



REPORT ON THE LIMITATIONS, LEGAL & PRACTICAL, OF THE MONITORING OF WILD CATS IN MALTA - & THE RELATIVE RECOMMENDATIONS

I BACKGROUND

My attention was first drawn to the controversy regarding big wild cats in Malta by the publicity given to the puma that was identified in Fgura, being kept on the roof of a building. This necessarily involved issues regarding not only the protection of animal rights but also of public safety.

Although this report is dedicated to the presence of wild cats in Malta, wild cats being by far the most popular wild animal kept by zoos and private keepers, all observations and recommendations should apply in general to the keeping of any other wild or exotic animal, whether dangerous or not, as distinct from those animals classified as pets.

The distinction is very important. In order to keep in line with the provisions of the Animal Welfare Act and not to incur any of the penalties provide in case of an infringement, the particular circumstances of each individual species have to be considered, apart from the conditions and obligations to be observed.

The Council of Europe's "Resolution on the Keeping of Wild Animals as Pet Animals"¹ lays down the criteria that:

- A. Housing and care have to be in accordance with the animal's physiological and behavioural needs, with space allocation sufficient for the specific needs in particular movements and exercise. Appropriate enclosure enrichment with specific facilities according to the animal's needs have to be provided together with possibilities to fulfil the needs for social behaviour and equipped with appropriate climatic conditions.
- B. The keeper must have appropriate knowledge to be able to satisfy the physiological and behavioural needs of the animal during its entire keeping, must meet the conditions to prevent the animal from escaping, keeping in mind the aggressiveness of the animal and to possible risk for human safety and health

All these criteria are at the basis of the recommendations being made herein.

Upon due investigation of the Fgura case I was relieved to find out that the owner had been licenced as a 'dangerous animal owner' since January 2017². Presumably, he must have been a keeper before the coming into force of Legal Notice 46/206 (S.L.439.19) regulating the Owning and Keeping of Dangerous Animals, made in terms of the Animal Welfare Act of 2002. This Act is still the principal legislation

¹ Strasbourg 10th March 1995 – unfortunately the relative Treaty (ETS 125) has not yet been signed by Malta.

² Confirmed by VRD report of the 15th March 2019

regarding the welfare of animals with Legal Notice 265/2003 as amended by LN 426./2007 (S.L.439.08) regulating the Keeping of Wild Animals in Zoos.

It was also heartening to note that proper and regular inspections were being carried and not only was the welfare of the cat certified, but also compliance with record keeping requirements was ascertained. Moreover all documentation regarding the origin of the animal and CITES papers were kept and made available for inspection.

However, any serenity was soon dispelled by the communication from Four Paws International³ informing me that they would be visiting Malta on a fact-finding visit after it was signalled to them that a Maltese private person was keeping 30 big wild cats on his property. My concern became even more fuelled by the alarm generated at the Veterinary Service Directorate with the news that in Malta a private keeper owned that number of dangerous animals.⁴

This development highlighted the possibility that dangerous wild cats in Malta and Gozo could be much greater than those officially accounted for and that this could include a number of unregistered animals. In fact, I did express my concern to then Minister and then Parliamentary Secretary responsible for Animal Welfare⁵.

The sluggish response of the Directorate for Veterinary Services (to which I will refer later on), the official licencing and monitoring authority, to my repeated demands for information was also deemed indicative that exact numbers could be complete mystery. This fuelled my concerns that really nobody knows exactly how many dangerous big cats are being kept in zoos and in private hands at any given moment, nor their exact location

The requested information centred around the monitoring of the importation and exportation of big cats, the records being kept and around the periodicity of inspections and monitoring exercises that are essential to ensure that there are no illegal additions of big cats by licenced zoos and registered keepers, either by breeding or by other means.

Any such information, even basic, is essential in order to determine whether there are adequate legal provisions and procedures in place to ensure that all animal welfare requirements are being adhered to and that every big cat is registered, monitored and its whereabouts established.

³ Four Paws is “an international animal welfare organisation committed to encouraging people to treat animals with respect, compassion and understanding. Since 1988, FOUR PAWS has helped wild animals kept in captivity, farm animals and pets as well as strays to the right to live a dignified life in an environment suited to their species.

⁴ V. Doc A - email from Director Veterinary Services of the 31st July 2019 and earlier

⁵ V. Doc A - email of 1st August 2019

II THE IMPORTANCE OF MONITORING NUMBERS AND SITES

This suspicion of lack of, or at least insufficient, monitoring of big cats and the consequent lack of precise knowledge regarding the whereabouts of each and every single wild animal in Malta and Gozo, does not only raise concerns about the animal's welfare. It also gives rise to a serious public safety issue.

Unlike farm and companion animals that have been domesticated by man over many centuries, these big cats as wild animals are predators and will always retain their natural instinct to hunt and attack, no matter how they are raised, bred and treated. Luckily, in Malta, apart from a couple of minor incidents with very slight consequences we have not yet had any incidents that would raise serious concerns about public safety.

I do not even recall any incident where any wild cat has managed to escape or been set free thereby bringing about the killing of the animals for the sake of public safety. However, other countries have not fared as well and loss of life, serious injuries and killing of the cats have been regularly recorded abroad⁶.

Apart from the public safety issue, the uncertainty regarding the proper and effective monitoring of all wild, dangerous and exotic animals and their numbers does also suggest a lack of proper control of the movement of these animals. This implies that it would be so much easier to export any animals or parts thereof, thereby fuelling the dumping of these poor animals into the exotic pet trade or, even worse, into the black market trade of wild cat parts.

