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**ECRI CONCLUSIONS
ON THE IMPLEMENTATION OF THE RECOMMENDATIONS
IN RESPECT OF MALTA
SUBJECT TO INTERIM FOLLOW-UP**

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¹ Except where specifically indicated, any developments which occurred after 17 August 2020, the date on which the response of the Maltese authorities to ECRI's request for information on measures taken to implement the recommendations chosen for interim follow-up was received, have not been taken into account in this analysis.

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FOREWORD

As part of its fifth round of monitoring work, ECRI has renewed its process of interim follow-up with respect to two specific recommendations made in each of its country reports.

In line with the Information Document on ECRI's fifth monitoring cycle brought to the attention of the Ministers' Deputies on 14 November 2012¹, not later than two years following the publication of each report, ECRI addresses a communication to the Government concerned asking what has been done in respect of the specific recommendations for which priority follow-up was requested.

At the same time, ECRI gathers relevant information itself. On the basis of this information and the response from the Government, ECRI draws up its conclusions on the way in which its recommendations have been followed up.

It should be noted that these conclusions concern only the specific interim follow-up recommendations and do not aim at providing a comprehensive analysis of all developments in the fight against racism and intolerance in the State concerned.

¹ CM/Del/Dec(2012)1154/4.2.

1) *In its report on Malta (Fifth Monitoring Cycle), published on 15 May 2018, ECRI strongly reiterated its recommendation to ensure that a mechanism for collecting disaggregated data on hate crime incidents, including hate speech, on grounds of race, colour, language, religion, ethnic origin, citizenship, sexual orientation and gender identity, is put in place, recording the specific bias motivation as well as the criminal justice response, and that this data is made available to the public.*

In their initial response to ECRI's above priority recommendation, submitted on 17 August 2020, the Maltese authorities informed ECRI that the Malta Police Force records the number of hate crimes reports in general. However, the authorities considered the number of hate crimes small enough to allow manual extraction of any relevant data. The Maltese authorities in their response further indicated that data processing capabilities in the field of hate crime could be increased if the number of such crimes increase.

An important development is the establishment of the Hate Crime and Speech Unit, which works closely with the Maltese Police Force. The Unit was inaugurated on 24 October 2019. According to clarifications provided by the Maltese authorities on 19 January 2021, the unit addresses issues of hate speech and hate crime in Malta, and supports victims through the provision of free therapeutic and legal services. The team consists of the Head of Unit, a Therapeutic Deputy Unit Leader, 4 Therapeutic Assistants, and a lawyer specialising in hate crime and speech legislation. It also compiles statistics and processes cases of hate crime and hate speech which are reported to the Unit, conducts research on the issue, and educates and trains both the general public and professionals. By 19 January 2021, the Unit had received 249 reports, 193 of which were filed against individual alleged perpetrators.

While the new Hate Crime and Speech Unit appears to focus mainly on the important task of supporting victims of hate crime and hate speech, ECRI notes with appreciation that it is also tasked to compile statistics in this regard. The data collected can be made available to the public on request.

As a consequence, ECRI considers that its recommendation has been fully implemented and encourages the Maltese authorities to keep ECRI informed of any further development of their data collection mechanism when it comes to hate crime incidents, including hate speech, on grounds falling within ECRI's mandate.

2) *In its report on Malta (Fifth Monitoring Cycle), ECRI strongly recommended that the authorities continue to allow persons who cannot be returned to their country of origin to stay legally in Malta and that for those who have resided in Malta for more than ten years, the authorities should consider a more permanent form of regularisation.*

ECRI was informed by the Maltese authorities that under present legislation, irregular migrants who cannot until further notice be returned to their countries of origin, are granted temporary renewable residence permits. However, such irregular migrants will not receive permanent resident status. In this respect, an *ad hoc* policy was in place regarding non-returnable failed asylum seekers who entered Malta prior to 31 December 2015 and who have resided in Malta for at least five years. Persons profiting from this policy were granted a specific immigration status referred to as Specific Residence Authorisation, which entitles them to a two-year renewable residence permit, a work permit ("employment licence") travel document and access to a core welfare benefits on the same terms as persons granted subsidiary protection. In addition, they are given access to State education and training, as well as medical care.

Criteria for obtaining Specific Residence Authorisation included, apart from the period of residence, having been frequently employed (on average nine months per year or more) and having made integration efforts, e.g. by studying Maltese or English.

Given the criteria of on the one hand having entered Malta prior to 31 December 2015 and on the other hand having resided at least five years in Malta, it has not been possible to submit any new applications since the end of 2020.

The Maltese authorities do not plan to offer any form of permanent residence permit to irregular migrants, regardless of whether they are in possession of a temporary residence permit or not.

ECRI recognises that Malta is an exposed frontline State in relation to refugee flows crossing the Mediterranean Sea from Africa to Europe and that its limited population size may make it difficult to accommodate larger numbers of failed asylum seekers. Nonetheless ECRI has to note that due to the timelines in place, there cannot be any new beneficiaries of the advantageous *ad hoc* policy introduced in 2018. Moreover, and of more relevance to ECRI's recommendation, ECRI notes that there are no plans to introduce a more permanent form of regularisation for persons who cannot be returned to their countries of origin, despite having resided for many years in Malta.

As a consequence, ECRI considers that its recommendation has not been implemented.

