



# Comments of the Maltese Government on the Report of the Commissioner for Human Rights of the Council of Europe, Ms Dunja Mijatović, following her visit to the Republic of Malta

11-16 October 2021

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*The Maltese Government highly values the visit of the Commissioner for Human Rights which took place in October 2021, as it offered an occasion to have open discussions on the human rights developments in the country with all stakeholders, both governmental entities and civil society organisations. The work of the Human Rights Commissioner is crucial in ensuring human rights protection throughout the Council of Europe member states, and to this end, Malta stands ready to continue cooperating with the Human Rights Commissioner on this front.*

*The Maltese Government also appreciates the completion of the comprehensive report by the Human Rights Commissioner and the opportunity to provide comments thereto. The report contains several valid remarks which were raised during the meetings, and the Government has taken good note of. Nevertheless, there are some points which require further clarification or additional information.*

*In this regard, the Maltese Government hereby submits its clarifications regarding some topics below.*

## **Section 1 – Media Freedom**

**Para 6** – The Government of Malta strongly believes in media pluralism, and the free and unhindered access by journalists to information, as well as press events and activities. Public activities organised by representatives of the Government are always open to all media outlets, and journalists are given all the opportunity to attend, report and ask questions, so as to facilitate the fulfilment of their duties. The Government of Malta has also recently undertaken a reform of the public service media, creating a channel specifically dedicated to news, current affairs, culture and sports programmes, giving visibility to all political parties and/or views, in order to provide the viewers with the most objective information possible.

**Para 8** – In relation to the comment by the Commissioner regarding the outcome of the Public Inquiry on the Assassination of Daphne Caruana Galizia, it is important to note that the conclusions of said inquiry is not that the state is responsible for Daphne Caruana Galizia's death, but that certain shortcomings by the state and its institutions "enabled the development of *de facto* impunity which could facilitate the execution of the crime". This being said, the Government of Malta accepted the conclusions of the Public Inquiry, a public apology was issued by the Prime Minister to the family of Daphne Caruan Galizia for the state's shortcomings, and work immediately started on a drastic reform process aimed at addressing the concerns raised by said Public Inquiry and implementing its recommendations.



The Government of Malta not only condemns any form of threats and harassment to journalists, but is actively working on strengthening the profession of journalism and granting journalists more protection.

**Para 14** – On the issue of safety of journalists and recent threats and harassment being received by editors and journalists, the Government of Malta reiterates its commitment to guaranteeing a safe environment for all journalists in the execution of their duties, thus all reports of threats and harassment are being investigated accordingly, and those concerned are being offered the necessary protection should they so require.

**Para 18** – In relation to enhanced awareness raising among police and dialogue between law enforcement and media professionals, the Malta Police Force in this regard, has prepared a very detailed internal policy document titled “Protection of Journalists, Media Actors and Public Figures at Risk”.

**Para 26** – The Government of Malta has recently, in January 2022, appointed a committee of experts composed of, among others, journalists and academics, and chaired by a former member of the judiciary. This committee of experts has been set up in line with the recommendations put forward in the Public Inquiry on the assassination of Daphne Caruana Galizia, and has been tasked with giving advice on how to implement recommendations related to the media made by said Public Inquiry. This committee is also tasked with examining the draft legislative amendments prepared by government following extensive consultations carried out with national and international key stakeholders, ranging from anti-SLAPP legislation, to amendments to the Criminal Code to provide for an increase in punishment for offences against a journalist, to Constitutional amendments to enshrine the notion of a free press and importance of journalists within it. The recommendations and feedback of the Committee should be provided in the next two months.

## **Section 2 – Asylum and Migration**

**Para 41** - Malta has constantly remained committed to meeting its international obligations and to safeguard the minimum standards in the humane and safe reception of migrants. Such commitment is manifested in the significant investment being made in its reception facilities. Furthermore, Malta abides by the principle of non-refoulement in accordance with its international obligations and the provisions of the International Protection Act. This principle applies in respect of all asylum seekers and beneficiaries of international protection.

In fact, as recognised by the Commissioner in para 39 when quoting EASO’s Asylum Report 2021, Malta is among the European states that receive the highest number of asylum applications relative to their size, GDP and population.

