Report on national migration policies and
its impact on the situation of members of minorities in
Malta

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# Workpackage WP2

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1. Citizen Demographics

The Maltese Islands consist of three inhabited islands namely Malta, Gozo and Comino, and two uninhabited islands Cominotto and Filfla. The main island is Malta, with a maximum length of 27.359km and a maximum width of 14.48km, and accommodates 90% of the Maltese population.

Situated at the centre of the Mediterranean Sea, Malta is the smallest member of the European Union with the highest population density (circa 414,000 inhabitants) and also one of the most densely populated countries in the world with about 1,298 inhabitants per square kilometre.

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1 Data extracted from Malta in Figures 2008 published by the National Statistics Office, Malta ISBN 978-99909-73-64-8 / ISSN 1726-1392
2 http://www.lib.utexas.edu/maps/europe/malta.gif
3 Data extracted from Malta in Figures 2008 published by the National Statistics Office, Malta ISBN 978-99909-73-64-8 / ISSN 1726-1392
The Maltese society is considered well-placed as regards to literacy and circa 92.8% of the total population aged over ten years of age can read and write. The country’s expenditure on education stood at 4.82% of the GDP in 2004 while partial data for 2005 showed a rise in expenditure to 6.76% of the GDP. 0 indicates the marked increase in the further and higher education Malta student population over the years.

Tertiary education in Malta is offered mainly by the University of Malta, which provides services for 97% of the total tertiary level student population. The number of students enrolled at the University of Malta in 2008 was 9,508 with an additional 239 in the private sector.

Private providers provide programmes leading to qualifications awarded by foreign universities. The private sector provides for 7% of all tertiary level programmes offered in Malta, often in niche areas not provided for by the University of Malta, and predominantly from U.K. universities. The overall share of students participating in the private sector is 3% of total students in tertiary level education.

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4 Statistics extracted from indexmundi Malta Demographics Profile 2008 http://www.indexmundi.com/malta/demographics_profile.html
7 NCHE Further and Higher Education Statistics 2008
8 NCHE Further and Higher Education Statistics 2008
9 NCHE Further and Higher Education Statistics 2008
2. Migration: history, trends, main groups

The term 'immigrants' is not found in national statistics. Malta has traditionally been a country of emigration and only started to experience the arrival of refugees and immigrants only recently. Mainly until Malta’s EU accession, the terms ‘returned migrants’ and ‘non-Maltese nationals' were commonly used to describe immigrants coming to Malta. ‘Returned migrants’ refers to those Maltese people who return to settle in Malta after having emigrated to another country. Especially after the Second World War, the migratory flow was outwards, mostly to the four main receiving countries – Australia, Canada, United Kingdom and the USA. According to the Emigrants Commission 160,000 Maltese migrated from Malta during the last fifty years. However, the number of emigrants has dwindled drastically. In 2002 only 96 persons (46 males, 50 females) left Malta to settle overseas. On the other hand, the number of returned migrants for that same year was 382 persons.10

The term ‘non-Maltese nationals’ refers to those persons of other nationalities settling in Malta, the majority of which are still coming from the UK. There has also been an increase of migrant workers who are given a work permit for a definite period of time when local skills demanded by the employer are lacking.11

Due to increased mobility, and socio-economic changes, Malta has clearly changed from a country of emigration to a country of immigration over the last decade. Over recent years, Malta together with Italy and Cyprus has increasingly moved into the European spotlight as a main receiving country for migrants from the African continent. Since 2002, Malta has experienced a growing influx of migrants predominately from the Horn of Africa, practically all of which have departed from the Libyan coast towards Europe. Even though, in absolute terms, the total number of sea-borne migrants landing on Malta has been rather modest, the impact in proportional terms – given the country’s small size and very high population density - has been higher than in most European countries. Consequently, irregular immigration has become one of Malta’s top policy priorities, nationally as well as the EU level, where Malta has been calling for burden-sharing mechanisms and support from other EU countries. Moreover, boat migration across the Mediterranean has also become an increasingly pressing humanitarian challenge; it is estimated that, in recent years, several hundred would-be immigrants have died every year in the Mediterranean trying to reach the EU from the south.12

The phenomenon of irregular migration, mainly involving people from North and Sub-Saharan African countries has seen a sharp increase in the years starting with

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10 Emigrants Commission seminar on migrants
http://www.maltamigration.com/about/foma/convention2000/full/topic0b.shtml
12 Erika Feller: Mediterranean migration: a comprehensive response, FMR newsletter 26,
Malta’s EU accession until approximately 2008. It has often been mentioned that this is mainly due to Malta’s geographic position, at the crossroads of the Mediterranean and on the threshold of Europe.

