.10.2012 5.27 a.m. Two vehicles drive up in close succession to Tofis' property. Bird trapping will now begin.

Agioi Saranta Road



Apissotou area

Tofis garden in the middle



MBCC

Migratory Birds Conservation in Cyprus
International Monitoring Organization

Schorenstrasse 33

CH-3645 Gwatt

e-mail: flora.ch@gmx.net

Edith Loosli

Von: Fotios.Papoulias@ec.europa.eu
Gesendet: Freitag, 9. November 2012 11:13
An: flora.ch@gmx.net
Cc: Joseph.VAN-DER-STEGEN@ec.europa.eu
Betreff: RE: Cyprus

Dear Mrs. Loosli,

Indeed, training sessions for judges in EU environmental law, including the Birds Directive, have taken place, as a follow up to the Larnaca conference. We are about to verify about the presence of judges from Cyprus, my colleague Joseph Van der Stegen, in c.c., who has been following this, will come back to you

Kind regards

Fotios PAPOULIAS
European Commission
DG Environment - Unit B.3 "Nature" BU-5 6/148
B-1049 Brussels
Phone: +32-2-2994280 Fax: +32-2-2990895
e-mail : fotios.papoulias@ec.europa.eu

The views expressed are purely those of the writer and may not in any circumstances be regarded as stating an official position of the Commission

-----Original Message-----

From: Edith Loosli [mailto:flora.ch@gmx.net]
Sent: Thursday, November 08, 2012 4:05 PM
To: PAPOULIAS Fotios (ENV)
Subject: Cyprus

Dear Mr Fotios Papoulias

After quite a long interval I have a question about Cyprus. I returned home from Cyprus a week ago and am busy with a report now. Please would you tell me whether in the passed year there has been a training of Cyprus judges at the EU. I would like to remind you of the Larnaca Conference in July 2011. There the EU offered to the judges a training in application of EU environment and birds laws. We were asking the Cyprus government to make use of this friendly offer. Can you tell me of any use of the EU offer?

I hope you are well.

With kind regards
Edith Loosli
MBCC

Edith Loosli

Von: Joseph.VAN-DER-STEGEN@ec.europa.eu
Gesendet: Montag, 12. November 2012 12:11
An: flora.ch@gmx.net
Cc: Fotios.Papoulias@ec.europa.eu
Betreff: RE: Cyprus - training sessions for judges in EU environmental law

Dear Mrs Loosli,

I regret to inform you that no Cypriot judge or prosecutor has attended or will attend one of the seminars on Environmental Crimes organized in 2012 by the Commission with the support of a consultant (EIPA).

Best regards,

Joseph van der Stegen

European Commission - DG Environment
Unit B.3 "Nature"
BU5 6/124
joseph.van-der-stegen@ec.europa.eu
http://ec.europa.eu/environment/nature/index_en.htm

-----Original Message-----

From: PAPOULIAS Fotios (ENV)
Sent: Friday, November 09, 2012 11:13 AM
To: 'Edith Loosli'
Cc: VAN DER STEGEN Joseph (ENV)
Subject: RE: Cyprus

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Fotios PAPOULIAS
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e-mail : fotios.papoulias@ec.europa.eu

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I hope you are well.

With kind regards
Edith Loosli
MBCC

- 7. 06. 2004
Brussels,
CAB.A(04)26639 - D(04)9069

Dr. Caroline Lucas MEP
European Parliament
Office 8G103
Rue Wiertz
B-1047 Brussels

Dear Dr. Lucas,

Your letter of 4 May 2004 has received my fullest attention, since it refers to a possible breach in Cyprus of Directive 79/409/EEC on the conservation of wild birds.

From 1 May 2004 Cyprus, as well the new Member States, is required to fully implement and enforce EC legislation, including the Birds Directive. No transition period has been given and no specific derogations have been requested by Cyprus. It has to be stressed, however, that EC legislation does not apply to the sovereign base areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus.

As a guardian of the Treaties, the Commission is responsible for ensuring that EC law is correctly applied. The application of the Birds Directive involves the communication to the Commission of national measures transposing the Directive, the complete and correct transposition of the provisions of the Directive, and its implementation and enforcement.

In October 2003, Cyprus adopted Law 152(I)/2003 for the protection and management of wild birds and game species, which transposes the requirements of the Birds Directive. A preliminary assessment of this legislative act shows that the transposition of the Directive's provisions is generally faithful in terms of the results to be achieved. However, the conformity of the Cypriot legislation with the Directive will be thoroughly assessed by my services.

The use of certain bird-trapping methods, like the ones involving the use of mist nets and lime sticks, which leads to a large-scale or non-selective capture or killing of birds, is incompatible with the Birds Directive. The Cypriot authorities are determined to eradicate these illegal activities and, since 2002, a series of measures have been taken.

The enforcement of the new legislation has been effective, with the deployment of wardens having been increased in critical areas, while strict controls and frequent inspections in restaurants have also taken place. Furthermore, information campaigns were launched and the Cypriot authorities have also been cooperating with NGOs.

In addition, the recent Law 152(I)/2003 makes prosecution easier and introduces dissuasive penalties for offenders. The fines were increased from £2,000 to £10,000 and the term of imprisonment increased to 3 years. The legislation also allows for automatic confiscation of all equipment used in illegal activities.

I would like to assure you that the Commission, within the limits of its powers, will continue monitoring the implementation of this legislation in Cyprus and will take all appropriate measures to ensure the correct application of Community environmental law.

I trust that this information will be of assistance to you.

Yours sincerely,


Margot Wallström