

european network against racism

ENAR Shadow Report 2006

ENAR SHADOW REPORT 2006

RACISM IN MALTA

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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. Even where there is extensive official data, NGOs offer a vital alternative data source that comes directly from experiences of those individuals and communities experiencing racism on a daily basis.

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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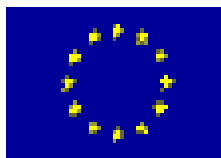


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1. Executive summary

Irregular migrants, who continued to arrive in Malta over 2006 especially in the summer months, remain the community most vulnerable to racism.

In the field of employment migrants continue to face discrimination in accessing jobs, in the level and conditions of work and in payment. Migrants felt that they were paid approximately half what a Maltese person would be paid while some migrants were not paid at all for their work.

Conditions in detention centres for migrants were appalling and came under strong criticism from various actors including UNHCR, the European Parliament, Amnesty International and other organisations. A new open centre was set up consisting of tents where migrants leaving detention were housed. Problems were encountered in accessing independent housing.

The policy was clarified that all asylum seekers have a right to free medical care at hospitals and health centres. This addressed problems that existed before when medical care was free for some but not all asylum seekers (depending on their protection status). Some issues remain with regard to access to healthcare in detention centres.

No information was available on racial profiling and except for some minor allegations NGOs could not provide information in this regard.

A number of arson attacks were carried out throughout 2006 affecting people who either work with migrants or who had expressed themselves in favour of the rights of migrants and against racism. While investigations into these attacks produced no result, the attacks received nation-wide condemnation from all fronts.

Members of the migrant community continue to be denied access onto buses or into bars and discos, although many of these cases are not officially reported and therefore no reliable data in this regard was available.

During 2006, there were no actions towards the implementation of the EU Race Equality Directive, though parts of directive were implemented in the first half of 2007. Up until the end of 2006, the directive's implementation was limited to the field of employment and no equality body had been set up.

While migration continues to be a key issue on the national agenda, no major political or legal developments occurred in this sphere in 2006. By the end of the year, the Government was in the process of setting up an organisation to address the integration and welfare of asylum seekers. The organisation was officially launched in February 2007.

New legal provisions were developed with regards to racism as a crime whereby racial motivation is considered to be an aggravating circumstance for a number of offences including wilful offences against the person. Incitement

of racial hatred is a criminal offence under Maltese law and a new case was opened in this regard which has not yet been judged.

Various NGOs and IGOs as well as the Government participated in awareness-raising, while some NGOs engaged in activities aimed at dismantling barriers between cultures.

Recommendations:

General

- Concrete action should be taken by the Government and all concerned parties to eliminate discrimination all its forms, especially racism;
- Investment in capacity building for organizations working in the field is necessary.

Anti discrimination

- Measures should be taken to ensure the new equality body (set up in 2007) is as effective as possible in tackling racism and discrimination;
- Clear, understandable and accessible information should be given to all possible victims of discrimination about the equality bodies and other possible remedies and how to access such remedies;
- The equality body should liaise with people working directly with migrants in order to make the support offered by the body accessible to all possible victims. Moreover, people working with migrants should on their part, suggest to any victim of discrimination that they come across that he/she can proceed on the claim with the equality body.

Migration and integration

- The detention policy should be removed and instead replaced with policies which are in line with international human rights standards and practices and which respect the basic dignity of asylum seekers;
- Should the detention policy be maintained, the conditions in detention centres should be improved considerably to ensure that people are treated with dignity and that their rights are safeguarded;
- Further emphasis should be placed on the dignity of migrants in detention centres;
- Further attention should be given to the particular vulnerabilities of women, children, elderly and disabled persons;
- Adequate training should be given to those working in detention centres;
- Migrants in detention should be given induction courses in language and culture to ensure integration upon release;
- The media should be allowed into detention centres allowing for media scrutiny of the way such centres are run;
- A clear integration strategy should be launched by the Government working closely with civil society;
- More activities should be conducted to increase awareness of different cultures hopefully assisting integration;

- More awareness campaigns should be implemented, using effective tools such as the media, to inform the public of the realities faced by migrants and to combat stereotypes and misconceptions.

Criminal justice (Racism as a crime)

- Hate speech, including on the internet, should be criminalized.

Social inclusion

- Better training is necessary for those who may come across migrants in their work and daily lives (especially teachers, medical staff, etc.);
- Assistance with employment and support for initiatives by organisations and businesses in training asylum seekers for employment is necessary;
- The acquisition of housing in the community should be promoted and migrants should be assisted with issues related to housing;
- Invest in education at all levels of society is necessary;
- A fund should be created to support initiatives for the integration of asylum seekers facilitated by NGOs.

2. Introduction

In 2006 migration continued to be a major item on the national agenda, particularly because of the arrival of further migrants from Africa. This phenomenon was accompanied by a growing trend in racism continuing from 2005. Racism reached a peak in 2006, manifested in arson attacks on members of NGO and media communities who had expressed themselves in favour of the rights of migrants. At the same time, public and media interest in these issues continued to rise and migration was continuously on the newsreels.

Migration continued to be a priority area for the Government. The policy of automatic detention continued on the pretext of security and public order, despite strong criticism by many actors including the United Nations High Commissioner for Refugees (UNHCR), Amnesty International and the Jesuit Refugee Service (JRS). Both the Government and the opposition agreed on this policy. The policy of denial of media access to detention centres continued except for in one instance when the Government organized a visit for the media in some detention centres; a visit which NGOs claimed was rather limited. Many people felt that the European Union was not doing enough to help Malta deal with the situation, even as Malta continued to press for burden sharing throughout the EU. The emphasis on migration issues in which alarmist tones prevailed, was regrettably not accompanied by adequate integration and anti-racism measures. In 2006, the EU Race Equality Directive was not yet fully implemented, though what remained to be implemented was addressed in the first half of 2007.