The National Statistics Office has no data concerning clandestine migration. It states that ‘the absence of exact figures and a shortage of reliable studies concerning clandestine migration from the south of the Mediterranean into Europe also applies to Malta’.13

According to latest UNHCR figures there are 5,955 registered refugees and 1828 asylum seekers in Malta. Furthermore, between 2005 and 2010 alone, Maltese authorities received over 9000 asylum applications mainly from people from the sub-Saharan African region which corresponds to 21.6 asylum applications per 1000 inhabitations which is about 8% less than in 2008. Most asylum applications in 2009 were submitted by people from Somalia (1445), followed by people from Nigeria (280) and Eritrea (273) as well as Guinea, Malia and Gambia. Preliminary studies by UNHRC for 2010 suggest a slight decrease of asylum applications compared to previous years. Besides stricter border controls by Libya, a common Frontex mission and a new “forced return” policy adopted by Italy whereby irregular migrants intercepted on high-sea are returned to Libya are among the main reasons responsible for this decline. The latter practice has been the subject of fierce debate recently as this practice could restrict the right of possible refugees to lodge asylum requests in Malta or other European countries.14

The most important reason for people with a migration background from non-western countries to apply for asylum or some other form of protection in Malta is country instability. Such ‘instability’ accounts for 28 per cent of cases in 2007/2008. The second most important reason given (19 per cent) is discontent with the political system, governing party, or dissatisfied with its performance. A third and most sincere reason for claiming asylum (15 per cent) is economic; poverty, drought, bad pay, lack of job opportunities and harsh labour conditions. As many as 10 per cent left because they did not want to undergo military service in their home country, while 9 per cent had committed, or been accused of having committed, a criminal act of one kind or another. Others said they had family problems (6 per cent); or religious problems (5 per cent), such as wishing to convert from Christianity to Islam or vice-versa; while two per cent wished to further their education in Malta, such as learning English.15

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3. Migrants: unequal opportunities, challenges for integration

Malta is currently the only EU country which practices a policy of automatic detention of all irregular migrants setting foot on Malta, regardless of whether they are asylum-seekers or not. So far, the government’s strict detention policy has been the most contentious aspect of its immigration policy, as the country has repeatedly come under fire from human rights and other organizations, including the Council of Europe. These organizations have not only criticized Malta’s policy of indiscriminate detention as such, but also the conditions in Malta’s detention centres, which are considered as falling far below international standards and as worse than in any other EU country.16

In 2007/2008 approximately 1,400 persons were detained in the country’s four detention centres of which currently only one is being fully used. In March 2009 there were still 1911 immigrants held in detention centres. However, due to the recent decline in the number of migrants arriving at the Maltese shores, the number of people currently held in detention centres is as its lowest level since 2004 with just 235 people. Most of these have applied for asylum and are awaiting the outcome of their application for refugee status. At present, irregular migrants are detained for a maximum duration of twelve months (if they have applied for asylum but have not yet received a final decision on their claims) or eighteen months (if they have not applied for asylum or if their asylum claims have been finally rejected). However, prior to the adoption of government policies fixing these maximum terms, they have been detained for longer periods.17

There is also currently no automatic judicial review of detention. The Maltese authorities have pointed out that, under Article 25 (A) 10 of the Immigration Act, detainees can apply to the Immigration Appeals Board to have their detention reviewed. Civil society organisations consider that the remedy provided for by Article 25 (A) 10 of the Immigration Act does not meet the requirements of Article 5(4) of the European Convention on Human Rights (ECHR) which concerns judicial review of the lawfulness of detention. In this respect, in June 2006, the Civil Court decided to exercise its powers to review the detention of an applicant on the basis of Article 36 of the Constitution of Malta (Protection from arbitrary arrest or detention) and Article 5 of the ECHR (Right to liberty and security), considering that the applicant did not have a remedy available that was appropriate to the breaches of the rights alleged.18

16 UN working group on arbitrary detention concludes visit to Malta http://www.unhchr.ch/huricane/huricane.nsf/view01/125F21AAD7DC8D1AC125754A0057F318?opendocument
The conditions of detention centres in Malta have been the subject of extensive national and European attention. Conditions well below minimum standards, including those concerning hygiene, the maintenance of facilities, overcrowding, the protection of privacy and provision of food and healthcare have been highlighted in many centres. However, progress has been made in a number of areas as for example in the provision of food and access to healthcare, with, for instance, private doctors visiting some of the detention centres five days a week. Overall, however, conditions are still reported to be seriously below minimum standards.\(^{19}\)

Currently, the only detention centre being fully used is the one in Safi, while the other two in Hal Far and Ta’Kandja are only partially occupied, which is however likely to change during the summer months as the influx of immigrants, refugees and asylum seekers is usually higher during this period due to the good weather conditions.

