

MALTA INTEGRATION NETWORK

# A way forward for a National Integration Policy in Malta

Authored by Dr Carla Camilleri & Dr Neil Falzon

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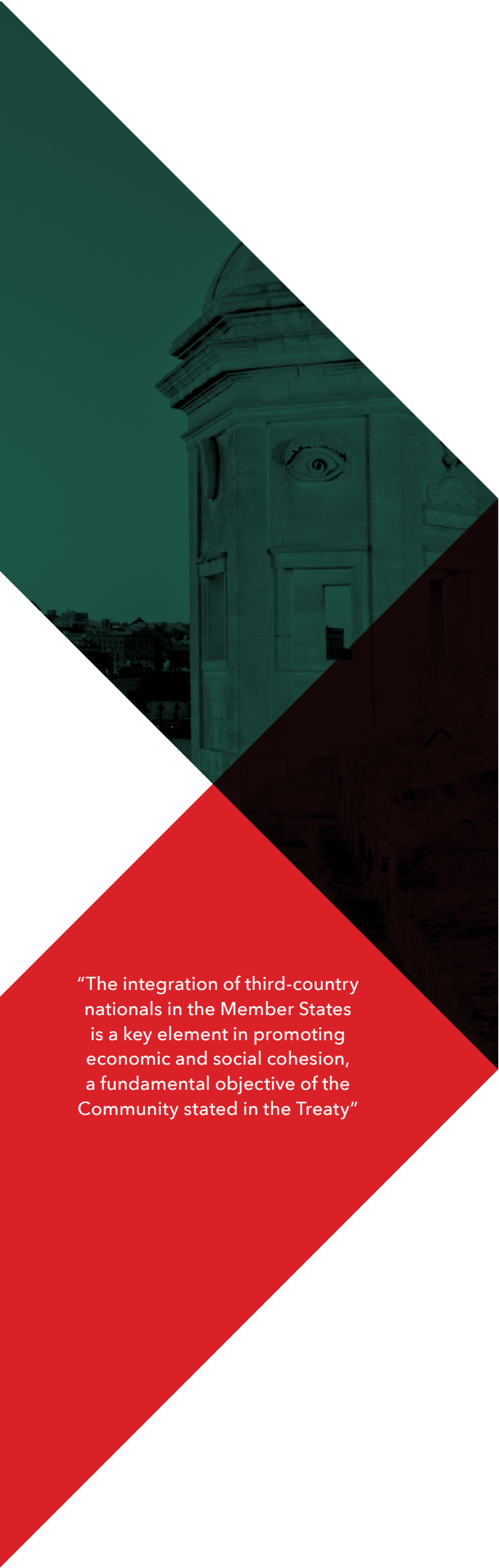


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*Sustainable Management of Migration Flows*



“The integration of third-country nationals in the Member States is a key element in promoting economic and social cohesion, a fundamental objective of the Community stated in the Treaty”

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**MALTA INTEGRATION NETWORK: A WAY FORWARD  
FOR A NATIONAL INTEGRATION POLICY IN MALTA.  
FINAL REPORT**

Authored by Dr Carla Camilleri, Dr Neil Falzon

**aditus foundation**

aditus foundation is an independent, voluntary & non-profit organisation (NGO) established with a mission to monitor, act & report on access to fundamental human rights in Malta.

The views, opinions and/or findings contained within this report are those of the authors and do not represent any official position of the national agencies or bodies, academics, civil society and government representatives participating in the meetings pursuant to this project.

Overleaf: Paragraph (3) of the Preamble to Council Decision 2007/435/EC establishing the European Fund for the Integration of third-country nationals for the period 2007 to 2013 as part of the General programme 'Solidarity and Management of Migration Flows'.

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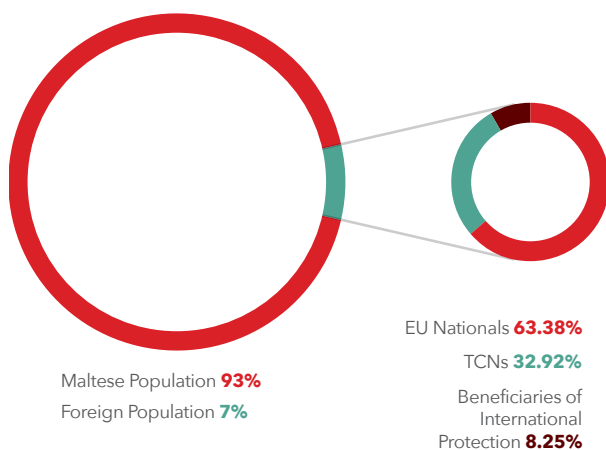
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## INTRODUCTION

"[I]ntegration policies should create favourable conditions for migrants' economic, social, cultural and political participation to realise the potential of migration... Integration is an ever evolving process, which requires close monitoring, constant efforts, innovative approaches and bold ideas."<sup>1</sup>

In a recent Eurostat survey it was reported that Maltese citizens made up 93.3% of the total population, while the number of foreign citizens (including Third Country Nationals, European Union nationals and beneficiaries of international protection) stood at approximately 6.7<sup>2</sup>.

Figure 1: Maltese and Foreign Residents in Malta

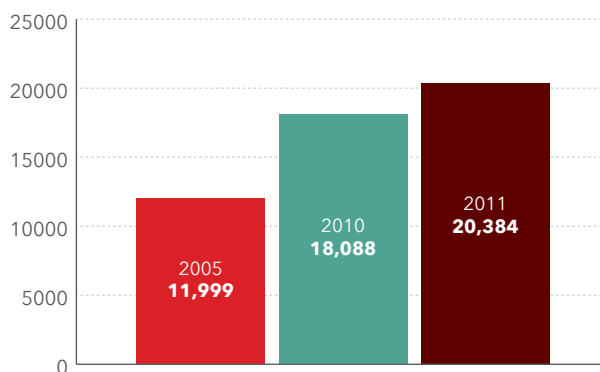


- 1 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of Regions, *European Agenda for the Integration of Third Country Nationals*, SEC(2011)957 final.
- 2 Eurostat, Nearly two-thirds of the foreigners living in EU Member States are citizens of countries outside the EU-27- Statistics in focus 31/2012 and National Statistics Office, *Demographic Review 2010, 2011*, pg. vi

## Context of Research & Aims of the Project

In the past decade Malta has seen a boom in the total foreigner population with the numbers increasing from 11,999 in 2005 to 18,088 in 2010 and 20,384 in 2011<sup>3</sup>. In 2009, Third Country Nationals (TCNs) formed 3.6% of the Maltese population<sup>4</sup>. Although the numbers have been rising progressively, the same cannot be said of national policies in the area of migration and more specifically integration of TCNs.

Figure 2: Total Foreign Population in Malta



It is in the context of this reality that the **Malta Integration Network (MIN)** project was conceived. The main purpose of the project was to produce concrete recommendations, aimed at national policy makers, on how to maximise the success of the various stages of TCN integration process in Malta. The project involved an examination of EU and Maltese laws and policies in the area of integration, the identification of existing gaps and good practices and finally the provision of solution-oriented recommendations.

The MIN project focused specifically on TCN groups, which excluded individuals that are citizens

- 3 International Organisation for Migration (IOM), Gauci J.P., *Malta Chapter, in Migration, Employment and Labour Market Integration Policies in the European Union* (2011), pg. 209
- 4 *Migrant Integration Policy Index (2011)*, Huddleston T., et al., 2011, pg. 135

THE MAIN PURPOSE OF THE PROJECT  
WAS TO PRODUCE CONCRETE  
RECOMMENDATIONS, AIMED AT NATIONAL  
POLICY MAKERS, ON HOW TO MAXIMISE  
THE SUCCESS OF THE VARIOUS STAGES OF  
TCN INTEGRATION PROCESS IN MALTA

of Member States of the European Union, asylum seekers and beneficiaries of international protection<sup>5</sup> and persons with an irregular migration status. However, we firmly believe that the formulation of a comprehensive national integration policy would be of benefit to TCNs, EU Member State nationals and beneficiaries of international protection alike.

The MIN Project was funded by the European Integration Fund (2007-13) which supports EU countries and civil society in enhancing their capacity to develop, implement, monitor and evaluate integration strategies, policies and measures, as well as their exchanges of information and best practices and cooperation on integration issues.

Neil Falzon **Project Leader**

Carla Camilleri **Project Researcher**

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5 As defined by Article 1(3) and 1(4) of the *Council Decision 2007/435/EC establishing the European Fund for the Integration of third-country nationals for the period 2007 to 2013 as part of the General programme 'Solidarity and Management of Migration Flows'*



# Malta Integration Network: Key Findings

Notwithstanding the fact that the migrant population has doubled over the past twenty years, Maltese laws and policies remain some of the weakest and least favourable in Europe<sup>6</sup>. Furthermore, there is still a lack of expertise in how to manage migration and the diversity that results from multiculturalism.<sup>7</sup>

In the past years, discourse relating to migration and integration mainly focused on beneficiaries of international protection and asylum seekers, leaving the significantly larger TCN group ignored and invisible. Policies relating to labour market mobility, education, family reunification and the granting of Long Term Residence status and citizenship in relation to TCNs living in Malta remained sporadic and at times non-existent. Malta is behind most countries of immigration in formulating its integration policy, waiting periods for family reunion are some of the longest in Europe and political participation in elections is barred to all non-EU citizens. In addition, Malta has one of the most exclusionary citizenship acquisition practices<sup>8</sup>.

*Malta's National Strategy for the Promotion of Cross-Cultural Understanding and Management of Cultural Diversity*<sup>9</sup> is one of the few documents that outlines the national strategy for the integration of migrants and it focuses on the educational sector, the cultural sector, the internal rule of law dimension as well as tourism and town twinning. It also lists proposed measures to be implemented in order to achieve these aims. However, any follow up measures between the date of publication of the National Strategy in 2009 and the writing of this Final Report

have been negligible and the few measures that have been implemented relate to the labour market and the education sector.

A significant development in the past year came about further to a change in national government following the 2013 General Elections. The new Labour Government appointed Hon. Helena Dalli as Minister for Social Dialogue, Consumer Affairs and Civil Liberties<sup>10</sup>. It is the first time that a Minister's portfolio specifically includes social dialogue, civil liberties and equality, and consequently issues relating to integration.

In view of the above, the need was felt to review current legislation and to develop a national integration policy, which would include a national strategy on migration and a number of integration policy tools. In addition, it was also recognised that any national discourse on migration should include the participation of migrants themselves, either in a consultative role or in an advocacy role through civic participation.

## Methodology and Chosen Approach

The objectives of the project were achieved in a multifaceted approach, which included exploratory desk-research, discussion meetings with relevant local stakeholders and a comparative discussion on best practices and the development of a national integration policy with participants from other EU Member States.

## Multifunctional Theme Meetings (MFTs)

In the first half of 2013 a series of discussion meetings were organised, with stakeholders from the Maltese government and public sector, academia, civil society and migrant communities attending and contributing

6 *Migrant Integration Policy Index (2011)*, op. cit

7 Foundation for Educational Services (FES), Falzon N., Pisani M., Cauchi A., *Research Report: Integration in Education of Third Country Nationals*, 2012. Pg. 11

8 *Migrant Integration Policy Index (2011)*, op. cit

9 Malta's National Strategy for the Promotion of Cross-Cultural Understanding and Management of Cultural Diversity, 2009: <http://www.unaoc.org/wp-content/uploads/Malta-National-Strategy2.pdf>

10 Website for the Ministry for Social Dialogue, Consumer Affairs and Civil Liberties: <http://msdc.gov.mt>

to the discussions. The idea behind the MFTs was to bring together all stakeholders in an informal setting in order to discuss, on an equal footing, various issues at the heart of migrant integration. These meetings also served as an effective networking tool for the participants where key front-line service-providers and policy makers could discuss and be in direct contact with potential service-users.

