

FINCH TRAPPING IN MALTA

**Why the EU has referred Malta
to the European Court of Justice**

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STOP

TRAPPING

NOW



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What is trapping?

For many years, the catching of birds from the wild by the use of nets was a practice done by trappers across the Maltese Islands in both spring and autumn. Song birds, in particular seven species of finches (Linnet, Chaffinch, Goldfinch, Siskin, Serin, Greenfinch, Hawfinch) would be trapped in their thousands to be kept in tiny cages for their song, or traded. The majority of these birds would die after some time while others would be kept by breeders in an attempt to breed them in captivity. Those that survive would be used to attract similar birds to be trapped come next season.

Finches originate from mainland Europe, migrating through Malta in autumn to reach Africa and then again in spring, returning to breed. The Maltese Islands offer them a suitable place where to rest and refuel before continuing their journey. Most finches migrate along the coastline and as a result most of the trapping for these birds has been carried out from trapping sites along Malta's scenic cliffs and coasts.

For trapping to be carried out, land has to be stripped of vegetation to accommodate clap nets, nets that can snap over an area of ground at the pull of a trigger. Over 8,000 sites in Malta and Gozo are currently legally registered to operate by the Wild Birds Regulation Unit (WBRU) – the unit within the Ministry for Environment that regulates and authorises such sites. Though a proportion of such sites occur within privately owned land, thousands of trapping sites are located on public land, including Natura 2000 sites. A good proportion of sites are not registered and operate illegally from various remote coastal areas irrespective of land ownership.

Why is trapping an issue with the EU?

Trapping of wild birds is not allowed by the European Birds Directive, which lists the use of nets as a prohibited means of capturing birds (Annex IV of the Birds Directive). This is because nets are considered as being a very effective means of catching large amounts of birds in a non-selective manner.

Finches are protected species across all EU territories and therefore the killing or catching of these birds is also prohibited.

When Malta joined the EU in 2004, it agreed that it would phase out the practice by 2009. No more trapping licences were issued, and those who practiced trapping of finches were given the opportunity to shift to catch two other birds in autumn that can be legally hunted – the Song Thrush and the Golden Plover.

What happened with trapping since EU accession?

While finch trapping was made illegal from 2009, enforcement was weak, and finch trapping (though illegal) continued to a lesser extent under the guise of the legal trapping season for Song Thrush and Golden Plover. As a result, the EU sent a number of warnings to the Maltese Government to uphold the Birds Directive. Following this, enforcement was tightened and illegal finch trapping continued to gradually decrease. Many trapping sites illegally occupied along the coast were abandoned as a result, while those caught trapping illegally were penalised by fines of up to €1,000.





Despite alternatives being available, hunting and trapping federations over the years kept insisting that nothing could replace the practice. Following its election in 2013, the Maltese Government communicated it would attempt to re-introduce the practice, even though this was not listed in any electoral mandate.

In 2014, Malta's finch trapping saga took a new dimension as the moratorium on trapping licences (in effect since 2003) was lifted to allow new persons to join the practice. The WBRU¹ tasked itself with applying a derogation to the Birds Directive, allowing trappers to register trapping sites and opening a season for the legal trapping of finches.

Finch trapping was accordingly made legal again after an absence of five years, with the first season opening on the 20th of October 2014. The parameters devised by the WBRU were to allow over 4,000 trappers - the majority of which were allowed to trap a total of 27,500 finches - with each trapper able to catch a maximum of 10 finches.

The EU immediately started an infringement procedure asking the Maltese Government to justify how the practice could abide by the Birds Directive. Responses filed by the WBRU were considered unsatisfactory to the point that the EU continued escalating its warnings, until the matter had to be disputed at the European Court of Justice.

What is the European Court of Justice case about?

Court procedures initiated by the European Union take a long time, to the point that the hearing of this case was only held in February 2017. During the interim period, the Maltese Government however still opened trapping seasons, even though trappers never declared catching all 27,500 birds in any of the seasons of 2014, 2015, 2016, and 2017.

