

# Legal and Procedural Information For Asylum Seekers in Europe

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## Malta Report

The People for Change Foundation  
April 2018



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**This report was written in 2017**

# **Executive summary**

## Executive summary

This report represents the first of its kind mapping and overview of the legal and procedural information available to asylum seekers and beneficiaries of international protection in Malta. The report covers legal and procedural information as it relates to access to the asylum procedure, fingerprinting and Eurodac, the Dublin System, Reception conditions, the asylum procedure, rights and responsibilities, resettlement and relocation, and return. The overview covers the legal and policy frameworks, the content, language and timing of information and engages with existing assessments of information provided.

This research shows that a legal and policy framework for the provision of information exists, although the requirement to inform is not always a direct and explicit one. A number of institutions are involved including governmental organisations (notably Immigration Police, RefCom and AWAS), international organisations (notably UNHCR and IOM) and NGOs (including migrant community organisations). Some entities, like IOM, are primarily involved in the development of information materials, whilst others focus on dissemination of that information. Various entities do both. The number of entities involved in the provision of information is commendable, but this risks situations arising where conflicting information is provided, especially when changing policies and practices are not adequately communicated across all entities involved.

The format of information provided to asylum seekers varies. It includes written and oral information. Written information takes the form of booklets and leaflets, and the availability of online information is very limited. On the other hand, oral information usually takes the form of information sessions and one to one conversations. In those stages where beneficiaries are expected merely to comply with procedures, information is mostly legalistic and procedural, whilst oral consultations aim to compensate for any resulting confusion. Where asylum seekers have more choices (e.g. with durable solutions, employment, education), there are more attempts to present information in a user-friendly manner, with visuals and information presented in bullet points, or using concise formats such as postcards and brief leaflets. Information is communicated in a number of languages reflecting the languages most commonly spoken by individuals seeking protection in Malta. Concerns have been raised about the provision of information in less commonly spoken languages to groups who are nonetheless present in the asylum-seeking population.

The key recommendations coming from this report are:

- Strengthen the provisions stating obligations of various authorities towards vulnerable individuals, including provision of clear guidance about asylum

## Executive summary

to trafficking victims. Consider adapting EASO guidelines on proactive information provision for first-contact officers.

- Undertake content and audience evaluation of the information provided to ensure that it is up to date, accurate, accessible and is reaching the intended audience and in the appropriate way.
- Develop clear policies on the requirement to provide information and the standards for the provision and accessibility of that information.
- Enhance collaboration among the various stakeholders involved, making sure that all use the most up-to-date and comprehensive source of information thereby ensuring consistency and accuracy.
- Create and follow clear guidelines and design monitoring and evaluation mechanisms to maintain consistency of materials across the various entities providing information.
- Publish essential information about access to the asylum procedure in flyers and leaflets in plain language, with translations into the main languages of the target group, to be distributed at the entry points by the Immigration Police. These materials should focus on access to asylum and its consequences.
- Create a one-stop shop centre to provide detailed information on the asylum system, reception and other services. Individuals should then be guided to this entity at different stages of the process – as they proceed in seeking asylum, different types of accommodation and receive their status.
- Create a mobile-friendly web platform in multiple languages with information covering all asylum and reception aspects, together with an updated list of contact details for relevant institutions and organisations.

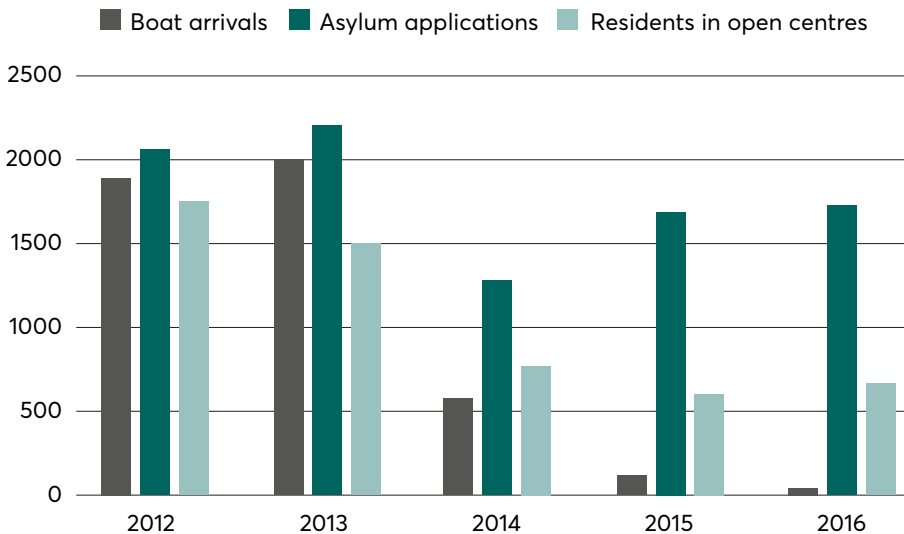
# Introduction

## Introduction

This report analyses legal and procedural information available to asylum seekers in Malta. It considers the cases of irregular migrants arriving by boat, the case of applications submitted by those who are entering or have entered the country legally, and those arriving in Malta through the relocation scheme. This report is the main output of the INFORM Project, an AMIF Funded project which aims to analyse and share best practices in the provision of legal and procedural information.

Since 2013, the number of arrivals of irregular migrants has reduced from thousands to dozens. The decline in the number of asylum applications has also fallen, but not in the same levels. (see Figure 1).

**Figure 1. Number of boat arrivals, asylum applications, and residents in open centres in open centres**



Source: UNHCR<sup>1</sup>

International protection in Malta is regulated primarily by the Refugees Act, the Immigration Act and various Regulations enacted thereunder. In 2015, Malta adopted the current “Strategy for the Reception of Asylum Seekers and Irregular Migrants” (hereafter the “Reception Strategy”).<sup>2</sup> Malta’s first Integration Strategy was adopted in December 2017. Processing and determining asylum applications

<sup>1</sup> UNHCR Malta, “Malta Asylum Trends,” 2016, <http://www.unhcr.org/mt/charts/>.

<sup>2</sup> Minister for Home Affairs and National Security, “Strategy for the Reception of Asylum Seekers and Irregular Migrants”, <http://Od2d5d19eb0c0d8cc8c6-a655c0f6dcd98e765a68760c407565ae.ssl.cf3.rackcdn.com/ee87eb6093978ddf835be5759bc86d018724f3a8.pdf>

## Introduction

is the responsibility of the Office of the Refugee Commissioner (RefCom), while assistance to applicants is also provided by the Agency for the Welfare of Asylum Seekers (AWAS), International Organisations (notably UNHCR and IOM) and various NGOs.

Scant analysis has been undertaken of the provision of information to asylum seekers at various stages of the process and how such information has developed over recent years. Despite a substantial body of criticism existing on information provision at the earlier stages, this aspect of the asylum process has not been evaluated since the policy changes in 2015. To bridge this gap, the present report assesses the availability and quality of the information provided to asylum seekers and beneficiaries of international protection at various stages. The methodology of this study includes semi-structured interviews and correspondence with key stakeholders, including representatives of RefCom; the Agency for the Welfare of Asylum Seekers (AWAS); UNHCR; the Jesuit Refugee Service (JRS); International Organisation for Migration (IOM); Solidarity Overseas Service (SOS) Malta; Peacelab; as well as interviews with beneficiaries of protection. Printed and online information produced by participating government institutions and NGOs was analysed, and existing analyses of the asylum system in Malta were reviewed. Despite some limitations (unavailability of first-contact information materials, the language barrier when interviewing migrants, and lack of data on the take-up of information materials), this research provides a comprehensive step-by-step assessment, which can inform the drafting and updating of information materials in the future.



**1**

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**Information  
regarding  
access to  
the asylum  
procedure**

## 1.1. Legal framework

Whether applying for asylum at the point of entry, or directly to RefCom while already in Malta, national legislation provides for the right to be informed of how to apply for international protection. The Immigration Act stipulates the right of “prohibited migrants” to apply for asylum, but does not establish a duty on the authorities to inform potential asylum seekers about this possibility.<sup>3</sup> The Refugees Act establishes the right to information about the asylum procedure rather than about access to it. However, the Asylum Procedures (Application for a Declaration) Regulations (2001) specify that immigration officers are responsible for informing potential applicants that they may apply for protection.<sup>4</sup> Officers shall also inform applicants about confidentiality, right to legal assistance and help from UNHCR, the obligation to fully cooperate with authorities, and the consequences of non-cooperation. The same officers will assist applicants with the application, using an interpreter when needed. If the applicant is a minor, there is a specific procedure to follow, but the law does not mention age-appropriate information to be provided at this stage.<sup>5</sup> Furthermore, a small number of Constitutional Court decisions have also helped shape the legal framework on asylum and non-refoulement and make reference to information provision. Regarding trafficked persons, the Victims of Crime Act mandates the provision of information about the possibility of applying for international protection.<sup>6</sup>

## 1.2. Information provided

The 2015 Reception Strategy states that during the first interview with an asylum seeker the Immigration Police should hand over a booklet in English, French and Arabic that explains their rights and obligations.<sup>7</sup> According to a report by the Asylum Information Database (AIDA), when detention was automatic for irregular migrants up till August 2015 the Police handed out a booklet spelling out their right to seek asylum.<sup>8</sup> However, it is not clear if this booklet is still in use. No guidelines could be found for first-contact officials to inform potential asylum seekers of this right.

3 “Immigration Act,” Chapter 217 Laws of Malta § (2015).

4 “Asylum Procedures (Application for a Declaration) Regulations,” SL 420.02 Laws of Malta Chapter 420 § (2001), art. 3.

5 “Asylum Procedures (Application for a Declaration) Regulations,” SL 420.02 Laws of Malta Chapter 420 § (2001), art. 3.

6 “Article 15, Victims of Crime Act,” Chapter 539 Laws of Malta § (2015), <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=12306&l=1>.

7 Ministry for Home Affairs and National Security, “Strategy for the Reception of Asylum Seekers and Irregular Migrants.”