Malta strongly rebuts any allegations on arbitrary delays in responding to distress calls. Malta abides with international obligations and responds to distress calls in its Search and Rescue Region. All notifications received are investigated, assessed, prioritised and actions are taken accordingly. Malta seeks to continue to respect all its international obligations regarding the rescue of persons in distress at sea inside its area of responsibility. All such efforts are



conducted in full respect of relevant instruments of international law, as applicable to Malta; fulfilling all SAR obligations as set out in the UN Convention on the Law of the Sea, and applicable provisions contained within the 1979 Maritime SAR Convention. Malta's migration framework implements fully the rights and assurances provided by EU law. It therefore considers the remarks that its asylum and immigration policies and practices are "restrictive" and that it "continues to jeopardise the rights of refugees, asylum seekers and migrants" as unfounded and not reflective of the facts.

**Para 42** - Malta strongly rebuts the allegation that it ever gave any instructions to commercial vessels to disembark in Libya. Malta abides by its international obligations and has never relinquished any responsibility to coordinate cases in its Search and Rescue Region with all assets available, both public and private. Contrary to these reports, Malta has often ended up assuming more responsibilities on a humanitarian basis than those strictly imposed by the applicable Conventions. All notifications received are investigated, assessed, prioritised and actions are taken accordingly. Malta seeks to continue to respect all its international obligations regarding the rescue of persons in distress at sea inside its area of responsibility. All such efforts are conducted in full respect of relevant instruments of international law; fulfilling all SAR obligations as set out in the UN Convention on the Law of the Sea, and applicable provisions contained within the 1979 Maritime SAR Convention.

The closure of ports was a temporary measure in view of a serious public health emergency, and it was meant to protect all persons living in Malta. Similar action was also adopted by other EU States in safeguard of public health. Malta's Rescue Coordination Centre continued to coordinate search and rescue activities at sea throughout the whole period.

It is additionally reminded that according to extant provisions of international law as applicable to Malta, disembarkation of persons rescued at sea should take place at the nearest place of safety. This not only to deviate merchant shipping as little as possible from its intended route, but also in the rescued persons' interest to disembark at the earliest.

It should be noted that Malta has no additional obligations at international law and in accordance with applicable conventions and associated guidelines than other Governments, Flag states and coastal states to disembark migrants intercepted autonomously by NGO vessels (civil fleet) in international waters on a humanitarian mission to disembark migrants in Europe. The primary responsibility to coordinate disembarkation for such cases rests with the flag state. The applicable conventions put the obligations to provide a place of safety on all Governments, coastal states, flag states, ship owners and other competent authorities to cooperate in providing a place of safety. To date such cooperation between Member States is non-existent. In the absence of such agreement, alternative ports including the flag states' home or logistical ports are all reachable within reasonable time, offer the least deviation towards their home port and fulfil all the necessary requisites for a place of safety. Malta does not agree with the argument that disembarkations by NGO vessels should always be conducted only in Italy and Malta. No other coastal state has ever made available its ports for disembarkation even though the obligation falls squarely on all Member States.



Repeatedly Malta reiterates that such vessels should have in place a prearranged disembarkation plan with other coastal states including their home port and other states who are better able or willing to assist in such missions in international waters.

**Para 43** - While this situation was not ideal, the measure in question was dictated by public health considerations, and persons onboard the vessels were provided with all basic needs including food, medical assistance and communication devices. Video footage leaked online showed persons in good health and in good spirits. Therefore, Malta does not agree with the remark that this was ‘a humanitarian and human rights crisis’.

It is to be noted that besides the strain on the resources available to law-enforcement authorities at the time, the largest migrant centre in Malta was placed under quarantine for over one month. Furthermore, the temporary closure of ports did not result in the denial of the possibility to apply for international protection. Persons housed on board vessels at this point were subsequently admitted into the territory and given the opportunity to apply for international protection, in line with Malta’s obligations.

Additionally, NGOs have access to closed and open centres. Such visits were only briefly disrupted during Malta’s semi-lockdown in early 2020 but resumed soon after. In fact, a new area has been designated in order to hold these visits in a more comfortable, calm and confidential environment. This is as per recommendations of the CPT fact sheet.

The management of the Detention Service now holds a record of visits by NGOs and such records may be shared with the Commissioner.