Four Paws Int. had earlier this year published a very worrying report on the trade in tigers and tiger parts entitled "Protect the Tigers – Ban the Commercial Trade". This emphasized the cruel practices going on in the E.U., even though some are still legal, and it highlights the dangers inherent in over-breeding in captivity and the risks of improper monitoring. This full eye-opening report is being attached 'in toto'.⁷

In an effort to control the number of wild cats in Malta, Four Paws Int. emphasised the need to curtail local breeding practices and in fact, to promote neutering as a feasible alternative to enforcement, they organised a successful neutering programme of wild cats by foreign surgeons proficient in that field.⁸ They neutered the pumas of one cooperating owner at his facilities and the organisation gave assurances of their assistance if any other wild cats' owners wished to participate

⁶ In the United States, there have been nearly 380 dangerous incidents since 1990 involving captive big cats in 46 states and the District of Columbia. Big cats took the lives of five children and caused serious injuries to others, including lost limbs and other traumatic injuries. Captive big cats also killed 20 adults and mauled scores of others. Among the most dramatic examples was an October 2011 incident in Zanesville, Ohio, in which a private exotic animal owner released dozens of big cats near a community, requiring law enforcement to risk their own lives and kill the cats for the sake of public safety.

⁷ v. Doc C(2) – Four Paws ' Report on EU Tiger trade

⁸ v. Doc B (mail of 6th Aug 2019)

in this programme, which would help to reduce the number of wild cats in Malta to a sustainable level.⁹

Unfortunately, this original initiative did not elicit much interest from the local Directorates' veterinarians, apart from one veterinary surgeon attending on her own free time. Together with the 2 officers from this Commission's office, these were the only outsiders following the interesting procedures.¹⁰

The members of the said organisation, who came to Malta on a very tight schedule, did however manage to visit some of the prominent sites housing big cats and they very kindly accepted my proposition to compile a report on their observations and findings detailing their concerns and any recommendations.

III THE FOUR PAWS INT. REPORT ON WILD CATS IN MALTA

I received the Organisation's exhaustive report on the 3rd of September 2019¹¹, and this did confirm some of my concerns: primarily those regarding the unfettered breeding of big cats by private owners and zoos, the high number of tigers and the need for better monitoring of births and deaths thereby keeping a check on the actual numbers.

The report raised other concerns including those regarding the unsuitability and substandard conditions in which most of the animals are being kept, their commercial exploitation and the lack of proper sanctuary space for wild cats.

Both Animal Welfare Directorates and the Council for Animal Welfare were given copies of these reports and the lack any comment, positive or otherwise, seems to indicate that all observations, concerns and recommendations are correct. Both reports were submitted to the Ministry with a note emphasising the need of a proper evaluation of all the concerns.

It now became imperative to establish what checks and directives are in place for the proper monitoring of the number of wild cats and the sites where they are being kept.

In order to verify whether the number of wild cats observed tallied with the official National Dangerous Animals Register regarding registered tigers with licenced keepers and with any records kept regarding licenced zoos, the organisation had filed a Freedom of Information Request. The information was ultimately received

⁹ v. Doc F (mail of 25th Sept 2019)

¹⁰ v. Doc X - Photos

¹¹ v. Doc C(1) Report of Recommendations - Malta

on the 12th September 2019¹² and the anomalies were highlighted by a message of that same day.¹³

A further request for updated information on the number and sites of all wild cats filed by Four Paws in October was refused on the basis that such request was only available to a person resident in Malta for at least five years. However, since I was looking officially into the matter whether the current legislation made provisions for the keeping of updated records of sites, keepers, zoos and numbers, I advised Four Paws to await the publication of my report, which would attempt to highlight any discrepancies between actual numbers and those registered.

IV DATA AVAILABLE FROM THE ENVIRONMENT RESOURCES AUTHORITY & THE VETERINARY REGULATION DIRECTORATE

On the 17th of September 2019, I wrote to both the Veterinary regulation directorate and the Environment Resources Authority, highlighting the anomalies encountered by Four Paws and emphasising the importance of the keeping of proper records regarding wild cats, requesting ERA to furnish me with details of any records regarding movement and/or registrations of wild cats since 2016.¹⁴

(A) THE ENVIRONMENT RESOURCES AUTHORITY

With Malta's accession to the Convention on International Trade in Endangered Species of Wild Fauna & Flora (CITES) in 1989 ERA became the CITES Management Authority of Malta with the duty to monitor import and export of animals and derivatives to ensure compliance with CITES requirements and to issue CITES clearance certificates.

The request for data and other details sent to ERA in September was followed by a clarification of the 1st October 2019¹⁵ and a reply was received on the 4th of October 2019.

This reply listed 44 tigers in respect of which a CITES certificate had been issued between 2016 and 2019 but also emphasised that ERA records could never throw any light on any number of cats imported or exported to or from Malta.

“It is to be noted that the information provided ... should not be used to interpret the actual number of big cats present in Malta, as not all these may require this certificate and it may be the case that a big cat dies and is then registered as a derivative (see table below).

¹² v. Doc D(1) –Fol Reply

¹³ v. Doc D

¹⁴ v. Doc E – mail 17 Sept – Notice to ERA & VRD

¹⁵ v. Doc G (mail to ERA of 1 Oct 2019)

In addition, ERA has not been required to carry out any inspections for big cats which may have come from within the EU. Consequently, ERA holds no data on the movement into Malta from other EU countries between 2016 and 2019 Not all instances of big cats require an ERA certificate.¹⁶

The table submitted is the following:

<u>Year</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>
<u>Live big cats</u>	3 Tigers	8 Tigers	22 Tigers	11 Tigers

What was of bigger concern was the reference to Article 10 certificates, which were the only ones issued. On ERA's website, an Article 10 certificate is described as:

Article 10 Certificate

Overview

If a local company or individual intends to export (whether live or dead, in full or part of, or a derivative of) a CITES (Convention on International Trade in Endangered Species of Wild Fauna and Flora) listed species, a permit from the Environment and Resources Authority (ERA) is required prior to re-exportation.

This implies that CITES certificates listed were only issued for the export of animals, dead or alive or derivatives therefrom. Thereby the suspicion, that tiger cubs were being bred illegally (births not notified within one week from birth and not registered within four weeks¹⁷) and exported without any monitoring, became even more entrenched.

After discussing this issue with my Principal Veterinary Support Officer, Mr. Reuben Montebello,¹⁸ a request for further clarifications was sent on the 12th November 2019¹⁹, specifically to elicit information regarding checks being made, if any, regarding the proper registration of the animal with a Zoo or in the National Dangerous Animals Register, before a CITES certificate is issued.

