



**GOVERNMENT OF MALTA**  
PARLIAMENTARY SECRETARIAT  
FOR REFORMS AND EQUALITY



# Documentation

## TURNING THE TABLES

Facilitated by African Media Association Malta  
Prepared by: Shaun Grech (ADITUS)

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**Sustainable Management of Migration Flows**



# Summary

**This research is aimed at supporting the empowerment of migrants to directly tackle integration related matters through the Turning the Tables initiative, a migrant-led process funded through the Learning-Exchanging-Integrating project. This project is co-financed by EU Funds under the Asylum, Migration and Integration Fund 2014-2020, and in collaboration with the Human Rights Directorate (National Funds). The content of the publications does not necessarily represent the views of the European Commission or the Human Rights Directorate.**

This report presents outputs and key points raised during the pre-conference and conference on documentation as part of the migrant-led project, Turning the Tables, coordinated by African Media Association Malta (AMAM). AMAM brought together relevant stakeholders, migrant communities and the general public to brainstorm and debate selected topics, amongst them education; employment; documentation; detention; and political rights. The main aim of the project is to facilitate dialogue and learning, and in this report, we address the difficulties encountered by migrants in obtaining documentation in Malta. The sections below lay out the key findings specific to the barriers to obtaining documentation and the effect this has on access to specific rights and services.

Access to employment, social services, education and other services essential to a dignified life is largely dependent on an individual being in possession of personal documents that correctly display the person's information and that attest to the person's

residence status in a country. The absence or delay in obtaining such documents has serious implications on an individual's access to the labour market, support services, educational entities and also private services, such as rental contracts. Furthermore, on a practical level, without a valid residence document, migrants are also faced with an inability to open bank accounts or to handle taxation matters, such as tax declarations and issuances of FS3s. A secure residence status is also conducive to integration and a path to more durable presence, such as long-term residence and citizenship.

The ultimate result of the impossibility to obtain documents is an increased risk of poverty and social exclusion born of the inability to secure regular and stable employment. In this regard, the problems surrounding employment have been examined in the Employment Report for this same project<sup>1</sup>. In addition,

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<sup>1</sup> All reports are available at the Human Rights Directorate: <https://humanrights.gov.mt/en/Pages/default.aspx>.

individuals without documents are more likely to be the victims of abuse, discrimination and exploitation and risk remaining socially excluded and marginalised.

The causes identified for the difficulties in obtaining documents, or obtaining documents in a reasonable amount of time, are various. Structural problems such as excessive bureaucracy by state entities, high fees and lack of information have been highlighted. Secondly, language and cultural barriers have also played a part in exacerbating the problems of migrants when applying for documents or their renewal. Identity Malta, the

agency tasked with the issuance of passports, identity documents and residence documents amongst its other duties, has been singled out as a particular problematic hurdle in the process towards obtaining documents. It therefore comes as no surprise that in 2019 the Office of the Ombudsman received 15 complaints against the Citizenship and Expatriate Affairs department within Identity Malta. This declines to two (2) in 2020, however the Office of the Ombudsman experienced an overall sharp decline in complaints in 2020 due to the COVID-19 pandemic.

**The ultimate result of the impossibility to obtain documents is an increased risk of poverty and social exclusion born of the inability to secure regular and stable employment**





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# 1. Documentation and Integration: The Crucial Link

Migrants are people who move from their country of usual residence or nationality to another country. Whatever the reason for or the circumstance in which they travel, those who migrate or who become migrants move in a new, unfamiliar and less secure world<sup>2</sup>. This occurs whether they have entered with authorisation or without, and they will usually find that their rights are diminished in comparison with the citizens of that country. It has been found that migrants and refugees were at a far higher risk of poverty and material deprivation than Maltese nationals, with the main trigger factor being the inability to secure regular and stable work that would enable them to live in dignity<sup>3</sup>.

The right to enter and reside freely within a country is determined by its national immigration laws and international conventions or treaties. Most times these laws also regulate what substantive rights a person has once in that country and these vary widely depending on the type of residence documents an individual holds. In the local context, Malta's immigration laws are based largely on European Union ("EU") law which have been transposed into Maltese laws via the Immigration

Act<sup>4</sup>, the International Protection Act<sup>5</sup> and subsidiary legislation<sup>6</sup> relevant to both parent acts.

These laws have been found to have been transposed in a "cut and paste" approach, in which the Maltese legislator largely used the text of the Directives in their entirety without further defining concepts and procedures crucial to legal certainty<sup>7</sup>. This, together with the lack of comprehensive guidelines, results in the authorities having excessive room for discretion when taking decisions.

Whilst citizens of the EU and their family members have the right to reside and move freely within the Schengen area including Malta, citizens of non-EU countries face restrictive rules for admission. Non-EU citizens can be loosely categorised into regular, irregular and asylum, although the distinction is not always that clear cut. Many times, migrants arrive in a country in a regular manner and only later become "irregular" or "undocumented" due to overstaying or due to their residence permit being withdrawn suddenly. This tends

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2 International Commission of Jurists, Migration and Human Rights Law, Practitioners Guide No. 6, 2021.

3 See Aditus Foundation and JRS (2016) Struggling to survive: An Investigation into the Risk of Poverty among Asylum Seekers in Malta. Malta: Aditus and JRS. <https://aditus.org.mt/Publications/strugglingtosurvive.pdf>.

4 Immigration Act, CAP 217 of the Laws of Malta <https://legislation.mt/eli/cap/217/eng/pdf>.

5 International Protection Act, CAP 420 of the law of Malta <https://legislation.mt/eli/cap/420/eng>.

6 Subsidiary legislation is legislation created by bodies or individuals, usually Ministers, under powers delegated to them by Parliament via the main act, such as the Status of Long-term Residents (Third Country Nationals) Regulations S.L. 217.05 under the Immigration Act and the Reception of Asylum Seekers Regulations S.L. 420.06 under the International Protection Act.

7 ICF Consulting Services Legal Migration Fitness Check Evidence base for practical implementation Member State summary, Malta, June 2018 [https://ec.europa.eu/home-affairs/system/files/2019-03/201903\\_mt-legal-migration-check-annex-2a-icf-201806.pdf](https://ec.europa.eu/home-affairs/system/files/2019-03/201903_mt-legal-migration-check-annex-2a-icf-201806.pdf).