**Para 44** - Malta has not engaged in any pushbacks towards Libya.

Malta remains responsible for the coordination of rescue activities within its Search and Rescue Region, wherein disembarkation is affected at the closest place of safety as per the applicable convention. The obligation of the Maltese authorities in cases of search and rescue is to coordinate the rescue operation, by immediately alerting the nearest vessel, whether public or private, to provide assistance.

There have been no occurrence of ‘collective expulsion’, nor ‘pushback’ in the case of migrants who were never within the jurisdiction of Malta. The exercise of jurisdiction is a prerequisite for a State to attract responsibility for acts or omissions imputable to it. The Maltese authorities have no effective control whatsoever, neither *de jure* nor *de facto*, over migrants in international waters. With respect to migrant boats on the high seas, Malta has no *de jure* jurisdiction. *De facto* jurisdiction is likewise absent as there is no control over either the territory, or the vessel, or the persons themselves.

It is also worth pointing out that not all migrant boats are considered as SAR cases, such as the case of autonomous landings in Malta and in Lampedusa. The authorities cannot intervene in such cases on the basis of SAR. On the other hand, it is recognised that other states are responsible and free to exercise border control and enforce immigration laws in their areas of competence.



The inquiry relating to the ‘Easter weekend incident’ cleared the Prime Minister and the Commander of the Armed Forces of allegations that they could have caused, voluntarily or involuntarily, the death of a group of migrants. The inquiry excluded that there were any grounds for prosecution. The migrants in question were at no point at the Maltese maritime border, within Maltese territory or within the effective control or jurisdiction of the Maltese authorities.

Malta strongly rebuts the allegation that the authorities do not take immediate action involving migrant boats, including in this case whereby immediate action was taken when the boat entered Malta’s Search and Rescue Region. It is worth pointing out that RCC Malta requested a cargo ship to provide shelter to the boat until rescue arrived. The size of the vessel precluded it from approaching the migrants itself as the boat would have been at serious risk of capsizing.

It is also worth pointing out that another criminal complaint was filed in April 2020 against the Armed Forces of Malta with respect to allegations concerning a group of migrants who had been rescued and brought to shore. This complaint had also been dismissed by a separate inquiry. The report alleged that the officials endangered the lives of migrants on a boat. The latter confirmed that the officials carried out a procedure which is considered standard in a rescue operation.

**Para 45** - Malta considers, as a matter of principle, that it is our duty, and in our collective interest, to work with the Libyan authorities.

Libya is a country of transit – there are no Libyans among the migrants arriving in Malta. There are authoritative reports which claim that the majority of migrants go to Libya for economic purposes (*IOM Libya Migrant Report: May – June 2021 – Round 37*). Other reports confirm that nearly all sea crossings are organised by criminal groups.

Libya needs help to manage its borders, to have a proper labour migration system and to fight people smuggling. Reference is hereby made to CSDP OP IRINI, and other EU funding programs of cooperation and capacity building which have a clear mandate of cooperation with the recognized and relative entities/agencies on the LY side such as the IMO recognized LNCG who are the competent authorities in saving lives at sea with their recognized area of competence and other border control agencies whose competencies are to disrupt the human smuggling networks.

The international community cannot address people smuggling in North Africa without working with the countries of transit themselves. Malta and Europe may decide to ignore Libya and allow a situation where people smugglers are given the chance to operate with impunity. On the other hand, the international community may intervene to support Libya in:

- Managing its southern borders and ensure that the south of the country is not an international hub for criminal smuggling networks;
- Fight people smugglers who put thousands of lives at risk, also by disrupting their business model through law enforcement and operations at sea;



- to enable the Libyan authorities to save people's lives at sea within Libya's territorial waters and also Libya's Search and Rescue Region.
- Provide human reception facilities to asylum seekers and migrants;
- Engage in a better way with international organisations – for example Malta raised the subject of resumption of UNHCR's humanitarian flights with the Libyan authorities on different occasions.

It is important to note once again that Malta abides by the principle of non-refoulement in accordance with its international obligations and the provisions of the International Protection Act and as already noted above has never carried out 'pushback' operations to Libya as is being claimed here.

