



european network against racism

# ENAR Shadow Report 2010-2011

## ENAR SHADOW REPORT

### **Racism and related discriminatory practices in Malta**

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**The People for Change Foundation**

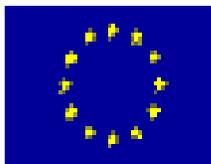
Racism is a reality in the lives of many ethnic and religious minorities in the EU. However, the extent and manifestations of this reality are often unknown and undocumented, especially in official data sources, meaning that it can be difficult to analyse the situation and to establish solutions to it.

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.

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## I. Executive summary

Racism and racial discrimination continued to be prevalent within the Maltese context over the period under review. In different ways and to varying degrees, the lives of ethnic minorities in Malta were affected by prejudice and disadvantage. The aim of this report is to provide a snapshot of these issues as well as developments and positive initiatives that occurred between March 2010 and March 2011.

A number of communities are considered to be vulnerable, to varying degrees, to racism and racial discrimination in Malta. As with previous years, the category of people most vulnerable remained third country nationals, most notably, African migrants particularly those arriving from the Libyan shores in order to seek asylum in Malta. Muslims also experience discrimination and prejudice whilst multiple discrimination is a common occurrence.

The manifestations of racism and discrimination in employment have remained largely constant over the past years. These include difficulties in accessing employment, non-recognition of qualifications, glass ceiling effect, as well as problems within employment including harassment.

- Promote the development of good equality, diversity and inclusion policies and practices into the strategy, operation and culture of individual organisations and companies.

In the context of housing the key issues remained discrimination in the private rental market, the continued policy of automatic detention and the conditions in open centres which were, in some cases, described as inadequate and falling below the desired standard.

- An Information Sheet regarding the relevant anti-discrimination legislation to be disseminated to property owners. Moreover, an information sheet on rights and obligations of tenants is to be prepared most notably for newly arrived migrants. Both sheets are to be distributed to and through estate agents.

Within the sphere of education positive developments were noted including moves towards intercultural learning whilst the report finds that children are generally well integrated within the school environment although some cases of racial bullying have been reported.

- In collaboration with the Education Authorities develop a national intercultural education strategy with reference to equality/diversity legislation and policy.

In the field of healthcare, the period under review was marked by the discontinuation of MSF's operations on the island and barriers to accessing healthcare due to prejudice and language barriers. However, the report also commends important developments in this regard most notably measures undertaken by the Migrant Health Unit.

- Develop, in collaboration with the relevant health authorities and through the setting up of a broadly based advisory group, an intercultural health strategy with reference to equality and diversity policy.

The report also discusses issues of prejudice by the police and relations between ethnic minorities and the police as well as experiences of racist violence and crime. It draws out a number of trends in this regard.

- Put in place the mechanisms to encourage victims and witnesses of racist incidents to report such incidents.

In terms of access to goods and services the key areas of concern remained access to bars and places of entertainment as well as, in some cases, public transportation. The report notes, however, a positive development in the form of non-members of ethnic minority communities standing up for the rights of those being discriminated against.

- Ensure that all service providers are aware of their obligations under anti-discrimination legislation including through the dissemination of information sheets

The media produced largely mixed reporting of migration and ethnic minority issues. Whilst it took up cases of discrimination and gave them prominence, it also continued to use terminology and headlines which were likely to support xenophobic attitudes. The report also discusses proceedings relating to racism on the media and how exposure of far right ideologies were addressed in the period under review.

- Compilation of best practices from different fields on awareness-raising on social issues.

The legal framework around racism and discrimination remained unchanged over the reporting period. Awareness of the legislation and remedies associated with it remained critically low. The National Commission for the Promotion of Equality commissioned the Drafting of a National Action Plan Against Racism and Xenophobia however at the time of writing no measures had been made to formally adopt the action plan. Indications of implementation of particular measures were however noted. In the context of migration the key developments

included the launch of the 'new temporary humanitarian protection and the transposition of the EU Returns Directive.

- Adopt and implement without delay a National Action Plan Against Racism based on the draft Plan as commissioned by the National Commission for the Promotion of Equality.

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### III. Introduction

Racism and racial discrimination continued to be prevalent within the Maltese context over the period under review. In different ways and to varying degrees, the lives of ethnic minorities in Malta were affected by prejudice and disadvantage. The aim of this report is to provide a snapshot of these issues as well as developments and positive initiatives that occurred between March 2010 and March 2011.

The report is part of a broader set of reports commissioned by the European Network Against Racism and providing similar and comparative snapshots from across the European Union. The report builds on existing research and perspectives in order to present the view of civil society on the current state of play of racism and racial discrimination and efforts undertaken to combat it. As such, it builds on research conducted over the period under review by a variety of entities, including The People for Change Foundation (which is also the author of the present report), other Non-Governmental Organizations members of ENAR Malta, academics, official sources, the Fundamental Rights Agency and others. It provides a unique collection of perspectives that we believe fairly illustrates the situations and experiences of ethnic and religious minorities within the Maltese context.

In the field of **employment**, the report highlights difficulties in accessing employment, a glass ceiling effect and racial harassment within employment as well as issues with regularisation of employment. It also notes positive initiatives such as the setting up of employment support offices within the main open centres. In the field of **education**, it reflects a review of the National Minimum curriculum and calls for a revised understanding of national identity in order to ensure that the education system does not perpetuate discrimination. It notes the lack of prioritisation of education for the migrant community and positively notes efforts to support language training for the same. In the field of **healthcare**, a number of positive initiatives are noted including the extension of cultural mediation services and training for medical professionals. The role of the Migrant Health unit is commended whilst conditions in detention which are detrimental to the health of migrants are condemned. In the field of housing, the report criticises the policy and conditions of detention and open centres whilst also referring to discrimination in the private rental market. **Discrimination in access to goods and services** is also noted most notably with regards to places of entertainment and public transport whilst a positive reaction by members of the majority population to stand for the rights of those being discriminated is also

commended. **Issues of racist crime and racial profiling** are also addressed highlighting a number of trends in this regard including characteristics of type and locations of violence, aggressors and victims. **Media reporting** is also a critical issue with the use of terms and statements likely to support xenophobic attitudes.

## IV. Communities vulnerable to racism and discrimination

A number of communities are considered to be vulnerable, to varying degrees, to racism and racial discrimination in Malta. As with previous years, the category of people most vulnerable remained third country nationals, most notably, African migrants particularly those arriving from the Libyan shores in order to seek asylum in Malta. This finding was previously confirmed by the EU MIDIS report<sup>1</sup> commissioned by the Fundamental Rights Agency and there are no indications of changes in this trend.

Such migrants often have stereotypical and prejudicial views of 'Africans' attributed to them, namely being arrogant, criminal, having no respect for the rule of law, mistreating women and being intent on taking Maltese people's jobs.

The period under review saw a sheer drop in the number of boat people arriving in Malta (from 2775 in 2008 to 47 in 2010 – see chart below). This was largely due to agreements and push back activities carried out by the Italian government in collaboration with Libyan authorities. The Arab spring is likely to reverse this trend. In fact, 1530 individuals arrived in Malta via this channel in the first half of 2011.

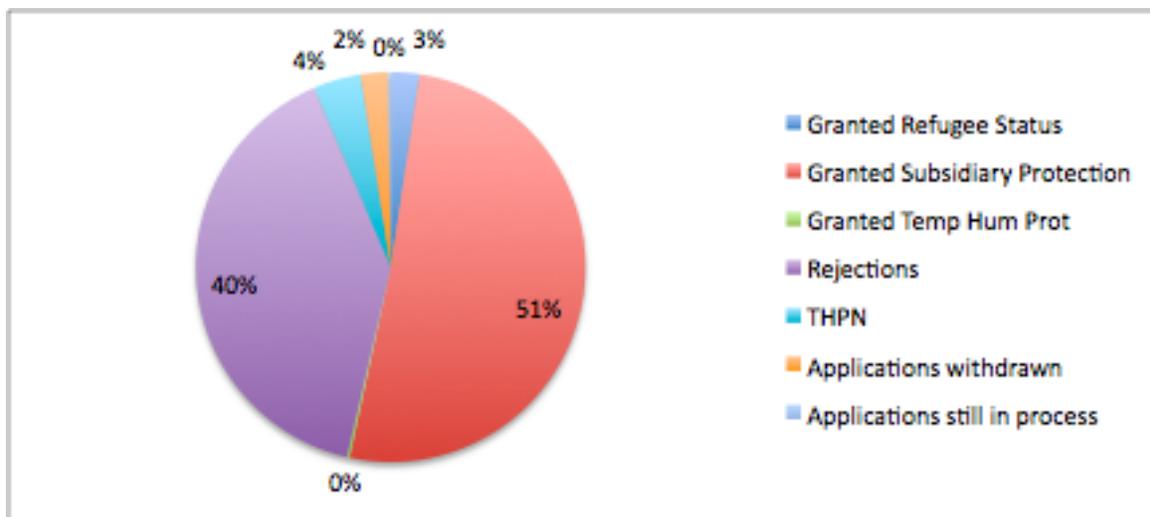
The period under review was not only marked by the drop in the number of arrivals of asylum seekers but also in the implementation of various resettlement initiatives both to the USA and to various European countries. The EU relocation project, for which the Maltese government has lobbied tirelessly with its European counter-parts saw the fruit of this in the course of the reporting period. A total of 564 people were resettled from Malta between 2010 and 2011.



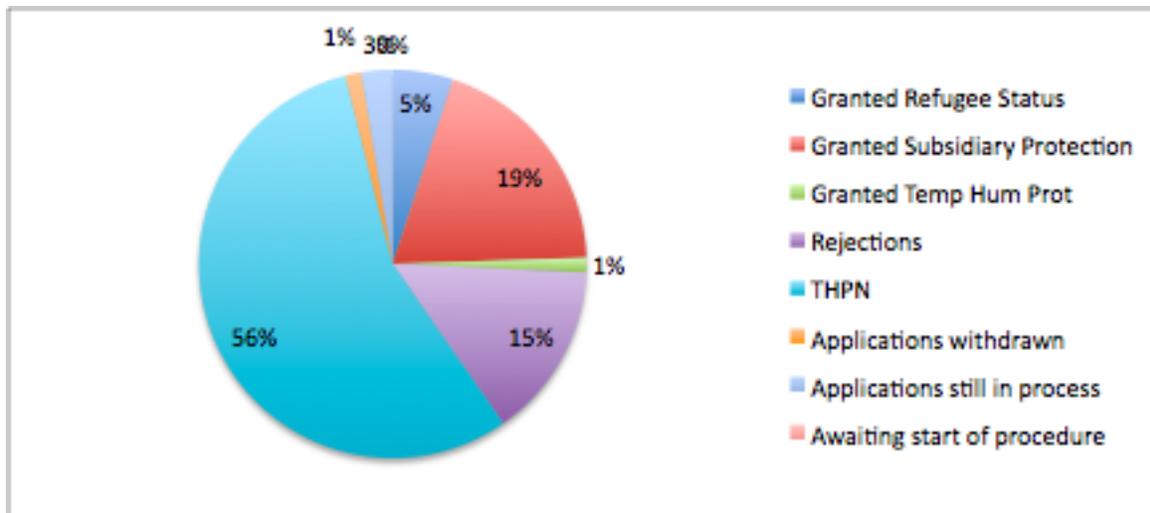
Chart 1: Arrival of Board People between 2008 and 2010 Source: National Statistics Office.

<sup>1</sup>EU-MIDIS: European Union Minorities and Discrimination Survey; 2009/2010

It is interesting to note that whilst discussions on migration have tended focus on and emphasise the role of irregular migration into Malta, statistics indicate that this is only a minimal part of migration. The National Statistics office's data indicates that in 2010 only 8% of all migrants into Malta were third country nationals and only a marginal amount of of these would have entered Malta irregularly. 77% of migrants were EU nationals. In 2010, a total of 689 third country nationals immigrated into Malta whilst 1271 left the island (balance -582). This can be contrasted with EU nationals where 6265 immigrated into Malta and 2820 left the island (balance: +3445). Malta had a total population (nationals and foreigners combined) of 413,000 whilst the migrant population in Malta is of 16700 (4%) including 5400 (1.3%) EU nationals and 11,300 Third country nationals (2.7%). By 2011, largely as a result of positive net migration the total population increased to 417,608. It is to be noted that the drop in arrivals over the course of 2010 was also reflected in the easing of tensions regarding the issue. The Euro-barometer 2011<sup>2</sup> found that the number of people who mentioned migration as the most pressing issue facing Malta dropped considerably when compared to previous years. It stood at 24% in Spring 2010 and 16% in Autumn. Individuals who 'look like they're migrants' often also face discrimination.



<sup>2</sup> See in this regard: [http://ec.europa.eu/public\\_opinion/archives/eb/eb73/eb73\\_fact\\_mt\\_en.pdf](http://ec.europa.eu/public_opinion/archives/eb/eb73/eb73_fact_mt_en.pdf)



It is important to note at this stage that in theory, asylum seekers and persons enjoying international protection enjoy substantially more rights than other third country nationals. This is in areas such as access to employment as well as healthcare and social support. In practice however, they remain susceptible to discrimination as status is rarely an element which is considered by individuals. As such, one's status as an asylum seeker or beneficiary of protection (BOP) is often ignored whilst one's status as a 'boat person' or 'immigrant' takes precedence. Therefore there is a growing need to raise awareness regarding the different communities living in Malta and their legal status and rights. On the other hand, one must be careful to avoid situations where legal status is used to scapegoat particular communities as this can be particularly harmful to undocumented migrants as well as rejected asylum seekers.