This report will highlight the main legal, political and social developments in relation to racism in Malta throughout 2006. Due to the almost total lack of data concerning the extent of racism and discrimination, this report will rely heavily on media reports and interviews (formal and informal) held throughout the year with NGO representatives and the migrant community. This report aims to voice the concerns and comments of civil society and the migrant population in Malta, as well as of the members of staff working at the open centres for migrants.

3. Communities vulnerable to racism

Throughout 2006, migrants continued to arrive in Malta. **Asylum seekers and others with protection status** continued to be the population most vulnerable to racism. This is not surprising when one considers the way the issue of migration is portrayed and the way politicians and leading figures often speak about the phenomenon. Alarmist and sensational language is very often employed, leading members of society to view the issue with a fearful if not disapproving eye. While no major studies were conducted in 2006, all NGOs interviewed felt that the migrant population is the one most vulnerable to racism in Malta. They face racism on various levels and in various sectors. Racism reached a peak in 2006, manifested in a series of arson attacks against NGOs and journalists who had pronounced themselves in favour of the rights of migrants. Throughout the year, the subject continued to be hotly debated on various TV shows as well as via print media.

The language barrier is among the main problems cited for why migrants are often unaware of their rights. Many NGOs are concerned about the lack of adequately trained interpreters and cultural mediators. This can be especially detrimental to the right of migrants to a fair hearing since it often hinders them from expressing their stories particularly in front of the Refugee Commissioner. Concerns were also raised about the availability of legal aid (though a right under national law) for those undergoing appeal. Most legal assistance was in fact offered by the Jesuit Refugee Service (JRS), one of the leading NGOs in this field in Malta.

Speaking at a conference regarding the integration of third country nationals, Katrine Camilleri of the JRS noted that Malta has been a 'bus stop'-like transit country for many years but that migrants may increasingly have to settle in Malta. The current reception policy tends to exclude rather than integrate migrants and there is a culture of dependence on the state that is dangerous. Malta has obligations for equal treatment and human rights under EU law and it is a positive challenge for us to develop into a truly inclusive society.

It is commonly agreed that there is one real and effective way to develop into a truly inclusive society and this is through education. In 2006, the JRS continued with its school outreach programme, while other organisations were involved in lectures in schools. In particular, Amnesty International Malta planned a wide-scale Human Rights Education Project, insisting on the fact that migrants continue to arrive in Malta and that local children are thus meeting migrant children in the classroom. While integrated classrooms help with the process, there is nonetheless a need for proper education in this regard.

Throughout 2006 Malta maintained its automatic detention policy for irregular migrants. On arrival irregular migrants are held in closed detention centres for up to 18 months and later transferred to open centres, and migrants were even detained when seeking medical assistance at hospitals and health centres. Amnesty International highlighted how such policies clearly violate

international human rights laws and standards. Such policies have also come under strong criticism from the UNHCR, the JRS and other organizations working in the field. One of the main criticisms of this policy is that it hinders integration by creating an image of migrants as criminals. This criticism is further supported by the fact that security is cited as one of the reasons for the maintenance of the detention policy. Moreover conditions in detention centres are continually below internationally agreed standards.

In their work, NGOs reported encountering various cases of detained immigrants or refugees who are women, Muslim, elderly, gay or have a disability. Due to a lack of officially documented cases, they could not assess the extent to which these individuals face multiple discrimination, but especially in the case of women and the elderly, NGOs held that these factors constitute further obstacles to accessing the labour market. A round table discussion¹, organized by the European Network against Racism (ENAR) in preparation for the 2007 European Year of Equal Opportunities for All, highlighted how there is a need for awareness-raising about multiple discrimination. In this regard, the MOSAIC network was set up, led by the National Commission for the Promotion of Equality and including representatives from organizations and networks representing all the six grounds of discrimination. Two other projects were also submitted by NGOs for the year.

Another community which is also subject to discrimination is **the Muslim community**. Many feel that Islam is surrounded by growing stereotypes especially linked to terrorism and similar acts. Moreover, it is a common occurrence to hear people speaking of how migrants are all Muslim (while no statistics exist this is clearly not the case) and that they are coming here to convert people. In fact, the Muslim community takes a low profile approach while maintaining an open door policy for anyone who wants to find out more.

An important factor to keep in mind is the fact that in so far as this report covers the experiences of a category of first generation asylum seekers, many of them are glad to have arrived and will not report any incidents of racism. This is not to say that they are not hurt by such acts or that such acts do not occur, but it may in part explain why the number of officially reported incidents is quite low.

Another group which is often the victim of racism are **organizations working directly with or for the rights of immigrants**. Verbal and written threats are often put forward; a manager running one of the NGO-run open centres received death threats, while arson attacks were also carried out on cars and houses of those who defend the rights of migrants.

¹ <http://www.enar-eu.org/en/national/roundtables.shtml>.

4. Manifestations of racism and religious discrimination

4.1 Employment

Problems in this area often revolve around the difficulty for migrants in accessing regular employment. When regular employment is available, migrants may have difficulty accessing quality jobs that reflect their skills and educational background. Throughout 2006, reports continued of immigrants being employed illegally and of exploitation in the workplace. Migrants claimed that they are paid approximately half of what a Maltese person would be paid for the same work and reports continued to come in of migrants not getting paid for the work they have done². In most cases, it was up to people working with migrants (especially people managing open centres) to chase employers to pay the migrants while many migrants, either due to the fact that they were illegally employed or due to fear of victimization, often avoided taking action. Very often, the wages paid to migrants fell below the minimum salary established by law.