Each meeting, attended by the representatives from various sectors, tackled issues as identified by the **Migrant Integration Policy Index**<sup>11</sup> (MIPEX), a European measurement index focusing on integration, namely:

- Anti-discrimination
- Labour Market Mobility
- Family Reunion
- Education
- Political Participation
- Access to Nationality
- Long Term Residence

The use of MIPEX as a tool to discuss integration was chosen as the preferred option as it gives an overview of integration policies and laws across the EU Member States in a concise, transparent and easily comparable format. Moreover, MIPEX is an on-going monitoring and assessment tool, widely used across Europe, USA and Canada, where countries are continuously being assessed on their integration agenda.

Prior to each MFT, extensive research was carried out on each theme, which included literature review and an examination of existing laws and policies. During the MFTs the findings, which covered existing EU and Maltese laws and policies, the identification of gaps and good practices, were presented to the participants. This was followed by discussions and solution-oriented exchanges with all participants.<sup>12</sup> The results of the MFT meetings are presented topic-by-topic in the Policy Areas chapter of this Final Report.

Although part of the research involved the examination of EU and Maltese Laws regulating the identified themes, the focus of the project was

primarily aimed at producing recommendations aimed at policy development and improvement. Therefore, the findings do not consist of an in-depth analysis on the provisions of the entire body of EU and Maltese legislation and interpretive jurisprudence in the field.

### Networking Roundtable Meeting (NWRT)

The NWRT, having the same representative composition of the MFTs (government, academia, civil society, migrants from across the EU) was the culmination of the MFT series of meetings. Participants from various EU Member States, including Malta, met and examined crucial themes identified throughout the MFTs and exchanged best practice experiences. The participants explored integration best practices through workshops on education and vocational training, political participation, and regulatory bodies and institutional responsibilities. The recommendations that emerged from each workshop are absorbed into the main text of this Report.

The workshops were followed by plenary and panel discussions on international integration strategies, national integration policies and institutional structures. The guests shared their experiences, be it as policy makers, migrants or academics, on national integration policies and practices in other EU Member States from which Maltese national policy and practice could benefit<sup>13</sup>. The plenary considerations relating to the institutional aspects and the essential elements of a national integration policy can be found in the A National Integration Policy chapter in this Final Report.

### Data Availability

During the course of the research some difficulty was faced when trying to collect data from national data sources, as disaggregated data relating to migrants under the different indicator headings was not always readily available.

Eurostat figures were also used for the European dimension and for comparative purposes. Where no primary data was available, reliable secondary data was used and referenced accordingly.

<sup>11</sup> Migrant Integration Policy Index Website: <http://www.mipex.eu/>

<sup>12</sup> The presentations, bibliography and informal notes of each MFT can be found on our MIN project page: [http://www.aditus.org.mt/aditus\\_foundation/MIN.html](http://www.aditus.org.mt/aditus_foundation/MIN.html).

<sup>13</sup> The presentations and informal notes of the NWRT can be found on our MIN project page: [http://www.aditus.org.mt/aditus\\_foundation/MIN.html](http://www.aditus.org.mt/aditus_foundation/MIN.html).





POLICY AREAS

# Anti-Discrimination

“The legal provisions against racist expression, racially-motivated offences and racial discrimination are not yet fully applied and there is still little awareness of the need to actively monitor racism and racial discrimination in order to identify and address these phenomena properly.”<sup>14</sup>

Anti-discrimination legislation and policy within a national framework is crucial to successful migrant integration. It has been shown that when countries improve their anti-discrimination and equality policies, consequently their national integration policies also significantly and consistently improve<sup>15</sup>. In Malta, a research study commissioned by the *National Commission for the Promotion of Equality*<sup>16</sup> (NCPE) found that migrants faced discrimination on the basis of their racial or ethnic origin across several areas which include education, employment, accessing goods and services, access to housing and healthcare, in the neighbourhood, in the use of public transport, when approaching police and public officers, in places of entertainment and also in places of worship<sup>17</sup>.

## Key figures

In a Eurobarometer survey, the Maltese stood out from the other Member States’ nationals in considering that the most important concern facing the country at the moment was immigration, as opposed to the economy or unemployment as cited by other Member State nationals<sup>18</sup>.

Although minority communities face discrimination in various spheres of life, as mentioned above, the number of complaints on alleged racial discrimination received by the NCPE remains low with a total number of 4 complaints filed in 2011<sup>19</sup> and 3 in 2012<sup>20</sup>. Furthermore, the Office of the Ombudsman published 1 decision in 2009 relating to racial discrimination<sup>21</sup>. Statistics on other judicial or administrative applications, complaints or decisions were not publically available<sup>22</sup>.

## Legislation & Policies

### Main EU Legislation

*Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin*

The Maltese legislative framework regulating the prohibition against discrimination based on racial or ethnic origin remains complex and unclear. The *Constitution of Malta*<sup>23</sup>, under Article 45, grants a general protection against racial discrimination. In

14 European Commission Against Racism and Intolerance, *Third Report on Malta*, CRI(2008)22, April 2008, pg.6  
 15 *Migrant Integration Policy Index (2011)*, Huddleston T., et al., 2011, pg.24  
 16 NCPE website: [http://msdc.gov.mt/en/NCPE/Pages/NCPE\\_Home.aspx](http://msdc.gov.mt/en/NCPE/Pages/NCPE_Home.aspx)  
 17 National Commission for the Promotion of Equality, *Strengthening Equality Beyond Legislation - Underreporting of Discriminatory Incidents in Malta - a Research study*, 2010, pgs. 69 – 78.

18 European Commission, Directorate-General for Communication, *Public Opinion in the European Union*, Standard Eurobarometer 80, Autumn 2013, pg. 12.  
 19 National Commission for the Promotion of Equality, *Annual Report 2011, 2012*, pg.33  
 20 National Commission for the Promotion of Equality, *Annual Report 2012, 2013*, pg. 27  
 21 Office of the Ombudsman: <http://www.ombudsman.org.mt/index.asp?pg=caseload>  
 22 Searches carried out on the 4<sup>th</sup> and 5<sup>th</sup> February, 2014.  
 23 *Constitution of Malta*, 1964.

addition, the *Criminal Code*<sup>24</sup> and the *Press Act*<sup>25</sup> prohibit hate crimes, including incitement to racial hatred, and racist publications and broadcasts respectively. More specifically, the *Employment and Industrial Relations Act* protects against discriminatory treatment in employment in relation to colour and religious conviction<sup>26</sup>, amongst others, and entrusts the *Department Of Industrial and Employment Relations*<sup>27</sup> (DIER) with the investigation of complaints under the Act. The Industrial Tribunal has competence to hear complaints of breaches of the *Employment and Industrial Relations Act*.

Amendments in 2012 to the *Equality for Men and Woman Act*<sup>28</sup> widened the scope of the Act to include the prohibition of discrimination on the basis of racial or ethnic origin in employment, banking and financial institutions services and access to education. It also extended the remit of the NCPE to investigate any complaints under the Act, including racial discrimination.

Furthermore, the implementation of *Council Directive 2000/43/EC* was carried out through three subsidiary legislative instruments passed under different Acts. *The Equal Treatment in Employment Regulations*<sup>29</sup> was passed under the *Employment and Industrial Relations Act* and it lays down the principle of equal treatment in relation to employment and the minimum requirements to combat discriminatory treatment. The DIER is the competent equality body with the Industrial Tribunal being the competent forum to file a complaint for any breaches under these Regulations.

In addition, the *Equal Treatment of Persons Order*<sup>30</sup> and the *Equal Treatment in Self-Employment and Occupation Order*<sup>31</sup>, passed under the *European Union Act*, also implement the *Council Directive 2000/43/EC*<sup>32</sup>. The former prohibits discrimination on

the basis of racial or ethnic origin in relation to social protection, social advantages, education, access to and supply of goods and services and access to banking/financial services, whilst the latter extends the applicability of *Equal Treatment in Employment Regulations* to self-employed and in relation to establishment of business.

The possibility to file an action for redress in the courts of civil jurisdiction is available under both regulations. However, the competent equality body regulating these two implementing regulations is the NCPE for *Equal Treatment of Persons Order* and the DIER for the *Equal Treatment in Self-Employment and Occupation Order*.

Additionally, the *Ombudsman Act*<sup>33</sup> allows for individuals to file a complaint if they feel aggrieved by any administrative action taken by or on behalf of the Government. The Ombudsman, after making an investigation, may find any action or omission or law to be "improperly discriminatory"<sup>34</sup>.

The above illustrates the complexity of both the legal framework and the procedural elements involved, resulting in the enormous difficulty that individuals and their legal advisors face when filing a complaint. Equality legislation in relation to racial and ethnic origin is scattered in various pieces of legislation which differ in scope (employment, self-employment, access to goods and services etc.), in the forum within which to file such a complaint (civil, criminal or administrative) and in the differing sanctions that may be imposed on the perpetrator.

Furthermore, the absence of one single reference equality body which regulates, investigates and advocates in the area of racial discrimination is a gap that needs to be filled.<sup>35</sup> Therefore, there does not exist a coherent national strategy that takes into consideration the tackling of racial discrimination and the promotion of racial equality.

24 Articles 82A and 251C of the *Criminal Code*, Cap. 9 of the Laws of Malta.

25 Article 6 of the *Press Act*, Cap. 248 of the Laws of Malta. See Also: *The Requirements as to Standards and Practice on the Promotion of Racial Equality adopted by the Broadcasting Authority*, S.L.350.26.

26 Part IV of the *Employment and Industrial Relations Act*, Cap. 452.

27 DIER website: <https://dier.gov.mt/en/Pages/home.aspx>

28 *Equality for Men and Woman Act*, Cap. 456.

29 *Equal Treatment in Employment Regulations*, S.L.452.95

30 *Equal Treatment of Persons Order*, S.L.460.15.

31 *Equal Treatment in Self-Employment and Occupation Order*, S.L.460.16

32 *European Union Act*, Cap. 460 of the Laws of Malta.

33 *Ombudsman Act*, Cap. 385 of the Laws of Malta.

34 Article 22(1)(b), *Ombudsman Act*, *ibid*.

35 Press Release: *Ombudsman calls for human rights watchdog*, December 2012 [http://www.ombudsman.org.mt/index.asp?pg=NB\\_Times10Dec12](http://www.ombudsman.org.mt/index.asp?pg=NB_Times10Dec12)

## RECOMMENDATIONS

### Equality Bodies

The creation of one equality body to which all individuals can file a complaint in relation to all prohibited grounds of discrimination, and which would also serve as a national focal point for human rights<sup>36</sup>.

Simplify the current complaints system to take into account cases of multiple discrimination, which otherwise would have to be filed before different fora and under different Acts.

Strengthen the enforcement powers of equality bodies in relation to decisions taken, such as granting them the power to impose pecuniary sanctions. Nonetheless, due account must be taken of the mediatory role of equality bodies, as opposed to a judicial or quasi-judicial role.

### Under-Reporting

Increased information on websites or brochures and the setting up of an enquiries number to tackle queries relating to discrimination complaints were suggested to tackle under-reporting.

Improve the judicial process in courts by making it cheaper and faster for individuals to complain.

Improve the third party complaints systems in order for NGOs and equality bodies to file complaints and support through funding and training of staff.

Public authorities should have a strong policy against racial discrimination, which would include the issuing of strong statements against wide-spread discriminatory practices in order to counter the fear of reporting.

### Policy

Adoption of a number of preventive actions, such as a nation-wide policy targeting discrimination and implementation of measures reflecting the disadvantage suffered by minorities across areas such as employment, housing and education.

Introduce mainstreaming of race equality in the public sector by requiring the assessment of any planned action on minority groups<sup>37</sup> and integrating them in the monitoring and decision-making process<sup>38</sup>. Mainstreaming should also be ensured in the private sector, the media and entertainment venues.