A number of other communities also face discrimination. These include religious most notably (but not exclusively) the Muslim community. The EU MIDIS<sup>3</sup> research found that over 70% of young Muslims in Malta had experienced discrimination. Some groups, albeit marginal ones, have sought to use the 'threat' of Islamic law in other areas: for instance, during the debate preceding the divorce referendum, a Catholic website is quoted as quoting experts highlighting that Malta's change of stance over divorce would effectively 'show weakness to radical Muslims, who could capitalise on Malta's push towards secularism to push for Islamic laws'.<sup>4</sup> It is to be noted that the anti-divorce movement distanced itself from these views.

<sup>3</sup> [http://fra.europa.eu/fraWebsite/attachments/EU-MIDIS\\_MUSLIMS\\_EN.pdf](http://fra.europa.eu/fraWebsite/attachments/EU-MIDIS_MUSLIMS_EN.pdf)

<sup>4</sup> <http://www.catholicnewsagency.com/news/if-malta-votes-divorce-some-fear-the-winner-will-be-radical-islam/>

Multiple-discrimination is also a common occurrence. The demarcation lines between race, religion and nationality (real or presumed) are often blurred, resulting in individuals being discriminated against for a variety of reasons. The situation of female migrants is also noteworthy as their vulnerability often increases. It is to be noted, however, that general apprehension towards migrants tends to focus more on men than on women. Humanitarian rather than economic motivations are often attributed to women but not to men. Discrimination on the basis of sexual orientation is also rampant in Malta, and LGBT members of the migrant community often face discrimination both from the public at large and within their own communities.

## V. Racism and related discrimination in employment

Employment is a field in which racism and discrimination is widespread. The EU MIDIS report had found that 42% of respondents (Africans) had experienced discrimination when looking for employment whilst 27% had experienced discrimination at the workplace. The consultation process leading to the drafting of the National Action Plan Against Racism and Xenophobia (NAPARX)<sup>5</sup> as well as anecdotal evidence indicate that the situation has not substantially improved over the reporting period.

Employment is also an area of major importance when assessing the integration of foreigners in a particular country. It is to be noted, however, that residence rights for particular categories of third country nationals is intimately linked with employment meaning that when or if the employment comes to an end, the residence permit will also not be renewed and the individual will be legally obliged to leave the country. Malta's policy framework goes beyond the legal provisions when it comes to the issuing of work permits to individuals who have been through the asylum system. A number of initiatives have been proposed to support the legal employment of beneficiaries of protection.

'According to administrative records held at the Employment and Training Corporation, the full-time gainfully occupied population during March 2011 amounted to 147,355, while those registering for work numbered 6,662. This resulted in a labour supply of 154,017, up by 1,712 (1.1 per cent) when compared to the previous year.<sup>6</sup> A total of 3511 third country nationals were employed in Malta in 2010. 755 of these were persons who had been through the asylum system. 5443 European nationals were similarly employed. TCNs therefore form 2.15% of the labour market with EU nationals forming 3.34% thereof.<sup>7</sup>

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<sup>5</sup> Equality Research Consortium (2010). National Action Plan Against Racism and Xenophobia. The draft action plan was drafted by The People for Change Foundation as part of the Equality Research Consortium. It was commissioned by the National Commission for the Promotion of Equality as part of the Strengthening Equality Beyond Legislation Project. At time of writing, the action plan had yet to be formally adopted through the political and governmental channels and as such remained merely a draft even if a number of activities suggested within it had been taken up in project applications being drafted by NCPE.

<sup>6</sup> As quoted by the National Statistics Office: 150/2011 available at: [http://www.nso.gov.mt/statdoc/document\\_file.aspx?id=3090](http://www.nso.gov.mt/statdoc/document_file.aspx?id=3090), accessed 28 August 2011.

<sup>7</sup> *ibid*

## **VII.i Manifestations of racism and related discrimination in employment**

The manifestations of racism and discrimination in employment have remained largely constant over the past years. These include difficulties in accessing employment, non-recognition of qualifications, glass ceiling effect, as well as problems within employment including harassment.

Ethnic minorities generally and especially migrants often found it difficult to access long term and stable employment linked to their particular set of skills and qualifications. A number of employers refuse to recruit persons of ethnic minority background despite the legal framework prohibiting such discrimination. Various migrants recount stories of being told that there's no place for them in the company even if the company would in fact be advertising jobs. Others narrate stories of being asked for contact details but never being contacted again. There are a number of possible explanations for these difficulties. Many migrants often explain their difficulty in finding employment against the size of the labour market, highlighting that Malta is simply too small. Others however, acknowledge the barriers that racism and discrimination create to obstruct their possible employment. A further issue is the lack of recognition of skills and qualifications which results in individuals working in jobs which are not up to the level of skills and/or qualifications which they have. Individuals who find employment often note that this does not offer them stability of income in the sense that they are not sure how long it will last. Many migrants work in 'patchwork' meaning that they are given jobs from one day to the next. These conditions also hinder possibilities of moving into private accommodation. Even those who manage to find stable employment often face the 'glass ceiling effect' meaning that they find it very difficult to progress within their place of work, hindered by their ethnicity or migrant status.

Moreover, another key concern is the regularisation of employment. Despite measures against it, various employers prefer to recruit individuals without filing the necessary paperwork. This leads to situations where the migrant is not in a position to achieve remedies for violations of his rights or even when legislation is not abided by. The requirement of having the employer apply for one's work permit (as applies in the case of asylum seekers and rejected asylum seekers) increases the likelihood of these situations occurring.

This is closely linked to the issue of exploitation, most notably through the payment of substantially lower salaries than those paid to Maltese and/or

European workers for the same work. The Maltese Criminal Code<sup>8</sup> defines exploitation as ‘including requiring a person to produce goods and provide services under conditions and in circumstances which infringe labour standards governing working conditions, salaries and health and safety.’<sup>9</sup> Whilst this definition is provided within the context of defining the crime of human trafficking it provides a clear indication of how the term can be understood more broadly. The definition is a positive one in setting a relatively low threshold of abuse to amount to exploitation.

There is very little hard evidence on the actual wages of migrant workers. However, anecdotal evidence indicates that those who have been through the asylum system are paid much less, and very often up to half of what their Maltese counterparts are paid for the same work. No data is available with regard to European and Asian workers although, especially for the latter, there is reason to believe that their situation is similar to that of sub-Saharan Africans.<sup>10</sup> Whilst Malta has legislation regulating minimum wages and conditions of work, many migrants find themselves in a situation where they are not registered for work and therefore cannot enforce their rights. Many feel that they do not have a choice but to accept the jobs that are offered in order to meet the financial pressures of living in Malta and sustaining a family back home. Anecdotal evidence indicates health and safety requirements are sometimes more relaxed when the employee in question is a migrant worker.

Experiences in the place of work vary. Some note that within employment migrants manage to make friends and co-workers are welcoming. The migrants often consider themselves integrated within their place of work. Others, however, experience hostility from their co-workers which sometimes takes the form of racist bullying and harassment.<sup>11</sup>

Maltese individuals who are from a minority ethnic or racial background often face some of the same problems experienced by migrants even if their legal rights to employment are more straightforward. Discrimination occurs in this context as well, mainly due to the presumption that ‘if you’re black, you must be a migrant’.

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<sup>8</sup> Chapter 9 of the Laws of Malta

<sup>9</sup> Article 248A.

<sup>10</sup> See in this regard: Gauci; Migration and the Labour Markets in the EU: Country Case Study Malta, International Organisation for Migration 2010

<sup>11</sup> These experiences are collected and compiled from conversations undertaken by the author and other representatives of the People for Change Foundation with various migrants in the course of conducting other pieces of research. Whilst they are not formally compiled through specific research projects they are a reflection of anecdotal evidence compiled.

Furthermore, the situation at the end of employment is far from ideal. In a letter to the government, a local NGO 'Migrants' Network for Equality', made up of a network of various migrant communities, summarised the situation as follows:

The last point we would like to mention in this letter is the situation of persons who end up without employment. We find that it is unjust that there are many of us who have worked legally for a number of years, and have paid their taxes, but they are not entitled to any benefits when they suddenly find themselves without a job. They cannot even go back to receiving the small allowance given every month by signing at an Open Centre.<sup>12</sup> You can imagine how hard life can be for a person who has ended up without a job and with no source of income. This hardship is exacerbated in those cases in which persons lost their job because they were injured at work, of which there are quite a few, given the high-risk jobs many migrants perform."<sup>13</sup>

#### **Examples of NGO Good Practice**

##### **Employment Support Initiative for Refugees and Beneficiaries of Protection**

In 2010 the Agency for the Welfare of Asylum Seekers (AWAS) launched a project aimed at facilitating the legal employment of beneficiaries of protection. The project included the setting up of two employment support offices close the main open centres. The role of the offices is to offer guidance to migrants on legal employment as well as conditions of employment as well as to keep track of the available skills in order to facilitate job-skill matching.

#### **VII.ii The political and legal context**

The institutional and policy framework regarding discrimination in employment remained unchanged over the reporting period. The National Commission for the

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<sup>12</sup> Open centres are accommodation centers residents of which may enter and leave at their own will and time. They are offered as accommodation for persons released from detention and are intended to serve as temporary accommodation centers until their residents can find stable employment and move into independent accommodation. For a more in depth analysis of the open center system see: Gauci 2010; Housing Asylum Seekers in Malta

<sup>13</sup> Migrants' Network for Equality (2010). Open letter to Hon. Carmelo Mifsud Bonnici. Retrieved from <http://c256.r56.cf3.rackcdn.com/c6b274ab6257f09f4bf461fa74c278d8711740472.pdf>, accessed 28 August 2011.

Promotion of Equality does not have competence to cover racial or religious discrimination in Employment, this is in contrast with the situation of gender discrimination where NCPE has competence. The relevant equality body in this field is therefore the Department of Industrial and Employment Affairs and the Industrial Tribunal.

Third Country Nationals undergo a 'labour market test' in order to be granted a work permit for Malta meaning that the permit will only be issued provided that the employer can prove that no Maltese or European Union national is able and willing to take the job. Refugees and persons enjoying subsidiary protection are issued a work permit automatically and this is to be renewed every year. Asylum seekers and rejected asylum seekers may be issued a work permit however the application must be filed by their prospective employer and the permit is, as such, linked to the specific job. The legal framework allows for the labour market test to be applied to persons enjoying subsidiary protection, however, this is not currently being implemented. Asylum seekers are given access to the labour market as soon as they are released from detention, which is usually (except in the case of vulnerable persons) 12 months after arrival. Employment is presumed to be one of the indicators applied in the decision to grant 'new temporary humanitarian protection'. Access to unemployment benefits is restricted only to convention refugees and EU Nationals. Other categories of migrants are not entitled to unemployment benefits notwithstanding having made the relevant number of National Insurance Payments.

The Employment and Training Corporation (ETC) issues work permits to all categories of migrants and liaises with the Central Visa Unit and the Directorate of Citizenship and Expatriate Affairs for the issue of corresponding visas and residence permits. ETC also employs labour inspectors to assess conditions of employment as well as the legality thereof. Penalties may be imposed on persons found working illegally. The Health and Safety Authority continues to oversee the implementation of health and safety legislation in the workplace. Trade Unions remained largely missing from the debate around discrimination and integration in the labour market. Whilst some Unions had issued positions in previous years, no developments were recorded on this front during the reporting period.

Research commissioned over the reporting period by the International Organisation for Migration, and conducted by The People for Change Foundation

assessed the impact of migration on Malta's demography and its labour market.<sup>14</sup> The research addressed primarily the legal migration of third country nationals and confirmed the trend mentioned elsewhere that TCNs were largely being recruited to fill gaps in the labour market until such time as Maltese or European workers were willing and had the skills to fill such gaps. Anecdotal evidence, on the other hand, indicates that the work being done by beneficiaries of protection is that work which Maltese people are no longer willing to undertake as indicated in previous reports and confirmed by the General Workers Union in its 2008 position paper<sup>15</sup> on the issue. The same research noted that population projections for Maltese citizens in 2050 forecast that the working population aged 15-64 would decrease by 16 per cent, and expect the population aged over 65 to grow by 81 per cent. This, in turn, calls for a revision of Malta's restrictive migration policy if current levels of growth of the labour market and Malta's economy more broadly are to be sustained.<sup>16</sup>

A project launched over the reporting period, sought to address the situation of illegal employment by beneficiaries of protection. (BoPs often gathered around the road close to the centre soliciting employment. This employment was often un-regulated and led to exploitation) The project is funded under the European Refugee Fund and is entitled: 'Employment Support Initiative for Refugees and Beneficiaries of Protection'. The partners in the project are the Agency of the Welfare of Asylum Seekers, the Employment and Training Corporation and the Foundation for Shelter and Support to Migrants (FSSM). The project effectively set up employment support offices in the two largest open centres. The role of the offices is to offer guidance to migrants in regard to legal employment, as well as conditions of employment, and also to keep track of the available skills in order to facilitate job-skill matching. At time of writing it was too early to assess the impact of the project. The project is, however, considered to be a positive initiative and initial data indicates that it has exceeded expectations in terms of interest both by migrants and by employers. The project partly responded to a statement by the General Retailers and Traders Union that, back in 2008, acknowledged that a number of small- and medium-sized enterprises in construction, repairs, and especially in the waste management sector, depended highly on migrant labour. The GRTU had proposed to regularise the system based on a temporarily casual work relationships and on effectively sustaining

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<sup>14</sup> Gauci JP; Migration and the Labour Markets in the EU 2000-2009, Country Case Study Malta; International Organisation for Migration 2010

<sup>15</sup> General Workers Union (2008). The Migrant Worker

<sup>16</sup> See supra 13 at page 208

businesses who need a regular flow of workers, though not necessarily the same individuals, to meet their obligations under contract.<sup>17</sup>

They had proposed that the informal temporary work system be regularised in order to create what they see as a win-win solution for employers and migrants seeking work. Whilst the offices engage in a degree of job-skills matching, they are not intended to act as a temping agency.

