



european network against racism

ENAR Shadow Report 2008

ENAR SHADOW REPORT 2008

Racism in Malta

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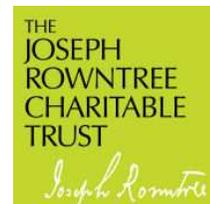
on behalf of

ENAR Malta

Racism is a reality in the lives of many ethnic and religious minorities in the EU. However, the extent and manifestations of this reality are often unknown and undocumented, especially in official data sources, meaning that it can be difficult to analyse the situation and to establish solutions to it. Even where there is extensive official data, NGOs offer a vital alternative data source that comes directly from experiences of those individuals and communities experiencing racism on a daily basis.

The ENAR Shadow Reports are produced to fill the gaps in the official and academic data, to offer an alternative to that data and to offer an NGO perspective on the realities of racism with the EU and its Member States. NGO reports are, by their nature, based on many sources of data, official, unofficial, academic and experiential. This allows access to information which, while sometimes not backed up by the rigours of academic standards, provides the vital perspective of those that either are or work directly with those affected by the racism that is the subject of the research. It is this that gives NGO reports their added value, complementing academic and official reporting.

Published by the European Network against Racism (ENAR) in Brussels, October 2009, supported by a grant from Compagnia di San Paolo, from the European Commission and from the Joseph Rowntree Charitable Trust. ENAR reserves the right not to be responsible for the accuracy, completeness or quality of the information provided in this report. Liability claims regarding damage caused by the use of any information provided, including any information which is incomplete or incorrect, will therefore be rejected.



I. Executive summary

In 2008, phenomena of racism and race and ethnicity based discrimination remain present in Malta, to the greatest extent in connection with irregular migration. However, a number of positive actions have taken place to help migrants integrate in society, to promote the benefits of a heterogeneous, multicultural society with the general public, to raise awareness about racism and to combat xenophobia. The legal amendments and institutional improvements made over the past years have helped fighting discrimination in various spheres of activity.

This report focuses on manifestations of racism and discrimination and the legal and political context for the period of January to December 2008. It aims at complementing the ENAR Shadow Reports of the previous years and to highlight important developments that took place in the past year.

Irregular migrants, Muslims and organisations working in support of asylum seekers' human rights have been identified as the communities most vulnerable to racism and forms of racial and religious discrimination in Malta. Whilst many immigrants claimed to have been victims of forms of race based discrimination, most cases remained unreported. This is linked to the fact that many asylum seekers have not been fully aware about the possible remedies available to them in order to defend themselves against racism, but also because they did not feel comfortable in engaging with the authorities.

Both national and international NGOs harshly criticised the situation in Maltese detention centres, with regards to infrastructure, health access, food supply and space, amongst other issues; living conditions in the detention centres were described as *sub-human*¹. Once released from detention, many migrants faced difficulties in finding regular work and were either forced to engage in undeclared work or work under sub-minimum standard conditions, earning far below the minimum wage and without being entitled to the social benefits of regular employment. Migrants also encountered problems in finding accommodation, a dilemma related to xenophobia, but also to general misconceptions about migration and migrants, as well as to the unstable work relations of the asylum seekers. A number of positive educational initiatives have taken place, many of which were projects implemented by non-governmental organisations in collaboration with other institutions. Language courses and integration training both inside detention centres and in open centres facilitated the migrants' access to society and further education. Activities on diversity, global interconnectedness and citizens' responsibilities which emphasised the connection between international development deficits (in terms of global poverty eradication) and

¹ Re Médecins Sans Frontières, *Not Criminals - Médecins Sans Frontières exposes conditions for undocumented migrants and asylum seekers in Maltese detention centres* (April 2009), p.3. Available online: www.msf.org/source/countries/europe/malta/2009/2009_04_report_Malta.pdf.

forced migration were conducted in primary and secondary schools. Despite the fact that asylum seekers are by law entitled to full public health care, many migrants faced problems in accessing medical treatment due to language barriers and infrastructural deficiencies; often, medical service providers were not sufficiently aware about the asylum seekers' entitlement to care. A number of persons of African origin confirmed that they felt victims by some form of racial profiling, feeling to have been subjected to stop and search procedures without any apparent reason. 2008 was the first year that the media was allowed to enter and report from closed detention centres. Both national and international media published interviews with detainees and reported about the conditions in the centres. This is considered to be a very positive development, as a number of journalists have engaged in in-depth reports on the lives of the asylum seekers, raising awareness about the consequences of forced migration and human smuggling. Unfortunately, exponents of the far right often used media forums to diffuse discriminative messages and to promote xenophobia.

The general elections of 2008 provided little support for Malta's right-wing parties, with Azzjoni Nazzjonali gaining 0.5 per cent and Lowell's *Imperium Europa* merely 0.03 per cent of the vote cast.

Whilst most legal improvements had taken place in 2007, in 2008, the Refugee Act has been amended, and the 'Procedural Standards in examining Applications for Refugee Status Regulations' were enacted through Legal Notice 243. With this enactment, the Council Directives 2004/83/EC and 2005/85/EC were transposed into national law.

Throughout 2008, various Maltese NGOs continued to conduct projects and activities on human rights and the promotion of integration with the general public, in schools, in detention and open centres and with various institutions. The National Commission for the Promotion of Equality, the Organisation for the Integration and Welfare of Asylum Seekers and the International Organisation for Migration implemented a number of projects against discrimination and for the human rights of immigrants.

Malta joined the European Migration Network, through which the government aims at creating a platform for the various stakeholders involved in the issue.

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III. Introduction

2008 was the *European Year of Intercultural Dialogue*, launched by the European Commission (EC) and coordinated by the Directorate-General for Education and Culture (DG EAC)². Under the motto 'Together in Diversity', in Malta, the project 'Diverse Malta' has been implemented by St James Cavalier Centre for Creativity, in collaboration with a number of Maltese institutions and organisations such as Inizjamed and the National Orchestra which served as Ambassadors for Intercultural Dialogue³. The project emphasised the cultural heterogeneity that is increasingly prevalent in the Mediterranean island state, be it, for example, in terms of geographic origin or religious beliefs. The project's website lists 13 different religions (from Anglicanism and Baha'i to Pentecostal and Zen Buddhism) and 14 international communities⁴, the latter represented in Malta by organisations like the Arabic Language Centre⁵ and the Coptic Catholic Ethiopian and Eritrean Community⁶.

"Until a few years ago however our society was relatively homogenous, and those amongst us that did not share our religion or our race were a rare exception. As a consequence, our structures never took into account the needs of those who, owing to their diversity, had needs that differed from our own."⁷

The phenomenon *racism* in Malta is first and foremost linked to the increase in irregular inwards migration since 2002, which led to an ascent in societal heterogeneity. Comments of readers of the press release on the ENAR Shadow Report 2007 indicate the extent of connection between *racism* and *immigration* manifested in the thinking of a number of Maltese citizens, and various national and international reports confirm this *factum*. It is, therefore, extremely difficult to discuss racism without discussing migration.

The report on hand aims to identify the forms of racism and racial discrimination prevalent in Malta. It covers the period of January to December 2008, and reference to earlier or later factual information will only be made when being of relevance. This document puts emphasis on the fact that racism and race and

² <http://www.interculturaldialogue2008.eu>. (Unless explained differently in the Bibliography, the websites listed in this report have been reviewed on 24 May 2009.)

³ <http://www.sjcav.org>, <http://www.diversemalta.com> and <http://www.inizjamed.org>.

⁴ Note that ENAR Malta had commented that the list of international communities is incomplete and would require further revision.

⁵ Today, the Arabic Language Centre is called the Arabic Culture Information Society (ACIS), see <http://acismalta.com> (at the time of writing, the website has not yet been set up).

⁶ http://www.diversemalta.com/index.php?option=com_comprofiler&task=userProfile&user=91&Itemid=27 / Historical Background: "The community started to form after two illegal immigrants were released from detention in 2006 and asked for a place of worship where they could hold Sunday Mass. The place they were given is St James Church in Valletta, where the community now gathers every Sunday morning."

⁷ Re European Network Against Racism (Malta), Responding to Racism in Malta (2006), p.2. English and Maltese versions of the leaflet are downloadable on: <http://www.enar-eu.org/Page.asp?docid=15808&langue=EN>.

ethnicity based discrimination exist and that they are, to some extent eminently, manifested in a number of societal fields. Many cases, however, remain unreported and, thus, without any consequences for the offender. Despite many positive initiatives of Maltese non-governmental organisations (NGOs), as well as of national and international institutions, in 2008, integration of Third Country Nationals (TCNs) was still lacking and remains therefore a crucial issue to be addressed in the future.

In this report, first, the communities most vulnerable to racism are identified, followed by an overview on actual manifestations of forms of racism and discrimination in fields like employment, housing and the access to health care and goods and services. The legal and political context will be elaborated before a number of recommendations based on the findings are presented. The conclusion of this report is the only space where a certain degree of subjectivity and personal opinion is being reflected, whereas the other chapters aim at presenting an objective point of view on racism in Malta in 2008.

IV. Communities vulnerable to racism

Xenophobia, racism and discrimination remain a serious problem in the whole of Europe, often manifested in terms of discriminatory treatment of migrants and other minorities in the fields of education, access to health care, services and goods, employment and housing. In Malta, the communities most vulnerable to racism and discrimination⁸ are those minorities and organisations that had already been identified as being most affected in the Shadow Reports of the past years: irregular migrants; Muslims; persons of Arabic origin; and organisations and individuals that speak publicly and work in support of the human rights of irregular migrants.

As data and detailed case analyses on racism and discrimination are lacking, the following accounts are based on qualitative research and anecdotal evidence rather than quantifiable data⁹.

A number of representatives of both the media and political leadership have proven to be insensitive in terms of the terminologies applied with regards to irregular immigrants, commonly generalising by naming refugees, asylum seekers and persons benefiting from temporary humanitarian protection (THP) as *illegal* immigrants. Unfortunately, this is also the common term very often used amongst the general public in verbal debates and comments in the papers. Simplistically, immigrants with a different skin complexion are also called *is-suwed* (the blacks)¹⁰. Maltese policies and laws, in turn, define the respective entitlements in each category to the greatest extent.

Whilst it is factual that many immigrants arrive in Malta by using the *services* of human smugglers¹¹ (which is an illegal act), irregular migrants do not violate the Criminal Code but merely immigration regulations. Migrants are 'regularised' as soon as they request asylum. Approximately 60 per cent have been awarded refugee status, whilst others obtained humanitarian protection or subsidiary

⁸ The EU defines six grounds on which discrimination takes place: sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. See European Union, *Treaty of Amsterdam amending the Treaty on European Union, the Treaties establishing the European Communities and related Acts* (Official Journal C 340, 10 November 1997), Article 13(1) "Principles"; available online: <http://eur-lex.europa.eu/en/treaties/dat/11997D/htm/11997D.html>.

⁹ The lack of data is confirmed by the National Commission for the Promotion of Equality (NCPE) (unpublished email exchange), amongst a number of other institutions and organisations. No data except the *EU-MIDIS* research outcomes are available: European Union Agency for Fundamental Rights, *EU-MIDIS 'at a glance'* (22 April 2009). Available online: http://fra.europa.eu/fraWebsite/attachments/EU-MIDIS_GLANCE_EN.pdf.

¹⁰ Exponents of the far-right wing also use the term 'immigrats' to express their obvious disgust against migrants.

¹¹ Three different types of irregular immigration are defined, namely (a) persons who enter the country through irregular channels (such migrants are commonly called '*boat people*', as they enter Maltese territory on the sea route, crossing the Mediterranean after departing from the Northern African coast with the help of human smugglers); (b) persons who enter the country legally but then stay beyond the allowed time limit; and (c) persons who arrive without the required documentation.

protection. With regards to the latter, “upon the recommendation of the Commissioner of Refugees, the Minister shall declare that subsidiary protection status be granted to an applicant for asylum whose application has been dismissed but in respect of whom substantial grounds have been shown for believing that the persons concerned, if returned to his country of origin, or in the case of a stateless person, to his country of former habitual residence, would face a real risk of suffering serious harm [...]”¹²

The abovementioned shows that the misleading terminology often applied in the public discourse is in itself to some extent discriminative¹³. It is widely acknowledged that it is misleading because sensationalistic political rhetoric and media reports have the potential to fuel rather than mitigate xenophobic tendencies amongst their audiences, which can translate into discriminative and racist comments and actions¹⁴. Instead of instilling a sense of solidarity with the people seeking protection and a life in safety, sentiments of *us versus the others* are being promoted.

To the greatest extent, the migrant populations in Malta are of first generation, which makes them more vulnerable to racism and discrimination as they are not as yet an integrated part of society and therefore unlikely to take action against discrimination¹⁵.

Forms of racism and discrimination are also experienced by Maltese citizens who merely *look* foreign, such as descendents from mixed couples (i.e. one partner is Maltese, the other is a foreigner) and adopted children, and by non-Maltese residents living in Malta for a long period of time.