In July 2017, the ECJ's Advocate General tasked with the case presented the opinion that Malta should be found guilty of not abiding by the Directive having not enough justifications to open the season by means of a derogation. The main arguments contested at the court are:

- Trapping wild birds to be kept in captivity is not a 'judicious use' of wild birds
- There are other alternatives to trapping if people require to keep finches
- Using clap nets is not a sustainable method of capturing wild birds
- The season parameters allowed by Malta are hardly enforceable

The final verdict is now awaited in early 2018, which would determine the future of whether finch trapping will continue.

¹ WBRU - the entity within the Ministry for Environment in charge of applying derogations to the Birds Directive and which regulates hunting and trapping

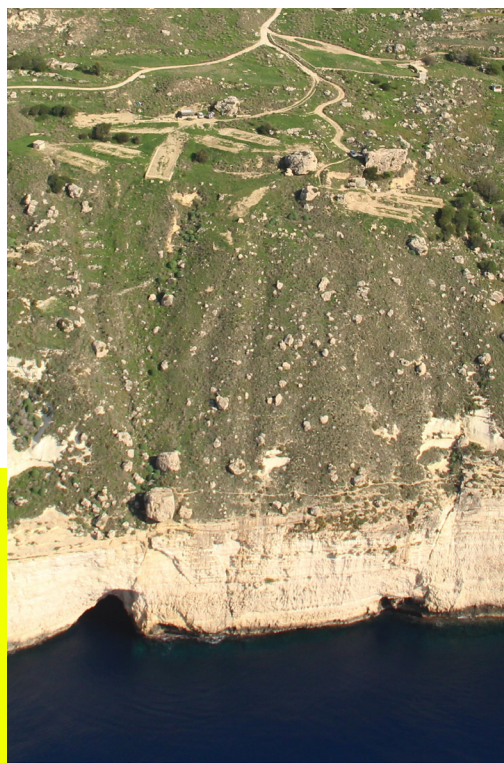


What happens after the European Court of Justice verdict is published?

The verdict on the case of finch trapping in Malta is binding and Malta is obliged to abide by its conclusions. No appeal can be filed by the Maltese Government, who can either choose to comply or go against it.

Will any fines be imposed on Malta?

Since this is the first time that the issue is being contested in the European Court, no fines will be placed on Malta should the court rule out that Malta was incorrect in opening trapping seasons. Malta would however have to pay all court expenses related to the case. In the unlikely event that the Maltese Government does not abide by the ruling, the European Court of Justice may open a new case against Malta, freezing future trapping seasons and in the meantime impose a fine which is calculated as a proportion of Malta's Gross Domestic Product (GDP). For Malta, such a fine can reach over a million euro, depending on the length of time Malta remains non-compliant with the ruling.



How is finch trapping damaging to Malta?

1. It is not selective to wildlife

Although trapping is targeted for finches, Song Thrush and Golden Plover, nets are non-selective in their capture in terms of numbers or species. Even though trappers may be allowed a limited number of birds, one sweep of a net can catch a whole flock of wild birds. More so, the thousands of nets left in the countryside end up being a death trap to other animals. Other bird species such as Robins and pipits as well as animals including hedgehogs and snakes often end up entangled in these nets, choking them or leaving them stuck until death.

2. It constitutes a large-scale authorised clearing of natural habitat

Trapping sites need land to be cleared of vegetation so that nets can be laid on the ground and do not get entangled. Every autumn, parcels of land are stripped of vegetation often using unorthodox means including the use of herbicides which leave the soil contaminated for years, to burning which can damage valuable habitat. Most coastal areas where trapping is popular host priority habitats which trapping destroys. Whole swathes of garigue (xagħri) have been permanently destroyed as a result. The current estimate of trapping sites which are cleared every year is larger than the whole size of Valletta. This is natural habitat taken away for the sole use of catching wild birds.