8 Aditus Foundation and JRS Malta, “Country Report: Malta.”

## Information regarding access to the asylum procedure

As per the Reception Strategy, case workers provide more information individually at initial reception facilities.<sup>9</sup> However, only those few still arriving irregularly are hosted in the initial reception facility. A representative of the Immigration Police refused to answer an inquiry for this report.<sup>10</sup>

### 1.3. Stage of provision of information

There is no policy to proactively supply information on the asylum procedure at the airport and ports. Asylum seekers arriving regularly are not provided with information in a structured way, but are rather referred to RefCom.<sup>11</sup> RefCom produces a booklet including a section “Can I apply for asylum?” which is available to potential applicants arriving at the office, but is only offered proactively after an initial approach to the office.

The stage of providing information depends on the path the applicant takes to lodge their application. When the application is submitted at the point of entry, authorities rely on the police booklet and alert RefCom and AWAS to start the reception process. The most recent AIDA report<sup>12</sup> states that a trilingual booklet is available, and information at the border is supplied “almost immediately”. The armed forces must hand over all irregular migrants to the immigration police, who give them a booklet setting out migrants’ rights and obligations.<sup>13</sup> Those who apply directly with RefCom receive an appointment for an information session. Relocated asylum seekers have gone through the initial procedures in another country, and RefCom organises a different information session for them. In 2016 only 29 people arrived in Malta by boat and 80 were resettled from Italy and Greece.<sup>14</sup>

### 1.4. Format of information

Information is provided in booklet form, as supplied by the police, and online. The RefCom website summarises the legal background,<sup>15</sup> but in legalistic language and

9 Ministry for Home Affairs and National Security, “Strategy for the Reception of Asylum Seekers and Irregular Migrants.”

10 Louise Camilleri, Community and Media Relations Unit (CMRU), Police General Headquarters, correspondence, February 2, 2017.

11 Aditus Foundation and JRS Malta, “Provision of Information on the Procedure – Malta,” *Asylum Information Database (AIDA)*, accessed May 30, 2017, <http://www.asylumineurope.org/reports/country/malta/asylum-procedure/information-asylum-seekers-and-access-ngos-and-unhcr-0>.

12 Aditus Foundation and JRS Malta, “Country Report: Malta.”

13 Ministry for Home Affairs and National Security, “Strategy for the Reception of Asylum Seekers and Irregular Migrants.”

14 UNHCR Malta, “Malta Asylum Trends.”

15 <http://homeaffairs.gov.mt/en/mhas-departments/the%20office%20of%20the%20refugee%20commissioner/Pages/Refugee.aspx>

does not link to information materials for asylum seekers. User-friendly online information targeting asylum seekers in Malta is lacking, and alternative formats, such as flyers at points of entry, remain to be considered.

### 1.5. Languages of information

The pre-2015 police booklet exists in English, French and Arabic – the languages also required by the 2015 Reception Strategy. However, only an English version of the booklet could be located. The RefCom, AWAS and UNHCR Malta websites are in English. The RefCom audio-visual presentation and booklet: English, Amharic, Arabic, Djoula, French, Hausa, Oromo, Russian, Somali, Chinese, Swahili and Tigrinya. The JRS booklet of 2008: English, French, Somali and Tigrinya.

Interpreters are available for RefCom pre-info sessions (Arabic, Somali, Tigrinya in-house, others on call). When AWAS is alerted, it organises an individual session with interpreters, primary languages being Arabic and Somali.

### 1.6. Entities Involved in the provision of information

In the case of asylum seekers arriving irregularly, the Immigration Police, as the first-contact officers, are to provide a booklet that sets out the migrants' rights and obligations.<sup>16</sup> EASO guidelines suggest that they proactively identify persons in need of protection, offer them information on the right to asylum, and direct them to the appropriate procedure.<sup>17</sup> Since the police declined to provide a statement for this report, it was not possible to check whether and how these guidelines were implemented in practice.

The main body responsible for the provision of legal and procedural information is RefCom. UNHCR Malta and NGOs are also key sources of information both online and offline.

### 1.7. Evaluations

A People for Change report on *non-refoulement* showed that despite the right to information being firmly established in law, implementation met practical challenges,

<sup>16</sup> Ibid.

<sup>17</sup> European Asylum Support Office (EASO) and Frontex, "Practical Guide: Access to the Asylum Procedure," 3–4.

## Information regarding access to the asylum procedure

especially at sea.<sup>18</sup> A report by the European Agency for Fundamental Rights (FRA) of 2013 found that in the countries, including Malta, receiving irregular arrivals by sea, information could only be provided after disembarkation, due mostly to language barriers. As noted in section 8.1, Maltese courts have ruled that in some cases, access to the asylum procedure was not ensured.<sup>19</sup> RefCom, which is a key source of information about the possibility to seek protection, has not evaluated the information process so far. UNHCR stated that only internal evaluations have been carried out, and provided no details. Finally, an AIDA report found that the information in the pre-2015 police booklet “is not deemed to be adequate or sufficient due to the limited quality of information actually provided, the languages in which it is available (English, French and Arabic), the language style and the generality of the issues presented.”<sup>20</sup>

### 1.8. Impact

Although information about the asylum procedure and rights to asylum is available from several sources, including legislation, the RefCom website, and materials produced by the immigration police, RefCom, UNHCR and NGOs, the asylum seekers interviewed for this report pointed out that their main source of information was feedback from those who had been through the process. This is confirmed by a recent report which found that asylum seekers in Malta relied heavily on information from others, which was impeded by loss of cellphones at sea.<sup>21</sup>

Since evaluations have not been carried out, it is unclear whether asylum seekers are receptive to the information presented to them. A report on trafficking in Malta claims that cooperation between relevant institutions and asylum agencies is lacking, but some trafficking victims reported their cases to the relevant agency themselves, suggesting that they were informed.<sup>22</sup>

18 Jean-Pierre Gauci and Patricia Mallia, “Access to Protection: A Human Right,” National report Malta (Naxxar: People for Change Foundation, 2013), [http://www.pfcmalta.org/uploads/1/2/1/7/12174934/hirsi\\_report\\_final\\_1-12.pdf](http://www.pfcmalta.org/uploads/1/2/1/7/12174934/hirsi_report_final_1-12.pdf).

19 European Agency for Fundamental Rights (FRA), “Fundamental Rights at Europe’s Southern Sea Borders” (Luxembourg: Publications Office of the European Union, 2013).

20 Aditus Foundation and JRS Malta, “Country Report: Malta.”

21 Vicki Squire et al., “Crossing the Mediterranean Sea by Boat: Mapping and Documenting Migratory Journeys and Experiences,” Final project report (Coventry: University of Warwick, May 4, 2017), [http://www2.warwick.ac.uk/fac/soc/pais/research/researchcentres/irs/crossingthemed/ctm\\_final\\_report\\_4may2017.pdf](http://www2.warwick.ac.uk/fac/soc/pais/research/researchcentres/irs/crossingthemed/ctm_final_report_4may2017.pdf).

22 Ministry for Home Affairs and National Security and IOM Malta, “Assistance in the Identification of Victims of Trafficking: Counter-Trafficking Training Modules,” 2016, <https://malta.iom.int/sites/default/files/2016%20Documents/Publications/Counter-Trafficking%20Training%20Modules%20-%20Assistance%20in%20the%20Identification%20of%20Victims%20of%20Trafficking.pdf>.

**2**

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**Information  
about  
fingerprinting  
and Eurodac**

## 2.1. Legal framework

The Eurodac Regulation requires States to inform individuals of the purpose of the fingerprinting and the way in which the information will be used. Domestic legislation only provides for information on fingerprinting indirectly through the Detention Service Regulations<sup>23</sup> and the Procedural Standards Regulations.<sup>24</sup> Both these instruments refer to fingerprinting and, separately, to the right to information for the migrants involved.

## 2.2. Information provided

The pre-2015 police booklet informs about the age limit for collecting fingerprints, which countries participate in Eurodac, the purpose of fingerprinting and the possibility of being sent to another participating country.

Fingerprints, they explain us, you know, [they are necessary] because [it is a] European rule [...]. So, they tell us, if you do not have a fingerprint [taken] and where you are coming [from] is not exactly right, we cannot accept you. (Male, subsidiary protection, Somalia)

In 2018, RefCom produced two accompanying leaflets about the Dublin Regulation for applicants of protection (for before and during the Dublin procedure) which also outline the process of fingerprinting, including why the process is necessary, the Eurodac database and that if the process is not possible in the first instance (for example due to deliberately damaged fingerprints), it will be retried at another time, as well as that the fingerprints will be checked with the Visa Information System. The leaflet also informs readers that data recorded in the Eurodac database can be requested at any point.<sup>25</sup>

When migrants lodge their application directly with RefCom, a leaflet is provided indicating one's obligation to cooperate with the authorities for fingerprinting and the repercussions of missing the appointment, as well as what to do if one cannot attend due to illness or other exceptional circumstances. Failure to attend for the appointment

23 "Detention Service Regulations," S.L.260.06 Laws of Malta § (2016), <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=12452&l=1>.

24 "Procedural Standards for Granting and Withdrawing International Protection Regulations," SL 420.07 Laws of Malta Chapter 420 § (2015), para. 4.

25 Office of the Refugee Commissioner, "Information about the Dublin Regulation for applicants for international protection pursuant to article 4 of Regulation (EU) No 604/2013 (A)" (2018).

may result in the application being rejected and the applicant sent back to their country of origin. RefCom also provides this information orally:

We felt the need to make it clear to them that [...] before we get a reply that the fingerprints have been taken and we have been informed whether we have had a hit [in the database] or not, we cannot proceed with their asylum application. And since the majority of our applicants at the moment are Arabic speaking, we have that also translated in Arabic.

The RefCom booklet on claiming asylum does not mention fingerprinting, since asylum seekers have it done between the pre-info and the information session, but the IOM practical handbook explains that “[...]his is done to ensure that applicants do not seek asylum in another EU country. [...] *if you attempt to seek asylum in another EU country, you will be returned to Malta as your first point of entry into the EU.*” (emphasis original).<sup>26</sup> All these sources present fingerprinting as an integral part and a basic requirement of the asylum procedure.