**Para 46** - The accused were arraigned in court on the 30<sup>th</sup> March 2019. On the 15<sup>th</sup> April 2019, the Court of Magistrates (Malta) as a Court of Criminal Inquiry (as an independent and impartial court) decided that there are sufficient grounds for committing the accused for trial on indictment and therefore all the evidence is being brought forward before the Court. Notwithstanding claims that two out of three of the accused are minors, in the absence of official documentation, the court appointed a medical expert who concluded that all the accused were over nineteen years old. The accused were all granted bail in November 2019 pending proceedings. The case remains sub judice.

**Para 47** - Malta does not agree with the statement that vulnerability screening is not systematic. In fact, all asylum seekers are screened at lodging stage for possible vulnerability indicators (based on readily apparent signs or the applicant's own declarations) in view of any procedural guarantees that might be required.

In 2020, the Agency for the Welfare of Asylum Seekers (AWAS) in coordination with EASO, have introduced a new team which is the Vulnerability Assessment Team. This complemented the AMIF Funded Therapeutic Team which screens migrants for Post-Traumatic Stress Disorder, Anxiety, Depression and Stress. The Vulnerability Assessment Team are permanently present in hot spot centers., that is the Initial Reception Centre, Extensions of IRC, (Detention Centers) Hangar Open Centre and Hal Far Tent Village. Every person is systematically screened unless the person does not want to.

AWAS already has a history and extensive experience of carrying out vulnerability assessments. The added value of EASO's support is to provide a structured methodology for vulnerability assessments, support to carry out more assessments which go beyond AWAS' capacity to do so. An update in the Special Needs and Vulnerability Assessment (SNVA) *Adult Referral Assessment* Procedure ensures the early identification of people with special needs (vulnerable adults) in the Initial Reception Centres and are then assessed accordingly. The overall objective is to identify vulnerable applicants and their special needs at any stage of the asylum procedure and to ensure timely access to appropriate services in terms of special reception needs, as well as special procedural guarantees.

In 2021, the Therapeutic team screened around 400 individuals whilst the EASO /AWAS team conducted 830 vulnerability assessments. These figures do not include social workers



assessments, AWAS team of medical doctors' assessments, Specialized services assessments and GU Clinic Assessments in cases of FGM.

Referrals can be internal, whereby service users can be referred by all teams within AWAS: coordinators in the centres, care team and therapeutic team. All other entities and NGOs who visit the closed and open centres can refer people by using a specific referral form as well.

In 2020, AWAS also established the UMAS Protection Service which is a dedicated team of Social Workers focusing solely on UMAS. In addition, the number of social workers also increased through recruitment process.

In 2021, AWAS engaged three additional welfare officers to compliment the welfare coordinator within each centre. The role of these officers is to strictly follow the client's hand in hand with the residents' social worker, welfare coordinator and psychosocial team. Additionally, AWAS plans to strengthen its team of vulnerability assessors by the recruitment of eight professionals in 2022.

Migrants are held in initial reception centres for public health grounds under the Public Health Ordinance Act. The Superintendent of Public Health can restrict movement until a person is medically cleared of any communicable diseases such as Tuberculosis. All persons with restriction of movement are duly informed by the health authorities and such restriction can apply for a period of 10 weeks from the date of the initial screening. This is done to safeguard the public health interests of the community. Cases of COVID-19 have been identified in many boat arrivals. This has therefore resulted in prolonged quarantine periods since all migrants would need to receive a clear medical certificate before being released.

On the point on vulnerable persons, vulnerable persons as defined in the Reception of Asylum Seekers Regulations, SL 420.06 are not issued with Detention Orders by the immigration authorities upon discharge from the Initial Reception Centre (IRC). Such persons are therefore accommodated at specialized Open Centres suited to their specific circumstances. Families involving children and unaccompanied minors are processed expeditiously to ensure that they can be moved to an open centre at the earliest possible. Persons who are confirmed to be minors following the age assessment test are transferred to open facilities immediately.

**Para 48** - The information provided under this paragraph is not correct. It is necessary to specify that whilst undergoing medical clearance both minors and doubtful alleged minors are immediately age assessed and released once medical clearance is obtained. Obvious minors do not undergo an age assessment and are taken immediately under custody of AWAS upon disembarkation.