According to the Maltese Constitution, Article 2(1), “the religion of Malta is the Roman Catholic Apostolic Religion”; nevertheless, Article 40(1) states that “all persons in Malta shall have full freedom of conscience and enjoy the free exercise of their respective mode of religious worship”. However, the group being most discriminated on the ground of its religion or belief is the Maltese Muslim community. Far-right exponents often instil fear in the public by emphasising the danger of an *islamification* of Malta and Europe caused by the *influx* of Muslim migrants to the country and continent. Muslims are often called *islamists* by people who are either not aware about the terminological difference,

¹² Re Chapter 420 of the Laws of Malta (Refugee Act), Art.17 (1). See also: European Commission, *The European Union clarifies what it means by refugee and subsidiary protection* (November 2005). Available online: http://ec.europa.eu/justice_home/fsj/asylum/subsidiary/fsj_asylum_subsidary_en.htm.

¹³ In opposition to this statement, right-wing party *Azzjoni Nazzjonali*'s General Secretary Wayne Hewitt's stated that the subject of irregular immigration requires no longer a discussion on terminologies but concrete actions (Hewitt's statement on the political talk show “XPRESS”, as broadcasted on 12 May 2009 on the Maltese TV station *Favourite Channel*).

¹⁴ Re e.g.: Sciriha, M.; Borg,V; Micallef, K.; Abela, A.; Mizzi, M.; Vassallo, L.; Bonanno, M.; Muscat, V.; Caruana, M. 2009, 'Constructive, positive and mature', Times of Malta, 26 May. Available online: <http://www.timesofmalta.com/articles/view/20090526/letters/constructive-positive-and-mature>.

¹⁵ Re European Union Agency for Fundamental Rights, *EU-MIDIS 'at a glance'* (22 April 2009). Reference to the outcomes of this research will be made in the coming chapters.

or they use the term consciously with the intention to promote xenophobia. The Islamic community of Malta generally keeps a low public profile¹⁶; the only Maltese Islamic school, namely *Mariam Al Batool* school, has been active in the promotion of equality and diversity education, participating in a number of educational projects implemented by Maltese NGOs.

Even that the discrimination against organisations working in support of irregular immigrants has not been expressed in such violent action like the arson attacks that occurred in 2006¹⁷, in 2008, representatives of such NGOs have been subject to discriminative comments and minor, nonetheless worrying, incidents. For example, the walls of the NGO Peace Lab's premises have been splattered with paint several times throughout 2008¹⁸. "The work of JRS Malta is not uniformly welcomed by the Maltese population, a minority of whom are very intolerant of migrants from Africa¹⁹." A number of NGOs have been subject to discriminative denouncements by commentators in the media, accusing them to aid human smugglers²⁰.

¹⁶ See the video of the interview of Imam Mohammed El Sadi with Rosanne Zammit, entitled "Immigration problem may be making Maltese less tolerant - Imam" (Times of Malta, 8 October 2008); available online: <http://www.timesofmalta.com/articles/view/20081008/local/immigration-problem-making-maltese-less-tolerant-imam>.

¹⁷ Reference is made to the violent attacks that are described in further detail in the Maltese ENAR Shadow Report 2006, particularly pp. 15. See: Gauci, J.-P. (ENAR Malta), *ENAR Shadow Report 2006. Racism in Malta* (October 2007). Available online: http://cms.horus.be/files/99935/MediaArchive/pdf/Malta_2006.pdf.

¹⁸ Information provided by Alastair Farrugia, Volunteer at John XXIII Peace Lab, as answer to an unpublished survey conducted by the author. For information on Peace Lab, see: <http://www.peacelab.org>.

¹⁹ Re Gardner, N. 2008, 'Maltese Arrivals', *Hidden Europe*, 21 July. Available online: http://www.hiddeneurope.co.uk/malta_refugees.php.

²⁰ For further detail see Chapter V.viii "Media, including the internet".

V. Manifestations of racism and religious discrimination

V.i Employment

In the document '*Il-Haddiema Immigranti*'²¹ (The Immigrant Workforce), published in September 2008, Malta's largest trade union, the General Workers' Union (GWU), describes the reality of immigrant workers in direct terms and to the point: "the reality is that most of the time, those persons who are by majority of dark skin complexion, are forced to end up doing precarious and dangerous work, and in most cases, with wages that are, in relative terms, very low and surely below the national minimum wage."²²

A number of positive actions took place in 2008 related to the aspect of employment for migrants. In 2008, the GWU employed a Third Country Nationalist Specialist who is responsible for migrant workers' rights. The Employment and Training Corporation (ETC) has obtained EU funds to profile the migrants' skills while still in detention, so that they can start looking for jobs immediately upon being released.

GRTU, The Malta Chamber of Small and Medium Enterprises, requested the government to assess and organise the labour market situation. It suggested the establishment of an *Immigrant Worker Recruitment Agency*. "Employers who seek casual labour and prefer to employ the immigrant worker will contact the Agency and make a formal request identifying what kind of jobs they have to offer. The Agency sends the workers and the Agency gets paid by the Employer while the Employer abides by the rules of the agency. Social contribution, food and drink, if so requested are deducted and employers pay the minimum wage"²³

Many immigrants continued to get paid far less than the weekly minimum wage of €142.39, with migrants working in construction being paid as little as €2 per day²⁴. Moreover, many migrants are forced to work far more than the average of 40 to 45 hours per week. The Prime Minister reportedly stated that the conditions of migrant workers are a problem that the government would need to address²⁵.

²¹ Re General Workers' Union, *Il-Haddiema Immigranti* (September 2008). Available online: http://www.gwu.org.mt/documents/Migrants_Workers_Paper_110908.pdf.

²² *Ibid. P.8. Translated into English by the author; the Maltese original reads: "Ir - realtà hi li ħafna drabi dawn il - persuni, li fil - maġġoranza tagħhom ikollhom il - kulur tal - ġilda skura, jispicċaw jiġu mqabbdha jagħmlu xogħol prekarju, perikoluż u fil - biċċa l - kbira bi ħlas li jkun relativament baxx ħafna u żgur li l - anqas ikun daqs il - paga minima nazzjonali."*

²³ Re GRTU. 2008, 'The Straight to Heaven Brigade ', 2 July. Available online: http://grtu.net/data/index.php?option=com_content&task=view&id=577&Itemid=44.

²⁴ Re Xuereb, M. 2009, 'Immigrant construction workers paid €2 a day. GWU boss proposes name and shame policy', *Times of Malta*, 3 May.

Available online: <http://www.timesofmalta.com/articles/view/20090503/local/immigrant-construction-workers-paid-euro-2-a-day>.

²⁵ Re Times of Malta. 2008, 'GWU calls for tough penalties against exploitation of migrant workers', 15 September. Available online: <http://www.timesofmalta.com/articles/view/20080915/local/gwu-calls-for-tough-penalties-against-exploitation-of-migrant-workers>.

Members of ethnic minorities, in particular irregular immigrants, are facing discrimination both when seeking employment and when being employed. In 2008, manifestations of discrimination, generally based on the ground of race, included the difficulty to access regular work, the aforementioned wage that is far below the national minimum standard, and working under conditions that do not comply with the safety measures required by labour laws. Besides disregarding occupational health and safety standards, unscrupulous employers benefit from not paying tax and social contributions as requested by law, whilst the workers are not entitled to benefits such as sick leave or paid leave.

Irregular workers often agree to such conditions as they fear to lose the little income that they are earning.

Two examples²⁶:

“Mohammed came to Malta illegally in October 2004. He applied for refugee status but this was refused, and instead he was given humanitarian protection. He has been working at the Environmental Landscapes Consortium as a gardener for more than three years. He said he pays taxes and his social security contributions like any other Maltese but questioned why he was unable to claim for unemployment benefits if he lost his job. He called on political parties and government entities to support him and other immigrant workers facing similar situations.”

“Salem said he has been in Malta for four years and worked in the construction industry for two years before quitting and signing up for a course at university. He said when he was working he was not entitled to any sick leave and was not paid overtime. ‘I suffered discrimination because of my skin colour. If people are employed legally, they should be protected from discrimination. There is not much discrimination at university. People there are more open-minded than other places,’ he said.”

Besides construction, migrants are finding employment only in low-skill labour sectors (e.g. garbage collection), even if they might be highly qualified workers. Unfortunately, this is a situation that seemingly has not changed at all in the past years. As Christine Farrugia states in the report *‘Working and employment conditions of migrant workers – Malta’*, “till October 2006, there were a total of 6263 migrant workers, who are over represented in specific sectors and occupations for various reasons. While migrant workers officially have the same rights and working conditions as nationals, many of them tend to occupy low level jobs.²⁷” The ENAR Shadow Report of 2007 reaffirmed this, and the present report cannot note any positive development in this regard.

²⁶ Ibid.

²⁷ This report was published in May 2007 and is available online: <http://www.eurofound.europa.eu/ewco/studies/tn0701038s/mt0701039q.htm>.

This is partly due to the fact that many employers do not want to engage with TCNs unless it is work which is not wanted by most Maltese or on an illegal basis, and also because to date, many migrants face problems related to the non-recognition of their qualifications from official side, as well as language barriers.

Language courses like the ones offered by the Migrants' Solidarity Movement or the Malta Red Cross Society²⁸ are positive measures to overcome such barrier. In November 2008, the Organisation for the Integration and Welfare of Asylum Seekers (OIWAS), in coordination with the ETC, established informational programs to help individuals understand how to pursue employment and obtain work permits.

With regards to the access to work for irregular immigrants, since 2007, refugees and persons having obtained temporary humanitarian protection (THP) get a work permit in their own name. Asylum seekers, however, still require their prospective employer to apply for the work permit, which creates space for potential abuse by some employers.

In July 2008, the ETC issued data according to which 1351 work permits had been granted to immigrants, 47 of which were refugees, 370 asylum seekers and 934 persons enjoying THP. It is further stated that, overall, 3484 investigations were held over work permits; these investigations revealed that a total of 2114 persons were working without the required permit, 302 of which were foreigners (no further specification)²⁹.

V.ii Housing

In 2008, a total of 2775 irregular migrants have reportedly entered the country, which translates in an increase of approximately 63 per cent when compared with 2007 (1702)³⁰. 2610 of the migrants have requested asylum, which is an increase of circa 89 per cent from the previous year (2007: 1380)³¹. A great number of migrants (app. 52%) were of Somali origin, one of the world's poorest countries which is heavily torn by war, inner-political instability and famine.

²⁸ Re <http://www.redcross.org.mt/>. By the time of writing, the website has been under construction.

²⁹ Re *Illum*. 2008, 'L-abbuż tal-ħaddiema barranin fuq ix-xogħol', 27 July (issue 91 / Maltese). Available online: <http://www.illum.com.mt/2008/07/27/t8.html>.

³⁰ Re UN Human Rights Council, *National report submitted in accordance with paragraph 15(a) of the annex to Human Rights Council resolution 5/1 - Malta* (13 February 2009). Available online: <http://www.unhcr.org/refworld/category,COI,,,MLT,49a7b92fd,0.html>.

³¹ Re United Nations High Commissioner for Refugees, *Asylum levels and trends in industrialised countries 2008* (24 March 2009). P.13 / Table 1. Available online: <http://www.unhcr.org/statistics/STATISTICS/49c796572.pdf>. See also P.34 / Table 22: *Top-10 nationalities of asylum applicants by country of asylum, 2008 in Malta*: Somalia – 1,081, Côte d'Ivoire – 264, Nigeria – 223, Mali – 208, Eritrea – 176, Ghana – 111, Ethiopia – 97, Niger – 94, Togo – 71, Gambia – 44.

In relation to Malta's national population, between 2004 and 2008, Malta has received a very high amount of irregular migrants, namely 18.2 per 1000 inhabitants, second after Cyprus (app. 38 per 1000 inhabitants). According to EuroBarometer 70 of Autumn 2008, the majority of the surveyed persons regarded immigration "[...] as first priority with 48 per cent of Maltese respondents mentioning it as a top concern for Malta³²". With regards to the question whether immigrants would contribute a lot to Malta, 75 per cent of the surveyed for the purpose of EuroBarometer 69 (on values of Europeans) answered negatively³³.

Given Malta's size and density, the high level of inward migration poses a number of challenges to the small island state. In terms of housing, it is reflected in the overpopulation and, according to Médecins Sans Frontières (MSF), *sub-human* conditions in Maltese detention centres. Detention is considered as an administrative requirement in the interest of national security and public order³⁴. Apart from vulnerable persons, irregular migrants are housed in closed centres until a decision has been taken in relation to their asylum application, or until the maximum period of administrative detention has passed. The detention period, varying from maximum one year for asylum seekers to one and a half years for irregular immigrants or failed asylum seekers, is strongly criticised by various civil society organisations and supranational bodies like the UNHCR and the Parliamentary Assembly of the Council of Europe (PACE)³⁵.

According to the Government's policy on immigration, vulnerable immigrants shall not be detained, if possible³⁶. An immigrant is considered vulnerable because of age or physical condition. "Vulnerable persons such as elderly persons, persons with a disability, lactating mothers and pregnant women shall, where appropriate, not be kept in detention but will be provided with alternative accommodation."³⁷

MSF stated that "nevertheless, upon the arrival, even the potential vulnerable cases are sent to the detention centres; only after their supposed vulnerability

³² European Commission, *EuroBarometer 70: Public Opinion in the European Union, Autumn 2008 / Executive Summary, Malta* (Autumn 2008). Available online: <http://www.eurofound.europa.eu/ewco/studies/tn0701038s/mt0701039q.htm>.