## Those persons who are fleeing persecution or conflict in their country of origin or residence are granted refugee status or subsidiary protection, and with it the right to reside in Malta

to happen with holders of single work permits due to the fact that the permit is issued based on the employment status of the third-country national (TCN), as opposed to a generic residence card issued for the purposes of work. Malta is one of the few countries in the EU to have opted for the employment relationship to be indicated on both the paper and electronic format of the residence card<sup>8</sup>. Migrants whose permits contain restrictions in their authorisation to work, such as the authorisation being linked to the employer or specific post, are more at risk of exploitation. This is even more serious when the residency permit is tied to their employment status and where the permit is automatically terminated when they find themselves unemployed<sup>9</sup>, as happens in Malta. The Group of Experts on Action Against Trafficking in Human Beings (GRETA) when assessing Maltese laws considered

that this practice of linking visas and residence permits to a single employer could increase the risk of exploitation as an employee would not be able to leave an exploitative employer<sup>10</sup>.

Some migrants may enter regularly and apply for international protection during their regular stay<sup>11</sup>. Likewise, some may enter irregularly and then become regularised or are granted protection after passing through an administrative process.

Typically, regular migrants can be admitted to Malta on the basis of:

- i. Long term residence;
- ii. Family reunification;
- iii. Research, studies, training and voluntary service;
- iv. Work, including highly skilled workers & seasonal workers.

8 Report From the Commission to the European Parliament and the Council on 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, 2019 COM/2019/160 final <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1567068156341&uri=CELEX:52019DC0160>

9 European Platform tackling undeclared work, Counteracting undeclared work and labour exploitation of third-country national workers, January 2021.

10 Group of Experts on Action Against Trafficking in Human Beings (GRETA), Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Malta – Second Evaluation Round, GRETA(2017)3, 2017 <https://rm.coe.int/greta-2017-3-fgr-mlt-en-w-cmts/1680782abd>.

11 OHCHR, Technical Note: Differentiation between regular and irregular migrants, 2018 <https://www.ohchr.org/Documents/Issues/Migration/GlobalCompactMigration/RegularAndIrregular.pdf>.

There are a number of other national residence schemes such as the Key Employee Initiative (KEI) permit, the Special Residence Authorisation, the partner permit, religious order and a humanitarian permit outside the remit of asylum. These permits are issued by Identity Malta Agency<sup>12</sup> which is the government agency that carries out the duties of the State in matters relating to passports, visa, identity documents, work & residence documents & the registration of public deeds.

Those persons who are fleeing persecution or conflict in their country of origin or residence are granted refugee status or subsidiary protection, and with it the right to reside in Malta. During the application process, these persons are granted an asylum-seeker document which also grants them the right to reside and, in most cases,

<sup>12</sup> Identity Malta website: <https://www.identitymalta.com/>.

work in Malta. It is the International Protection Agency<sup>13</sup> that determines applications for asylum, Dublin issues and provides successful applicants with their asylum certificate.

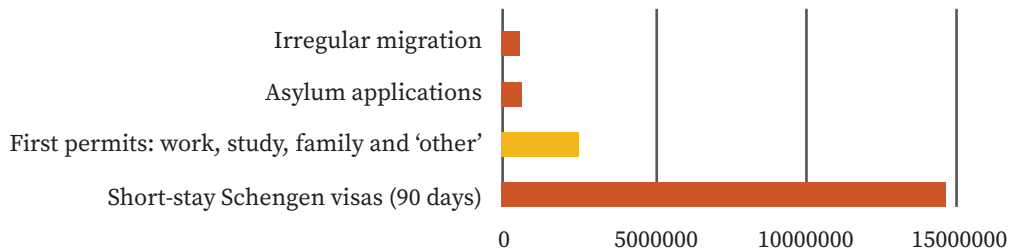
It should be noted that the residence document for those that have entered regularly and for those that have been granted refugee status or subsidiary protection, and their family members, is issued by Identity Malta.

Irregular migrants are defined as those who enter Malta without the necessary visa or requirements to enter or those who enter regularly and become irregular for a variety of reasons. These migrants generally would not be in possession of a residence document issued by Malta. If, however, they arrived in an irregular manner and have passed through the asylum system, they would

<sup>13</sup> International Protection Agency website: <https://homeaffairs.gov.mt/en/MHAS-Departments/International%20Protection%20Agency/Pages/Refugee.aspx#Stats>.

**Table 1:** Migration Flows to the European Union

**Main mobility and migration flows to the European Union\* (2017)**





## UNHCR estimates that the number of refugees and persons with subsidiary protection living in Malta is around 8,000

be provided with a police document. This document does not equate to regularisation, however it is an identification document that enables the persons concerned to work in Malta if they do not come from a safe country as defined by the Schedule to the International Protection Act<sup>14</sup>. The Immigration Section<sup>15</sup> is responsible for issuing these documents, and handling all immigration requests from TCNs including the processing of visas.

As, can be seen from the figure below, the majority of TCNs settling in Europe are those that do so on the basis of residence permits provided for work, study and family.

Although disaggregated data is not available for Malta, if we take 2020 as a base year, whilst also keeping in mind the COVID-19 effect, we can see a similar trend in Malta. In 2020 2,281<sup>16</sup> persons were rescued at sea and 2,482<sup>17</sup> applied for asylum in Malta. Whilst the number of

immigrating to Malta was of 4,960<sup>18</sup>, which saw a decline of 94.1% from 2019 due to the COVID-19 pandemic.

UNHCR estimates that the number of refugees and persons with subsidiary protection living in Malta is around 8,000<sup>19</sup>. Until recently, the majority of refugees in Malta originated from Somalia, Eritrea and Sudan. However, since 2014, due to war and conflict, there has been a significant rise in Libyans and Syrians who have been granted protection. The arrival of unaccompanied children remains high and they include 24% of all arrivals in 2020<sup>20</sup>.

