



The Malta Human Rights Report 2013

The People for Change Foundation

The Malta Human Rights Report 2013



Authors

Attard, Sharon
Cassar, Christine
Gauci, Jean-Pierre

Research Assistants

Van Es, Larissa
Vassallo, Andrew
Zegura, Krista

The Malta Human Rights Report 2013 is the first of its kind for the country, and will be an annual initiative undertaken by the People for Change Foundation. Beyond the documentation of human rights issues, however, the report seeks to engage with the underlying causal factors, and to engage with the legal, policy and social mechanism that would prevent and redress these issues.

Executive Summary

The Malta Human Rights Report 2013 provides an overview of the major developments relating to human rights in Malta over the past year. The year 2013 was marked by the threatened push back of sub-Saharan migrants to Libya which was halted by the European Court of Human Rights, the MV Salamis incident of rescue at sea and the legal issues this stirred up, and the European Court of Human Rights's decisions regarding Malta's detention policy.

Although this publication focuses on developments in the year 2013, and is written to reflect the socio-political climate present in this time-period, it should be noted that many of the issues identified throughout the report were, and remain, ongoing. The report explores thematic issues such as maritime migration, migrant detention, racism, integration, access to citizenship, trafficking, and children's rights, amongst others. It incorporates developments that have taken place at the National and a European level, both of which come to bear upon the way in which human rights are effectively realized and experienced in Malta.

In the field of immigration, this report highlights the importance of Malta's international *non-refoulement* obligations, particularly with respect to the attempted push backs to Libya in July 2013, and the MV Salamis incident in August 2013. Two Constitutional Court decisions on the issue are also elaborated in the report. Malta's policy of mandatory and automatic detention continued to be criticized from various quarters over the course of 2013, most notably in two separate European Court of Human Rights judgements, as well as reports by international human rights bodies including the Universal Periodic Review and the European Commission Against Racism and Related Intolerance.

The Malta Human Rights Report 2013 also takes account of efforts and challenges in the integration of minority groups. There was a notable increase in the level of hate speech in 2013, fuelling already-persistent discrimination and further hindering integration efforts for migrants who reside in Malta. Significant efforts were made over the course of the year in the area of human trafficking, through the implementation of the national action plan as well as non-governmental initiatives. The vulnerability of children to trafficking was specifically highlighted whilst the Committee on the Rights of the Child and the Office of the Commissioner for Children both made recommendations for better realization of children's rights in Malta.

Table of Contents

| | |
|---|----|
| Executive Summary | 2 |
| About the People for Change Foundation..... | 4 |
| About the Malta Human Rights Update | 4 |
| List of Abbreviations | 5 |
| List of Figures | 6 |
| 1. Introduction..... | 7 |
| 2. Political Climate - National Election 2013 | 8 |
| 3. Maritime Migration | 10 |
| Decisions of the Constitutional Court | 14 |
| Statistics on Number of Immigrant Arrivals and Outcome of Asylum Applications..... | 16 |
| 4. Migrant Detention | 18 |
| 5. Racism | 24 |
| 6. Integration..... | 29 |
| 7. Access to Citizenship | 31 |
| 8. Trafficking..... | 32 |
| 9. Children's Rights..... | 36 |
| 10. Other Issues and Developments..... | 42 |
| UN Human Rights Council: Report of the Working Group on the Universal Periodic Review [Published December 2013]..... | 42 |
| LGBTI Rights | 44 |
| The State of Correctional Facilities | 45 |
| Mount Carmel Hospital..... | 45 |
| 11. Towards 2014 | 46 |
| Bibliography | 49 |
| Case Law | 49 |
| Electoral Manifestos and Programmes..... | 49 |
| Legislation..... | 49 |
| Reports | 50 |
| News Articles | 51 |
| Surveys..... | 51 |
| Websites | 51 |

About the People for Change Foundation

The People for Change Foundation's vision is of a just, fair and inclusive society where all members may reach their full potential unhindered by factors such as age, race, colour, gender, language, religion, political or other opinion, national origin, property, birth or other status. Since 2007, the People for Change Foundation (PFC) has been conducting on-the-ground legal and policy research in Malta in the fields of migration, asylum and racism in the European Union. The Foundation operates at the intersection between law, policy and social science, delivering analysis that is practical in input and pragmatic in outcome. The People for Change Foundation was set up with the express aim of contributing to a multilateral process between different entities - governmental, non-governmental and academic - to conduct research in an area of direct relevance to the livelihood and quality of life of asylum seekers, and to address human rights concerns through international and national legal obligations and development.

About the Malta Human Rights Update

The Malta Human Rights Update is a new initiative of The People for Change Foundation. It aims to provide a snapshot of some of the most pertinent developments in the field of human rights in Malta, particularly those which are of direct relevance to the work undertaken by The People for Change Foundation. As a result, the report largely focuses on issues of migration and racism, as well as children's rights.

List of Abbreviations

AD – Alternattiva Demokratika

CCF – Corradino Correctional Facility

CoE – Council of Europe

CPT - European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment

CRC – Convention on the Rights of the Child

ECHR – European Convention on Human Rights

ECRE – European Council on Refugees and Exiles

ECRI - European Commission Against Racism and Intolerance

ECtHR – European Court of Human Rights

ENAR – European Network Against Racism

EU – European Union

GRETA - Group of Experts on Action against Trafficking in Human Beings

HRC – Human Rights Council

IOM – International Organization for Migration

JRS – Jesuit Refugee Service

LGBTI – Lesbian, Gay, Bisexual, Transgender, and Intersex

MEP – Member of the European Parliament

MRCC – Maritime Rescue Co-ordination Centre

NCPE – National Commission for the Promotion of Equality

NGO – Non-Governmental Organization

PfC – People for Change Foundation

PN – Partit Nazzjonalista

PL – Partit Laburista

SAR – Search and Rescue

UN – United Nations

UNHCR – United Nations High Commissioner for Refugees

UPR – Universal Periodic Review

List of Figures

Figure 1 - Location of MV Salamis at Rescue and Standoff

Figure 2 - Boat Arrivals by Country of Origin

Figure 3 - Asylum Applications Reviewed

Figure 4 – Advertising a public demonstration against immigration

1. Introduction

The standard [Eurobarometer](#) survey, published in December 2013, revealed that in terms of main concerns at National level, “Malta continues to stand out from the other Member States, being the only country where the most important concern is not directly related to the economy (immigration, 63%, following a 34-point increase).”¹ This central focus on immigration at a local level is largely reflected within this report, with a number of thematic issues directly relevant to the area of immigration.

The Human Rights Update is organized as follows. Section 2 outlines developments in the political climate in 2013, specifically regarding the way in which matters of migration and asylum were addressed in the context of the National Elections. Section 3 further builds upon the political aspect of migration and asylum by detailing incidents which unfolded over the summer of 2013 in the area of maritime migration, particularly the attempted push backs to Libya in July, as well as the stand-off regarding the MV Salamis a month later. It also takes account of Constitutional Court decisions regarding Malta’s international *non-refoulement* obligations. The section concludes with an overview of the immigrant arrivals and outcome of asylum applications in 2013. Section 4 approaches the issue of migrant detention, detailing the abundant criticism of Malta’s mandatory detention system from a number of local and international human rights bodies, as well as the European Court of Human Rights. Section 5 outlines a series of statistics and worrying incidents which point to a significant rise in the occurrence of hate speech, and the subsequent measures taken in response. Section 6 outlines some of the measures which were adopted in 2013 towards integration, as well as indicating a few challenges currently being faced in this area. Section 7 expresses concern regarding the lack of clear and transparent procedures for attaining citizenship by naturalization. Section 8 outlines current procedures, gaps and initiatives in the field of combatting human trafficking on a local level, whilst highlighting a number of

¹ Standard Eurobarometer 80: 12

recommendations made by the Group of Experts on Action against Trafficking in Human Beings (GRETA) and the U.S Department of State. Section 9 focuses upon children's rights, specifically by drawing attention towards the Concluding Observations on Malta's second periodic report adopted by the UN Committee on the Rights of the Child, as well as highlighting concerns from the Office of the Commissioner for Children with regards to the local protection of children's rights. Section 10 touches upon developments in the broader field of human rights, particularly regarding LGBTI rights, prisoner's rights, and mental health services. The final section indicates some significant developments anticipated in 2014.

2. Political Climate - National Election 2013

The first quarter of 2013 was characterized by the run up to the General Election held on March 8th 2013. The issue of migration was discussed in the electoral manifestos of the three main political parties.

The *Partit Laburista* (Labour Party) addressed issues of irregular migration within a section of the [manifesto](#) which focused on Security². The Labour Party proposed setting up a Border Patrol Squad, comprised of members of the Armed Forces and the Police, committed to greater surveillance of Maltese shores in order to better address issues of irregular migration. It was proposed that the squad receive specialized training in order to conduct their duties with due sensitivity, and be comprised of officials who choose to be involved therein, whilst subsequently receiving incentives and opportunities for career progression. The Labour Party also committed to enhancing solidarity within the EU and beyond on a more practical and tangible level, with regards to facing challenges posed by irregular immigration. In this respect, the Labour Party stated later in the report that it would work to convince the EU to revise the Dublin II regulations, which the Party claimed goes against the interests of Malta, against European interests, and against the interests

² Partit Laburista (2013), *Malta Tagħna Ilkoll: Manifest Elettorali 2013*

of victims of irregular migration. Finally, the Party recommended strengthening the role of the Refugee Commissioner in order to ensure greater efficacy in the performance of his functions. It should be noted that the manifesto made no reference to integration measures, nor to the rights afforded to asylum-seekers, migrants in detention, or migrants who have been granted humanitarian protection and reside in Malta.

The *Partit Nazzjonalista* (Nationalist Party) pledged³ to contribute actively to the development of EU policy in sectors which were of specific interest to Malta, of which it cited tourism, immigration, and the Mediterranean as examples. The Party also pledged to work on improving relationships with countries which underwent rapid change in the Arab Spring of 2011, such as Libya, Egypt, and Tunisia (also significant countries of transit along major immigration routes). Furthermore, the Nationalist Party committed themselves towards developing support systems and networks for vulnerable and at-risk members of society, through the considered provision of social services. Whilst the [manifesto](#) made reference to matters of immigration, these were brief and were not supplemented by concrete measures and proposals with respect to specific issues. The [PN electoral programme](#)⁴ however, provided more detailed proposals with regards to immigration. The programme specifically proposed to implement strategic revisions to the detention service, to develop an integration policy, to create an agency which consolidates all services related to the immigration sector, to create further career opportunities in this sector whilst also ensuring that nobody is forced to undertake work in this field for long periods of time, to strengthen the surveillance of Maltese borders, to develop a common EU policy on asylum, and to create a model of good practice on a European level.

