

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**

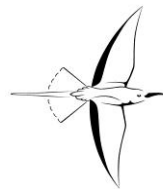
**and**

**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,  
Postfach 2371, CH - 8033 Zürich, Tel. +41 43 443 06 43,  
Fax +41 43 443 06 46, E-mail: gerritsen@tierimrecht.org**

**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."*

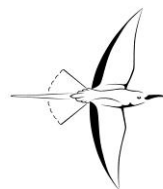
*Larnaca Declaration 2011*

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.<sup>1</sup>

10,000 lime sticks were found in autumn; in spring, in the Famagusta area alone, 9,000 lime sticks were found,<sup>2</sup> 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.<sup>3</sup> 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.<sup>4</sup>

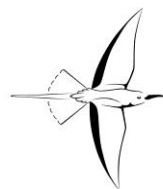
Our work has long been focused chiefly on detective investigation and observation of the criminal activities carried on by hardcore trappers in Cape Greco and the South-East Peninsula (Paralimni - Protaras - Aya Napa). Monitoring by MBCC during autumn migration (22 September to 21 October 2012) showed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

<sup>1</sup> 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.

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

<sup>3</sup> All MBCC reports are available at [http://www.tierimrecht.org/en/artikel/MBCC\\_complaint.php](http://www.tierimrecht.org/en/artikel/MBCC_complaint.php).

<sup>4</sup> 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.<sup>5</sup>

### 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.

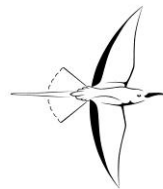
In spring 2012, many hundreds of lime sticks were regularly being set out in 70% of 50 fenced areas monitored in the Cape Greco – Paralimni area (Famagusta). In the face of this flagrant criminality, a practice incidentally reported also in previous years, the police took no action whatsoever. The total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

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

<sup>5</sup> MBCC 2012 Annual Cyprus Report, available at: [http://www.tierimrecht.org/en/artikel/MBCC\\_complaint.php](http://www.tierimrecht.org/en/artikel/MBCC_complaint.php), pages 6 and 9.

<sup>6</sup> MBCC 2012 Annual Cyprus Report, available at: [http://www.tierimrecht.org/en/artikel/MBCC\\_complaint.php](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**

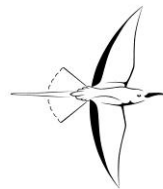
- inadequate training of police officers responsible for enforcement;
- evidence collection in the field is inadequate, with current practice placing excessive emphasis on the need for culprits to be caught in the act, ignoring overwhelming circumstantial evidence;
- landowners fail to comply with their 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.

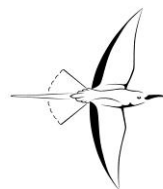
Therefore Cyprus Bird Law 152(1)/2003 effectively is made null and void by insisting on *in flagrante delicto*.

#### **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.<sup>7</sup> 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.

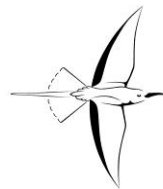
The pernicious effects of this inappropriate application of the law are only too familiar to MBCC, after years of work in the field. If an officer finds bird catching equipment on fenced or unfenced private land, the owner will claim that it does not belong to him. As a result, in most cases the officer 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](#)

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<sup>7</sup> 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.<sup>8</sup>

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:

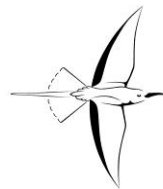
E-mail from Mr. Fotios Papoulias, European Commission, DG Environment, Unit B.3 "Nature" BU-5 6/148, Brussels dated 9 November 2012

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

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<sup>8</sup> 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.

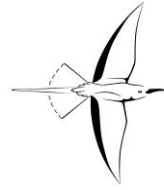
This suggestion could solve what is at present a significant conflict of interest in Cyprus, whereby members of the judiciary are themselves consumers of *ambelopoulia*, a traditional dish made with wild birds, and are therefore reluctant to prosecute illegal bird catching. Recruitment of judges keen 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.<sup>9</sup>

<sup>9</sup> 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.

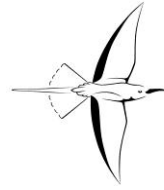
In this context of inadequate knowledge of the legal issues and disparagement of the seriousness of wildlife crime, law officers who do attempt to perform their duties in this area properly are not infrequently exposed to ridicule from their colleagues, as well as from landowners. Given that officers 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.

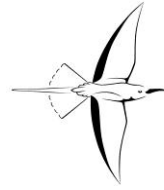
Lastly, we should not lose sight of the fact that current economic circumstances impose severe financial constraints and obligations on Cyprus in respect of the EU; this means in effect that the EU has at present an appropriate and effective means of exerting pressure on Cyprus to finally put its house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

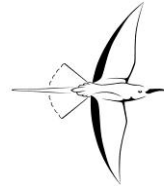
*Larnaca Declaration 2011*

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:

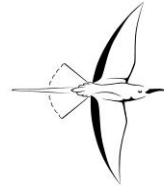
(a) deliberate killing or capture by any method;

### 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.

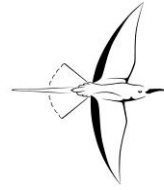
(2) Where the acts complained of are permitted by local custom, such custom if established shall be a defence but in any action brought in respect of any trespass to immovable property the onus of showing that the act of which complaint is made was not unlawful shall be upon the defendant.

### 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](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

BirdLife International (represented by BirdLife Cyprus and the RSPB – BirdLife in the UK) / Terra Cypria, Illegal trapping, killing and trade of birds in Cyprus, Report by NGO, Update to the Bureau of the Bern Convention Standing Committee on Illegal Trapping, Killing and Trade of Birds in Cyprus, Report with reference to Recommendation No. 90 (2001) on the Catching, killing or trading of protected birds in Cyprus, Bern, 23-26 November 2009

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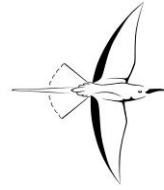
BirdLife Cyprus / Terra Cypria, Poor response to promised 'zero tolerance' for trapping in Cyprus, Update for the Bern Convention Standing Committee on Illegal Trapping, Killing and Trade of Birds in Cyprus, Report with reference to Bern Convention agenda item 5.4.a: 'Illegal taking and trading of Birds in Europe: Larnaca Declaration and Draft Recommendation', Nicosia, 15 October 2011

Council of Europe, Directorate of Culture and Cultural and Natural Heritage, T-PVS (2010) 25, 2 February 2011, Convention on the conservation of European wildlife and natural habitats - 30th meeting of the Standing Committee, Meeting report, Strasbourg, 6-9 December 2010, p. 11-13

Council of Europe, Directorate of Democratic Governance, Culture and Diversity, T-PVS/Inf (2011) 11, 20 October 2011, European Conference on Illegal Killing of Birds, National reports, Larnaca, 6-8 July 2011, p. 13-14

Council of Europe, Directorate of Culture and Cultural and Natural Heritage, T-PVS (2011) 9, 25 July 2011, European Conference on Illegal Killing of Birds, Meeting Report, Larnaca, 6-8 July 2011, p. 5-6





## **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

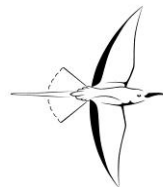
Letter to the Minister Mr Neoklis Silikotis, Ministry of Interior, Nicosia, Poaching and bird trapping offences in Cyprus, with annex: Letter of Submission of Ministry of Law dated 20 January 2009, 6 September 2010

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)

  
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Migratory Birds Conservation in Cyprus  
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Edith Loosli  
President