Instil a sense of ownership of equality covering all forms of discrimination grounds at a government or ministry level.

### Legislation

Consolidation of existing laws into one harmonised 'equality act', which would include all forms of discrimination, standard definitions and clear procedures. In addition, strengthen the position of a third party complaints system, collective complaints or class actions.

Specifically, adopt amendments in the law that include the inclusion of nationality as a ground for discrimination, the prohibition of racial profiling and the concept of multiple discrimination.

36 In Sweden, a 2009 Anti-Discrimination law replaced seven anti-discrimination laws with one act and merged the four equality bodies into one Equality Ombudsman that covered all grounds of discrimination: <http://www.do.se/en/>.

37 In Portugal the Consultative Council for Immigration Affairs, within the High Commission for Immigration and Intercultural Dialogue, seeks to ensure the participation and collaboration of immigrant communities. [http://www.acidi.gov.pt/institucional\\_book.pdf](http://www.acidi.gov.pt/institucional_book.pdf)

38 A similar action was effected in relation to gender mainstreaming by the Maltese Government in 2012: <https://secure3.gov.mt/socialpolicy/admin/contentlibrary/Uploads/MediaFile/circular.pdf>





# Labour Market Mobility

“Employment is a key part of the integration process and is central to the participation of immigrants, to the contributions immigrants make to the host society, and to making such contributions visible.”<sup>39</sup>

With Europe, including Malta, facing long-term demographic challenges and a rapidly changing labour market, there is a recognised need to attract migrant workers from third countries<sup>40</sup>. However, in order to benefit from the potential of migration it is important that a long-term migration policy, which includes effective integration measures, is put into effect.

Integration of migrants is crucial as their integration into the host state’s economy and society is viewed as contributing to better economic performance whilst mitigating social tensions<sup>41</sup>. Labour market integration tools have increasingly been playing an important role in overall integration measures. These may range from facilitation of finding first employment or re-employment to improvements in matching migrant skills with specific jobs through more effective recognition of qualifications procedures<sup>42</sup>. However, these cannot be seen in isolation, as there are clear links between labour market integration measures and others, such as educational and linguistic integration.

## Key figures

In Malta, the approximate foreign population amounts to 6.7% of the population, with 3.6% originating from a non-EU country<sup>43</sup>. It is important to note that the majority of migrants entering Malta are within the 20 to 34 age-bracket, followed by the 35 to 64 bracket.<sup>44</sup> Therefore the vast majority of migrants living in Malta are of working-age, which illustrates the importance of a strong policy and legislative framework in the field of labour and migration.

In a recent Eurobarometer survey<sup>45</sup>, 50% of the Maltese respondents believed that the economic crisis contributed to an increase in discrimination based on ethnic origin in the labour market and 43% believed that a candidate’s skin colour or ethnic origin put them at a disadvantage during a job interview. In this regard, 88% support training on diversity issues for employees and employers and a further 82% support monitoring recruitment to ensure that candidates from risk groups have the same opportunities.

## Legislation & Policies

### Main EU Legislation

*European Parliament and Council Directive 2011/98/EU on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State*

39 Common Basic Principle Nr.3, *Common Basic Principles for Immigrant Integration Policy in the European Union*, established by the 2618th Council Meeting, Justice and Home Affairs, 2004, 14615/04 (Presse 321).

40 Press Release: *Employment: Commissioners Malmström and Andor welcome the new OECD report on international migration trends*, 27th July, 2012, MEMO/12/495.

41 Organisation for Economic Co-operation and Development (OECD), *International Migration Outlook 2013*, June 2013, pg. 93.

42 Ibid. pg. 96

43 Eurostat, *Nearly two-thirds of the foreigners living in EU Member States are citizens of countries outside the EU-27*- Statistics in focus 31/2012.

44 European Migration Network, *Annual Report on Migration and International Protection Statistics, Reference Year: 2009, Malta, 2011*, Pg.4

45 European Commission, *Malta Fact Sheet, Discrimination in the EU in 2012, Special Eurobarometer 393*, November 2012

*Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment*

*Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research*

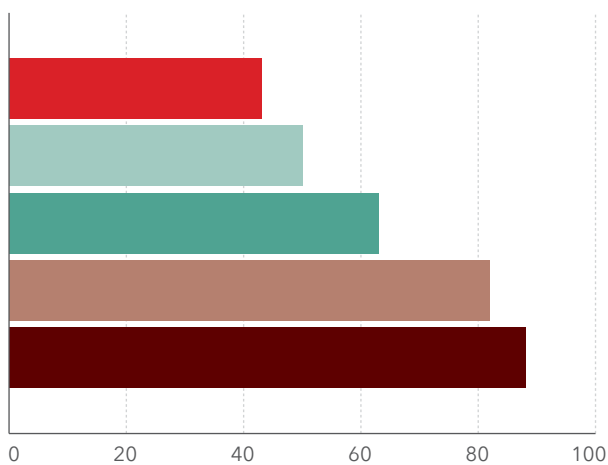
*Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service.*

Although improvements have been seen in the legislative field in recent years, such as the adoption of the *Conditions of Entry and Residence of Third-Country Nationals for the purpose of Highly Qualified Employment Regulations*<sup>46</sup> and the *Minimum Standards on Sanctions and Measures against employers and illegally staying Third Country Nationals Regulations*<sup>47</sup>, the existing national framework remains complex and unclear.

The implementation of the Single Permit Directive, as required by *Council Directive 2011/98/EU*<sup>48</sup>, is hoped to simplify procedures and clarify the rights granted through a single work and residence permit. This Directive establishes a single application procedure for TCNs wishing to work in the European Union by merging the residence and work permit within one singular administrative act. The Member States must also provide equal workers' rights in relation to working conditions, membership in trade unions, certain branches of social security<sup>49</sup> and access to goods and services available to the public. It is to be noted, however, that the Member States may derogate and exclude access to certain rights such as unemployment benefits in certain circumstances, student loans and access to housing.

Although employment with the private sector and public service are open to TCNs, employment licences are granted through an application by the employer and only on satisfaction of a labour market assessment test carried out by the Employment and Training Corporation<sup>50</sup>. Therefore the retention and the renewal of the employment licence is dependent on the employer and not the TCN employee and directly linked to a concrete employment activity.

Figure 3: Maltese Attitudes



**43%** believed a candidate's skin colour/ethnic origin was a disadvantage for a job interview

**50%** believed that the economic crisis contributed increase in discrimination based on ethnic origin in the labour market

**63%** of Maltese considering that the most important concern in Malta is immigration

**82%** support monitoring recruitment to ensure candidates from risk groups have same opportunities.

**88%** support training on diversity issues for employees and employers

<sup>46</sup> *Conditions of Entry and Residence of Third-Country Nationals for the purpose of Highly Qualified Employment Regulations*, S.L. 217.15

<sup>47</sup> *Minimum Standards on Sanctions and Measures against employers and illegally staying Third Country Nationals Regulations*, S.L. 217.14

<sup>48</sup> Member States were under the obligation to implement *Council Directive 2011/98/EU* by the 25<sup>th</sup> December, 2013 up until the writing of this Final Report Malta did not implement any national implementing measures.

<sup>49</sup> Article 12(e) of *Directive 2011/98/EU* refers to branches of social security, as defined in *Regulation (EC) No 883/2004 of the European Parliament and of the Council On the coordination of Social Security Systems* such as sickness, maternity and paternity benefits, invalidity and old-age benefits, unemployment benefits etc.

<sup>50</sup> Employment Training Corporation, *Employment Licences Unit Guidelines & FAQs for Foreign Nationals* <http://etc.gov.mt/etc-portal/page/3/ELU-Guidelines.aspx>, as accessed on 7<sup>th</sup> February, 2014.



In addition, Malta is one of the few Member States to make use of the possibility to restrict TCN family members' access to employment or self-employment on the basis of Article 14(2) of the Directive 2003/86/EC 2003 on the right to family reunification.<sup>51</sup> This is reflected in Regulation 15(b) of the implementing Family Reunification Regulations, that only allows access to the labour market for family members after 12 months of their arrival in Malta and conditional on satisfying a labour market assessment<sup>52</sup>.

Finally, a lack of a comprehensive national policy on employment with regard to TCNs was noted and previously existing policies were sporadic and addressed short-term goals. Intercultural and pre-departure preparation, such as basic information on employment, cultural and social issues and linguistic training targeting migrant workers are effectively non-existent.

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51 See Article 14(2) of the *Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification* and Regulation 15(b) of the implementing *Family Reunification Regulations*, S.L. 217.06

52 More information on the Family Reunification Regulations can be found in the section on Family Reunion in this Final Report.





## RECOMMENDATIONS

### Procedural

Improve information available and accessible to both TCNs and employers that gives clear guidelines on procedural issues such as the labour market assessment conditions, social security rights, labour law rights and residency rights<sup>53</sup>.

Improve the decision making process for the application and issuance of employment licences, in particular by shortening time-frames and making it more transparent.

### Legislative and Enforcement

Transpose and implement the Single Permit Directive as soon as possible by simplifying procedures for granting a single residence and employment licence and providing equal access to worker's rights and general support.

Allow for a TCN to apply for an employment licence individually and remove the obligation that a TCN employment licence be issued in the employer's name, as this may discourage the TCN from instituting complaints against the employer in cases of breaches in employment legislation. The occupational immobility it fosters also acts as a disincentive for vocational and personal improvement. Strengthen NGO, trade union and government agency standing in relation to filing complaints, specifically in instances relating to human trafficking, without the need for an individual complainant.

Increase support to the DIER in order to ensure sufficient human, financial and technical resources to tackle the investigation of complaints in work related matters.

Simplify and shorten procedures in relation to cases filed before the Industrial Tribunal. In addition, complainants should be informed of the right to apply for legal aid in instances where they do not have the resources to pay for a lawyer.

Grant the Industrial Tribunal the power to suspend or demand the suspension of a deportation order and extend or order an extension of a residence permit in cases where a TCN has been dismissed due to a complaint against the employer, or where a TCN is challenging dismissal before the Tribunal.

### Policy

Introduce mainstreaming and a holistic labour market policy that addresses the needs of the whole economy and sets down a long-term strategy, which includes guidelines on specific area as migrant workers and female employment ratio.

The labour market policy should be backed up by valid disaggregated data, including labour market studies, which should be collected and analysed regularly.

Improve intercultural preparation for newly arrived TCNs and their families, including basic information on employment and labour in Malta, cultural and social issues, integration and linguistic training. The training should be supported with 'know your rights' sessions focusing on those sectors that are of particular importance to migrants and their families.

Encourage intercultural training at the workplace for both employers and employees, with the support of agencies such as NCPE.

Introduce a peer-to-peer professional mentoring programme in which a national would support and mentor a TCN in an equivalent profession and give guidance in relation to the Maltese labour market, further professional training and networks.

<sup>53</sup> In Sweden, newcomers are given information in relation to their labour rights, for example see the Swedish Migration Board website: <http://www.migrationsverket.se/English/Private-individuals.html>

# Family Reunion

“Family reunification is a necessary way of making family life possible. It helps to create socio-cultural stability facilitating the integration of third country nationals in the Member State, which also serves to promote economic and social cohesion, a fundamental community objective stated in the Treaty.”<sup>54</sup>

The right to family reunification, which is recognised at EU level and implemented in Member State legislation, recognises that such a right is necessary in order to make family life possible for TCNs and promotes stability and integration. The Directive lays down the conditions of entry and residence for TCN family members joining a TCN residing legally in a Member State. Although the aim of the Directive was to establish a common system, it has been criticised for achieving a low level of harmonisation<sup>55</sup> and in turn Member States have been criticised for implementing minimum standards and applying restrictive rules that require TCNs to fulfil conditions that nationals do not<sup>56</sup>.