This request was finally answered on the 16th December 2019²⁰ and the reply confirms that there is no directive in place imposing a verification to be made by ERA regarding the proper registration of the animal with a Zoo or in the National Dangerous Animals Register. Therefore CITES certificates, enabling the transfer of wild animals and/or parts thereof, are issued irrespective of whether the animal or cub is registered or not with a registering authority. Neither is there any obligation on ERA to verify that the applicant for a CITES certificate, whether for import or export, is in fact a registered Zoo or a registered private keeper.

¹⁶ v. Doc G(1) ERA reply of 4 Oct 2019

¹⁷ S.L. 439.19 Art 4(11) & (12)

¹⁸ v. Doc H. internal communication of 7th Oct

¹⁹ v, Doc G(2) mail 12 Nov to ERA

²⁰ V.Doc G(3) mail 16 Dec – ERA reply

The absence of any such directive would certainly appeal to the abusive breeding of unregistered cats and would facilitate the export trade in animals, their cubs and any wild animal parts.

Consequently, as things stand, issued CITES compliance certificates cannot provide any material data useful in establishing the numbers of wild cats in Malta or their location.

(B) THE VETERINARY REGULATION DIRECTORATE

Following the message of the 17th September²¹, a request for information was sent on the 15th October 2019²² to the Veterinary Regulation Directorate, the monitoring and regulatory authority for wild cats, with the following questions:

- (1) What are the official procedures and official controls adopted by the Veterinary Regulation Directorate when someone is interested to import dangerous animals (in particular big cats) into Malta? What needs to be done, and what kind of checks are done by the Directorate prior and on its entry?
- (2) What are the official procedure and official controls adopted by the Veterinary Regulation Directorate when a local keeper of big cats is interested to sell and export big cats out of Malta? What needs to be done, and what kind of checks are done by the Directorate prior to the departure of the cubs? Are there different procedures and controls when big cats are sold in the EU or Third Countries?
- (3) Through the information tools used by VRD for official controls such as the TRACES database, and other data owned by VRD, can you please extract a report to state **how many big cats were actually imported and exported in and out of Malta** during the last 3 years?
- (4) Since it may not be within the remit of your office, can you please liaise internally within VRD to confirm **if it can be instantly known at any given moment how many big cats are present** within the territory of Malta and Gozo, and where these cats are supposed to be kept?

Although some sort information was ready to be passed over to me by the 30th October 2019²³ and by the 12th November 2019²⁴, no information at all was forthcoming, in spite of the reminders²⁵. In the reminder of the 20th November 2019, to ease some of the taxing requests, I limited my request for information to just the following:

Can you please at least inform this office on what is the frequency of visits carried out by VRD officials during the year on registered premises with dangerous animals, both private residences and licensed zoos? This is with particular reference to check for compliance with Article 4 (12) and (13) of

²¹ v. Doc E – mail 17 Sept – Notice to ERA & VRD

²² v. Doc K – mail exchanged with VRD between 15th & 30th Oct

²³ v. Dok K(1) mail of the 30th Oct from Dr. Karin Gatt

²⁴ v. Dok K(2) mail of the 12th Nov from Dr. Roberto Balbo

²⁵ v. Doc K(2) showing reminders of 4th, 12th, 13th & 20th November 2019

S.L. 439.19 for the keeping of dangerous animals in private residences, and Article 3(e) of S.L. 439.08 for zoo establishments.

Other than some uncertainty regarding the exact numbers and sites, I could see no other reason for this reluctance or delay in relaying information that should be always in hand, especially if the National Dangerous Animals Register is kept up to date.

On the 11th December 2019²⁶, I did however receive a reply with answers to my queries of the 15th October, answering only the original queries but with no reference to the frequency of inspections, if any, as ultimately requested.

In a nutshell, it was asserted that only licenced zoos can be authorised to import big cats while both zoos and registered keepers could export big cats provide that these are microchipped and registered or recorded (in the case of zoos). The numbers of big cats involved between 2016 and 2019 are 7 imported and 10 exported in terms of the table submitted.²⁷

Year	Incoming	Outgoing	place of destination
2019	0	4	EU
2018	3	0	EU
2017	1	4	EU
2016	3	2	EU

When this table²⁸ is compared to the one provided by ERA, it is immediately evident that something is amiss. While ERA assert that 44 tigers were involved in the import/export trade²⁹ and in respect of which a CITES certificate was issued, the VRD table lists only 17.

An extract of the National Dangerous Animals Register was also attached (v. below) and this indicates that there are only 8 registered keepers of dangerous animals in Malta & Gozo with no reference whatsoever to the ‘site’ where these animals are kept, although I do not exclude that this information could be kept elsewhere³⁰.

<u>Pre 2019</u>					
<u>Reg No</u>					
			DA013	Serval	1
			DA017	Lion	1
DA005	Puma	1	DA021	Lion	4
DA009	Tiger	7		Lion	2
	Leopard	2		Puma	3
	Jaguar	1		Leopard	2
	White lion	1	DA023	Puma	1
DA012	Savannah	1	DA024	Puma	2

²⁶ v. Doc K(3) –mail 10 Dec reply of Dr Roberto Balbo

²⁷ The same numbers were confirmed by VRD in tables provided on the 16th March 2020

²⁸ Confirmed, with further details, by VRD reply of 12th March 2020 v. Dok K(4)

²⁹ V. table on Page 5

³⁰ Names of keepers were provided but are not being included in this report.

POST March 2019				
Reg. No.	Date of Reg	Date birth		
DA024	26/08/2019	17/11/2017*	Puma	4
	09/11/2016		Puma	1
	09/11/2016		Puma	1
	13/12/2018		Puma	1
DA023	04/09/2019	01/01/2014*	Puma	1

***ALL under - S.L.439.16-Reg 4(13) for Offspring**

These records do only refer to the wild cats being kept by private keepers since there is no legal obligation of a ZOO to register its animals with the VRD.

Although the Veterinary Regulation Directorate do in fact, and only as a matter of policy, strive to keep records even of all the wild animals being kept in Zoos, this cannot be expected to reflect exact numbers and sites on demand as this Register is only updated whenever a physical on-site inspection takes place at any zoo.