14 International Protection Act, CAP 420 of the law of Malta <https://legislation.mt/eli/cap/420/eng>.

15 The Immigration Section: <https://pulizija.gov.mt/en/police-force/police-sections/Pages/The-Immigration-Section.aspx>.

16 UNHCR Malta, Malta Factsheet 2021: [https://www.unhcr.org/mt/wp-content/uploads/sites/54/2021/10/Malta-Sea-Arrivals-and-Asylum-Statistics\\_UNHCR\\_Sept2021.pdf](https://www.unhcr.org/mt/wp-content/uploads/sites/54/2021/10/Malta-Sea-Arrivals-and-Asylum-Statistics_UNHCR_Sept2021.pdf).

17 National Statistics Office, World Refugee Day: 20 June 2021, News Release 109/2021: [https://nso.gov.mt/en/News\\_Releases/Documents/2021/06/News2021\\_109.pdf](https://nso.gov.mt/en/News_Releases/Documents/2021/06/News2021_109.pdf).

18 The number was calculated by subtracting the total number of asylum applications from the total number of third country nationals emigrating to Malta (which included asylum applicants) reported by the National Statistics Office, News Release 122/2021: [https://nso.gov.mt/en/News\\_Releases/Documents/2021/07/News2021\\_122.pdf](https://nso.gov.mt/en/News_Releases/Documents/2021/07/News2021_122.pdf).

19 Times of Malta, Malta one of main refugee host countries, 2018 <https://timesofmalta.com/articles/view/malta-one-of-main-refugee-host-countries.682256>.

20 UNHCR Malta, 2020 Arrivals and Asylum Trends, <https://www.unhcr.org/mt/figures-at-a-glance>.

## 2. The Problems Identified

There are a myriad of difficulties migrants encounter when attempting to procure residence documents or identity documents from the various stakeholders identified in the section above. One key issue that repeatedly arises is the lack of information from all authorities in all stages of the migration process and for all migrants, irrespective of status. Furthermore, the lengthy procedures and excessive bureaucracy and costs were also highlighted as a major problem which causes lack of certainty, financial difficulties and can ultimately lead to migrants becoming undocumented. The existence of cultural and language barriers are complications that many migrants face during application and/or renewal processes.

It is impossible to have a complete report on documentation without making reference to those who are residing in Malta who are at risk of being perpetually undocumented without any possibility of ever being documented. The current legal framework makes it impossible for undocumented migrants to apply for a residence permit and become regularised. Irregular migrants who cannot be returned to their country of origin are granted a temporary document which is renewable every three months, however this document is only given to those who entered Malta in an irregular manner and have passed through the asylum process. Those who have entered regularly are not given this temporary document and remain undocumented. The three-month permit allows this group to work on the basis of an employment

licence that is also renewable every three months<sup>21</sup>, if they do not come from a safe country as defined by the Schedule to the International Protection Act. The fact that the permit and the employment licence have to be renewed four (4) times a year makes it extremely difficult to work regularly and legally.

In 2018 the Maltese government introduced the possibility for failed asylum seekers to apply for a Specific Residence Authorisation (SRA)<sup>22</sup>. The SRA allowed individuals who had been living in Malta for over five (5) years and could prove an active contribution to the Maltese society to apply for a SRA permit<sup>23</sup>, subject to a number of other criteria. However, in October 2020, the Government announced that it was amending the policy by not allowing any new applications after 31<sup>st</sup> December 2020 and confirming that SRA holders would nonetheless continue to be required to meet the employment requirements contained in the SRA policy in order to renew their document<sup>24</sup>. The termination of the policy and the rigid application of the employment criteria after the COVID-19 pandemic threw hundreds of migrants

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21 UNHCR Malta, Working Together - A UNHCR report on the employment of refugees and asylum seekers in Malta, 2019 [https://www.unhcr.org/mt/wp-content/uploads/sites/54/2019/12/UNHCR-Employment-report\\_WORKING-TOGETHER\\_web.pdf](https://www.unhcr.org/mt/wp-content/uploads/sites/54/2019/12/UNHCR-Employment-report_WORKING-TOGETHER_web.pdf).

22 Identity Malta, Policy regarding Specific Residence Authorisation, October 2020 <https://www.identitymalta.com/wp-content/uploads/2019/10/SRA-updated-policy-Nov2020.pdf>

23 aditus, Factsheet No 16 Specific Residence Authorisation, July 2021 [https://aditus.org.mt/Publications/factsheet16\\_sra.pdf](https://aditus.org.mt/Publications/factsheet16_sra.pdf).

24 Rejected asylum seekers forced to sleep rough to make Identity Malta deadlines Times of Malta <https://timesofmalta.com/articles/view/rejected-asylum-seekers-forced-to-sleep-rough-to-make-identity-malta.840959>.

into an uncertain future<sup>25</sup>. The lack of documentation has prohibited them and will continue to prohibit them to access basic rights such as healthcare, education, training and the right to travel<sup>26</sup>. Malta has been urged to allow persons who cannot be returned to stay legally in Malta and for those who have resided in Malta for more than ten (10) years to be given a more permanent form of regularisation<sup>27</sup>.

## 2.1 Information is key

The provision of information at all stages of the migration path – pre-departure, application, arrival, residency and end of stay – is crucial. The lack of information creates a situation in which migrants are unaware of the procedures and of their rights as applicants or as permit holders.

A recent study commissioned by the European Commission on the implementation of EU legislation on legal migration in Malta highlighted that one of the main findings “*is the lack of consistent and clear information across*

*the board for all phases of migration and for all directives*”<sup>28</sup>. It had also found that there was no public information on the applicable fees, on the procedures to change status, on permit holder rights, on the appeals process, on intra-EU mobility rights and on any end of stay rights.

Although the situation might have improved slightly since 2018 when the European Commission report was written, there is still a general consensus amongst migrant communities that there is insufficient information and clarity for migrants who are already residing in Malta and for migrants intending to come to Malta. Although some guidelines are publicly available<sup>29</sup>, many of the processes and interpretation of the policy remain unclear, at times conflicting and arbitrarily applied. This is also experienced by employers of TCNs who face a lack of consistency between government departments, as well as with people within the same department<sup>30</sup>.