³³ Re European Commission, *EuroBarometer 69 / 1. Values of Europeans* (Spring 2008 / published: November 2008), p.51. Available online: http://ec.europa.eu/public_opinion/archives/eb/eb69/eb69_values_en.pdf.

³⁴ The Policy Document 'Irregular Immigrants, Refugees and Immigration' states that "although by landing in Malta without the necessary documentation and authorisation irregular immigrants are not considered to have committed a criminal offence, in the interest of national security and public order they are still kept in detention until their claim to their country of origin and other submissions are examined and verified" (p.11). (See also footnote 39.)

³⁵ Re Parliamentary Assembly of the Council of Europe, *Europe's "boat-people": mixed migration flows by sea into southern Europe* (11 July 2008 / Doc. 11688). Available online: <http://assembly.coe.int/Documents/WorkingDocs/Doc08/EDOC11688.pdf>.

³⁶ Vulnerable persons are: children and young persons below the age of 18 (accompanied or unaccompanied); persons with a disability; elderly persons; people suffering from serious illness; pregnant women.

³⁷ Re Ministry for Justice and Home Affairs & Ministry for the Family and Social Solidarity: *Irregular Immigrants, Refugees and Immigration* (Policy Document), p.13. Available online: http://www.mha.gov.mt/downloads/documents/immigration_english.pdf.

has been confirmed through particular assessment procedures they are released and transferred to the open centres. This process is slow and people must wait in detention until a decision is taken with regards to their individual case.³⁸

In fact, MSF reported on persons suffering from chicken pox, one of whom was pregnant, being detained together with non-infected detainees in the Safi centre. It also accounted for a number of cases of pregnant women being detained for an average of 22 days; two female detainees who arrived in Malta almost at full term were sent back to detention after giving birth, one of whom for more than one month.

With regards to the current state of Maltese detention centres, Médecins Sans Frontières states that “without structural changes, and given the increasing number of new arrivals in 2009, the situation is likely to deteriorate further. Such inhuman treatment is unacceptable – especially in a member state of the European Union. Urgent and fundamental change to treatment of migrants and asylum seekers in Maltese detention centres is required.”³⁹

OIWAS is responsible for the coordination of the large open centres for asylum seekers in Hal Far and Marsa, and a number of smaller centres catering specifically for vulnerable groups.

The Hal Far Tent Village (one of the open centres) has received specific media attention, both locally and internationally, in the first months of 2008. The rough weather conditions had caused severe damage to the tents and to the belongings of a number of the approximately 2000 irregular immigrants housed in the centre⁴⁰.

In 2008, *Fondazzjoni Suret il-Bniedem* had been granted funds from the European Refugee Fund II for structural and infrastructural amendments of the Marsa Open Centre (MOC). The façade has been embellished, the education centre was upgraded with a library and new personal computers, one of the kitchens has been refurbished and extended and a clinic has been built in order to provide residents with medical care three times a week. The measures were meant both to provide the residents of the MOC with improved facilities and services and to foster the integration of the migrants hosted there. *Fondazzjoni Suret il-Bniedem*'s project also aims to help MOC residents find affordable accommodation and to foster the integration of refugees and asylum seekers into

³⁸ Ibid. P.25.

³⁹ Re Médecins Sans Frontières, *Not Criminals - Médecins Sans Frontières exposes conditions for undocumented migrants and asylum seekers in Maltese detention centres* (April 2009). P.3.

⁴⁰ For a number of media accounts, see e.g.: MaltaMedia News. 2008, 'Rai Tre reports on Hal Far tent village', 7 April (http://www.maltamedia.com/artman2/publish/govt_politics/article_5634.shtml); Darmanin, D. 2008, 'Migrants rue desperate conditions inside Hal Far tent village', *MaltaToday*, 6 January (<http://www.maltatoday.com.mt/2008/01/06/n1.html>); Zammit Lupi, D. 2009, 'African immigrants retrieve their belongings after gale force winds destroyed several tents at the Hal Far Tent Village Open Centre for Refugees and Asylum Seekers at Hal Far outside Valletta', *Reuters*, 5 March. (<http://www.alertnet.org/thenews/pictures/VLT01.htm>)

Maltese society outside the open centre. The project shall continue in the coming years. The MOC has a number of facilities that help connect its residents with Maltese citizens; apart from seminar rooms that can be used at the centre's premises, a number of residents provide *cuisine* from their countries of origin, such as Eritrean food, which can be enjoyed in the MOC restaurant at little cost⁴¹.

Apart from the MOC project, the European Refugee Fund II (2008-2013) also foresees the provision of essential services for the management of reception centres, as well as provision of food supplies (migrants are being helped to prepare their own food) and medical support for persons residing in these centres⁴².

A number of NGOs had been informed by migrants of African or Arabic origin that they were refused to hire a flat or apartment. Despite the lack of data available, anecdotal evidence confirms that in many cases, the migrants' problem to find housing is linked to racism and xenophobia. It is further assumed that other factors such as the TCNs comparably low wages, irregular and unstable employment conditions as well as general misconceptions⁴³ about immigrants played a role in the refusals. In Malta, immigrants are excluded from social housing, which is only available for Maltese citizens and their spouses.

V.iii Education

Education is paramount for the integration of migrants, refugees and asylum seekers into Maltese society. As the Common Basic Principles of integration emphasise, "efforts in education are critical to preparing immigrants, and particularly their descendants, to be more successful and more active participants in society."⁴⁴ Likewise, the young generations of Maltese citizens, living in an increasingly globalised world, need to learn about and understand the interdependencies between the local and the global sphere, the added values of both cultural heritage and a heterogeneous society, and the causes of migration, the latter being the only path to open the young's minds so as to accept and foster integration rather than developing misconceptions, prejudice and xenophobic perceptions⁴⁵. As a representative of the Jesuit Centre for Faith and

⁴¹ See e.g.: Times of Malta. 2008, 'Marsa open centre to get makeover', 3 October. Available online: <http://www.timesofmalta.com/articles/view/20081003/local/marsa-open-centre-to-get-makeover>. It is interesting and at the same time worrying to see how many of the 39 comments below the article express hostility against irregular migrants, often applying a rather cynical and discriminative language. Only three commentators write more factual and in favour of the described project.

⁴² For example, in the beginning of 2009, OIWAS was granted €6,382.96 from the ERF II to finance 75 per cent of a project in order to refurbish the bathroom facilities at *Dar il-Liedna* (Fgura).

⁴³ For an interesting account of general misconceptions with regards to irregular immigrants see the Migrants' Solidarity Movement's website: <http://www.migrantsmalta.org/misconceptions/>.

⁴⁴ See e.g.: Council of the European Union. 2004, Press Release 14615/04 (Presse 321), 19 November; p.21. Available online: http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/jha/82745.pdf

⁴⁵ For an account of the various challenges posed that need to and can be overcome by education, see: The Conectando Mundos Consortium, 'Global Citizenship Education in Today's School (Position Paper)', in

Justice stated, “there is a great need for education and more information on the immigrants who land on our shores, to combat the many fears that result from allegations and rumours (references to diseases, terrorism, taking over’, criminality etc.).⁴⁶”

The Maltese Refugee Act grants asylum seekers the right to state education. It is generally the case that, after a short period in detention, children are released and then assigned to a state school. Although migrants are not required to pass a language test in the Maltese language, in practical terms, migrant children will have to overcome the language barrier. A successful integration in the schools’ environment can only be guaranteed by learning Maltese, as it is the common language used in the primary classrooms of both state and church schools, as well as in a number of private schools. Unlike tertiary education, state primary and secondary education are being offered free of charge. However, in practice, University and College fees have been waived as a means of encouraging higher education for asylum seekers. Post-secondary education requires from the immigrants the knowledge of English. In fact, in the course of 2008, a number of asylum seekers have participated in courses offered by the University of Malta, the Malta College of Arts, Science and Technology (MCAST), and the Malta Institute of Computer Science, amongst others.

The Jesuit Refugee Service is active in educational campaigns on migration. For example, it organised the School Outreach Project entitled *Ilkoll Indaqs*, and a representative of JRS led a workshop on *Global Citizenship* by means of migration issues during the National Development Education Seminar 2008, jointly organised by SKOP (The National Platform of Maltese NGOs) and Inizjamed, in collaboration with Koperattiva Kummerċ Ġust (KKG) and Kopin; it is the biggest annual event on DE, and in 2008, around 120 students, educators and educational stakeholders participated in the seminar.

Given that the phenomenon of immigration is a relatively new experience for the Maltese, it is important to provide teachers and school administrators with training and resources so as to enable them to create a classroom environment that is inclusive and thus supporting integration. Many NGOs encourage schools to take into account both the special needs of immigrant children and the need of Maltese children to understand that s/he plays an important role in the integration of her/his classmate.

The National Commission for the Promotion of Equality conducted the EU-funded project ‘*Voice for All*’, which aimed at empowering participants to challenge the learning and thinking processes which give rise to discrimination based on race,

Marco Galiero, William Grech, Dominik Kalweit, eds., *Global Citizenship Education. The school as a foundation for a fair world* (Malta: The Conectando Mundos Consortium, 2009), 37-49.

⁴⁶ The representative of the CFJ had participated in a qualitative research based on a questionnaire with semi-guided questions and various spaces for individual interpretations and further elaboration. The survey had been undertaken by the author and has not been published.

sexual orientation, gender, age, religion and disability and to positively endorse diversity. 'Voice for All' sought to activate cooperation and promote dialogue whilst enabling participants to adopt an outlook which was based on awareness and understanding. Amongst other, the project's various activities targeted secondary schools and educators⁴⁷.

Moreover, various educational concepts⁴⁸ promoted by Development and Human Rights NGOs emphasise that students should not be forced to simply accept the fact that 'there's a new one, different from me but I must not discriminate her/him just because s/he's different'; the children have to be taught that open-mindedness and a unity in diversity are, in fact, interesting and of benefit for all, the Maltese and children of different origin, alike.

Between 2006 and 2009, Inizjamed has conducted the Global Citizenship Education (GCE) project '*Conectando Mundos*' (CM). This international project, implemented in four European and a large number of developing countries, aimed at facilitating educators to implement GCE within their classroom in a cross-curricular approach and promoted the instilment of GCE in the formal educational system. GCE is a pedagogical approach that promotes the active learning of the interrelation of local and global issues. In 2008, Inizjamed was the main contributor to SKOP's National Development Education Seminar, and it was co-organiser of the first international seminar on GCE, held in Cortona, Italy, in July 2008⁴⁹.

Throughout 2008, the Ministry of Education, Culture, Youth and Sport supported a number of activities and projects that promote equality, global citizenship, human rights and democratic values. The Ministry's Annual Report 2008 lists the efforts of the Educational Officer for Democracy and Values Education, amongst which are: the delivery of school development meetings for senior management teams and teachers on creating a Democratic Citizenship School; the training of Link Teachers and members of Student Councils; an In-Service course for Social Studies teachers on Freedom and Citizenship; the organisation of projects and activities in collaboration with the Courts of Justice Division and the Office of the Chief Justice (regular school visits for Form IV students to the Courts of Justice); and the provision of lesson plans, curriculum and interdisciplinary resources for the whole school to celebrate the commemoration of, e.g., International Women's Day, World Health Day and Human Rights Day⁵⁰.

⁴⁷ More information about the project (in Maltese *Lehen għal kullhadd*) can be found online: <http://www.equality.gov.mt/page.asp?p=8782&l=1>.

⁴⁸ Educational concepts: Global Citizenship Education, Development Education, Human Rights Education, Peace Education, Democracy Education, Values Education (et al.).

⁴⁹ Re <http://cmm.inizjamed.org>, www.inizjamed.org, <http://www.conectandomundos.org> and <http://www.educiglo.net>.

⁵⁰ Re Ministry of Education, Culture, Youth and Sport, *Annual Report 2008* (n.d.); Pp.68. See: http://www.education.gov.mt/ministry/doc/pdf/annual_reports/en/Annual_Report_2008.pdf.

The *Global Education Week*, an annual educational initiative coordinated by Rita DeBattista and Philip Said in collaboration with the European Centre for Global Interdependence and Solidarity (known as the North-South Centre) of the Council of Europe and the Maltese Curriculum Management and eLearning Department (Directorate for Quality and Standards in Education), was held from 17 to 21 November 2008. During the event, a number of projects and activities that promote the link between the local and global dimension were displayed under the motto '*Inter-Cultural Dialogue*'⁵¹.

Within the frame of its project '*Building Unity Through Diversity*'⁵² (BUTD), which came to a close in October 2008, Kopin had opened a multi-stakeholder process of which the outcome was the '*Protocol for the Inclusion of Foreign Students within the Maltese Formal Educational System*'⁵³.

Since 2006, Kopin is also implementing *Global Action Schools* (GAS)⁵⁴. GAS is a unique partnership of seven organisations working with schools across Austria, Czech Republic, England, Malta, Poland, Slovak Republic and Thailand. This project supports schools to integrate global issues into the classroom, link with schools around the world and find ways of contributing to sustainable development, namely learning about global issues such as children's rights, climate change and fairer trade; measuring their school's 'global footprint' using a simple investigation tool; and undertaking a 'global challenge', for example to support fairer trade or to use energy and water more efficiently.

Educational activities such as the ones presented above emphasise the fact that the themes and pedagogical methodologies promoted by Global Citizenship and Development Education provide the students with a more holistic understanding about the causes of migration, namely global poverty; they are therefore paramount to foster integration.