In 2020, 530 people were age assessed, amounting to over 23% of arrivals, 133 were found to be minors whilst 397 either declared themselves to be adult or found to be adults by the age assessment. In 2021, AWAS assessed 237 alleged minors, amounting to over 28% of arrivals, 117 were found to be UMAS whilst 111 were closed as adults. Six people are in the final stages of the age assessments. These statistics confirm that age assessment tests are being carried out without delays, in many instances just a few days after the applicant's arrival in Malta.



Unfortunately, this situation is being abused by some asylum seekers who change their date of birth either at the start or during the asylum process or when a detention order is issued. There have been a number of cases whereby adults in their 30s and 40s changed their date of birth to claim childhood. This causes unnecessary strain on the system. These patterns are confirmed by the statistics for 2020 and 2021, where 75% and 49% of the applicants were found (or admitted) to be adults, respectively.

**Para 49** - All asylum seekers in need of accommodation are offered a residential place in open centres irrespective of their country of origin. Currently, there is a significant number of asylum seekers coming from safe countries living in the centers.

Negative decisions issued by the International Protection Agency (IPA) with respect to applications for asylum submitted by asylum seekers from safe countries and closed as manifestly unfounded are reviewed by the International Protection Appeals Tribunal (IPAT).

The return of irregular migrants, including the detention of such migrants with a view to returning them, is regulated by Council Directive 2008/115 on common standards and procedures for returning illegally staying third-country nationals. The provisions of this Directive have been transposed into national legislation by the Common Standards and Procedures for Returning Illegally Staying Third Country Nationals Regulations, SL 217.12. It should also be noted that Return Decisions may be appealed. Appeals are heard by the independent Immigration Appeals Board.

Furthermore, each Detention Order issued to an asylum seeker is reviewed within seven days by the independent Immigration Appeals Board and, if the person in question is still in detention, his or her detention is reviewed after 2 months and every 2 months thereafter.

**Para 50** - A total of 300 persons are currently staying within centres managed by the Detention Service at the time of writing. 210 individuals are detained in accordance with the immigration and asylum law. 90 other third-country nationals are being transferred to open centres once they are given the necessary approval by the health authorities. These individuals will be transferred to open centres managed by AWAS and have already been given the opportunity to register their application for asylum with the International Protection Agency.

Persons staying in closed facilities are either detained upon immigration laws or have their movement restricted based on an order by the Superintendent of Public Health.

**Para 51**- Despite the disproportionate pressures being faced by Malta, the authorities have undertaken numerous projects to improve the quality of life of migrants in closed centres:

- providing access to outdoor and recreational areas is available to all migrants.
- communication with the outside world, especially international calls with family members, is possible in all sections. In 2022, video over IP systems will start being installed in the compounds.



- large-scale initiative to carry out maintenance and refurbishment works across all compounds in the closed facilities such as emergency lighting, bathroom finishing, more secure windows and electrical systems, and improvements to the sewage system,
- weekly football sessions for all clients of the DS are being organised by the Malta Football Association in a joint project with the DS.
- A medical clinic has also been set up in Safi providing for better and more efficient provision of health services, seeing to all ailments within the centre itself.
- Increase in investment in human resources, not only through the recruitment of additional staff but also their training. New staff included professionals in the field of social work, support workers, reception facility officers, psychological officers, counsellors, welfare officers, and psychologists.
- In February 2021, the Migrant Health Service was set up to offer specialised services to migrants living within the centres managed by the Detention Service. These services now also include Ophthalmology Clinics and GU consultation clinics. In 2022, the service of medical doctors will continue to be increased. To date all new arrivals are seen by a health professional upon arrival and any issues are tended to by a General Practitioner immediately. This service has resulted in a decrease of around 80% of referrals to the emergency department.
- Further investment in human resources is envisaged to take place in the coming months. These include professionals in the field of social work, support workers, counsellors, and welfare officers.
- Following the recruitment and training of new Detention Officers in 2021, Detention Service no longer has the need to make use of private security companies and such services have been stopped.
- In 2021, all staff members (old and new recruits) followed a mandatory training program which focused on: Protection issues, the asylum process in Malta, Security, Mental health and Immediate First Aid. Training was delivered by different experts in the respective fields.
- In 2021, the post of Welfare Officer was created within the Detention Service in order to provide a holistic service, with a particular emphasis on the provision of a dedicated integrated health-care service for detained persons.
- Change in uniform of Detention Service officials. The uniform has been changed to beige rather than black to communicate that officials also have a welfare role and not just to enforce security.
- security cameras being are being set up, including in vans transporting migrants, to ensure accountability as well as increased safety and wellbeing.

