

ANNEXE : POINT DE VUE DU GOUVERNEMENT

L'annexe qui suit ne fait pas partie de l'analyse et des propositions de l'ECRI concernant la situation à Malte.

Conformément à sa procédure de monitoring par pays, l'ECRI a ouvert un dialogue confidentiel avec les autorités de Malte sur une première version du rapport. Les autorités maltaises n'avaient pas de commentaires à formuler sur le projet de rapport de l'ECRI sur Malte (qui ne tient compte que de développements jusqu'au 6 décembre 2017, date de l'examen de la première version).

Les autorités ont demandé à ce que le point de vue suivant soit reproduit en annexe du rapport de l'ECRI.

Response of the Maltese authorities to ECRI's Draft Report on Malta (fifth monitoring cycle)

16 March 2018

Introduction

The following pages contain a number of pertinent points which the Maltese authorities wish to emphasise in light of ECRI's comments and recommendations in its fifth report on Malta.

In essence, Malta understands that ECRI may have differing opinions and perspectives on local policy and legislation in the area of immigration. Nonetheless, ECRI would be remiss if it failed to acknowledge Malta's unwavering commitment to the principle of equality, and the protection and promotion of human rights in all spheres of life.

Moreover, it is abundantly clear that Malta is fully in line with all of its European and international legal and political commitments.

Issues

A. Long-term residence status - Recommendation 57 and 72

Malta notes that in relation to the requirement of knowledge of Maltese for the acquisition of long-term residence, such status is granted in terms of the relevant EU Directive 2003/109, whereby the link between integration and language is made.

It is felt that knowledge of the language of the country of settlement is an essential feature and given that Maltese is the national language as stipulated by the Constitution of Malta, migrants should demonstrate that they have knowledge of such language

B. Long-term residence status - Recommendation 58

Malta would like to point out that the conditions for acquiring long-term residence status in Malta are regulated by Subsidiary Legislation 217.05, which transposes the provisions of EU Directive 2003/109.

The said Subsidiary Legislation currently does not require any of the 'unnecessarily harsh conditions' referred to in ECRI's report. The bench mark concerning stable resources has been lowered from average wage to minimum wage, and the requirement for evidence that accommodation is not shared has been removed. Moreover, the said legislation has been approved by the European Commission.

C. Family reunification - Recommendation 60 and 79

Malta would like to point out that Maltese legislation is completely in line with the relevant EU Directive 2003/86. The relevant domestic law has also been amended in 2017 in order to facilitate such family reunification especially in the case of refugees.

D. Conditions for naturalisation - Paragraph 62

Malta believes that the ECRI's statement 'Malta has some of the most unfavourable conditions for naturalisation in the EU' is very subjective and is not correct. While it is acknowledged that the granting of citizenship through naturalization is discretionary, such discretion is used in a proportional and uniform manner.

E. The introduction of a long-term integration strategy - Recommendation 72

In its report, ECRI states that 'Malta has no long-term integration strategy targeting refugees and beneficiaries of "local" forms of protection' and that 'a strategy for the integration of all migrants should be adopted as soon as possible, along with a clear message to the public that integration is a two-way process for both migrants and the majority population. To encourage full integration, the strategy should address language acquisition in English and Maltese, and cover reasonable and achievable ways to obtain long-term residence status, as well as electoral rights and eventually Maltese citizenship'.

In this regard, in December of 2017 the Maltese Government launched its first Migrant Integration Strategy and Action Plan. The goal of this Strategy and Action Plan is to create a strong framework for the integration of migrants in Malta, and ensure that different entities in the field work cohesively towards the same direction.

F. Amendments to the Citizenship Act - Paragraph 85

In its comments, ECRI points out the need to have decisions relating to the acquisition, retention, loss, recovery or certification of nationality open for review.

In this regard, Malta points out that there is a general right of judicial review in terms of article 469A of Chapter 12 of the Laws of Malta, which enables any person aggrieved by any administrative decision to request the Maltese Courts to judicially review the action in question. Indeed, Maltese case law reveals that there have been a number of sentences given by the Courts on such issues.

Moreover, it is to be remarked that article 10(9) of the Maltese Citizenship Act has recently been amended in order to cater for the acquisition of citizenship on the basis of merit, and article 10(1) and article 21 have also been amended to provide for the acquisition of citizenship persons who do not have full mental capacity.