Alternattiva Demokratika (AD) [proposed](#)⁵ that the children of foreign nationals who work legally in Malta (including people who have worked in Malta and hold regularly

³ Partit Nazzjonalista (2013), *Electoral Manifesto: Partit Nazzjonalista (General Election 2013)*

⁴ Partit Nazzjonalista (2013), *Qabza oħra ta' Kwalita': Programm Elettorali tal-Partit Nazzjonalista 2013*

⁵ Alternattiva Demokratika (2013), *2013 Manifest Elettorali*

updated work permits), refugees and people who have been granted some form of international protection in Malta, and those who have been born in Malta and/or attended a cycle of schooling in Malta be granted citizenship automatically. AD called for responsibility sharing on issues of irregular immigration at EU level, whilst emphasizing that Malta must adhere to international law and honour its international obligations. AD also stressed the importance of integration measures, particularly by means of access to fair and legal forms of work, along with further emphasis to be placed upon anti-racist education within schools. The Party proposed greater investment in social housing for immigrants and other vulnerable groups, along with free access to psychological consultations for migrants who have suffered immense trauma in the process of seeking asylum. In terms of legislation, AD encouraged a legal distinction to be made between 'human smuggling' and 'human trafficking,' and proposed the development of a social policy which looks at the specific needs of immigrants.

3. Maritime Migration

The Mediterranean Sea has long been a setting for human tragedy, not least exemplified in the horror which unfolded on Thursday 3rd October 2013, when over 300 migrants (including a baby boy still attached to his mother by the umbilical cord) [died](#) off the coast of Lampedusa after their boat caught fire and sank⁶. The tragic circumstances associated with this event more strongly than ever highlighted the need for EU leaders to rethink existing immigration policies and rescue missions, placing the safeguarding and protection of human lives as a foremost priority. Issues relating to Malta's role in the field of maritime migration are highlighted in this section, particularly with respect to international *non-refoulement* obligations.

⁶ 'Lampedusa victims include mother and baby attached by umbilical cord', The Guardian, Thursday 10th October 2013 [<http://www.theguardian.com/world/2013/oct/10/lampedusa-victims-mother-baby-umbilical-cord>]

PUSH BACK TO LIBYA – July 2013⁷ On the morning of July 9th, 102 Somali migrants were intercepted and brought to Malta by the Armed Forces of Malta. The group consisted of 41 women, two infants and 59 men. UNHCR and NGOs were denied access to the migrants, who were being held at the police headquarters, before the

Access to Protection: A Human Right
The People for Change Foundation, December 2013

“the summer of 2013 brought with it an event which tested Malta’s interpretation of current obligations of non-refoulement and called for an application of the *hirsi* judgement... the difference was that in this case, the migrants were already on Maltese territory.” (p. 27)

women and children were transferred to a detention centre. A number of NGOs [protested](#) outside the Police Headquarters throughout the day, holding placards against the proposed

push back⁸. Following reports by the media that approximately 45 of the migrants would be flown to Libya that same evening at midnight and at 4am, the Jesuit Refugee Service and People for Change Foundation, together with a number of supporting organizations, filed a request with the European Court of Human Rights for an interim measure to prevent this push back from taking place. An interim measure, under Rule 39 of its Rules of Court, apply where there is a serious risk of imminent and irreparable harm, and allows the European Court of Human Rights to indicate urgent measures to State Parties to the Convention. It should be noted that the Court only grants requests for an interim measure on an exceptional basis, these then being communicated to the respondent Government. The request for an interim measure stated that: “Due to the fact that none of the immigrants are being given any legal assistance, JRS Malta and The People for Change Foundation, as ‘a concerned person’ in accordance with Rule 39(1) is presenting and requesting Interim Measures against Malta, a Contracting State to the European Convention of Human Rights. The removal/deportation of the said immigrants will result in a

⁷ Details of this incident have been extracted from the report: Gauci, JP & Mallia, P. (2013) *Access to Protection: A Human Right, National Report, Malta*. People for Change Foundation, Malta.

⁸ ‘European Court blocks deportation of migrants – NGOs protest outside Police HQ – PM to make statement’, Times of Malta online, Tuesday 9th July 2013
[<http://www.timesofmalta.com/articles/view/20130709/local/ngos-holding-protest-outside-police-headquarters.477305#.Udw32D7J09w.twitter>]

breach of Article 3 of the Convention, Article 4 of Protocol No. 4 and Article 13 of the Convention.”⁹

The Court accepted this request, and issued the interim measure stopping the deportations for the duration of the proceedings before the Court. The Maltese government respected the decision of the Court. A national judicial protest was also filed by 69 lawyers to halt the push-back. The Maltese Government responded to the queries raised by the ECtHR on noting inter alia that: no final decision in this regard had yet been taken by the time the Court issued its order under Rule 39 of the Rules of Court prohibiting deportation. A follow up case about this incident has been filed with the European Court of Human Rights. It has been communicated to the parties and a decision can be expected in the coming year.

MV SALAMIS – August 2013¹⁰ On August 4th, a vessel carrying migrants who had left Libya was rescued by an oil tanker, MV Salamis. The latter was instructed by the Italian Maritime Rescue Coordination Centre in Rome (MRCC) to rescue those onboard the distressed vessel, namely 102 migrants including 4 pregnant women, a five month old baby and an injured woman (See Image I for Position). The Rome MRCC instructed the Master to Return to Khoms in Libya, arguing this as the nearest port of safety, and given that the vessel was in distress within the Libyan Search and Rescue (SAR) Area. In response to these instructions, the Master decided to proceed to Malta instead, which was its next port of call, and a safe port. It appeared that the decision to move towards Malta was taken by the vessel owners and its captain, for what has been cited as ‘[commercial considerations](#)’¹¹. Both the Italian and the Maltese SAR Coordination Centres ordered the vessel to return to Libya, however these orders were ignored. For two days, the Maltese government refused the vessel

⁹ Interim Measure Application not publicly accessible.

¹⁰ Details of this incident have been extracted from the report: Gauci, JP & Mallia, P. (2013) *Access to Protection: A Human Right, National Report, Malta*. People for Change Foundation, Malta.

¹¹ ‘Update 8: Migrants expected to be taken to Italy’, Times of Malta online, Tuesday 6th August 2013 [http://www.timesofmalta.com/articles/view/20130806/local/tanker-with-rescued-migrants-still-outside-maltese-waters.481002]

entry into Maltese territorial waters. The tanker remained just outside Malta's contiguous zone (and therefore on the high seas), but within Malta's search and rescue region (see Image II). The migrants aboard the vessel received water as well as medical aid by medics from the Armed Forces of Malta, who boarded the vessel for this purpose. No evacuations were considered necessary.

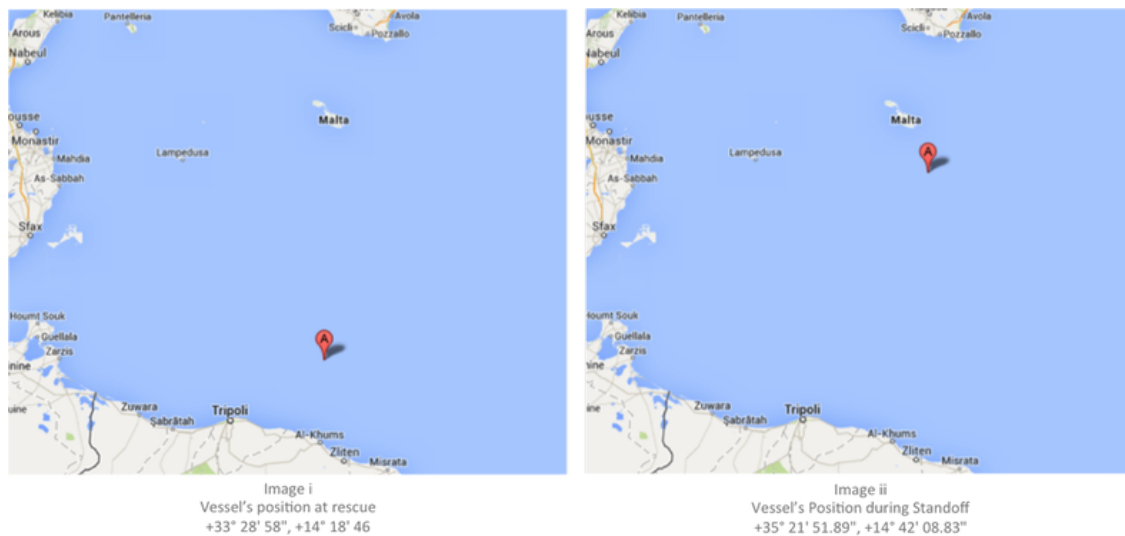


Figure 1 - Location of MV Salamis at Rescue and Standoff

Commissioner Malmström stated that it was “the humanitarian duty of the Maltese authorities” to “let these persons disembark as soon as possible”. UNHCR called for a quick and practical solution to the impasse. Both the European Commission as well as UNHCR highlighted that returning migrants to Libya was not an option, and would be in breach of international law. A group of 8 Maltese NGOs, along with ECRE and Amnesty international issued similar statements, whereby they urged rescue operations to consistently seek disembarkation at a safe port, the term ‘safe’ also taking due consideration of the human rights situation which rescued persons would be exposed to in the country of disembarkation.

Of similar and particular concern to The People for Change Foundation was the continued insistence by the Maltese authorities (and the instructions given by the Italian authorities) that the ship should disembark the migrants in Libya. Despite what may have been MV Salamis's deference of the instructions given to it by RCC Rome and RCC Malta, Libya is still an unsafe country (as confirmed by the ECtHR's

the primary argument... is that the principle of non-refoulement applies irrespective of the act in question, whether it is an interception or a rescue operation, and whether it is carried out by official vessels or by private vessels co-ordinated by the state. (p. 3)

Access to Protection: A Human Right
The People for Change Foundation, December 2013

interim measure against Malta's consideration of returning migrants to Libya on July 9th, 2013). Therefore, the return and disembarkation of the migrants to Libya would have been in clear breach of international legal obligations.