There are no supporting guidelines for Family Reunification, Long Term Residence, Students and Blue card permits. There are no help desks or information lines at Identity Malta through which applicants, employers or advocates can ask specific residence related questions.

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25 Press Statement, Migrant Representatives, Stability, not Uncertainty - Migrant community in Malta highlights urgent basic needs and presents them to Home Affairs Ministry, 4<sup>th</sup> October 2021.

26 A new policy that will lead to increased social exclusion and poverty, Press statement by aditus foundation, African Media Association Malta, Allied Rainbow Communities, Anti-Poverty Forum Malta, Azzjoni Kattolika Maltija, Blue Door English, Christian Life Communities in Malta, The Critical Institute, Dean of the Faculty of Education, Drachma, Great Oak Malta Association, Integra Foundation, Jesuit Refugee Service (Malta), KOPIN, Malta Emigrants' Commission, Malta Humanist Association, Migrant Women Association Malta, Millennium Chapel, MOAS, Moviment Graffiti, People for Change Foundation, Repubblika, SOS Malta, SPARK15, Women's Rights Foundation, 25 November 2020 <https://aditus.org.mt/a-new-policy-that-will-lead-to-increased-social-exclusion-and-poverty/#.YWmEphpByUl>.

27 European Commission Against Racism and Intolerance, ECRI Conclusions on the Implementation of the Recommendations in respect of Malta subject to interim follow-up, CRI(2021)17, May 2021 <https://rm.coe.int/ecri-conclusions-on-the-implementation-of-the-recommendations-in-respe/1680a27d87>.

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28 ICF Consulting Services Legal Migration Fitness Check Evidence base for practical implementation Member State summary, Malta, June 2018 [https://ec.europa.eu/home-affairs/system/files/2019-03/201903\\_mt-legal-migration-check-annex-2a-icf-201806.pdf](https://ec.europa.eu/home-affairs/system/files/2019-03/201903_mt-legal-migration-check-annex-2a-icf-201806.pdf).

29 Employment Licences Unit Guidelines for Clients January 2021: <https://jobsplus.gov.mt/employers-mt-MT-en-GB/employing-persons/fileprovider.aspx?fileId=26854>; Malta Vacancy Exemption List <https://www.identitymalta.com/wp-content/uploads/2019/07/ELU-FM-014-Malta-Vacancy-Exemption-List.pdf>; Policy regarding Specific Residence Authorisation October 2020: <https://www.identitymalta.com/wp-content/uploads/2019/10/SRA-updated-policy-Nov2020.pdf>; Form and Checklist for Long-term Residents, 2018: <https://www.identitymalta.com/wp-content/uploads/2019/10/CEA-Form-L-2.pdf>.

30 Malta Employers Association, Employing Foreign Workers, 2016: <https://www.maltaemployers.com/wp-content/uploads/Employing-foreign-workers.pdf>.

### 2.1.1 Persons with International Protection

The absence of information regarding residence permits for beneficiaries of international protection creates unnecessary hurdles and prolongs a process that should be automatic in nature. Once the International Protection Agency grants protection to an individual, that individual should be issued with a residence card by Identity Malta. However, information about the procedure and requirements for applying for a residence card is not clearly provided, written or available online<sup>31</sup>.

### 2.1.2 Changes in legislation and Policy

It was also noted that there is generally a lack of information on changes in legislation, policy or current issues, such as the reaction to the COVID-19 pandemic<sup>32</sup>. In fact, it was reported that “*applications for residence permits have been impacted by the pandemic, and the government has announced that residence permits would be rescinded from third-country nationals found to break quarantine rules*”<sup>33</sup>.

The lack of proper guidelines on how local legislation relating to permits is implemented by Identity Malta in practice was also noted by the European Commission as cited above. The report highlighted the absence of guidelines followed by Identity Malta and information on other stakeholders that may be involved in the vetting process. This was exacerbated by a frequent change of

31 aditus, AIDA report, 2021 [https://asylumineurope.org/wp-content/uploads/2021/05/AIDA-MT\\_2020update.pdf](https://asylumineurope.org/wp-content/uploads/2021/05/AIDA-MT_2020update.pdf).

32 European Website on Integration, How are third-country nationals affected by the response to COVID-19 in Malta?, 23/03/2020 <https://ec.europa.eu/migrant-integration/news/how-are-third-country-nationals-affected-by-the-response-to-covid-19-in-malta>; Times of Malta Identity Malta expatriate unit shut over workers' coronavirus fears, 11 March 2020 <https://timesofmalta.com/articles/view/identity-malta-offices-remain-shut-prompting-long-queues-in-msida.777248>.

33 Ibid. European Website on Integration, How are third-country nationals affected by the response to COVID-19 in Malta?

rules and requirements that affect the legal certainty for applicants when applying for or renewing their residence documents<sup>34</sup>. This lack of information was found at all stages of the migration process<sup>35</sup> and by all persons involved in the residence permit applications, including employers<sup>36</sup>.

### 2.2 Prolonged timelines and excessive bureaucracy

Once an application for a residence card, for family reunification, citizenship or for international protection has been filed, migrants are often faced with long delays and excessive bureaucracy in the processing of applications.

Applications for residence permits typically take from three (3) to five (5) months to be approved by Identity Malta. An applicant does not face any immigration issues in the period between application and approval, as they are permitted to reside in Malta until the application is approved. However, during that period they are not entitled to work, they cannot leave Malta and they have no access to healthcare or other state benefits<sup>37</sup>. These prolonged processing times also drive employers away from employing TCNs, with many resorting to working

34 ICF Consulting Services Legal Migration Fitness Check Evidence base for practical implementation Member State summary, Malta, June 2018 [https://ec.europa.eu/home-affairs/system/files/2019-03/201903\\_mt-legal-migration-check-annex-2a-icf-201806.pdf](https://ec.europa.eu/home-affairs/system/files/2019-03/201903_mt-legal-migration-check-annex-2a-icf-201806.pdf).

35 ICF Consulting Services Legal Migration Fitness Check Evidence base for practical implementation Member State summary, Malta, June 2018 [https://ec.europa.eu/home-affairs/system/files/2019-03/201903\\_mt-legal-migration-check-annex-2a-icf-201806.pdf](https://ec.europa.eu/home-affairs/system/files/2019-03/201903_mt-legal-migration-check-annex-2a-icf-201806.pdf).