While concrete statistics and data do not exist, various individual cases came to the attention of open centre managers, NGOs and trade Unions. The reality is that migrants are very often desperate for a job and their legal situation and their status in Malta is often a further hindrance to finding employment. The fact that people on humanitarian protection need their employer to apply for their permits leads to a very clear temptation to cut corners, not apply for such permits and employ the migrants at a rate much lower than they would be expected to pay had such permit been acquired.

Another issue which some NGOs highlighted is the fact that migrants are very often not given the same conditions of work as their Maltese co-workers. Some are made to work longer hours while others are not given the necessary gear and equipment needed for a particular job. In one such case reported to the author, an individual was asked to handle kerosene without any gloves, leading to the person suffering skin injuries. Many more such incidents occur regularly and often go unreported. Illegal employment also places migrants in a situation where they do not enjoy any benefits in case of injury or unjust treatment.

Many NGOs feel that one of the reasons leading to the exploitation of migrant workers is their legal status and the fact that people under humanitarian protection require their prospective employers to apply for their permit. This creates room for abuse. One of the trade unions explained how employers take advantage of anyone who is in a weaker bargaining position and as it

² Information collected by the author in his work with Amnesty International Malta through informal interviews with migrants and people working with migrants.

happens, most of these workers are migrants, mostly African, (although in the hospitality industry it is mostly Eastern Europeans who are employed).

Some NGOs mentioned that there is not enough enforcement on the part of the Government to ensure that these workers are employed legally and thus would be contributing to national insurance and taxes and that the minimum working conditions set down by law are being respected.

Moreover, employment is a topic manipulated by those with an anti-immigrant agenda to foster anti-immigrant sentiment in the general public. The claim that 'migrants are coming to take our jobs' and that Maltese people are going to be unemployed, albeit unfounded in fact, is used extensively by certain factions of society and has created a sense of fear among the general population. This in turn is a breeding ground for anti-migration sentiment which often manifests itself in other forms of racism and discrimination including harassment.

Example of NGO good practice

Under the **EQUAL Project** titled **Integration of Asylum Seekers into Maltese Society**, NGOs were involved in a training programme coordinated by the Foundation for Social Welfare Services which gave migrants an introduction to the English language, other life skills and further vocational training aimed at preparing migrants to be able to join the workforce³.

4.2 Housing

At the latest count (25 July 2007) there were 1783 people living in open centres and 1361 living in closed centres in Malta.

The EU Committee on Civil Liberties, Justice and Home Affairs reported in March that the administrative detention centres for asylum seekers and migrants were in a deplorable condition and failed to meet legally binding international standards. Amnesty International⁴ noted how a delegation of the Committee, visiting four detention centres, found that the Hal-Safi detention centre 'was like a cage', without sheets on the beds, broken and dirty mattresses, and no heating. Hygiene conditions were intolerable, with broken showers, no hot water, and toilets without doors and in a state of disrepair. At the Hal-Far centre, delegates found high levels of mosquitoes and rat infestation, and appalling conditions in bathrooms. At the Lyster Barracks centre, the Committee reported that there were only two functioning toilets for more than 100 people, no provision of sanitary towels for women, and no area outside for fresh air and exercise. The detention policy and the conditions of detention come under continuous criticism by many organizations, local and international, governmental (such as the UNHCR) and Non-Governmental (AI and JRS among others).

³ http://www.msp.gov.mt/esf/measures/mes_equal_part_4.pdf.

⁴ <http://thereport.amnesty.org/eng/Regions/Europe-and-Central-Asia/Malta>.

The detention centres continued to be run by the Army and the Police with some NGOs claiming that such officers did not have the required training to carry out this work. By the end of the year there was talk of a new governmental organisation being set up under the Ministry for the Family and Social Affairs which would include social work services in detention centres. The new organisation would also be responsible for running the open centres. The organisation was set up officially in 2007.

Examples of NGO good practice

Organisations working in open centres took it upon themselves to employ members of the migrant population to work in open centres bridging the way to improved communication while ensuring that the needs of migrants are fully understood.

An NGO was also employing a full time social worker to assist with the social needs of migrants both in detention centres and in open centres.

Reports came in that supporters of the far right movement put threatening notes in the centres creating a feeling of unease with the migrants.

A new open centre consisting of tents was opened in Hal Far. The Hal Far tent village came under severe criticism in the beginning due to the fact that the tents were not elevated and were simply placed over a field. With time however, the centre improved; the tents were placed on platforms and a group of staff members was assigned to the centre. While many NGOs still express concern about living conditions in this village (namely that people live in tents), others were pleased to note the substantial improvements to the centre throughout the year. By the end of the year, the centre was run by the Organization for the Integration and Welfare of Asylum Seekers.

The NGO most active in relation to the housing of irregular migrants is the Emigrants' Commission⁵ which is a church-run organization running a number of small to medium sized open centres. The largest such centre is the Balzan Good Shepherd Home which currently hosts around 320 people. The centre, located in the heart of one of Malta's villages, also hosts families with children and has received praise as one of the centres allowing for the dignified living of its residents. While some neighbours complained when the centre opened, the centre was generally well received and some organizations said that it is a good example of a centre allowing for the integration of asylum seekers. The Emigrants' Commission also runs other smaller centres.