V.iv Health

Upon arrival and before being detained, irregular migrants are subject to an initial medical examination which is conducted by the Port Health Services. In cases where immediate medical care is required, the person in need is brought to *Mater Dei*, Malta's main general public hospital. This first medical examination is a compulsory procedure for all irregular migrants. Despite the fact that such a

⁵¹ Re Curriculum Management and eLearning Department, *Letter Circular - CMELD 172/2008: Global Education Week 2008* (16 October 2008). Available online: <http://www.coe.int/t/dg4/nscentre/GE/GEW/GEW2008-Malta.pdf>.

⁵² A number of dignitaries and personalities have supported this project through their patronage, namely: the Prime Minister Dr Lawrence Gonzi, the Minister for the Family and Social Solidarity Dolores Cristina, the Hon. Evarist Bartolo MP, the Chairman of Alternattiva Demokratika Dr Harry Vassallo, Ms Ira Losco (singer) and Mr Renzo Spiteri (percussionist).

⁵³ This publication is available electronically on Kopin's website <http://www.kopin.org>. See also <http://www.butd.org>.

⁵⁴ <http://www.globalactionschools.org>.

health examination is necessary to identify possible infectious diseases and serious medical conditions of the immigrant requiring instant treatment, some concerns were raised about the diligence of these investigations. Since the end of April 2007, the private company Medicare Ltd is being contracted by the Ministry of Justice and Home Affairs to offer medical consultations in closed centres; the service operates regularly in the centres in Ħal Far and Safi. This innovation had been welcomed by NGOs working in detention centres as it improved the detainees' access to health care noticeably. However, the service is also considered as insufficient, as few staff and limited visiting hours often prevent a detailed medical support; consequently, many immigrants must be brought to public hospitals for treatment, and they often miss their appointment due to shortages of accompanying staff.

The reports of Médecins du Monde (2007)⁵⁵ and Médecins sans Frontières (2009)⁵⁶, both of which had missions in Malta in the course of the past two years, strongly criticise the medical conditions in the closed detention centres. The former report acknowledges the fact that Malta has to cope with a high amount of irregular immigrants entering the country whilst having only limited human and financial resources at its disposal. Nonetheless, “[...] the Maltese authorities are responsible for a variety of inadequacies regarding reception, detention and integration of asylum seekers [...]”⁵⁷. As Médecins sans Frontières (MSF) point out:

“Detention conditions in Malta can be directly linked with the most frequent morbidities seen in MSF’s consultations with detainees. 17 per cent of morbidities seen are respiratory problems linked to exposure to cold and lack of treatment for infections. Patients often require repeated consultations since symptoms persist in the cold environment in which they live. Dermatological diseases including scabies, bacterial and fungal skin infections account for nine per cent of the consultations, reflecting overcrowding and poor hygiene. Fourteen per cent of the consultations deal with gastrointestinal problems including gastritis, constipation and haemorrhoids which can be a result of a low fibre diet, lack of activity and high stress. Musculo-skeletal complaints such as arthromyalgia can be linked to limited exercise and a cold uncomfortable environment. Cases of accidental trauma were seen in seven per cent of the consultations. These were mainly caused by frequent falling due to wet floors in the washing areas, combined with poor lighting and broken tiles which lie all over the floor⁵⁸.”

⁵⁵ Re Médecins du Monde, *'Everybody just tries to get rid of us' - Access to health care and human rights of asylum seekers in Malta. Experiences, results and recommendations* (Nov. 2007). Available online: http://www.medecinsdumonde.org/gb/content/download/5050/39992/file/Rapport_Malte.pdf.

⁵⁶ Re Médecins Sans Frontières, *Not Criminals - Médecins Sans Frontières exposes conditions for undocumented migrants and asylum seekers in Maltese detention centres* (April 2009).

⁵⁷ Ibid. P.6.

⁵⁸ Re Médecins Sans Frontières, *Not Criminals - Médecins Sans Frontières exposes conditions for undocumented migrants and asylum seekers in Maltese detention centres* (April 2009). P.16.

As part of a European Refugee Fund II part-financed project, *Fondazzjoni Suret il-Bniedem* upgraded the health care facility of the Marsa Open Centre in 2008, as outlined in the section on “Housing”.

By the end of 2008, Médecins Sans Frontières had started to offer cultural mediation services at the Floriana Health Centre. The mediators provided services in Somali, Eritrean and French for three days per week. Moreover, training seminars for medical and nursing officers of Primary Healthcare had been organised by MSF and the Migrant Health Unit.

Accepted refugees are entitled to full access to health care services provided through national health services. As all other asylum seekers are similarly entitled to free medical primary and emergency health care, in practice this means that asylum seekers, irrespective of their refugee status, are entitled to the equal range of medical services. “A main problem regarding in daily reality is that a considerable amount of doctors and other health care workers are not precisely aware of this form of entitlement.”⁵⁹

Moreover, research conducted by MdM points out that many asylum seekers have experienced forms of discrimination when accessing free medical treatment and specialised care.

SKOP⁶⁰, The National Platform of Maltese NGOs, has set up a working group called *Health Access to Migrants*. A number of Maltese civil society organisations working in the practical field of support for irregular immigrants as well as on policy level, have joined this group. One main aim of the working group is to discuss contemporary issues related to migrants’ health access and to offer proposals for policy improvements and coherency. During 2008, the group conducted research on migrant access to health care and has lobbied for better access, whilst individual member organisations of the Platform have also worked on a similar level. In line with the Ministry for Social Policy’s intention to draft a migrant health policy, SKOP’s working group intends to provide recommendations to the Ministry.

Further problems regarding access to health include the fact that even irregular immigrants identified as being vulnerable are often kept in detention centres for a certain period (the MSF report speaks in some cases of one month and more), that there is a lack of cultural and linguistic mediators and a lack of knowledge of the immigrants with regards to their entitlements vis-à-vis health care access.

⁵⁹ Re Médecins du Monde, ‘Everybody just tries to get rid of us’ - Access to health care and human rights of asylum seekers in Malta. Experiences, results and recommendations (Nov. 2007). P.12.

⁶⁰ <http://www.skopmalta.org>.

As outlined in other sections of this report, a number of NGOs, but particularly the Jesuit Refugee Service, are working to improve the situation in this regard. In parallel to the direct support to asylum seekers and refugees, awareness campaigns and educational projects are paramount so as to sensitise the general public and to inform both the public and health professionals about the health related entitlements of immigrants.

By the time of writing this report, Médecins sans Frontières suspended its services in March 2009 due to the appalling and inhuman conditions in the detention centres⁶¹.

V.v Policing and racial profiling

Racial profiling is the inclusion of ethnic or racial characteristics in the determination if or if not a person may be considered likely to commit an illegal act, a particular type of crime or to act in a *predictable* manner. Maltese representatives of institutions and organisations working for the rights of irregular migrants, asylum seekers and refugees could not assess whether law enforcement officials resorted to racial profiling in 2008.

The European Union Agency for Fundamental Rights' (FRA) *EU Minorities and Discrimination Survey* (EU-MIDIS)⁶² is the first survey of its kind to systematically interview minorities in all EU Member States. In Malta, the focus group of the research was the African minority. Of all persons of African origin surveyed by FRA, a total of 55 per cent⁶³ considered to have been *specifically* stopped by the police because of their ethnic or immigrant background. The result clearly proves that more than half of the African immigrants experienced high levels of what they perceive as discriminatory police treatment in Malta.

⁶¹ See e.g.: Times of Malta. 2009, 'Video: MSF slams appalling and inhuman conditions at detention centres', 13 March. Available online: <http://www.timesofmalta.com/articles/view/20090313/local/aid-agency-suspends-medical-services-at-detention-centres>. See also: Médecins du Monde. (n.d.), 'Access to health care and human rights of asylum seekers in Malta. Experiences, results and recommendations'. (http://www.medecinsdumonde.org/gb/media/multimedia/videos/access_to_health_care_and_human_rights_of_asylum_seekers_in_malta_experiences_results_and_recommendations).

⁶² Re European Union Agency for Fundamental Rights, *EU-MIDIS 'at a glance'* (22 April 2009). During the course of the year 2008, 25000 representatives of minorities were interviewed in ten Member States to allow for comparison of results concerning some key questions, such as about their experiences of discriminatory treatment, awareness of rights and where to complain about discrimination, being a victim of racially motivated crime, and experiences of law enforcement and border control, and whether respondents considered they were victims of discriminatory ethnic profiling practices. The full dataset, which will be published in the later course of 2009, will permit an in-depth analysis regarding number of stops, specifically stops that were perceived as discriminatory. The Centre for Faith and Justice is the National Focal Point for the EU Fundamental Rights Agency. During 2008, it continued with its work of monitoring the situation and report writing on racism and xenophobia in Malta.

⁶³ That result places Malta at the tenth rank of the EU member states in focus; Italy leads the ranking, also being the only country in which three different groups (North Africans, Albanians and Romanians) of surveyed people stated they feel discriminated by Italian police forces.

The abovementioned outcome of the EU-MIDIS contradicts the Code of Ethics of the Maltese Police Force⁶⁴ which highlights the need to foster relationships of trust and reciprocal respect with the community and with individual citizens irrespective of, *inter alia*, nationality, race, colour or religion. It goes on to state that any form of harassment, words or gestures which are demeaning and racial are unacceptable. Anyone going against any principle established in the Code of Ethics may be subjected to disciplinary proceedings.

On request by the Police Academy, NCPE organised training and sensitisation on race and xenophobia for their new recruits. This training takes place every year and is now an integral part of the training offered to all new Police recruits. These training sessions include an overview of Legislation related to anti-discrimination with regards to race, an explanation of NCPE's remit and a group discussion regarding xenophobia and racism.

In 2008, allegations of mistreatment in detention centres were reported, and a number of official inquiries had been launched. However, no official statistics are available in this regard.

V.vi Racist violence and crime

Under Maltese law, it is a crime to stimulate racial hatred through the use of any threatening, abusive or insulting behaviour or words, or through the display of any form of written or printed material.

With regards to the quality of official criminal justice data collection mechanisms on racist crime and violence, in Malta, only limited reporting on investigations and court cases is made available. This is caused by several factors.

The Police Forces only record racial motivation for specific crimes of racism, unlike some of its counterparts in other European countries, and Police officials are not being provided with instructions on how to determine whether a crime is racially motivated. No systematic approach to promote the reporting of racist crime and violence, particularly against minorities, has been put in place.

Moreover, as stated above, it is less likely that African migrants report any form of racism-motivated crime committed against them, due to their mistrust caused by the negative treatment they perceive to have obtained by the police.

The present situation makes it thus difficult to assess the extent of racist crimes and violence in Malta.

⁶⁴ <http://police.gov.mt/download/KodiciEtika.pdf>.

In fact, for the course of 2008, the author is not aware of official data regarding racist violence and crime in Malta.

However, according to the EU-MIDIS research⁶⁵, the racist crime victimisation rate based on the responses by the Africans surveyed in Malta stands at 30 per cent, based on the five crimes (1) theft of or from a vehicle, (2) burglary or attempted burglary, (3) theft of personal property not involving force or threat, (4) assault and threat and (5) harassment of a serious nature. 50 per cent of those respondents, who were victims of racist assault, threat, and/or serious harassment, indicated that they did not report their most recent incident because they were not confident that the police would be able to do anything.

26 per cent of the respondent members of the African minority stated they would avoid certain places for fear of being assaulted, threatened or seriously harassed because of their immigrant or ethnic minority background.

In 2008, Norman Lowell, founder and leader of extreme right-wing *Imperium Europa*, had been found guilty of inciting racial hatred by the Magistrates Court. He was given a two year prison sentence suspended for four years and was fined €500⁶⁶.

V.vii Access to goods and services in the public and private sector

In 2008, various media reports and anecdotal evidence told of the social stigma faced by immigrants in Malta. A number of Third Country Nationals as well as Maltese persons who look foreign were denied appropriate service in shops, access to public transport and entertainment areas.

However, on several occasions, bystanders showed civil courage and argued in favour of the discriminated victim. Many migrants avoid certain places because of negative experiences they have had. Often, it is the simple feeling to not be welcomed that leads persons of African or Arabic origin to refrain from even attempting to access certain areas. In many cases, migrants are not aware about their right to report an incident of discrimination or, as the EU-MIDIS research reveals, they believe that such a report would not change the

⁶⁵ Re European Union Agency for Fundamental Rights, *EU-MIDIS 'at a glance'* (22 April 2009).

⁶⁶ Lowell was found guilty of inciting racial hatred during a speech he gave in Rabat on 3 April 2006. The Magistrate also found Lowell guilty of inciting racial hatred by means of an article entitled *Coming Cataclysmic Crises* on December 2003 and 27 March 2006, as well as through his words and actions on 8 May 2006. In the sentence, reference was made to Lowell's description of Jews as parasites and his criticism of Maltese families who adopted African children, where he said he would not like his children to mingle with children from Katanga or Mozambique. Lowell had lodged an appeal to the Court of Criminal Appeal claiming his fundamental human rights had been violated by the judgment of the Court of Criminal Appeal. The Court dismissed his appeal on the grounds that the application of appeal did not satisfy the legal requirements and did not contain a short summary of the facts of the case. For further information see Times of Malta, 2009, 'Court dismisses Norman Lowell's rights application', 27 April, available online: <http://www.timesofmalta.com/articles/view/20090427/local/court-dismisses-norman-lowells-application>.

situation⁶⁷. Another reason for not reporting the incident is the fact that the discrimination is regarded too trivial, as it would happen all the time⁶⁸.