In fact, since the incidents mentioned in the report of September 2020, there were no riots or uprisings in closed centres since then.

**Para 53-** During her visit, the Commissioner was invited to visit all compounds belonging to the Detention Service. The Commissioner also had the opportunity to visit compounds which are currently undergoing renovation. During the past two years there have been a large-scale maintenance program which up until the visit covered all the blocks, apart from Block A.



Considering Malta's exposure to migratory flows, it is not possible for the Detention Service to carry out renovation works within all compounds simultaneously.

In 2020 and 2021 another two new blocks were also opened. Both compounds provide access to outdoor areas during all hours of daylight.

As stated during the Commissioner's visit, civil works on the upper floor of block A have started just a few days following the visit. Waterproofing works were also being done on the roof. The procurement process for new fittings is also ongoing. Works on the upper floor of Block A are estimated to be completed by May 2022. Further updates will be sent in due course.

Photos of the ongoing works are being provided in Annex 1. The Block is currently not in use.

**Para 54** - The statements here do not reflect the facts. It is likely that detainees at the Safi Detention Centre provided misleading information to the Commissioner. A case in point is an Egyptian detainee who alleged that he was not being provided adequate treatment for his dermatological condition. His allegations were however disproved through his medical report which was shown to the Commissioner and which included details on the treatment given to the subject, photos of the medication provided to him and information on the medical appointments that he had had at Mater Dei Hospital as well as the medical clinic inside the Safi Detention Centre.

The Government would like to draw attention to the fact that significant investment has been made in the provision of health care services in closed centres.

A doctor has been recruited by the Detention Service and is now offering another full-time service. All blood investigations and bookings of X-rays are now also being done by the Detention Service. This has improved the efficiency of the health service and all related complaints are being seen within the same day. During the night, health complaints are reviewed by general practitioners at the Paola Health Centre which is located a few minutes away from the Safi Detention Centre.

A medical clinic has also been set up in Safi providing for better and more efficient provision of health services, seeing to all ailments within the centre itself. Medical personnel operate in more comfort and the system has become more centralised, including the storage of medical records. Medical treatments are also being prepared in the new clinic. Nurses on duty prepare medications at the clinic and are delivered to compounds as necessary.

Nurses in the compounds carry out a triage and assess all medical complaints that come in during the day. During rounds, the nurses will accompany one of the two general practitioners.

Masks, sanitisers, hygiene packs and other products are provided. Migrants are however free to choose whether to wear masks at all times or selectively. They are however encouraged to wear masks in common areas. It is also pertinent to note that all persons residing in the DS were offered the Covid Vaccine and the Booster dose. 94% of residents accepted to take the vaccine and a further 75% accepted to take the booster.



The restraint policy states that whenever a detainee poses a risk of absconding, the escorting officer can use restraints. Individual assessments are conducted but it is up to the escorting officer to decide whether restraints are required or otherwise. There are instances where other entities, such as hospitals request the officer to handcuff the detainee to prevent unruly behaviour. The Detention Service management does not impose the use of restraints and will continue to provide continuous training to staff in this regard.

In order for an asylum seeker to be detained he or she would have to be issued with a Detention Order by Immigration Police, which Order informs the person concerned of the reason for detention in accordance with the Reception of Asylum Seekers Regulations (e.g. in order to verify identity or nationality; when protection of national security and public order so require) as well as of avenues of redress. The Detention Order is issued in a language the migrant is expected to understand. In cases of difficulty, an interpreter is provided to explain the contents and effects of this order to the person concerned.

All migrants residing at the Initial Reception Centre (IRC) are provided with information about the asylum process and asked whether they wish to apply for asylum. Visits by UNHCR, lawyers and NGOs, are allowed at IRC and closed centres to provide information about the process.

All migrants may benefit from free legal aid with respect to cases related to the asylum process, detention orders, removal orders, age assessment and decisions taken upon the Dublin Regulation.