When immigrants and refugees try to find their own accommodations however, certain problems arise owing to the difficulties in acquiring loans due to their lack of secure employment. Purchasing property is also made more difficult by regulations that do not allow third country nationals to purchase

⁵ <http://www.maltamigration.com/about/mec.shtml>.

immovable property unless the value of the property exceeds certain thresholds.

Reports were also made of people who refused to rent places to migrants on the pretext that they were African. Some explained however that such restrictions are placed not only on migrants but also on others including landlords not wanting to rent to fellow Maltese people. Many NGOs however noted that the situation was accentuated with regards to migrants.

4.3 Education

Education was not identified as one of the problem areas by most NGOs. As soon as children left detention centres (normally after a few weeks) they started attending school and few problems were encountered. NGOs did however once again point to the lack of concrete action by the Government to take the specific needs of these students into account or to develop projects to promote their integration. Not all teachers were given training on how to work with a multi-cultural classroom.

The national minimum curriculum mentions the need to develop a sense of respect, cooperation and solidarity among different cultures. However, the implementation of the curriculum is often left to the individual schools which sometimes do not take any action to implement these aspects of it.

Examples of NGO good practice

The **Jesuit Refugee Service** continued with its **school outreach programme**⁶ whereby students were introduced to migrants and were given the opportunity to ask questions. By the end of the year **Amnesty International Malta** was also planning a **Human Rights Education Project**⁷.

A number of NGOs offered English lessons for migrants in various open centres while the Equal Project (mentioned above under employment) also included an element of English language teaching.

NGOs also organised awareness-raising activities on the issue of racism. Both **Movement Graffiti** and **Amnesty International** organised discussions and seminars on the topic.

Members of the far right movement turned at these awareness-raising activities evidently to intimidate and provoke those present, especially by taking photos at a time when many people feared possible repercussions for speaking out against racism such as the arson attacks which took place throughout 2006.

⁶ http://www.jrsmalta.org/2006_Annual_Report.pdf.

⁷ www.education.amnestymalta.org.

4.4 Health

In 2006, migrants continued to feel that they are not treated fairly in hospitals. Some claim they were left to wait for excessively long periods while other patients arriving after them were treated before them. Doctors complained of the fact that they could not understand the migrant patients due to the language barrier and this often caused discontent between all concerned.

On a positive note, in 2006 the Government clarified the policy that all asylum seekers, be they people with refugee status, humanitarian protection or even rejected asylum seekers living in the community, have access to free medical services just like Maltese people. This was considered to be a very important step both by migrants and by NGOs working directly with migrants. Also positive, the JRS are currently employing a full time nurse to attend to the needs of migrants in the centres.

Issues remain with regard to access to health for migrants held in detention centres. Certain migrants reported that their complaints go unaddressed and that they are not given the necessary care. NGOs and migrants alike complained that when taken to the hospital, migrants are handcuffed giving the impression that they are criminals and denying them their basic dignity. Amnesty International also noted in its report for 2006 that Migrants are detained without first having a proper medical screening, potentially putting the health of other detainees and detention centre staff at risk.

In 2006, the international organisation Médecins du Monde visited Malta and decided to send a further delegation in 2007. The delegation, due to start its work in 2007, was to collect data on the health of migrants in detention centres. Unfortunately, when the delegation arrived, they were denied access into detention centres and were therefore confined to working in open centres.

Health was once again used by those factions of society who sought to foster anti-immigrant sentiment. These factions often argue that migrants are bringing diseases into Malta. There have been reports of people not wanting to sit in the same seat as a migrant out of fear that they would get infected.

4.5 Policing and racial profiling

NGOs were not in a position to assess the extent to which law enforcement officials resort to racial profiling, though there were various allegations in individual cases. There were also some allegations of mistreatment of people in detention and in the recapture of people who had escaped detention. No official data was available in this regard.

4.6 Racist violence and crime

In their Annual Report, ENAR has noted that debate in the news media and on the internet was increasingly hostile towards immigrants and that racist attacks and hate speech were on the rise⁸.

Throughout the year arson attacks were targeted at individuals and organizations that work for and defend the rights of migrants and asylum seekers or that denounced racist and discriminatory attitudes and actions in Maltese society:⁹

- In early March 2006, the house of a poet was set on fire in an arson attack just a few days after he launched a book of poetry promoting tolerance and refugee rights;
- On 13 March 2006, seven cars belonging to the Catholic Church's Jesuit Community were destroyed by fire at night, shortly before publication of the Report on Racism and Xenophobia in Malta by the European Monitoring Centre on Racism and Xenophobia (EUMC). The Jesuit Community is the EUMC partner in Malta;
- On 11 April 2006, a car belonging to a lawyer working with the Jesuit Refugee Service was set on fire and destroyed;
- On 3 May 2006, the editor of the weekly newspaper *Malta Today* had his house torched by arsonists; he had published an editorial on racism and immigration shortly before the attack;
- On 13 May 2006, the home of a journalist from the daily newspaper *The Malta Independent*, who had denounced the extreme right and written about racism and immigration, was attacked. In the early hours of the morning, arsonists leaned five burning tires filled with petrol against her back door. Smashed glass and petrol were spread on the road in front of the house in an apparent attempt to prevent her family escaping and to block help arriving.

The attacks received nation-wide condemnation from all fronts. The Government, opposition and civil society all came out with very strong messages against the arson attacks and in support of the victims of the attacks. The Government immediately condemned the acts and an investigation was launched. The Prime Minister and the Minister for Justice as well as the President expressed their concerns about these attacks and expressed their solidarity with the victims.