In relation to this, the Court of Justice of the European Union spelt out quite clearly that although the family reunification Directive allows for a margin of discretion in its implementation, such “margin for manoeuvre which the Member States are recognised as having must not be used by them in a manner which would undermine the objective of the Directive,

which is to promote family reunification, and the effectiveness thereof”<sup>57</sup>.

In this regard, it is important to note that the Directive itself stipulates that measures concerning family reunification should be adopted by the Member States “in conformity with the obligation to protect the family and respect family life enshrined in many instruments of international law”<sup>58</sup>.

## Key figures

In most Member States, the number of reuniting TCN families is small compared to the many other people arriving legally every year. In recent years the share of reuniting TCN families has been decreasing, with only 21% of overall permits at EU level granted to family members exercising their reunification rights<sup>59</sup>. TCN family reunion annually involves more children than spouses or partners and although most EU nationals associate family reunion with specific countries of origin, statistics show that families come from various parts of the world. For example in 2010, the top 10 countries of origin for reuniting TCN families in Europe come from Morocco (12%), India (8%), Albania (7%), Pakistan (6%), China (6%), Ukraine (3%), Turkey (3%), Moldova (2%), USA (2%) and Ecuador (3%)<sup>60</sup>.

54 Preamble, para. 4 of Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification.

55 European Commission, *Green Paper on the right to family reunification of third-country nationals living in the European Union (Directive 2003/86/EC)*, (COM(2011)735, 2011, pg. 1

56 *Migrant Integration Policy Index (2011)*, Huddleston T., et al., 2011, pg.14

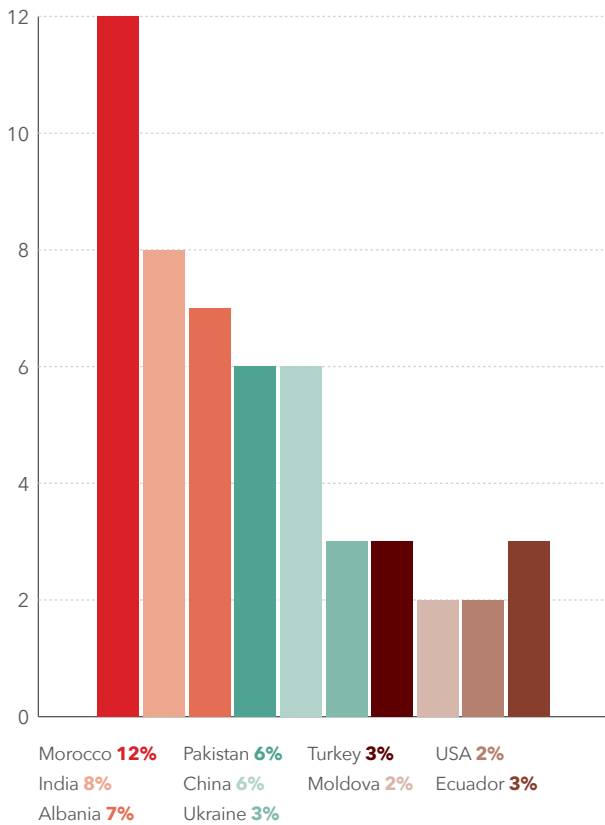
57 Judgment of the Court (Second Chamber) of 4 March 2010, *Rhimou Chakroun v Minister van Buitenlandse Zaken*, C-578/08, para 43

58 Preamble, para. 2 of Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification.

59 Eurostat data from 2008 – 2010 as quoted in the Annex to the European Commission’s Green Paper on the right to family reunification of third-country nationals living in the European Union, op cit.

60 Migration Policy Group (MPG), Huddleston T., *Family Reunion: Confronting Stereotypes, understanding Family Life*, MPG Briefings for the Green Paper on Family Reunion, November 2011, pg. 4

Figure 4: Top 10 countries of origin for reuniting TCN families in Europe



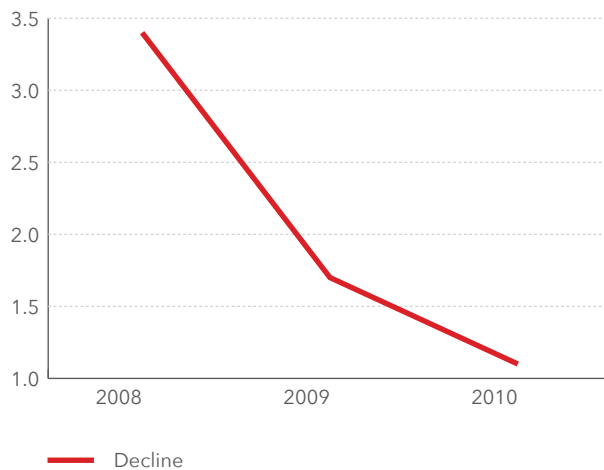
In Malta, the share of permits issued to TCNs joining their family members to total first permits issued to TCNs stood at 3.4% in 2008, 1.7% in 2009 and 1.1% in 2010<sup>61</sup>. Following the EU trend, the majority of persons joining a TCN were children (21), followed by other family members (7) and then spouses/partners (2)<sup>62</sup>.



61 Eurostat data from 2008 - 2010 as quoted in the European Commission's Green Paper on the right to family reunification of third-country nationals living in the European Union, op cit.

62 European Migration Network, Zammit D., *Misuse of the Right to Family Reunification, Marriages of convenience and false declarations of parenthood*, 2012, pg. 10

Figure 5: Share of permits issued to TCNs joining non-EU nationals to total first permits issued to TCNs



## Legislation & Policies

### Main EU Legislation

Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification

The *Family Reunification Regulations*<sup>63</sup> transpose into Maltese law the Council Directive on the right to family reunification. The considerable amount of flexibility found in this particular Directive led Member States to lower the standards when applying the "may" provisions on certain requirements in a too broad or excessive way<sup>64</sup> and a number of commentators have held that Malta's family reunification laws and policies "reflect a restrictive orientation and aim at a minimalist implementation"<sup>65</sup>.

Primarily, when one examines the *Family Reunification Regulations*, the vagueness and discretionary elements are notable. For example, in order for a TCN to apply for family reunification, the applicant must have "reasonable prospects of obtaining the right of permanent residence" and "accommodation regarded as normal for a comparable family in Malta and which

63 *Family Reunification Regulations*, S.L. 217.06. This Section will not give a clause-by-clause explanation of the Regulations, it will however give a brief overview with a focus on the most problematic clauses.

64 European Commission Report from the European Commission to the European Parliament and the Council on the Application of Directive 2003/86/EC on the right to Family Reunification, COM(2008) 610 final, 2008, pg. 30

65 International Organisation for Migration, D. Zammit, *Final Report-Consultative assessment of Integration of Third Country Nationals*, 2012, pg. 14. See also: *Migrant Integration Policy Index* (2011), op cit. pg. 136

meets the general health and safety standards in force in Malta<sup>66</sup>. In order to determine whether or not these criteria are satisfied Government Notice No. 750<sup>67</sup>, which is indicated as a reference point for the standards required under the *Status of Long-Term Residents (Third Country Nationals) Regulations*<sup>68</sup>, lays down a number of criteria in relation to structure and repairs, number of bedrooms, size of rooms, facilities, ventilation and electricity. Although the section relating to application for family reunification in the *Explanatory Leaflet*<sup>69</sup> issued by the Department of Citizenship and Expatriate Affairs do not specifically reference the cited Government Notice No. 750, these can be taken as the standards by which appropriate accommodation is measured.

Furthermore, the conservative approach of the legislator defines “family members” as spouses and unmarried minor children, including adopted children. Partners, dependent parents and adult children are not covered by the Maltese regulations.

The economic resources clause requires the TCN to have a stable and regular income which would be equivalent to at least the *average wage* in Malta, with an addition of *another 20% income* per family member. In the most recent Labour Force Survey, the average gross annual wage was calculated at €15,772<sup>70</sup>. The Directive requires that in stipulating the economic resources requirement Member States must evaluate these by reference to their nature and regularity and may take into account the level of *minimum national wages*, pensions and the number of family members.

Malta has some of the strictest rules in relation to the conditions of employment of TCN family members<sup>71</sup>. In this regard family members may only access the employment market after 12 months from their arrival

into Malta, subject to the satisfaction of a labour market test.

Lastly, family members may apply for an autonomous residence permit after the expiration of 5 years living in Malta. This permit is valid for a period of one year and is renewable annually. The requirements that family members must apply for the autonomous residence permit, as opposed to it being granted automatically after 5 years, and that such autonomous permit must be renewed annually leaves those living in abusive family scenarios in a vulnerable position.

It is important to point out that there exist two parallel procedures for the reunification of family members under Maltese law. One procedure is regulated by the *Family Reunification Regulations*, as outlined above, whilst the other is regulated by provisions in the *Immigration Act*<sup>72</sup>. The *Immigration Act* allows for the issuance of residence permits to TCNs and for such persons issued with a residence permit to apply to have any of their dependants reside with them in Malta. Under the Act, dependants are defined as child, step-child or adopted child under the age of twenty one, dependant parent or grandparent and “any other member of the family as may be prescribed by the Minister”<sup>73</sup>. This explains the number of “other family members” as quoted above under Key Figures for family reunification. The provisions for family reunification under the *Immigration Act* do not specify the procedures to be followed or eligibility criteria, and neither are there any supporting guidelines for applicants.

The existence of these two procedures which involve different processes, eligibility criteria and rights only adds to the complexity and uncertainty for the TCN applicant.

66 Regulation 3(1)(c) and Regulation 12(b) of the *Family Reunification Regulations*, S.L. 217.06.

67 See *Government Notice No. 750*, as published in the Government Gazette on the 23<sup>rd</sup> July 2010: <http://www.doi-archived.gov.mt/EN/gazetteonline/2010/07/gazts/GG%2023.7.pdf>

68 *Status of Long-term Residents (Third Country Nationals) Regulations*, S.L. 217.05

69 Department for Citizenship and Expatriate Affairs Respect of Residence Matters, (MHAS), *Issue of uniform residence permits to third country nationals who have been authorized to reside in Malta in accordance with existing legislation or policies.* - *Explanatory Leaflet*.

70 National Statistics Office, *Labour Force Survey: Q3/2013 - News Release*, 003/2014, 2014.

71 See footnote 66.

72 See Article 7(5) of the *Immigration Act*, Cap. 217 of the Laws of Malta.

73 Article 2, *ibid*.



## RECOMMENDATIONS

### Eligibility

The definition of what constitutes the “family” needs to be expanded to comprise partners, including same-sex couples, and possibly also other dependants in order to reflect the family-centric model existent in Malta.

Lower the minimum required age of the applicant spouse from 21 to 18. This would reflect the Malta’s legal marriageable age without parental consent.

Render the economic resources requirement less burdensome, in particular the financial requirement of an additional 20% income per family member. This is of particular importance to female migrants as sponsors, due to the reality that female TCNs are generally engaged in lower-paid employment sectors.

Introduce clearer eligibility criteria or guidelines in order to allow for less discretion in the decision-making process.

### Procedural

Reduce the maximum 9-month period within which the authorities are allowed to process applications.

Bring the family reunion procedures under the *Family Reunification Regulations* and the *Immigration Act* in line with each other.

### Rights Associated with the Status

Establish a formal procedure for the granting of an autonomous residence permit with provision for those TCN family members resident in Malta *ex ante* the adoption of the Directive. Importantly, adopt a system whereby after 5 years dependant family members are automatically granted autonomous resident permits. The possibility of shortening this time-frame should be explored, particularly for TCNs living in abusive family scenarios.

Allow family members to access employment immediately upon arrival and without the need for a labour market test. Although it seems that this is the adopted approach, translating this practice into law would give more legal certainty and clarity to applicants.

Grant family members access to social assistance and social benefits on the same level as the sponsoring TCN.

### Policy

Establish a national policy on integration that includes integration of family members.



