



The Organisation of Asylum and Migration Policies

Factsheet: Malta

1. Introduction

This factsheet provides an overview of how asylum and migration policies are organised in *Malta*, including the organisation of the institutional and regulatory context and framework for dealing with third-country nationals coming for the purpose of legal immigration or for international protection. It is based on information provided in the Malta National Report of the EMN Study *The Organisation of Asylum and Migration Policies in EU Member States*¹, as at January 2009, updated as at *September 2012*. The Report was based on desk research: key sources were the Immigration Police, the Department of Citizenship and Expatriates Affairs, the Central Visa Unit, the now Agency for the Welfare of Asylum Seekers, the Office of the Refugee Commissioner, the Refugee Appeals Board and the Employment and Training Corporation.

2. Overview of organisation of political, legislative and institutional framework

2.1 The political system and institutional context

The Malta Government administration is currently organised under twelve Ministries. The Ministry for Home Affairs is the major player in respect of illegal immigration and asylum, and it is also responsible for border control issues. In the field of Asylum, the Office of the Refugee Commissioner, and the Refugee Appeals Board, the asylum determination bodies, fall under this Ministry's portfolio. Irregular Immigration and border control are managed by the Police Immigration Department within the Police Special Branch. A Committee on which the main Government entities involved in the sector are represented, has been established. This is a central decision making body that discusses the operational aspects of immigration. The Ministry of Foreign Affairs is involved in the migration process in view of its responsibility for consular matters and the Central Visa Unit, as well as in view of its responsibility for the Citizenship and Expatriate Affairs Department, which issues Residence Permits.

2.2 The legal framework

The principal legal instrument is the Immigration Act, Chapter 217 of the Laws of Malta and subsidiary legislation there under. The Act features provisions relating to border control, illegal entry, readmission of illegally present third-country nationals and the issuance of residence permits. Several amendments to this Act were effected over recent years with a view to transpose EU Directives. Regarding asylum, relevant Maltese legislation is the Refugees Act (Cap. 420) and subsidiary legislation there under, which regulates the national asylum system in Malta, by providing for a local asylum determination procedure. This Act also transposes the provisions of the Qualification and Procedures Directives. The Immigration Act also features provisions relevant to asylum seekers, such as those relating to reception conditions.

3. Development of migration and international protection systems

Since 2002 Malta has experienced considerable pressure regarding migration, and migration by boat in particular. Malta decriminalized illegal entry in December 2002. However, such migrants are subject to administrative detention. In June 2007 the Organisation for the Welfare and Integration of Asylum Seekers was officially set up to respond to the new and ever growing needs of asylum seekers and protected persons in particular. A successor organisation, the Agency for the Welfare of Asylum Seekers, was set up in 2009, regulated by Subsidiary Legislation under the Immigration Act. Malta joined the Schengen area in December 2007.

¹ Available on the EMN website

4. Organisation of policy

4.1 Overview of migration and international protection policy

Third-country nationals must upon entry have a valid passport, a valid visa, provide documents showing the purpose and conditions of their visit prior to entry in Malta, show that they have sufficient means to support themselves during their stay, have not been prohibited to enter through an alert on the Schengen Information System (SIS), and are not a threat to public policy, international security, public health or the international relation of any Member State. The Principal Immigration Officer has the power to grant leave and entry and remain in Malta to any person arriving for a period of up to three months.

Admission is only permitted to third-country nationals who are in possession of a valid travel document (passport) or recognized equivalent travel document; in possession of documents substantiating the purpose and the conditions of the planned visit, and have sufficient means of support; in possession of valid entry or transit visa if required; not prohibited to enter through an alert on SIS; not considered to be a threat to public policy, national security or international relations. If any one of the aforementioned conditions are not met, the third-country national may be denied entry by the border authorities.

Third-country nationals who enter and apply for asylum are not removed, but are allowed to remain pending a final decision on their asylum application. Residence permits are issued to third-country nationals who have been authorized to reside for a specific purpose. Residence permits are issued for a validity of maximum one year unless the individual is an exempt person or a long-term resident.

Third-country nationals can acquire Maltese citizenship by registration or naturalization. Persons, who have resided continuously for a period of five years, may apply for a certificate of naturalization.

Third-country nationals wishing to seek employment are required to submit an application form requesting the issue of an employment license to the relevant authorities before he/she is due to undertake employment in Malta. Third-country nationals will only be granted an employment license in circumstances where no suitable EU citizen is available to fill the vacancy. Refugees and persons enjoying subsidiary status have a full right to work and are issued with a permit automatically.

Returns are carried out by the Principal Immigration Officer in cooperation with the police. A police escort and charter flight are often required to accompany the deportee.