Labour MP Gavin Gulia said he did not have 'the smallest doubt' that the arson attacks were associated with a 'vile expression of racism' from groups intolerant towards immigrants in Malta. 'This cowardly act cannot be ignored as if nothing happened... when violence and vandalism are accompanied by racism and xenophobia, these are not only targeting the criminal justice system but also seriously challenging democracy and safety in our country.'¹⁰

⁸ http://www.enar-eu.org/en/publication/annual_reports/index.shtml.

⁹ The recount of the attacks is taken from the *Amnesty International Annual Report – The state of the World's Human Rights*.

¹⁰ <http://www.businesstoday.com.mt/2006/03/15/t15.html>.

In the days following the attacks, the right-wing website, vivamalta.com, which hosts adherents to far-right extremist Norman Lowell, was alight with discussions on the issue. Unidentified commentators posted items such as the following:

'I heard through the grapevine that last night all the Jesuits' cars parked in the St Aloysius College grounds were burnt'

'That's nice. Were any Jesuits grilled?'

'Too bad. If Jesuits had been grilled we could have had a holocaust memorial day of our own in a year's time. Better luck next time arsonists.'

When a speaker during a debate on the issue of migration mentioned the attacks some weeks later the far right movement supporters clearly expressed their anguish and anger at the comments. One columnist noted how after a number of arson attacks, the issue of racism is rightfully being placed high up on the political and social agenda of the country¹¹. One writer noted how these arson attacks will not make their victims change their minds nor succumb to the racist threat. Indeed he was right because the victims would not be discouraged and would nevertheless keep working. Speaking publicly, a representative of the JRS expressed his hope that the violence encourages other people to speak up rather than be frightened.

By the end of the year the police investigations had not led to anyone being charged for these attacks. While investigations were still ongoing, many NGO members were doubtful that any results would surface, while others still had hopes that the police investigations would shed more light onto the matter. By the end of the year the arson attacks had abated.

4.7 Access to goods and services in the public and private sector

In 2006, reports of ethnic minorities being denied entry into bars were widespread and hostility in other places of entertainment were also occasionally reported. The reason often given is that Black and Arab people had perpetrated trouble in the establishments before. Such policies were implemented by security officials at the doors of clubs and were in some instances less subtle than in others. There were cases reported where people were pushed rather violently upon insisting that they should not be denied entry. The situation was not as bad when the Black or Arab person was accompanied by a Maltese person, though there were still instances where even under such circumstances entry was denied. A group of Maltese people trying to enter a club with a Black person where refused entry, upon reporting these incidents the police failed to take action stating that the bar was private property and they could not intervene.

¹¹ <http://www.maltatoday.com.mt/2006/05/21/editorial.html>.

Most of these cases went undocumented thereby making it difficult for statistics to be kept and for NGOs to take action. Migrants complained that they were not allowed to board buses on the pretext that the bus was full when this was not the case. Cases were observed where people stood up and left their seats if a black person sat next to them.

4.8 Media, including the internet

In 2006, the attitude of the media in its reporting of issues dealing with immigrants was mixed. In the wake of the arson attacks, the media gave considerable attention to the incidents and to the NGOs working in the field. Many NGOs commended how most press statements issued by them were carried regularly by some parts of the press, especially newspapers. Some newspapers however continued to use politically incorrect terms when referring to migrants; for example headlines reading 'Klandestini' (clandestines) were frequent in some newspapers.

There was continued work in the context of the ongoing restrictions on the media in accessing detention centres. The Minister for Justice and Home Affairs gave differing justifications for this policy throughout the year. On one occasion he said that it was intended to protect refugees and their families back home. On another occasion, he said that restrictions were necessary for the protection of the public interest and of the people manning the centres, who were already heavily burdened. The opposition on its part objected to the ban.

This policy was strongly criticised by Amnesty International and the UNHCR¹². The latter described the ban as 'short-sighted and very worrying' and held that it was hampering the media from showing that these people were victims, not criminals. It also stressed the important role for the media in fighting racism. The ban was also raised in the European Parliament by both Maltese and other MEPs.

A number of letters to the editor were also printed which demonstrated clear anti-immigrant and xenophobic sentiments. These letters were rebutted by a smaller number of letters which supported the work NGOs were doing and the rights of migrants.

During the year, the media was allowed access to the detention centres only once, prior to a European Parliament visit. Many NGOs complained that the single visit was not enough to grant the media the access necessary to ensure accountability for what happens in the various centres. This effectual media ban continued to come under scrutiny by the UNHCR, Amnesty International and other organisations. Amnesty International felt that facilities where asylum seekers and migrants are confined should be open to outside scrutiny from concerned groups, including the media, in order to guarantee full respect for the fundamental human rights of people deprived of their liberty

¹² <http://www.maltatoday.com.mt/2005/03/13/t17.html>.

and that Governments must guarantee maximum transparency in respect of how holding centres operate. Similar concerns were raised by the UNHCR, JRS and other NGOs working in the field of migration.

The visit by the Committee on Civil Liberties, Justice and Home Affairs (LIBE) to the centres received wide media coverage with articles on the front page of several Maltese newspapers. The coverage reported that the Committee described the conditions of the centres as appalling and cage-like.

The policy document 'Irregular Immigrants, Refugees and Integration'¹³ issued in 2005 states that media access to detention centres shall be restricted so as to:

- Protect potential refugees
- Protect detainee's family and friends who are still in their homeland from retribution by the regime against which protection claims are being made.