On the evening of August 6th, it was announced that diplomatic efforts by the Maltese Government had resulted in Italy accepting to take the migrants itself. The MV Salamis headed to Syracuse and disembarked the rescued migrants there. A legal analysis of the MV Salamis incident, as presented within the '[Access to Protection: A Human Right](#)' report, clearly highlights that "Malta (and Italy in this case) cannot evade their *non-refoulement* obligations by instructing rescuing vessels to return rescues to places of disembarkation to which their own official vessels are precluded from disembarking. Any such actions would amount to *de facto refoulement* and would be in violation of their obligations under International Law (2013: 3)¹².

Decisions of the Constitutional Court

On the issue of *non-refoulement*, two decisions of the Constitutional Court were reached in 2013, both of which dealt with cases of returns from Maltese territory.

¹² Gauci, JP & Mallia, P. (2013) *Access to Protection: A Human Right, National Report, Malta*. People for Change Foundation, Malta

The decisions of the Constitutional Court made a number of observations which are of significant relevance, and which also fall in line with decisions of the ECtHR, namely pertaining to the Government's obligations to ensure that it has information on the situation to which an applicant is to be repatriated. The two decisions are illustrated in further detail here:

***Hassan Abdulle Abdul Hakim Et vs. Ministru Tal Gustizzja U Intern Et*¹³**: This court case involved two Somali nationals who were forcibly repatriated to Libya by the Maltese authorities in 2004. It transpired that upon their return in Libya, the men were beaten and tortured by the Libyan authorities, before being abandoned in the desert. After being rescued by a group of nomads, the men made their way back to Tripoli, and henceforth to Malta, where they arrived in June 2006. The Constitutional Court upheld the decision of the first court, which ruled that the rights of the two Somali men to freedom from inhuman and degrading treatment had been violated when they were returned to Libya against their will. The judgment noted that the men had not been given effective legal remedy, and that the Maltese government should have been aware of the potential ill treatment and degradation which the migrants would have been subjected to upon their return, along with the threat of chain *refoulement* back to Somalia, leading to a violation of Article 3 of the European Convention on Human Rights.

In line with the [Hirsi judgment](#)¹⁴ regarding Italy, the Constitutional Court affirmed that Malta had a legal obligation to take proactive measures to ensure the safety of any returnees, including gathering a sound understanding of country conditions. Further, while the Constitutional Court did not affirm the finding that the men had not been given an adequate opportunity to seek asylum, it nonetheless still found a violation of Article 13 of the European Convention on Human Rights due to the lack of legal assistance and opportunity for the men to contest their return.

¹³ This case was first filed in 2007 (Citazzjoni Numru 56/2007) and decided by the First Hall of the Civil Court on the 29th November 2011. The appeal (Appell Civil Number 56/2007/1) was determined by the Constitutional Court on the 28th June 2013.

¹⁴ ECtHR, *Hirsi Jamaa and Others v Italy* (Application No 27765/09), 23rd February 2012

Dilek Sahan, Serif Ali Sahan, Serdar Sahan v. Ministru tal-Ġustizzja u l-Intern¹⁵: This case involved Turkish nationals of Kurdish origin, who had been through the asylum process in Malta and whose claims were subsequently denied. The Court noted that whilst the ECHR did not include a right to asylum, it did protect individuals from being returned to a country where they faced a real risk of torture and inhuman and degrading treatment within the context of Article 3 of the European Convention on Human Rights. A potential violation of Article 3 was found in considering the specific facts of this case, pertaining to the applicant and his family's involvement in Kurdish political groups. Notably, the Court ruled that the risk of an Article 3 violation can emanate from non-state actors. However, in such cases, it falls upon the applicant to prove that there is a real risk, and that the State itself is unable or unwilling to offer protection. Within this particular case, whilst Turkey's status as a Party to the ECHR placed the country under an obligation to ensure that treatment in breach of Article 3 did not occur, the evidence provided within the case indicated a real risk of such treatment.

Statistics on Number of Immigrant Arrivals and Outcome of Asylum Applications

In 2013, a total of 2,008 arrived from Libya on 24 boats (an increase of 118 individuals from the previous year).

¹⁵ *Dilek Sahan, Serif Ali Sahan, Serdar Sahan v. Ministru tal-Ġustizzja u l-Intern*, l-Uffiċjal Għoli tal-Immigrazzjoni (Appell Civili Numru. 6/2008/1)

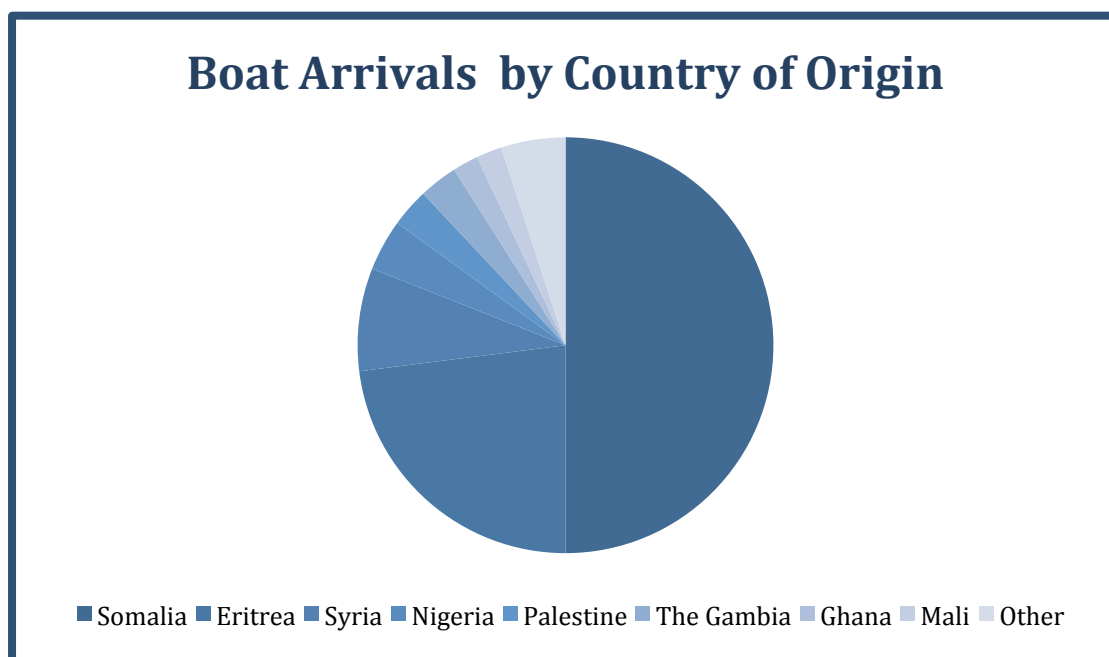


Figure 2 - Boat Arrivals by Country of Origin [Source: UNHCR 2013 Malta Asylum Trend]

The largest percentage of these arrivals were from Somalia (50%), whilst a number of boat arrivals came from Eritrea (23%), Syria (8%), Nigeria (4%), Palestine (3%), The Gambia (3%), Ghana (2%), Mali (2%), and other (5%). Of these arrivals, 25% were children, 63% were men, and 12% were women. Over 1,900 individuals passed through the detention system in 2013 following disembarkation in Malta, whilst over 500 individuals were still detained at the end of 2013. In 2013, 71% of all asylum seekers were granted international protection in Malta, whilst a further 11% were granted complementary forms of protection. [Source: UNHCR 2013 Malta Asylum Trend]

The arrival statistics indicated above, along with statistics regarding the granting of international protection, are complemented by statistics from the Office of the Refugee Commissioner, which are indicated below. The Office of the Refugee Commissioner received 141 more applications in 2013 than it did in the previous year. Furthermore, the high number of protection decisions (particularly decisions granting refugee and subsidiary protection) is largely reflective of the instability and

turmoil currently prevalent within the applicant's countries of origin, as indicated in the country of origin statistics above.

In 2013, the Office of the Refugee Commissioner considered the following claims with respect to applications for asylum:

| REFUGEE COMMISSION | From | Until |
|-------------------------------|------------|-------------------------|
| | 01 January | 31 December |
| | | |
| TOTAL New Applications | Cases | Persons |
| | 2203 | 2203 |
| Subsequent Applications | Cases | Persons |
| | 47 | 47 |
| Revision of Cases | Cases | Persons |
| | 403 | 403 |
| | | |
| Carried forward from 2012 | Cases | Persons |
| | 681 | 681 |
| | | |
| Decision Type | | No. of Persons involved |
| ABANDONED/LOST | | 97 |
| INADMISSIBLE | | 47 |
| PROVISIONAL | | 17 |
| REFUGEE | | 59 |
| REJECTION | | 301 |
| SUBSIDIARY | | 1686 |
| TEMP HUMANITARIAN | | 242 |
| THPN | | 123 |
| APPLICATIONS STILL IN PROCESS | | 902 |

Figure 3 - Asylum Applications Reviewed (Source: Office of the Refugee Commissioner, Malta)

4. Migrant Detention

Malta's mandatory detention policy has consistently come under fire by a number of human rights organizations, both locally and internationally¹⁶. The UN Committee on

¹⁶ Human Rights Watch (2012) *Boat ride to detention: Adult and child migrants in Malta*. Human Rights Watch [<http://goo.gl/itUfqB>]

the Rights of the Child, the Council of Europe's Commission against Racism and Intolerance and Commissioner for Human Rights, the UN High Commissioner for Refugees, Human Rights Watch, and leading Maltese NGOs have all criticized the inhumane and arbitrary policy in recent years¹⁷. Notwithstanding constant criticism, the policy and practice of migrant detention has persisted, with migrants potentially remaining in custody for up to 18 months, and with little to no indication of any imminent revision to the detention system.

In 2013, the European Court of Human Rights reached two decisions regarding migration in Malta, both of which concerned the issue of arbitrary migrant detention. In the cases of *Aden Ahmed v. Malta* and *Suso Musa v. Malta*, the Court found violations of the European Convention on Human Rights by way of Malta's detention policy and practices. In December 2013, Malta lost its final appeals which had been referred to the Grand Chamber of the Court, rendering the decisions final and legally binding the Government to implement the recommendations of the ECtHR. The Committee of Ministers of the Council of Europe will now be monitoring the situation and the implementation of the judgement. The two judgements call present detention policies and practices into question, and the two are illustrated in further detail below.

Aden Ahmed v. Malta:¹⁸ Ms. Ahmed, a Somali national, entered Malta irregularly by boat in February 2009 to seek asylum. After her original petition was rejected in May 2009, Ahmed escaped detention at Ta' Kandja detention centre and fled to the Netherlands to try to reunite with her family in Sweden, but she was returned to Malta under the Dublin II Regulation in February 2011.