### 2.3. Stage of provision of information

The police booklet is handed out at the point of entry. The corresponding procedure for regular arrivals is what RefCom calls the pre-info, which is when a person lodges their application directly at the office, and the relevant leaflet is provided alongside the appointment for fingerprinting.

### 2.4. Format of information

The main formats are written: the police booklet, the RefCom Leaflet and the IOM Practical Handbook (post-factum); and oral: provided by RefCom both in one to one meetings<sup>27</sup> and information sessions. Individual consultations help to address the fact that written information is not available in all languages.

<sup>26</sup> Elena Guillen and Sophia Soares, “Practical Handbook for Persons Seeking Asylum in Malta” (Ministry for Justice and Home Affairs and IOM Malta, 2011), 11.

<sup>27</sup> At time of publication these meetings no longer occurred.



## 2.5. Languages of information

The pre-2015 police booklet was only found in English (see 1.5). RefCom leaflets are available in English and Arabic. RefCom audio-visual presentations and booklet are available in English, Amharic, Arabic, Djoula, French, Hausa, Oromo, Russian, Somali, Chinese, Swahili and Tigrinya. The IOM practical handbook is available in English, Arabic, Amharic, Tigrinya and Somali.

## 2.6. Entities involved in the provision of information

The police and RefCom are the two main entities supplying information about fingerprinting and Eurodac, although some of the resources were also created by IOM. NGOs also provide additional information upon request.

## 2.7. Evaluations

EU-wide evaluations of Eurodac have not addressed information provision. No Maltese institutions reported commissioning evaluations of their practices. A report by the UN Special Rapporteur on the Human Rights of Migrants<sup>28</sup> highlighted the European Commission's 2014 inquiry into forced fingerprinting in a number of countries including Malta. The report notes that for the most part, migrants and asylum seekers are rarely unwillingly to have their fingerprints taken, and in cases where, as reported in Malta, some individuals can be uncooperative, they can usually be recalled without the use of force. The AIDA Report highlights the consequences of fingerprinting on beneficiaries' access to documentation.<sup>29</sup>

## 2.8. Impact

Migrants interviewed for this report seemed aware of the functioning of the Dublin system and the fingerprinting process. They knew that it is a European Regulation, and were aware that non-compliance can hinder their application process. In the past, NGOs confirmed a growing reluctance among migrants to be fingerprinted, since this could restrict their movement beyond Malta.<sup>30</sup>

28 François Crépeau, "Report by the Special Rapporteur on the Human Rights of Migrants, Mission to Malta, UN General Assembly" (UN Human Rights Council, 2015), [http://reliefweb.int/sites/reliefweb.int/files/resources/A\\_HRC\\_29\\_36\\_ENG.pdf](http://reliefweb.int/sites/reliefweb.int/files/resources/A_HRC_29_36_ENG.pdf).

29 Aditus Foundation and JRS Malta, "Country Report: Malta."

30 European Commission, "Annual Report to the European Parliament and the Council on the Activities of the EURODAC Central Unit in 2010."

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**Information  
about the  
Dublin System**

### 3.1. Legal framework

The Dublin Regulation denotes that Member States are to provide information through the use of a common leaflet drawn up by the European Commission, along with a special leaflet for unaccompanied minors.<sup>31</sup> However, at the time of writing, the multilingual leaflets were still being finalised by the European Commission. Indirect requirements for information about the Dublin System come from references to it in other instruments, most notably the Refugees Act and the Reception Regulations.

### 3.2. Information provided

The Dublin III Regulation requires that applicants are informed of the criteria for the allocation of responsibility, the requirements of the personal interview, the right to access their own data, the possibility to challenge decisions, and data exchange among the Member States. The new RefCom leaflet explains:

The fact that you have asked for asylum here does not guarantee that we will examine your request here. The country that will examine your request is determined through a European Union Law known as the Dublin Regulation. According to this law, only one country is responsible for examining your request.

It clarifies that when it is determined that another country is responsible, the applicant may have to go to that country. The pre-2015 police booklet notes that in cases of non-cooperation, the Principal Immigration Officer has the right to take coercive measures. However the RefCom leaflet states that an individual will only be detained if the authorities consider it a risk that they will flee due to unwillingness to relocate to another Dublin country.<sup>32</sup> The leaflet also informs applicants that withdrawing or abandoning an application will not alter the country responsible and clarifies that if the applicant moves to another Dublin country, they will be transferred back to Malta.<sup>33</sup>

31 European Parliament and Council of the European Union, "Regulation Establishing the Criteria and Mechanisms for Determining the Member State Responsible for Examining an Application for International Protection Lodged in One of the Member States by a Third-Country National or a Stateless Person (Recast)," 604/2013 § (2013), para. 4, <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1490026401082&uri=CELEX:32013R0604>.

32 Office of the Refugee Commissioner, "Information about the Dublin Regulation for applicants for international protection pursuant to article 4 of Regulation (EU) No 604/2013 (A)" (2018).

33 Ibid (B)

## Information about the Dublin System

The RefCom information on the Dublin procedure distributed to applicants of protection states that interviews will be carried out in a language the applicant understands, as well as the possibility to request an interpreter.<sup>34</sup> The RefCom<sup>35</sup> booklet on the Asylum Procedure, the IOM<sup>36</sup> booklets and the RefCom audio-visual presentation provide similar information. The RefCom booklet introduces information on family reunification: applicants learn that they should fill in a questionnaire about relatives in other countries which may be allocated responsibility for their asylum claim under the Dublin system or which might otherwise consider them for relocation or resettlement.

The IOM Practical Handbook likewise explains the family reunification procedure, and also informs asylum seekers of the Red Cross Restoring Family Links service.<sup>37</sup> The UNHCR information is focused on applying elsewhere, and family reunification within the Dublin System. No evidence of using a common leaflet on the Dublin system, along with a special leaflet for unaccompanied minors, was found.

### 3.3. Stage of provision of information

The pre-2015 police booklet for undocumented arrivals included information about the Dublin System.<sup>38</sup> The RefCom website also refers to it. Individuals already in Malta who approach RefCom to file an application receive preliminary information from RefCom at that stage as well as at the formal information sessions held soon after. Finally, information about another country examining one's asylum case is provided with RefCom's decision on such a transfer, together with information on the procedure for appealing.

**34** Ibid (B)

**35** Office of the Refugee Commissioner, "Information about the Asylum Procedure."

**36** Guillen and Soares, "Practical Handbook for Persons Seeking Asylum in Malta."

**37** International Committee of the Red Cross, "Restoring Family Links", <https://familylinks.icrc.org/en/Pages/home.aspx>.

**38** Ministry for Home Affairs and National Security, "Strategy for the Reception of Asylum Seekers and Irregular Migrants."

### 3.4. Format of information

A 2016 evaluation for the European Commission found that Dublin-related information was only provided orally, which could be in violation of the Regulation.<sup>39</sup> Today however, RefCom provides a leaflet about the Dublin System. Further written information, albeit brief, is provided through the police booklet, the RefCom booklet and the IOM Practical Handbook. UNHCR's presentation follows a Q&A format.<sup>40</sup> NGO information has tended to be in oral form.

### 3.5. Languages of information

The RefCom leaflet on the Dublin procedure is available in several languages, and states that the interview will take place in a language understood by the applicant, as well as having the opportunity to avail themselves of interpretation services.<sup>41</sup> The leaflet itself is available in a number of languages.

### 3.6. Entities involved in the provision of information

RefCom, as the lead for the Dublin Procedure in Malta, is the key actor, with further information provided by the immigration police and the IOM practical handbook. UNHCR and NGOs also visit the initial reception centres (detention centres in the past) and provide additional information, including on the Dublin system.<sup>42</sup>

### 3.7. Evaluations

The Dublin System has been more extensively evaluated than other stages of the asylum procedure. A 2016 European Commission evaluation quoted a Maltese NGO saying that migrants who speak uncommon languages (e.g. Albanian) and those with mental health difficulties may encounter difficulties accessing and absorbing the information as it currently provided. It also criticised the lack of interpretation services or adaptation for persons with special needs, insufficient information about detention, and the practice of not providing interview transcripts to applicants.<sup>43</sup>

<sup>39</sup> ICF International, "Evaluation of the Implementation of the Dublin III Regulation," 9.

<sup>40</sup> UNHCR Malta, "UNHCR Outreach & Information Session. Open Centre.," Provided in 2016.

<sup>41</sup> Office of the Refugee Commissioner, "Information about the Dublin Regulation for applicants for international protection pursuant to article 4 of Regulation (EU) No 604/2013 (A)" (2018).

<sup>42</sup> Aditus Foundation and JRS Malta, "Country Report: Malta."

<sup>43</sup> ICF International, "Evaluation of the Implementation of the Dublin III Regulation."

A UNHCR Study that included Malta noted that: ‘Some applicants in Malta who were interviewed for the purpose of this study also reported that sometimes they did not have the opportunity to seek clarifications with the Refugee Commissioner (RefCom) staff; therefore, clarifications can only be sought if they proactively seek assistance from NGOs or UNHCR in Malta.’<sup>44</sup>

### 3.8. Impact

In an evaluation in 2007, the European Commission underlined that “The provision of correct information to asylum seekers about the consequences of subsequent applications could be one of the measures which could help prevent so-called “asylum shopping”.<sup>45</sup> Ten years later, JRS found that despite the information about the one application/one decision rule, applicants tried to submit multiple applications, indicating the weakness of the system. The JRS assessment found that the majority of applicants did not appeal against Dublin decisions because they did not feel informed how to do it.<sup>46</sup>

<sup>44</sup> UNHCR, “Left in Limbo: UNHCR Study on the Implementation of the Dublin III Regulation” p.27.

<sup>45</sup> European Commission, “Report from the Commission to the European Parliament and the Council on the Evaluation of the Dublin System” (Brussels, 2007), 10, <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52007DC0299&from=EN>.

<sup>46</sup> Jesuit Refugee Service Europe, “Protection Interrupted: The Dublin Regulation’s Impact on Asylum Seekers’ Protection.”