36 Malta Employers Association, Employing Foreign Workers, 2016 <https://www.maltaemployers.com/wp-content/uploads/Employing-foreign-workers.pdf>.

37 Times of Malta, This is why we are leaving Malta for the UK - nurses blame Identity Malta delays, February 2021 <https://timesofmalta.com/articles/view/this-is-why-we-are-leaving-malta-nurses-blame-identity-malta-delays.849890>



**The existence of cultural and language barriers are complications that many migrants face during application and/or renewal processes**

in the informal economy<sup>38</sup>. The Key Employee Initiative (KEI)<sup>39</sup> is a national scheme that provides a fast-track application process for highly specialised TCNs that apply to be employed in Malta. Identity Malta states that applications under this scheme should take no longer than five (5) days to be processed. The requirements for this type of permit include an employment contract showing a minimum annual gross salary of €30,000 and proof of qualifications or at least three (3) years of experience.

Furthermore, the bureaucracy, together with the lack of information, result in the applicant and/or his or her legal advisor having to go back and forth a number of times to the desk officers in order to supply further documentation<sup>40</sup>. The staff at Identity Malta have also been reported to have routinely refused to accept residence applications due to lack of supporting documentation or sufficient proof of a requirement at law. This results in two issues: the applicant has to return several times whilst risking remaining undocumented and that the right of appeal would be inexistant as the applicant does not have the right to contest a refusal to lodge an application. This has been flagged by the

European Commission as problematic<sup>41</sup> in relation to the proper application of the Single Work Permit Directive<sup>42</sup>.

Migrants already in possession of certificates and qualifications from their country of origin have found that the process for the recognition of their qualifications through Malta Qualifications Recognition Information Centre (“MQRIC”)<sup>43</sup> is also beset by delays<sup>44</sup>. Many times, non-EU qualifications are not even recognised<sup>45</sup>. This is even more cumbersome for refugees and asylum seekers that may not be in possession of their original certificates from their country of origin.

### 2.2.1 Validity of Residence Permits

These processes and waiting times are repeated each time a TCN has to renew their residence permit. The validity of the permits varies from permit to permit and are as follows:

- Single work permit: 1 year
- Blue card permit: 1 year or shorter
- Researchers and students: 1 year or shorter
- Family reunification TCN: 1 year
- Family reunification refugees: 3 years

38 Malta Employers Association, *Employing Foreign Workers*, 2016 <https://www.maltaemployers.com/wp-content/uploads/Employing-foreign-workers.pdf>.

39 CEA FORM C2 KEI <https://www.identitymalta.com/wp-content/uploads/2021/04/CEA-Form-C2-KEI.pdf>.

40 ICF Consulting Services *Legal Migration Fitness Check Evidence base for practical implementation Member State summary*, Malta, June 2018 [https://ec.europa.eu/home-affairs/system/files/2019-03/201903\\_mt-legal-migration-check-annex-2a-icf-201806.pdf](https://ec.europa.eu/home-affairs/system/files/2019-03/201903_mt-legal-migration-check-annex-2a-icf-201806.pdf).

41 Report From the Commission to the European Parliament and the Council on 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, 2019 COM/2019/160 final <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1567068156341&uri=CELEX:52019DC0160>

42 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 <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32011L0098>

43 <https://mfhea.mt/>.

44 UNHCR, *Working Together*, a UNHCR report on the employment of refugees and asylum-seekers in Malta December 2019 [https://www.unhcr.org/mt/wp-content/uploads/sites/54/2019/12/UNHCR-Employment-report\\_WORKING-TOGETHER\\_web.pdf](https://www.unhcr.org/mt/wp-content/uploads/sites/54/2019/12/UNHCR-Employment-report_WORKING-TOGETHER_web.pdf).

45 European Commission, *Labour market integration of asylum seekers and refugees: Malta*, 2016, <http://bit.ly/2lkMKc6>.

- Long-term residence: 5 years

The general period for validity of permit is of one (1) year, bar the few exceptions. It is felt by migrants and employers alike that the validity of one (1) year is too short, especially for those who are on an employment contract of indefinite duration<sup>46</sup>. The costs of annual renewals are also seen as excessively high, for example the €280.50 application and renewal fee for single work permits.

In some cases, the vetting process, for health screening and police conducts, has to be repeated for each renewal, increasing the costs per annual renewal. This includes all foreigners who were born or have lived for six (6) months or more in a country reported as Very High-Risk for tuberculosis needing to complete the Health Screening for Renewal of Work Permits Application Form<sup>47</sup> every year for three (3) consecutive years (a total of four (4) years). The form also needs to be filled by doctors, dentists, midwives, nurses and other regulated healthcare professionals; carers, child carers, dental chairside assistants; nannies; beauty therapists and tattooists and also food handlers for a total of two years.

In this regard, the Infectious Disease Prevention and Control Unit<sup>48</sup> (“IDPCU”) takes approximately ten (10) working days to complete health screening procedures. This process has to be repeated annually even if the applicant did not travel outside of Malta.

### 2.2.2 Beneficiaries of International Protection

As mentioned above, the International Protection Agency (“IPA”) is the entity tasked with processing applications for asylum. In order to fulfil this task, the IPA issues Asylum Seeker documents (“ASDs”) and certificates for persons who were granted temporary humanitarian protection, subsidiary protection or refugee status. The registration process with the IPA, and subsequent issuance of the ASDs, was severely affected due to an increase in arrivals in 2019.

The majority of persons concerned were detained and registration was delayed for several weeks or months from arrival. With the COVID-19 pandemic in 2020, the situation deteriorated further with the systemic detention of all irregular migrants arriving in Malta. The registration process now *“takes place months after arrival and, before that, migrants are kept detained and receive no information”*<sup>49</sup>.

Unaccompanied children first would need to have a guardian appointed in order to submit an asylum application and up until that time they would not have access to the rights of asylum seekers. It was reported that in 2020, the vast majority of minors were not appointed a legal guardian and this held back their asylum application, and consequently the issuance of their ASD.