¹⁷ 'Dispatches: When will Malta Admit Enough is Enough?', Human Rights Watch, October 23rd 2013 [<http://www.hrw.org/news/2013/10/23/dispatches-when-will-malta-admit-enough-enough>]

¹⁸ ECtHR, *Aden Ahmed v Malta* (Final Judgement), (2013) Application No. 55352/12

Once back in Malta, Ahmed—pregnant at the time—served a six-month sentence for escaping detention¹⁹, during which time she miscarried. Ahmed claimed that a lack of medical attention and inadequate care during her sentence partly contributed towards her subsequent miscarriage. Following the completion of her sentence, Ms. Ahmed was once again placed in detention at Lyster Barracks with a view to her removal from Malta. At her request, the Refugee Commissioner reconsidered her asylum application but rejected it once again in November 2011. In February 2012, Ahmed lodged an application with the Immigration Appeals Board for release from detention under the Immigration Act²⁰, in which she contested that her continued detention was no longer reasonable. The Principal Immigration Officer (the Commissioner of Police) responded that her release from detention was not advisable, and her request was never sent down for hearing to the Immigration Appeals Board. In August 2012, Ms. Ahmed was finally released from detention after a total of 18 months, as per Malta’s detention policy. She then filed complaints with the ECtHR regarding her unnecessarily prolonged time spent in Maltese detention facilities. In her complaints, Ahmed cited the lack of female staff, overcrowded conditions, limited access to fresh air, and unregulated temperature in the facilities, amongst other factors. Her deteriorating psychological condition and mental health were supported by medical evidence, which was also submitted to the ECtHR.

The ECtHR [concluded](#) that “the cumulative effect of the conditions complained of diminished the applicant’s human dignity and aroused in her feelings of anguish and inferiority capable of humiliating and debasing her and possibly breaking her physical or moral resistance.”²¹ In summary, the Court concluded that the conditions of the applicant’s detention amounted to degrading treatment within the meaning of Article 3 of the Convention. Furthermore, violations were also found with respect

¹⁹ “On 17 February 2011 the applicant was arraigned before the Court of Magistrates and charged with i) escaping from a place of public custody, namely Ta’ Kandja Detention Centre, on 17 May 2009; ii) as a person embarking or disembarking from Malta, making, or causing to be made, a false return, statement or representation and/or furnishing the Principal Immigration Officer with false information during the months prior to 17 May 2009; iii) in the same circumstances, in the Maltese Islands, knowingly making use of forged documents.” ECtHR, *Aden Ahmed v Malta* (Final Judgement), (2013) Application No. 55352/12 para. 15

²⁰ Article 25A(9), Chapter 217 Laws of Malta

²¹ ECtHR, *Aden Ahmed v Malta* (Final Judgement), (2013) Application No. 55352/12 para. 99

to Article 5 of the Convention regarding the right of every individual to liberty and security of person. The Court found that the Maltese authorities did not afford Ms. Ahmed speedy and effective legal remedies with which to challenge the legality of her detention, this amounting to a violation of Article 5(4) of the Convention. Finally, since the Maltese authorities never took steps to pursue Ahmed's deportation during her lengthy detention, the Court ruled that her detention had been unlawful and arbitrary, since her deportation had not been feasible and the length of her detention had exceeded that reasonably required for the purpose. Thus, a violation of Article 5(1) of the Convention was also found. Malta was ordered to pay penalty charges of €30,000 in damages and €3000 in costs and expenses.

Suso Musa v. Malta²²: Suso Musa arrived in Malta in an irregular manner by boat in April 2011. Upon his arrival, he was arrested by the police and presented with a document containing both a Return Decision and a Removal Order in terms of Article 5 of the Immigration Act (Chapter 217 of the Laws of Malta). He was defined as a prohibited migrant, owing to his irregular entry into Malta and his inability to support himself. Whilst the Return Decision informed him of the possibility to apply for a period of voluntary departure, the Removal Order within the same document was based on the *a priori* rejection of this application. On the basis of the Return Decision and Removal Order, Musa was detained in Safi barracks where he remained until March 2013. His initial asylum claim was rejected by the Refugee Commissioner in December 2011, on the grounds that the claim as presented failed to meet the criteria for recognition of refugee status. In January 2012, Musa submitted an appeal to the Refugee Appeals Board, which was rejected in April 2012. Nonetheless, Musa was retained in detention for a total period of 546 days, and was released from detention in March 2013. Upon his release, Musa filed a complaint with the ECtHR claiming that he had been detained unlawfully, with no effective legal remedy with which to challenge the lawfulness of his period in detention (which continued even after his asylum procedure had been concluded in April 2012).

The ECtHR [ruled](#) that Article 5(4) of the European Convention on Human Rights had

²² ECtHR, *Suso Musa v Malta* (Final Judgement), 2013 Application No. 42337/12

indeed been violated in this regard. The Court further concluded that “the national system failed as a whole to protect the applicant from arbitrary detention.” Furthermore, in light of the fact that deportation proceedings were not undertaken with “due diligence” following the rejection of his asylum claim, the decision to keep Musa in custody constituted a violation of Article 5(1) of the European Convention on Human Rights. Malta was ordered to pay €24,000 in damages and €3000 in costs and expenses.

The Court urged the Maltese authorities to implement an effective mechanism for the speedy review of the lawfulness of their detention, allowing applicants to obtain a decision within a reasonable time-limit. The Court further recommended that Malta take necessary steps to improve the conditions in detention, and shorten the maximum duration of detention for asylum-seekers. The Council of Europe’s European Commission Against Racism and Intolerance (ECRI), in their [report on Malta](#)²³, also criticized the inability of migrants and third country nationals to challenge the lawfulness of their detention within the Maltese domestic system, in line with the recent ECtHR judgements. It also condemned the practice of mandatory detention for all migrants who arrive in Malta in an irregular manner, and expressed concern at the length of time in which individuals may be kept in forced detention, noting that the Immigration Act applies no limit to the detention of migrants in an irregular situation.

In July 2013, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published a [report](#) to the Maltese government, based on a visit carried out from the 26-30th September 2011²⁴. With respect to the detention centres at Lyster and Safi Barracks, the CPT expressed misgivings regarding the fact that female detainees were frequently supervised exclusively by male detention officers, and recommended that at least one female

²³ *ECRI Report on Malta* (fourth monitoring cycle), CRI(2013)37, October 2013, European Commission Against Racism and Intolerance

²⁴ *Report to the Maltese Government on the visit to Malta carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 26 to 30 September 2011*, CPT/Inf (2013)12, 4th July 2013

officer be available around the clock. Detainees complained of disrespectful behavior and racist remarks made by detention officers, and in this respect the CPT urged the Maltese authorities to highlight such behavior as unacceptable. CPT also raised, as a matter of concern, the fact that detainees are often called by their immigration file or tag numbers, as opposed to their individual names, this amounting to humiliating and degrading treatment. This practice had previously been raised in the 2008 report of the CPT, and was strongly reiterated within the present report.

The CPT also raised the issue of excessive force used by soldiers and police officers within the context of the riots at Safi in August 2011. The intervention by the police and the Armed Forces involved the use of tear gas and rubber pellets, and according to the testimonies of a number of detainees who were arrested and later taken to the Corradino Correctional Facility (CCF), some were beaten even *after* they were handcuffed, this appearing to be corroborated by the visible injuries sustained by some upon arrival at CCF. In this regard, the CPT recommended an immediate inquiry into this issue. A separate inquiry is pending regarding an incident which occurred on the 16th April 2011, whereby a group of 7 foreign nationals escaped from Safi Detention Centre and were captured later that same day, one of whom died shortly afterwards. The CPT requested to be informed of the outcome of this inquiry, including being furnished with the autopsy report and a list of the investigative steps taken in the context of this enquiry.

In turning attention to the material conditions at Safi and Lyster Barracks, the CPT report noted a marked improvement since the previous 2008 visit, with completed and ongoing refurbishment in some of the Blocks, along with refurbishment at Ta' Kandja detention centre. Nonetheless, the report noted that other blocks remained in a "deplorable" state, particularly in terms of severe overcrowding and extremely poor levels of sanitation. An improvement was noted with regards to the activities made available at Lyster Detention Centre, however the report deemed as unacceptable the fact that four Somali women were hindered from undertaking any outdoor exercise for a period of 4 months, and it called for immediate steps to

ensure that all detainees have access to at least one hour of outdoor exercise a day. Idleness and a distinct lack of purposeful activities was identified as a particular problem in the detention centre at Safi, and the CPT report in this regard encouraged the introduction of varied and purposeful activities for detainees.

Severe shortcomings were highlighted in the provision of health care to the detention centres, particularly given the size of the population of detainees. Of particular note was the lack of psychological and psychiatric services for detainees, the need for which is likely to go undetected for a prolonged period of time given that nurses never entered the detention areas. The CPT recommended the immediate and regular provision of these crucial services. Lastly, the CPT recommended that procedures be put in place in order to ensure that foreign nationals are able to receive visits from those outside detention on a regular basis, and that specific facilities are set up for this purpose.

5. Racism

The year 2013 saw a notable increase in the level of hate speech, particularly over the internet and in other public fora. The [ENAR shadow report](#) on 'Racism and related discriminatory practices in Malta',²⁵ co-written by the People for Change Foundation and Integra Foundation, communicated a number of key findings in the field of racism and discrimination. The research uncovered that the Muslim community is largely homogenized, with the terms 'Arab', 'North African', and 'illegal immigrant' all taken to refer to the same thing, indicating a person who is both foreign and Muslim. In the reporting period it was noted that some, though not all, equality legislation has been expanded to include religious discrimination. However, manifestations of racial and religious discrimination were noted throughout the ENAR report, becoming evident in various spheres of life including (but not limited to) employment, education, housing, healthcare, media, access to goods and

²⁵ Gauci, J.P & Pisani, M. (2013) *ENAR Shadow Report: Racism and related discriminatory practices in Malta*, European Network Against Racism

services, and the criminal justice process.

