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ANNUAL REPORT 2022 ON MIGRATION AND ASYLUM IN MALTA

NATIONAL REPORT (PART 2)

EXECUTIVE SUMMARY

The Annual Policy Report for 2022 is produced by the Maltese National Contact Point within the European Migration Network. This report aims at highlighting the most crucial developments in the fields of asylum and migration in Malta during 2021. It mainly includes both legislative and political developments within these fields by providing any related policy information.

The year 2022 included a vast shift in migration with Russia`s invasion of Ukraine on the 24th of February. Malta together with EU member states enforced temporary protection in response to the high number of persons fleeing from the war in Ukraine. Temporary protection has been granted on the following terms and conditions: Ukrainian nationals residing in Ukraine before 24 February 2022, stateless persons, and nationals of third countries other than Ukraine, who benefited from international protection or equivalent national protection in Ukraine before 24 February 2022; and family members of the persons referred to in points the previously mentioned two conditions. Temporary protection has also been granted to stateless persons who may not be Ukrainians but were legally residing in Ukraine before 24th February 2022; providing a valid permanent residence permit issued in accordance with Ukrainian Law and cannot return to their country of origin (due to unsafe conditions).

In relation to temporary protection, international protection included various legal and policy developments. In 2022, the International Protection Agency also suspended any examination of application for international protection which were lodged by Ukrainian national. This was in place between 24/02/2022 and 12/09/2022. During such a period, nationals and residents in Ukraine were also given the opportunity to register for temporary protection if the condition stipulated in European and national law are met.

Of particular relevance, are the developments which occurred in 2022 vis-à-vis unaccompanied minors and other vulnerable groups. Changes in pertinent legislation, now permits the Chief Executive Officer of AWAS to appoint an interim legal guardian for any prohibited migrant who is deemed to be under eighteen (18)years of age and who needs care particularly if s/he is unaccompanied by family members. Furthermore , the Age Assessment Procedure and the Age Assessment Tool was also updated in 2022.

In 2022 Malta increased its efforts on integration and inclusion, specifically with the development of a Second National Integration Policy and Action Plan covering the period 2023-2027. Integration was also enforced through various measures of active participation of migrants and receiving societies in integration. This includes the introduction of new programmes such as *Turning the Tables* and *Equality for all in Malta*. Malta also continued to implement the Anti-Racism Strategy 2021-2023. In 2022, HRD and its partners began to

implement Towards the Implementation of the Anti-Racism Strategy (END-RACISM-MT), a project co-financed by the EU under the CERV fund.

During 2022, Malta continuously worked on reforming its efforts to combat human trafficking, to strengthen cooperation amongst various agencies, improve coordination of existing processes and promote an active approach in the fight against all forms of trafficking of humans. This paved way to a new National Anti-Trafficking Strategy that started on 26th September 2022.

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INTRODUCTION

The 2022 Annual Report on Migration seeks to cover developments in immigration, asylum policy and legislation which have occurred during the reporting period. Information presented in this report was drafted by the National Contact Point of Malta (MT NCP) as an execution of Article 9, paragraph 1, of the Council Decision of 14 May 2008 establishing the European Migration Network (2008/381/EC). The Maltese EMN NCP communicated with the relevant departments and organisations to solicit the information needed for the completion of this report. This report is divided into 11 separate yet interrelated sections, each focusing on a particular area on migration.

1. OVERVIEW OF ASYLUM AND MIGRATION DEVELOPMENTS

No significant developments in this policy area

2. RESPONSES TO THE INFLUX OF PERSONS FLEEING THE WAR IN UKRAINE

2.1 TEMPORARY PROTECTION FOR PERSONS FLEEING THE WAR IN UKRAINE

Due to the military invasion of Ukraine by Russian armed forces, **Ukrainians displaced on or after 24th February 2022** were granted international protection. The below are the terms and conditions:

- a) Ukrainian nationals residing in Ukraine before 24 February 2022.
- b) stateless persons, and nationals of third countries other than Ukraine, who benefited from international protection or equivalent national protection in Ukraine before 24 February 2022; and
- c) family members of the persons referred to in points (a) and (b).

The following persons are part of a family, in so far as the family was already present and residing in Ukraine before 24 February 2022:

1. the spouse of a person referred to in point (a) or (b), or the unmarried partner in a stable relationship, where the legislation or practice of the Member State concerned treats unmarried couples in a way comparable to married couples under its national law relating to aliens.
2. the minor unmarried children of a person referred to in point (a) or (b), or of his or her spouse, without distinction as to whether they were born in or out of wedlock or adopted.
3. other close relatives who lived together as part of the family unit at the time of the circumstances surrounding the mass influx of displaced persons, and who were wholly or mainly dependent on a person referred to in point (a) or (b) at the time.

Temporary protection is also being granted to stateless persons, and nationals of third countries other than Ukraine, as long they can prove that they were legally residing in Ukraine before 24 February 2022 based on a valid permanent residence permit issued in accordance with Ukrainian law, and who are unable to return in safe and durable conditions to their country or region of origin. This is in accordance with Article 2 (2) of the Council implementing decision.