Overall, high levels of discrimination are reported by sub-Saharan Africans and North-Africans. 63 per cent of the African persons under survey⁶⁹ in Malta stated that they had been discriminated on the basis of their immigrant or ethnic minority background, in one or more of the following nine areas: (1) when looking for work; (2) at work; (3) when looking for a house or an apartment to rent or buy; (4) by healthcare personnel; (5) by social service personnel; (6) by school personnel; (7) at a café, restaurant or bar; (8) when entering or in a shop; and/or (9) when trying to open a bank account or get a loan.

According to Legal Notice 85 of 2007, any form of discrimination based on the ground of race and ethnicity in the provision of goods and services is prohibited. With regards to the provision of goods and services, the Equal Treatment of Persons Order transposed the non-employment provisions of Council Directive 2000/43/EC, implementing the principle of equal treatment between persons irrespective of racial or ethnic origin. The new legal requirements deserve better promotion through officials, institutions and employers. A number of NGOs recommend that goods and service providers in all spheres and educational campaigns should target this issue to eliminate aspects of racism.

During 2008, NCPE conducted a number of training on issues related to equality to public entities, private companies, legal workers, management and directors and other groups which had requested it. Such training dealt with various subjects pertinent to the NCPE's remit including equality mainstreaming, diversity, and non-discrimination.

V.viii Media, including the internet

The petition signed by 100 Maltese journalists, presented in February 2005, and the pressures imposed by both the European Commission and a number of Maltese and international NGOs led the Maltese Government to lift the media ban to report from detention centres in June 2008. First documentations were published as from 13 July onwards, and both national and international media showed interest in reporting from the centres. Maltese Civil Society considered this as a positive step towards more transparency and welcomed the opening of the centres for media coverage as an important tool to raise awareness about the conditions in detention. As a representative of MediaToday⁷⁰ put it, "the media in general has grown more sensitive to the plight of asylum seekers and their conditions in detention, having witnessed it personally; and has generally shied

⁶⁷ Re European Union Agency for Fundamental Rights, *EU-MIDIS 'at a glance'* (22 April 2009). P.9. This answer was given by 63 per cent of all persons under survey.

⁶⁸ *Ibid.*: 40 per cent.

⁶⁹ *Ibid.*

⁷⁰ MediaToday is the publisher of MaltaToday, *Illum*, Business Today and The Architect.

away from more sensational news reporting that tended to criminalise asylum seekers”⁷¹.

The author is not aware of any cases of racist attack in word or deed against Maltese journalists and media organisations being brought forward to Maltese courts in 2008. However, according to a Maltese media editor, “there is a massive amount of ignorance, and articles with a balanced view are often criticised.” As explained by another media worker, “asylum seekers and Muslims suffer the brunt of a general racism and xenophobia, while voluntary organisations are equally held in contempt. Journalists can be the targets of so called 'immigration critics' for being a section of the media which 'supports illegal immigration' - *Malta Today*, for example, is often accused of 'bias' with respect to asylum seekers when it is often the case that the overarching principle is the defence of human rights and the right to claim asylum.”

With regards to racist tendencies in the media, both of the latter quoted journalists tend to agree: “the media discrimination is not generated editorially but by users, especially letters to the editor, online comments or radio phone-ins.” “[...] The technological novelty of live debate and blogs on internet newspapers has only rendered more visible the palpable racism of those who bother to write in; hopefully a silent majority is not racist; but maybe a section of those who do write in the newspaper blogs do represent a section of the population.”

Irregular immigration was one of the most debated issues in the Maltese media throughout 2008. Various articles reporting on issues related to irregular immigration and international development cooperation received harsh, sometimes discriminative and racist comments from online readers. A number of representatives from NGOs working for the rights of immigrants and international development stated that they believe that these comments derive from a group that is well organised and that acts systematically, so as to influence public opinion. This argument is based on the fact that it is very often the same commentators who give statements on such media reports. However, this has to be classified as an assumption only, as no verification data is available. On a number of occasions, individuals even publically accuse organisations like JRS to aid human smugglers, an argument that obviously dispenses with any fact⁷².

⁷¹ The media professionals quoted in this chapter wished to remain anonymous. They had been taking part in a qualitative research based on a questionnaire with semi-guided questions and various spaces for individual interpretations and further elaboration. The survey had been undertaken by the author and has not been published.

⁷² The latest known incident of this kind actually occurred by the time of writing this report. On 22 May 2009, a member of the audience of a programme on the Maltese station Radio101 accused JRS and other NGOs to help human smugglers. A representative of SKOP, The National Platform of Maltese NGOs, of which JRS is a member, issued an immediate response that was read and debated in that very programme: “I kindly request Dr Perici Calascione [PN MEP candidate who was a guest of the programme] to censure the comments made by one caller against Maltese NGOs and specifically the JRS Malta where he accused these NGOs to be aiding criminals in carrying out human trafficking. Maltese politicians have to stand up and be counted when it comes to defending universal human rights, especially when we are speaking about genuine asylum seekers.”

During the period focused on in this report, media coverage has been mixed. Whilst some of the newspaper articles and TV/Radio (the latter to a lesser extent) broadcasts followed a sensationalistic path which emphasised on the news value⁷³ *negativity*, others provided a more in-depth analysis of the situation in detention centres, offering the persons in question - the detained asylum seekers and refugees - a channel to present their views to the public.

The People for Change Foundation has collected a number of headings that appeared in the Maltese print media in 2008: “58 irregular migrants arriving...so far”, “Two migrant landings”, “More illegal immigrants”, “More immigrant landings”, “31% increase in immigrant arrivals”, “Another 27 migrants rescued by an Italian Fishing Vessel”, “More irregular migrants rescued”, “Migrants try to escape in boat as another 108 land”, “*L-Ewropa u l-influs ta’ l-immigrant*”, “Ivorian charged with Rape”, “Sudanese charged with car theft”, “Illegal immigrants, foreigners arraigned”, “*Tikber il-Pjaga*”, “Frontex urged to be more aware of fundamental rights”, “Worrying indeed”⁷⁴.

Unfortunately, a number of journalists have showed little sensitivity with regards to the terminologies used in articles on irregular immigration.

The Council of Europe’s European Commission against Racism and Intolerance (ECRI) presented its ‘Third Report on Malta’ in 2008⁷⁵. Herein, it “[...] welcomes the adoption by the Maltese authorities in April 2007 of requirements as to standards and practice that must be observed by broadcasters in order to respect and promote racial equality, the implementation of which is monitored by the Broadcasting Authority⁷⁶. It refers to the Broadcasting Authority’s adoption of legally mandatory *Requirements as to Standards and Practice on the Promotion of Racial Equality* and to a charge issued by the Chief Executive of the Broadcasting Authority in July 2007 against a private television station⁷⁷.

⁷³ *News values* is a common concept in media and communication sciences. A number of sets have been defined; one of the most agreed is the set of news values presented by Johan Galtung and Mari Holmboe Ruge (1965). *News values* are also known as *news criteria* and *media criteria*.

⁷⁴ This collection is part of a presentation of the People for Change Foundation, entitled “Racial Discrimination”; it can be obtained on request to info@pfcmalta.org.

⁷⁵ The ECRI Report focuses on 2007 but was released in Malta on 26 April 2008 by means of Government of Malta Department of Information Press Release No 577e.

⁷⁶ Re European Commission against Racism and Intolerance (Council of Europe), *Third Report on Malta* (14 December 2007) p.19. Available online http://mjha.gov.mt/downloads/documents/ecri_report.pdf. Relevant sections with regards to media and racism are 86 to 90, with recommendations expressed in the sections 88 to 90. See also the Broadcasting Authority’s Annual Report 2008, available online: <http://www.ba-malta.org/annual-report-2008>.

⁷⁷ In the 2007 instance, during a programme, irregular immigrants were called criminals and clearly racist terminology was applied. The TV station had admitted the charge and paid the applicable administrative penalty.

In 2008, the People for Change Foundation, in collaboration with the Broadcasting Authority and the British High Commission, has piloted the research project '*Headliners – Migration in the Media*' on media representation of migrants and migration. The project will be fully implemented in 2009 and aims to focus on in-depth content analysis of the local media. A report will be published on the key findings of the research, including a set of recommendations⁷⁸.

The internet, offering a low-cost platform that is accessed by a majority of Maltese citizens, particularly the young, has been used by both extreme right-wing groups and by human rights organisations to promote their respective, obviously contradictory positions on migration. Apart from the aforementioned comments to articles and features that offer an unbiased, in-depth perspective on irregular immigrants, social groups like *Facebook*⁷⁹ and sharing pages like *YouTube*, both of which gained a high popularity in the past years, have been used by anti-immigration groups to promote racism and xenophobia. The forums of the Maltese websites *VivaMalta* show a number of comments by registered members of the website that can be described as discriminative and racist. The most popular exponent of the far-right, Norman Lowell, spreads his xenophobic messages both on the website of *Imperium Europa* and as casts on YouTube.

Victor Vella, a Maltese journalist working for the Union Press' newspapers *L-Orizzont* and *It-Torca* with a special interest in diversity issues, particularly the social and economic conditions of African immigrants in Malta, won the National Journalist 2008 Award. The Journalist Award is a key activity of the '*For Diversity. Against Discrimination.*' campaign run by the European Commission Directorate General for Employment, Social Affairs and Equal Opportunities⁸⁰.

Journalists themselves have mixed feelings as to what degree the Maltese media is successful in combating racism and discrimination. Whilst one media professional stated that "we need to make more of an effort to show integration of migrants and to dispel fear about them", another describes the media's efforts as "[...] a long-term process, but the media is more informed today and it can help to combat and discrimination by promoting the values of tolerance and providing a platform of honest and intelligent debate. Naturally there will always be critics

⁷⁸ See: <http://pfcmalta.org/projects.html>.

⁷⁹ For example, Josie Muscat, the leader of the far-right party Azzjoni Nazzjoni (AN) was named '2008 Malta Politician of the Year' by the *Facebook* group 'Save Malta from illegal immigrants'. See AN's press release: Azzjoni Nazzjonali. 2009, '*Dr Josie Muscat named 2008 Malta Politician of the Year by internet group*', 14 January. Available online: http://azzjoninazzjonali.org/index.php?option=com_content&task=view&id=1142&Itemid=2. According to the PR, "to date 'Save Malta from illegal immigrants' group counts over 1800 members and has been steadily growing in membership ever since inception."

⁸⁰ Vella's winning articles can be downloaded in Maltese and English on <http://journalistaward.stop-discrimination.info/winners0504241.0.html>.

and detractors but that is part of the debate; a more well-informed media bodes well for the future. The public will hopefully latch on.⁸¹”

⁸¹ In January 2008, FRA has published a *Diversity Toolkit* for factual programmes in public service television. For further information see:
http://www.eumc.eu.int/fra/index.php?fuseaction=content.dsp_cat_content&contentid=478de35bcdb41&catid=3eddba5601ad4&lang=EN.

VI. Political and legal context

A number of important legal and political developments positively impacting on the fight against racism were achieved in 2007⁸²; further progress in this regard took place in 2008.

In 2007, improvements included (a) the implementation of the Race Equality Directive; (b) the setting up of a Race Equality Body; (c) the Broadcasting Authority's efforts in promoting Racial Equality; (d) the family reunification directive which was transposed into Maltese law; (e) the Directive on the Residence Permit for Victims of Trafficking collaborating with the police; and (f) the establishment of the Organisation for the Integration and Welfare of Asylum Seekers (OIWAS) in February 2007.

In 2008, the Refugee Act has been amended, and the 'Procedural Standards in examining Applications for Refugee Status Regulations' were enacted through Legal Notice 243 of 2008, so as to transpose Council Directive 2004/83/EC⁸³ and 2005/85/EC⁸⁴.

General elections were held on 8 March 2008, of which the Nationalist Party (*Partit Nazzjonalista* / centre right) emerged as winner, gaining 49.34 per cent of the votes (143468). The second main party in Malta, the *Partit Laburista* (Labour Party / centre left) was forced into opposition, with a result of 141888 votes (48.79%). Whilst the Maltese Green Party *Alternattiva Demokratika* gained 3810 votes (1.31%), *Azzjoni Nazzjonali* (AN, National Action), the far-right party led by Josie Muscat obtained 1461 votes, or 0.5 per cent of the vote cast, contesting in all 13 districts.

AN was created in June 2007 and generally uses its *struggle against illegal immigration* as flagship of most of its campaigns. In AN's electoral manifesto⁸⁵, the party took a radical stand against irregular migration, and a number of NGOs working for the rights of migrants declared concern about the discriminative language used by AN.

Norman Lowell's extreme right party *Imperium Europa* contested in the 2008 elections, as well, and presented a political stand on migration even more drastic

⁸² For matters of clarification for the reader, the amendments of 2007 with regards to the legal context are taken into account in this report, as well.

⁸³ Council Directive 2004/83/EC of 29 April 2004 on Minimum Standards for the Qualification and Status of Third Country Nationals or Stateless Persons as Refugees or as Persons Who Otherwise Need International Protection and the Content of the Protection Granted.