The law does in fact only impose the obligation of the keeping of records on the zoos themselves. This lack of a legal provision obliging Zoo owners to immediately register any addition or reduction in numbers AND the lack of a legal obligation on the Directorate to keep the relative register, can only give rise to inconsistencies and abuse.

Although the Keeping of Wild Animals in Zoos Regulations specify in Article 4 “*The Director, on the advice of the Animal Welfare Council, shall adopt measures for licensing and inspection of existing and new zoos in order to ensure that the requirements of regulation 3 are met.*”, I have not been informed of any such adopted measures.

However, even these details resulting from the Register regarding private keepers are equally alarming. The following discrepancies, apart from any others that cannot be verified without physical checks, are immediately evident:

- a) The keeper who had initially offered a number of wild cats for transfer to a sanctuary (and since this was not possible due to lack of rescue capacity the cats were neutered by Four Paws Int. to prevent further breeding as a first step), is not registered as big-cat keeper. It is however safe to assume that his big cats are registered under the name of another ‘keeper’ (Reg. No DA.021).
- b) The wild cats registered under keeper DA.021 consist only of 3 pumas, 2 leopards and 6 lions. These numbers are very far from that of the wild cats presented for neutering, microchipping and inspection by Four Paws in early October, when 13 adult pumas, 4 adult leopards and 8 adult lions were identified. Of these 5 pumas and 3 leopards were neutered.
- c) Earlier, in August 2019, the same keeper referred to in a) had allowed Four Paws to confirm that at the time he was keeping 15 pumas, 4 leopards and 8 lions.
- d) Four Paws Int. had also established that a few of these wild cats (including all 10 pumas that were born at that keeper’s facilities) were not yet microchipped. Only the 3 oldest pumas that the keeper had presented were chipped, although he claimed that another 4 leopards were also chipped. There is, however, a

strong suspicion that not all the animals born at his facility may have been microchipped.

- e) The well-known unlicensed zoo which is known to be keeping a considerable number of wild cats (together with other dangerous animals) and which is not licensed as a zoo nor as a private-keeper, does not feature at all in the list of registered 'keepers'. Neither do the dangerous animals being kept therein feature in the 'Register'. I had personally, together with my team, visited this establishment on the 20th August 2019 and noted the high number of wild cats and other dangerous animals being kept therein.
- f) There has not been any reports of a death of any wild cat for the past number of years.
- g) It is also very worrying to note how an owner (DA.023) of a single puma could register, on the 4th of September 2019, the birth of an offspring declared to have occurred on 1st January 2014. Any registration possible had to be done under the terms of Article 4(3) of S.L. 439.19

These serious discrepancies on their own, coupled with the legal provision that zoos need not register their dangerous animals directly with VRD, are enough evidence to establish that VRD is in a very difficult position to be able to monitor the exact number of dangerous animals in Malta and Gozo and to monitor their movements.

This now has to lead to a deep analysis of the factors that do prevent or at least complicate the monitoring of wild cats (really of all dangerous animals) and that make it difficult for the VRD to keep track continuously of all the wild cats in Malta and where they are being kept.

In December 2019 I circulated an initial draft of this report to the Ministry and authorities concerned to enable them to give their comments prior to finalisation and publication and it was later agreed to hold a meeting with all stakeholders for a formal discussion on the more serious issues.

At the meeting of the 10th March 2020, the Director General of the Animal Health and Welfare Dept.³¹ was quite confident that sufficient monitoring of all wild cats was being done and was quite confident that the Directorate could account of all wild cats in Malta and Gozo.

In fact, she stressed that, apart from the National Dangerous Animals Register, a legal requirement but relating only to private-keepers, the Directorate kept an updated record of all wild animals kept in zoos and of those animals kept elsewhere where the keeper did not qualify as a private keeper nor as a zookeeper. She cited as an example the unlicensed zoo already referred to above.

She was also very reassuring that the effective control on import and export of wild cats provided under TRACES, the European Commission's management and monitoring tool for all sanitary requirements on intra-EU trade, was satisfactory coupled with the verifications done by the Directorate regarding registrations, suitability and legality of accommodation and permits.

³¹ Dr. Marica Gatt

These records dated 12th March 2020 were submitted by email on the 16th March 2020³², together with answers to my previous queries, and the relative tables are shown below³³.

These do not however explain the anomaly between the VRD and ERA records regarding the movements of wild cats during the last 4 years.

Moreover, the increase of 5 wild cats in the hands of private keeper Reg. No. DA.009 does raise concerns, considering that once the keeper is not a licenced zoo then he should not have been tolerated to increase the number of his wild cat pets to 16 felines. The loophole could well be the legal anomaly described in the following paragraph that seems to envisage the possibility of the increase of private keepers even after the enactment of the Legal Notice 46 of 2016, the Owning and Keeping of Dangerous Animals Regulations (S.L. 439.19).

Table Showing the number of Wild Cats in Malta in March 2020

Large cats in Zoos (SL439.08)	Large cats in Private collections (SL439.19)	Large cats not registered.
46	38	37

Subdivision of large cats in Zoos

License number	Name of owner	Total number of large cats
MTZ07/14		27
MTZ008		19

Subdivision of large cats in Private collections

Registration number	Name of owner	Total number of large cats
DA005		1
DA009		16
DA012/013		2
DA017		1
DA021		10
DA023		2
DA024		6

Subdivision of large cats not registered, either due to enforcement or due to lack of standards

Registration number	Name of owner	Total number of cats
DA018/025		23
DA021		10
DA015		4

³² v. Dok K(4) mail of 16 March

³³ v. Dok K(5) WRD Replies & Tables

Together with the replies and tables, VRD also notified me with their critical comments on various issues highlighted in the draft report that I had circulated³⁴.

However, far from providing the assistance and collaboration in pinpointing any issues that need looking into or providing some enlightenment regarding the practical difficulties of any measure that I am proposing, these comments give the impression that there are really no issues at all. That there is really not much that should give rise to any concerns, that all monitoring of dangerous animals is being done efficiently and that any legal anomalies which I did refer to are not anomalies at all.