3. It constitutes a large-scale occupation of public land including protected Natura 2000 sites

A trapper has the liberty to apply for a trapping site irrespective of who owns such land, even if it is private or public. Since 2014, the WBRU has granted thousands of permits on land where trapping sites were located before, without bothering whether this is public or private. As a result, large swathes of land continue to be illegally occupied till this very day, along our coasts, blocking access to the public along footpaths and rights of way.

4. It is an inhumane method of killing wild birds

While many might distinguish hunting as being more of a blood sport in comparison to trapping, the reality is far from it. Trapping involves catching wild birds and forcing them into captivity. The process of catching and incarcerating a bird to a confined place is a stressful undertaking to a bird that has the liberty to migrate between continents. Most birds die within a few days of capture unable to cope with the stress of their new surroundings, while others succumb to disease or ailments, kept in conditions far different from the wild.

Those that manage to survive end up being sold between trappers or are traded at the markets and pet shops as 'domestic birds'. Closed rings are forced on their feet to make them appear they have been bred in captivity – a process which leaves many birds injured and maimed.

Come next trapping season, those that make it alive are confined to sustained periods of darkness for days, such that they sing with more vigour when placed on a trapping site. Their song will attract other wild birds, or will entertain passers-by in piazzas and cafes from their little *gabjetta*.



5. It fuels the illegal trade of wildlife

Each authorised trapping site in the Maltese Islands is allowed to use up to 21 live birds as decoys to attract other birds. With just a proportion of birds surviving from one trapping season to another, trapping seasons cause a huge demand for caged finches. Since the Maltese Government authorised finch trapping once again, whole consignments of finches illegally trapped in Italy and Sicily are smuggled every autumn to supply a demand of live birds by trappers. Finches have been smuggled into Malta on ferries and personal boats, sometimes disguised into vegetable trucks or other means. Many die in transit in horrible conditions, while the rest are sold in markets and pet shops for a pittance.

6. It impacts birds considered of European heritage

All seven species of finches trapped in Malta are protected across the European Union. Finches migrating to Malta are known to originate from at least 18 different countries.² All seven species are not huntable and any taking of these birds from the wild requires very justified reasons such as for scientific research, or extreme situations such as control of pests. In Malta, the trapping of these birds for the mere enjoyment of the practice of keeping them in captivity is not considered as justified-enough practice.

Finch trapping and the EU

2004 – Malta joins EU and agrees to phase out finch trapping by 2009

2009 – Finch trapping made illegal while trapping for two huntable birds allowed (Golden Plover and Song Thrush); Finch trapping persists illegally

2011 – EU starts infringement procedure against Malta for wrong application of derogation to allow Golden Plover and Song Thrush trapping, in particular for lack of enforcement and sprawl of finch trapping in Natura 2000 sites

2013 – Hon. Roderick Galdes communicates to media that he found a technical loophole in EU legislation to reopen finch trapping. The WBRU is set up with one of its main tasks being to apply a derogation for finch trapping

2014 – Malta issues legislation allowing finch trapping, reopens licencing system allowing new trappers, and sets out a registration system of trapping sites, allowing trappers to register up to 4 clap nets each. October 2014 sees the first finch trapping season after 5 years. EU sends its first formal warning, asking Malta to justify season

2015 – Unsatisfied with reasons given, EU issues second warning in May. Malta persists with opening a second finch trapping season in October. Following this, EU refers Malta to European Court of Justice

2016 – Third finch trapping season opens, despite pending case at European Court of Justice

2017 – In July, ECJ AG opinion is published on case pointing to Malta being unjustified to open season. In October, Malta allows fourth finch trapping season

2018 – ECJ verdict to be published determining future of finch trapping

² Ringing records of finches trapped in Malta link to Hungary, Czech Republic, Italy, Croatia, Austria, Slovakia, Lithuania, Poland, Switzerland, Slovenia, Netherlands, Russia, Scotland, Norway, Latvia, Germany, Ukraine and Tunisia





Greenfinch | Verdun

Serin | Apparell



Chaffinch | Sponsun

Goldfinch | Gardell



Linnet | Ġojjin



Siskin | Ekru



Hawfinch | Taž-Żebbuġ