The draft 'Action Plan Against Racism' addresses employment as a priority area and suggests actions to (i) combat discrimination in employment; (ii) promote diversity management strategies within the public and private sphere; and (iii) raise awareness of the relevant frameworks within all relevant entities.<sup>18</sup> The proposed measures include: the dissemination of information to employers, encouragement to relevant entities to review recruitment processes, capacity building on diversity management, the piloting of an anonymous applicant project, the clarification and facilitation of DIER<sup>19</sup> Procedures for reporting instances of discrimination, adequate enforcement, implementation of positive action measures, provision of employability enhancing courses, the promotion of positive images, dissemination of information, as well as further research. Such further research should seek to address the situation of ethnic minorities in the labour market since most existing research has tended to focus on migrant workers, however has not addressed the situation of other ethnic and religious minorities.

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<sup>17</sup>The statement is available here: [http://grtu.net/data/index.php?option=com\\_content&task=view&id=553&Itemid=44](http://grtu.net/data/index.php?option=com_content&task=view&id=553&Itemid=44)

<sup>18</sup> Equality Research Consortium (2010). National Action Plan Against Racism and Xenophobia

<sup>19</sup> Department of Industrial and Employment Relations

## VI. Racism and related discrimination in housing

### VIII.i Manifestations of racism and related discrimination in housing

Malta continued to apply its policy of automatic detention of all irregular immigrants irrespective of whether they apply for asylum.<sup>20</sup> For some months during the reporting period the number of persons detained was relatively low due to the sharp decline in arrivals between 2009 and 2010<sup>21</sup> and there were improvements in the status determination proceedings as carried out by the Office of the Refugee Commissioner.<sup>22</sup> This, coupled by recent refurbishment works in detention centres resulted in improved conditions in detention.<sup>23</sup> The CoE Human Rights commissioner noted these improvements but also highlighted a number of other issues including the failure to provide for a diversified diet and limited access to medical facilities.<sup>24</sup> The Commissioner noted that, in the circumstances of his visit, conditions in detention ‘appeared to be considerably better than those in open centres’.<sup>25</sup> It is to be noted that arrivals increased again in 2011 which means that the numbers of persons detained has also gone up. This, in turn, significantly impacted the adequacy of existing detention facilities and therefore the conditions in detention. This reality was predicted also in the Commissioner’s report.

The conditions in open centres vary with the smaller and medium sized centres offering adequate arrangements but the larger centres being deemed as falling below standards. The Hal Far Tent Village and Hangar are considered to be the worst off. The CoE Human Rights Commissioner<sup>26</sup> found the ‘conditions in the tent village at Hal-Far to be clearly inadequate even for short periods of time’ and recommended that it be closed. The report adds that ‘following the new arrivals from Libya since the Commissioner’s visit, conditions have reportedly worsened at the hangar complex too, where vulnerable groups such as families with children and pregnant women have been accommodated.’<sup>27</sup> The Commissioner went on to call on the Maltese authorities to ensure that material conditions in

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<sup>20</sup> See law and policy section below for a brief overview of the policy and its critique.

<sup>21</sup> See section on ‘Communities vulnerable to racism’ above.

<sup>22</sup> A report by the Auditor General published in June 2011 found that

<sup>23</sup> For in depth research on the Conditions of Detention and their impact on Asylum Seekers see JRS Malta: Becoming Vulnerable in Detention.

<sup>24</sup> Para 20

<sup>25</sup> Ibid

<sup>26</sup> Council of Europe; Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visit to Malta from 23 to 25 March 2011; CommDH(2011)17; Strasbourg 2011

<sup>27</sup> Ibid Section I

detention and open centres that hold migrants meet adequate standards of living at all times, in accordance with the standards of the ECHR and the Social Charter.

The key problems for immigrants moving out of open centres into durable housing solutions are: stability of income through employment, discrimination in the housing market and access to social housing. Difficulties in accessing long term stable employment result in difficulties to secure private accommodation. Moreover, the policy framework is such that if an individual leaves the open centre and moves into independent accommodation it is difficult for him or her to be accepted back into the system. This often deters individuals from taking the risk of moving into their own place.

Moreover, anecdotal evidence indicates widespread discrimination in the rental market with home-owners often creating ethnic restrictions on who may or may not rent their property. It is sometimes noted that such restrictions are sometimes made against Maltese nationals as well as foreigners. Ethnic minorities, and most notably Arabs and Africans are, however, most widely affected by such restrictions. There are no indications that the situation has improved from the situation as it stood in previous years.

The consultation process leading up to the drafting of the NAPAR found that discrimination from neighbours is sometimes felt vis-à-vis foreigners (who are sometimes looked down upon, spoken to rudely or even name-called) but also vis-à-vis Maltese people with African friends. For instance, one community leader told the story of a Maltese person being called 'rubbish' by her neighbours for having African friends over.<sup>28</sup>

The concentration of centres in particular areas, as well as the conditions within the centres, have created a situation of ghettoisation likely to hinder integration. The research on the housing of asylum seekers<sup>29</sup> found that over 60% of migrants accommodated in open centres lived in one of the centres in Hal Far, which is a largely uninhabited depopulated industrial area. On the pretext of avoiding ghettoisation, AWAS sought to restrict economic activities in the centres and curtail businesses which had already been opened (with the permission of centre management) at the Marsa Open Centre. These restrictions were met with resistance from members of the communities living in the centres as well as those directly involved in the businesses. It is noted that such businesses are not

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<sup>28</sup> Equality Research Consortium (2010). Report of the Consultation Process leading to the drafting of the National Action Plan Against Racism and Xenophobia

<sup>29</sup> : Gauci 2010; Housing Asylum Seekers in Malta

the only or major reason behind the ghettoisation in the centres. Moreover, particular areas are more likely to be inhabited by migrants, partly due to the cost of rent in the specific area. Apartments tend to be overcrowded with more people than the expected numbers living within the accommodation, in order to reduce costs.

The **Malta Emigrants Commission** continued to run a medium sized open centre hosting beneficiaries of international protection. They also provided a number of private apartments to individuals and families allowing BOPs to live in the community.

### VIII.ii The political and legal context

Over the period under review, Malta continued to apply its policy of automatic and mandatory detention of asylum seekers for a maximum of 12 months and a maximum of 18 months in the case of rejected asylum seekers and other irregular immigrants. Detention<sup>30</sup> is applied under the provisions of the Immigration Act<sup>31</sup> and applies irrespectively of an application for asylum under the provisions of the Refugee Act.<sup>32</sup> The time limits on detention are not expressly stipulated in the law. The reception regulations<sup>33</sup> indicate that asylum seekers should be granted access to the labour market after 12 months of their asylum applications. By analogy, this requirement has been taken to impose the 12 months restriction on the detention of asylum seekers (i.e. Those who, having filed an asylum claim, are still pending a final determination thereof).

Detention is based on the basis of a removal order or a decision to refuse admission. The removal order can be challenged in front of the Immigration Appeals Board. However, the board may only grant such release in limited circumstances namely 'where in its opinion the continued detention of such person is taking into account all the circumstances of the case, unreasonable as regards duration or because there is no reasonable prospect of deportation within a reasonable time'.<sup>34</sup> The act provides further limitations on the exercise of this discretion namely linked to cooperation as well as to when the identity of the

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<sup>30</sup> For an in depth analysis of the legal basis and legal requirements of detention see [http://detention-in-europe.org/index.php?option=com\\_content&view=article&id=150&Itemid=183](http://detention-in-europe.org/index.php?option=com_content&view=article&id=150&Itemid=183), accessed 28 August 2011.

<sup>31</sup> Chapter 217 of the Laws of Malta

<sup>32</sup> Chapter 420 of the Laws of Malta

<sup>33</sup> Regulation 10(2) of the Reception Regulations

<sup>34</sup> 25A(9)

individual has yet to be verified or where the release of the applicant could pose a threat to public security or public order. Article 409A of the Criminal Code<sup>35</sup> also provides any detainee with the possibility of applying to the Magistrate's Court to challenge the lawfulness of his detention however this remedy has, thus far, not been accepted by the Court. The Jesuit Refugee Service has noted how in each of the three occasions on which this remedy was sought 'the First Hall of the Civil Court justified detention on the basis of national security concerns as the Court highlighted the need to "avoid a flood of 'irregular' people running around in Malta".<sup>36</sup>

The policy continued to come under severe criticism from various quarters including a judgment of the European Court of Human Rights in July 2010 (Application no. 24340/08). The case addressed the detention of an individual whose asylum claim had been rejected, who had previously been convicted of smuggling<sup>37</sup> and for whom there were indications that deportation would not be taking place. The court found a violation of Article 5(1) (right to liberty and security) and 5(4) (right to challenge the legality of restrictions on liberty) of the European Convention and awarded the applicant 12,000 Euros in non-pecuniary damages. Commenting on the judgment the Maltese Government noted that 'the violation found by the Court referred to the failure by the authorities to continue with the preparations for deportation. This judgment cannot be extrapolated to other cases where the authorities continue with their efforts to remove the person during the 18-month detention period.'<sup>38</sup> As such, it is assumed (although one hopes this is the wrong assumption) that the judgment will not result in a change of policy in this regard.

The Council of Europe Commissioner for Human Rights also spoke of detention in his report following the visit to Malta. He noted that he considers this policy irreconcilable with the requirements of the European Convention on Human Rights (ECHR) and the case-law of the Strasbourg Court, especially following the above-quoted judgment. He strongly encouraged the Maltese authorities to bring their policy and practice relating to the detention of migrants into line with the ECHR and give full effect to the above judgment of the Court. As part of this process, he continued, speedy and effective remedies should be available to migrants to challenge their detention. In line with Resolution 1707 (2010) of the

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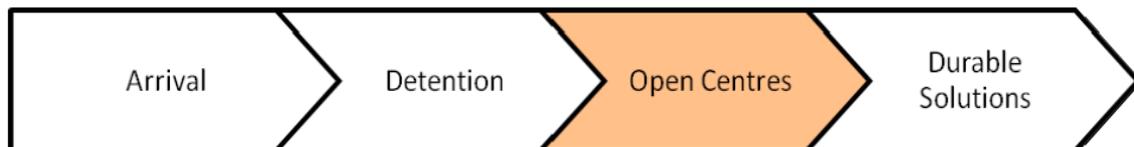
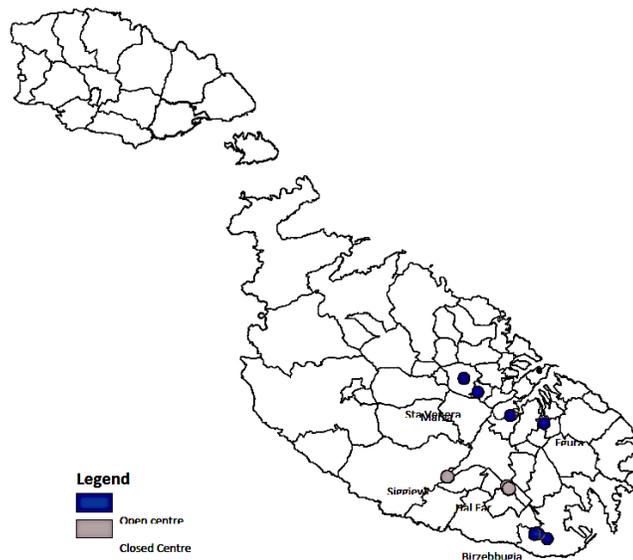
<sup>35</sup> Chapter 9 of the Laws of Malta

<sup>36</sup> [http://detention-in-europe.org/index.php?option=com\\_content&view=article&id=150&Itemid=183](http://detention-in-europe.org/index.php?option=com_content&view=article&id=150&Itemid=183), accessed 28 August 2011.

<sup>37</sup> The case dealt with the administrative immigration detention and not imprisonment for the crime committed.

<sup>38</sup> Government of Malta; Reply by the Government of Malta to the Report by the Commissioner for Human Rights of the Council of Europe; 2011; pg. 3

Council of Europe Parliamentary Assembly, the Maltese authorities should also provide for the presumption in favour of liberty under national law, and establish a framework for the implementation of alternatives to detention. Referring to this comment, the Maltese Government noted in its response that it 'does not subscribe to the conclusions that the Report draws from this judgment' claiming that it felt 'uneasy at the way the Commissioner addressed this issue and would have preferred a more prudent and cautious approach.'<sup>39</sup> The Maltese government has consistently defended the policy of automatic detention despite the source of its criticism. A number of organisations, including the UNCHR and some NGOs, promoted the consideration of alternatives to detention.