Two amendments were also made on S.L. 420.05. The first was done to transpose a specific article of the TPD pertaining to sharing of data, while the second amendment was done to clarify who has a right of appeal.

3. LEGAL MIGRATION

No significant developments in this policy area.

4. INTERNATIONAL PROTECTION

4.1 OVERCHARGING LEGAL AND POLICY DEVELOPMENTS IN RELATION TO INTERNATIONAL PROTECTION

During 2022, IPA updated its policy with regards to applicants coming from Syria and Nigeria. Moreover, it also suspended any examination of application for international protection which were lodged by Ukrainian national. This was in place between 24/02/2022 and 12/09/2022. During this time, nationals and residents in Ukraine were also given the opportunity to register for temporary protection if the condition stipulated in European and national law are met.

Amendments to the International Protection Act (Cap 420), the Reception of Asylum Seekers Regulations (S.L 420.06) and the Procedural Standards for Granting and Withdrawing International Protection (S.L 420.07) were drafted with a view to transposing the provisions of the following Directives:

Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast).

Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast); and

Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast).

Bill amending the International Protection Act (Cap 420) was published on 20th December 2022 by virtue of Act XIX of 2022. While the legal Notice amending the Procedural Standards for Granting and Withdrawing International Protection (S.L 420.07) was published on 11th November 2022 by virtue of legal notice 273 of 2022. On the other hand, the legal Notice amending the Reception of Asylum Seekers Regulations (S.L 420.06) was published on 6th January 2023 by virtue of legal notice 2 of 2023.

4.2 RELOCATION AND RESETTLEMENT AND HUMANITARIAN ADMISSION PROGRAMMES.

On the 22nd of June 2022 the Solidarity Declaration took a decision amongst various member states to offer relocations, financial contributions, and other measures of support. This solidarity mechanism aimed at supporting member states in the Mediterranean which are most affected, together with other member states which are also under pressure.

5. MINORS AND OTHER VULNERABLE GROUPS

5.1 UNACCOMPANIED MINORS

A new amendment was made in Chapter 217-Immigration Act-Section 5A. The Chief Executive Officer of AWAS may appoint an interim legal guardian for any prohibited migrant who is deemed to be under eighteen (18) years of age and who needs care particularly if s/he is unaccompanied by family members. Cap. 602.(2) The interim legal guardian will be given responsibility for the person in question until such time as it is established that he is no longer a minor, or until a guardian is appointed in terms of the Minor Protection (Alternative Care) Act.(3) For the purpose of such article, the interim legal guardian shall:(a) act in the best interests of the minor;(b) ascertain the views and wishes of the minor; and (c) collaborate with all those involved in the protection. The social worker appointed to the alleged minor for support will keep on following the case until closed.

The Age Assessment Procedure and the Age Assessment Tool was also updated in 2022. AWAS proceeded with the support of EUAA according to the EUAA guidelines on Age Assessment. Last amendment was carried out in December 2022.

6. INTEGRATION AND INCLUSION

6.1 NATIONAL INTEGRATION STRATEGY

In 2022 Malta increased its efforts on the development of a Second National Integration Policy and Action Plan covering the period 2023-2027. This will replace the previous Migrant Integration Strategy and Action Plan: Vision 2020. To put this in place a working group was set up, this included representatives of various government entities and members of civil society and migrant communities was set up and convened to have an inclusive process and shared vision for a new policy framework that builds on lessons learned from the first Strategy and Action Plan and supports migrants at all stages of the integration process.

6.2 INVOLVEMENT OF MULTI-STAKEHOLDERS INCLUDING NON-GOVERNMENTAL ORGANISATIONS

The Human Rights Directorate engaged local NGO Aditus Foundation to complete Integration Mapping Research to aid in understanding the existing activities that allow the interaction of migrants with the host society, as well as the integration services offered, to identify existing gaps and challenges in terms of migration, and to assess the needs for future services and policies. This resulted into four reports being published which focused on the following areas: Migrants and Citizenship, Migrants and Mental Health, Socialisation, and Family Reunification.

6.3 EDUCATION AND TRAINING OF ADULTS/ LABOUR MARKET AND SKILLS

Through the AMIF 11.01 project - Supported Employment Services for Migrants, in 2022 Jobsplus introduced a training allowance; *Supported Employment Services for Migrants*. The aim of the project is to at increase the participation of migrants in basic language training for employment. Furthermore, in November 2022, Jobsplus, under the AMIF, also introduced a work exposure of a maximum of 120 hours for migrants to facilitate transition into employment.