The IPA did not fare better with those who lodged their application and a recent report found that at the end of 2019 there were 3,574 applications pending<sup>50</sup>. The report also found that the majority of IPA’s decisions were

46 Malta Employers Association, *Employing Foreign Workers*, 2016 <https://www.maltaemployers.com/wp-content/uploads/Employing-foreign-workers.pdf>.

47 Health Screening for Renewal of Work Permits Application Form <https://www.identitymalta.com/wp-content/uploads/2020/08/Health-screening-for-renewal-of-work-permit.pdf>.

48 Infectious Disease Prevention and Control Unit <https://deputyprimeminister.gov.mt/en/health-promotion/idpcu/Pages/introduction.aspx>.

49 aditus, AIDA report, 2021 [https://asylumineurope.org/wp-content/uploads/2021/05/AIDA-MT\\_2020update.pdf](https://asylumineurope.org/wp-content/uploads/2021/05/AIDA-MT_2020update.pdf).

50 National Audit Office, *Fulfilling obligations in relation to asylum seekers*, 2021 <https://nao.gov.mt/en/press-releases/4/1282/performance-audit-fulfilling-obligations-in-r>.

**A study carried out on immigration and housing noted that those 14% of respondents who were not in possession of a written rental agreement all originated from Sub-Saharan Africa, North Africa and the Middle East**



not taken within the six (6) month period allowed, and that more often than not the IPA repeatedly resorted to extensions. During 2019, on average, the IPA required between two (2) to twelve (12) months from the lodging of applications to formalise decisions.

The National Audit Office noted that the delays in decisions from the IPA affect the steps towards integration into Maltese society and that *“Such consequences involve primarily the psychological effects on the applicants due to his/her inability to plan his/her future, the effects on family dynamics, possible delays in accessing educational and social resources as well as effects on job acquisition and stability.”*<sup>51</sup>

According to the law, persons who are granted refugee status and subsidiary protection in Malta are issued a three (3) years’ residence permit from Identity Malta<sup>52</sup>. Their family members are also granted a residence permit of the same duration. The issuance of residence permit for them are also characterised by excessive administrative delays in processing applications and

burdensome administrative requirements by Identity Malta.

### **2.3 The link between homelessness and lack of documentation**

One of the requirements to be issued with a residence document, on whatever basis, is to provide Identity Malta with a Lease Agreement or a property purchase agreement with the name of applicant clearly showing in such agreements<sup>53</sup>. Problems arise when applicants do not have a fixed address, such as persons who may be accommodated in shelters or homeless persons. Some shelters, such as homeless shelters or shelters for victims of trafficking, are not keen on providing their address for applicants on residence cards for migrants and Maltese alike.

The provision of a rent agreement is particularly burdensome for beneficiaries of international protection. It has been reported that local landlords many times refuse to provide either rent agreements or copies of their identification documents for fear of the imposition

51 National Audit Office, Fulfilling obligations in relation to asylum seekers, 2021 <https://nao.gov.mt/en/press-releases/4/1282/performance-audit-fulfilling-obligations-in-r>.

52 aditus, AIDA report, 2021 [https://asylumineurope.org/wp-content/uploads/2021/05/AIDA-MT\\_2020update.pdf](https://asylumineurope.org/wp-content/uploads/2021/05/AIDA-MT_2020update.pdf).

53 CEA Form C2 <https://www.identitymalta.com/wp-content/uploads/2019/10/CEA-Form-C2-2.pdf>.

**Table 2:** Duration of IPA Decisions

All RefComs Decisions (January to December 2019)

Year application lodged with RefCom	Administrative Closure	Dublin Closure	Explicitly Withdrawn	Implicitly Withdrawn	Inadmissible	Refugee	Rejection	Subsidiary	Temporary Humanitarian	Withdrawal Refugee	Withdrawal Subsidiary	Withdrawn Temporary Humanitarian Protection	Total
2015	-	-	-	-	-	-	-	1	-	-	-	-	1
2016	-	-	1	3	41	-	5	-	-	-	-	-	50
2017	-	-	-	2	82	11	21	70	1	-	-	-	187
2018	2	103	10	116	34	13	58	153	7	-	-	-	496
2019	127	610	26	64	213	19	160	117	1	-	-	-	1,337
<b>Total</b>	<b>129</b>	<b>713</b>	<b>37</b>	<b>185</b>	<b>370</b>	<b>43</b>	<b>244</b>	<b>341</b>	<b>9</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2,071</b>
Average days taken for a decision	85	73	171	172	266	269	166	358	284	not applicable	not applicable	not applicable	182

Source: National Audit Office, *Fulfilling obligations in relation to asylum seekers, 2021*

of income tax on undeclared income from rents<sup>54</sup>. Furthermore, at times, migrants do not have a rental agreement with their landlord and pay rent without having an agreement in place. It was noted that there were suggestions that discrimination based on ethnicity could be at play. A study carried out on immigration and housing noted that those 14% of respondents who were not in possession of a written rental agreement all originated from Sub-Saharan Africa, North Africa and the Middle East<sup>55</sup>.

It was reported that there has been a rise in homelessness in the migrant community and in particular with asylum-seekers. This is due to overcrowding in reception centres, job losses and difficulty in finding stable work<sup>56</sup>. Furthermore, as has been pointed out, delays in providing asylum seekers with documentation has severely impacted the rights they are entitled to under the law.

In the absence of a permanent address and consequently an identity card, individuals do not have access to social and health services and benefits<sup>57</sup>. This

54 aditus, AIDA report, 2021 [https://asylumineurope.org/wp-content/uploads/2021/05/AIDA-MT\\_2020update.pdf](https://asylumineurope.org/wp-content/uploads/2021/05/AIDA-MT_2020update.pdf).

55 Fsadni, Pisani for NCPE, Immigrant and Ethnic Minority Groups and Housing in Malta - A Research Study, 2012 [https://ncpe.gov.mt/en/Documents/Projects\\_and\\_Specific\\_Initiatives/I\\_m\\_Not\\_Racist/imnrb\\_research\(1\).pdf](https://ncpe.gov.mt/en/Documents/Projects_and_Specific_Initiatives/I_m_Not_Racist/imnrb_research(1).pdf).