In brief, my queries and draft sharing seem to have been taken in the wrong spirit and the underlying message of the comments received hints that all the efforts that I, and my colleagues, have been putting into the study of the fate of wild, exotic and dangerous animals in Malta could have been put to better use elsewhere. In fact, some of my observations have even been termed as ‘prejudiced’.

In any case, this contribution from VRD has confirmed that current legislation does not provide for obligatory registrations by ALL wild animal keepers, that it does not provide for obligatory, regular and thorough inspections of all sites by the monitoring authority and that the authority does not consider that breeding of wild cats is in contravention of Art. 43 of the Animal Welfare Act.

Moreover, it confirms that there are no concerns at the moment because monitoring and regular inspections are being conducted by the present efficient personnel even beyond the call of duty, implying nevertheless that this is no guarantee in case of a change of team.

This inference has anyway been deemed enough to justify the compiling of this report and relative recommendations and in fact has triggered the Veterinary Regulation Directorate into taking the initiative to promote new regulations relating to zoos incorporating some of the recommendations contained herein. This will be discussed in a later chapter.

V CURRENT LEGISLATION

With the enactment of the Animal Welfare Act in 2001, the general principles underlying all animal welfare requirements were enunciated and the Minister responsible for Veterinary services was empowered to make regulations prescribing the conditions relating to (amongst other matters) the keeping, caring, housing, breeding and transport of animals.

Article 43 then established the general rule that “*Save as may otherwise be prescribed, aggressive animals which may present a danger to the safety of man or other animals and which are classified as such by the Minister, shall not be bred, imported or sold in Malta.*”

³⁴ Dok K(7) – Comments on Draft Report (Fol 101 & fol 115 in attached Docs)

In 2003 by Legal Notice No. 265, the KEEPING OF WILD ANIMALS IN ZOOS REGULATIONS came into force and, after defining a ‘zoo’ as a *permanent establishment where animals of wild species are kept for exhibition to the public*, it provided ‘inter alia’ that:

- a) Before any zoo can open and operate it must be licensed by the Director of Veterinary Services;
- b) As part of the essential conditions, a zoo is obliged to keep up-to-date records of the zoo’s collection, appropriate to the species recorded.
- c) The Director, on the advice of the Animal Welfare Council, shall adopt measures for licensing and inspection of existing and new zoos in order to ensure that the requirements of regulation 3, including the keeping of records, are being observed.

Monitoring was however left unregulated, with measures for the regular inspection of zoos to be drawn up by the Director VRD and the Animal Welfare Council.

By Legal Notice 46 of 2016, the OWNING AND KEEPING OF DANGEROUS ANIMALS REGULATIONS (S.L. 439.19) came into force and applied specifically to keepers of dangerous animals who were to be registered as such by way of derogation from the general principle declared in Article 3 (2) that ***a dangerous animal shall only be kept in a licensed zoo.***

Although the actual intention behind these regulations might have been to accommodate any person who happened to be already a keeper of a dangerous animal at the time of the coming into force of these regulations, the wording thereof is a cause of serious ambiguity that could lead to more keepers other than those existing in 2016 to be registered as keepers. Thereby stultifying the general principle that dangerous animals should only be kept in a licenced zoo.

In fact, Article 4, after providing for a registration to keep a dangerous animal **ONLY** to *a person who, at the coming into force of these regulations, is already in possession of a dangerous animal (Art 4(3))*, contradicts that same provision by envisaging, in subsection (2), that a registration is also available to *any person who **intends** to be a keeper of a dangerous animal*. By providing further that a dangerous animal shall not be brought into a ‘site’ before such registration (Art 4(1))³⁵, these regulations could be construed as contemplating the possibility that any person, at any time, could become a new registered keeper, stultifying the general rule that a dangerous animal shall only be kept in a licensed zoo.

Moreover Article 8(4) even contemplates the transfer of any dangerous animal from the registered keeper onto a third person or entity by providing that any such transfer *shall be previously communicated to the Director who shall approve the transfer or otherwise in terms of these regulations.*

³⁵ This implies that the animal is not yet on site, which definitely is not the case with a person who is already a keeper of an animal on site before May 2016.

If these ambiguities were to be exploited, then there could be a sound possibility of a surge in the number of keepers of dangerous animals and in the number of dangerous animals in Malta.

In any case, these regulations do however provide for a proper a detailed monitoring of these animals, on their welfare and on where they are kept.

Article 8(1) provides that the Director is to keep a National Dangerous Animal Register in which every person authorised to keep a dangerous animal in terms of these regulations shall be registered as a keeper.

This register shall indicate ‘inter alia’:

- (a) the name, surname, identity card number and residential address of the keeper;
- (b) the species of dangerous animal authorised to be kept by the keeper
- (c) the non-reversible means of identification of the dangerous animal
- (d) the full address of the site where at the dangerous animal is kept.

Strangely enough, these regulations, while being so meticulous regarding the confirmation of the appropriateness of the site and enclosures, the identification and other measures intended to ensure the proper care, welfare, handling and safety of the animal, before the granting of any approval for registration of the animal, they provide absolutely no conditions or safeguards regarding the increase in the number of kept animals by breeding.

In fact, far from a total ban on the breeding of dangerous animals by keepers as provided in Article 43 of the parent law, the Animal Welfare Act, all that Article 4 of these Regulations demands in subsection (12) and (13) is that:

Any offspring of any dangerous animal shall be notified to the Director within one week from birth and that the offspring is to be registered within four weeks of birth.

However, by Article 11, the Director has been empowered to enter and inspect any site and enclosure to ensure strict compliance with all the requirements of the regulations.

This authority, together with the requirements of Article 13, requiring the keeper to report immediately to the Director any escape of the dangerous animal and/or the demise of the dangerous animal, should enable the Director to have on hand at all times all the information necessary regarding the number of dangerous animals which are being kept by private persons or entities other than a zoo and their respective ‘sites’.