⁸⁴ Council Directive 2005/85/EC of 1 December 2005 on Minimum Standards on Procedures in Member States for granting and withdrawing Refugee Status.

⁸⁵ <http://www.azzjoninazzjonali.org/manifest.pdf>.

than the one proposed by AN. Lowell's 'Election Message', broadcasted on YouTube, gives an insight to the extent to which his rhetoric and thinking have to be considered racist⁸⁶. Lowell contested in two districts (11th and 12th) and obtained 84 votes, equalling 0.03 per cent of the vote cast.

Azzjoni Nazzjonali can be considered as having itself established within the political environment in Malta, which is regretted by many NGO activists working for the human rights of migrants. *Imperium Europa*, in turn, has a weak followership, despite being active for nine years. It nonetheless has to be regarded as dangerous, as Lowell and his associates strongly promote xenophobia and racial hatred, often overstepping the border between freedom of speech and discriminative rhetoric. In fact, as previously mentioned, in 2008, Lowell has been adjudged for inciting racial hatred in a number of cases.

The Maltese rightwing pressure group *Alleanza Nazzjonali Repubblikana* (ANR), set up in September 2005, seems to have disappeared, with its official website *anmalta.info* being dismissed by the time of writing. It is assumed that many former ANR members had joined AN.

Both, the Nationalist Party (PN) and the Labour Party (PL) agree on the general direction with regards to racism and migration. According to the parties, detention is a necessity in the national interest, as a guarantor for the state's security and to uphold public order. Taking a hard stand against abusers of the system as well as against human smugglers, PN and PL aim at contributing to the fight against racism.

Alternattiva Demokratika (AD) is promoting a shorter term of detention for the maximum of six months, unlike NGOs working for the rights of immigrants which ask to apply an absolute minimum term only; however, AD liaises with NGOs who demand an improvement of detention conditions. The Maltese Greens spoke in favour of the integration of asylum seekers and the added value of a pluralistic society.

PN, PL and AD urge the European Union to introduce an effective system of *Burden Sharing* amongst the EU27, based on a revision of the Dublin II regulations. Both, NGOs working for the rights of asylum seekers and a number of migrants themselves are in favour of this proposal.

VI.i Anti discrimination

Major developments with regards to the implementation of the European Union's Equality directives, namely Council Directive 2000/43/EC and Council Directive 2000/78/EC, took place in 2007 with the implementation of a number of instruments amending or expanding the existing regulatory framework.

⁸⁶ <http://www.youtube.com/watch?v=qfM-lskii54&NR=1>.

The Race Equality Directive was not implemented through a single piece of legislation. Legal Notice⁸⁷ 461 of 2004 on 'Equal Treatment in Employment Regulations'⁸⁸ introduced the provisions relating to employment, access to all types and to all levels of vocational guidance, employment and conditions of employment (including remuneration and dismissals), membership of and involvement in, any organisation of employees or employers. These regulations cover both the ground of race and the ground of religion or religious belief⁸⁹.

Amendments regarding 'Equal Treatment in Employment Regulations' were put in place through LN53 of 2007 which added a reference to indirect discrimination and strengthened the provisions in relation to the shift of the burden of proof⁹⁰. The applicability of the 'Equal Treatment in Employment' regulations was extended to employees of the public service and in the public sector (through LN54 of 2007)⁹¹ and to conditions for access to self-employment or to occupation through LN86 of 2007⁹².

The Equal Treatment of Persons order 2007 transposed the non-employment elements of the Race Equality Directive. In particular, it prohibits direct or indirect discrimination based on racial or ethnic origin by any person, establishment or entity, whether in the private or public sectors, and including public bodies, against any other persons in relation to (1) social protection, including social security and healthcare; (2) social advantages; (3) education; (4) access to and supply of goods and services which are available to the public, including housing; and (5) access to any other service as may be designated by law for the purposes of this regulation.

The 'Equal Treatment of Persons Order' provided the NCPE with the power to keep under review the working of the provisions of the order and extended the functions of the commission as stated in the act establishing it to apply *mutatis mutandis* to issues of discrimination on the grounds of race or ethnic origin, making it the race equality body required by article 13 of the directive. NCPE can only act upon a complaint made in writing and for this purpose they have

⁸⁷ Legal Notice, in the following LN.

⁸⁸ Legal Notice 461 of 2004 available at:

<http://docs.justice.gov.mt/lom%5Clegislation%5Cenglish%5Csubleg%5C452%5C95.pdf>.

⁸⁹ The directive refers generally to "religion or belief"; the Maltese regulations are restricted to religious beliefs.

⁹⁰ Prior to the amendment, regulation 10 imposed on the person alleging discrimination the burden of proving "that he or she has suffered discriminatory treatment" before it became "incumbent on the defendant [The alleged perpetrator of the discrimination] to prove that such treatment was justified in accordance with the regulations, in the absence of which, the tribunal or court shall uphold the complaint of the plaintiff".

⁹¹ Extension of Applicability to Service with Government (Equal Treatment in Employment) Regulation 2007, available at: <http://docs.justice.gov.mt/lom/Legislation/English/SubLeg/452/100.pdf>.

⁹² Re Equal Treatment in Self-Employment and Occupation Order, 2007 available at: <http://www.doi.gov.mt/EN/legalnotices/2007/04/LN%2086.pdf>.

developed a complaint form which is accessible on the NCPE website in English and Maltese⁹³.

Many NGOs and legal practitioners welcomed Legal Notice 85 as an improvement on the Maltese legislative framework for the improvement of equality measures and standards. The outcomes of the aforementioned EU-MIDIS research and anecdotal evidence, however, emphasise that those most vulnerable to become victims of racial discrimination need further encouragement to learn about and act upon their rights. It is recommended that institutions such as OIWAS and NCPE and organisations working in support of asylum seekers join efforts to promote the issue with Third Country Nationals. Moreover, Police Forces need to be encouraged to engage in a dialogue with migrants so that a feeling of trust can be developed. Public and private service providers need to become more aware about equality provisions, as well.

Government Notice 413 of 2007 (Subsidiary Legislation 350.26)⁹⁴ enacted the requirement as to the standards and practice on the promotion of Racial Equality in the broadcast media. The notice builds on the provisions of the Press Act and of the Broadcasting Act which already contain prohibitions in this regard. Article 6 of the Press Act⁹⁵ creates the Press Offence of “Racism and Similar offences” by stating that whosoever, through the publication or distribution in Malta of printed matter, or by means of any broadcast shall threaten insult or expose to hatred, persecution or contempt, a person or group of persons because of, inter alia, their race, creed, colour, nationality or national or ethnic origin, shall, on conviction, be liable to imprisonment for a term not exceeding three months and to a fine. The Broadcasting Act’s requirements do not merely prohibit racism, but they oblige broadcasters to be pro-active by promoting racial equality in their programming and to foster a multicultural society.

As part of the ‘Anti-Discrimination and Diversity Training VT/2006/009’ NCPE organised two two-day seminars to promote anti-discrimination and diversity management among local NGOs and Trade Unions and another one day seminar to promote diversity management among employers organisations, large companies and SMEs both within the private and public sector. The aim of these seminars was to enhance the knowledge regarding anti-discrimination. NCPE also carried out the EU-funded project *Voice for All*, which aimed at empowering participants to challenge the learning and thinking processes which give rise to discrimination based on race, sexual orientation, gender, age, religion and disability and to positively endorse diversity.

⁹³ <http://www.equality.gov.mt/page.asp?p=9334&l=1>. The National Commission for the Promotion of Equality (NCPE) does not cover discrimination in employment and any complaints in this regard should be addressed to the Industrial Tribunal. Proceedings before this tribunal are free of charge and the expenses involved are those of representation. A Racial and Ethnic Origin Equality Manual Toolkit was produced by NCPE in June 2007 informing about the aforementioned legislation, about the correct implementation and application thereof and to help organisations and institutions to ameliorate their practices by mainstreaming equality.

⁹⁴ www.ba-malta.org/file.aspx?f=597.

⁹⁵ Chapter 248 of the Laws of Malta is available at: http://docs.justice.gov.mt/lom/legislation/english/leg/vol_6/chapt248.pdf.

VI.ii Migration and integration

In 2007, changes were effected in the field of employment whereby people with temporary humanitarian protection are entitled to receive the work permit in their own name (and not in the name of their employer) which lessens the risk of abuse by employers.

Moreover, the Office of the Refugee Commission (REFCOM) improved its services in 2007, with an increase in financial resources allowing the employment of a number of cultural mediators and case workers. The respective specialisation of the latter with regards to a specific country of origin, the setting up of offices for interviews and letter boxes in the detention centre and the translation of the Preliminary Questionnaire into several languages mostly spoken by the asylum seekers helped facilitating the process of application for asylum seekers.

The Organisation for the Integration and Welfare of Asylum Seekers (OIWAS) was set up in 2007 as a unit within the Ministry for the Family and Social Solidarity⁹⁶ to serve as an umbrella organisation for open centres and residential units and in order to promote coherency in reception and integration policies. Within the portfolio of OIWAS, the coordination of management and care of the open centre network (between residential homes and open centres), the data collection with regards to irregular immigration, the care for vulnerable groups of migrants, awareness raising, the liaison with NGOs working for the human rights of migrants, and with IOM and UNHCR, projects in detention, policy consultancy and international collaboration (e.g. in ENERO) are amongst the most important areas of work. OIWAS also aims at addressing racism and xenophobia through education, by providing a platform for inter-cultural dialogue and by contributing to public opinion and assisting the Ministry with its communication strategy in this area. In the future, the MJHA unit regards the improvement of service provision through training and in-depth evaluation, data collection, the addressing of second generation immigrants, particularly with regards to political and civic rights, the promotion of the benefits of a heterogeneous society and the delivery of language courses to help facilitate the integration of new immigrants as the challenges to be attended to.

By 2008, one year after its launch, OIWAS had managed to employ over 70 persons, amongst which centre managers and social workers. Main areas of work in 2008 were the collaboration in the resettlement of asylum seekers to the United States, together with IOM and other entities, the coordination of the network of open centres and residents, the setting up of a new open centre (the Hangar Compound) and the assistance to migrants to find housing and employment once they were released from detention.

⁹⁶ With the post-election ministerial restructuring process that took place in the second half of 2008, all entities and issues related to migration and integration (such as OIWAS) are now within the portfolio of the MJHA.

OIWAS, in collaboration with the International Organisation for Migration (IOM) Malta⁹⁷, implemented the project '*Coordination and Provision of Welfare Services in Closed Centres*' (COPE), offering courses on Cultural Orientation and Recreational Activities to detainees, amongst other activities. The project helped migrants to prepare themselves for life outside detention so as to foster successful integration of migrants in the community.

In August 2008, post detention, around 250 of the 2000 open centre residents had been placed in smaller centres that mainly cater for families and unaccompanied minors. By the end of 2008, the number of residents in open centres increased by almost 50 per cent compared to August. As OIWAS director Alexander Tortell put it, "we need to move people out of the detention centre to make room for new arrivals. This is not like Lampedusa where arrivals are transferred to the mainland. Here once they arrive, they are stuck in the system [...]"⁹⁸. Since 2007, open centre residents receive a limited daily financial support.⁹⁹ This was a welcomed change in the policy, given both the fact that the food provided often lacked in quality and that the different food cultures of the residents have been taken into account.

IOM was involved in '*Preventing and Combating Trafficking in Human Beings and Enhancing Victims*' (AGIS IV), a programme that offered training for trainers who provide courses to the Police, NGOs, *Appoġġ*, social workers in hospitals, *Helpline* and OIWAS, amongst others.

Malta joined the European Migration Network in 2008, to which the Ministry of Justice and Home Affairs (MJHA) is the National Contact Point (NCP). The MJHA aims at developing a national multi-stakeholder network (e.g. research institutes and NGOs active in the field of migration and asylum). The network is planned to collect and disseminate migration related information and to promote the work of institutions and organisations working in the field.

As a follow up of the European *Year of Equal Opportunities for All* campaign, the European Commission Representation in Malta, in collaboration with the NCPE, organised a media campaign entitled '*A National Campaign promoting Equal Opportunities for All*'. This campaign was aimed at highlighting all the six grounds of discrimination as recognised by the EU, including race. Seven educational spots encouraged people to seek and acknowledge others' abilities, to allow individuals to develop their potential, and consequently allowing individuals to become economically independent and self sufficient.

⁹⁷ <http://www.iom.int/jahia/Jahia/pid/2161>.

⁹⁸ Re Macdonald, V. 2008, 'Migrants being transferred to new centre', *DI-VE*, 25 August. Available online: <http://www.di-ve.com/Default.aspx?ID=72&Action=1&NewsID=53830&newscategory=36>.

⁹⁹ The daily financial support ranges from €3 to €4.60, depending on their status.

During 2008, NCPE analysed a case in relation to the administrative procedures with regards to TCNs who marry a Maltese national. The case is still being investigated.

In May 2008, the UN encouraged Malta to establish an independent national human rights institution in accordance with the Paris Principles, mandated to promote and protect all human rights, including social, cultural and economic rights¹⁰⁰.