# Education

“Education is key to ensuring that these pupils are equipped to become integrated, successful and productive citizens of the host country, in other words that migration can be positive both for migrants and for the host country.”<sup>74</sup>

Education is pivotal in preparing migrants and their descendants to be more successful and active participants<sup>75</sup> in the host society. Education and training play a major role in the integration of young adults and continues to do so with the 2<sup>nd</sup> and 3<sup>rd</sup> generations. One of the major challenges facing educational systems across Europe is addressing the increasing ethnic, cultural and religious diversity in national curricula and in teaching institutions themselves.

The right to access education and training is seen as so crucial to the integration process that throughout the body of EU legislation regulating migration and the rights of TCNs, Member States are obliged to grant such access to TCNs and their family members and also to illegally staying minor TCNs<sup>76</sup>.

## Key figures

With an increasing share of young migrants living across the EU and with a significant portion of these belonging to the group representing the

lowest education level<sup>77</sup>, the European integration agenda focuses on closing the gaps in academic achievements and lowering the levels of early-school leavers in migrant communities.

As mentioned in the previous section on family reunification, children joining TCN family members in Malta amounted to the majority of all family reunions. It is therefore not surprising that in 2010, 14.2% of migrants residing in Malta were below the age of 15, this figure rose to 14.7% in 2011<sup>78</sup> with an approximate figure of 555 students attending primary and secondary state schools belonging to ethnic minority groups<sup>79</sup>.

In spite of the figures, there is no national policy focusing on TCN education in Malta. A recent study on integration in education in Maltese schools found that 50% of the respondent teachers confirmed that there was need to change approaches in the classroom in order to account for the number of migrant students, whereas 85.7% of heads of schools acknowledged that they had never met any representatives from cultural and/or religious groups representing the diversity of the students present<sup>80</sup>.

## Legislation & Policies

### Main EU Legislation

*Directive 2011/98/EU of the European Parliament and of the Council of 13 December 2011 on a single application procedure for a single permit for third-country nationals to reside and work in*

74 European Commission, *Green Paper on Migration & Mobility: challenges and opportunities for EU education systems*, COM(2008) 423 final, 2008

75 Common Basic Principle Nr.5, *Common Basic Principles for Immigrant Integration Policy in the European Union*, established by the 2618th Council Meeting, Justice and Home Affairs, 2004, 14615/04 (Presse 321).

76 The main EU Directives granting access to education are listed in the Section on Legislation & Policies below.

77 *European Agenda for the Integration of Third Country Nationals*, SEC(2011)957 final, op cit. pg. 6.

78 International Organisation for Migration (IOM), Gauci J.P., *Malta Chapter, in Migration, Employment and Labour Market Integration Policies in the European Union* (2011), pg. 210

79 Ministry of Education and Employment, *An Early School Leaving Strategy for Malta*, 2012, pg. 18.

80 *Research Report: Integration in Education of Third Country Nationals*, 2012, op cit, pgs. 35, 41 and 72

*the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State*

*Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on Common standards and procedures in Member States for returning illegally staying third-country nationals*

*Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification*

*Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents*

The *Status of Long-term Residents (Third Country Nationals) Regulations*<sup>81</sup>, *Common Standards and procedures for returning illegally staying TCNs Regulations*<sup>82</sup> and *Right to Family Reunification Regulations*<sup>83</sup> all grant access to education to TCNs and/or their family members. Although the Regulations contain the right to access to education there are no policies or incentives that support such access to compulsory-age education, higher education or vocational training. In fact there is no specific policy relating to the education of migrants nor is there a policy on the inclusion and integration process for migrant students and their families<sup>84</sup>.

The *National Curriculum Framework for All* sets the framework and policy standards for primary and secondary education and affirms six principles of education, which include Entitlement; Diversity; Continuum of Achievement; Learner Centred Learning; Quality Assurance; and Teacher Professional Support<sup>85</sup>. The Framework explains that diversity as a cross-curricular theme is essential for education and that it will provide “spaces for learning about the languages, histories, traditions and cultures of non-dominant groups in a society” and it will encourage “cooperative learning in multicultural,

*multi-ethnic and other diverse contexts, combines traditional and local knowledge and know-how with advanced science and technology, and values the practice of multilingualism*<sup>86</sup>. However, it does not specifically address the specific needs of migrant students in relation to the specific support necessary to students and migrant parents, such as induction programmes, or teacher training programmes that address migrant students’ learning needs. Neither does the Framework highlight the importance of education in relation to the integration of migrant communities nor does not contain any measures to promote social integration through school or support to parents.

Although the *National Curriculum Framework* acknowledges that it is important that students and parents should be supported in learning Maltese and English in order for them to integrate quickly<sup>87</sup>, there is no mention of teaching of both the mother tongue and the culture of origin where this is possible<sup>88</sup>.

The *Further and Higher Education Strategy 2020* sets out as one of its priorities fair and equitable access to higher education with a particular focus on vulnerable groups, which include ethnic minorities<sup>89</sup>. Its recommendations include ensuring that support systems are in place for vulnerable groups and the development of a common approach in relation to the eligibility of different groups, including TCNs<sup>90</sup>.

Although state educational institutions require the payment of fees for non-nationals to attend, the *Policy on the Exemption Fees*<sup>91</sup> allows for prospective parents or students to apply for an exemption from the payment of fees. The possibility to apply for this exemption is granted to EU citizens, TCNs with long-term residence status, beneficiaries of international protection and asylum seekers.

81 *Status of Long-term Residents (Third Country Nationals) Regulations*, S.L. 217.05

82 *Common Standards and procedures for returning illegally staying Third-Country Nationals Regulations*, S.L. 217.12

83 *Right to Family Reunification Regulations*, S.L. 217.06

84 *Research Report: Integration in Education of Third Country Nationals*, 2012, op cit, pg. 15

85 Ministry of Education and Employment, *A National Curriculum Framework for All*, 2012. Pg. 6.

86 *Ibid.* pgs. 38-39.

87 *Ibid.* pg 4.

88 Interestingly the *Migrant Workers (Child Education) Regulations*, S.L. 327.220, which makes provision for the education of migrant workers’ children originating from a state with which Malta has a free movement agreement, specifically makes reference to the teaching of mother tongue and culture of origin in order to facilitate the re-integration into their country of origin [see Regulation 3].

89 *National Commission for Higher Education, Further and Higher Education Strategy 2020*, 2009, pg. 45

90 *Ibid.* pg. 46

91 Ministry of Education and Employment, *Policy on exemption Fees*, 2010

## RECOMMENDATIONS

### National Policy Level

The national education curriculum should address multicultural diversity, inclusiveness, contemporary cultures and the understanding of different religious beliefs.

Introduce specific measures relating to migrants and their specific needs, such as targeted Maltese and English language classes, and the opportunity to study their mother tongue and culture of origin, into the national curriculum.

State run institutions should be made aware of different cultural and religious celebrations and activities, in order to provide a space where different groups of students and parents and interact and integrate through social activities.

Establish a uniform national procedure for school entry that would include a needs assessment, the provision of comprehensible information to students and parents on specific issues and a school orientation session.

### Institutional Level

A uniform national policy should also standardise procedures in schools that would ensure school and parent communication with due consideration given to the varying needs of migrant parents.

Establish a parent and student induction programme and support framework when accessing the educational system, including information relating to the educational system, Maltese language classes and Maltese culture.

Teachers and support workers should to receive initial and on-going training on providing tuition to migrant students, including intercultural competence training. The training should also include appropriate exposure to code-switching techniques.

### Broader Level - Training & Higher Education:


Harmonise the entry procedures as to the eligibility of access to higher education and training in terms of different migrant groups, including a transparent and efficient recognition of qualification framework.

Ensure that support systems are in place for vulnerable migrants.

Make available appropriate and comprehensible information on the national educational system and education institutions, including higher education and training institutions to newly arrived TCNs.







MALTA IS ONE OF ELEVEN  
EU MEMBER STATES THAT  
DOES NOT GRANT ANY  
ELECTORAL RIGHTS TO  
THIRD-COUNTRY NATIONAL  
RESIDING IN THE TERRITORY

# Political Participation

“Migrants’ participation in the democratic process is important for their integration. Obstacles to migrants’ political participation in terms of legislative and structural barriers must be overcome to the greatest extent possible. The involvement of migrant representatives, including women, in the drawing up and implementation of integration policies and programmes should be enhanced”<sup>92</sup>.

The granting of political and civil rights to TCNs is one of the most controversial topics in the field of integration within the EU. On a European level it is, however, felt that political participation is important as it supports integration by enhancing the role of TCNs as residents and as participants in a democratic society<sup>93</sup>. The granting of such political rights provides a means of expression as well as a sensitisation towards responsibilities<sup>94</sup>, thus creating a balance between TCN rights and responsibilities in the host state. Nevertheless, the EU does not lay down any statutory provisions obliging Member States to grant political rights, including voting rights, to TCNs. EU law only regulates the rights to vote and stand of EU citizens in municipal and European Parliament Elections, in their own EU Member State or in that of their residence<sup>95</sup>.

Political participation in this context should be interpreted in the broadest manner possible. It should be taken to mean the most informal form of civic and cultural participation in society between different groups of TCNs, government and civil society, to participation on advisory platforms at various levels of governance and participation in mainstream (e.g. trade unions, NGOs) or migrant associations. The culmination would be the granting of the rights to vote and to stand at local, regional, national and EU elections.

## Key figures

Malta is one of eleven EU Member States that does not grant any electoral rights to third-country national residing in the territory<sup>96</sup>. This means that TCNs residing in Malta do not have the right to vote in national or municipal elections and neither do they have the right to stand for such elections.

There are approximately 761 voluntary organisations in Malta<sup>97</sup>, with approximately only 20 that seem to be migrant-led NGOs. Although migrants can join political parties and form associations, the total absence of structural support for associations and consultative bodies<sup>98</sup> for migrants makes it difficult for them to effectively participate in civic and political life.

92 *European Agenda for the Integration of Third Country Nationals*, SEC(2011)957 final, op cit., para A(2).

93 Common Basic Principle Nr.9, *Common Basic Principles for Immigrant Integration Policy in the European Union*, op. cit.

94 Communication from the Commission to the Council, the European Parliament, the European Economic and Social committee and the Committee of the Regions, *A Common Agenda for Integration - Framework for the Integration of Third-Country Nationals in the European Union*, COM/2005/0389 final, pg. 20.

95 See Article 22 of the *Treaty on the Functioning of the European Union* and Articles 39 and 40 of the *Charter of Fundamental Rights of the European Union*.

96 These figures do not include data for Croatia that joined the EU in 2013. See Also Forum Institute for Multicultural Affairs, *Voting Rights in Europe, Forum Factsheet 2012*, pgs. 7 - 8

97 Office of the Commissioner for Voluntary Organisations, *Annual Report 2012, 2013*, pg. 7

98 *Migrant Integration Policy Index (2011)*, op cit., pg. 137

Figure 6: Portion of Migrant Voluntary Organisations in Malta



### Legislation & Policies

There is no current EU legislation setting down rules relating to the right of TCNs to vote or stand in national, regional or municipal elections.

As mentioned previously, there is nothing in Maltese law or policy that allows for TCNs to vote or to stand in local or national elections. The Constitution of Malta<sup>99</sup> and the General Elections Act<sup>100</sup> grant the right to vote and stand in national elections to Maltese citizens. In addition, the Local Councils Act<sup>101</sup> and the European Parliament Elections Act<sup>102</sup> extend the right to vote and stand in local and European Parliamentary elections to EU citizens, besides Maltese citizens.