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**Information  
regarding  
reception  
conditions**

## 4.1. Legal framework

The legal framework relating to information about reception conditions is established within the Reception Regulations, the Detention Services Regulations, the Procedural Standards Regulations as well as the 2015 Reception Strategy. The Reception Regulations promise “assistance and support” for vulnerable applicants,<sup>47</sup> but do not say how they will be informed about these rights.<sup>48</sup> For trafficking victims, the Victims of Crime Act likewise mandates various rights, but does not state how they would be informed.<sup>49</sup> The Reception Regulations require the Principal Immigration Officer (the police) to inform applicants about rights and obligations in reception facilities, as well as organisations that provide specific legal assistance and/or information about reception conditions. This information should be provided in a language that the applicant can be expected to understand and can be communicated orally or in writing.<sup>50</sup>

These instruments also emphasise information about detention, given its impact on the enjoyment of human rights. The Procedural Standards Regulations stipulate that a detention order, stating the reasons for detention, must be issued in a language the applicant understands or can reasonably be expected to understand. The police shall also inform applicants of the procedures to challenge detention and obtain free legal assistance and representation.<sup>51</sup> The Reception Regulations state that information about the rules of detention, rights and obligations shall be provided by facility management.<sup>52</sup> During detention, applicants can communicate with UNHCR, legal advisers, counsellors, representatives of NGOs, and family members,<sup>53</sup> who all act as conduits for information. There is no reference to specific methods of communicating with vulnerable people in any of the laws, regulations and policies. Article 11 of the Detention Service Regulations provides that rights and responsibilities in detention

47 Defined in Article 3 of the Procedural Standards as “persons in need of special care, support, or protection because of age, disability, or risk of abuse or neglect, including minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of human trafficking, persons with mental disorders and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence”.

48 “Reception of Asylum Seekers (Minimum Standards) Regulations,” SL 420.06 Laws of Malta Chapter 420 § (2005), art. 14.

49 “Victims of Crime Act”, Chapter 539 Laws of Malta (2015), Part II (Of Victims of Trafficking in Persons), <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=12306&l=1>

50 “Reception of Asylum Seekers (Minimum Standards) Regulations,” SL 420.06 Laws of Malta Chapter 420 § (2005), para. 4

51 Procedural Standards for Granting and Withdrawing International Protection Regulations, para. 6.

52 Reception of Asylum Seekers (Minimum Standards) Regulations, para. 4.

53 Ibid., para. 6A.



shall be explained in writing (in a document called compact), orally if needed, and in the languages determined by the relevant Minister.<sup>54</sup>

The Reception Strategy prescribes that applicants who are kept in the initial reception facility longer than usual should be informed of the reasons for their detention in a language they understand.<sup>55</sup> Where an applicant is detained, the Immigration Officer shall inform the applicant of the procedure to challenge detention and obtain free legal assistance to do so.<sup>56</sup>

Beyond detention, the policy also provides that asylum seekers shall be informed about services in open centres. The law tasks the AWAS with providing “information programmes to its clients in the areas of employment, housing, education, health and welfare services offered under national schemes.”<sup>57</sup> The 2015 Reception Strategy envisages an AWAS case-worker assigned to each migrant, who will follow the migrant through the process and provide information at each stage.<sup>58</sup>

### 4.2. Information provided

As affirmed in the Reception Regulations, the Principal Immigration Officer must ensure that the applicant is informed of reception rights and obligations, as well as the legal assistance available to them. In the case of irregular arrivals, in detention, a preliminary interview takes place with the Immigration Police, during which the police will provide the interviewee with a booklet which sets out migrants rights and obligations. Furthermore, if the applicant is detained, they receive written information about the reasons and how to challenge it, as stipulated in the relevant legislation (sub-section 4.1.). According to the 2015 Reception Strategy, Detention Service Facilities should also have an office of information where individuals can access any information from RefCom. As previously outlined, in the Initial Reception Centre, migrants will also be informed of their right to apply for international protection.<sup>59</sup>

At open centres, migrants are given a booklet produced by AWAS, which points out that living in open centres is “not a permanent option. Asylum seekers are

<sup>54</sup> Detention Service Regulations.

<sup>55</sup> Ministry for Home Affairs and National Security, “Strategy for the Reception of Asylum Seekers and Irregular Migrants,” 14.

<sup>56</sup> Reception of Asylum Seekers (Minimum Standards) Regulations, para. 6.

<sup>57</sup> “Agency for the Welfare of Asylum Seekers Regulations,” SL 217.11 Laws of Malta Chapter 217 § (2009).

<sup>58</sup> Ministry for Home Affairs and National Security, “Strategy for the Reception of Asylum Seekers and Irregular Migrants,” 14.

<sup>59</sup> Minister for Home Affairs and National Security, “Strategy for the Reception of Asylum Seekers and Irregular Migrants”, <http://Od2d5d19eb0c0d8cc8c6-a655c0f6dcd98e765a68760c407565ae.ssl.cf3.rackcdn.com/ee87eb6093978ddf835be5759bc86d018724f3a8.pdf>

encouraged to become independent”.<sup>60</sup> The UNHCR dossier is clearer: “People can remain at AWAS open centres for a maximum of one year.”<sup>61</sup> UNHCR representatives provide information on government accommodation, education, health care and employment services in Malta. They hand out a leaflet during group sessions that they organise at reception centres (open as well as in detention) as well as when needed. These dossiers are also available online.<sup>62</sup> The Migrant Health Liaison Office also meets asylum seekers at open centres to offer health education sessions and its services in contacting the healthcare system.

The AWAS booklet also includes practical advice and information on how to access services in the areas of education, employment, health, housing, social benefits and transport. AWAS information sessions in open centres cover both reception conditions and the rights and entitlements of beneficiaries of international protection. They focus on basic rights and services including employment, education and healthcare. External partners such as the National Commission for the Promotion of Equality and JobsPlus also provide specific information about their areas of work at these sessions.<sup>63</sup>

### 4.3. Stage of provision of information

Actually, I don't have any information, the information I got is not from these people, just from the people living here. (Male asylum seeker, Eritrea)

Information about rights and obligations, including in detention, must be provided by the police at the point of entry. At the next step, immediately after the initial reception facility or after detention, asylum seekers receive further guidance in open centres. This is where they collect information from RefCom, followed by AWAS (their information booklet is provided to asylum seekers as soon as they enter the Open Centre), and UNHCR. The two latter organisations meet asylum seekers repeatedly. The UNHCR session can take place before or after the meeting with RefCom. Various NGOs also step in at the reception stage, either by offering drop-in centres or by visiting asylum seekers at open centres.

60 AWAS, "Information Booklet for Residents of Open Centres" (European Refugee Fund, 2013).

61 UNHCR Malta, "Accommodation Dossier," 2015.

62 UNHCR Malta, "Durable Solutions," July 12, 2012, <http://www.unhcr.org/mt/who-we-help-in-malta/durable-solutions-test>.

63 JobsPlus, "Forms," accessed February 6, 2017, <https://jobsplus.gov.mt/resources/fileprovider.aspx?fileId=1211>.

#### 4.4. Format of information

As at other stages of the asylum process, participating stakeholders usually produce booklets and leaflets for standardised provision of information. However, a report by FRA in 2010 indicated that posters and videos were used in Malta, but few informants recalled receiving a leaflet.<sup>64</sup> TOM and AWAS booklets attempt a visual, user-friendly presentation, with illustrations and bullet points.

Generally the information online is limited. UNHCR dossiers are available online under “durable solutions”, which may not be an intuitive place for asylum seekers to search. Information is adapted and translated on a case by case basis. The government’s integration website offers information on living in Malta, but it is not specifically targeted towards asylum seekers or beneficiaries of international protection. The Migrant Health Liaison Office have also published booklets explaining access to healthcare, rights and obligations in plain language and with illustrations.<sup>65</sup>

Another format is one-on-one sessions, where information is tailored to individual needs. For vulnerable persons and minors, social workers are assigned by AWAS. UNHCR, too, tailors information to vulnerable persons’ needs with the help of a social worker, and also provides child-friendly information material.

Since reception conditions and social services are more diverse compared to asylum procedures, reliance on tailored, orally provided information is understandable. On the other hand, there is a lack of standardised, scenario-based guidance in various languages for cases when an increase in the numbers of asylum seekers could impede timely provision of individually tailored information.

#### 4.5. Languages of information

The AWAS Booklet is in English, but at the time of writing, it was planned to be translated into other languages. AWAS information sessions are supported by Arabic and Somali interpreters since most asylum seekers speak these languages. However, they can also provide sessions in West African languages. Most AWAS interpreters are recruited from source countries and trained. Whereas cultural mediators are promised for health services (see section 4.1.), this role can be assumed to be covered

<sup>64</sup> European Agency for Fundamental Rights (FRA), “The Duty to Inform Applicants about Asylum Procedures: The Asylum-Seeker Perspective,” Thematic report (Luxembourg: Publications Office of the European Union, 2010), [http://fra.europa.eu/sites/default/files/report-asylum-seeker-perspective\\_en.pdf](http://fra.europa.eu/sites/default/files/report-asylum-seeker-perspective_en.pdf).

<sup>65</sup> Migrant Health Unit-Primary Health Care Department, “Health Guidelines for Migrants” (Floriana, 2010), <https://health.gov.mt/en/phc/mhlo/Pages/translated-material.aspx>.

by specialised social workers. The booklet provided by the Immigration Police is available in English, French and Arabic.

UNHCR dossiers are available in English and are translated orally. During UNHCR sessions, there is always an interpreter present to provide translation into Tigrinya, Amharic, Somali and Arabic languages. The IOM practical handbook is available in English, Arabic, Amharic, Tigrinya and Somali. The Migrant Health Liaison Office booklet is available in English, Somali and Tigrinya.

Health-related cultural mediation is provided at Floriana health centre in Somali, Tigrinya and Amharic.