Another point of concern regarding the detention centres is the lack of organised activities, and notably of training and learning opportunities. This situation is reported to have negative consequences on the detainees’ mental well-being which has also negatives consequences for potential integration opportunities. Maltese authorities have repeatedly argued that Malta is not the migrants’ intended final destination and that therefore integration measures targeting this group of persons have not so far been a priority. However, in practice most detainees are eventually released and a considerable number of them obtain humanitarian protection or refugee status. The in most cases considerable duration of the detention also has negative effects on learning opportunities, including language or work-related training or the provision of general knowledge about the functioning of society.\(^{20}\)

Persons belonging to vulnerable categories, such as families with minor children, unaccompanied minors, pregnant women, persons with disabilities and elderly persons are not detained. However, it has been noted previously that the process of identifying and releasing persons who belong to some of these categories may take several weeks or months. Concern has also been expressed at limitations on access to detention centres by the media and, to a lesser extent, by civil society organisations. It has been stressed that such lack of transparency limits the opportunities to improve conditions in the centres as well as opportunities for the general public to become aware of migrants’ experiences and therefore less hostile towards them. A number of organisations, such as the Jesuit Refugee Service, the Emigrants’ Commission, the Red Cross and the Peace Laboratory, regularly visit detention centres and provide services to detainees. Once released from detention, refugees, asylum seekers and immigrants are accommodated in open centres that are run either by the State authorities (the Ministry for the Family and Social Solidarity) or by civil society organisations (including the Emigrants’ Commission). Generally speaking, conditions in open centres that accommodate persons belonging


\(^{20}\) ibid
to vulnerable categories of migrants are reported to be good. In the other open centres, however, conditions vary. Whereas until recently several hundred persons were accommodated in tents in inadequate conditions at the State-run Hal Far open centre, located just opposite the Hal Far detention centre, conditions at the Marsa open centre are reported to be considerably better.\textsuperscript{21}

The total number of immigrants housed in Open Accommodation Centres (including Church Centres) as at September 2008 was about 2400. While the physical state of the Open Centres is a key issue, there are also other conditions affecting migrants which are unsatisfactory. For example, the calculation and entitlement to the Daily Allowance has been reviewed only recently. Asylum seekers and refugees living in open centres receive a fortnightly grant of €66. This grant was introduced in the beginning of 2007 to replace the subsistence in kind which used to be provided and therefore includes food and beverage as well as transport and the like. However, it needs to be noted, that the Daily Allowance tends to institutionalise living in Open Centres, whereas there is a need to encourage disadvantaged people with a migration background to live in the community. This would not only reduce costs since the Daily Allowance would no longer be paid after a reasonable period, but also lead to the gradual process of integration into the community.

Before 2002, in the absence of a national mechanism to deal with claims by asylum seekers, applications for refugee status in Malta were received, processed and determined by the United Nations High Commissioner for Refugees in Rome and his decisions were subsequently implemented by Malta. However, in 2000 Malta enacted the Refugees Act. Besides defining the rights and duties of asylum seekers and refugees, this Act, which came into force on October 1, 2001, also provided for the establishment of the Office of the Refugee Commissioner and the Refugee Appeals Board in Malta.\textsuperscript{22}

Reflecting the increase in the number of irregular migrants, a sharp rise in asylum applications has been registered until 2008. Thus, from January 2002 to May 2007, the Office of the Refugee Commissioner (the national institution responsible for first-instance asylum decisions) processed 4303 asylum applications involving 4817 persons. Around 4% of all applicants have obtained refugee status and approximately 45% of them have been granted humanitarian protection. While these figures indicate that approximately half of all asylum applicants are granted some form of international protection, they also reportedly reflect a tendency to grant humanitarian protection to applicants who, in some cases, may qualify for refugee status.\textsuperscript{23}

\textsuperscript{22} EUNET Integration Network: http://www.eunet-integration.eu
Asylum seekers do not currently have access to free legal aid in first instance asylum proceedings before the Office of the Refugee Commissioner, although they can be represented by a lawyer at their own expense. At present, the Jesuit Refugee Service provides, through EU funded projects, free legal assistance to asylum seekers, including in some cases assistance in proceedings before the Office of the Refugee Commissioner.  