The Director should appreciate that without constant inspections to ascertain strict compliance by the keepers, the National Register would not be providing any up-to-date details on dangerous animals. Even though the regulations do not expressly provide for the frequency and regularity of inspections, and the measures indicated in Art 4 of SL.439.08 do not seem to have been adopted, the Director should have in place some form of timetable to ensure timely and regular inspections of sites.

This was in fact behind my query of the 20th November 2019. Especially so when SL439.08 does not oblige zoos to register each animal with the Director of Veterinary Services.

V. LOOPHOLES IN CURRENT LEGISLATION

The seeming contradiction between Article 43 of the Animal Welfare Act, that provides that no dangerous animal shall be bred, imported or sold in Malta, and the Regulations SL439.19, which seems to give to everyone the opportunity to register as a keeper of dangerous animals at any time and to breed offspring at will, has already been discussed in the previous chapter. The fact that this could be a cause for the proliferation of dangerous animals in private hands is of primary concern.

However, even the express acceptance of seemingly uncontrolled breeding of dangerous animals by keepers, which obviously would also apply to zoos, creates another avenue for the increase of the number of dangerous animals, multiplying the difficulties in exercising proper control of numbers and sites.

With regard to breeding by zoos, there is not even the obligation of notifying the Director of the birth and obviously no obligation of registering the cub, since there is no obligation of registering any wild animals in any National Register.

Article 3(e) of S.L. 439.08 puts the onus of record keeping on the zoo itself by providing that the zoo be entrusted with the “keeping up-to-date records of the zoo’s collection appropriate to the species recorded”. This lack of regulation providing for the compulsory registration of each and every animal with the National Register puts even more pressure on the authorities to perform physical inspections to ensure that the zoo’s registry conform to the number of animals on site.

Apart from facilitating abuse, there seems to be no way of keeping track of wild animals in any zoo unless regular physical inspections are carried out. Moreover, the absence of mandatory timelines to register any births within the official register may give enough time to anyone with the intention to siphon cubs of wild cats to the local / international illicit trade market.

There is nothing in the Zoo legislation which even states that operators need to notify the Director of any escape or death of any wild cats within its premises, as is indicated in Article 13 of S.L. 439.19 re Dangerous Animals in private collections. Apart from being an additional control in the abuse of unauthorised movement of wild cats, this is also important in relation to public safety.

Since it is amply clear that the only way that the Directorate can keep track of wild cats and dangerous animals is by constant, regular and frequent inspections of licenced zoos and keepers, it would have been so much more logical for the regulations to expressly provide for these essential inspections and the frequency thereof.

As matters are at present with the current legislation, even if the Veterinary Regulation Directorate were to be conducting weekly inspections of every zoo and keeper, **it would still be impossible for the Director to ever know the exact number of dangerous animals or their sites at any given time**, especially at any time between inspections.

This now leads me to consider the recommendations regarding what legal provisions are necessary in order to facilitate the Director's responsibility of monitoring all dangerous animals, where they are sited and their movements.

VI. RECOMMENDATIONS.

A. Compulsory Registration of all Dangerous Animals

From the outset, it has to be emphasised that it should be made compulsory for all keepers, including zoos, to register each and every dangerous animal being kept on a site in the National Dangerous Animals Register and this would include the notification and registration of each and every cub born and bred.

This would imply the introduction of a legal provision within S.L. 439.08 where all wild cats kept in zoos would also need to be registered in the National Dangerous Animals Register, just the same as provided by Article 8 of S.L. 439.19. relating to 'private keepers'. No distinction will therefore then exist between big cats kept in private collections and those kept in zoos. This should be, over and above, the obligation imposed upon Zoos and keepers of the keeping of updated records and documentation in respect of each and every animal that they are keeping.

Moreover, to prevent the abuse of microchips derived from a dead animal the registered particulars of any animal should include the species and date of birth apart from the microchip numbers.

This compulsory registration should be complemented with mandatory periodic unannounced inspections by the competent authorities, on both type of premises – licensed zoos and private collections.

B. ERA and VRD to Collaborate and Liaise Continually & ERA to Issue CITES Compliance Certificates only to registered animals and licenced Zoos and Keepers.

The Environment Resources Authority should not be allowed to issue any CITES compliance certificates concerning any animal that is not registered in the national Dangerous Animal Register. ERA should also be obliged to enforce Article 43 of the Animal Welfare Act and directed not to allow any animal to be imported into Malta unless such animal is already registered, in compliance with Article 4(1) of SL439.19, whether the importer is a keeper or a zoo.

C. Ban on Breeding

Breeding, at least of wild cats, who are the object of a large proportion of the illicit trade in wild animals, should be heavily curtailed if not banned outright.

The rising popularity of owning an exotic pet as a status symbol and animal interaction by cub-petting and photo opportunities has also fuelled the abuse in rampant breeding which then becomes the basis of the homing problems being faced by the same breeders when the cubs have outgrown their use and care and feeding costs start to escalate.

This then leads to further abuse. When fully grown these animals become more difficult to manage and as a result neglect and poor living conditions is what the animal has to face, giving rise to a multitude of animal welfare implications.

Alternatively, there is also the abuse by the attempts to dump these poor animals into the exotic pet trade or, even worse, into the black market trade of wild cat parts.

Breeding to help in the conservation of the species is not even a convincing argument. While some animal sanctuaries argue that breeding animals, especially tigers, is necessary for conservation, most conservationists dismiss this argument and retain that “privately held tigers are too crossbred and inbred to be useful in maintaining genetically diverse subspecies, which are adapted from different habitats from the tropics to Russia’s frozen north.¹” This also implies that successful release in the wild is very difficult to achieve.

If some form of a controlled breeding programme needs to be retained for zoos, breeding by private keepers should definitely be banned completely.

In fact, the general principle declared in Article 3 (2) that *a dangerous animal shall only be kept in a licensed zoo*, implies that there should not be any private keepers either, apart from those that were already keeping a wild cat prior to the coming into force of SL439.19. .