56 Ibid.

57 National Audit Office, A review of implementation of Sustainable Development Goal 1 Malta's efforts at alleviating poverty, December 2020 <https://nao.gov.mt/en/press-releases/4/1271/a-review-of-Performance>.

problem could be addressed by providing a temporary address by authorities, such as Appoġġ, so that persons without a permanent address are issued with a temporary residence card<sup>58</sup>.

## 2.4 Racism, Cultural & Language barriers

Migrants reported that they face cultural and language barriers when dealing with authorities during the process of applying for residence documents. Reports have found that many migrants have experienced strong negative attitudes by desk clerks and officials handling their residence permit applications. Many migrants reported being ignored, rebuked, dismissed or otherwise not treated with respect<sup>59</sup>.

Recently, in a public statement migrants stated that they *“have very serious concerns about the ways in which Identity Malta staff and personnel address, treat and discriminate against migrants and asylum seekers whose security, livelihood and future depend on their services”*<sup>60</sup>. They presented a position paper to the Minister for Home Affairs and in it stated that Identity Malta does not respect migrants, and that they often experience discrimination in the way they are spoken to and treated<sup>61</sup>. This has been reiterated in a number of reports which state that Identity

Malta staff have strong negative attitudes towards their service users<sup>62</sup>.

A number of research studies have found that migrants and individuals from ethnic minority groups appear to demonstrate a lack of trust in local authorities<sup>63</sup>. This is also reflected in a recent survey found that 61% of respondents of African descent in Malta, the third highest in the EU, felt that police stops were due to racial profiling<sup>64</sup>. This may suggest an element of institutional racism prevalent within the public service structure and services in Malta. The Anti-Racism Strategy 2021-2023 acknowledges this and aims to address all forms of discrimination *“individual, systemic, and societal”*<sup>65</sup>. Measure 22 of the Strategy seeks to address systemic discrimination by conducting equality reviews of current policymaking, employment and service provision system in partnership with public authorities. Measure 12 aims towards increasing the trust of migrants in law enforcement services and immigration services, by also tackling racist abuse and prejudice towards minority groups perpetuated by staff members of these agencies<sup>66</sup>.

In addition, it is of outmost importance that, as the number of TCN workers and residents continue

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58 Caritas Malta, A Minimum Budget for a Decent Living 2020, A research study focusing on Three Low-Income Household Categories, 2020 <https://www.caritalmalta.org/wp-content/uploads/2021/02/Caritas-MEBDL.pdf>.

59 aditus, AIDA report, 2021 [https://asylumineurope.org/wp-content/uploads/2021/05/AIDA-MT\\_2020update.pdf](https://asylumineurope.org/wp-content/uploads/2021/05/AIDA-MT_2020update.pdf).

60 Press Statement, Migrant Representatives, Stability, not Uncertainty - Migrant community in Malta highlights urgent basic needs and presents them to Home Affairs Ministry, 4<sup>th</sup> October 2021.

61 Stability not Uncertainty, Concerns and Demands, Paper presented during the Migrant Protest on the 4<sup>th</sup> October 2021.

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62 aditus, AIDA report, 2021 [https://asylumineurope.org/wp-content/uploads/2021/05/AIDA-MT\\_2020update.pdf](https://asylumineurope.org/wp-content/uploads/2021/05/AIDA-MT_2020update.pdf).

63 Fsadni, Pisani for NCPE, Immigrant and Ethnic Minority Groups and Housing in Malta - A Research Study, 2012 [https://ncpe.gov.mt/en/Documents/Projects\\_and\\_Specific\\_Initiatives/I\\_m\\_Not\\_Racist/imnr\\_research\(1\).pdf](https://ncpe.gov.mt/en/Documents/Projects_and_Specific_Initiatives/I_m_Not_Racist/imnr_research(1).pdf); Zammit, D. (2012). ‘Consultative assessment of Integration of Third Country National’ Project: Draft Report. Malta; UNHCR & aditus. (2012). ‘Nitkellmu? Refugee Integration Perspectives in Malta, 2013 <https://aditus.org.mt/Publications/nitkellmu.pdf>.

64 European Union Agency for Fundamental Rights, Second European Union Minorities and Discrimination Survey Being Black in the EU, 2018 [https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2018-being-black-in-the-eu\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2018-being-black-in-the-eu_en.pdf).

65 Anti-Racism Strategy 2021-2023 <https://humanrights.gov.mt/en/Documents/Publications/english%20policy%20doc%20online.pdf>

66 Ibid.

to increase, the staff working in the public sector are trained in managing diversity and multicultural issues. These programmes and trainings need to be provided regularly and not as a one-off event.

#### 2.4.1 No Welcome Approach

Migrants arriving and settling in Malta are not provided with adequate information about Malta, its culture and the way of life of the Maltese. They are not given any comprehensive ‘welcome’ information about life in Malta. This may lead to a strengthening of stereotypes from both the migrant and the local residents about each other<sup>67</sup>. Furthermore, by ignoring ethnic diversity and migrants in Malta in the drafting of policies and services, and the advertising of such by using stereotypical notions of “Maltese” and “Maltese-ness” strengthens the perception of institutional racism<sup>68</sup>.

Many times, conflict arises from misunderstandings and lack of communication between persons of different cultural and language backgrounds, where expectations and realities are different. In a survey conducted by the European Commission, 88% of Maltese respondents gave their full support to training on diversity issues for both employees and employers<sup>69</sup>. Of course, the notion of intercultural competence can be seen as a two-way process, and can involve both the local population and the migrant population. Giving both the tools to have

adequate knowledge of each other and of the issues that arise when members of different cultures interact and of how having receptive attitudes towards each other can assist in building bridges<sup>70</sup>.

There is a lack of cultural orientation information and courses for migrants entering and living in Malta. It is crucial for migrants to know their rights and also their obligations when working and residing in Malta<sup>71</sup>.