### 4.6. Entities involved in the provision of information

[The] information [I got], not all [of it was] from them [institutions], but I can get information about work from somewhere. I tried to get job.  
(Male, subsidiary protection, Eritrea)

The Principal Immigration Officer is the first provider of information on initial reception. After an asylum seeker has filed the application, RefCom, AWAS, UNHCR, IOM and various NGOs step in to provide information about reception after the initial stage. The government Migrant Health Liaison Office provides information about access to healthcare. NGOs such as JRS and Integra target migrants whether they are in detention or not, but JRS admits that provision of information takes place only when a non-detained asylum seeker comes to the attention of the organisation.<sup>66</sup>

### 4.7. Evaluations

In 2011, a UN committee evaluated detention practices and found that legal safeguards were not always guaranteed in practice, recommending that Malta strengthens its efforts to inform detainees about their rights and legal assistance.<sup>67</sup> The AIDA Report indicates that it may not be clear to applicants what level of financial resources of their own would make them eligible for material

<sup>66</sup> Aditus Foundation and JRS Malta, "Country Report: Malta."

<sup>67</sup> UN Committee on the Elimination of Racial Discrimination, "Concluding Observations of the Committee on the Elimination of Racial Discrimination: Malta," Consideration of Reports Submitted by States Parties under Article 9 of the Convention, International Convention on the Elimination of All Forms of Racial Discrimination, 2011, 4.

assistance.<sup>68</sup> The inception report also states that the lack of cooperation between administrative services and their detached offices, language obstacles and an overly bureaucratic process have impeded efficient provision of information to migrants.<sup>69</sup> An evaluation of the one-stop-shop project was carried out, but its report was only made available to the project donors.

The 2017 AIDA Country report for Malta on the procedure for vulnerable individuals, found that it was not regulated by clear publicly available rules, and individuals rarely received sufficient explanations when the assessment decision was negative. The outcome of the assessment depends on legal aid, which is often not accessible in first-instance proceedings.<sup>70</sup>

### 4.8. Impact

As highlighted by IOM, greater coordination between all stakeholders is needed to ensure that asylum seekers do not receive overlapping, inaccurate, and contradictory information.

According to a representative of JRS, asylum seekers visit drop-in centres at NGOs to fill the gaps resulting from the fragmentation of information: “Another barrier we come across is that certain asylum seekers might be unfamiliar with the concepts underlying the welfare system, employment law etc., so even when given the information at face value they struggle to make sense of it.”<sup>71</sup>

68 Aditus Foundation and JRS Malta, “Country Report: Malta.”

69 Frigerio, “Towards Effective Integration Support to TCNs in Malta: Inception of a One-Stop Migrant Resource Centre.”

70 Aditus Foundation and JRS Malta, “Country Report: Malta.”

71 Interview with a representative from Jesuit Refugee Service.

5

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**Information  
about the  
asylum  
procedure  
itself**

## 5.1. Legal framework

The legal framework regarding information about the asylum procedure is made up of provisions in the Refugees Act, the Reception Regulations and the Procedures Regulations. Applicants shall be informed of their right to a legal adviser and the possibility to consult UNHCR, but the law does not specify if this is RefCom's responsibility.<sup>72</sup>

The Procedural Standards Regulations state that “[t]he applicant shall be: informed: (i) in a language which he understands or is reasonably supposed to understand of the procedure to be followed and of his rights and obligations during the procedure”.<sup>73</sup> These include the obligation to cooperate fully with the authorities, and the right to confidentiality regarding the information they provide.<sup>74</sup> When refugee status is being reconsidered, the minister responsible for immigration must inform the person in writing and offer an opportunity for a personal interview to explain why the status should not be withdrawn.<sup>75</sup> There are no similar provisions for persons with a subsidiary protection status.

The Procedural Standards Regulations state that unaccompanied minors will be informed in a language they understand of the possibility of medical age determination, including the consequences of its result on the asylum application.<sup>76</sup> Unaccompanied minors shall be informed of the appointment of a legal representative to uphold their interests, helping the minor prepare for the interview and informing about its meaning and possible consequences.

The Refugees Act requires that RefCom informs applicants of the outcome of the preliminary examination, reasons for rejection and appeal, if applicable.<sup>77</sup>

## 5.2. Information provided

The pre-2015 police booklet contains a short description of the asylum procedure and applicants' entitlements including access to legal services, free only at the appeal stage. As mentioned earlier, it is not clear if this booklet is still used. RefCom did not have information about this material.

<sup>72</sup> Ibid., para. 23.

<sup>73</sup> Procedural Standards for Granting and Withdrawing International Protection Regulations, para. 4(2).

<sup>74</sup> Asylum Procedures (Application for a Declaration) Regulations, para. 3.

<sup>75</sup> Refugees Act para. 11.

<sup>76</sup> Procedural Standards for Granting and Withdrawing International Protection Regulations, para. 17(2).

<sup>77</sup> "Refugees Act," Chapter 420 Laws of Malta § (2001), para. 7a, <http://justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8886>.

## Information about the asylum procedure itself

The RefCom booklet provides essential information about the asylum procedure and living in Malta. It contains sections on age determination, the preliminary questionnaire, personal interview, appeal, and how to contact important organisations. It emphasises that applicants do not have a right to choose their interpreter and must attend appointments.<sup>78</sup>

The IOM practical handbook explains the steps of the process and provides definitions of key terms.<sup>79</sup> The UNHCR information pack to asylum seekers<sup>80</sup> includes a list of relevant agencies and a brief description of the asylum procedure (application, interview with RefCom, and appeal with the Refugee Appeals Board (RAB)). NGOs provide additional, user-friendly information, such as the JRS booklet of 2008.

Information about rights and obligations of beneficiaries shall be provided as soon as status has been granted, in a language which the beneficiary understands or is supposed to understand. RefCom now organises one to one conversations with asylum applicants in which the decision is explained by a case manager with the help of an interpreter. The applicant is required to sign that this procedure has been followed. All of these materials mention the right to consult a legal adviser, but information on how and where to find a lawyer is limited.

### 5.3. Stage of provision of information

The Reception Strategy envisages an Initial Reception Centre to accommodate irregular migrants during the initial screening, until the granting of medical clearance by the health authorities. Therefore, the first information material they receive is a booklet from the Immigration Police explaining their rights and obligations.<sup>81</sup> The immigration officer will assist the asylum seeker in compiling a declaration, with assistance of an interpreter when necessary.<sup>82</sup> UNHCR staff have access to this information. The Immigration Police immediately inform RefCom of new arrivals, which will then offer an information session about their right to seek asylum, assist them with filling in the Preliminary Questionnaire, and make an appointment for an interview.

<sup>78</sup> Office of the Refugee Commissioner, "Information about the Asylum Procedure."

<sup>79</sup> Guillen and Soares, "Practical Handbook for Persons Seeking Asylum in Malta," 13.

<sup>80</sup> UNHCR Malta, "Durable Solutions."

<sup>81</sup> Ministry for Home Affairs and National Security, "Strategy for the Reception of Asylum Seekers and Irregular Migrants."

<sup>82</sup> Asylum Procedures (Application for a Declaration) Regulations, para. 3.



## Information about the asylum procedure itself

However, currently the majority of asylum seekers enter Malta through regular channels, and the EU relocation quota mechanism is gaining momentum.<sup>83</sup> In this case, asylum seekers approach RefCom of their own accord. If they approach any other public body, it is obliged to inform RefCom. Relocated asylum seekers are directed to RefCom by the EU relocation mechanism. Once there, its staff members give the asylum seeker a pre-info and inform on the date of the next information session.

UNHCR then meets asylum seekers at open centres to organise information sessions, and are also available to answer any questions individually.

### 5.4. Format of information

Information is provided orally and in writing. Upon irregular entry, information is to be provided in the form of a trilingual booklet and oral information about the next steps.<sup>84</sup> After the application is lodged, RefCom offers oral guidance. RefCom information sessions contain an audio-visual presentation and a booklet. AWAS and UNHCR organise their own group sessions and consultations.

NGOs also provide written information, notably the 2008 JRS booklet. As this is out of date, it is compensated by oral scenario-based guidance (“if you... these are the next steps”) at best or through informal channels.

### 5.5. Languages of information

The information provided in the pre-2015 police booklet and RefCom booklet is outlined in section 2.5. UNHCR dossiers are provided in English and translated orally, on a case by case basis. The IOM practical handbook is available in English, Arabic, Amharic, Tigrinya and Somali. The JRS booklet is provided in English, French, Somali and Tigrinya. UNHCR and IOM have translators for Tigrinya, Amharic, Arabic and Somali.

### 5.6. Entities involved in the provision of information

A number of entities are involved in the provision of this information including: RefCom, UNHCR, IOM and NGOs. Social contacts remain a critical source of information for asylum seekers and beneficiaries of international protection.

<sup>83</sup> UNHCR Malta, “Malta Asylum Trends.”

<sup>84</sup> Ministry for Home Affairs and National Security, “Strategy for the Reception of Asylum Seekers and Irregular Migrants.”

## 5.7. Evaluations

An evaluation of the accessibility and quality of procedural information provided at different stages was carried out by FRA in 2010. It found that most asylum seekers in Malta reported receiving little useful information and that it did not include the right to be interviewed by an official of the same gender or the right to have a separate interview from one's spouse.<sup>85</sup> Significant developments in the asylum procedure have taken place since then. RefCom has not carried out any evaluation of the provision of information so far. UNHCR stated that only internal evaluations have been carried out and did not provide information on the criteria used or the findings. A recent study by the University of Warwick interviewed 35 migrants in Malta to find that information provision mostly occurred in detention – over half claimed not to have been informed about the asylum procedure at all.<sup>86</sup> Moreover, the 2018 AIDA report of 2018 identifies the provision of information to persons who are not detained as a concern and that these individuals only receive basic information on the asylum procedure and rely on supplementary information from NGOs. The report also notes that it is problematic that there is no information desk or similar at the Office of the Refugee Commissioner, for individuals to go and seek advice and information.<sup>87</sup>

## 5.8. Impact

Information about the asylum procedure is provided by several organisations in the form of booklets, information sessions, audio-visual presentations and individual consultations. RefCom admits that asylum seekers are rather overwhelmed by the amount of information. Stakeholders noted a need for greater coordination to avoid asylum seekers receiving inaccurate and contradictory information. The asylum seekers interviewed at the Open Centres could name fingerprinting and interviewing, but could not map out the full procedure. Specific concerns were raised about information available online, which is limited, is in English and is neither up to date nor user friendly. Finally, evaluations of the effectiveness and impact of the information provided are lacking at all stages.