The policy document goes on to state that Media visits to detention centres may be authorised in exceptional cases as part of the Government's aim to promote an informed public debate on issues concerning irregular immigrants and asylum seekers. In fact, the media visit held in March 2006 was said to be part of the Government's efforts to raise awareness on the issue of migration though many NGOs perceived it as a show put up before the visit by the LIBE Committee. NGOs continued to call for regular media access to the detention centres. Most felt that the safeguards were justified, however the same interests could easily be safeguarded in other ways (including especially through the drafting of codes of conduct and ethics) while still allowing for media scrutiny of the centres.

On the internet, websites such as vivamalta.org and imperium-europa.org carried postings by various far right extremists which, among other offences, hailed Hitler's legacy. Other websites such as that of the Alleanza Nazionale Repubblicana (ANR) (anrmalta .info) are less extremist, but portray their organisations as being against racism while still being opposed to illegal immigration. Websites like vivamalta.org also carried recordings of speeches of the far right militant Norman Lowel, as well as abusive language vis-à-vis people working in NGOs defending the rights of migrants. Of particular concern were postings following the arson attacks.¹⁴ Such comments are of course worrying and not surprisingly, people who posted them were among those investigated following the attacks.

¹³ http://www.mjha.gov.mt/downloads/documents/immigration_english.pdf.

¹⁴ See above under 'Racist violence and crime'.

5. Political and legal context

On a national level, the main development in 2006 was the establishment of racial motivation as an aggravating circumstance for a series of crimes; a step which many NGOs welcomed. No specific actions were taken with regard to the implementation of the EU Race Equality Directive, though plans in this regard were implemented in 2007 when a number of Legal Notices issued under various laws addressed parts of the Directive which had not yet been implemented. Until the end of 2006, the EU Race Equality Directive was only implemented vis-à-vis employment and the only body, besides the Courts of Law, competent to assess claims of discrimination on the basis of race was the Industrial Tribunal. Since 2004, the Tribunal has been vested with the power to investigate complaints on various grounds, including racial and ethnic origin, with regards to employment, vocational training and membership of any organisation of employees/employers.

No elections took place in Malta in 2006 and no other relevant political developments occurred. The Government and opposition continued to agree on various aspects of the migration policy while NGOs complained that this resulted in a situation where no political pressure was being exerted for change. Alternattiva Demokratika, the Green Party, was in favour of migrants' rights and against the detention policy. However, it received very little attention and support.

5.1 Anti discrimination

Data collection remained one of the major problem areas identified by NGOs. There are barely any studies at all on the extent of discrimination, harassment or violence on the ground of race in Malta. NGOs noted how even if they came across numerous incidences of racism in the course of their work, the lack of official data often hampered their work in terms of reporting and advocacy. Some NGOs attempted to keep records of the incidences they encountered, but this cannot be considered extensive due to the limits of information accessible to NGOs. The fact that many of the cases were undocumented continued to make it difficult for NGOs and activists to use these cases in their advocacy.

NGOs often felt that they did not have real and concrete access to the policy-makers, even if the Government insists that it acknowledges the important role of NGOs and the work they do in the field of migration. For many organizations, the only official channel to raise their concerns together was the MFSS NGO Forum on Migration and Refugees.

Until the end of 2006, no equality body existed and it was practically impossible for victims to pursue legal action. Some NGOs mentioned having to follow-up directly with discriminatory parties in order for victims' claims to be addressed; for example calling employers who refuse to pay migrants their

salary. An equality body was set up however by legal notice no. 85 of 2007, the 'Equal Treatment of Persons Order', which vested the National Commission for the Promotion of Equality with the power to investigate complaints on the ground of racial and ethnic origin, particularly with relation to:

1. Social protection, including social security and healthcare;
2. Social advantage;
3. Education;
4. Access to and supply of goods and services which are available to the public, including housing; and
5. Access to any other service as may be designated by law.

With respect to government involvement in awareness-raising, NGOs felt that this was not enough as it was limited to mere pronouncements, particularly of condemnation after the arson attacks affecting activists and journalists. NGOs noted that speeches given by leading politicians were not deemed to have brought about any societal change especially in a country where racism and anti-migrant sentiments are high. Moreover, some politicians often referred to the situation of irregular migrants with a very alarmist tone and this continued to foster such sentiments and raise concerns among the general population.

5.2 Migration and integration

Throughout 2006, particularly during the summer months, more migrants continued to arrive on Maltese shores. Political discourse reached unprecedented levels of alarmism, with politicians from both main political parties talking of a 'human tsunami' and other factions of society continuing to propose extreme actions which would clearly violate many of the fundamental rights of the migrants in question. The ANR organized its second protest which was described by many as having failed due to the number of people attending.

There were no major developments, legal or political in the field of migration. Some policies were amended in 2005¹⁵ and were put into practice in 2006. Specifically, a maximum detention period of 12 months for asylum seekers and 18 months for rejected asylum seekers was introduced.

Many NGOs engaged in awareness-raising not only of the situation in Malta but also of the situation in various countries of origin; the situations from which migrants are fleeing. The aim of these initiatives was to combat misconceptions. Some NGOs expressed concerns over the effect of media coverage of migration; of 'another boatload of migrants arriving at our shores'. While NGOs acknowledge the importance of this information, it was felt that such reports heightened the alarmism among the general public. Many politicians referred to the phenomenon of migration as the 'influx of migrants', while some far right extremists insisted on referring to the arrivals as 'an

¹⁵ As reported in the ENAR Shadow Report of 2005.

invasion'. Needless to say, fears among the general public were on the rise and this often fostered xenophobia and racism. Most NGOs felt that the lack of contact between migrants and the Maltese population was causing more friction; many Maltese only know migrants as statistics and cannot see through this to the individuality of the persons concerned. One NGO activist noted how through his experience when people worked with or came across migrants in other social circles they were often affected to the extent that the experience changed their perceptions.