In addition to the absence of any statutory regulation of TCN voting rights, there seems to be a lack of political will to engage in any constructive dialogue on the issue. In 2009, a couple of months before the European Parliament elections, the two main political parties in Malta “trade[d] blows”<sup>103</sup> on migrant voting rights after a Committee on Civil Liberties, Justice and Home Affairs<sup>104</sup> (LIBE Committee) report on a Common Immigration Policy for Europe<sup>105</sup> was adopted in the European Parliament. This Report called on Member States to enable political participation and the grant the opportunity to vote in local elections to resident migrants.

Former Nationalist MEP Simon Busuttill, LIBE Committee rapporteur, was quoted as stating that granting voting rights to migrants in Malta was “one of the red lines that we cannot cross”.<sup>106</sup> Although Busuttill accused Maltese socialist MEPs of not exerting enough pressure on their parliamentary group, the Maltese socialist MEPs were also against the granting of voting rights to migrants due to “Malta’s demographic situation”<sup>107</sup>.

TCNs are also relatively absent in public discourse and in political processes in Malta, although they form approximately 2.4% of the Maltese population.<sup>108</sup> In addition, their representation in civic and political institutions is virtually non-existent<sup>109</sup>. To date there are no consultative bodies of TCNs or representatives of TCNs on national bodies at a national or local level. Furthermore, there are no active national policies on engaging TCNs in political discourse, supporting or informing them of their right to engage. In addition, there is notable lack of willingness on the part of migrants to participate in Malta’s political spheres, possibly due to the prioritisation of other activities such as education and employment, the above-mentioned element of fear of exposure and retribution, and also the understanding that their stay in Malta may not necessarily be a long-term one.

99 Constitution of Malta, 1964.

100 General Elections Act, Chapter 354 of the Laws of Malta

101 Local Councils Act, Chapter 363 of the Laws of Malta

102 European Parliament Elections Act, Chapter 467 of the Laws of Malta

103 The Malta Independent, David Lindsay, *PN, PL Continue to trade blows on migrant voting rights*, 24th April 2009

104 Civil Liberties, Justice and Home Affairs: <http://www.europarl.europa.eu/committees/en/libe/home.html>

105 European Parliament Report on a Common Immigration Policy for Europe: Principles, actions and tools (2008/2331(INI)), 2009.

106 Times of Malta, *MEPs seek voting rights for immigrants*, by Ivan Camilleri, 1/04/2009; Times of Malta, *Voting rights for migrants ‘a red line issue’*, by Ivan Camilleri, 23/4/2009. The Malta Independent, *PN, PL Continue to trade blows on migrant voting rights*, by David Lindsay, 24/4/2009.

107 See Explanations of votes: <http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A6-2009-0251&language=EN#title6>

108 *Migrant Integration Policy Index (2011)*, op cit., pg. 135

109 European Network Against Racism, Gauci P. & Pisani M., *Shadow Report 2011-2012: Racism and Related Practices in Malta*, 2013, pg.34

## RECOMMENDATIONS

Establish migrant consultative bodies that would have a strong role in national and local decision-making through formalised consultation procedures<sup>110</sup>. These bodies should have clear membership criteria and operating rules and could be set up at a national level in dialogue with government and on a local level with local councils.

Grant the rights to vote and stand in local elections to all migrant residents and remove any obstacles to civic and political participation<sup>111</sup>.

Explore the possibility of granting voting rights at the national level for certain groups of migrants.

Increase TCN participation in the democratic process through national and local awareness raising, information campaigns and capacity-building (e.g. funding, training).

Facilitate and encourage TCN participation in mainstream organisations, such as trade unions, women's organisations, political parties, and local pressure groups.

Encourage the media to raise public awareness on migrant-related issues by highlighting integration, interculturalism and diversity.



110 For example the Finnish Advisory Board for Ethnic Relations (ETNO) is appointed to provide expert assistance on immigration policy and ethnic diversity, whereas the Danish Council for Ethnic Minorities is selected through an election process and also advises government on migration and refugee issues.

111 The Netherlands grants migrants the right to vote and stand at municipal elections after 5 years of legal residence. See *Voting Rights in Europe, Forum Factsheet 2012*, op cit., pg. 7





# Long-term Residence

“The legal status of third country nationals should be approximated to that of Member States’ nationals. A person, who has resided legally in a Member State for a period of time to be determined and who holds a long-term residence permit, should be granted in that Member State a set of uniform rights which are as near as possible to those enjoyed by EU citizens”<sup>112</sup>

The granting of long-term residency status, together with access to certain rights such as education, employment and social security and assistance is therefore seen as a key element in promoting economic and social cohesion across the EU. The idea behind the harmonisation of national rules on the granting of long-term residency status, and of consequential rights and obligations, promotes mutual assurance between Member States and allows for TCNs to reside in other Member States, together with their families, in conformity with the free movement of persons principle.

Although the long-term residency regime grants an extended set of rights to TCNs residing in the EU for a number of years and is considered to be a crucial tool for achieving TCN integration, it had a relatively weak impact in many Member States<sup>113</sup>. This may be due to a general lack of information amongst TCNs on the applicable legislative framework and the many

deficiencies found in the implementing legislation<sup>114</sup> in a number of Member States.

## Key figures

Across the EU approximately half a million TCNs have been granted long-term residency status between in the coming into force of the *Long-Term Residence Directive* and 2009. However, four-fifths of these TCNs live in only four Member States, namely Estonia, Austria, Czech Republic and Italy<sup>115</sup>. The number is small in comparison to the twenty million TCNs residing in the EU<sup>116</sup>.

There is no available statistical information in relation to the number of TCNs granted long-term residence status in Malta since the transposition of the rules into Maltese law.

## Legislation & Policies

### Main EU Legislation

*Council Directive 2003/109/EC concerning the status of third-country nationals who are long-term residents*

*The Status of Long-Term Residents (Third Country Nationals) Regulations*<sup>117</sup> allows for TCNs, after 5 years residence in Malta, to apply for long-term residence status and be granted equal access to education and training, employment and self-employment, social security, social assistance and social protection, tax benefits and access to goods and services, amongst others.

112 *Presidency Conclusions*, Tampere European Council, October 1999, paragraph 12

113 *Report from the Commission to the European Parliament and the Council on the application of Directive 2003/109/EC concerning the status of third-country nationals who are long-term residents*, 2011, pg. 10.

114 *Ibid.*

115 *Ibid.*

116 *Communication from the Commission to the European Parliament and the Council*, 4<sup>th</sup> Annual Report on Immigration and Asylum (2012), COM(2013) 422 final, 2013, pg. 3

117 *Status of Long-term Residents (Third Country Nationals) Regulations*, S.L. 217.05

Maltese law contains various requirements for the TCN to be eligible to apply. The Regulation obliges the TCN to provide evidence of stable and regular resources equivalent to the average wage in Malta with an additional 20% of such average gross wage for each member of the family. In the most recent Labour Force Survey, the average gross annual wage was calculated at €15,772<sup>118</sup>. Prior to amendments in 2010, the Regulation made reference to the national minimum wage, which is approximately €8,600.00<sup>119</sup>.

Furthermore, the TCN must provide evidence of accommodation that must not be shared with non-family members. This obligation to provide evidence of housing which is not shared is not a requirement under the Directive. Therefore the failure to provide such evidence as a ground for refusal may be in breach of the Directive. In addition, such accommodation must be "*regarded as normal for a comparable family in Malta*"<sup>120</sup> and must meet the standards laid down in Government Notice No. 750<sup>121</sup>, which is as indicated above, lays down a number of criteria in relation to structure and repairs, number of bedrooms, size of rooms, facilities, ventilation and electricity.

Any TCN applicant must pass an integration course with a 75% pass mark, together with an English or Maltese language test also with a 75% pass mark. Although the Directive allows for the imposition of integration courses, the Commission has emphasised that this must be done proportionally and must not require from the TCN more than is expected from nationals<sup>122</sup>. In this regard the 75% pass mark may seem as excessively onerous. It is also noted that there is only one entity authorised to provide such course (ETC), rendering eligible migrants entirely dependent on course availability and hours.

Furthermore, the Directive's facilitated procedure for reacquisition of long-term residence status when the TCN is absent from the territory of the European Union for 12 months or absent for 6 years from the territory of the Member State that granted long-term residence status but residing in another Member State, does not seem to have been transposed into Maltese law.

Interestingly Malta did not transpose the amendment to the Directive published in 2011<sup>123</sup> that extended the scope of the long-term residence framework to beneficiaries of international protection and required Member States to amend their respective legislation by 20 May 2013.

The European Commission has opened infringement proceedings<sup>124</sup> against Malta on the basis that Maltese law does not completely reflect the Long-Term Residence Directive<sup>125</sup>. The Formal Notice sent to the Maltese Government on the 21<sup>st</sup> February, 2013 is not public and therefore it is not possible to confirm which Directive provisions are specifically referred to.

118 National Statistics Office, *Labour Force Survey: Q3/2013 - News Release*, 003/2014, 2014.

119 *Approximate calculation in accordance with the National Minimum Wage National Standard Order*, S.L. 452.71

120 Regulation 5(2)(b) of *Status of Long-term Residents (Third Country Nationals) Regulations*, op cit.

121 See *Government Notice No. 750*, as published in the *Government Gazette* on the 23<sup>rd</sup> July 2010: <http://www.doi-archived.gov.mt/EN/gazetteonline/2010/07/gazts/GG%2023.7.pdf>

122 *Report from the Commission to the European Parliament and the Council on the application of Directive 2003/109/EC concerning the status of third-country nationals who are long-term residents*, op cit. pg 3.

123 Directive 2011/51/EU of the European Parliament and of the Council of 11 May 2011 *amending Council Directive 2003/109/EC to extend its scope to beneficiaries of international protection*.

124 Infringement proceedings maybe instituted by the European Commission against a Member State if it has failed to fulfil an obligation under the Treaties in accordance with Article 258 of the *Treaty on the Functioning of the European Union*.

125 Infringements of EU Home Affairs law: [http://ec.europa.eu/dgs/home-affairs/what-is-new/eu-law-and-monitoring/infringements\\_by\\_country\\_malta\\_en.htm](http://ec.europa.eu/dgs/home-affairs/what-is-new/eu-law-and-monitoring/infringements_by_country_malta_en.htm).



## RECOMMENDATIONS

Lower the required thresholds in relation to stable and regular resources, as the current levels render the process effectively inaccessible for large numbers of migrants and international protection beneficiaries. In addition, the Regulations seem to run counter to the spirit of the Directive, which states that the evaluation of stable and regular resources should be made *"by reference to their nature and regularity and may take into account the level of minimum wages and pensions<sup>126</sup>"*.

The Directive obliges Member States to grant long-term residence if applicants fulfil the requirements on duration of residence, stable and regular resources and sickness insurance, and any refusal based on the absence of appropriate accommodation evidence is in breach of the Directive<sup>127</sup>. In this regard, it is strongly recommended to remove the present requirement of evidence of appropriate accommodation from the list of eligibility criteria.

Remove the requirement that any evidence of appropriate accommodation must relate to accommodation that is not shared with non-family members, as many migrant workers share accommodation with co-workers or other people.

Lower the requirement of a 75% pass mark for both the integration and language courses, keeping in mind that Malta is not permitted to expect higher standards from TCNs than from their own nationals.

Extend the timeframe for attending and passing the integration and language courses, as the current twelve month timeframe prior to applying for the long-term residence permit is challenging for migrants who are in full-time employment.

Improve the integration courses in relation to the relevancy and benefits of the course content to migrants and the frequency with which they are offered. Consider liberalising the list of course-providers to encourage flexibility, accessibility and improved quality of content.