85 European Agency for Fundamental Rights (FRA), "The Duty to Inform Applicants about Asylum Procedures: The Asylum-Seeker Perspective."

86 Squire et al., "Crossing the Mediterranean Sea by Boat: Mapping and Documenting Migratory Journeys and Experiences."

87 Aditus Foundation and JRS Malta, "Country Report: Malta." (2018), p.41

# 6

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## **Information about the rights and responsibilities of persons seeking international protection**

## 6.1. Legal framework

The Procedural Standards Regulations stipulate that a beneficiary of refugee or subsidiary protection status shall “have access to information on the rights and obligations relating to that status in a language which he understands or may reasonably be supposed to understand”, which RefCom must provide together with the decision on the status, unless the information was provided at an earlier stage.<sup>88</sup> The AWAS regulations state that AWAS shall “provide information programmes to its clients in the areas of employment, housing, education, health and welfare services offered under national schemes”.<sup>89</sup>

## 6.2. Information provided

Refugees, beneficiaries of subsidiary protection or temporary humanitarian protection (THP), asylum seekers and rejected asylum seekers have different sets of rights. These are presented in the following sources.

RefCom’s website,<sup>90</sup> albeit written in legalistic and institutional jargon, is an accessible online resource listing the rights of beneficiaries of international protection: travel documents, residence permits, access to employment, self-employment, social welfare, appropriate accommodation, integration programmes, public education and training, medical care, recognition of foreign qualifications, and extension of all these rights to dependent family members.

The IOM practical handbook offers a helpful comparison of the possible statuses, distinguishing between refugee status, subsidiary protection and (national) humanitarian protection. It presents the entitlements to work permits, family reunification, welfare services, education and documentation, attached to the various statuses.<sup>91</sup>

The AWAS booklet provides information on employment rights. Only refugees may register as unemployed, but all persons in the asylum system can take advantage of JobsPlus guidance services and vacancy listings. However, the section on employment services refers exclusively to refugees. The booklet includes practical advice and information about education, health, housing, social benefits and

88 Procedural Standards for Granting and Withdrawing International Protection Regulations, para. 14.

89 Agency for the Welfare of Asylum Seekers Regulations, para. 6.

90 Ministry of Home Affairs and Security, “Office of the Refugee Commissioner”, <http://homeaffairs.gov.mt/en/MHAS-Departments/The%20Office%20of%20the%20Refugee%20Commissioner/Pages/Refugee.aspx#Commissioner>

91 Emphasis original. Guillen and Soares, “Practical Handbook for Persons Seeking Asylum in Malta.”

transport, which apply to persons of any status. It informs about the cost of a work permit and its duration depending on the individual's status.

AWAS social workers or welfare officers provide individual guidance to meet each person's needs. AWAS counsellors can assist in finding training and employment opportunities. AWAS sessions at open centres use a booklet and include presentations by various agencies to explain employment, the welfare system, recognition of qualifications, etc. for beneficiaries of any status.

As is made clear on government websites, only refugee parents can receive a children's allowance,<sup>92</sup> only refugee adoptive parents are entitled to maternity and adoption benefits, and women can apply for maternity leave only if they have refugee status.<sup>93</sup> Additionally, beneficiaries can learn about social security for all insured persons or for refugees, but not beneficiaries of other types of protection, from a 2014 social security manual, available online.<sup>94</sup>

The website of JobsPlus, the employment service, offers information about how to acquire a work permit. The permit for rejected asylum seekers must be renewed for a fee every three months.

Generally, my struggle is to encourage them to work legally.  
(Andrew Pisani, volunteer at PeaceLab, which hosts around  
50 rejected asylum seekers)

The government's integration portal<sup>95</sup> presents general guidelines and mentions documents that beneficiaries of various types of international protection must procure (e.g. police and RefCom certificates). It informs beneficiaries of international protection that they are exempt from some of the rules that apply for registering as self-employed. The website lists rights per each status.

UNHCR dossiers online and offline inform about housing, education, healthcare and employment services in Malta. UNHCR hands out leaflets during their information sessions or whenever needed. UNHCR staff explain the key

92 Department of Social Security, "Children's Allowance (Income Less than €24,833," 2017, [https://socialpolicy.gov.mt/en/ChildBenefits/Pages/Children's-Allowance-\(Income-less-than-%E2%82%AC24,439\)-.aspx](https://socialpolicy.gov.mt/en/ChildBenefits/Pages/Children's-Allowance-(Income-less-than-%E2%82%AC24,439)-.aspx).

93 Department of Social Security, "Maternity Leave Benefit," accessed February 6, 2017, <https://socialpolicy.gov.mt/en/ChildBenefits/Pages/Maternity-Leave-Benefit-.aspx>.

94 Department of Social Security, "Manual on Social Security Contributions, Benefits & Pensions," 2017, [https://socialpolicy.gov.mt/en/Publications/Documents/Manual%20on%20Social%20Security%20Contributions%20Benefits%202017%20\(1\).pdf](https://socialpolicy.gov.mt/en/Publications/Documents/Manual%20on%20Social%20Security%20Contributions%20Benefits%202017%20(1).pdf).

95 Government of Malta, "Documents, Application Process & Fees," *Integration Web Portal*, June 2014, <https://integration.gov.mt/en/Work/Pages/Requirements-fees-and-application.aspx>.

entitlements and obligations in their oral presentations as well. UNHCR's website lists situations where they may be able to offer consultations.<sup>96</sup>

For rejected asylum seekers specifically, the IOM practical handbook also lists their entitlements: personal documentation, work permit if applied by employer, some free training and healthcare services.<sup>97</sup> These entitlements result from policies rather than laws. NGOs offer additional information (e.g. about housing rights or ID cards) for various types of beneficiaries in drop-in centres.

### 6.3. Stage of provision of information

Whereas the police and RefCom booklets deal with rights and obligations while one's asylum case is being processed, rights and obligations following status determination are covered by AWAS, IOM, UNHCR information materials, as well as consultations by NGOs. According to AWAS, provision of this information starts at the application stage and is based on individual guidance:

The role of the agency does not stop at the initial meeting, so that you understand what you are able to access. It continues, not only [for the sake of] making sure if you understand your access to the labour market but also helping you to get the job.

Employment information and services are available at JobsPlus Centres, from the reception stage to after receiving one's status. However, the language barrier can prevent access to these services. Several NGOs assist beneficiaries with informal information following status determination. For instance, PeaceLab provides guidance on working legally to rejected asylum seekers whose deportation is pending.

### 6.4. Format of information

As in other stages, the main formats of information are printed booklets and oral information sessions. General information about rights and responsibilities by type of status are helpfully explained in the IOM practical handbook (its format is discussed in 4.4.), which is also used at the RefCom sessions alongside audio-visual

<sup>96</sup> UNHCR Malta, "Protection," January 11, 2010, <http://www.unhcr.org/mt/who-we-help-in-malta/persons-of-concern>.  
<sup>97</sup> Guillen and Soares, "Practical Handbook for Persons Seeking Asylum in Malta."

information sessions before the decision on asylum is taken. UNHCR uses leaflets, power point presentation, a website<sup>98</sup> and individual consultations. RefCom now organises one to one conversations with asylum applicants in which the decision is explained by a case manager with the help of an interpreter. The applicant is required to sign that this procedure has been followed. AWAS and several NGOs offer individual consultations and AWAS has also issued a booklet with practical details about life in Malta and various services.<sup>99</sup>

### 6.5. Languages of information

At this stage, where information tends to be practical rather than legal or procedural, it is also available in fewer languages. While the RefCom audio-visual and printed information and the IOM practical handbook are available in a number of languages (see section 5.5.), the government's websites and AWAS booklet are in English. Arabic and Somali interpreters are available at AWAS information sessions, and interpreters to other languages are called when needed, and UNHCR sessions offer interpreters for Tigrinya, Amharic, Somali, and Arabic languages. Some basic information from the UNHCR Malta website is translated into Tigrinya, but the dossiers are published in English and translated orally.

### 6.6. Entities involved in the provision of information

RefCom, IOM, AWAS, UNHCR and a range of NGOs, provide information about various practical aspects regarding the rights and responsibilities of refugees, beneficiaries of international protection and rejected asylum seekers such as daily life and employment rights and opportunities.

### 6.7. Evaluations

None were available.

98 At <http://www.unhcr.org/mt/who-we-help-in-malta/persons-of-concern/128-refugee-status> and <http://www.unhcr.org/mt/who-we-help-in-malta/persons-of-concern/127-subsi-dary-protection>

99 AWAS, "Information Booklet for Residents of Open Centres."

## 6.8. Impact

Numerous interviews with migrants have shown that there is often a lack of understanding with regard to the access of basic rights and services. They mostly relied on informal networks and sources of information. NGOs affirm that their migrant clients still needed guidance on a number of areas, especially with more specific issues, such as the right to stay in an open centre after starting a job. Work- or education-related rights and the benefits of legal employment also often required further clarification. This could indicate that the information provided is insufficient or inadequate or that asylum seekers are overwhelmed by information in the earlier stages and go back to the contact points to double check how this general information relates to their individual circumstances. Regardless, the currently available information does not appear to be performing its intended function effectively.



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**Information  
regarding  
resettlement  
and relocation**

## 7.1. Legal framework

The Refugees Act envisages the possibility of resettlement outside of Malta at an individual's written request, following the responsible Minister's decision.<sup>100</sup> The law states that the Minister may seek assistance from UNHCR or non-governmental bodies, but does not mention informing potential beneficiaries. AWAS is tasked with promoting resettlement schemes.<sup>101</sup> Resettlement to the US is regulated mainly by US legislation.<sup>102</sup>

The EU relocation scheme adopted in 2015, which relocates asylum seekers from Italy and Greece (in this case to Malta), states that “applicants should be informed of the relocation procedure set out in this Decision and be notified with the relocation decision which constitutes a transfer decision” and

“of the consequences of irregular onward movement within the Member States and of the fact that, if the Member State of relocation grants them international protection, they are entitled to the rights attached to international protection only in that Member State.”<sup>103</sup>

The Council decision states that “Member States should also inform the beneficiaries about the conditions under which they may legally enter and stay in another Member State”.<sup>104</sup> Article 6 states that Italy and Greece shall inform the applicant of the procedure in a language they understand, thus, with the exception of freedom of movement as stated above, the obligation to inform lies with the sending Member State, while Malta is a receiving Member State within the scheme.