The Maltese Government identified the implementation of the Common Basic Principles for immigrant integration policy in the European Union as one of the four strategic priorities for Malta's allocation of the *European Fund for the integration of Third Country Nationals* (2007-2013). The fund is administered by the European Union Programmes Agency (EUPA) and consists of €3.7 million. As presented in January 2009, the funds will finance initiatives that introduce migrants to Maltese society and culture, for research and for training on intercultural competence. The Government further stated that indicators and evaluation methodologies to assess progress and to adjust policies with regards to the integration of TCNs will be developed, in addition to activities like the exchange of experiences of best practice and the information on integration between member states.

Throughout 2008, JRS has organised training for personnel working in the area of reception of asylum seekers, both within detention centres and open centres. The training consisted of seminars and group sessions on the topics asylum procedures, sexual and gender based violence (SGBV), smuggling, psychosocial and cultural issues, organisational skills and EU funding possibilities. JRS also offered services related to direct provision of information and legal assistance, during which JRS lawyers and outreach workers regularly visited the two largest detention centres to provide information to detainees and in-depth legal casework in some instances. During 2008, these services were partly funded through the ERF II. In its work, JRS gave priority to vulnerable people and asylum seekers with a protection-based claim. Apart from assisting with asylum applications, JRS also helped with requests for release from detention.

By and large, however, interactions between immigrants and citizens remained fairly coincidental. Positive actions of a number of civil society organisations and educators took place in 2008; examples are the invitation of migrants to schools to report on their experiences, the organisation of educational workshops on migration (e.g. the National Development Education Seminar 2008), the participation of migrants in public events (e.g. the *Worldfest 2008 of Koperattiva Kummerċ Gust*), and ethnic meals provided at the Marsa Open Centre.

¹⁰⁰ Re UN Human Rights Council, *Compilation prepared by the Office of the High Commissioner for Human Rights, in accordance with Paragraph 15 (B) of the Annex to Human Rights Council Resolution 5/1 - Malta* (12 March 2009); p.3. Available online: http://lib.ohchr.org/HRBodies/UPR/Documents/Session5/MT/A_HRC_WG6_5_MLT_2_E.pdf.

The Refugee Act of 2001 has been amended in 2008, and the 'Procedural Standards in examining Applications for Refugee Status Regulations' were enacted through Legal Notice 243 of 2008. The enactment meant to transpose

- 1.) Council Directive 2004/83/EC on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted; and
- 2.) Council Directive 2005/85/EC on minimum standards for procedures in Member States for granting and withdrawing refugee status.

The standards make provisions regarding the application for asylum stating, for example, that the application has to be done in a prescribed form, but also that (a) the applicant shall be informed of various issues surrounding her/his application including the time frames, consequences for not complying with the obligations and the right to consult the UNHCR; (b) the applicant shall be advised on how and where to apply for asylum; (c) the applicant shall be granted the service of an interpreter if required. All of this shall be done in such a language so that it can be understood by the applicant.

VI.iii Criminal justice

VI.iii.i Racism as a crime

According to Article 82A (2) of the Criminal Code of Malta, "[...]'racial hatred' means hatred against a group of persons in Malta defined by reference to colour, race, nationality (including citizenship) or ethnic or national origins." Article 82A (1) provides that the incitement to racial hatred is a criminal offence punishable by imprisonment (6 to 18 months).

Article 222A of the same code also establishes racial and religious motivation as an aggravating circumstance for crimes against the person; in the case of such motivation, the punishments shall be increased by one to two degrees. According to Article 222A (3), "an offence is racially or religiously aggravated if: (a) at the time of committing the offence, or immediately before or after the commission of the offence, the offender demonstrates towards the victim of the offence hostility based on the victim's membership (or presumed membership) of a racial or religious group; or (b) the offence is motivated, wholly or partly, by hostility towards members of a racial group based on their membership of that group." Article 222A (6) defines that "[...] 'racial group' means a group of persons defined by reference to race, colour, nationality (including citizenship) or ethnic or national origins; 'religious group' means a group of persons defined by reference to religious belief or lack of religious belief."

The Bill entitled the Criminal Code (Amendment) Act, 2008, published in the *Government Gazette of Malta* (No. 18,345, 25 November, 2008), includes new provisions against race-based crime (amongst others). According to the Bill, violence or racial hatred mean "violence or hatred against a group of persons in Malta defined by reference to colour, race, religion, descent, nationality (including citizenship) or ethnic or national origins or against a member of such a group." It includes provisions against people convicted of condoning, denying or trivialising genocide, crimes against humanity and war crimes when this is likely to incite violence or hatred or disturb public order, punishable with imprisonment for eight months to two years. The same penalty is applicable to anyone whose conduct is likely to incite to violence or hatred against such a group or likely to disturb public order or which is threatening, abusive or insulting.

As the EU-MIDIS survey evidently highlights, persons of African origin often do not report cases of racist and discriminative threats and harassment, as they believe that "*nothing would happen or change by reporting, the incident was too trivial and therefore not worth reporting it, or as they think that it's normal as it happens all the time*"¹⁰¹." It is assumed that the situation with regards to other minorities (e.g. persons of Arabic origin) is similar.

The aforementioned research explains that, in the course of 2008, there was a lack of communications between officials (e.g. members of the Police Force) and asylum seekers to motivate the latter to report racist assaults in word and deed, even if the offense would be considered as minor.

VI.iii.ii Counter terrorism

In the course of 2008, no case of global-terroristic threat or related activity has been reported in Malta. No substantial debate on terrorism took place in 2008, neither in the political discourse nor amongst the general public, despite the fact that the subject is often linked to the issue of irregular immigration.

The lack of interest in terrorism is related both to the fact that no *dramatic* terroristic attack occurred in Europe, such as the one of 7 July 2005 in London, which would have put the subject high on the media's and thus the public's agenda; moreover, *the* topic of 2008 was the global economic crisis.

Malta has incorporated the obligations according to UN Security Council Resolution 1373(2001). Moreover, the Government has implemented the following measures to mitigate the possibility of terrorism in Malta:

¹⁰¹ Re European Union Agency for Fundamental Rights, *EU-MIDIS 'at a glance'* (22 April 2009). P.9/Table 4.

- Upon arrival, immigrants are being screened by the Maltese Immigration Police before being detained in closed centres¹⁰².
- A dialogue with leaders of the migrant community has been established, and training to detention centre personnel has been provided so as to check possible extremist threats.
- The Government continued to freeze the financial assets of the organisations listed by the UN as designated terrorist organisations.
- Malta actively took part in the *EU Clearing House* and continues cooperating with other countries to defeat terrorist activities, to avert terrorist financing, to refute safe havens to terrorists, and to exchange information to discontinue the commission of terrorist acts¹⁰³.

VI.iii.iii Racial profiling

The author is not aware about any case of racial profiling being subject of any relevant debate in the course of 2008, and by the time of writing, no information is available on the subject.

VI.iv Social inclusion

The National Report on Strategies for Social Protection and Social Inclusion¹⁰⁴ (2008-2010) “[...] continues to build upon the previous 2006-2008 report even though there are issues such as migration which feature more predominantly in this report”¹⁰⁵. The document emphasises the fact that between January and August 2008, the amount of irregular migrants¹⁰⁶ increased by 61.2 per cent when compared to the same period in 2007. Whilst stressing that Malta can offer only limited resources to support refugees and asylum seekers, both in terms of efforts made by the Government and non-governmental organisations, “the Maltese Government is committed towards ensuring the social integration of immigrants recognised as refugees or beneficiaries of subsidiary protection [...]”¹⁰⁷. However, intra-European “[...]” reallocation, where possible, remains the most logical and effective solution¹⁰⁸.

After the restructuring of the Maltese ministries in 2008, following the national elections, all public service responsible for developing and implementing policy

¹⁰² The immediate and often long detention of irregular migrants is heavily criticised by both Maltese and international NGOs. See e.g. Amnesty International’s Report on Malta of 2008: “Malta continued its policy of automatically detaining migrants and asylum-seekers arriving in Malta, contrary to international laws and standards.” (Available online: <http://www.amnesty.org/en/region/malta/report-2008#>.)

¹⁰³ For further details, see: United Nations High Commissioner for Refugees, *Country Reports on Terrorism 2008 - Malta* (30 April 2009). Available online: <http://www.unhcr.org/refworld/docid/49fac69525.html>.

¹⁰⁴ To download the Report and other documents related to Malta’s National Action Plan on Poverty and Social Exclusion see: <http://www.msp.gov.mt/services/subpages/content.asp?id=1635>

¹⁰⁵ *Ibid.*, p.6.

¹⁰⁶ In contrast to the National Action Plan on Poverty and Social Exclusion 2004-2006, the current report does not refer to *illegal* immigrants.

¹⁰⁷ Re The National Report on Strategies for Social Protection and Social Inclusion, p.10.

¹⁰⁸ *Ibid.*

fall within the responsibility of the Ministry for Social Policy. This should foster a more holistic approach, hopefully leading to more efficient services. One of the main aims of the national social strategies is to promote equality and the integration of disadvantaged groups such as immigrants.

With regards to the National Action Plan on Social Inclusion, “promoting the integration of Third Country Nationals and addressing racism”¹⁰⁹ is identified as one of the main targets. In order to promote equality of opportunity (priority policy objective 3), “Malta intends to advance equality of opportunity and social inclusion by (a) combating discrimination, (b) promoting the integration of Third Country Nationals and (c) mainstreaming social inclusion and antidiscrimination issues¹¹⁰.” Described measures are the promotion of societal diversity (in accordance with the European Year for Intercultural Dialogue 2008) and of the integration of TCNs. The latter is aimed to be achieved by

- (1) supporting the integration of recognised refugees into the labour market¹¹¹;
- (2) encouraging research on the obstacles faced by immigrants to find employment;¹¹²
- (3) ameliorate the use of the migrants’ time in detention through empowerment, the enhancement of prospects after release, and through attractive activities, educational and vocational trainings offered during the detention period so as to ease the detainees’ stress;
- (4) enhancing the well-being of TCNs by improving the conditions in open centres and residents, enhancing reception services, fostering the Assisted Voluntary Return Scheme implemented by IOM and harsher penalties against employers of migrants that have not been granted any status;
- (5) enhancing service provisions by supporting the services offered by OIWAS and civil society organisations (CSOs), and by developing information materials regarding the migrants’ rights and obligations and related to integration;
- (6) raising awareness against racism through trainings for employees in the public sector, human rights campaigns and research on the general public’s perception vis-à-vis racism.

Malta has subscribed to the Open Method of Coordination (OMC). The OMC is applied in areas which fall within the competence of the individual EC Member States, such as employment, social protection, social inclusion, education, youth and training.

Main funding sources for the processes related to integration are EU funding programmes, particularly the European Refugee Fund (ERF II), providing

¹⁰⁹ Ibid. P.23.

¹¹⁰ Ibid. P.29.

¹¹¹ In order to facilitate the refugees’ integration in the labour market, “[...] a Refugee Advisory Service be set up so as to: help refugees find work in Malta; refer them to training as appropriate; and refer them to ancillary services as necessary.” (Chapter 7 Social Policy, p.5: http://finance.gov.mt/image.aspx?site=MFIN&ref=2009_chapter7-pdf).

¹¹² This is a study projected by NCPE.

approximately €4.8 million for the period of 2008 to 2013, and the European Fund for the Integration of Third Country Nationals amounting to €3.7 million (2007-2013). The latter focuses on four strategic areas, namely the implementation of the *Common Basic Principles for immigrant integration policy in the European Union*, research for the assessment of policy advancement and adaption, policy capacity building for government departments and the exchange of experience, best practices and information between EU member states. The ERF II, by choice of the Government, will be used to enhance the implementation of the principles and measures set out in the *Acquis communautaire* in the field of asylum, to develop tools and methodologies to ameliorate the procedures for the examination of requests for international protection, and for actions regarding the sharing of responsibility between EU Member States and Third Countries.

The key targets and actions outlined above take into account the social aspects of migration. However, asylum seekers and refugees are being detained for a maximum period up to 18 months, and the conditions during detention as well as the post-detention prospects are to date insufficient to ensure the integration of TCNs. Language barriers often do not allow migrants to understand their rights and responsibilities and deteriorate the chance for a successful entry in the labour market. Projects like EQUAL implemented by the Foundation for Social Welfare Services, language courses for migrants offered by the Migrants' Solidarity Movement and the Malta Red Cross Society, the assistance through cultural mediators provided by the Jesuit Refugee Service and Médecins sans Frontières, and integration fostering activities by Peace Lab and the Jesuit Centre for Faith and Justice are incentives that enable the amelioration in this regard.

The difficulties many migrants face in using both public and private services can be contained by furthering training courses for service providers and an increase in both educational and awareness raising activities for the general public. As outlined in the chapters of this report, various positive actions vis-à-vis integration, awareness raising and the promotion of diversity have taken place in Malta throughout 2008. Activities focusing on creating a better understanding for the causes of migration, which is in most cases forced and not merely economically motivated, will help decrease the sentiments of fear vis-à-vis *the others*.

However, attending seminars and conferences on issues related to migration, racism and discrimination, one realises that, in most cases, the group discussed is the one least represented. Empowerment is therefore paramount.