The Network of Open Centres continued to be administered by the Agency for the Welfare of Asylum Seekers (AWAS).<sup>40</sup> The open centres have become an integral part of the migration management model adopted in Malta. The centres can be grouped into three categories namely: the large open centres, the medium-sized centres and the small centres. Whilst overall management is entrusted to AWAS some of the centres are owned and managed by NGOs

<sup>39</sup> *ibid*

<sup>40</sup> Agency set up within the Ministry for Justice and Home Affairs by Subsidiary Legislation 217.07.

whilst others are managed directly by the Agency. As highlighted above, the conditions in the centres vary. Linked to residence in open centres is the granting of an allowance, considered by the Government to be a food and transport allowance for residents in the centres but which is considered to fall short of the requirements of 'core social benefits' as required (at least with regards to beneficiaries of protection) by the Qualification Directive<sup>41</sup> and national legislation. The daily allowance ranges from Euro 4.66 to Euro 2.91 a day depending on the status of the individual and whether they have previously left the system.<sup>42</sup> It is subject to registration requirements aimed to limit the allowance only to those not in employment. These restrictions, however, often have an impact on individuals who might find work for one or two days as this can result in losing the allowance

The National Action Plan for Social Protection and Social Inclusion, in terms of housing, provides that asylum seekers' wellbeing should be enhanced by tapping available EU funds for the improvement of reception conditions in line with international standards and improving conditions in open centres and residential homes.<sup>43</sup>

Social Housing is available only to recognised refugees and not to persons enjoying subsidiary or temporary protection. The rental market is managed by private landlords and agencies and is therefore sometimes difficult to regulate. It can be noted however, that The Equal Treatment of Persons Order does prohibit racial discrimination in housing.<sup>44</sup> Over the reporting period no cases were filed with National Commission for the Promotion of Equality (NCPE) regarding racial discrimination in housing. Religious discrimination is not explicitly prohibited in this area.

Appropriate accommodation is also a condition for the granting of long term residence status to third country nationals. Article 5(2)(b) of the Long Term Residence Directive<sup>45</sup> requires proof of appropriate accommodation that is not shared with any other person or persons not being family members regarded as normal for a comparable family in Malta and which meets the set standards. The standards are to be set via publication in the Government Gazette and are to be

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<sup>41</sup> 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

<sup>42</sup> See in this regard: Gauci 2010; Housing Asylum Seekers in Malta

<sup>43</sup> Suret il-Bniedem: Housing Report (no date) Page 23.

<sup>44</sup> Regulation 4(d)

<sup>45</sup> Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents

revised at 5 year intervals. The conditions also apply to recognised refugees applying for long term residence in Malta.

The draft NAPARX also dedicates a section to housing and accommodation in specifically addressing issues of discrimination therein. It sets out goals to combat and reduce instances of discrimination in housing, ensure that all involved are aware of their rights and obligations and develop a clear understanding of the situation of ethnic minorities in housing as the key objectives in the area. It then proposes a number of measures including awareness raising of rights and obligations to all relevant parties, training for estate agents, the development of a model code of practice, ensuring that homeless shelters and similar entities do not discriminate in the provision of their services and the carrying out of further research into the situation of ethnic minorities which research is to include situation testing. Awareness raising of the illegality of racial discrimination in this area is therefore considered critical.

## VII. Racism and related discrimination in education

Education is a critical tool for the achievement of a racism free country. The links between equality and racism are two fold. On the one hand, one must address inequalities and discrimination within the education system itself and on the other hand, education can be used as a tool for raising awareness and creating a culture of equality within the country in question. The period under review saw, for the first time, an equality review of Malta's National Minimum Curriculum<sup>46</sup> as well as a number of initiatives and developments which linked education to anti-discrimination. The ongoing review of the National Minimum Curriculum provides a golden opportunity to both address discriminatory elements as well as channel the education system towards an inclusive society. The report recommends that 'explanations and exploration of the meaning and practice of equality should be dealt with differently as children progress through the education system, having gained broader intellectual and cognitive exposure and development. Simplification of equality and non-discrimination, however, should not be reduced to pigeonholing, and should not present absolutes, providing instead sets of both knowledge and skills that will serve as a foundation for later exploration.<sup>47</sup> Moreover, one must also look at education beyond the primary and secondary school and address issues also in informal and non-formal educational settings.

### IX.i Manifestations of racism and related discrimination in education

The education system is not a sector which often attracts concern in terms of racism and discrimination more broadly. An equality review of the 1999 National Minimum Curriculum<sup>48</sup> (the curriculum currently in force and being revised) was commissioned by the NCPE. A number of positive elements are noted. Firstly it aims to, inter alia, foster respect for diversity and continue to promote a sense of gender equality. It is to be noted that only gender equality is set as an objective of the Curriculum with other grounds of discrimination being omitted. However,

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<sup>46</sup> Equality Research Consortium; A review of the National Minimum Curriculum from an Equality Perspective; 2010. The research was drafted by The People for Change Foundation as part of the Equality research consortium commissioned by the National Commission for the Promotion of Equality as part of the Strengthening Equality Beyond Legislation project.

<sup>47</sup> Ibid Pg. 20

<sup>48</sup> The National Minimum Curriculum<sup>39</sup> is the basic document which lays out the core elements of primary and secondary education in Malta. The ethos behind the syllabus is based on a response to cultural, social and economic changes by building upon a number of themes, namely, 'Values and Socialization', 'Holistic development', 'Lifelong Education', 'Global Perspective' and 'The World of Work'.

'preparation for change' is also set as such an objective. The Curriculum also adopts a policy of support of diversity in classrooms.

The review however also found that it continuously insists on the dichotomy between the need to respect diversity but on the other hand the view of diversity as potentially detrimental to the national identity. It is to be noted that the curriculum was adopted at a time when diversity in Malta was less visible than it is now, when asylum seekers had not yet started to arrive and migration was effectively not on the national agenda and when discrimination legislation had not yet been adopted. The review proposed that:

It is important to view identity not as a set of principles that are given to children, but rather as elements that all stakeholders in society – in this case most notably educators and children – discuss and develop over a period of time and on the basis of a constantly-developing context and environment. Children are themselves the composers of their own identity, and as such of our social understanding and the data we collect on our shared identity. Having a shared identity, moreover, does not mean being homogenous, but rather recognition of equality and a level of fraternity. It is about acceptance and respect, debate and recognition.<sup>49</sup>

There has been a start in Intercultural education; in that 'Democracy and Values Education' is part of the National Minimum Curriculum, at least on paper. Valuing social diversity is one of its broad core values, along with considering change in the community, human rights and responsibilities, and promoting active global citizenship. In Malta, the Ministry of Education has a post for visiting and supporting schools to implement intercultural education through, for instance, some pre-service courses.<sup>50</sup> However one has to note that the draft National Curriculum Framework is in the consultation stages and changes are expected to take place on this issue.<sup>51</sup>

The project "**Inclusion and Diversity in Education**" (**INDIE**) is aimed to promote inclusion and diversity in education. It commenced in 2007 and finished in 2010. The 'INDIE Best Practice Guidelines' were launched in March 2011 and

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<sup>49</sup> Supra 45 Pg 21

<sup>50</sup> MIPEX profile on Malta. Education. Retrieved from <http://www.mipex.eu/malta>, accessed 28 August 2011.

<sup>51</sup> Towards a Quality Education for All. The National Curriculum Framework 2011. Consultation Document 4: The way forward. Retrieved from [https://secure2.gov.mt/meef/MediaCenter/Docs/1\\_Book%204%20Eng.pdf](https://secure2.gov.mt/meef/MediaCenter/Docs/1_Book%204%20Eng.pdf), accessed 20 August 2011.

aim to provide policy makers and head teachers with a practical framework and examples of best practice to assist them in meeting the challenges of inclusion and diversity in education.<sup>52</sup>

Anecdotal evidence indicates that children are generally well integrated within the school environment although some cases of racial bullying have been reported. Teachers are facing a new reality of having to deal with a multi-cultural classroom, something which is relatively new for the Maltese context. A number of initiatives have been carried out or are being implemented to raise awareness and competence of teachers on dealing with a multi-cultural classroom. The need for positive action is noted with regards to language difficulties faced by a number of migrants.

Various initiatives have been undertaken to support migrants' access to the English and Maltese languages with a view to supporting their integration. At the time of writing AWAS was planning to implement a long term and structured project of language training. Moreover, NGOs organise English lessons at open centres to help migrants integrate themselves in Maltese society.<sup>53</sup>

Anecdotal evidence indicates that for many migrants, financial considerations and pressures result in a situation where education is not prioritised against employment opportunities. Whilst many migrants acknowledge the wish to continue studying and that further education would improve their long term prospects of integration and employment, the 'here and now' limitations often hinder their access to those educational opportunities.

### **Examples of NGO Good Practice**

**Migrants' Solidarity Movement: Tell A Tale.** Duration: 6 months; Start November 2010 – End May 2011. Objective: The project titled 'Tell a Tale: Creativity through intercultural dialogue,' used theatre and storytelling as a way in which people from very different backgrounds can relate to each other. The participants, who were from all around the world including: Europe, Africa and Latin America, met weekly for a workshop of laughter, tears, intense moments

<sup>52</sup> British Council. Inclusion and Diversity in Education. Retrieved from <http://www.britishcouncil.org/malta-education-indie.htm>, accessed 20 August 2011.

<sup>53</sup> Get Up Stand Up: English Lessons Project. Retrieved from <http://www.getupstandup.org.mt/web/volunteers.nsf/pages/English%20Lessons%20Project>, accessed 20 August 2011.

and stories told of childhood, dreams, homes left behind, love and loss...if the workshop room had ears!! These amazing workshops were only made possible with the energy and passion of the theatre facilitator. During the workshops boundaries were broken and, most importantly, people who might not have had a chance to meet before became friends.

## **IX.ii The political and legal context**

No substantial amendments were made to the political and/or legal context around education over the period under review. Most migrants who are within the age of compulsory schooling are accommodated within government schools whilst extra support is provided in terms of language within their residential settings. Schools in Malta are split between State Run schools, church schools and independent schools. Anecdotal evidence indicates that most migrant children are in state schools.

The National Minimum Curriculum was being updated at time of writing and the National Commission for the Promotion of Equality commissioned a review of the previous curriculum from an equality<sup>54</sup> perspective in order to inform its advocacy activities in this regard. Some of the findings of this research have been highlighted above. It makes a number of recommendations on how equality can be better achieved through the education system. The list of recommendations is too long to be reproduced here but includes: research, the enhancement of the policy and institutional framework, measures for monitoring and review, awareness raising and tool development. Recommendations regarding research including the compilation of race segregated data and research on the educational experiences of ethnic minorities as well as compiling research on knowledge, perception, understanding and approaches to diversity within the educational structure and setting. Policy and Institutional framework recommendations include: ensuring that every school adopts and upholds equality policy, setting up and promoting positive action measures, mainstreaming, the teaching of equality and human rights, developing an network of equality officers in schools. Recommendations regarding monitoring and review include: ensuring active consultation on the education system, provision of regular structure for groups to raise awareness of equality issues, and analysing the teacher training process in order to ensure that teachers are well

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<sup>54</sup> The review was commissioned by the National Commission for the Promotion of equality and drafted by The People for Change Foundation as part of the Equality Research Consortium.

equipped to deal with a multicultural classroom. Awareness raising would include the development of lesson plans and the setting up of an equality education library as well as the organisation of specialised training courses. The draft NAPARX makes similar recommendations.

## **VIII. Racism and related discrimination in health**

The public health consequences of refugee experiences of armed conflict and population displacement have major implications on health status and the delivery of health care. Data from elsewhere indicates that ethnic minorities tend to have lower health outcomes than the majority population. The general wellbeing of an individual is affected by a number of factors including living conditions, income, gender, disability, communication, cultural barriers and the availability of family/community supports. Reading other sections of this report would indicate some of the problems faced.

Moreover, having to deal with an ethnically, culturally and linguistically diverse client base is a relatively new phenomenon facing health care professionals on the island. The fact that research on the factors that affect health care utilisation of migrants is scarce and little is known about their needs, health behaviour and the possible barriers they experience in their use of health care services remained largely valid over the period under review despite improvements in the area. It is to be noted that there is virtually no information on the health status of ethnic minorities generally and the limited information available is restricted to individuals who have been through the asylum system.

### **X.i Manifestations of racism and related discrimination in health**

Healthcare is an area in which a number of positive developments have been achieved during the period under review even if a number of concerns remain.

A key concern related to the provision of and access to adequate healthcare in detention.<sup>55</sup> In a report by the Jesuit Refugee Service (JRS), they noted that many detainees had access to medical staff once a week, while a smaller portion of them has access less than once a month. This varied across different detention centres.<sup>56</sup> The identification and assessment procedures for vulnerable groups<sup>57</sup> continued to come under criticism<sup>57</sup> from various quarters both in terms of how it is carried out and its duration.

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<sup>55</sup> For a discussion and critique of the policy and conditions of detention see the housing section above.

<sup>56</sup> Jesuit Refugee Service. *Becoming Vulnerable in Detention: National Report 2010*, <http://www.jesuit.org.mt/files/634311314406818750.pdf>, accessed 31 July 2011.

<sup>57</sup> Individuals considered to be vulnerable are released from detention as soon as practicably possible. The determination of vulnerability falls within the competence of AWAS.

During the period under review, MSF discontinued their work in Malta, after several months where their focus was on the mental health of migrants. The decision to discontinue was based partly on the fact that Malta was no longer facing an emergency situation due to the decrease in the number of arrivals in 2010. Prior to leaving, MSF engaged in negotiations with the relevant authorities regarding current living hygiene conditions, lack of a pharmacy in the area and the availability of an isolation area in case of infectious diseases. Some improvements were noted, linked partly to improvements in conditions of detention resulting from the drop in the number of detained individuals.

Anecdotal evidence indicates that access to mainstream services is also sometimes hindered by discrimination and prejudice. This is often exemplified in the individual case rather than by the system as a whole. Moreover, language and cultural barriers are often faced, despite the assistance of cultural mediators. Such mediators are sometimes not available and also do not cater for all the cultures and languages, especially those spoken by Asian and European communities. Some allegations arose<sup>58</sup> of discriminatory and pejorative statements by staff at some health centres regarding immigrants and ethnic minorities more broadly.