## 7.2. Information provided

During its initial information sessions UNHCR mention the possibility to register for durable solutions, including resettlement. This is briefly explained in the powerpoint presentation and the information pack. The information on the UNHCR website is institution-centred rather than migrant-centred, but there is a step-by-step guide

<sup>100</sup> Refugees Act, para. 15.

<sup>101</sup> Agency for the Welfare of Asylum Seekers Regulations, para. 6.

<sup>102</sup> Office of Refugee Resettlement, “The Refugees Act,” August 29, 2012, <https://www.acf.hhs.gov/orr/resource/the-refugee-act>.

<sup>103</sup> Council of the European Union, “Council Decision Establishing Provisional Measures in the Area of International Protection for the Benefit of Italy and Greece,” (EU) 2015/1601 Council Decision § (2015), 35, 38, <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32015D1601>.

<sup>104</sup> *Ibid.*, 40.

to the procedure<sup>105</sup> and a link to an online registration form, where translation into Somali, Tigrinya and Arabic are provided at the bottom of the form.

The IOM practical handbook explains that resettlement is offered to those with refugee status or subsidiary protection, and it is up to the receiving country to decide on eligibility. Both UNHCR and IOM remind that resettlement is not a right – “It is simply a service offered to help persons with protection in Malta”.<sup>106</sup>

Information about relocation is provided on the EASO website, defining eligibility, listing participating countries including Malta, reminding the applicant that there is no choice of the country, and promising to take special needs into account.<sup>107</sup> It can be inferred that additional information is provided to applicants individually.

### 7.3. Stage of provision of information

UNHCR mentions resettlement as one of the durable solutions at its information sessions in open centres for applicants waiting for an asylum decision. When applicants register, they receive more details orally, with the help of UNHCR interpreters. After a UNHCR referral, the application is processed by IOM, which helps with the next stages of the screening and cultural orientation in the US if accepted.

Currently asylum seekers are not being relocated from Malta to other EU countries. For those relocating to Malta, an information session is provided by RefCom upon arrival. For those relocated from Greece and Italy, EASO, based in Malta, deployed new information experts in Greece and cultural mediators in Italy.<sup>108</sup>

### 7.4. Format of information

Oral information is provided by UNHCR and IOM during information sessions, as well as at the RefCom orientation session. Written information can be supplied in the form of the UNHCR information pack and the IOM leaflet. There is also information

**105** UNHCR Malta, “Durable Solutions Self-Registration Form,” accessed February 1, 2017, <http://www.unhcr.org/mt/setting-the-agenda/637-durable-solutions-self-registration>.

**106** Guillen and Soares, “Practical Handbook for Persons Seeking Asylum in Malta.”

**107** European Asylum Support Office (EASO), “Questions and Answers on Relocation,” accessed February 13, 2017, <https://www.easo.europa.eu/questions-and-answers-relocation>.

**108** European Commission, “Ninth Report on Relocation and Resettlement” (Brussels, February 8, 2017), [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20170208\\_ninth\\_report\\_on\\_relocation\\_and\\_resettlement\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20170208_ninth_report_on_relocation_and_resettlement_en.pdf).

available online from UNHCR and EASO. The EASO app also supplies information to users. EASO also has in place a social network campaign, aimed at increased interaction with stakeholders.<sup>109</sup>

## 7.5. Languages of information

Tigrinya, Amharic, Somali, and Arabic (UNHCR and IOM information sessions. IOM can look for translators into other languages if required); Tigrinya, Somali and Arabic (UNHCR self-registration form);<sup>110</sup> English, Arabic, Amharic, Tigrinya and Somali (IOM practical handbook).

For those relocating to Malta, at RefCom's orientation session in-house interpreters into Arabic, Somali and Tigrinya are available. For other languages, an appointment is set when relevant interpreters are available. EASO have appointed cultural mediators fluent in Arabic, Tigrinya and Kurdish to facilitate relocations from Italy.<sup>111</sup> EASO Q&A about relocation is translated into Arabic; Pashto and Farsi/Dari will be added in the future.<sup>112</sup>

## 7.6. Entities involved in the provision of information

A number of entities are involved in the provision of this information including RefCom; IOM; UNHCR and EASO. As a rule, NGOs receiving questions from their clients about resettlement refer them to UNHCR.

## 7.7. Evaluations

IOM internally evaluates all information provided to applicants for its programmes to check whether the information is consistent with IOM's strategy. The European Commission's ninth report on the EU relocation scheme noted the need to "improve information provision during the relocation procedure" to include information and cultural orientation sessions, although this criticism was not limited to Malta. It called for updating relocation brochures and leaflets developed by EASO and

**109** European Asylum Support Office (EASO), "Eritrean in Italy? Relocation to Another European Country Is Safe and Legal. Start Your Future Now!"

**110** UNHCR Malta, "Durable Solutions Self-Registration Form."

**111** European Commission, "Ninth Report on Relocation and Resettlement."

**112** European Asylum Support Office (EASO), "Questions and Answers on Relocation."

provided by countries of relocation, and suggested tailor-made information, including country leaflets and videos, to mitigate secondary movements and risks of absconding.<sup>113</sup>

### 7.8. Impact

The last relocations from Malta to other EU countries took place in 2013.<sup>114</sup> However, due to lack of evaluations and accessible data, it is not possible to estimate whether the extent of resettlement and relocation is influenced by the availability and quality of information available.

<sup>113</sup> European Commission, "Ninth Report on Relocation and Resettlement," 11.

<sup>114</sup> UNHCR Malta, "Malta Asylum Trends."

8

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**Information  
regarding  
return**

## 8.1. Legal framework

The Immigration Act addresses returns but makes no provision for information. The legal framework regarding the provision of information on return is found in the Refugees Act and the Returns Regulations.<sup>115</sup> The Returns Regulations are the transposition into Maltese law of the Returns Directive. Voluntary return is only legally defined in relation to undocumented migrants, who shall be informed of the return decision and their right to leave voluntarily.<sup>116</sup> Unaccompanied minors can only be removed if they would be received by a family, a guardian, or a competent institution in a receiving country, but there are no provisions for informing them of this.

The 2014 amendment of the Return Regulations introduced the provision that the Principal Immigration Officer “shall provide, upon request, [...] information on the legal remedies in a language the third-country national may reasonably be supposed to understand.”<sup>117</sup> For asylum seekers, the 2015 Reception Strategy explains: “A return decision shall be issued only in the event that an asylum application is definitively rejected in accordance with relevant legislation”.<sup>118</sup> In that case the rights to information apply as shown in section 5.1. However, no legal framework is available for voluntary returns for beneficiaries of international protection. The laws only state that AWAS is responsible for promoting government policies and schemes for voluntary returns.<sup>119</sup>

For rejected asylum seekers, “all the effects of the removal order shall be suspended pending the final determination of the asylum application”, and after a negative decision is made, “the removal order along with its effects shall again come into force”,<sup>120</sup> implying that the same provisions on information apply as for undocumented migrants. Free legal aid is offered at this stage, as well as information about proceedings to challenge detention.<sup>121</sup> Rejected asylum seekers may be detained for not more than six months, extendable to another 12 in case of non-compliance or other special circumstances, and all provisions regarding

**115** “Common Standards and Procedures for Returning Illegally Staying Third-Country Nationals Regulations,” SL 217.12 Laws of Malta Chapter 217 § (2011) <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lp&itemid=21843&l=1>.

**116** “Common Standards and Procedures for Returning Illegally Staying Third-Country Nationals Regulations,” SL 217.12 Laws of Malta Chapter 217 § (2011), para. 2, <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lp&itemid=21843&l=1>.

**117** *Ibid.*, para. 3.

**118** Ministry for Home Affairs and National Security, “Strategy for the Reception of Asylum Seekers and Irregular Migrants,” 10.

**119** Agency for the Welfare of Asylum Seekers Regulations, para. 6.

**120** Immigration Act, para. 14.

**121** Common standards and procedures for returning illegally staying third-country nationals regulations, para. 11.

information on detention apply as stated in section 4.1. By implication, when it is not feasible to implement a removal order, rejected asylum seekers stay in Malta under conditions described in section 6, which are defined in policy rather than in the laws. The Refugee Appeals Board can review the removal decision, and the person affected shall be informed about such proceedings.<sup>122</sup>

### 8.2. Information provided

For enforced return situations, the IOM booklet states: “Forced return to country of origin by the authorities always remains a possibility for rejected asylum seekers.” It informs rejected asylum seekers that they cannot leave Malta, except to return to their country of origin.<sup>123</sup> The materials reviewed do not offer information as to how the removal takes place and who covers the costs

The RefCom booklet briefly states that RefCom or administrators of the applicant’s residence centre are to be informed should the applicant decide to return to their home country at any stage.<sup>124</sup>

IOM provides information about its Assisted Voluntary Return and Reintegration (AVRR) programme programme on its website.<sup>125</sup> Information tailored to asylum seekers is provided in the reception facilities (closed and open centres) in cooperation with other organisations such as AWAS to make sure that potential returnees have access to it. The IOM leaflet on assisted voluntary return describes the principles, the role of IOM and how to apply.<sup>126</sup> The IOM booklet explains the principles of assisted return – voluntary nature, confidentiality, and informed consent – as well as eligibility and types of assistance at each stage of the process. Stories illustrate how the return grant can be spent, as well as showing the advantages of voluntary return vis-à-vis irregular or precarious stay in Europe.<sup>127</sup> Both the leaflet and the more general IOM practical handbook for asylum seekers<sup>128</sup>

<sup>122</sup> Ibid., para. 12.

<sup>123</sup> Guillen and Soares, “Practical Handbook for Persons Seeking Asylum in Malta.”