A number of activities organized by various NGOs aimed to strengthen the ability of Maltese society to adjust to diversity by targeting integration actions at the host population. These included ethnic meals at a number of open centres, education courses in schools and elsewhere, as well as other information-sharing exercises. A number of NGOs were also involved in enhancing the role of private bodies in managing diversity and the University of Malta also organized a course aimed at teachers. NGOs often collaborated with each other on these projects, focusing on increasing the understanding and acceptance of migration through awareness-raising campaigns, exhibitions, and intercultural events. Many NGOs however complained that such events very often amounted to 'preaching to the converted' as it was almost always the same group of people attending and participating. Moreover, besides activities for World Refugee Day, in which one government ministry was involved, many felt that the Government was not doing enough in terms of awareness-raising.

Concern arose regarding the failure to promote trust and good relations within neighbourhoods. For example, the Marsa Open Centre houses approximately 600 migrants and the surrounding community, that has had to adapt to these migrants living in the neighbourhood, was not fully prepared for this sudden encounter with diversity. It is therefore not surprising that there were (and still are) certain hostilities against and fears about migrants among members of the surrounding community. One NGO noted how during a session in the area school, it was bombarded with all sorts of stereotypes and misconceptions about migrants.

Many NGOs noted how the time spent in detention (which can be up to 18 months) should be used to achieve civic orientation in introduction programs. Such activities for newly arrived third-country nationals could help ensure that immigrants understand, respect and benefit from common European and national values. While some NGOs had access to detention centres, the services offered there were legal and social in nature and very little was done with respect to civic orientation. A small induction package was however prepared, which many NGOs argued left a number of questions unanswered but gave at least some very basic information for people leaving detention. One NGO noted how 'living in society is something migrants have to learn day by day, experience by experience but certain things would be very helpful to be informed of beforehand'. People running open centres have an important role to play in this, being the first contact with society for people just out of detention and often a source of very valuable information.

5.3 Criminal justice

5.3.1 Racism as a crime

Article 82A of the Criminal Code criminalises the incitement of racial hatred:

whosoever uses any threatening, abusive or insulting words or behaviour, or displays any written or printed material which is threatening, abusive or insulting, or otherwise conducts himself in such a manner, with intent thereby to stir up racial hatred or whereby racial hatred is likely, having regard to all the circumstances, to be stirred up, shall, on conviction, be liable to imprisonment for a term from six to eighteen months.

The code goes on to define racial hatred as hatred against a group of persons in Malta defined by reference to colour, race, nationality (including citizenship) or ethnic or national origin. The code does not however define threatening, abusive or insulting leaving such terms to be defined by the courts. The Press Act (Ch248 of the Laws of Malta) and the Broadcasting Act also contain provisions against hate speech.

A bill presented in 2006 amending the Criminal Code made racial or religious motivation an aggravating circumstance for a number of offences including: wilful offences against the person i.e. bodily harm whether grievous or slight; threats; private violence and harassment; as well as spoiling, damaging or injuring the property of others. The bill increases the punishment which may be afforded for such crimes by one or two degrees.

An offence is deemed to be racially or religiously aggravated if the offence is motivated, wholly or partly, by hostility towards members of a racial group based on their membership of that group or if at the time of committing the offence, or immediately before or after, the offender demonstrates towards the victim hostility based on the victim's membership (or presumption of membership) of a racial or religious group. Such membership includes association with members of the group and this therefore seems to cover those working with migrants.

The establishment of racial motivation as an aggravating circumstance was considered by many NGOs to be a positive step forward. They expressed hope that such actions were a sign of Government commitment to putting a stop to racism. Some NGOs however highlighted that threats and harassment very often go unreported due to various factors, including the fact that some migrants feel that no action will result from reporting.

5.3.2 Counter terrorism

In 2006, no developments with respect to counter terrorism occurred in Malta. The Maltese Parliament has, by recent amendments to the Criminal Code⁹, ensured the fulfilment of most obligations arising from Security Council Resolution 1373(2001). The provisions established what constituted a terrorist act, prohibited participation in terrorist organizations as well as their funding and introduced new jurisdictional rules to ensure an effective implementation of the new measures.

With regards to the application of these laws however, little information exists. There were no reports of these laws being applied at all and no information particularly with respect to whether law enforcement resorts to racial profiling, except for individual undocumented suspected cases at the airport highlighted by some NGOs. It is interesting to note however that one of the reasons stated in the Government's defence of the detention policy is security. This is supported by a substantial number of Parliamentarians from both sides of the house.

5.3.3 Racial profiling

No information is available on the topic of racial profiling.

5.4 Social inclusion

The majority of opinion among NGOs was that although present structures were in principle open to everyone irrespective of ethnic origin or religious belief, services offered by the Government rarely took into account the specific needs of migrants. NGOs lamented the total lack of policies in this regard, despite references to migrants in the National Action Plan on Poverty and Social Exclusion and the National Reform Programme.

The language barrier and lack of adequate and accessible information were quoted as the reasons why migrants could not access certain services. By the end of the year, the Government Organization for the Integration and Welfare of Asylum Seekers had set up a customer care service for migrants to ask about their rights and obligations.

Immigrant children were admitted into mainstream schools, while teachers of certain subjects were given training on the importance of diversity and how to deal with a multicultural class. Some NGOs expressed hope that this sort of training would be extended across the board to all teachers since 'migrant children will not only be in class for PSD and social work lessons but also for math, english and maltese'. Additionally, in the field of healthcare, the policy was clarified that medical care is available, free of charge to all irregular migrants.