The Owning and Keeping of Dangerous Animals Regulations (S.L.439.19) should therefore be amended by removing Article 4 altogether, including sub-article (3). This provides for licences to private owners having dangerous animals in their possession before the coming into force of the Legal Notice 46/206 (S.L.439.19). Since this registration was only possible within 90 days of the coming into force of those regulations enacted in February 2016, no other wild animal can now be registered to a private keeper since the establish term for registration expired in May 2016 (or August 2016 if May was the month of coming into force of the Regulations).³⁶

This is the trend being followed elsewhere in other countries. Two Bills at present being passed through the Legislative Assembly of Ontario, Canada³⁷ and the other

³⁶ L.N.176 of 2016 creates a grievous ambiguity when it provides that the 5th of May 2016 shall be the date when the Regulations (LN 46/2016) come into force for the purposes of Regulation 4(7), when it is really Reg.4(3) that refers to “*the coming into force of these Regulations.*”

³⁷ Bill 136 – (Chapter 13 of the Statutes of Ontario, 2019) - An Act to enact the Provincial Animal Welfare Services Act, 2019 and make consequential amendments with respect to animal protection.

18 (1) No person shall possess or breed a prohibited animal in Ontario.

through the U.S. Congress³⁸, both provide that it shall be unlawful for any person to ***breed or possess any prohibited wildlife species***. Both bills then list among the exceptions an entity or individual that is in possession of any prohibited wildlife species that was born before the date of enactment of the relative Act.

With regard to Zoos, at the moment, these have no legal requirement to notify the Director of any births within a specified timeframe, but are just bound to comply with the provisions of Article 3(e) of S.L. 439.08, which vaguely states, “keeping up-to-date records of the zoo’s collection appropriate to the species recorded”. If ZOOS were to be obliged to register all animals in the Register under V.R.D’s authority, then they should be legally required to notify the Director of any births within one week, and subsequently register same offspring within four weeks of birth.

D. Neutering

Introduction of mandatory neutering of all big cats kept in the territory of Malta should be seriously considered. This measure would ensure that no excessive intentional breeding of wild cats would take place in Malta, thereby limiting the supply for illicit trade and to complement the total or controlled ban on breeding.

Moreover, limitations of adequate space of appropriate enclosures is always a serious concern when cubs are born. The recent birth of a bear cub at Wildlife Park, Mtaħleb (TVM report of 19 Feb 2020) and the birth of tiger cubs at Noah’s Ark Zoo³⁹ have further highlighted this issue.

Any exemption from obligatory neutering of all wild animals should be given only by way of exception and only when this is deemed to be in the interest of species conservation AND when appropriate space allocation and proper enclosure enrichment with specific facilities according to the animal’s needs have been provided.

E. Ban on Public Petting or Interaction with Dangerous Animals

Exception

(2) Despite subsection (1), a person may, if the regulations made by the Lieutenant Governor in Council so provide, continue to possess a prohibited animal in Ontario if the person possessed the prohibited animal in Ontario before the day the regulation prescribing the animal as a prohibited animal came into force.

³⁸ Big Cat Public Safety Act (Bill S.2561) Introduced in Senate on 26th Sept 2019.

(1) IN GENERAL.—It is unlawful for any person—

(A) to import, export, transport, sell, receive, acquire, or purchase any prohibited wildlife species—

(B) to breed or possess any prohibited wildlife species.

(2) LIMITATION ON APPLICATION.—Paragraph (1) does not apply to—

(F) an entity or individual that—

(i) is in possession of any prohibited wildlife species that was born before the date of enactment of the Big Cat Public Safety Act;

³⁹ V. Dok K(6) Mail 20 Jan 2020 – Birth of Tiger Cubs (Fol 110- 114 of attached Docs)

It is also interesting note that a lot of emphasis is nowadays also being put on the prohibition of any contact between the public and any prohibited wildlife species on the basis that the use of cubs for petting and photos can lead to physical and psychological harm. This harm is due to the involved separation of cubs from their mothers and this interrupts the mother/cub bonding process and taxes cubs' underdeveloped immune systems.

It is also an established fact that any close interaction with unfamiliar humans is very stressful to tigers, both adults as well as cubs.

Moreover, bites or scratches that have occurred in spite of the cubs' small size could prejudice public safety. It is also obvious that this danger would be magnified if interaction were allowed with adult wild cats.

In fact, the Big Cat Public Safety Act (Bill S.2561) introduced in U.S. Senate on 26th Sept 2019 provides that no individual is to come into direct physical contact with a prohibited wildlife species, except in the case of a licenced zoo and only when that individual is:

- (a) a trained professional employee or contractor of the entity or facility (or an accompanying employee receiving professional training); or
- (b) a licensed veterinarian (or a veterinary student accompanying that veterinarian); or
- (c) that individual is directly supporting conservation programs of the entity or facility;

AND, such contact is:

- (i) not in the course of commercial activity (which may be evidenced by advertisement or promotion of that activity or other relevant evidence); and
- (ii) incidental to humane husbandry.....

This should also be adopted wholesale here.

F. Zoos to Report Escaped Animals & Deaths

This would require the introduction of a legal provision within S.L. 439.08 to include Article 13 of S.L. 439.19 of Dangerous Animals in private collections, specifically so that licensed zoos will have the same legal requirement to communicate any escapees or deaths to the Director immediately and within a restricted time frame.

G. Increase of Specific Penalties within the Respective Legal Notices for any Infringements relating to Dangerous Animals.

An increase in the respective penalties should be prohibitive for anyone trying to abuse with the existing legal framework, and the minimum rates of such penalties should be considerably higher than the monetary gain that any keeper would benefit from if he meddles with illegal activities. The minimum proposed fine should be in the region of €20,000 per animal.

H. Minimum Standards for Wild Cats' Enclosures.

The minimum standards for the animal enclosures together with the necessary enrichment should be increased three times as much, gradually over an eight-year period. The aim is not only to limit the increase of the present big cat population but in fact to promote its decrease.

Moreover, Article 5 of S.L. 439.19 with respect to the Appropriateness of Enclosures should be replicated in S.L. 439.08 Zoos Regulation, since there is no reference to appropriateness of enclosures in the zoo legislation apart from Article 3(c) which provides for the accommodation of the animals under conditions which aim to satisfy the biological and conservation the individual species.