In the aftermath of the attempted push back to Libya in July 2013, a few public demonstrations were planned in protest of what organizers termed “illegal immigration,” defending the Government’s plans for migrants to immediately be repatriated to Libya upon their arrival. One of the pictures advertising a public demonstration against immigration disturbingly drew upon an emblem reminiscent of Nazi Germany, with the swastika being replaced by the Maltese cross:



Figure 4 – Advertising a public demonstration against immigration
(Source: 'No Permits Issued for Anti-Migrant Demos' 14th July 2013, *The Times of Malta*)

The Prime Minister of Malta Dr. Joseph Muscat ultimately expressed his disapproval of the planned demonstrations, which were eventually called off. However, hate speech and anti-immigration sentiments continued to prevail. In August 2013, the Facebook page of EU Commissioner for Home Affairs Cecilia Malmström was inundated with racist and abusive comments, many aimed directly at the Commissioner, after she urged the Maltese government to allow the safe disembarkation of 102 migrants on board the *MV Salamis*. Hate speech against the Commissioner, and against NGOs and asylum seekers in Malta was strongly condemned by the European Network Against Racism (ENAR). In their statement, ENAR urged governments “to reinforce legislation to monitor hate on the internet,

and to adopt a zero tolerance policy to stigmatising comments likely to incite violence, racism, or other forms of discrimination.”²⁶

In November 2013, a complaint was lodged with the police regarding incendiary anti-immigration comments which appeared on Facebook, which also threatened violence against Maltese citizens and their families, as well as migrants. The complaint held that the incendiary comments on the Facebook page ‘Daqshekk għall-Immigrazzjoni Llegali f’Malta’ (Enough Illegal Immigration to Malta) attempted to incite racial hatred and violence, as the comments called upon other Maltese to harm those they deemed to be ‘traitors.’ Whilst the police took steps to investigate, no developments have as yet been reported, and it is feared that such inflammatory comments may be a prelude to acts of actual violence.

In response to the recent increase in racist and xenophobic discourse, the People for Change Foundation initiated a campaign urging Members of Parliament to take a strong stand against racism, and to sign a [*Pledge for Dignity and Against Racism*](#), which would signal their steadfast commitment towards discussing issues in a positive and responsible manner. It states that, amongst other commitments, signatories resolve to send a consistent and clear message that they reject racism in all its guises, that sensitive topics relating to migrant groups and ethnic minorities will be approached fairly and responsibly (adopting appropriate, accurate, and sensitive language in doing so in order to avoid fuelling xenophobia and inducing moral panic), and to condemn any material or statement which incite hatred or express prejudice²⁷. To date, this pledge has been signed by over 36 politicians and Members of Parliament, and shall later be extended to incorporate MEP candidates during the 2014 MEP election campaigns.

²⁶ *ENAR condemns Malta’s ‘hate speech’ against Malmström, NGOS*, The Malta Independent online, Tuesday 13th August 2013 [<http://www.independent.com.mt/articles/2013-08-13/news/enar-condemns-hate-speech-against-malmstrom-ngos-in-malta-2320105472>]

²⁷ Full information on the Pledge for Dignity and Against Racism may be found here: <http://www.pfcmalta.org/campaigns.html>

In its [fourth monitoring cycle](#)²⁸, the European Commission against Racism and Intolerance (ECRI) reviewed Malta's progress since 2008 toward combatting racism and intolerance domestically. ECRI was pleased to note progress in a number of fields covered in their third monitoring report for Malta in 2008. It noted that Malta had enacted a number of criminal law provisions against racism. The report made reference to the new Public Administration Act which had entered into force, and which bound public bodies and public officials to a statutory duty to avoid discrimination and exercise equality in undertaking their work duties. The Commission also favorably regarded measures taken by the National Commission for the Promotion of Equality (NCPE) to raise awareness of the provisions in place against discrimination, as well as available recourse. In terms of improvements directly related to migrants, ECRI noted that a number of training initiatives and information sessions had been held with regards to the field of employment for refugees, asylum seekers, and persons with humanitarian protection. The Migrant Health Unit had been set up in order to respond to the specific needs of migrants, taking account of language barriers and lack of knowledge about the health care system (which may otherwise impede equal access to effective care). The ECRI report further noted that subsidiary protection and the principle of *non-refoulement* are now provided for under Maltese law, and it also gave recognition to significant efforts made to improve the asylum determination procedure and prepare caseworkers accordingly. An improvement in the material and living conditions at the Marsa open centre was also observed.

Whilst the aforementioned progress was noteworthy, ECRI remained concerned at a number of other issues. ECRI expressed that a number of online offences in terms of racist conduct go unpunished, whilst citizenship, language, and religion (the latter with exception in the field of employment) are still not included as prohibited grounds of discrimination within certain civil and administrative law provisions.²⁹

²⁸ *ECRI Report on Malta* (fourth monitoring cycle), CRI(2013)37, October 2013, European Commission Against Racism and Intolerance

²⁹ It should be noted however, that some steps have been taken in this regard, as indicated in Gauci, J.P & Pisani, M. (2013) *ENAR Shadow Report: Racism and related discriminatory practices in Malta*, European Network Against Racism

Furthermore, the law only makes provision for Maltese and EU nationals, as well as persons who are habitual residents of Malta, to come forward as victims of criminal offences and apply for compensation before a Criminal Court. ECRI also noted that whilst a National Action Plan against Racism and Xenophobia had been commissioned³⁰ by the NCPE, this has never been adopted or published by the authorities. ECRI also drew attention to the continued exploitation of migrant labor in the informal sector, whilst also noting that visible minorities are often refused entry to bars/clubs and regularly experience discrimination on public transport.

Given ECRI's concerns, the Commission made a series of recommendations in order for Malta to further improve in a number of areas. ECRI recommended that the Citizenship Act be amended in order to introduce "clear, objective, and measurable requirements" for naturalization procedures. Further, ECRI recommended that national origin and citizenship be considered as grounds upon which racist conduct and racial discrimination should be prohibited under criminal law. The legal provisions which state that only victims of crime who are EU and Maltese nationals, as well as habitual residents of Malta, may apply for compensation before a criminal court should be amended. ECRI further recommended that the National Action Plan Against Racism and Xenophobia (designed by the NCPE) be utilized by the authorities in order to devise a national policy combatting racial discrimination. ECRI urged the authorities to take steps to counter the labour exploitation of refugees, and encouraged the inception of advocacy and awareness campaigns regarding discrimination in terms of access to public services and places. In line with the ECtHR, ECRI recommended that Malta ensure that all persons held in detention centres be provided with speedy and effective legal remedy, including access to legal aid, and the possibility of contesting their rejected claims within the asylum procedure. Also, a limit to the duration of the mandatory detention of migrants who arrive in an irregular manner should be enshrined within Maltese law. Lastly, a long-term integration strategy targeting refugees, asylum seekers,

³⁰ The National Action Plan Against Racism and Xenophobia was drafted by the People for Change Foundation, as part of the Equality Research Consortium.

migrants, and those in possession of humanitarian protection should be devised and be implemented.

N.B. It should be noted that with respect to the ECRI and CPT reports, the Maltese government issued a strong reaction to the contents of each report, claiming that each report was significantly biased and focused almost exclusively on the issue of mandatory detention. Indeed, publication of the latter report was initially not consented to. [See: *'Malta in strong reaction to CoE report on treatment of migrants,'* 4th July 2013, Times of Malta online] The Maltese government's reply to the report³¹ issued by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) may be viewed [here](#).

6. Integration

Efforts towards integration remain crucial in securing human rights for individuals who have been displaced, forming an integral aspect in finding durable solutions for those who have fled danger and persecution in their home country. UNHCR [estimates](#) that around 30% of the 18,625 of the individuals who arrived by boat from Libya since 2002 remain in Malta³². A number of NGOs intervene in order to assist migrants in their aim to integrate within Maltese society, this indeed often forming an important facet of their work. Examples include the aditus Foundation launching the Malta Integration Network in 2013, with the aim of establishing a multifunctional team of integration stakeholders in order to propose the intervention and policy measures necessary for the effective integration of third country nationals. Aditus also teamed up with the Integra Foundation for the 'My Voice' project, which aimed to support refugee integration in Malta by addressing critical gaps in refugee assistance. In 2013 SOS Malta, along with Aġenzija Żgħażaġħ, launched a one year

³¹ *Response of the Maltese Government to the Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Malta from 26 to 30 September 2011* [CPT/Inf (2013)13]

³² UNHCR 2013 Malta Asylum Trend

project called “Youth Upbeat” in order to tackle “the fear of black people” on the island. Six Cultural Ambassadors who have refugee or humanitarian protection status in Malta were trained to work with young people as part of the project, in order to share elements of their culture as well as their personal stories. This was done within the context of 26 interactive workshops that hosted around 500 teenagers (13-14 year olds). The project made use of the performing arts as a bridging medium, in order to raise awareness about refugees and their potentially positive impact on Maltese society. In June 2013, SOS also published “Youth Upbeat

Lessons Learnt and Recommendations,”

which provided details on the success of the event as well as the difficulties met. Whilst the preceding examples by no means form an exhaustive list, they provide a significant

The People for Change Foundation, 2013

At the end of 2013, the People for Change Foundation began work on two projects on integration: ‘assess’ aims to measure the effectiveness of integration for vulnerable migrant groups, whilst ‘integration policies: who benefits?’ will inform key policy actors about how to use indicators to improve integration governance and policy effectiveness.

illustration of the efforts currently being undertaken by civil society actors in the field of integration of third country nationals.

In April 2013, at an international conference organized by the International Organization for Migration (IOM) on the integration of migrants and employment, Minister for Social Dialogue, Consumer Affairs, and Civil Liberties Helena Dalli expressed the commitment of the Government towards developing an immigrant integration policy. The policy, the Minister said, would be based on experience, knowledge, and practice, adding that emphasis on employment and education is key. Two months later in June 2013, Home Affairs Minister Manuel Mallia spoke at a day seminar on asylum procedures and integration organized by the Refugee Commissioner, and stated that whilst integration was indeed possible, it was also limited and constrained by economic and geophysical factors.

It is worthwhile to note that present statistics on the employment of third country nationals (and thus their effective integration) may be misleading when considering the number of migrants working and being exploited within the informal economy in Malta, this in itself increasing the need for enhanced integration measures. With respect to education, in April 2013 UNHCR [drew attention](#)³³ to an earlier study which indicated that the Government had not given sufficient priority to providing resources towards migrant children's integration in Maltese schools. The draft report, entitled '[An Early School Leaving Strategy for Malta](#)', and done by DSG Consultancy (working closely with the Ministry for Education and Employment) acknowledged the need for new approaches in order to address increasing diversity within the Maltese educational system and bring about effective integration. It stated that despite high numbers of students from ethnic minorities in State Schools (a total of 555 in the scholastic year 2008-2009), "the State is not recognizing the importance of providing more specialized resources which would help the integration of these students in the different school communities" (2012: 18).³⁴ The report further notes that "School leaders and teachers across the three Sectors of education emphasize that there is an increasingly large number of children from migrant populations... unless these children, and their parents, are supported with pro-active measures that allow them to integrate as quickly as possible, then these children or youths will be at risk of disengaging from the education system" (2012: 63).³⁵

7. Access to Citizenship

In 2013, the Maltese government took measures to introduce the Individual Investor Programme (IIP)³⁶, a scheme through which significant financial investment in Malta

³³ 'Greater efforts required to promote integration in Maltese schools - report', Tuesday 23rd April 2013, UNHCR Malta

³⁴ Ministry of Education and Employment (2012) *An Early School Leaving Strategy for Malta* [A report prepared by the Office of the Permanent Secretary identifying 32 actions that attract more learners to Lifelong Learning]

³⁵ Ibid, p. 63.