Information continues to be provided even after the application for asylum is rejected, not just with a removal order but also through the provision of return counselling by the Returns Unit. The latter is part of the Ministry for Home Affairs, National Security and Law Enforcement and strives to help migrants, mostly failed asylum seekers, to take up assisted voluntary return. Return counselling is carried out inside closed centres with the support of interpreters.

Lawyers visit their clients in the designated area which also includes COVID-19 mitigation measures. Lawyers can also call their clients on the phone lines installed in each compound. NGOs in the immigration sector offer legal service to migrants. There are also several lawyers offering pro bona cases for migrants currently Detention Service facilities.

The report again does not reflect the situation in relation to communication with outside world in terms of telephony. Although it is correct that the service was discontinued, migrants still have access to telephone calls. The termination of service from the service provider was mitigated by the use of mobile phones in every compound. Telephone sets present in every zone can be used for unlimited incoming calls. In the coming weeks, a new PABX system will start being installed.

**Para 55** - The disruption to visits was only very brief during the first semi lock down following the identification of the first cases of COVID-19 in Malta.

Representatives of the UN Refugee Agency (UNCHR) have unhindered access to the detention centres. Statistics on the presence of UNHCR inside the closed facilities may be shared with



the Commissioner. Persons in vulnerable situations are identified by professionals of the Agency of the Welfare of Asylum Seekers (AWAS) who are also present on a routine basis within closed centres. Visits by lawyers, NGOs and family members are carried out by appointment to ensure that this designated area is available. A new designated area has been set up to allow for such visit to be carried out in more comfort for both migrants and visitors.

In relation to complaints, detainees have the opportunity to file complaints to the Monitoring Board for Detained Persons directly. The NPM's annual report is presented to Parliament and is publicly available, including information on complaints passed on to the Board.

The Detention Service have also developed an internal complaint system where all migrants are given the opportunity to lodge complaints. All complaints are lodged in a confidential manner with the use of sealed envelopes. Each complaint is then followed up by professionals from the respective department. All complaints are initially handled by the Manager for Welfare Services. To avoid potential conflict of interest, the initial complaint form is filled in the form of check boxes and the case is dealt with in more detail by the investigating personnel.

**Para 56** - Efforts to increase capacity in open centres have been various, with the aim of improving living conditions in the same centres by alleviating population pressures. These include:

- Regeneration of an open migrants' facility in Hal Far Hangar Open Centre, including an emergency shelter;
- Increase the efficiency of relocation and returns, including different packages for assisted voluntary return and re-integration.
- Increase the efficiency of the asylum process, whereby significant improvements have been made to reduce the asylum backlog by the end of 2021. The International Protection Agency plans to continue increase its workforce to deal with the current backlog in 2022.
- A new cash incentive scheme to assist migrants to live independently in the community; thereby aiming to increase the available spaces at the centres and also assist migrants to integrate faster within society.
- In 2021, social workers provided interventions to 1,895 beneficiaries, 350 of which were beneficiaries living in the community. Social workers provide financial assistance and conduct best interest assessments in cases of separated families with children, follow and refer clients to the appropriate entity and support in job seeking. They also support the person by creating a network with the local communities so that the person can live independently.

Furthermore, asylum seekers are assessed during their stay in the centre and followed by the different professionals. A reassessment is not considered necessary if a person is being followed by a social worker. Moreover, as per procedure, three months prior to the expiry of the framework document the resident is to be reminded, by means of a letter, of the forthcoming closure, and that they are expected to attend a meeting with the centre



Coordinator or his/her delegate. These meetings may be held individually or in groups, in accordance to operational exigencies. A procedure with specific deadlines is in place to ensure that individual clients are prepared to leave the open centre. The procedures provide adequate assurances, that despite the reduction in the length of the framework agreement, all vulnerable and special cases are catered for as necessary. The latter normally reside in open centres for a much longer period than six months.

**Para 57** - Tap water and potable water are adequately available in all centres throughout the whole day. Sanity facilities are maintained and cleaned daily. Common areas and bathrooms are disinfected regularly, also to prevent the risks of COVID-19. Works are being carried out to ensure better access to water and increase sanitation facilities in both centres. In this regard, works are currently taking place in Hangar open Centre, whilst works on new sanitary facilities at the Hal Far Tent Village are planned to start shortly. With regards to over crowding, the current person ratio is 2 to 4 per cabin, which is well within the indicated limits as stipulated in the EASO guidelines. It is to be noted that in the Hangar Open Centre AWAS procured 75 New cabins with better insulating materials.