6.4 ACTIVE PARTICIPATION OF MIGRANTS AND RECEIVING SOCIETIES IN INTEGRATION.

Turning the Tables

In 2022, the last five of eight conferences of Turning the Tables were held. This is a migrant-led initiative supported by the Human Rights Directorate that involved the organization of conferences and the publication of research based on integration-related topics, created in collaboration with UNHCR and the African Media Association Malta (AMAM). This initiative sought to empower migrant and refugee communities to strengthen their capacity to participate in the policy-making and legislative processes by participating and submitting their policy proposals. After the end of the conferences, eight thematic reports were issued that summarize the findings and recommendations that emerged from the conferences: Education, Employment, Documentation, Political Rights, Detention, Integration Governance: The Way Forward, Migrant-Led Initiatives, and a Compendium of Recommendations.

Equality for all in Malta

The “Right, Equality and Citizenship Programme” - Rights, Equality and Citizenship (REC)-funded project involved the development of an awareness model aimed at the level of citizens, in partnership with local councils.

As part of the Local Integration Charter and the related Action Plan the Directorate and the Local Councils Association, sought to bring the local councils on board in the fight against discrimination. The Addendum to the Charter better addresses and emphasises the importance of non-discrimination and equality based on religion, belief, race, and ethnic origin.

6.5 FIGHTING RACISM AND DISCRIMINATION.

During 2022, the National Commission for the Promotion of Equality (NCPE) continued disseminating information on equality rights and responsibilities through training with various stakeholders. NCPE also continued raising awareness on racism and xenophobia through various posts on social media and an article published on a local newspaper

Towards the Implementation of the Anti-Racism Strategy

Malta continued to implement the Anti-Racism Strategy 2021-2023. In 2022, HRD and its partners (ENAR, Diversit, Kopin, University of Malta, NCPE, and NSO) began to implement Towards the Implementation of the Anti-Racism Strategy (END-RACISM-MT), a project co-financed by the EU under the CERV fund. This project, which will be implemented over a period of two and a half years, will support the implementation of key measures in the Anti-Racism Strategy and aims to improve the response of the Maltese public authorities to multiple and intersectional discrimination, racism, and xenophobia.

7. CITIZENSHIP AND STATELESSNESS

No significant developments in this policy area.

8. BORDERS, VISA, AND SCHENGEN

No significant developments in this policy area.

9. IRREGULAR MIGRATION INCLUDING MIGRANT SMUGGLING

No significant developments in this policy area.

10. TRAFFICKING IN HUMAN BEINGS

10.1 NATIONAL STRATEGIC POLICY DEVELOPMENTS.

During 2022, continuously worked on reforming its efforts to combat human trafficking, to strengthen cooperation amongst various agencies, improve coordination of existing processes and promote an active approach in the fight against all forms of trafficking of human beings. The Technical Support Instrument - funded project supporting Malta in the design and implementation of a new National Anti-Trafficking Strategy started on the 26th of September 2022. The Human Rights Directorate began to implement the project in which technical assistance is being provided by the Council of Europe, which was engaged by the European Commission to provide expertise and assistance in the development and implementation of a new Anti-Trafficking Strategy.

11. RETURN AND READMISSION

No significant developments in this policy area.

12. MIGRATION AND DEVELOPMENT COOPERATION

No significant developments in this policy area.



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NATIONAL REPORT PART 2: ANNEXES

METHODOLOGY

When drafting the 2022 ARM, the MT NCP followed common specifications developed by the EMN, hence facilitating comparability of the findings with other Member States. Information was collected from different reliable sources, offering factual, unbiased, and comparable information on asylum and migration. Primary qualitative data formed the core of this research. Questions were sent by email to the respective stakeholders working in different areas of migration. All recipients were willing to contribute, as evidenced in the rich information provided in this report. On the other hand, primary quantitative data was collected from the same recipients to substantiate the core qualitative data.

TERMS

The terms used throughout his report correspond with the ones found in the EMN Glossary.

ANNEX B: IMPLEMENTATION OF EU LEGISLATION

EU Legislation in relation to Asylum and Migration were transposed into Maltese Law by virtue of the following legislative instruments:

- Bill amending the International Protection Act (Cap 420), published on 20th December 2022 by virtue of Act XIX of 2022.
- Legal Notice amending the Procedural Standards for Granting and Withdrawing International Protection (S.L 420.07), published on 11th November 2022 by virtue of legal notice 273 of 2022.
- Legal Notice amending the Reception of Asylum Seekers Regulations (S.L 420.06), published on 6th January 2023 by virtue of legal notice 2 of 2023.

Prior to the publication of these legislative instruments, the Maltese authorities organised a series of meetings with the pertinent entities with a view to initiating a process of implementation of the abovementioned legislative instruments. In view of this, several meetings were held with the International Protection Agency, the Agency for the Welfare of Asylum Seekers, the Detention Service, the Immigration Police as well as the advisor on migration matters with the Ministry responsible for Immigration.

Further to this, there was also an exchange of information on the transposition and implementation of EU Legislation between the Maltese authorities and pertinent entities within the different Member States, via various EU platforms including the European Migration Network.

ANNEX C: NATIONAL STATISTICS

N/A

ANNEX D: BIBLIOGRAPHY/REFERENCES/SOURCES

N/A