<sup>126</sup> Article 5(1)(a) of the *Long-Term Residency Directive*, op. cit

<sup>127</sup> *Report from the Commission to the European Parliament and the Council on the application of Directive 2003/109/EC concerning the status of third-country nationals who are long-term residents*, pg. 4





# Access to Nationality

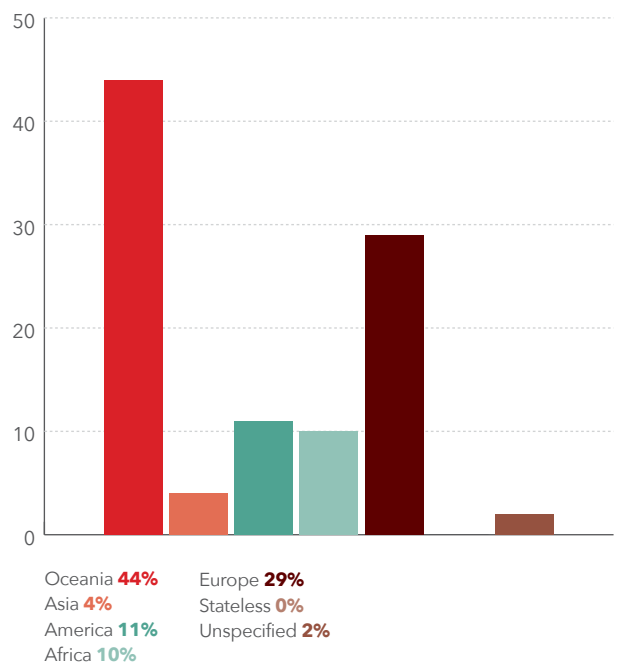
“[A]ccess to citizenship can be seen as indicator of integration, in the sense that it closes an important legal gap between immigrants and natives.”<sup>128</sup>

Although Member States have largely unfettered power to determine the scope of their own nationality laws, whilst keeping in mind obligations under the EU Treaties, the European Council acknowledges that from a migrant’s perspective, the prospect of acquiring Member State citizenship can be an important incentive for integration<sup>129</sup>. In addition, every national of a Member State is also a citizen of the European Union<sup>130</sup>, acquiring all the rights attached to such status. Consequently, any national legislation or policy in this regard will have an effect in other Member States and across the EU generally. Malta has some of the most unfavourable conditions for naturalisation of migrants across the EU and it has been recognised that most migrants will never be eligible to become Maltese citizens unless a Maltese national marries, adopts or has given birth to them<sup>131</sup>.

## Key figures

Over the past years Malta has seen a steady decline in the numbers of persons granted citizenship through naturalisation, with a sharp pre-election spike in 2012<sup>132</sup>. The removal of the prohibition of dual citizenship and also the extension of such to first, second and subsequent generations of Maltese born out of Malta can explain slight increases in naturalisations<sup>133</sup> post-2007. A large majority of the persons obtaining Maltese citizenship originated from Australia, followed closely by the United Kingdom,<sup>134</sup> which reflects the large Maltese diaspora present in those countries.

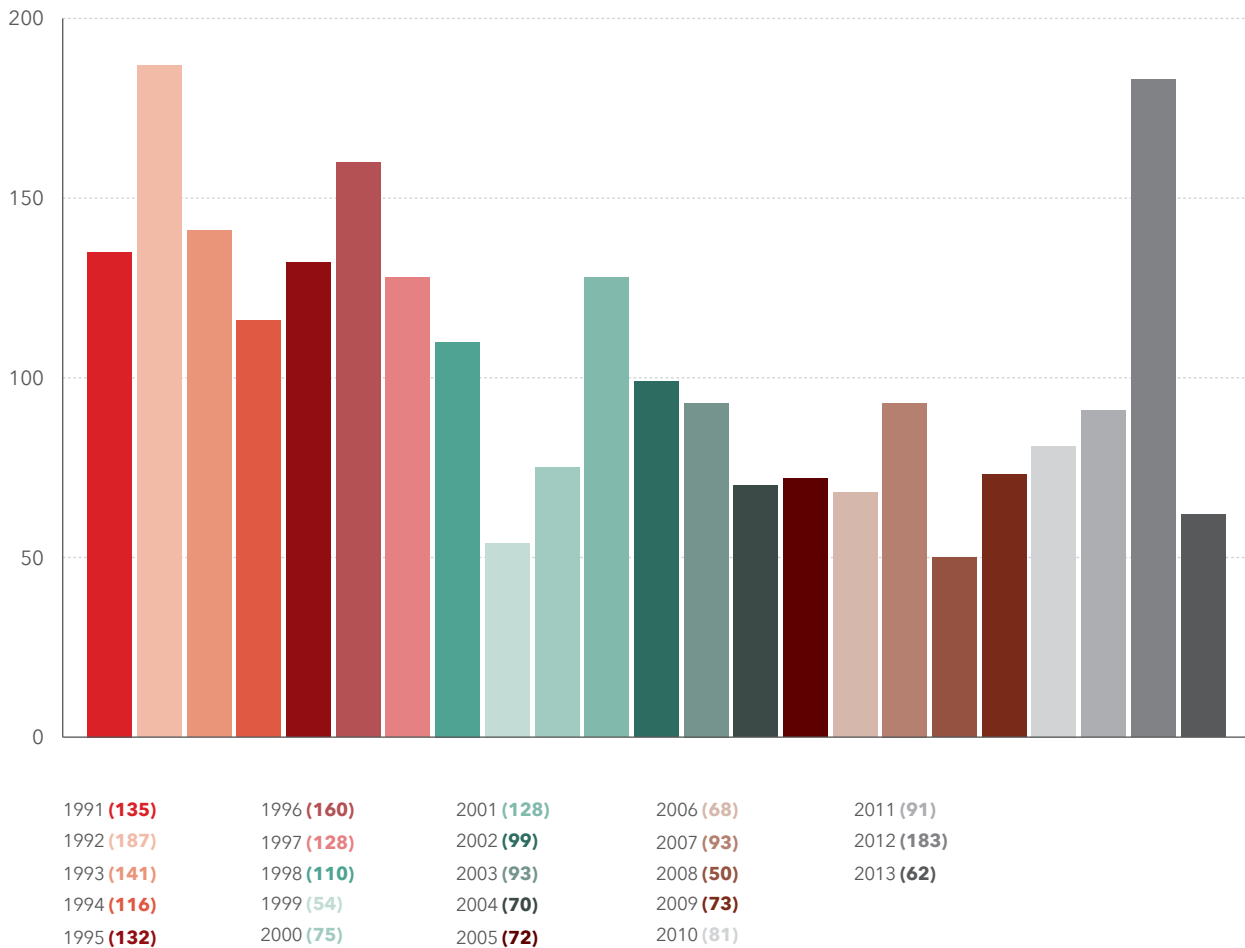
Figure 8: Naturalisations by Countries of Origin - 2010



128 Vink M., *Immigrant Integration and Access to Citizenship in the European Union: The Role of Origin Countries*, INTERACT RR 2013/05, Robert Schuman Centre for Advanced Studies, European University Institute, 2013, pg. 1  
 129 *Common Basic Principles for Immigrant Integration Policy in the European Union*, established by the 2618th Council Meeting, Justice and Home Affairs, 2004, 14615/04 (Presse 321).  
 130 Article 9 of the *Treaty on the European Union*.  
 131 *Migrant Integration Policy Index (2011)*, op cit., pg. 138

132 Figures as quoted in *Naturalisation shoots up*, MaltaToday, James Debono, 7/05/2013  
 133 EUDO Citizenship Observatory, Debono D., *Naturalisation Procedures for Immigrants Malta*, 2013, pg 9  
 134 National statistics office, *Malta - Demographic Review 2010*, Published by the National Statistics Office Lascares 2011, pg xiv.

Figure 7: Naturalisation Rates in Malta



## Legislation & Policies

There is no current EU legislation setting down rules relating to the right of TCNs to apply for or be granted citizenship.

The modes of acquisition of citizenship in Malta are regulated by the *Constitution*<sup>135</sup> and the *Citizenship Act*<sup>136</sup>. The primary mode in which one acquires citizenship is through parents or ascendants that are Maltese citizens<sup>137</sup>, followed by acquisition by

adoption, spousal transfer of citizenship after 5 years of marriage, acquisition by registration<sup>138</sup> and acquisition by naturalisation.

In brief, in order to be eligible for naturalisation<sup>139</sup>, the applicant:

- must have resided in Malta for 12 months immediately preceding the date of application;
- must have resided in Malta during the 6 years immediately preceding the 12 month period and in aggregate for a period of not less than 4 years;

<sup>135</sup> Chapter III of the *Constitution of Malta*, 1964

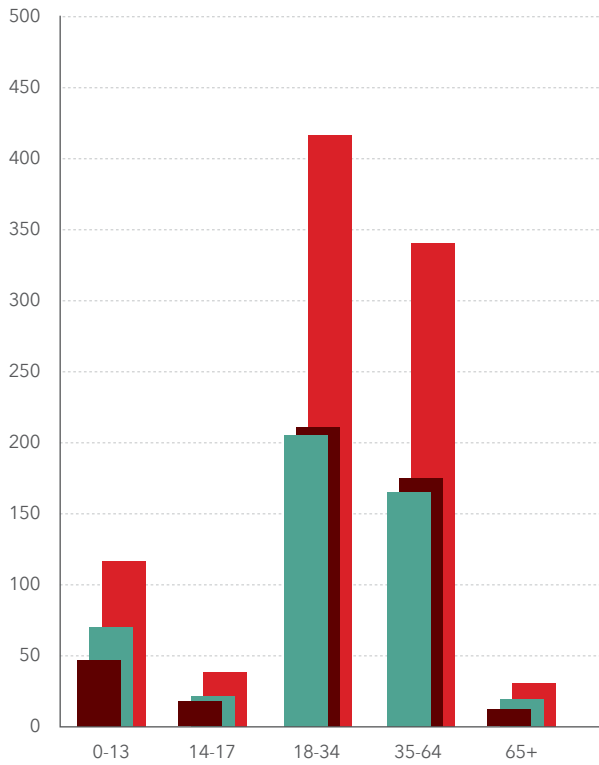
<sup>136</sup> *Maltese Citizenship Act*, Chapter 188 of the Laws of Malta

<sup>137</sup> Maltese law follows the doctrine of *ius sanguinis* which determines that citizenship is acquired through parents or ascendants who are citizens of a state, as opposed to *ius soli* that grants citizenship to persons born on the territory of a state.

<sup>138</sup> This applies to former citizens who lost their citizenship or persons born outside Malta before 1989 whose parents are Maltese may apply to register as a Maltese citizen. For a complete overview of Maltese citizenship rules see EUDO Citizenship Observatory, Buttigieg E., *Country report: Malta 2009*, revised April 2010

<sup>139</sup> Article 10(1) of the *Maltese Citizenship Act*, op. cit.

Figure 9: Naturalisation by Age - 2010



Female (463)	Male (480)	Total (943)
0-13 <b>47</b>	0-13 <b>70</b>	0-13 <b>117</b>
14-17 <b>18</b>	14-17 <b>21</b>	14-17 <b>39</b>
18-34 <b>211</b>	18-34 <b>205</b>	18-34 <b>416</b>
35-64 <b>175</b>	35-64 <b>165</b>	35-64 <b>340</b>
65+ <b>12</b>	65+ <b>19</b>	65+ <b>31</b>

- must have an adequate knowledge of the Maltese or the English language;
- must be of good character; and
- would be a suitable citizen of Malta.

The eligibility criteria, apart from the objective time-periods required, are drafted in extremely broad and vague terms, such as the “good character”, “suitable citizen” and “adequate knowledge” of Maltese or English criteria. There are no clear guidelines on what these terms mean and there seems to be no systematic and consistent assessment of their fulfilment. It is felt that the fact that two trustworthy sponsors are required to confirm that the applicant is

of good character and would be a suitable citizen<sup>140</sup> shifts the responsibility from the Government to the sponsors. The *Explanatory Leaflet on the Acquisition of Maltese Citizenship by Naturalisation*<sup>141</sup> does not explain the methods of assessment that will be adopted in the processing of each application and therefore the applicant cannot assess eligibility or otherwise prior to submission of an application.