Elements of the Maltese Far Right movement also tried to use health to extend their xenophobic messages. They continuously spoke of diseases that migrants bring with them and how allowing migrants into the country was a risk to, inter alia, the health and well-being of the Maltese. They also called for a boycott of blood donations on the basis that blood donated through the national blood service would be used on whoever needed it, even if these were migrants. In 2009 reports were published of a letter by an individual asking the blood bank to ensure that his blood would not be 'wasted' on irregular immigrants.<sup>59</sup>

A number of positive initiatives were undertaken over the period under review with the aim of improving the healthcare experience of migrants. These were carried out primarily by MSF, the Primary Healthcare Unit and the International Organization for Migration (IOM) including through the Mare Nostrum Project.<sup>60</sup>

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<sup>58</sup> Information about such instances is received by PFC and other NGOs and interested parties through informal channels usually from persons who have experienced or witnessed such incidents but who would not wish to file formal complaints.

<sup>59</sup> <http://www.timesofmalta.com/articles/view/20091108/local/man-tells-blood-bank-to-stop-wasting-supplies-on-immigrants.280753>

<sup>60</sup> More information about the project is available here: <http://www.inmp.it/index.php/eng/Projects/Mare-Nostrum-Common-approach-to-upgrade-asylum-facilities-in-Italy-and-Malta-Download-the-Guide-the-Practical-handobook-and-the-DVD>

The 2007 shadow report report<sup>61</sup> had quoted research indicating that “as language is considered a barrier there is the need of the development of a health care interpreter service pool and multilingual health promotional resources and multilingual signs and symbols. Health care interpreters are to be used in all health care situations where communication is essential including: admission, consent, assessment, counselling, discharge, explanation of treatment, associated risks and side-effects and health education”.<sup>62</sup> A number of these concerns have now been addressed through various efforts by the Migrant Health Unit.

The unit also published ‘Health Guidelines for Migrants’ which was also translated into a number of languages.<sup>63</sup> The manual deals with different health related issues including: navigating the health system, nutrition, sexual health, infectious diseases, personal hygiene and disease prevention, emotional health and child health. In 2010 the Unit also recruited, building on the services initially offered by MSF trained cultural mediators in order to offer their services within Malta’s primary healthcare structures, most notably the Floriana Health Centre. In 2011 the service was extended to also cover the Mater Dei Hospital. This was based on the needs assessment on ‘overcoming language barriers at Mater Dei Hospital’<sup>64</sup> conducted in 2009.

The ‘training program for cultural mediators in healthcare’, convened by the same unit, covered a number of issues including: introduction to cultural mediation, health and social services in Malta, communication skills, the concepts of health education, health issues and chronic conditions of the western world, self-care, basic first aid as well as ethical dilemmas. Participants were awarded certificates for successfully completing the course.

Within the context of the Mare Nostrum Project,<sup>65</sup> a number of activities were conducted in the field of health care provision for migrants. A key element of the project was training for healthcare professionals. The training included: a visit to one of the open centers, presentation regarding some diseases, training on how to work with cultural mediators and their role within a healthcare environment, culture beyond syndromes and traditional medicine practices, psychological issues in the open centers for migrants as well as sessions on female genital

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<sup>61</sup> IOM; EU Partnerships to Reduce HIV & Public Health Vulnerabilities Associated with Population Mobility, 2007

<sup>62</sup> *Ibid* Pg. 75

<sup>63</sup> Available online at:

[https://ehealth.gov.mt/HealthPortal/health\\_institutions/primary\\_healthcare/migrant\\_healthunit.aspx](https://ehealth.gov.mt/HealthPortal/health_institutions/primary_healthcare/migrant_healthunit.aspx)

<sup>64</sup> Available online at: <https://ehealth.gov.mt/download.aspx?id=1744>

<sup>65</sup> *Supra* n 59

mutilation and discussions on referral system pathways for migrants. Furthermore, the unit sought to raise awareness of the Triadic Model of Communication in Primary Health Care<sup>66</sup> that involves the use of cultural mediators as part of the experience.

Moreover, a number of community based Health Education initiatives addressed migrants on various issues including: accessing the Maltese Health Care System, nutrition, food and kitchen safety, complementary feeding, A H1N1 - Swine flu, sexual & reproductive health, FGM and Child Spacing.

Over the period under review a number of training projects took places aimed at raising health awareness amongst the migrant community.

## **X.ii The political and legal context**

There were no legal or policy developments in the area over the period under review. Malta does not, at present have an intercultural health strategy or a migrant health policy. Third Country Nationals are expected to pay for healthcare personally or through insurance, whilst EU nationals are provided free medical care on the basis of the European Health Insurance Card (EHIC) entitlement card. Persons who have been through the asylum system are also provided with State medical care free of charge and this is regulated under the Refugee Act and subsidiary protection. Whilst the law allows for a contribution to be charged in the case of asylum seekers who can afford it, anecdotal evidence indicates that this is not applied.

A Migrant Health Unit was set up in 2008 within the Department of Primary Healthcare in the Ministry of Health. Its creation was based on the recognition of the necessity to address the health needs of the asylum seeker community. The department acknowledged that migrants coming from different cultural backgrounds are often unfamiliar with the health care system of the host country and do not know how, when and where to seek help. Language barriers may also impede utilisation of health services. Health Professionals are nowadays facing new challenges due to cultural differences in the explanation for the cause of disease and the interpretation of symptoms. Cultural diversity in health care poses a challenge to service providers who need to manage complex differences in communication styles, attitudes, as well as expectations. These are the

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<sup>66</sup> See in this regard: <https://ehealth.gov.mt/download.aspx?id=1746>

challenges which the unit was set up to address. Therefore the objectives of the Unit are: to provide community based health education to migrants on health issues, to help migrants access health care services, to provide translated material, to train health care professionals and students in culture and diversity issues in health care, to train cultural mediators in health care, and to develop capacity building amongst migrants.<sup>67</sup> A number of developments brought forth by the Unit have been highlighted above.

Over the period under review a number of NGOs including PFC and MSF continued to push the Ministry of Health to adopt a migrant health policy and by furthering their advocacy based on policy recommendations prepared in 2009.<sup>68</sup> The initiative was based on the understanding that the government was intending to work on such a policy. Developments, however, indicated that plans had changed and that migrant health issues would be incorporated within broader revisions of Malta's various health policies whilst priority was being given to the development of other policy documents. The policy recommendations built on the findings of MSF in regard to detention and the legal obligations assumed by Malta under international and European law. The recommendations covered the following broad areas: entitlements, health services upon arrival, the situation in closed detention centres, open reception centres, access to mainstream services as well as voluntary and forced return. The recommendations were based on the WHO definition of health and took a rights based approach including the need to enforce non-discrimination within the health sector.<sup>69</sup>

The draft NAPARX also refers to equality in healthcare and makes a number of recommendations. It sets three objectives in the area namely: ensuring that ethnic minorities enjoy equal access to health services, ensuring that service provision is culturally and linguistically sensitive and appropriate as well as identifying any potential health inequalities between ethnic minorities and the majority population. These objectives sought to address some of the critical gaps in the existing system whilst allowing for a clearer picture of the situation to be drawn. The specific recommendations included: developing an intercultural health strategy, the provision of training to healthcare professionals, extending the services of cultural mediators, developing and implementing disciplinary measures regarding racist attitudes and actions by personnel within the health system, research on the experiences of ethnic minorities within the Maltese

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<sup>67</sup> This information is based on information provided on the Unit's webpage available at: [https://ehealth.gov.mt/HealthPortal/health\\_institutions/primary\\_healthcare/migrant\\_healthunit.aspx](https://ehealth.gov.mt/HealthPortal/health_institutions/primary_healthcare/migrant_healthunit.aspx), accessed 20 August 2011.

<sup>68</sup> People for Change; Recommendations for a Migrant Health Policy, 2010

<sup>69</sup> Ibid

health system and their health outcomes when compared with the majority populations as well as developing a targeted information strategy to increase awareness of general medical service to cultural and ethnic minorities. Finally it recommends the development of a needs assessment of ethnic minorities within the health service in order to inform future policy directions.<sup>70</sup>

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<sup>70</sup> Ibid

## **IX. Racism and related discrimination in criminal justice**

There is very little data regarding the experiences of ethnic and religious minorities within Malta's criminal justice system. Available information is largely anecdotal, collected through relatively small samples of individuals and therefore not being representative of the broader spectrum. The exception to this is the EU MIDIS research conducted in 2009 and published in 2010 which provided, amongst other things, the first set of reliable data on these issues. As with other parts of this report, whilst much of this data has been discussed in previous ENAR reports, there is no indication that the period under review saw considerable changes from those findings. They therefore remain pertinent to any discussion of racism within the Maltese context.

### **XI.i Manifestations of racism and related discrimination in criminal justice**

#### **XI.i.i Policing and ethnic profiling<sup>71</sup>**

There is no publicly available data from the relevant police and immigration services to allow an assessment of the prevalence of ethnic profiling in Malta. However a study<sup>72</sup> showed the difference between traditional prejudice, defined as the explicit racist attitudes and modern prejudice, defined as implicit covert attitudes among the Malta police forces. In a survey<sup>73</sup> police officers stationed in the North of the country,<sup>74</sup> scored comparatively high on modern prejudice and low on traditional prejudice; whereas those stationed in the South of Malta, scored low on modern prejudice and high on traditional prejudice. Such prejudice may result in ethnic profiling.

As reported in previous reports, the EU Midis Research<sup>75</sup> had found that only 8% of respondents from Malta (Africans) had been stopped by the police. 60% of these stops occurred in the streets whilst 83% of respondents cited identification

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<sup>71</sup> The Open Society Institute defines "ethnic profiling" as the "the use of generalisations grounded in ethnicity, race, national origin, or religion - rather than objective evidence or individual behaviour - as the basis for making law enforcement and/or investigative decisions about who has been or may be involved in criminal activity."

<sup>72</sup> Vella, A. (2010). Attitudes Towards Immigrants: Classical and Modern Prejudice held by the Police.

<sup>73</sup> Ibid

<sup>74</sup> It is interesting to note that none of the open centres hosting persons who have been through the asylum system are found in the north of the Island. However, Bugibba, a locality in the North of Malta is one of localities populated by this particular category of persons when in independent accommodation. It is believed that the community in this part of the island is primarily west African with a concentration of Nigerian nationals.

<sup>75</sup> EU-MIDIS; Data in Focus: Police Stops and Minorities; FRA 2011

and passport checks as the primary reason for the stop. 60% of stops also included questioning. 53% of respondents who had been stopped perceived profiling including in the most recent stop. 33% did not perceive profiling whilst 13% did not have an opinion. 3% claimed to perceive profiling but not including the most recent stop. Interestingly, 65% of respondents described police conduct as 'very or fairly respectful' whilst 5% found it to be 'very or fairly disrespectful'. Malta is therefore one of the countries with the lowest prevalence rates of police stops. No similar data is available for the period under review, however, anecdotal evidence does not indicate that the situation changes drastically.

Activists often note that the weight of the law is heavier on ethnic minorities, this is largely based on 'impressions' as hard data and evidence thereof remains missing. Informal reports have also been made to NGOs of police officers refusing to take reports when they attempt to report cases of violence or crime. No efforts are made by the police force to establish contact and relations with community organisations and there is therefore little or no communication between migrant communities and the force. This, coupled by the very low involvement of ethnic minorities in the police force goes some way to explaining the low levels of trust of police by ethnic minorities. Anecdotal evidence indicates that whilst the police force has in place mechanisms to address wrongdoings by members thereof, the process is often long and heavily discourages people from pressing complaints. Moreover, anecdotal evidence indicates that ethnic minorities and most notably migrants are both unaware of these remedies and, if they become aware, are largely suspicious as to whether there would in fact be a fair assessment of the situation. Some fear being further victimised by the process and therefore choose not to press forward with their complaints. A number of stories emerged during the reporting period where public perception assumed that if there is an issue between a Maltese or European person and a migrant then the latter was to blame.

### **XI.i.ii Racist violence and crime**

According to the EU-MIDIS 2009, 30% of African individuals in Malta reported that they were a victim of a racist crime at least once in the past 12 months. Moreover 26% of the same population avoid certain places for fear of being assaulted, threatened or seriously harassed because of their immigrant or ethnic minority background. It is important to note that the survey calculated perceptions rather than actual data on crime. Research prepared by PfC for ENAR in 2010<sup>76</sup>

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<sup>76</sup> Gauci, J.P. (2011). Racist Violence in Malta. The People for Change Foundation

interviewed a number of individuals who claimed to have been victims of racist violence and crime. The research made a number of observations and provided a number of anecdotes.