³⁶ Legal Notice 450 of 2013, accessible [here](#)

would entitle a third country national to de facto Maltese citizenship. The issue has continued to evolve rapidly in recent months, and has been a source of intense national debate. The European Commission Against Racism and Intolerance has also commented upon the Citizenship Act within the context of their [fourth monitoring cycle](#)³⁷. Concern was expressed at the large margin of discretion vested in authorities to determine naturalization, along with the lack of opportunity to appeal against these decisions, and in certain cases the loss of citizenship by naturalized citizens.

Given the unfolding circumstances, the People for Change Foundation has refrained from commenting on the minutiae of this scheme. However, the Foundation remains concerned at the limited access to citizenship which is presently afforded to migrants and refugees who have lived and worked in Malta for a number of years, and who lack the financial investment necessary to benefit from this scheme. These concerns echo those of ECRI³⁸, who stress the need for the introduction of clear, objective and measurable requirements in connection with the acquisition of citizenship through naturalization. The People for Change Foundation similarly urges effective measures to be put into place, in order for migrants and refugees to also be granted access to citizenship by way of clear and transparent procedures. Furthermore, the Office of the Commissioner for Children has called for amendments to current legislation in order for children born at sea in international waters to be registered and automatically granted Maltese citizenship³⁹, irrespective of the status of their parents.

8. Trafficking

Malta ratified the Council of Europe Convention in Action Against Trafficking in Human Beings in 2008, and has since taken a number of steps in order to develop the legal and institutional framework for combatting human trafficking. In 2013, a

³⁷ *ECRI Report on Malta* (fourth monitoring cycle), CRI(2013)37, October 2013, European Commission Against Racism and Intolerance

³⁸ *Ibid.*

³⁹ Commissioner for Children (2013) *Manifest għat-Tfal 2013*, Office of the Commissioner for Children Malta. This document may be viewed [here](#).

[report](#) was published by the Group of Experts on Action against Trafficking in Human Beings (GRETA) monitoring the implementation of the Convention. The GRETA report⁴⁰ notes that a Trafficking in Persons Coordinator was appointed in 2010, whilst a Human Trafficking Monitoring Committee was established in 2011. A Stakeholder Task Force on Trafficking in Human Beings was also set up, in order to discuss and report on anti-trafficking actions. The first Malta Action Plan on Combatting Trafficking in Persons was published on the 4th October 2011, covering the period from the 4th quarter of 2011 until the 4th quarter of 2012. It had the objectives of consolidating current procedures and initiatives related to trafficking in persons, identifying areas of concern requiring action, enhancing accountability with regards to the delivery of actions, providing the necessary tools and resources for the development of a holistic anti-trafficking strategy, raising awareness, and enhancing the administrative capacities of Maltese authorities where necessary. The implementation of the first Action Plan was overseen by the Anti- Human Trafficking Monitoring Committee, chaired by Malta's Anti- Human Trafficking Co-ordinator.

The monitoring structure and objectives communicated within the first action plan have been retained for the present action plan, which outlines actions to be implemented over the course of 2013 and 2014. Whilst a number of actions are ongoing (such as the submission of periodic progress reports, and the enhancement of administrative capacity), other measures (such as issuing National Indicators, mentoring service providers, and compiling statistical data) are due for implementation within specific timeframes. Furthermore, some actions have been carried over from the first action plan, including fostering awareness, developing guidelines for the identification of victims of human trafficking and formalizing arrangements for subsequent referral, and undertaking a study on the human trafficking scenario in Malta.

⁴⁰ *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Malta [Group of Experts on Action against Trafficking in Human Beings - GRETA]: January 2013*

Within the report, GRETA called for greater co-ordination between the Maltese authorities and civil society, ensuring that NGOs are also involved in the implementation and planning of anti-trafficking actions and policies. GRETA also recommended that Malta introduce policies to combat demand for the services of trafficked persons, and work to increase public awareness on issues of human trafficking. GRETA welcomed plans for the Maltese authorities to adopt new indicators and define a victim referral system. It noted that Malta has a fairly low number of reported trafficking cases (a total of 25), and that the police are presently the only authority responsible for establishing whether an individual is a victim of human trafficking. GRETA emphasized the need for multi-agency involvement in this respect, including regular training for relevant actors.

GRETA expressed concern over the fact that at present, there is no minimum length of the recovery and reflection period, during which time the victim (or potential victim) of trafficking cannot be removed from Malta's territory. Within the Convention as ratified by Malta, this period is set at 30 days, and in this regard GRETA urged the Maltese authorities to ensure that victims of trafficking are able to take full advantage of the right to a temporary residence permit. It also encouraged the Maltese authorities to adopt a clear framework for the return of victims of trafficking, in order to safeguard against the risk of re-trafficking and re-victimization. GRETA also stressed the need to provide information for victims of human trafficking, particularly regarding their right to compensation and how to access it, as well as access to effective legal aid.

Given the number of irregular migrants to Malta, GRETA warned of the possibility of deporting trafficked persons without identifying them as such. Furthermore, it urged for victims of trafficking not to be punished for unlawful acts which they may have been compelled to commit as victims whilst under the control of traffickers. In this respect, GRETA urged the adoption of a victim-centred approach. Finally, GRETA noted the lengthy legal proceedings with respect to the redress of victims of trafficking, and it recommended that cases related to human trafficking be investigated and prosecuted more promptly. GRETA also added that the knowledge

and sensitivity of judges, prosecutors, police investigators, and lawyers in relation to the trafficking of human beings should be consistently improved.

The [Trafficking in Persons Report 2013](#)⁴¹, published by the U.S. Department of State, also incorporated an analysis on Malta, identifying the country as a source and destination country for women and children subjected to sex trafficking. Furthermore, the report noted that “the approximately 5000 irregular African migrants from African countries currently residing in Malta may be vulnerable to human trafficking in the country’s informal labour market. Female Filipina domestic workers and female Chinese nationals working in massage parlors represent populations vulnerable to exploitation” (2013: 255). According to the report, the Maltese government investigated 7 new trafficking cases during the year (an increase from 3 cases in 2011 and no cases from 2008-2010). A number of recommendations were made in the report, amongst them that Malta strengthen efforts to identify victims proactively, ensure the implementation of formal standard operating procedures for victim referral, and increase efforts to investigate and prosecute trafficking offences.

The Maltese authorities, in collaboration with the International Organization for Migration (IOM), also signed an agreement for the implementation of a project entitled ‘Launching Initiatives supporting Malta’s Efforts to Suppress Trafficking’ (LIMES). The project aims to enhance ongoing efforts of the Maltese government to combat Trafficking in persons, complementing the measures already outlined in the National Action Plan.

In addition, other NGOs have also undertaken significant work in the field of anti-human trafficking, most notably KOPIN in their project entitled ‘Catch and Sustain: European Cross Actors exchange platform for trafficked children on methodology building for prevention and sustainable inclusion.’ Within the context of this project,

⁴¹ U.S. Department of State (2013) *Trafficking in Persons Report 2013*

a number of strengths and weaknesses were identified with regard to local measures aimed at combatting trafficking. The National Action Plan, along with legislative measures and the co-operation of a number of key actors in the field (both within the Maltese government and civil society respectively), were identified as core strengths. Weaknesses and potential threats, on the other hand, were identified in terms of reported cases of the detention of vulnerable categories of migrants (particularly where these groups might be detained along with their traffickers), as well as the significant risk of trafficking faced by vulnerable groups upon leaving Malta (particularly when they are travelling alone). With regards to the latter, further follow up on unaccompanied minors after a Care Order ends is crucial. Furthermore, it was noted that the Stakeholder's Taskforce at operational level (operating under the National Action Plan) does not include all relevant stakeholders, with the Commissioner for Children being conspicuously absent. Lastly, analyses of human trafficking in Malta and of the very risk of such incidences remains quite limited, this prevailing as a concern which should be addressed with urgency.

9. Children's Rights

In its Concluding Observations on the second periodic report of Malta⁴² (the first review undertaken since 2000), the Committee on the Rights of the Child commended Malta for the adoption of various legislative measures. These included an amendment to the Civil Code removing the distinction between legitimate and illegitimate children, the Refugee Act of 2001 which allows children under 18 years of age to apply for asylum, and domestic legislation on adoption which aligns with the Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Inter-country Adoption. Further, Malta ratified and/or acceded to

⁴² *Concluding observations on the second periodic report of Malta, adopted by the Committee on the Rights of the Child at its sixty-second session (14 January–1 February 2013)* (CRC/C/MLT/2), 18th June 2013, Committee on the Rights of the Child

important international conventions in order to offer greater protection to children, amongst them the Optional Protocol to the CRC on the communications procedure, and on the sale of children, child prostitution, and pornography. The Committee also welcomed legislative and policy measures including customized education for children with disabilities, the National Sexual Health Policy, the establishment of the National Commission for the Promotion of Equality, and the Office of the Commissioner for Children.

The Committee recognized Malta's exceptional circumstances as a destination for irregular migrants and asylum-seekers, but also noted that the large number of migrants has led to a negative impact regarding the effective implementation of rights enshrined in the CRC, particularly in terms of asylum-seeking minors. The Committee also noted with regret that some of the recommendations contained within the Committee's concluding observations of June 2000 had not yet been fully addressed, particularly those regarding legislation, corporal punishment, allocation of resources, best interests of the child, abuse and neglect, and adolescent health.

The Committee's main recommendations included the implementation of a comprehensive national child rights act in line with the Convention, including the provision of adequate budget allocations for effective implementation. Further, CRC recommended that Malta create a comprehensive policy and strategy to embrace all other sectoral plans of action with regards to children, and establish clear budget allocations and a distribution of resources aimed at the full implementation of the Convention on the Rights of the Child. The Committee also recommended that Malta take appropriate measures to strengthen the independence of the Office of the Commissioner for Children in the performance of its functions, and to ensure greater public outreach in raising awareness of the Convention in a child-friendly manner. Systematic training and/or sensitization on children's rights for professionals working with or for children was also recommended, this applicable to law enforcement officials, migration and border control officials, parliamentarians, teachers, judges, lawyers, and others.