The situation regarding access to information available to irregular migrants on their rights, including the right to seek asylum has improved over the last years. On arrival, irregular immigrants are given an information booklet, available in three languages, by immigration officials. The Office of the Commissioner for Refugees also gives out various documents, including a preliminary questionnaire, available in several languages, which is filled in by the person in question as an indication of his or her intention to apply for asylum. Less progress is reported to have been made in the area of providing asylum seekers with professional interpretation and translation services, a circumstance that negatively affects their possibilities to fully present their cases. As in many other European countries, the growth in irregular immigration into Malta has been accompanied by a rise in anti-immigrant and racist attitudes and activities. Even though these have overall remained at a relatively low level, the emergence of overtly xenophobic movements and parties has been a complete novelty in Malta's political landscape. Moreover, there has been a rise in attacks against organizations and individuals working to protect the rights of immigrants, or against people denouncing racism. In 2006, for the first time, a number of violent acts were committed against the Jesuit Refugee Service in Malta, and the houses of two journalists who had written articles condemning racism were also attacked.  

A study on xenophobic attitudes among the Maltese population has also revealed that in 2005, 95% of respondents had no objections to having a European neighbour, while an almost equally high number were unwilling to live next to Arabs (93%), Africans (90%) or Jews (89%). Moreover, more than 75% of respondents said they would not give shelter to refugees who had fled their home country because of political persecution, war, hunger or poverty.  

Discriminatory refusal of members of ethnic minority groups in bars and discotheques occurred on quite a regular basis in recent years. However, most occurrences of this type are not formally reported and as a general rule, the only instances that come to the attention of the Maltese authorities seem to be those that escalate into violence. Despite existing legislation (Equal Treatment of Persons Order) which clearly covers these instances there is reported to be at present very little awareness of the legal  

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24 Jesuit Refugee Service (JRS). 2006. Asylum in Malta: What you should know: Guide to the asylum procedure for immigrants in detention. JRS in collaboration with the European Refugee Fund and the UNHCR.  
26 ibid
framework in force and of the need to respect it among those involved in the management and security of these establishments.

The possibility of former residents of open centres to find accommodation in the private market are given but are reported to be still very rare occurrences. When they leave, however, former residents cannot go back to the centres and lose their entitlement to the allowance. Some civil society organisations have expressed the view that this system is excessively geared towards keeping the immigrants in the centres and tends to be delaying their integration in the community. There were also instances of discrimination regarding renting of accommodation in the private market. Such difficulties are linked partly to their work situation, because their employment is often precarious and/or undeclared. However, racial discrimination is also reported to play a role.\textsuperscript{27}

4. (Un-)Equal Opportunities in School

The legal framework regulating the education of refugees and asylum seekers is found in the Refugees Act\(^{28}\) (2000) which incorporates the obligations Malta acceded to under the Geneva Convention, 1951 and the 1967 Protocol. Regarding the treatment of asylum seekers it states that “an asylum seeker shall also have access to state education and training in Malta.”\(^{29}\) As to the rights of refugees, “a person declared to be a refugee shall be entitled to have access to state education and training in Malta.” Those persons who are granted humanitarian protection also entitled to receive free state education, which does however not apply to people with a migration background whose application for asylum, refugee status or humanitarian protection is still pending. Legal notice 259/2002 regulates the education of children of migrant workers. These children will be given state education and will be given support in the learning of the official languages.

The education background of asylum seekers and refugees is as varied as each individual. It ranges from illiteracy to a high standard of education. However, since most pupils with a migration background come from countries where there is conflict, schooling is interrupted thus depriving many young people of their basic right to education. Besides being denied an education, one also has to keep in mind the trauma asylum seekers and refugees go through – living in a war-torn country, deciding to leave, travelling in appalling conditions and finally arriving in a foreign country where they are put in detention centres till their application is processed.

Statistics show that in 2005 there were a total of 619 primary school students with a migration background (335 students in Government schools, 284 in private schools)\(^{30}\). In 2006 most asylum-seeking appellants in Malta had either never attended school and were illiterate (40 per cent, or 289) or else they had attended primary school classes (36 per cent or 267). Only 17 per cent had been to a post-primary or secondary school (125), 5 per cent had been to a high school, and 2 per cent (14) to a tertiary institution such as a college or university. In other words, in 2006 some 76 per cent were illiterate or semi-literate while in the previous year the corresponding percentage was 68 per cent. Some 10 per cent in all had been to secondary school, high school, college or university. These statistics can be misleading because many of these appellants are coming from farming backgrounds. This means that while lacking a formal schooling several among them would have had practical experience in herding, farming, breeding, dairying or crop production of various kinds. However, from the point of view of integration, this places further

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\(^{28}\) Malta, Laws of Malta, Act XX of 2000 (The Refugees Act)

\(^{29}\) Malta, Laws of Malta, Act XX of 2000 (Refugees Act), Part III

\(^{30}\) National Statistics Office Malta (2005): Education Statistics 2005, p18; p.103

pressures on a small island state such as Malta, where secondary education has been compulsory since 1947 and university provides free education since 1970. It increases the need for more resources to combat illiteracy and it may well make any integration more difficult. Unfortunately farm land is extremely limited, with agriculture accounting for a small fraction of GDP, so there is little scope for any farming expertise to be put to good use on the island.