4.2 Links with other policies

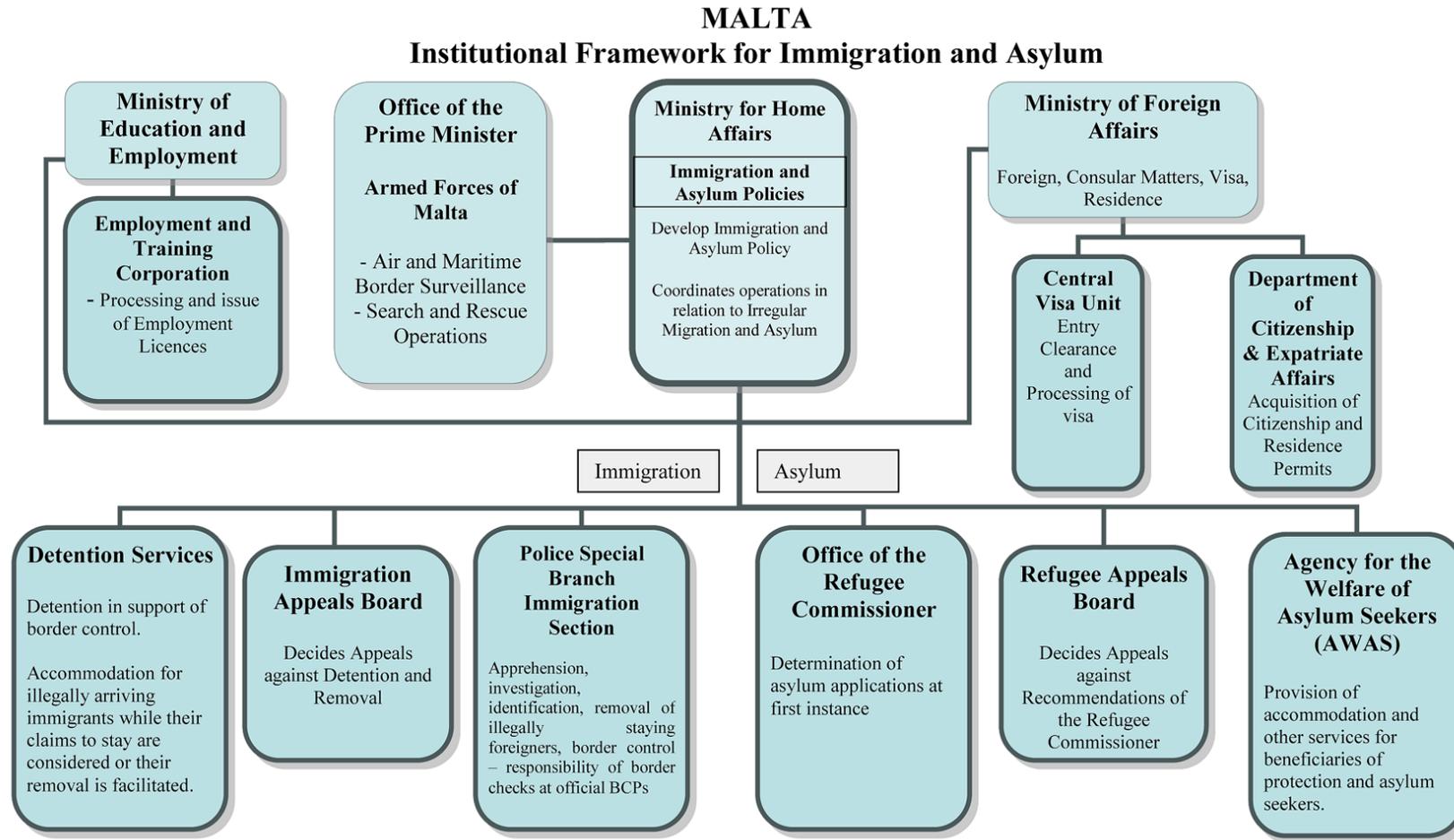
Immigration and asylum policy is linked to Malta's policies relating to Social Security, Health and Labour. Malta's Labour Policy has been adapted to the specific circumstances of refugees and persons with subsidiary protection.

5. Analysis of asylum and migration systems

The Ministry responsible for Home Affairs and the other organisations concerned underwent a steep learning curve since the year 2002 in the areas of illegal immigration and asylum due to the high demand placed on its relatively small organisations and the significant influx of illegal immigrants, many of whom apply for asylum. In the asylum sphere, the Ministry for Home Affairs has invested significantly to maintain the Office of the Refugee Commissioner with sufficient staff that assures quality and efficiency in treating asylum claims. Equally, this has also been the case with the Refugee Appeals Board.

The overall priorities in the area of asylum and illegal immigration lean towards an efficient and fair asylum process, infrastructural work, upgrading of the structures dealing with the reception, joint actions at the border, resettlement and return possibilities.

ANNEX: Institutional Chart for Malta



This institutional chart provides an indicative overview of the asylum and migration system in Malta. It should not be taken as fully representative of its complete structure.

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