

22<sup>nd</sup> April 2008

Open Letter to:

Mr. Richard CACHIA CARUANA  
Malta Ambassador Extraordinary &  
Plenipotentiary Permanent Representative in Brussels  
Rue Archimède 25  
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Belgium

cc: Malta European Union Embassy  
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Malta

Sir,

The purpose of this letter is due to the injustice which in the Federation for Hunting & Conservation – Malta (FKNK) view Malta is being subjected to.

The issue relates to the interpretation of Malta's pre-accession agreements with the EU, and specifically concerns spring hunting.

***The EU Commission takes Malta to the European Court of Justice over Spring hunting:***

Malta - the tiniest and most densely populated of all the EU Member States - is the only EU Member State in which huntable species do not occur in their natural state all the year round. Because of this uniqueness and its particular bio-geographical situation, Malta's socio-cultural hunting tradition has evolved since time immemorial around the spring-hunting of turtle doves (*Streptopelia turtur*) and quails (*Coturnix coturnix*). Both species are listed under the category **Least Concern** in the Red Data List compiled by the International Union for Conservation and Nature (IUCN), and as species that may be hunted as listed in Annex II/2 of EU Directive 79/409/EEC known as the "Birds Directive". Since Malta's EU accession on 1<sup>st</sup> May 2004 (the Accession Treaty was signed on the 16<sup>th</sup> April 2003) the spring hunting of both species continued to take place annually under strictly supervised conditions, in small numbers, and during a very short period of the pre-nuptial migration.

The Maltese Government had insisted on spring hunting because “no other satisfactory solution is available”; and the EU Commission had “taken note” of, and never objected to, the expressed intention of the Maltese Government to allow its continuance. As you are aware this can be evidenced in the Malta – EU Common Positions that were adopted by the EU Member States prior to Malta’s EU Membership, which signified their agreement to seventy-seven special arrangements affecting various sectors of the Maltese Society. One of the special arrangements regarded the Maltese traditional socio-cultural passion of spring hunting as practised within the framework of the “Birds” Directive, in particular by application of a derogation under article 9 of the Directive.

Maltese legislation has fully incorporated the restrictions of the “Birds” Directive, however if Malta is not allowed to benefit from the opportunities that the same Directive offers, the application of a derogation under article 9/1c of the Directive, as applied in multiple instances by most other EU Member States annually, then article 9/1c might just as well be removed from the Directive.

As you are also aware the contents from the Malta – EU Common Positions agreement were even guaranteed in letters, two in number, under the signature of the Maltese Prime Minister (now President of the Republic of Malta), sent to every individual of the over 17,000 Maltese hunting licence holders. This was done on the eve of the vote for Malta’s accession.

As if that were not enough, prior to Malta’s EU Membership vote, the said guarantees were additionally made public in a Fact Sheet issued by the Malta/EU Information Centre, the Maltese Authority of MIC.

One therefore now, and because of both the above guarantees, cannot assume that the Maltese hunting licence holders should forsake their legal expectance in the matter.

All this notwithstanding, the EU Commission has now taken Malta to the European Court of Justice (ECJ) to nullify the Malta – EU agreement by attempting to obtain a verdict from the ECJ that would abolish spring hunting. To add insult to injury the Commission’s evidence is based on gross misinterpretation and misrepresentation of material facts.

The Maltese Government is standing by its pre-accession agreement and is set to put up a strong defence for its case, at the same time stating it will abide by the ECJ ruling. However, the ECJ President is being asked by the Commission for an immediate ruling pending the outcome of the case. Therefore the suspension of spring hunting is in fact at present effective even though the ECJ has not come to a decision.

In the FKNK's opinion, should this injustice be allowed to happen, there is not only a grave risk that as many as another 76 pre-accession arrangements be jeopardised, however also of wider repercussions that could affect all the other EU Member States, as EU Environment Commissioner DIMAS has gone on record by stating that he wants to use Malta's case to send a clear message to the other Member States.

***The situation today:***

The FKNK feels exasperated at the present state of affairs, and as you know we have called on all quarters, including both the Malta President and Malta Prime Minister in attempts to stabilise the frustration and tension being experienced by ALL Maltese and Gozitan hunters and trappers, and which in turn are causing devastating effects on their family members, friends, work colleagues, etc.

This call comes in light of the perceived unwillingness on the part of the ECJ to take an immediate decision regarding the interim measures being requested by the European Commission until a verdict on the main case against Malta is delivered. Despite the fact that such interim measures are requested only in urgent circumstances, the FKNK cannot fail to question why it was taking the court so long to decide on the request, when the hunting season should have opened at least three weeks ago. The court is thus ignoring the plight of thousands of Maltese EU citizen hunters.

Notwithstanding that the Malta Government is aware that a decision to open the season would be consistent with decisions taken over previous years to open the season in line with Malta's derogation with the EU, the Government does not consider it prudent to open the season before the ECJ delivers its verdict on the interim measures. The FKNK however also believes that such prudence and respect should have been reciprocal, especially now at this late and critical time of day, when a people of an EU Member State are not only suffering nothing short of psychological torture but may also feel being treated as 2<sup>nd</sup> class EU citizens.

Is it possible that the courts have no idea of the broken psychological state of Maltese and Gozitan hunters! The FKNK could never believe that persons of such high standing could stoop to such levels of cruelty that is causing untold aggravation.

The major worry of the FKNK lies in the undeniable circumstances that the court, is waiting for submissions from Malta on the main case against Malta before reaching a verdict on the interim measure request, and as things stand the time when the submissions can at the very best be knowledgeable to the court would be mid-May when the migration of the birds over the islands would be definitely over. This, the FKNK believes to be not only an incorrect and unethical way of going about things since the two cases are of course related, but distinctly different, however very unfair for Malta's legal defense of the main case.

The Federation can see the serious distress that the improper action of the Commission has caused to its members and will leave no stone unturned and will do everything in its power at any level to rectify this fallacy.

BirdLife (Malta) and friends persist in rubbing salt into the wound by continuing with its campaign against the interests of the country, instilling humiliation amongst Maltese hunters over the state of affairs, which are being determined by foreigners. This also aggravates the justification to hunt with regards to land property rights, in relation to the European Convention on Human Rights.

The FKNK hopes that you as Malta's highest ranking official in Brussels can do your utmost to immediately resolve the situation by taking immediate steps in the interest of the physical and mental health of thousands of your fellow Maltese and Gozitan citizens, as these cannot bear any further heightening of tension and mental torture. And neither can the FKNK.

No sort of compensation or alternative exists that can be offered to the Maltese hunter for the damage already suffered this spring.

Every minute that the Maltese hunter citizen is at present being deprived from liberally enjoying, is a minute that has been stolen from his life, and a minute that no government, no EU institution, and no living person on earth can ever bring back into his life.

FKNK Council