Statistical or research data on the performance of students with a migration background in specific subjects or school categories is not available. Students with a migration background (excl. irregular migrants) have theoretically equal access to education in Malta and they generally do not follow a separate curriculum. But if they are found to be weak they are entitled to receive special lessons to suit their needs. This is a complementary service that the Education Division offers to all its students, irrespective of race and origin. A number of peripatetic teachers are assigned to schools and give lessons, usually in Mathematics, English and Maltese, to those students who are weak in these subjects.

From the needs analysis that was conducted prior to this report it became apparent that many teachers consider the level of motivation of migrant students from North or Sub-Saharan Africa to be generally lower compared to the motivation of other students with a migration background. This is also in line with the findings of a study regarding social relations in a multi-cultural setting in one state school in Malta. This particular school is situated in a popular tourist area, with relatively inexpensive accommodation. As a consequence it has a high rate of foreign students, asylum seekers, refugees as well as children of migrant workers and others who have a non-Maltese national parent. The study notes a negative attitude towards these pupils by some teachers. An example of this is that teachers were in most cases able to identify the nationalities of their foreign students but when it came to African students they generalised their country of origin as coming from somewhere in Africa. The teachers’ perception of their academic achievement was also negative.31

In addition to poor language skills, a disadvantaged socio-economic background, or other socio-cultural factors as being an important factor in impeding educational achievement of migrant students.

So far, there has not been a revision of textbooks to omit any prejudiced material nor is there an awareness of including inter-cultural aspects in the materials currently available to teachers. The general perception by the Education Department is that students with a migration background do not stay long enough for an evaluation of the impact of complementary education.

31 Azzopardi, D. and Gauci, I. (2003), Social Relations in a Multicultural Setting: The Case of a Primary School in the North of Malta. Unpublished dissertation for the B.Education (Hons) course for the University of Malta p. 70
5. Actions for more justice in school

Best practice examples to improve the current learning environment for students with a migration background mainly coming from African countries are rare, although civil society organisations have repeatedly stressed that there is an urgent need for more teaching in schools about different religions, cultures and societies.

Activities in place are usually organised by the teachers and schools on an ad-hoc basis and are therefore not part of the official school curriculum. Furthermore, the Jesuit Refugee Service, has been implementing an important programme aimed at raising awareness of refugee issues and promoting appreciation of cultural diversity among school students through extra-curricular activities organised in secondary schools. The School Outreach Programme has received the endorsement of the Ministry of Education, Youth and Employment includes, for example, the opportunity for Maltese students to meet refugees and listen to their stories, the reasons why people leave their country and the problems they faced both on their journey and in the country where they sought refuge. Typically school visits as part of the school outreach programme consist for example of sharing of personal experiences by people who have suffered discrimination, cultural activities, such as food tasting, hair braiding, drum circles, etc., panel discussions, presentations and role plays. The JRS Outreach Programme mostly addresses Secondary Schools at the moment but the methodology can generally be adapted depending on the age group and other factors.

Furthermore, the Office of the United Nations High Commissioner for Refugees (UNHCR) provides an educational Toolkit on Migration and Asylum in Europe. The toolkit called ‘Not Just Numbers’ is a toolkit about migration and asylum in the European Union designed to help teachers and other educators to engage young people in informed discussion on this subject. It is suitable for young people between the ages of 12 and 18.

Further steps have been taken to train teachers in human rights, in co-operation with the non-government sector. For instance, Amnesty International has been running in-service courses for Personal and Social Development (PSD) teachers and a human rights education programme for children. However, further opportunities have to be created in order to improve the current opportunity situation in the Maltese educational system. Among others, further opportunities for students with a migration background to learn Maltese and English have to be provided. There is also an urgent need of more differentiated teaching and learning materials as well as

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32 [www.jrsmalta.org](http://www.jrsmalta.org)
improved syllabi that specifically cover topics such as human rights in order to accelerate integration of immigrants into the Maltese society.