I. The Establishment of a National Animal Sanctuary and Re-homing Centre

With the tighter control that should result from the application of the opportune legislation recommended, some abuses are certainly going to come to light and enforcement necessary.

Since enforcement must necessarily entail the seizure and the confiscation of the wild animals, an appropriate facility for the accommodation of the seized animal should be readily available for the enforcing authority. This facility will then provide temporary housing for the animal until a transfer to a registered sanctuary or rehabilitation to the wild or a wildlife preserve.

The need for a National Re-homing Centre in Malta has already been emphasised in my previous report⁴⁰ regarding the workings of the Animal Welfare Directorate wherein the lack of a rehoming Centre had been indicated as the primary reason for a chronic lack of enforcement and seizure of abused animals by that Directorate.

It is therefore recommended that any plans for a National Rehoming Centre should include the provision of adequate facilities for the temporary housing of wild animals too.

VII. PROPOSED DRAFT LEGISLATION PROPOSED BY DIRECTOR GENERAL OF THE ANIMAL HEALTH & WELFARE DEPARTMENT

On the 30th May 2020⁴¹ my office was notified with the welcome news that new legislation was being proposed by the VRD to better regulate zoos and the animals being housed therein and a draft was attached⁴².

⁴⁰ April 2019

⁴¹ Dok P(1) – mail 30 May – D.G. (AWHD)

⁴² Dok P(2) – draft legislation

This is a very preliminary draft and would definitely require refining from a legal perspective before it becomes law; however, it is a very welcome initiative.

It is envisaged that the new regulations will be separate from SL 439.19 (Owning & Keeping of Dangerous Animals Regs.) and will substitute SL.439.08 (Keeping of Wild Animals in Zoos Regs). This is a good step in the proper tailoring of legislation especially when all the provisions of SL 439.08 (implementing the provisions found under European Union Council Directive 1999/22/EC relating to the keeping of wild animals in zoos) have been incorporated in this new draft.

One can immediately identify that the scope of these regulations is to implement the basic recommendations contained in this report and to improve on the shortcoming of the present legislation. In fact:

- (a) Registration of all dangerous zoo animals in a National Register kept by the Director is implied with all records to be transmitted annually to the Director, but the immediate registration requisite of every animal entering or leaving the zoo needs to be clearly indicated, in the same that provision has been made for the immediate notice of an death or escape. The Register should be called The National Zoo & Animals Register:
- (b) Breeding in captivity is being curtailed and will be allowed upon a written approval from the Director. This however needs to be brought in line with Art 43 of Chap. 439 which provides the general rule that “*aggressive animals which may present a danger to the safety of man or other animals and which are classified as such by the Minister, shall not be bred, imported or sold in Malta*”. It should therefore be clearly laid down that breeding is banned but the Director may grant exemptions in exceptional cases involving conservation and research and only when adequate and appropriate space is available;
- (c) Compulsory neutering has not been included but this should be a corollary of the ban on breeding.
- (d) Registration of offspring has also been included but care must be taken to specify that this an exceptional circumstance;
- (e) Ban on public petting of cubs has also been included but needs to include any other interaction and be extended to all dangerous animals not only cubs. In the interests of public safety, restrictions must be also imposed as to which individual can come into direct physical contact with any dangerous animal.

I will be forwarding my more detailed comments on these draft regulations and will be discussing them with the Director General (AWHD) to whom I have already communicated my appreciation for her initiative and my availability for any further collaboration and advice that may be required.

No hint of any amendment to **S.L. 439.19 (Owning and Keeping of Dangerous Animals Regulations)** has been made. These regulations also need to be amended

drastically and have them include regulations regarding the Owning and Keeping of Wild and Exotic Pets.

Since the overriding provision is that all dangerous animals have to be kept in a zoo and the conceded term for the registration of a dangerous animal then (in 2016) kept by a private individual has expired, ALL inferences to the possibility of any new registration by a private keeper needs to be removed.

Should any amendment of these regulations be also contemplated then I would recommend also the insertion of a new provision regarding Wild and Exotic pets which is also very necessary considering the array of exotic animals being now kept as pets in Malta.

This would require a study on its own by it would suffice here to propose the compiling of a positive list by way of Schedule indicating precisely which wild or exotic animal can be kept as a pet and not in a zoo. A concise list of animals that may be kept will provide clear directions to keepers and enforcing authorities because of its simplicity.

VII. CONCLUSION

The ultimate aim of these recommendations is to ensure that the authority entrusted by law to be responsible for the monitoring and welfare of wild cats (and of all dangerous animals), will be in a position to AND OBLIGED to establish, at any given moment, the number and exact location of all the wild cats living in Malta and Gozo. The authority should also be obliged to follow closely any case of breeding of wild cats, if this is intended to continue or in those cases where it could be allowed.

This is deemed essential both in the interests of public safety and to enable the supervision and full control over the trade of wild cats.

It is also expected that the proper control and monitoring of wild cats, their movements and their breeding, mandatory neutering and standards of enclosures will help reduce the number of wild cats being kept in Malta.

Ultimately, all these measures and controls should serve to bring about a definite improvement in the keeping conditions of wild cats and all other wild animals.

In this report the term 'dangerous animals' has been used interchangeably with that of 'wild cats' as these latter form an integral part of the former.

Finally, I would like to express my deep appreciation for the invaluable assistance given by the members of Four Paws International who have come over to Malta specifically to compile records of the number of wild cats physically encountered in Malta and to conduct an unprecedented and highly successful neutering campaign. The awareness they have generated regarding the plight of big cats around the world is very valued so also is their offer of unstinted assistance in the

re-aligning of rules and procedures to further protect the welfare of wild cats in the Maltese islands.

Moreover, the collaboration of my team of advisers and officers⁴³, with their suggestions and the meticulous collation of the relative data was what prompted the identification of most of the various issues involved and the recommendations being made.



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Dr. Denis Montebello B.A., LL.D.
Commissioner for Animal Welfare

⁴³ Mr. Emmanuel Buhagiar, Advisor, Mr. Reuben Montebello, Principal Veterinary Support Officer, Mr. Ian Vella, Inspector, Mr. George Farrugia and Mr. Kevin Mercieca, Promotional Officers.