A project including the landscaping exercise, including the planning of trees, as well as procurement of outdoor furniture suitable for children is expected to be concluded by April 2022.

**Para 58** - An agreement signed between the Agency for the Welfare of Asylum Seekers and the Maltese Child Protection Services has allowed for and the Maltese Court has been signed which allows for pending care orders of all the UMAS in the reception centers and appointments of representatives to be issued in accordance to Article 21 Chapter 602 of the Laws of Malta. Care orders and temporary care orders are being issued a few days after arrivals. The issue referred to by the Commissioner has been addressed.

The Migrants Advice Unit provides migrants residing at the Initial Reception Centre (IRC) and Open Centres information about the asylum process and asked whether they wish to apply for asylum.

In 2021, the Migrants Advice Unit provided 2,947 information sessions in all centres. Topics included Asylum procedure, Education, Employment, Health and Assisted Voluntary Return. These info sessions were carried out in conjunction with EUAA and the content was developed and tested together.

### **Section 3 – Women’s Rights and Gender Equality**

**Para 77** – The Government would like to draw attention to the fact that free childcare support is available to all parents and guardians who are in employment or are pursuing their education leading to a recognized qualification. In fact, Malta is one of the few Member States of the Council of Europe to provide free childcare services to parents and guardians in employment and/or education. Malta’s free childcare scheme was introduced on the 1st of April 2014, and has since helped thousands of parents and guardians, and in particular facilitated women’s reentry into the labour market.



In addition to the provision of free childcare, there are numerous other measures in place, aimed at helping women re-enter the labour market after childbirth as well as support them to retain their employment and to overall help families lead a more adequate work-life balance. These include the 'breakfast club service', which enables parents to take their children to school one hour before lessons start where they are provided with a healthy breakfast free of charge, thus giving parents greater flexibility for their work in the morning. Another initiative is the 'Klabb 3-16' which provides for after school hours to all school age children to engage in extra-curricular activities, that bridges the gap between the time when school finishes and parents finish work, again giving parents greater flexibility in their work. The maternity leave benefit provides for an increase in benefits paid by government applicable for the last 4 weeks of maternity leave. The tapering of benefits for single parents supports single parents, which are more often mothers, by making them eligible to keep 65% of the unemployment benefit in their first year of employment, going down to 45% in their second year and 25% in the third year.

**Para 78** - In this regard, the Government would like to specify that the corrective mechanism introduced by the new landmark legislation in April 2021, guarantees that from the next General Election, taking place this year, up to 12 seats, split evenly between the political parties, will be assigned to the underrepresented sex. Therefore, in the current scenario, this mechanism will raise the level of representation of women in the country's highest institution from 13% to a minimum of 40%. This legislation is a historic and crucial step forward to rectify women's under-representation in politics and move closer to achieving gender balance in Parliament.

**Para 81**- Whilst Malta is fully committed to providing access to reproductive healthcare, and is working to improve these services, including the strengthening of comprehensive sexual health education, through a multisectoral approach, Malta does not agree with the interpretation that the right to sexual and reproductive health services includes an intrinsic right to abortion. It remains Member State competence to decide whether abortion should form part of a range of sexual and reproductive health services at a national level, in accordance with the ICPD Programme of Action.

**Para 82** - No arraignments related to illegal abortions have taken place since 2015. No person requiring treatment is ever denied treatment or turned away. Should the mother's life be in danger, all efforts are made to save both lives, and the double effect principle applies (eg. Ectopic pregnancy). Moreover, available data from our well-established National Hospital Information Systems and Mortality Registers have no registered maternal deaths or complications following abortion over the past 10 years.

**Para 84** - Travel bans during COVID-19 occurred largely between March and June 2020, with travel being permitted after this period to all EU countries (except Sweden, which was included on the amber list for permissible travel in September 2020), and NGO support remained available throughout.



## **ANNEX 1 – Works undertaken by the Detention Service in Block A, Safi Barracks**