The Committee expressed concern at the lack of measures aimed at protecting children from violations of their rights arising from tourism activities, particularly the in terms of the risk of sex tourism. It proposed a number of recommendations in this regard. The definition of the child was also called in to question, as various areas of legislation (such as the age of marriage) are currently set at 16 years of age. Recommendations were put forward for this to be raised to 18.

The best interests of the child should be consistently integrated in all legislative, administrative, and judicial proceedings relevant to children. The Committee expressed concern at the current understanding and application of this principle, particularly with respect to asylum-seeking, refugee or detention situations. The Committee made specific reference to the mandatory detention of children pending age determination (and the material conditions therein), the lack of legislative time limits for detention, limited guidance on procedure, and the lack of possibility to appeal the outcome of age determination. Furthermore, within situations of irregular immigration, the Committee also expressed concern at the issue of children being born in Maltese territorial waters and subsequently not being registered at birth, thus leading to situations of statelessness. It urged Malta to ensure that all children born within its territory are registered at birth, regardless of the status of their parents.

The Committee also noted that children at present have limited access as parties to legal proceedings, and it reaffirmed the right of the child to express their views and be heard on matters involving them. The Committee reiterated its previous call for the Maltese authorities to take all appropriate measures to prohibit corporal punishment in all settings, and it also reiterated its concern at the under-reporting of child abuse, the limited mechanisms available for the investigation and prosecution of perpetrators, and the limited measures available for the rehabilitation of child victims. The Committee put forward specific recommendations in this regard.

The Committee also put forward recommendations for Malta to increase the availability of early childhood care and support facilities to parents. With respect to out-of-home care, the Committee expressed concern over the lack of alternatives to institutional care for children in Malta, which is not in the best interests of the child. Further measures are also required in ensuring a smooth transition from out-of-home care to independent life as an adult, once the age of majority has been attained. The Committee made a number of recommendations with respect to the out-of-home care of children. It continued to express concern in other fields relating to the care of children, specifically in terms of the limited capacity for meeting the needs of children with mental health needs. The report also urged Malta to address issues faced by adolescent mothers, improve the currently low rate of breastfeeding, address the common occurrence of the discontinuation of schooling after 16, and further comply with international child labour standards (particularly where seasonal work is sought). Specific recommendations were also made for Malta to intensify efforts regarding trafficking, and to make significant improvements in the field of juvenile justice.

Lastly, the Committee on the Rights of the Child encouraged Malta to accede to all core human rights instruments, including ratifying the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, the International Convention for the Protection of All Persons from Enforced Disappearance, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

In addition to the concerns highlighted above within the context of the CRC review, more specific issues were raised by the Maltese Commissioner for Children with regards to the meaningful observation of children's rights. In May 2013, the Commissioner for Children put forward [concerns and proposals in relation to the](#)

[Commission on Justice Reform](#) in Malta,⁴³ identifying what was presently lacking in order to strengthen the protection of children's rights. Reference was made to legal discrimination against children born out of wedlock, the situation of children born on unregistered vessels at sea, the child's right to be heard (in all contexts, but specifically in relation to legal proceedings), and matters of juvenile justice. It was proposed that the [Children and Young Persons \(Care Orders\) Act](#)⁴⁴ be wholly reviewed in order to include wider child protection measures, particularly in terms of the provisions currently in place with respect to children in out-of-home care. Practical amendments were also proposed in order to bring Malta in line with the Optional Protocol on Children in Armed Conflict. Concerns were expressed with regard to the Offender's register, specifically in terms of incorporating offenders who have been placed on similar registers in their home country, and who then come to take up residence in Malta. Amongst more general concerns, the Commissioner for Children called for a more age appropriate and child-friendly manner for children to appear in court, requested that all professionals dealing with children receive appropriate training, and that unaccompanied migrant children be kept in a separate child-friendly environment regardless of whether they are still pending age verification.

In addition to these measures, the Commissioner for Children also published a [2013 Manifesto for Children](#)⁴⁵, highlighting the current situation with respect to the observation of children's rights (and what is presently lacking in this field), whilst underlining the measures needed in order to address current gaps and concerns. Whilst some of the stated issues also arise within the proposals to the Commission on Justice Reform, others make reference to different fields relating to the well-being of children. The Manifesto called for: domestic legislation to be fully compliant with the UN Convention on the Rights of the Child, a National Strategy on children which would function at an inter-sectoral and inter-ministerial level, strengthening

⁴³ Commissioner for Children (2013) *'Concerns and proposals of the Office of the Commissioner for Children forwarded to the Commission on Justice Reform'*, Office of the Commissioner for Children, Malta

⁴⁴ Chapter 285, Laws of Malta

⁴⁵ Commissioner for Children (2013) *Manifest għat-Tfal 2013*, Office of the Commissioner for Children Malta

the function and resources of the Office of the Commissioner for Children, and the ratification of the third optional protocol to the CRC on a communications procedure. Proposals regarding the registration of children were also put forward, in order to ensure that registration processes conform to each child's right to a nationality and an identity.

The Commissioner further put forward recommendations regarding granting parents leave on the occasion that their children are ill, developing a policy and strategy for positive parenting, strengthening the role and availability of fostering in the provision of out-of-home care, and developing a holistic plan with regards to alternative care (including the development of care which is tailored to the needs of each individual child). In the field of education, the Commissioner recommended further investment in the restoration of schools and facilities, strengthening the provision of counselling and social work services within the community, a pilot project introducing vocational subjects at secondary school, and greater focus to be given to education on matters of sexual health.

Amongst a number of other recommendations, the Manifesto also called for the protection of the rights of the unborn child, emphasizing the paramount importance to be granted to the health of children at all stages of their development. Necessary health services should be readily available and accessible, including services relating to screening and palliative care, mental health services, and the establishment of multidisciplinary teams to provide community intervention. Outreach services should be provided to families which are socially and economically vulnerable, whilst single-parent families should be given greater support to undertake their parental duties effectively. Within the Manifesto, it was stressed that a one-size-fits-all approach is ineffective and insufficient, and must be disregarded in favour of measures which aim to address the specific needs of each individual child.

10. Other Issues and Developments

Other noteworthy developments have been made within the broader field of human rights in 2013. This section shall briefly illustrate some of these developments, with particular reference to the field of LGBTI rights, Malta's Universal Periodic Review (UPR), and concerns highlighted by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) with respect to Corradino Correctional Facilities (CCF) and Mount Carmel Hospital.

UN Human Rights Council: Report of the Working Group on the Universal Periodic Review [Published December 2013]

The Working Group on the Universal Periodic Review held its seventeenth session from the 21st October to the 1st November 2013, during which the review of Malta took place at the 16th meeting on the 30th October 2013. The troika tasked with facilitating Malta's review consisted of Kuwait, Peru, and the Republic of Moldova. The Maltese delegation assured those present of Malta's commitment towards safeguarding and furthering civil rights and equality, as well as its commitment towards the protection of children's rights. The delegation also stated that significant progress had also been made securing LGBTI rights. Positive amendments to the Criminal code which had recently been drafted were also duly communicated, particularly with a view to raising the age of criminal responsibility of minors from 9 to 14, and ensuring that corporal punishment on minors is to be considered a criminal offence.

In the [Report of the Working Group](#)⁴⁶, Malta was praised for steps taken since the previous UPR to strengthen human rights, particularly in terms of the establishment of specialized national commissions, commissioners, and authorities to protect vulnerable groups. The creation of a Ministry responsible for civil liberties was particularly noteworthy. Measures taken to combat racial discrimination were

⁴⁶ *Report on the Working Group on the Universal Periodic Review, Malta*, Human Rights Council, 25th session, 4th December 2013

recognized, and it was further recommended that these measures continue to be strengthened, particularly with regards to migrants, asylum seekers, and refugees. Further integration of these vulnerable groups was also encouraged, and steps to overcome discrimination and hate crimes on the basis of gender identity and sexual orientation were also welcomed. Concern was expressed at women suffering discrimination, the persistence of gender stereotypes, and women not being fully integrated into economic and political life in terms of their active participation. Malta was also encouraged to improve access towards sexual and reproductive health.

Irregular migration and subsequent mandatory detention was raised as a grave concern for many, and the international community was urged to lend support to Malta in this area. Further, Malta was asked to increase efforts in speeding up the asylum process (particularly in the case of migrant children) and ensure targeted treatment and better care of vulnerable migrants, asylum seekers, and refugees.

Several recommendations were made by other delegations. Many recommended that Malta ratify and/or accede to the International Convention for the Protection of All Persons from Forced Disappearance, the International Convention on the Protection of the Rights of All Migrant Workers, and the Convention on the Elimination of All Forms of Discrimination against Women. Others also urged that Malta create a human rights body in accordance with the Paris Principles. Given the concerns over racial discrimination, several countries also recommended that the NCPE be granted a greater capacity to deal with cases of discrimination, along with the establishment of other mechanisms to combat racial and gender-based discrimination. It was also recommended that Malta ratify the optional protocol to the International Covenant on Economic, Social and Cultural Rights.

Finally, many countries urged greater promotion of equality among men and women, and the decriminalization of abortion in certain circumstances, particularly

where the life of the mother is at risk. They also encouraged the Maltese government to continue in its efforts to ensure that barriers to the full and effective participation of disabled persons within mainstream society were alleviated. Finally, a number of countries called for improved detention conditions, along with greater protection of migrants' human rights. These should be secured at all stages in the asylum process, as well as embedded within measures undertaken towards effective integration.

LGBTI Rights

According to a [2013 FRA survey](#)⁴⁷, 51% of Maltese respondents felt discriminated against or harassed in the last 12 months on the grounds of sexual orientation, this being slightly higher than the EU average of 47%. Recent years have seen an increase in instances of hate crime on the basis of gender identity and sexual orientation. To this end, a positive amendment to the Constitution was proposed in June 2013, which would extend anti-discrimination provision to include grounds of sexual orientation. A private member's motion to this effect was unanimously approved by Parliament in December 2013, and is currently awaiting a third reading in order to become law. NGOs working in the field of LGBTI rights have urged this provision to be further extended in order to incorporate discrimination on the grounds of gender identity and expression.