The trends identified in the research were the following. Firstly, violence took both the verbal and physical forms. Every migrant interviewed in the research had, at some point, been verbally harassed. This included being called pejorative terms or being threatened/told to leave the country. Similar threats were handed out in the form of flyers close to open centres and printed on walls. Physical violence ranged from pushing and shoving to persons being beaten by security personnel at entertainment spots, to persons being hit with stools in bars or being attacked whilst walking on the road or waiting at bus stops. Another trend related to the locations where such incidents occur. These tend to be in the areas around the open centres, most notably the rather secluded Hal Far area, and the central entertainment districts, most notably Paceville. Furthermore, another trend is the reluctance of victims to report such incidents to the police whether it is due a developed numbness to such incidents or a lack of trust that anything will happen if a report is filed. Moreover, whilst aggressors have varied in age and gender, most aggressors in incidents of physical racial violence are reported to be males between the ages of 16 and 35. Older and younger generations of Maltese are more associated with verbal violence rather than physical violence. On the other hand, the findings of the research indicate that African migrants, irrespective of gender are susceptible to verbal abuse and harassment whilst male immigrants are more likely to be subjected to physical violence. Only four people were charged in court for racist crimes in the last 10 years.<sup>77</sup>

### **XI.i.iii Counter terrorism**

Terrorism is not a topic which receives much (or any) public or political attention in Malta. Whilst international events such as 9/11 and 7/7 are commemorated especially through the media, the country is generally considered safe and to some degree immune from the terrorist threat. Whilst supporters of extremist parties have tried to link the arrival of irregular immigrants with terrorism, this was a remote statement largely ignored by mainstream politicians and the public at large. It is to be noted, however, that national security is often quoted as one of (together with public order) the justifications for the application of the detention policy in Malta.

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<sup>77</sup> Caroline Muscat, Low Racist Crime Figures 'Shocking'. (Times of Malta, 2010)

## **XI.ii The political and legal context**

There were no political or legislative developments over the period under review. There has been no political discussion on hate crime/speech or on the acceptability of the use of ethnic profiling or specific methods for ethnic profiling. No counter terrorism measures were implemented which impacted ethnic and religious communities.

Under section 4 of the Police Act<sup>78</sup> the main objectives of the force are stated to be, among other things, ‘the application of the law without discrimination on any grounds such as the ground of race.’<sup>79</sup> Moreover, The Police Code of Ethics<sup>80</sup> requires the force and each individual officer to apply the law without any discrimination based on, inter alia, sex, race, colour, language, religion, political or other opinion, national or social origin, association with national origin, property, birth or any other status. Malta boasts a strong legal framework in the field of racist violence. The Maltese Criminal Code<sup>81</sup> establishes racial or religious aggravation and xenophobic motivation for any offence an aggravating circumstance entailing the increase of one or two degrees to the prescribed punishment. The definition of race in this context is broad and covers, inter alia nationality and ethnicity. Furthermore, the Code criminalises incitement to racial hatred where intended and in situations where the circumstances have the likely effect of stirring up hatred. In such instances the period of imprisonment ranges between 6 and 18 months. The CoE Human Rights Commissioner<sup>82</sup> recommended that Malta ratifies the additional Protocol to the Council of Europe Convention on cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems.

The National Action Plan on Racism and Xenophobia<sup>83</sup> addresses racist violence and crime, and suggest actions aimed at achieving the following objectives: due investigation of cases of racist violence and crime and brining those responsible to justice, Increased awareness of the relevant legal frameworks concerned and the collection of adequate data on racist crime in order to identify trends and support the development of effective responses. It recommends a number of measures to achieve these broad objectives including: raising awareness of the

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<sup>78</sup> Chapter 164 of the Laws of Malta

<sup>79</sup> EU Network of Independent Experts on Fundamental Rights. (2006). Ethnic profiling.

<sup>80</sup> Available at: <http://police.gov.mt/download/KodiciEtika.pdf> (in Maltese), accessed 28 August 2011.

<sup>81</sup> Chapter 9 of the Laws of Malta

<sup>82</sup> Council of Europe; Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visit to Malta from 23 to 25 March 2011; CommDH(2011)17; Strasbourg 2011

<sup>83</sup> Equality Research Consortium (2010). National Action Plan Against Racism and Xenophobia

relevant legal framework, putting in place mechanisms to encourage victims and witnesses to report instance of racist violence, monitoring cases in order to ensure adequate investigation of racist offences including by ensuring that the racist motivation is taken into account, developing a training program for law enforcement officials on the identification and investigation of racist crimes, develop a monitoring mechanism on racist crime, analyse existing and new data for the development of sustainable strategies to combat such crime as well as further research.

Moreover the same document addresses the problem of ethnic profiling and aims to achieve the improvement of relations and communication between police and minority groups including by increasing the fairness, effectiveness and accountability of police actions. This is to be achieved through a number of actions including a review of the laws, policies and operational guidelines of police, raising awareness of the complaints mechanisms, provision of tailored training to police officers, clarifying the role of the equality commission to investigate allegations of discrimination by police officers, recruit candidates from minority groups to the force and promote contact and dialogue between the police and communities as well as further in depth research.<sup>84</sup>

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<sup>84</sup> ibid

## **X. Racism and related discrimination in access to goods and services**

Access to goods and services impacts on the day to day life of ethnic minorities within a particular country. Discrimination in such access is likely to make an individual or group feel un-welcomed and excluded from any particular society. On the other hand, since providers of goods and services are many and varied, it is difficult to draw generalisations of discriminatory treatment. It is also difficult to keep control over such providers especially if victims of discriminatory practice fail to report such instances.

### **XII.i Manifestations of racism and related discrimination with access to goods and services in the public and private sector**

There are no indications that the situation improved or worsened since the EU Midis research in 2009. The survey had found that 63% of African individuals had experienced discrimination in past 12 months, including by social service personnel; at a café, restaurant or bar; when trying to open a bank account or get a loan and when entering into a shop.<sup>85</sup> However, with the private sector (incorporating results for discrimination at a café, restaurant or bar, when entering or in a shop, and when trying to open a bank account or loan) only 30% of African respondents claimed to have experienced discrimination.<sup>86</sup> One notes that this survey involved a sample size of 500 participants.<sup>87</sup>

Ethnic minorities, and especially visible minorities, continued to face racism and discrimination in access to goods and services. A number of services were particularly problematic for ethnic minorities. These included access to nightclubs and entertainment spots as well as public transport. A number of instances are reported in the media<sup>88</sup> or through informal channels of individuals being refused (sometimes violently) access to bars and nightclubs under pretexts which are sometimes more direct than others. It is not unheard of that individuals are refused entry 'because you're black' 'ax int klandestin' (because you're a clandestine migrant) or 'ax int arbi' (because you're an Arab).<sup>89</sup> On other

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<sup>85</sup> EU-MIDIS at a glance (2009). European Union Minorities and Discrimination Survey p. 9

<sup>86</sup> EU-MIDIS at a glance (2009). European Union Minorities and Discrimination Survey p. 10

<sup>87</sup> EU-MIDIS Technical Report: Methodology, Sampling and Fieldwork (2009) p. 84

<sup>88</sup>

<sup>89</sup> These examples are compiled from informal conversations with various individuals who experienced or witnessed such incidents.

occasions, more subtle excuses are used having however the same effect. These include exclusion for 'being drunk' or for 'not being appropriately attired'. On many occasions similar conditions are not placed on other individuals who do not form part of an ethnic minority. Of concern is also anecdotal evidence that when such exclusions are reported to the police (whose presence is felt in areas populated by clubs and bars) the latter fail to take action, and explain the exclusion on the basis that this is private property and they therefore do not have the competence to do anything about it.

### **Examples of NGO Good Practice**

**Stand Up for 'Their' Rights:** A number of 'Maltese' and 'European' individuals have taken strong stands with providers of goods and services who discriminate. They have stood up for the rights of those who were being discriminated against, often pressuring service providers and police officers to either offer the service or force the service provider to offer the service. Whilst this is not an organised project or initiative, it has had a positive impact on ethnic minorities. Such actions pass a clear message that discrimination is neither acceptable nor will it be tolerated. This is a trend which has been noted for a number of years, including previous ENAR Shadow Reports.

Another area in which ethnic minorities often face difficulties is in access to public transport. Buses (which are the only mode of public transportation in Malta other than taxis) often fail to stop at bus stops when individuals waiting are of ethnic minority background. Other stories have emerged of drivers not allowing black or Arab looking individuals on the bus and threatening to stop the bus if the person does not get off right away. This has sometimes led to reactions like the one described above.

Most incidents of racism in accessing goods and services are small incidents which cumulatively have the effect of making people feel unwelcome. They often go unreported as many ethnic minorities have learnt to live with a degree of racism and are also put off by long procedures for reporting which often, they feel, do not lead anywhere. This explains the virtually inexistent statistics in this regard.<sup>90</sup>

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<sup>90</sup> It is only the EU Midis Report that provides some indication of the prevalence of such incidents.

## **XII.ii The political and legal context**

There has been no political developments, or new legislation, covering the issue of discrimination in access to goods and services. The Equal Treatment Of Persons Order<sup>91</sup> prohibits discrimination in the area and assigns the NCPE the competence to deal with complaints of discrimination. The current legal framework does not prohibit discrimination on the basis of religion in the provision of goods and services. Regulating private providers is often difficult especially when one notes the reluctance to report by those facing the discriminatory treatment. Awareness of legislation is generally low.

The draft NAPARX makes a number of recommendations aimed to ensure that all services in both the public and private sectors are offered in a non-discriminatory fashion. The proposed measures include: raising awareness of legislation with service providers, provision of training to service providers on how to deal with a multi-cultural clientele, developing a core team of cultural mediators to be used by various service providers (most notably but not exclusively) in the public sector to facilitate communication with service users, developing promotional materials to 'highlight' that certain service providers are adhering to equality standards and promoting good practice. It further proposes carrying out in-depth research into the experiences of ethnic minorities with regards to accessing goods and services including specific research on particular services or areas of concern as well as developing situation testing experiments within specific fields.<sup>92</sup>

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<sup>91</sup> Legal Notice 85 of 2007

<sup>92</sup> Equality Research Consortium (2010). National Action Plan Against Racism and Xenophobia

## **XI. Racism and related discrimination in the media**

“Portraying migrants in a negative light, speaking about them as numbers rather than people and confusing legal terminology migration serves to stigmatise migrants, diminishing their social worth and hindering their ability to achieve personhood within Maltese society.”<sup>93</sup> Over the reporting period, no major work was carried out in improving media reporting on migration and ethnic minorities and as such, many of the concerns raised in previous reports (and other research) continued to apply.

### **Examples of NGO Good Practice**

#### **Suspended Lives: An Initiative of the Jesuit Refugee Service**

In 2010 JRS launched: “Suspended Lives” is a documentary which was filmed in Malta during 2009 and 2010. It tells seven stories in the migrants’ own words. These forced migrants arrived in Malta during the past years: four men who arrived alone, a woman and her minor son, and a couple and their children. All, apart from one, arrived in Malta by boat and all applied for asylum. The various protagonists recount their experiences of fear, persecution, and escape across the Sahara desert and the Mediterranean Sea, until they reached the safe shores of Malta. The documentary is in English, its duration is 1 hour 15 minutes and has a rating of PG.

Information at: <http://suspendedlives.org/> or  
<http://www.facebook.com/suspendedlives?sk=info>

### **XIII.i Manifestations of racism and related discrimination in the media, including the internet**

The media produced largely mixed reporting of migration and ethnic minority issues. Whilst it took up cases of discrimination and gave them prominence, it also continued to use terminology and headlines which were likely to support xenophobic attitudes. Whilst no specific research on the issue was carried out during the period under review, indications show that no substantial

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<sup>93</sup> People for Change Foundation (2010). Media Coverage of Asylum and Migration in Malta (p. 53).

improvements can be noted from previous years. As such, the concerns raised in previous reports continue to apply.

A key issue which arose during the period under review regarded an interview by a local presenter of far right leader, Norman Lowell.<sup>94</sup> The interview aired on 3 May 2010 and was based on parts of Norman Lowell's book. The Broadcasting Authority statement on the case describes the programme as consisting primarily in a discussion between the presenter and the author about a number of extracts from the book, extracts both regarding some absurd and surreal theories held by Norman Lowell as well as parts regarding various racial prejudices of the author, including prejudices against 'blacks', who the author considers to be genetically inferior, and Jews.<sup>95</sup> The programme was subsequently subject to debate from various quarters. Some argued that the programme should simply not have been aired and that the racist views expressed by Lowell, a self-declared 'racialist' should have no space on national media. Media commentator Fr. Joe Borg wrote: "He is just a fringe politician spouting hate. There is no place for the propagation of hate on public service TV."<sup>96</sup> Others argued that the programme had the advantage of presenting Mr. Lowell for what he really is, allowing members of the public to draw up their own conclusions. Speaking to The Times newspaper, the show's presenter said "I am convinced that the best way of dealing with objectionable ideas is to discuss them, investigate them and expose them..."<sup>97</sup> The decision of the media watchdog on the case is discussed in the law and policy section below.

Online news websites generally have the possibility of placing 'comments'. These are often used for anti-immigrant sentiments with racist comments being a relatively normal occurrence in these discussions. The comments are, in some way, a continuous reminder of a sentiment in parts of the Maltese community. It is sometimes noted by activists in the area that many of the comments come from the same sources and indeed repeat a handful of similar points regarding migrants, Maltese identity, and the role of civil society in Malta. Some NGOs have chosen to not engage with these comments even when they are directed at them and their work, acknowledging that such attempts are, at best, futile.

Social media websites like Facebook and twitter have also played into the situation of racism and discrimination. Many NGOs working for the rights of migrants have developed a strong presence on these websites, using them as

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<sup>94</sup> The interview was aired on television and no transcript is readily available for referencing purposes.

<sup>95</sup> <http://www.ba-malta.org/newsdetails?id=192>

<sup>96</sup> <http://www.timesofmalta.com/articles/view/20100504/blogs/ban-the-buffoon.305777>

<sup>97</sup> <http://www.timesofmalta.com/articles/view/20100510/local/tv-chat-show-violated-racial-equality-rules.306608>

platforms to share messages, videos and even invitations to activities and events. The Equality Commission has also used Facebook extensively to promote its projects and initiatives. A number of pages have also sprung up aiming to spread positive images of immigrants and express support to equality and human rights. In some cases, it has also proven to be a good way of staying in touch with the migrant community as many members of the community are linked to such organisations and their representatives via Facebook and twitter. The number of followers of groups on Facebook varies. Far right groups and others have also sought to use Facebook to share their messages. One such group is entitled Dawk kollha li jixtiequ jehilsu mil klandestini jamlu join (all those who wish to get rid of all Clandestines in Malta do join). It is interesting to note that in most cases, take up<sup>98</sup> of such groups and pages has been limited. Some pertinent comments are also posted on individual discussions and walls as well as on groups not specifically dedicated to the issue.