VII. National recommendations

VII.i General

- Policies need to be constantly monitored with regards to coherence. Policy coherence and consistence need to be promoted by all stakeholders, with a focus on inclusive measures, human rights, democratic values and sustainable development. Particularly with regards to the latter, the interconnectedness between international development (in terms of poverty eradication in underdeveloped and developing countries) and migration should be emphasised in all spheres: the political, educational, economic and ecological.
- A national educational strategy that promotes educational approaches like Global Citizenship Education, Human Rights Education and Development Education needs to be developed and implemented. This process should involve all educational stakeholders, including experts from the ministries, institutions like the NCPE, NGOs working in education, teachers and administrative school staff, non-formal and informal educators, academia, and TCNs. An educational focus should be set on both, integration and the causes of migration (global poverty and all related issues), whilst emphasising the interconnectedness of the local and global dimension. Preference should be given to a whole-school, cross-curricular approach which fosters the learning of teachers and the active participation of students. Such aspects should be formalised in the National Minimum Curriculum.
- It is paramount that synergies are taking place: increasing collaboration between governmental institutions and civil society and more consultation of the former with the latter; a stronger partnership between NGOs working for the rights of migrants, asylum seekers and refugees, in human rights issues, in development cooperation and in Global Citizenship and Development Education; joint efforts of Civil Society and Maltese Local Councils, as the latter are the governmental bodies closest to the citizens.
- Teachers and educators have to be empowered and trained to educate Malta's young generations towards becoming active local and global citizens, aware of their rights and responsibilities. Concepts for the integration of immigrant children and for the catering for their special needs should be promoted at all educational levels.
- Migrants have to be empowered to organise themselves so as to actively engage in combating racism and in fostering integration.
- Media workers (journalists, editors etc.) should continuously be trained about racism and discrimination, and they should be encouraged to provide in-depth reporting about the causes of migration as well as about the migrants' situation.
- Mechanisms of data collection and evaluation with regards to racism and discrimination have to be improved. Data is needed to support and guide

policy development and implementation, in judicial processes, to provide empirical evidence, for monitoring, sensitising, awareness raising and further research. In-depth, investigative research should focus on causes, forms, extent and the effects of any form of discrimination; therefore, multiple data collection methods need to be applied, as the combination of both qualitative and quantitative research would help creating a more holistic understanding about discrimination in Malta.

VII.ii Anti discrimination

- Information and educational campaigns on issues related to discrimination should be implemented at all levels of society, promoting civil courage and the need to involve all members of society to combat racism and xenophobia.
- The groups vulnerable to discrimination need to be better informed about the importance to report about cases of racism and discrimination, and about the legal and institutional support they may find if they become a victim of discrimination.
- Improvements in the communication between the Police Force and migrants need to take place, so that the latter gains trust in the former. This will improve the motivation of victims of race based discrimination to report such incidents.
- A national strategy and action plan against racism and race and ethnicity based discrimination should be developed in a multi-stakeholder process.
- More awareness needs to be raised with regards to forms of multiple discrimination¹¹³.

VII.iii Migration and integration

- More emphasis needs to be put on the human dimension when discussions on migration take place, in politics, the media and within society at large.
- All stakeholders should be involved in the implementation of the Common Basic Principles of integration. The funds provided by the EU will help financially to implement this process.
- Detention should be restricted to the minimum time necessary, whilst conditions in detention centres have to be improved in all regards. Specific attention should be given to vulnerable groups.
- In-detention activities promoting the integration in society of asylum seekers should be further promoted, whilst post-detention assistance should continue focussing on key areas such as employment and housing.
- The exploitation of migrants in the labour market has to be better investigated, with harsh sanctions against the offender.

¹¹³ A recommendation in this regard was put forward by the People for Change Foundation and will be further developed in 2009.

- Organisations like IOM and OIWAS should be further supported and encouraged to collaborate both with each other and with non-governmental organisations.

VII.iv Criminal justice

VII.iv.i Racism as a crime

- The Convention on Cyber-Crime and its additional protocol should be ratified.
- Any form of hate speech, transmitted through whatever medium, should be criminalised.
- More awareness raising on race based crime should be undertaken, both for the general public and the possible victims of such crimes. This should involve all stakeholders, governmental and non-governmental, working against racism and discrimination.

VII.iv.ii Counter terrorism

- It is understood that terrorism is an extreme form of intolerance which represents a serious threat to fundamental rights. Whilst Malta should continue incorporating its obligations according to UN Security Council Resolution 1373(2001), it must be ensured that counter-terrorism measures are conducted in the framework of human rights and anti-discrimination and do not have a disproportionate impact on ethnic and religious minorities. Anti-racism is a key element in preventing terrorism.¹¹⁴

VII.iv.iii Racial profiling

- The Code of Ethics has to be promoted and adhered to by all members of the Police Force. Forms of race based prejudice within the forces should be addressed through training and capacity building.

VII.v Social inclusion

- Social inclusion measures for migrants should be approached holistically, ensuring the migrants' integration in and thus positive contribution to society.

¹¹⁴ Re European Network Against Racism, *General Policy Paper No. 4: Counter-terrorism and combating racism* (November 2007); pp.4. Available online: http://cms.horus.be/files/99935/MediaArchive/pdf/gpp_4_en.pdf.

VIII. Conclusion

It is an inherent aspect of the human psyche to distinguish oneself from the other, to want to belong to a group that is to some extent homogenous in itself and different from others, and to *categorise* and *cluster* the world around oneself in order to understand it. Unfortunately, sometimes, these features are reflected in discriminative thinking and behaviour, leading to xenophobia, racism and discrimination.

It is to emphasise that when speaking about racism, it is only a *minority* of Maltese citizens and non-Maltese residents that can be described as actively and consciously discriminating others on the grounds of race. However, a number of people are seemingly unaware about the fact that a certain 'funny' email they forward or a comment they make has a racist tendency, even if no harm might have been intended. It is important to rethink one's action, attitude and behaviour in order to avoid any form of discrimination towards others. Especially with regards to the education of children and young people who would obtain patterns of discriminatory behaviour unconsciously (often to both, the *learner* and the *educator*) through racist comments of their parents, siblings or friends, it is paramount that we all become more cognisant about any form of discrimination infused in our words and deeds.

Important measures to help migrants in need and to combat racism and discrimination have taken place in 2008. The work of NGOs and institutions like OIWAS and IOM to ameliorate the situation of asylum seekers both in and post detention have contributed to a better integration of migrants into Maltese society, albeit this is a process that has to be tackled long-term and holistically. However, the conditions in the detention centres as well as of migrants seeking housing, employment or access to health care, goods and services still require improvement. Recent years have seen progress in legal terms to provide for the inclusion of migrants into society and to combat racism. Research and testimony make evident, however, that the actual situation of most members of the groups vulnerable to racial discrimination has not as yet significantly changed. More awareness, social exchange and involvement of all parts of society, including the potential victims of racism, need therefore to be fostered in the future.

Policy coherence, particularly with regards to international development, migration and the economy, and the development and implementation of national strategies and action plans (and their focus on coherence) on Development Education, the integration of Third Country Nationals and on the fight against racism and discrimination are paramount to fight xenophobia and discrimination holistically. Only a process that focuses on a long-term approach will be successful.

It can be understood that most of the Maltese are to some extent worried about the high amount of irregular immigrants arriving in Malta. However, one must remember that most, if not all of the migrants are not economic ones, but that they are escaping from a context of insecurity in their home country, be it war, political instability and human rights violations, genocide, other forms of manmade disaster or natural disasters that are increasingly enforced if not caused by climate change. They are forced to leave, so as to protect themselves and their families. The drive to survive at all cost is inherent to all human beings. They are, therefore, not to blame.

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The author sincerely thanks all those who assisted in the writing of this report. Without their help, support and expertise, this document could not have been realised.

X. Annex 1: List of abbreviations and terminology

ABBREVIATIONS:

DG EAC	European Commission Directorate-General for Education and Culture
EAPN	European Anti Poverty Network
EC	European Commission
ECRI	European Commission against Racism and Intolerance (ECRI)
EU	European Union
EUMC	European Monitoring Centre on Racism and Xenophobia
FRA	European Union Agency for Fundamental Rights
GWU	General Workers' Union
IOM	International Organisation for Migration
JRS	Jesuit Refugee Service
MdM	Médecins du Monde
MFA	Ministry of Foreign Affairs
MFSS	Ministry for the Family and Social Solidarity
MJHA	Ministry for Justice and Home Affairs
MPG	Migration Policy Group
MSF	Médecins Sans Frontières
MSP	Ministry for Social Policy
NCPE	National Commission for the Promotion of Equality
NGDO	Non-Governmental Development Organisation
NGO	Non-Governmental Organisation
OIWAS	Organisation for the Integration of Asylum Seekers
REFCOM	Office of the Refugee Commissioner
SKOP	<i>Solidarjetà u Kooperazzjoni</i> – The National Platform of Maltese NGDOs
TCN	Third Country National
UNHCR	Office of the United Nations High Commissioner for Refugees

TERMINOLOGY:

Racism

The Oxford English dictionary defines *racism* as (a) “the belief that there are characteristics, abilities, or qualities specific to each race” and (b) “discrimination against or antagonism towards other races”.¹¹⁵ According to the United Nations Educational, Scientific and Cultural Organisation (UNESCO) Declaration on Race and Racial Prejudice, “racism includes racist ideologies, prejudiced attitudes, discriminatory behaviour, structural arrangements and institutionalised practices

¹¹⁵ Definition of ‘Racism’ in *Compact Oxford English Dictionary of Current English*. 3rd Edition.(2005).

resulting in racial inequality as well as the fallacious notion that discriminatory relations between groups are morally and scientifically justifiable; it is reflected in discriminatory provisions in legislation or regulations and discriminatory practices as well as in anti-social beliefs and acts; it hinders the development of its victims, perverts those who practise it, divides nations internally, impedes international co-operation and gives rise to political tensions between peoples; it is contrary to the fundamental principles of international law and, consequently, seriously disturbs international peace and security.”¹¹⁶ In the context of this report, based on the aforementioned definition, racism means any form of race-based discrimination and prejudice in word and deed.

Racial discrimination

Racial discrimination is a direct result of racism and/or a means through which racism is manifested. A number of international, regional and national human rights legislations and instruments impart legal and political protection against racial discrimination. The United Nation’s (UN) *International Convention on the Elimination of All Forms of Racial Discrimination* (1965)¹¹⁷, for example, states that “[...] the term ‘racial discrimination’ shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life” (Part1,Art.1.1).

Asylum¹¹⁸

[Asylum means] the grant, by a State, of protection on its territory to persons from another State who are fleeing persecution or serious danger. A person who is granted asylum is a refugee. Asylum encompasses a variety of elements, including permission to remain on the territory of the asylum country, and humane standards of treatment.

Asylum seeker

Someone who claims to be a refugee and whose request or application for asylum has not been finally decided on by a prospective country of refuge. An asylum seeker must usually undergo a legal procedure in which the host country decides if he qualifies for refugee status. International law recognises the right to seek asylum, but does not oblige states to provide it.

¹¹⁶ Article 2.2 of the Declaration, adopted by General Conference of the UNESCO at its 20th session, on 27 November 1978. Available online: http://www.unhchr.ch/html/menu3/b/d_prejud.htm.

¹¹⁷ See the websites of the Office of the UN High Commissioner for Human Rights (UNHCR): http://www.unhchr.ch/html/menu3/b/d_icerd.htm.

¹¹⁸ The following glossary on *Asylum, Asylum seekers, Detention, Humanitarian protection and Undocumented/irregular/illegal immigrant* has been retrieved from the Jesuit Refugee Service Malta’s website; see: <http://jrsmalta.org/resources.html>.

Detention

Confinement within a narrowly bounded or restricted location, including prisons, closed camps, detention facilities or airport transit zones, where freedom of movements is substantially curtailed, and where the only opportunity to leave this limited area is to leave the territory.

Humanitarian protection

An increasing number of people, although falling outside the scope of the legal definition of the term 'refugee' are still in need of protection. The Refugees Act grants humanitarian protection to such asylum seekers who, in the opinion of the national Refugee Commissioner, cannot return safely to their country. It is a temporary form of protection, so far granted primarily to people fleeing countries torn apart by civil strife and characterised by complete breakdown of law and order. The status of humanitarian protection does not entail any rights and benefits, which may be problematic if persons have to stay for a longer period in Malta.

Integration¹¹⁹

Integration takes place simultaneously at the individual, family, and general community and State levels, and occurs in all facets of life: in fact, integration can easily span a generation or more. Consequently successful integration policy must engage the local, regional, and national institutions, with which immigrants interact, in both the public and private realms. The development and implementation of integration policy is therefore the primary responsibility of individual Member States rather than of the Union as a whole.

Migrants¹²⁰

While distinct from refugees and asylum seekers, [migrants] may have to leave their country of origin because they do not have access to adequate food, water, health care or shelter, or in order to ensure the safety and security of themselves and their families. Many migrants leave for a combination of reasons.

Undocumented/irregular/illegal immigrant

All terms used to describe a vast category of people who travel from one country to another in an irregular or clandestine matter, as well as those whose stay in a country is illegal, meaning not according to national and international laws and regulations governing travel and stay.

¹¹⁹ Council of the European Union. 2004, Press Release 14615/04 (Presse 321), 19 November; p.15.

¹²⁰ Médecins Sans Frontières. "NOT CRIMINALS - Médecins Sans Frontières exposes conditions for undocumented migrants and asylum seekers in Maltese detention centres" (April 2009), p.5. Available online: www.msf.org/source/countries/europe/malta/2009/2009_04_report_Malta.pdf.