Most NGOs complained that the opinions of migrants were very often not taken into consideration in the policy-development process. This was considered a set back since 'who knows the needs of migrants more than the migrants themselves'. Some organizations running open centres employed migrants themselves in what was seen by many NGOs as a step towards closing the gap between 'us' and 'them'.

6. National recommendations

Strategies to aid the integration of migrants in their host communities can reinforce the positive effects of migration for all involved. Successful integration is a two-way social, economic, cultural and political adaptation process and can help mitigate potential conflicts which can result from discrimination and xenophobia often born out of a lack of knowledge and understanding of different cultures. The dissemination of information about the rights and obligations of migrants and refugees and the reinforcement of their skills are initiatives that empower and enhance their prospects for successful integration. Awareness-raising activities targeting the host society are also important to highlight the contributions of newcomers and, in turn, to improve their perception and acceptance thereby reducing the risks of discrimination and xenophobia.

6.1 General

- Concrete action should be taken by the Government and all concerned parties to eliminate discrimination all its forms, especially racism;
- Investment in capacity building for organizations working in the field is necessary.

6.2 Anti discrimination

- Measures should be taken to ensure the new equality body (set up in 2007) is as effective as possible in tackling racism and discrimination;
- Clear, understandable and accessible information should be given to all possible victims of discrimination about the equality bodies and other possible remedies and how to access such remedies;
- The equality body should liaise with people working directly with migrants in order to make the support offered by the body accessible to all possible victims. Moreover, people working with migrants should on their part, suggest to any victim of discrimination that they come across that he/she can proceed on the claim with the equality body.

6.3 Migration and integration

- The detention policy should be removed and instead replaced with policies which are in line with international human rights standards and practices and which respect the basic dignity of asylum seekers;
- Should the detention policy be maintained, the conditions in detention centres should be improved considerably to ensure that people are treated with dignity and that their rights are safeguarded;
- Further emphasis should be placed on the dignity of migrants in detention centres;
- Further attention should be given to the particular vulnerabilities of women, children, elderly and disabled persons;
- Adequate training should be given to those working in detention centres;

- Migrants in detention should be given induction courses in language and culture to ensure integration upon release;
- The media should be allowed into detention centres allowing for media scrutiny of the way such centres are run;
- A clear integration strategy should be launched by the Government working closely with civil society;
- More activities should be conducted to increase awareness of different cultures hopefully assisting integration;
- More awareness campaigns should be implemented, using effective tools such as the media, to inform the public of the realities faced by migrants and to combat stereotypes and misconceptions.

6.4 Criminal justice

6.4.1 Racism as a crime

- Hate speech, including on the internet, should be criminalized.

6.5 Social inclusion

- Better training is necessary for those who may come across migrants in their work and daily lives (especially teachers, medical staff, etc.);
- Assistance with employment and support for initiatives by organisations and businesses in training asylum seekers for employment is necessary;
- The acquisition of housing in the community should be promoted and migrants should be assisted with issues related to housing;
- Invest in education at all levels of society is necessary;
- A fund should be created to support initiatives for the integration of asylum seekers facilitated by NGOs.

7. Conclusion

The issue of migration in Malta is surrounded by various stereotypes and misconceptions and many people fear migrants on the basis of wrong or incomplete information. As a result, NGOs feel that one of the key priorities is the need for more awareness-raising on the part of the Government with the aim of portraying immigrants in a more positive light.

NGOs highlighted the fact that the removal of the detention policy or at least allowing access to the media into detention centres would largely benefit the migrant population, assisting also with their post-detention integration. As has been stated earlier, the detention of migrants is one of the factors contributing to the growing image of migrants as criminals and as constituting a security threat. At the same time, denying the media access to detention centres to report on conditions in the camps hinders the media from informing the public of what is really going on, which could help to dispel xenophobic and racist sentiments. As some NGOs have observed, the majority of the Maltese population is xenophobic rather than outright racist, so these two measures would achieve a lot in practice.

Another priority that the Government needs to address is to balance action in managing illegal immigration with concrete measures aimed at integrating those already present in Malta. It is welcome news that in 2006 racial motivation was included as an aggravating circumstance for racist crimes and action was taken to implement the remaining parts of the EU Race Equality Directive. While the implementation took place in 2007, the preparatory work for it was done in 2006. NGOs are hopeful that the Equality Body which has been set up will play a vital role in providing a remedy for acts of discrimination while helping to remedy the lack of information that exists. Such data collection will be beneficial for all involved; migrants, NGOs and Government alike.

In 2006, NGOs insisted on the need for further actions aimed at the integration of migrants especially in the labour market, towards providing them with jobs that reflect their skills as well as with services that take into account their specific needs. Moreover, there is an ever-more imminent need to train people working with asylum seekers and to have civilians and not army officials running detention camps. This was considered a priority by many NGOs.

Finally, the Government should contribute more towards capacity-building for NGOs in the field. NGOs do a lot of the work on the ground, offering moral and emotional support and assistance to irregular migrants. As the government policy recognizes, NGOs also act as a link between government entities, international organization and detainees. It was surprising to learn that some activists were still not aware of the EU Race Equality Directive and its direct implications in the Maltese context. A strengthened civil society would also have a role to play in data collection and in the documentation of cases.

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9. Annex 1: List of abbreviations and terminology

ENAR	European Network Against Racism
OIWAS	Organisation for the Integration and Welfare of Asylum Seekers
NGO	Non Governmental Organisation
IGO	Inter-Governmental Organisation
JRS	Jesuit Refugee Service
AI	Amnesty International