### **XIII.ii The political and legal context**

There have been no political or legislative developments recently in this regard. The Maltese media is regulated under several pieces of legislation most notably the Broadcasting Act<sup>99</sup> and the Press Act.<sup>100</sup> These make a number of provisions relating to racism and xenophobia in the media. It is interesting to note that whilst the Maltese constitution creates a watchdog for broadcast media, the regulation of printed press is subject to the Union of Journalists.

Reference has been made above to the decision by a local talk-show host to interview far right leader Norman Lowell. The case was brought in front of the Broadcasting Authority for a decision regarding infringement of Broadcasting legislation most notably Article 13(2)a of the Broadcasting Act<sup>101</sup> and Requirements as to the Standards and Practice on the Promotion of Racial Equality.<sup>102</sup> The decision of the Broadcasting Authority was to fine Public Broadcasting Service (PBS) 1154 Euros. It found, inter alia, that the presenter was well prepared to challenge the racist remarks of the interviewee and did so in a serious and determined manner. It therefore found that he had abided by the above quoted requirements. It found, however, that certain comments were in violation of Article 13(2)a. In particular it referred to a denial of the holocaust

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<sup>98</sup> It is not possible to retrieve the number of members of all the groups.

<sup>99</sup> Chapter 350 of the Laws of Malta

<sup>100</sup> Chapter 248 of the Laws of Malta

<sup>101</sup> "13.(2) It shall be the duty of the Authority to satisfy itself that, so far as possible, the programmes broadcast by persons providing sound or television broadcasting services in Malta comply with the following requirements, that is to say: a) that nothing is included in the programmes which offends against religious sentiment, good taste or decency or is likely to encourage or incite to crime or to lead to disorder or to be offensive to public feeling

<sup>102</sup> Subsidiary Legislation 350.26.

(and reference to 6 million ghosts), the reading of a section of the book in which he suggests that those with a disability or who are mentally defective should either be aborted or euthanised up to an hour after their birth and a comment suggesting that anyone adopting 'non-europid' children should be forced to go live in the country from where the adoption was done.<sup>103</sup>

Acknowledging the important role that the media can play in combatting racism and discrimination, the draft NAPARX makes a number of recommendations. It seeks to achieve the following objectives: ensuring that the media does not perpetuate stereotypes, discrimination and racism but provides accurate and reliable information and promotes positive images; ensuring that ethnic minority voices find their place in the media; as well as exploring media coverage of ethnic minorities and its impact on public perception. It proposes a number of measures for the achievement of these objectives. These include in depth monitoring of the portrayal of ethnic minority on the media, an analysis of the legal framework surrounding racism and incitement to racial hatred online and submission of proposal if appropriate, the use of new media to spread anti-racist message, provision of training, the use of popular media to combat stereotype in an indirect and subtle manner, media campaigns aimed to raise awareness of legislation, rights and remedies, promotion of collaboration between media entities and community organisation, positive action measures to support the voice of minorities on the media as well as raising awareness with ethnic minorities about ways of engaging with the media.<sup>104</sup>

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<sup>103</sup> <http://www.ba-malta.org/newsdetails?id=192>

<sup>104</sup> See relevant sections of Equality Research Consortium (2010). National Action Plan Against Racism and Xenophobia

## **XII. Political and legal developments in anti-racism and anti-discrimination**

The legal framework around racism and discrimination remained unchanged over the reporting period. Many organisations called for greater action to combat discrimination, acknowledging the need to move beyond the legal framework. A number of issues continued to be subsist with the implementation of the legal framework such as the independence of the equality commission and the accessibility of remedies for persons who have experienced discrimination. Awareness of rights was critically low. 75% of respondents to the EU MIDIS Survey<sup>105</sup> (Africans) did not know of a law against discrimination on the basis of ethnicity when applying for a job.<sup>106</sup> 73% were not aware of any law against discrimination in the context of employment, access to goods and services and housing, with only 12% being aware of a law prohibiting discrimination in all the three areas, 10% being aware of such prohibition in 2 out of the 3 areas and 5% aware of the prohibition in only one of the areas.<sup>107</sup> Only 11% of respondents were aware of the existence of the National Commission for the Promotion of Equality.<sup>108</sup> 81% has not heard of any equality bodied or equivalent organizations in Malta.<sup>109</sup> These issues negatively impacted the potential positive impact of the legal framework. No case law was developed over the reporting period.

2010 saw the coming into force of the last provisions of the Public Administration Act<sup>110</sup> which makes avoiding discrimination one of the core values of Malta's public administration.<sup>111</sup> A Code of Ethics<sup>112</sup> which has been made legally binding through the act<sup>113</sup> also prohibits discrimination. Discrimination in this context is broad in scope, being termed 'on any ground'.<sup>114</sup>

A draft of Malta's first National Action Plan against Racism and Xenophobia was presented in December 2010.<sup>115</sup> It was drawn up by The People for Change

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<sup>105</sup> EU-MIDIS; Data in Focus Report: Rights Awareness and Equality Bodies; FRA; 2011 available at:

[http://fra.europa.eu/fraWebsite/attachments/EU-MIDIS\\_RIGHTS\\_AWARENESS\\_EN.PDF](http://fra.europa.eu/fraWebsite/attachments/EU-MIDIS_RIGHTS_AWARENESS_EN.PDF)

<sup>106</sup> ibid Pg 6

<sup>107</sup> ibid Pg 7

<sup>108</sup> ibid Pg 10

<sup>109</sup> ibid Pg. 11

<sup>110</sup> Chapter 497 of the Laws of Malta

<sup>111</sup> Vide Article 4(1)(e)

<sup>112</sup> Schedule 1 to the Public Administration Act (sup 86

<sup>113</sup> Article 5(1)

<sup>114</sup> Para E 21

<sup>115</sup> Equality Research Consortium (2010). National Action Plan Against Racism and Xenophobia

Foundation (as lead partner in the Equality Research Consortium) as part of the 'Strengthening Equality beyond Legislation' project coordinated by NCPE. The plan is for a period of three years and aims to be implemented by a network of stakeholders that go beyond the 'traditional' actors in the field of anti-discrimination. The drafting of the action plan was supported by a research initiative as well as a number of consultation sessions which brought together various representatives of different groups.

The plan seeks to build upon and achieve the full potential of the existing legal, policy and institutional framework as well as the various initiatives that have been undertaken by a wide spectrum of stakeholders. It is a strategic document, providing a road-map towards the achievement of its aims and objectives. It seeks to be a living and fluid document, able to adapt to emerging trends and realities. It is an ambitious and forward-looking document, yet one which is realistic and grounded. It adopts a human rights based approach. The plan addresses the different forms of racism experienced by the various groups as well as the different levels of racism at both an individual and institutional/systemic level. These different, yet sometimes overlapping, manifestations include: unequal treatment, violence and threats, institutional/systemic discrimination, stereotyping and labelling and underlying xenophobia. The plan and its implementation, are an attempt to move away from the one size fits all approach and towards looking at equality by design, addressing the specific needs and concerns of the various groups, whilst allowing for networking and partnership where appropriate. This action plan addresses various minority groups including ethnic minorities, linguistic minorities as well as religious minorities. The proposals seek to both combat racism and xenophobia and promote a more inclusive and intercultural society through a proactive framework. Whilst it addresses issues of investigation and redress, the priority is on creating an environment that does not accept the presence of racism and where discriminatory treatment is neither accepted nor tolerated. As such, the plan seeks to address the 4 Ps namely: prevention, protection, prosecution and partnership.

The overarching aims of the plan are to provide strategic direction to combat racism and xenophobia and to develop a more equal, inclusive and intercultural society. The aims are made operational through a number of overarching objectives as well as targeted objectives and initiatives in the fields of: employment, education and training, health and social services, housing and accommodation, racist violence and crime, the media as well as policing and the Criminal Justice System. It also addresses a number of overarching issues most

notably: awareness raising, mainstreaming, data collection and analysis, empowerment and capacity building as well as the reporting of discriminatory incidents.

At time of writing, the action plan had yet to be formally adopted through the political and governmental channels and as such remained merely a draft even if a number of activities suggested within it had been taken up in project applications being drafted by NCPE.

In 2010 Malta also participated in the European Year for Social Inclusion. Combatting discrimination and promoting equality and diversity are considered to be key challenges to social inclusion in Malta. Overcoming discrimination was, in fact, set as a national objective for the year.<sup>116</sup> Malta's activities for the year were undertaken under the four main objectives of the year namely: recognition of rights, shared responsibility and participation, cohesion as well as commitment and concrete action. They sought to endorse a varied multiplicity of activities including awareness raising campaigns, research studies, fora and conferences, exhibitions, the organisation of competitions, artistic and journalistic field events, as well as events highlighting innovative initiatives and good practices. It was noted that the impact of these initiatives was not immediately visible.

A number of grassroots activities were also implemented over the reporting period with the aim of promoting equality and combatting discrimination. In November 2010 the "Say No To Racism" campaign was launched. The campaign was conducted by a coalition of NGOs, students, academics, writers, immigrants and artists.<sup>117</sup> It aimed to provide the opportunity to the local Maltese population to meet and talk with immigrants and refugees. Subsequently the campaigning activities included a street parade against racism as well as a concert.<sup>118</sup> In a separate initiative, a popular Maltese television show worked with Malta's leading singers to adapt the World Cup 2010 theme song into an anti-racism message, and present it to schools and other venues.<sup>119</sup>

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<sup>116</sup> [https://secure2.gov.mt/socialpolicy/SocProt/others/policy\\_dev\\_eu\\_affairs/ey2010/objectives.aspx](https://secure2.gov.mt/socialpolicy/SocProt/others/policy_dev_eu_affairs/ey2010/objectives.aspx), accessed 20 August 2011.

<sup>117</sup> The organisations taking part in the campaign are: Migrants' Network for Equality, Jesuit Refugee Service (Malta), Migrants Solidarity Movement, Moviment Graffiti, General Workers' Union, Amplify, CEER, GetUpStandUp!, Organisation for Friendship in Diversity, Kopin, Moviment Azzjoni Xellug, Salesian Pastoral Youth Service, Koperattiva Kummerc Gust, Greenhouse, Third World Group and Alternattiva Demokratika<sup>11</sup>. Say no to Racism. Press Release (2010). Retrieved from <http://saynotoracismmalta.org/>, accessed 20 August 2011.

<sup>118</sup> Anti-racism campaign to visit Churches (Times of Malta: 2011)

<sup>119</sup> Maltese World Cup song turned into anti-racism message (Times of Malta, 2010)

A critical issue, that cuts across all fields in which discrimination is experienced,, is a generally low awareness of rights and remedies available and a reluctance by persons facing discrimination to report to the relevant authorities. Research commissioned by the NCPE and carried out by the Equality Research Consortium<sup>120</sup> found that '66% of all interviewees who experienced racial discrimination<sup>121</sup> did not speak to anyone of their experience of discrimination. Of the 34% of interviewees who did share their experience with someone, 34% spoke to friends, 17% shared their experience with relatives, colleagues or non governmental organisations (17% in each case). 2% of those who spoke to an NGO also spoke to the police about the incident, while another 2% also spoke to a lawyer. Only 2% who had experienced discrimination solely on the basis of race had approached the ombudsman. This was the only official report regarding racial discrimination that was made by the respondents of this survey.' The report of the consultation process linked to the NAPAR confirms these findings. It found that 'when it comes to knowledge of rights of victims of discrimination or harassment on the basis of ethnicity or religious belief one community leader claimed that most members are unaware of their rights and another claimed that most members are aware of their rights but are unaware of the bodies responsible for enforcing these rights. Three community leaders claimed that most members are aware of their rights, but have accepted discrimination or harassment as part of daily life in Malta. Feelings of powerlessness and lack of faith that the situation will change contribute to this acceptance.'<sup>122</sup>

#### **Example of NGO good practice**

The NGO **Get Up Stand Up** recently organised 'One Rhythm, One Race', an anti-racism concert to promote equality, human rights and to battle racism in Malta.<sup>123</sup>

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<sup>120</sup> Equality Research Consortium; Under reporting incidents of discrimination on the ground of sex, sexual orientation, race and ethnic origin, religion, age and disability, NCPE 2011

<sup>121</sup> The research was carried out with individuals who had experienced discrimination.

<sup>122</sup> Equality Research Consortium (2010). Report of the Consultation Process leading to the drafting of the National Action Plan Against Racism and Xenophobia

<sup>123</sup> One rhythm, one race (Times of Malta, 2011)

### XIII. Migration and integration

A number of important developments took place in the field of migration and integration over the reporting period, including amendments to the legal and policy framework. Malta continued to apply a restrictive migration policy. Labour migration is perceived to be merely a way to fill the gap in the Maltese labour market until such time as Maltese or European workers are willing and adequately trained to fulfil the requirements. Asylum seekers continued to be detained for 12 months with rejected asylum seekers being detained for a maximum of 18 months. Family Reunification Rights are restricted and persons enjoying subsidiary protection (the vast majority of beneficiaries of protection in Malta) are excluded therefrom. No system of circular migration has been developed in Malta, and no plans appear to be underway in this regard.