Furthermore, the Minister responsible for matters relating to citizenship is not required to give any reasons for the granting or refusal of any application, and decisions are not subject to appeal or review in any court<sup>142</sup>. This absolute discretionary power of the Minister leaves applicants uncertain about the outcome of their application and leaves them without the possibility of any judicial review of decisions which they may consider unjust, discriminatory, erroneous or illegal.

## RECOMMENDATIONS

Lay down public, clear and specific criteria which applicants are required to fulfil in order to be eligible for naturalisation.

Establish and publicise an objective and transparent assessment method to be adopted by the authorities in processing applications, at both admissibility and substantive stages.

Implement procedural guarantees that provide for clear timeframes within which a decision must be taken, provision of reasons for the refusal of an application, and possibility to appeal/review any such decision.

Remove the unfettered discretionary power of the Minister with a view to make the process more transparent and fair.

140 Part III, Form E Application for Naturalisation as a Citizen of Malta, [http://gov.mt/en/Services-And-Information/eforms/Documents/eForms%20PDF/MFA/C-EA/Immigration\\_Rights\\_Application\\_\(Form\\_E\).pdf](http://gov.mt/en/Services-And-Information/eforms/Documents/eForms%20PDF/MFA/C-EA/Immigration_Rights_Application_(Form_E).pdf)

141 Explanatory Leaflet on the Acquisition of Maltese Citizenship by Naturalisation: <http://mhas.gov.mt/en/MHAS-Information/Services/Documents/Citizenship/CEA3-NAT.pdf>

142 Article 19 of the *Maltese Citizenship Act*, op. cit.





# Recommendations for a National Integration Policy

“the perspective of migrant groups should be incorporated into all policies at all levels of governance... organisations tasked with addressing the needs of the general society or community should ensure equal access to their services by an increasingly diverse population; and ... government agencies must learn to balance mainstreamed approaches with targeted measures in those contexts where more specific migrant needs are evidenced.”<sup>143</sup>

The aim of the MIN project was to present concrete recommendations on the drafting of a national integration policy framework that would include the specific sectoral recommendations as presented in the policy sections of this Report. However, during the course of the project a number of horizontal concerns emerged, primarily centering around the lack of a sound institutional structure and of a holistic long-term integration strategy. In view of these findings, the 8<sup>th</sup> November Networking Roundtable Meeting focused primarily on these two concerns as outlined below.

## The Role of Regulatory and Consultative Bodies

*“Consultative bodies at the local and national levels could potentially stimulate immigrant political participation and improve integration policies by communicating the views of immigrant representatives to governments and other stakeholders.”*<sup>144</sup>

As seen above, whilst Malta has been seeing steady increases of the TCN population government bodies and institutions, as possibly other stakeholders, have not been as quick to react. The existence of strong regulatory or consultative bodies in which migrants are invited and able to participate is generally considered to facilitate migrant contribution to national policies, result in better targeted measures and increase protection of migrant rights.

The Council of Europe, in its *Explanatory Report to the Convention on the Participation of Foreigners in Public Life at Local Level*<sup>145</sup>, defines consultative bodies or other institutional arrangements representing foreign residents as having a variety of forms, in particular:

- a. participation by representatives of foreign residents in an advisory capacity in the deliberations of local authority committees;
- b. consultative committees with mixed membership comprising members of local authority committees and representatives of foreign residents; or
- c. consultative councils with purely foreign membership<sup>146</sup>.

The foreign representatives on these bodies may be directly elected by the migrant members or nominated by relevant migrant organisations. A number of best practices across Europe can be

143 Ponzo I, et. *EU-MIA Project - Researching Functioning Policy Practices in Local Integration in Europe: A Conceptual and Methodological Discussion Paper*, 2013, pg. 11

144 Migration Policy Group, *EWSI Special Feature, Migration Political Participation*, 2013/1, 2013

145 *Convention on the Participation of Foreigners in Public Life at Local Level*, CETS No. 144, 1992. Malta has not signed the Convention.

146 Chapter B, Article 5, *Explanatory Report on the Convention on the Participation of Foreigners in Public Life at Local Level*, CETS No. 144, 1992

identified and this part of the Report focuses on two bodies: the High Commission for Immigration and Intercultural in Portugal and the Council for Ethnic Minorities in Denmark. However, it must be noted that other bodies exist such as the Advisory Board on Ethnic Relations (ETNO) in Finland, the Spanish Forum for the Social Integration of Immigrants and the Ministerial Council on Integration in Ireland<sup>147</sup>.

Set up in 2007, the High Commission for Immigration and Intercultural Dialogue (ACIDI<sup>148</sup>) is the Portuguese public institute responsible for the integration of immigrants<sup>149</sup> working as a transversal public institute under the Presidency of the Council of Ministers in Portugal. ACIDI was set up in order to collaborate in the creation, implementation and evaluation of crosscutting public policies relating to the integration of migrants and ethnic minorities, as well as to promote dialogue between various cultures, ethnic groups and religions. It is also the body responsible for the implementation of legal measures preventing and prohibiting discrimination and it provides Government consultation and supporting in all matters relating to immigration and integration.

ACIDI does not only provide public information on immigration and a platform for discussion but it also offers a number of services such as an SOS immigrant phone-line and outreach projects. Within the ACIDI structure, the National Immigration Support Centres (CNAI<sup>150</sup>) provide support in the form of socio-cultural mediators, legal support offices, family reunification support, employment and housing support and health offices.

ACIDI also presides over the Advisory Board for Immigration Affairs (COCAI<sup>151</sup>), which is composed of a representative of each government ministry involved in migrant affairs, representatives from the autonomous regions and municipalities and

representatives from migrant groups. The Board advises on policies relating to social integration, which includes promotion of anti-discrimination and equality, the promotion of migrant rights and support of migrant associations, including funding<sup>152</sup>.

The Council for Ethnic Minorities<sup>153</sup> in Denmark, set up in 1999, aims to promote the participation of ethnic minorities in all sectors of society. It advises the Ministry of Children, Gender Equality, Integration and Social Affairs on issues of import to migrants and refugees. Although the Council contributes to discussions on current affairs, new initiatives and legislation, it does not hear individual complaints.

The 14 members that sit on the Council are elected from amongst representatives of local integration councils in the various municipalities across Denmark. The municipal governments may establish councils for integration in their municipality. There are around 50 municipalities that have established local integration councils that consist mainly of representatives of local associations that represent ethnic minorities. These councils give a voice to the ethnic minorities residing in each municipality and they also act as an advisor to the local government in relation to issues relating to migration and integration.

In carrying out its work, the Council meets the Minister responsible for integration every three months to discuss current issues, new initiatives and legislation in the area. In addition, the Minister can also request opinions and statements from the Council on any specific topics and action plans. It participates in a number of relevant committees and advisory boards, such as the User Panel of the Danish Immigration Service<sup>154</sup> and the Committee for Equal Treatment within the Danish Institute for Human Rights<sup>155</sup>. In relation to its outreach work, the Council takes initiatives for specific integration actions, project and participates in public debates.

147 For more information on these three bodies See: Centre for Public Policy PROVIDUS, Golubeva M., *Consultative bodies and dialogue platforms for immigrant communities: lessons from three EU countries*, 2012. See also Migration Policy Group, Huddleston T., *Consulting Immigrations to Improve National Policies*, 2011

148 Alto Comissariado para a Imigração e Diálogo Intercultural (ACIDI)

149 ACIDI Information Booklet: [http://www.acidi.gov.pt/institucional\\_book.pdf](http://www.acidi.gov.pt/institucional_book.pdf)

150 Centros Nacionais de Apoio ao Imigrante (CNAI) - <http://www.acidi.gov.pt/es-imigrante/servicos/centros-nacionais-de-apoio-ao-imigrante---cnai>

151 Conselho consultivo para os assuntos de imigração (COCAI) - <http://acidi.gov.pt.s3.amazonaws.com/docs/Publicacoes/Relatorio%20Actividades/10Capitulo.pdf>

152 International Organisation for Migration, *Compendium of Migrant Integration Policies and Practices*, 2010, pgs. 162-163

153 Rådet for Etniske Minoriteter Website: <http://www.rem.dk/sw10565.asp>

154 The User Panel was set up to bring together the Danish Immigration Service and immigrant's representatives.

155 Committee for Equal Treatment: <http://www.humanrights.dk/about-us/committee-equal-treatment>

## RECOMMENDATIONS

Set up a consultative council or institutional body that would allow migrants to dialogue with Government on legislation and policy affecting migrants, on new initiatives and on outreach projects.

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The council's set up should include frequently scheduled meetings with representatives from relevant ministries, since integration touches upon a number of transversal issues, such as education, health, labour, etc.

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The members of the council should represent migrant groups from the various ethnic minority groups resident in Malta in an inclusive manner.

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The Government should be required to seek the advice and recommendations from the council on issues such as legislative and policy initiatives relating to migration and integration.

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The council should be allocated sufficient resources in order to carry out awareness raising campaigns (e.g. anti-racism, promoting of diversity), capacity-building, advocacy and information sessions.

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The council and the national equality bodies (e.g. NCPE) should have formal channels of communication, in order for the national bodies to support the council with training and information sessions on current legislation, reporting mechanisms, etc. Furthermore, the council should be empowered to regularly updated equality bodies on developments regarding the situation of migrants in Malta.

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Along the best practice model developed through the MIN project, the council should also be a forum where migrants, NGOs, academia and the government are able to discuss specific issues relating to integration and also legislation and policies relating to migration.

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# Elements of a National Integration Policy

“Integration is a dynamic, two-way process of mutual interaction, requiring not only efforts by national, regional and local authorities but also a greater commitment by the host community and immigrants.”<sup>156</sup>

Integration should be seen as a two-way process involving adaptation by both the migrant and the host society. The balance between the two groups and the associated expectations, from both, are central to the content of any national integration policy<sup>157</sup>. It is also noted that recent research is also describing integration as a three-way process<sup>158</sup>, also involving the migrants’ countries of origin.

Member States vary in their integration models, with some focusing on “multicultural” policies that emphasise group-based rights and own-language teaching, whilst others moved along the “assimilation” approach, with a stronger emphasis on socio-economic and linguistic adaptation. It must also be reiterated that the body of EU legislation and CJEU jurisprudence relating to equal treatment, labour migration, long-term residency and family reunification also influences national legislation and policy.

In drafting a national policy, it is recommended that the competent authorities engage in an on-going dialogue with the various stakeholders who have extensive experience in dealing with issues affecting TCNs. This dialogue ought to be centered around a series of questions, the answers to which will provide guidance in the creation of a national strategy on the integration of migrants in Malta, as for example:

- Which groups should be the focus of an integration policy?
- What processes of integration should be adopted in the short-, mid- and long-terms?
- What indicators need to be established in order to measure and evaluate integration progress?
- Does linguistic and cultural adaptation fall into the equation of integration?
- How can racism and xenophobia be tackled within the policy?
- What scenarios could be envisaged should not integration policy be formulated and implemented?
- How can migrant communities be included with the on-going evaluation and development of the integration policy?
- What are the economic costs and benefits associates with migrant integration?

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<sup>156</sup> European Council, *The Stockholm Programme - An Open and Secure Europe Serving and Protecting Citizens* (2010/C 115/01), para. 6.1.5.

<sup>157</sup> Boswell C., Geddes A., *Migration and Mobility in the European Union*, 2011, pg. 201

<sup>158</sup> INTERACT - *Researching Third Country Nationals’ Integration As A Three-Way Process - Immigrants, Countries of Emigration and Countries of Immigration as Actors of Integration, The Conceptual Framework of the INTERACT Project*: <http://cadmus.eui.eu/bitstream/handle/1814/29566/INTERACT-2014%20-%2001.pdf?sequence=1>

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General Elections Act, Chapter 354 of the Laws of Malta  
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