2013 also saw the introduction of the Civil Unions Bill, currently being debated in Maltese Parliament and seeking to allow gay couples to enjoy civil rights similar to heterosexual married couples. However, with respect to an earlier and separate IVF law (entitled the 'Embryo Protection Act'), some NGOs have highlighted discrimination contained within the Act, in denying access to medical services on the grounds of sexual orientation.

⁴⁷ *European Union lesbian, gay, bisexual and transgender survey: Results at a glance*, European Union Agency for Fundamental Rights, 2013

The State of Correctional Facilities

Within the context of their [2011 visit](#)⁴⁸, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) put forward a number of recommendations with respect to the Corradino Correctional Facility (CCF). CPT highlighted issues of overcrowding at the facility, and recommended investment in human resources within CCF in order to ensure that rehabilitative and correctional services are provided in an effective manner. The report stated that this should take the form of qualified members of staff, as well as investment in initial and ongoing training. The material conditions of some areas of the facility were described as “appalling” within the report, citing limited access to natural light and ventilation, poor sanitation, and overcrowding within cells. The report called for the swift renovation of CCF, as well as the implementation of a proper allocation and classification system in order for vulnerable prisoners to be held separately from the general inmate population. The report also stressed the importance of setting up individual treatment plans for the prisoners, which would incorporate the organization of regular, varied, and purposeful activities. It further recommended that health care, including psychiatric and psychological services, be reinforced at the Facility.

Mount Carmel Hospital

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), within their [2011 report](#)⁴⁹ to the Maltese government, also made recommendations with respect to the treatment currently provided at Mount Carmel Hospital. The CPT report noted that staff at the hospital were generally committed to providing the best possible care to patients. However,

⁴⁸ *Report to the Maltese Government on the visit to Malta carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 26 to 30 September 2011*, CPT/Inf (2013)12, 4th July 2013

⁴⁹ *Report to the Maltese Government on the visit to Malta carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 26 to 30 September 2011*, CPT/Inf (2013)12, 4th July 2013

the report expressed serious misgivings in relation to how agitated and/or suicidal patients were occasionally managed. In this respect, the report made practical recommendations in this regard, in keeping with contemporary mental health care. The living conditions in the Forensic Ward and the Irregular Migrant's Ward were also highlighted within the report, which subsequently recommended practical measures such as partitioning toilets in multi-occupancy rooms, improving artificial lighting in cells, and allowing at least one hour of outdoor exercise a day.

11. Towards 2014

The events and initiatives outlined in this report set the stage for a number of future key developments in the area of human rights development in Malta. Whilst significant progress has been made, there remains much more to be achieved in order for human rights in Malta to be effectively, meaningfully, and consistently realized. The People for Change Foundation, in addition to a number of other civil society actors, continue to work towards the higher achievement of human rights, and anticipate a number of future initiatives geared towards this end in 2014.

As part of the work programme for 2014, the People for Change Foundation shall be implementing two projects aimed at the integration of vulnerable migrant groups in Malta and across the European Union, as well as consistently undertaking research (informed by a research gap analysis), and preparing recommendations with respect to various issues regarding migration and human rights. The Foundation shall aim to address issues of racism through the development of a system for reporting racist incidents, as well as the launch of an anti-racism campaign in the context of the 2014 MEP elections. In light of the ongoing prominence of irregular immigration debates at EU level, it is anticipated that similar debates on immigration and asylum shall feature significantly within the MEP electoral campaigns. In this respect, the People for Change Foundation has emphasized the need for politicians to debate such issues in a responsible and conscientious manner, and the Foundation shall further stress

the underlying importance of this approach within the context of the upcoming MEP elections.

The People for Change Foundation also aims to work on anti-trafficking policies and research, whilst also strengthening, coordinating, and contributing to a vast range of networks (amongst them the European Network against Racism, the Malta Migration Scholar's Network, and the Malta Human Rights Scholar's Network). In all of these endeavours, the People for Change Foundation will continue to develop new and existing partnerships with stakeholders working in the field of human rights. In collaboration with a number of other NGOs, the People for Change Foundation also plans to participate in a Human Rights Consultation initiated by the Ministry for Social Dialogue, Consumer Affairs, and Civil Liberties in 2014. The consultation intends to bolster the legislative and infrastructural frameworks relating to human rights and equality, by ensuring that Malta has an effective institutional mechanism which conforms with the United Nations model of a National Human Rights Institution (NHRI) as laid out in the Paris Principles, and with the European Union's equality body model as laid out in EU equality directives.

In 2014, noteworthy judgements from the European Court of Human Rights are anticipated, particularly that of [Abdi Ahmed and others v Malta](#).⁵⁰ In follow up to the attempted push back to Libya in July 2013, the judgement shall consider a complaint with respect to Article 3 (prohibition of torture) of the European Convention of Human Rights. It shall also consider whether there was a violation of Article 13 (right to an effective remedy) in conjunction with Article 3, and a violation of Article 17 (prohibition of abuse of rights). Lastly, it shall consider whether there was a violation of Article 4 of Protocol No. 4 (prohibition of collective expulsion of aliens). The judgement is expected to constitute a landmark decision, contributing further towards discussions on the principle of *non-refoulement* (as referred to within the PfC report '[Access to Protection: A Human Right](#)'⁵¹).

⁵⁰ ECtHR, *Abdi Ahmed and others v Malta* (Application no. 43985/13), Lodged on 9th July 2013.

⁵¹ Gauci, J.P & Mallia, P. (2013) *Access to Protection: A Human Right – National Report, Malta*, People for Change Foundation, Malta

Malta's report on the International Convention on the Elimination of all forms of Racial Discrimination (CERD) is due in June 2014, the State Party report on the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) is due in October 2014 and the State Party report on the Convention on the Rights of Persons with Disabilities (CRPD) is due in November 2014⁵². It is anticipated that the State Party reports be duly submitted as part of a periodic monitoring and reporting process, aimed at the better achievement of human rights in Malta.

The People for Change Foundation looks forward to continuing to make significant and ongoing contributions towards the aforementioned aims in 2014, within the framework of an empowerment and human-rights based approach.

⁵² A number of reports from previous years have yet to be submitted. These include the State Party reports on the Optional Protocol to the Convention of the Rights of the Child on the sale of children, child prostitution and child pornography in 2012, and on the International Covenant on Economic, Social and Cultural rights in 2009. The prompt submission of these reports is urged.

Bibliography

Case Law

ECtHR, *Abdi Ahmed and others v Malta* (Application no. 43985/13), Lodged on 9th July 2013

ECtHR, *Aden Ahmed v Malta* (Final Judgement), (2013) Application No. 55352/12

ECtHR, *Suso Musa v Malta (Final Judgement)*, 2013 Application No. 42337/12

Dilek Sahan, Serif Ali Sahan, Serdar Sahan v. Ministru tal-Ġustizzja u l-Intern, l-Uffiċjal Għoli tal-Immigrazzjoni (Appell Civili Numru. 6/2008/1)

Hassan Abdulle Abdul Hakim Et vs. Ministru Tal Gustizzja U Intern Et (Appell Civili Number 56/2007/1)

ECtHR, *Hirsi Jamaa and Others v Italy* (Application No 27765/09), 23rd February 2012

Electoral Manifestos and Programmes

Alternattiva Demokratika (2013), *2013 Manifest Elettorali*

Commissioner for Children (2013) *Manifest għat-Tfal 2013*, Office of the Commissioner for Children Malta.

Partit Laburista (2013), *Malta Tagħna Ilkoll: Manifest Elettorali 2013*

Partit Nazzjonalista (2013), *Electoral Manifesto: Partit Nazzjonalista (General Election 2013)*

Partit Nazzjonalista (2013), *Qabża oħra ta' Kwalita': Programm Elettorali tal-Partit Nazzjonalista 2013*

Legislation

Chapter 285, Laws of Malta

Legal Notice 450 of 2013

Reports

Commissioner for Children (2013) *'Concerns and proposals of the Office of the Commissioner for Children forwarded to the Commission on Justice Reform'*, Office of the Commissioner for Children, Malta

Concluding observations on the second periodic report of Malta, adopted by the Committee on the Rights of the Child at its sixty-second session (14 January–1 February 2013) (CRC/C/MLT/2), 18th June 2013, Committee on the Rights of the Child

ECRI Report on Malta (fourth monitoring cycle), CRI(2013)37, October 2013, European Commission Against Racism and Intolerance

Gauci, J.P & Pisani, M. (2013) *ENAR Shadow Report: Racism and related discriminatory practices in Malta*, European Network Against Racism

Gauci, J.P. & Mallia, P. (2013) *Access to Protection: A Human Right, National Report, Malta*. People for Change Foundation, Malta.

Human Rights Watch (2012) *Boat ride to detention: Adult and child migrants in Malta*. Human Rights Watch

Ministry of Education and Employment (2012) *An Early School Leaving Strategy for Malta* [A report prepared by the Office of the Permanent Secretary identifying 32 actions that attract more learners to Lifelong Learning]

Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Malta [Group of Experts on Action against Trafficking in Human Beings - GRETA]: January 2013

Report to the Maltese Government on the visit to Malta carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 26 to 30 September 2011, CPT/Inf (2013)12, 4th July 2013

Response of the Maltese Government to the Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Malta from 26 to 30 September 2011 [CPT/Inf (2013)13]

Report on the Working Group on the Universal Periodic Review, Malta, Human Rights Council, 25th session, 4th December 2013

U.S. Department of State, *Trafficking in Persons Report 2013*

News Articles

'Dispatches: When will Malta Admit Enough is Enough?', Human Rights Watch, October 23rd 2013

ENAR condemns Malta's 'hate speech' against Malmström, NGOS, The Malta Independent online, Tuesday 13th August 2013

'European Court blocks deportation of migrants – NGOs protest outside Police HQ – PM to make statement', Times of Malta online, Tuesday 9th July 2013

'Greater efforts required to promote integration in Maltese schools - report', UNHCR Malta, Tuesday 23rd April 2013

'Lampedusa victims include mother and baby attached by umbilical cord', The Guardian, Thursday 10th October 2013

'Update 8: Migrants expected to be taken to Italy', Times of Malta online, Tuesday 6th August 2013

Surveys

European Union lesbian, gay, bisexual and transgender survey: Results at a glance, European Union Agency for Fundamental Rights, 2013

Standard Eurobarometer 80

[http://ec.europa.eu/public_opinion/archives/eb/eb80/eb80_en.htm]

UNHCR 2013 Malta Asylum Trend [<http://www.unhcr.org/mt/statistics/693>]

Websites

Pledge for Dignity and Against Racism, People for Change Foundation, Malta [<http://www.pfcmalta.org/campaigns.html>]



www.pfcmalta.org