Over the reporting period, Malta launched the so called 'New Temporary Humanitarian Protection.' This status targets those persons who have had their asylum claim finally rejected,<sup>124</sup> have been in Malta for some time, and show that they have already or are liable to achieve some form of integration in Malta.<sup>125</sup> The status carries the same entitlements as beneficiaries of 'subsidiary protection'.<sup>126</sup> It is issued for a renewable period of one year. This system remedies the situation of migrants who whilst having their asylum claims rejected were in practice not deported due to a variety of reasons. It acknowledges that, irrespective of status, integration may be achieved. It also provides an incentive to integration. At the time of writing, there was no indication of plans to extend the scope of this status to cover other irregularly staying TCNs who had not been through the asylum system.

Moreover, Legal Notice 81 of 2011<sup>127</sup> transposed 'Directive 2008/115/EC of the European Parliament and of the Council of 16th December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, in accordance with fundamental rights as general principles of

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<sup>124</sup> Included at appeal stage.

<sup>125</sup> The indicators against which this is assessed remain unclear at time of writing. Since the status is a new development, one will have to wait for a number of test cases to identify the exact criteria which are being applied. It is however understood that employment is considered as one of the important indicators of integration in this, as well as other, contexts.

<sup>126</sup> This information is based on an email exchange between the author and Mr. Mario Friggieri, Refugee Commissioner.

<sup>127</sup> Available at: <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=11637&l=1>, accessed 20 August 2011.

Community law as well as international law, including refugee protection and human rights obligations.<sup>128</sup> These regulations set out common standards and procedures for returning illegally staying third-country nationals. The Returns Directive has been widely criticised on a European level most notably with regards to its impact on human rights and many of these concerns carry down to the national transposition. The impact of the regulations will have to be measured as its implementation starts to take place during the latter half of 2011.

Malta does not have a formal integration policy or strategy. The main relevant document is a 2005 policy document on Irregular Migration, Refugees And Integration<sup>129</sup> which however only addresses integration issues marginally. A number of quasi policy documents, such as the Multi-Annual Programme of the European Refugee Fund<sup>130</sup> also make reference to integration. The policy vacuum in this regard is widely criticised and calls for the adoption and implementation of an integration strategy are frequent most notably but not only from the NGOs working in the field. The People for Change Foundation believe in the need to adopt an integration strategy to address the situation of all migrants in Malta, moving beyond referring exclusively to beneficiaries of international protection. Such a strategy would need to provide a tiered system addressing specific needs but aim towards the achievement of common and general objectives of social cohesion.

Amendments to the Status of Long Term Residents which were adopted in 2010<sup>131</sup> also create the notion of integration assessments. Regulation 5(3) requires applicants for long term residence status to have attended a course organised by the public employment service or any other competent authority of at least one hundred hours having as its subject matter the social, economic, cultural and democratic history and environment of Malta and have attained an examination passmark of at least 75%. Moreover, applicants must prove that they have obtained a pass mark of at least 75% after being assessed by the competent authorities to have achieved the equivalent of Malta Qualifications Framework Level 2<sup>132</sup> in either Maltese or English; and that all relevant fees for the above courses and examinations have been paid. This is the first time that this sort of requirement has been included within the Maltese legal framework.<sup>133</sup>

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<sup>128</sup> Article 1(2)

<sup>129</sup> MJHA; Irregular Migration, Refugees And Integration; 2005

<sup>130</sup> MJHA; Multi-Annual Programme of the European Refugee Fund; 2008

<sup>131</sup> Legal Notice 370 of 2010.

<sup>132</sup> See in this regard: <http://www.mqc.gov.mt/malta-qualifications-framework>

<sup>133</sup> Subsidiary Legislation 217.05 as amended by Legal Notice 370 of 2010.

10% of Maltese respondents to the Euro-Barometer On Poverty And Exclusion<sup>134</sup> included ‘immigrants’<sup>135</sup> as one of the categories of persons most at risk of poverty. Malta’s National Program for European Year 2010 identified addressing the social aspects of migration as one of the key challenges in combatting poverty and exclusion. The promotion of the integration of immigrants was set as one of the national objectives for the year. The National Strategy on Social Inclusion, which lapsed in 2010, highlights the promotion of ‘more equality and integration particularly with respect to disadvantaged groups such as immigrants’<sup>136</sup> as one of the Government’s objectives.

The benefits of using time spent in detention towards integration is increasingly being acknowledged. Both the National Report On Strategies For Social Inclusion and initiatives by AWAS and IOM<sup>137</sup> build on this and seek to exploit this time to prepare asylum seekers for integration in Malta and in Europe.

According to Migrant Integration Policy Index<sup>138</sup>, which contrasts and compares integration policies across Europe, Malta scores 28<sup>th</sup> of the 31 countries considered. Changes were noted in the areas of labour market mobility (48 in 2007 and 43 in 2010), and family reunification (50 in 2007 and 48 in 2010). Improvements were noted in the field of anti-discrimination (27 in 2007 and 36 in 2010).

Whilst anecdotal evidence and discussions have consistently highlighted the challenges faced by migrants, and most notably those having been through the asylum system to integrate in Malta, over the reporting period both UNHCR and SOS Malta undertook qualitative research in the area. The findings were to be published in August 2011 and therefore fall outside the scope of the present report.<sup>139</sup> In general however, both entities found that respondents experienced great difficulties in integrating in Malta, difficulties attributed to a number of issues including, for instance, the size of Malta and the density of its population, the limitations of the Maltese labour market, prejudice and discrimination as well as the perception of Malta as a transit country by many beneficiaries of protection.<sup>140</sup>

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<sup>134</sup> Eurobarometer; Special Eurobarometer 355 Pverty and Social Exclusion; 2010

<sup>135</sup> Whilst the term applied is general ‘immigrants’ the public conception of the term generally refers to boat people namely those who are going or have been through the asylum system.

<sup>136</sup> National Report on Strategies for Social Protection and Social Inclusion 2008 – 2010 (p. 11)

<sup>137</sup> See for instance the SPARKLET Project.

<sup>138</sup> MIPEX: Malta’s profile. Retrieved from <http://www.mipex.eu/malta>, accessed 20 August 2011.

<sup>139</sup> They will be presented in the next edition of this shadow report.

<sup>140</sup> Studies confirm how integration between Maltese and migrants is not happening (Times of Malta, 2011)

## **XIV. National recommendations**

### **Employment**

- Promote the development of good equality, diversity and inclusion policies and practices into the strategy, operation and culture of individual organisations and companies. This will be done in particular through:
  1. The organisation of tailored training programs and awareness raising activities for management and staff on non-discrimination, equality and diversity management.
  2. The setting up (through existing entities) of a diversity management advisory service that can work with private and public entities towards the development and implementation of their diversity management policies and strategies.
  3. The development of a good practice booklet that promotes diversity management good practices by entities in Malta.
  4. Provision of training of trainers courses to business associations, unions and professional associations.

### **Housing**

- An Information Sheet regarding the relevant anti-discrimination legislation to be disseminated to property owners. Moreover, an information sheet on rights and obligations of tenants is to be prepared most notably for newly arrived migrants. Both sheets are to be distributed to and through estate agents.
- Ensure that homeless shelters and other housing services do not discriminate in the provision of their services through oversight and development of guidelines and training.

### **Education**

- In collaboration with the Education Authorities develop a national intercultural education strategy with reference to equality/diversity legislation and policy.
- Universities, colleges, schools and other educational institutions to adopt and uphold an equality policy.
- Plan and launch a national decade of equality through education aimed at ensuring that equality education is mainstreamed across all parts of the national curriculum and that educational institutions partake in activities and initiatives aimed at promoting equality.

## **Health**

- Develop, in collaboration with the relevant health authorities and through the setting up of a broadly based advisory group, an intercultural health strategy with reference to equality and diversity policy.
- Extend the service of cultural mediators within the health service to other languages.

## **Criminal justice**

- Put in place the mechanisms to encourage victims and witnesses of racist incidents to report such incidents.
- Through monitoring of specific cases, ensure that the police thoroughly investigate racist offences, including by fully taking the racist motivation of ordinary offences into account.
- In collaboration with the Malta Police Force, develop and implement a training program (including the development of guidance) for law enforcement officials intended to ensure the identification and adequate investigation and prosecution of instances of racist violence and crime.
- Review of laws, policies and operational guidelines establishing and regulating police powers and, if and where necessary, strengthen non-discrimination standards and Practices
- Create a statutory obligation upon the police to promote equality and prevent racial discrimination in the carrying out of their functions.

## **Access to goods and services**

- Ensure that all service providers are aware of their obligations under anti-discrimination legislation including through the dissemination of information sheets.
- Provide training to service providers (who may not be catered for by other sections of this plan) on how to deal with a multi-cultural clientele.
- Develop a core team of cultural mediators to be used by various service providers (most notably but not exclusively) in the public sector to facilitate communication with service users.

## **Media**

- Compilation of best practices from different fields on awareness-raising on social issues.
- Promote anti-racist messages through sports, drama and other means.
- Ensure that existing legislation is adequately enforced.

## **General**

- Adopt and implement without delay a National Action Plan Against Racism based on the draft Plan as commissioned by the National Commission for the Promotion of Equality.
- Ensure that a wide network of actors are included in the fight against racism and discrimination, including those entities not traditionally associated with the work.
- Ensure that ethnic minority communities are given a voice at every level of society, through consultation and media representation.
- Develop diversity promotion programs in collaboration with local associations and local councils. Programs may include anything from diversity festivals to courses and lectures and movie screenings.
- Encourage businesses to engage in similar campaigns through incentives such as the 'equality mark' scheme.
- Organise anti-racism themed days where prominent personalities (politicians, sportspeople, media persons and others) wear something symbolic of their stand against racism.
- Provide online courses on related issues and legislation with the possibility of assessment and the issuance of certificates.
- Organise media campaigns aimed at promoting positive images of ethnic minorities and combating stereotypes.

## **Anti-racism and anti-discrimination**

- Raise awareness of what amounts about discrimination and harassment through a variety of means
- Create guidance sheets to be distributed through various channels and procedures regarding the avenues for reporting discrimination.
- Create or appoint an organisation to act as a screening house/supporting entity for racial discrimination complaints with their own helpline.

## **Migration and integration**

- Networking activities between the 'traditional' anti-racist partners and the 'non-traditional' anti-racist partners should be encouraged including ones which allow for collaboration on activities likely to contribute towards the combating of racism.

- An online forum to be created for NGOs and Migrant Community Organizations to share experiences and expertise as well as be kept up to date on the implementation of initiatives across the board.
- An equality consultation platform to be set up in order to bring all the stakeholders together to discuss concerns and make recommendations for change.

## **XV. Conclusion**

A number of conclusions can be drawn from the findings highlighted in this report. The first relates to the legal framework in indicating that the legal framework alone is insufficient to address the situation of ethnic minorities within the countries. Whilst Malta has adopted a relatively strong anti-racism legal framework, for this to be effective, it needs to be supported by concrete strategies, targeted initiatives and political will. The latter is especially missing in various areas. The adoption and implementation of a National Action Plan Against Racism and ensuring the independence and strength of the National Commission for the Promotion of Equality would go some way to achieving the potential of the legal framework.

There is also a clear need to change the views of migration. The opportunities brought about by migration need to be considered alongside the challenges. So far, migration has been discussed in negative and protective terms. Instead, we must look at it as an opportunity for the development of Malta; economically, socially and culturally. An Integration Strategy ought to be developed, which addresses the specific needs and aspirations of different categories and groups of migrants whilst pursuing a common vision. Recommendations by human rights bodies should be adhered to, in order to ensure that Malta sets a standard of human rights protection.

Another key conclusion is the need for further research into the situation of ethnic minorities and the development of data sets which divide statistics by category and ethnicity. This will allow for a better assessment of the needs and an effective evaluation of policies being adopted. There is a clear need to move away from the one size fits all approach towards targeted initiatives and these can only be planned and implemented effectively if sufficient data is available.

A number of entities, governmental, international and from civil society have an impact on the lives of ethnic minorities on a day to day basis. Everyone must take this responsibility seriously and work together towards the achievement of common goals. The attempt of the draft NAPAR to rope in actors beyond the traditional 'actors' in the field is an important initiative in this regard. A whole society vision of equality and cohesion must be developed.

This report has highlighted that, despite the strong legal framework on anti-discrimination, the lives of ethnic minorities continue to be negatively impacted by

racism and racial discrimination, prejudice, as well as stringent migration policies. From employment to healthcare, from education to the media, ethnic minorities and most notably migrants face prejudice and disfavour, placing them at a disadvantage when compared with the mainstream population. A number of positive initiatives are acknowledged and it is hoped that they will have the desired effect. However, political will must back such initiatives if sustainable change in this area is to be achieved. All actors must act together towards the achievement of a common vision of an integrated and cohesive society which respects equality and fundamental human rights. These issues must feature more prominently in media, public and political discourse. Different actors, from equality commissions to the courts should continue to acknowledge their role in the preservation and promotion of such a vision. Individual and corporate service providers should become more aware of their obligations in regard to the law. The vision should be a society where racism, xenophobia and racial discrimination are not only curtailed but also considered unwanted. As highlighted above, political will is critical for the achievement of this.

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## **Annex 1: List of abbreviations and terminology**

MIPEX: Migrant Integration Policy Index

MSF: Medecins Sans Frontieres

NAPARX: National Action Plan Against Racism and Xenophobia

NCPE: National Commission for the Promotion of Equality

NGO: Non-governmental organisations

NSO: National Statistics Office