<sup>124</sup> Office of the Refugee Commissioner, “Information about the Asylum Procedure.”

<sup>125</sup> IOM Malta, “MT/2015/AMIF/1.01: Assisted Voluntary Return and Reintegration in the Country of Origin – RESTART VI,” accessed February 2, 2017, <https://malta.iom.int/assisted-voluntary-return-and-reintegration-in-the-country-of-origin-restart-vi>.

<sup>126</sup> Ministry for Home Affairs and National Security and IOM Malta, “Assisted Voluntary Return and Reintegration in the Country of Origin,” 2015, <https://malta.iom.int/sites/default/files/2015%20Documents/Publications/Assisted%20Voluntary%20Return%20and%20Reintegration%20in%20the%20Country%20of%20Origin%20Leaflet.pdf>.

<sup>127</sup> IOM Malta and Ministry for Home Affairs and National Security, “Stories of Return: Assisted Voluntary Return and Reintegration (AVRR) in the Country of Origin,” General Programme Solidarity & Management of Migration Flows (2007–2013) (Floriana, 2015), <https://malta.iom.int/sites/default/files/2015%20Documents/Publications/Stories%20of%20Return%20Booklet.pdf>.

<sup>128</sup> Guillen and Soares, “Practical Handbook for Persons Seeking Asylum in Malta.”



mention financial support provided in such cases. The UNHCR website mentions voluntary return, but does not provide information on how to seek it.<sup>129</sup>

### 8.3. Stage of provision of information

UNHCR and IOM information materials, distributed at the early stages of the asylum process, include information on the assisted voluntary return programme. Applicants can also contact IOM about assisted voluntary return at any time. IOM staff go to all reception facilities including open centres to provide information and answer any ad-hoc queries. RefCom also produces booklets on the asylum procedure, detailing the rights surrounding returns as well as the process, which are distributed prior to the start of the application process, and during.

### 8.4. Format of information

Information regarding forced returns is issued orally in the cases of personal interview, and in the form of leaflets distributed by RefCom. According to the AIDA report, for forced return situations [i]nformation on how to challenge the [detention decision] is always written in English, which makes it difficult for an individual not proficient in English to access the information.<sup>130</sup>

For assisted voluntary returns, IOM provides information orally and in various concise formats: leaflets, posters and postcards. A booklet with stories of return is available online.<sup>131</sup> Additional assistance for minors, people with health issues and other vulnerable individuals includes targeted information. However, written information is not in plain language – it uses complex sentences and legal terms.

### 8.5. Languages of information

For both forced and assisted voluntary returns, some information is available in the IOM practical handbook in English, Arabic, Amharic, Tigrinya and Somali. For enforced returns, information rights follow the standard described in section 5.1, that as the Returns Regulations affirm, information including reasons for removal and information how to challenge it must be provided in a language the individual

<sup>129</sup> UNHCR Malta, "Durable Solutions."

<sup>130</sup> Aditus Foundation and JRS Malta, "Country Report: Malta"

<sup>131</sup> IOM Malta and Ministry for Home Affairs and National Security, "Stories of Return: Assisted Voluntary Return and Reintegration (AVRR) in the Country of Origin."

understands: “shall be given in at least five languages which third-country nationals may reasonably be supposed to understand.”<sup>132</sup> For voluntary returns, project leaflets, booklets and posters were produced in English, French and Arabic, and postcards were produced in English, French, Arabic, Bambara and Portuguese.

### 8.6. Entities involved in the provision of information

For enforced returns, RefCom is the main source of procedural information, as shown in section 5.6. However, information about rights and obligations at this point is mainly offered in IOM materials, which are also handed out by RefCom. For voluntary returns, IOM is the main contact point. Additionally, they are supported by a referral network (including AWAS Social Workers) whose staff members can contact them in case of need.

### 8.7. Evaluations

Maltese case law includes cases of violation of the law, when Somali applicants were returned to Libya without being given the opportunity to seek international protection and when an applicant was not provided with legal assistance or another opportunity to contest his return to Libya.<sup>133</sup> The fact that information materials provided by the immigration police, as well as removal orders are in English only has raised concerns.<sup>134</sup>

As mentioned, NGOs criticise the availability and quality of information about challenging removal orders.<sup>135</sup> UNHCR noted that migrants arriving irregularly were not “given an opportunity to present information, documentation and/or other evidence in support of a request for a period of voluntary departure.”<sup>136</sup> However, this concerns the time when detention was more widely applied.

For voluntary returns, there is an internal evaluation of all information provided to asylum seekers to check whether the materials are in line with IOM’s strategy. The assisted returns project envisages monitoring,<sup>137</sup> but it is not known whether it will include information aspects.

**132** Common standards and procedures for returning illegally staying third-country nationals regulations, para. 11.

**133** Gauci and Mallia, “Access to Protection: A Human Right.”

**134** *Ibid.*, 32.

**135** Aditus Foundation and JRS Malta, “Dublin: Malta,” AIDA – Asylum Information Database (ECRE – European Council on Refugees and Exiles, December 2015), <http://www.asylumineurope.org/reports/country/malta/asylum-procedure/procedures/dublin>.

**136** UNHCR, “UNHCR’s Position on the Detention of Asylum-Seekers in Malta,” 2013, <http://www.refworld.org/docid/52498c424.html>.

**137** IOM Malta, “MT/2015/AMIF/1.01: Assisted Voluntary Return and Reintegration in the Country of Origin – RESTART VI.”

## 8.8. Impact

Interviews with IOM staff revealed a great need of enhanced coordination between all involved stakeholders and of a clear division of responsibilities in providing information. However, in the case of assisted voluntary returns, having a single contact point, IOM, is helpful. There is no data to show to what extent the take-up of this programme correlates with the quantity and quality of information provided.

As mentioned in section 1.7. above, a FRA evaluation found that provision of information about removals depended on successful disembarkation on Maltese territory.<sup>138</sup> When a forced return takes place after application for asylum, following a rejection, individuals can refer to the materials they received in the beginning of the process, notably the IOM practical handbook. However, there is no evidence of tailor-made information for rejected asylum seekers, which would outline rights and obligations specific to their status without requiring to reread materials received in the beginning of the process. Thus, informal counselling by NGOs becomes an important source of information. Although the sample of migrants interviewed in open centres did not include rejected asylum seekers, reliance on advice from people in a similar situation is likely, as is the case with applicants and beneficiaries of international protection.

138 European Agency for Fundamental Rights (FRA), "Fundamental Rights at Europe's Southern Sea Borders."

# Conclusions and recommendations

## Conclusions and recommendations

This report has mapped out the legal and procedural information available to asylum seekers in Malta. In doing so, it has identified the relevant legal and policy provisions, the content, language and timing of information provided, the entities involved in its provision and engaged with the limited evaluations of that information provision. From this overview, it is clear that further monitoring and evaluation of information provision is needed in order to ensure enhanced access to the justice for asylum seekers and beneficiaries of international protection. A number of issues became apparent from this overview.

Accessibility of information remains a critical concern. The structures for the provision of information assume irregular arrival and that individuals concerned will be in the initial reception centres (and previously in detention centres). This is no longer the case for the vast majority of individuals seeking protection and whilst the system has adapted to these new dynamics, concerns remain as to the accessibility of information for people already on the island. Moreover, the format of the information provided, and the fact that the information is often provided at one go creates difficulties for individuals to absorb the information being provided. Online information is minimal, not user-friendly and mostly in English, although mobile-friendly information would clearly benefit asylum seekers.

As a result, interviews with applicants and beneficiaries reveal a trend to passively collect leaflets, but, when in need, to refer to NGOs or personal contacts for information. The formalistic nature of written information is compensated by oral information sessions, offered by nearly all participating stakeholders. However, although this is an effective tool, there is a risk of significant delays should the number of applicants increase dramatically.

Furthermore, the involvement of a range of entities in the provision of information, whilst to be commended, creates room for confusion especially when new processes and procedures are not sufficiently communicated across the various providers of information. This often results in different information being disseminated whilst results in confusion as well as issues surrounding the duplication of information. The issues are exacerbated when information is also sought from informal channels. Formal providers of information must remain constantly updated with changing policies and practice so that they are able to provide information that is up to date and accurate.

Related to this issue, there is also a significant risk of reliance on out-dated materials. Indeed, significant information tools identified throughout this report have been around for a number of years, and have not been updated despite changes in law, policy and practice. This risk is compounded by the fact that most information

## Conclusions and recommendations

provided is developed in the context of specific projects that do not provide opportunities for updating the information materials after the end of the project end.

### Recommendations

- Strengthen the provisions stating obligations of various authorities towards vulnerable individuals, including provision of clear guidance about asylum to trafficking victims. Consider adapting EASO guidelines on proactive information provision for first-contact officers.
- Undertake broad ranging evaluations of the information provided to ensure that it is up to date, accurate, accessible and is reaching the intended audience.
- Develop clear policies on the requirement to provide information and the standards for the provisions of that information.
- Enhance collaboration among the various stakeholders involved, making sure that all use the most up-to-date and comprehensive source of information thereby ensuring consistency and accuracy.
- Create and follow clear guidelines and design monitoring and evaluation mechanisms to maintain consistency of materials across the various entities providing information.
- Publish essential information about access to the asylum procedure in flyers and leaflets in plain language, with translations into the main languages of the target group, to be distributed at the entry points by the Immigration Police. These materials should focus on access to asylum and its consequences.
- Create a one-stop shop centre to provide detailed information on the asylum system, reception and other services. Individuals should then be guided to this entity at different stages of the process – as they proceed in seeking asylum, different types of accommodation and receive their status.
- Create a mobile-friendly web platform in multiple languages with information covering all asylum and reception aspects, together with an updated list of contact details for relevant institutions and organisations.

The People for Change Foundation (PfC) is a human rights think tank based in Malta. PfC conducts evidence-based and data-driven legal, policy and social research and advocacy to collaboratively achieve improved outcomes for the populations with, and for which, it works. PfC builds capacity in areas such as migration, asylum, trafficking and anti-racism both in Malta as well as in Europe more broadly. PfC brings together different actors, methods and approaches – activism and research; policy and practice.



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