In a recent Opinion, the Advisory Committee on the Framework Convention for the Protection of National Minorities<sup>72</sup> expressed their concern at a number of outstanding obstacles to integration of migrants, particularly in relation to rented accommodation, access to employment, and other services. The Advisory Committee highlighted that diversity should be further promoted and valued by public bodies and policies as an integral party of Maltese society. An equally scathing view on Malta’s current policies on migration concluded that they “*do not encourage the public to see immigrants as their neighbours, equals and fellow citizens*”<sup>73</sup>.

#### 2.5 Visa

Individuals applying for Schengen visas for themselves and their family members encounter a myriad of difficulties which range from a lack of transparency, to delays in processing, redress procedures and also lack

67 SOS Malta, aditus foundation, Intercultural Competence Programme Adapting knowledge, skills and attitudes in the workplace, <https://aditus.org.mt/Publications/icpmanual.pdf>.

68 Fsadni, Pisani for NCPE, Immigrant and Ethnic Minority Groups and Housing in Malta - A Research Study, 2012 [https://ncpe.gov.mt/en/Documents/Projects\\_and\\_Specific\\_Initiatives/I\\_m\\_Not\\_Racist/imnrb\\_research\(1\).pdf](https://ncpe.gov.mt/en/Documents/Projects_and_Specific_Initiatives/I_m_Not_Racist/imnrb_research(1).pdf).

69 European Commission, Eurobarometer 393, Malta Factsheet Discrimination in the EU in 2012, November 2012 <https://europa.eu/eurobarometer/surveys/detail/1043>.

70 UNESCO, Intercultural Competences – Conceptual and Operational Framework, 2013 <https://unesdoc.unesco.org/ark:/48223/pf0000219768>.

71 UNHCR Malta, Working Together - A UNHCR report on the employment of refugees and asylum seekers in Malta, 2019 [https://www.unhcr.org/mt/wp-content/uploads/sites/54/2019/12/UNHCR-Employment-report\\_WORKING-TOGETHER\\_web.pdf](https://www.unhcr.org/mt/wp-content/uploads/sites/54/2019/12/UNHCR-Employment-report_WORKING-TOGETHER_web.pdf).

72 Council of Europe, Advisory Committee on the Framework Convention for the Protection of National Minorities Fifth Opinion on Malta, 2021 ACFC/OP/V(2020)003 <https://rm.coe.int/5th-op-malta-en/1680a173fd>.

73 Migrant Integration Policy Index, 2020 <https://www.mipex.eu/malta>.

of Maltese embassies or consulates in their country of origin. Problems have arisen in issuing visas for family reunification purposes in those countries with no Maltese embassies<sup>74</sup>.

The Central Visa Unit<sup>75</sup>, within the Identity Malta Agency, is the main authority responsible for the implementation of the Schengen acquis<sup>76</sup>. It is a key actor, together with the Immigration Police and the Security Services, in the authorisation process of visa applications by third-country nationals. The Central Visa Unit is the agency that issues visas for the family members of refugees living outside the Schengen Zone<sup>77</sup> that have been granted the right to reside in Malta following family reunification procedures.

## 2.6 Barriers to long-term solutions

Long-term solutions are key to the successful integration of migrants in Malta. In fact, many of the problems encountered by migrants, such as access to services, education and healthcare, could be overcome with the attainment of long-term residency or citizenship. The granting of citizenship to long-term residents has been recognised as a major factor in migrant integration<sup>78</sup>, as not only does it grant nationality to an individual but it

also makes them feel like equal members of the society they are living in.

Citizenship, and to a lesser degree long-term residence, closes an important gap between migrants and nationals. They are both key to promoting integration through economic and social cohesion in society. It should be noted that whilst long-term residence permits are regulated by EU law, citizenship rules are largely regulated by national law and are therefore within the purview and control of individual states. However, even this right is not absolute and the European Commission has stated on multiple occasions that rules and procedures regulating the acquisition of nationality must be implemented having “*due regard to EU law*”<sup>79</sup>. This is due to the fact that citizenship of an EU Member State is the only precondition for EU citizenship.

Access to these two statuses remains extremely difficult, if not impossible for most migrants living in Malta for a variety of factors that will be examined below.

### 2.6.1 Long-term residence

In order to apply for a Long-Term Residence (LTR) permit a migrant has to fulfil a long list of requirements. These include evidence of stable and regular resources which have subsisted for a continuous period of two years immediately prior to the date of application and which are sufficient to maintain the applicant and the family members. The law provides that these resources have to be equivalent to the national minimum wage with an addition of twenty percent of the national minimum wage for each member of the family<sup>80</sup>. It is however not

74 aditus, AIDA report, 2021 [https://asylumineurope.org/wp-content/uploads/2021/05/AIDA-MT\\_2020update.pdf](https://asylumineurope.org/wp-content/uploads/2021/05/AIDA-MT_2020update.pdf).

75 Central Visa Unit: <https://www.identitymalta.com/unit/central-visa-unit/>.

76 Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A42000A0922%2802%29>.

77 For more information on the Schengen Area: [https://ec.europa.eu/home-affairs/policies/schengen-borders-and-visa/schengen-area\\_en](https://ec.europa.eu/home-affairs/policies/schengen-borders-and-visa/schengen-area_en).

78 Human Rights Council Working Group on the Universal Periodic Review Thirty-first session, Summary of Stakeholders' submissions on Malta, A/HRC/WG.6/31/MLT/3 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/257/06/PDF/G1825706.pdf?OpenElement>

79 [https://ec.europa.eu/commission/presscorner/detail/en/inf\\_21\\_2743](https://ec.europa.eu/commission/presscorner/detail/en/inf_21_2743)

80 Status of Long-Term Residents (Third Country Nationals) Regulations, Subsidiary Legislation 217.05, November 2006, available at: <https://legislation.mt/eli/sl/217.5/eng/pdf>.

**Table 3:** Non-EU Citizens with long-term residence

## Non-EU citizens with long-term residence, 2015-2019

	2015		2016		2017		2018		2019	
	Number	Share of all non-EU citizens holding residence permits	Number	Share of all non-EU citizens holding residence permits	Number	Share of all non-EU citizens holding residence permits	Number	Share of all non-EU citizens holding residence permits	Number	Share of all non-EU citizens holding residence permits
	(units)	(%)	(units)	(%)	(units)	(%)	(units)	(%)	(units)	(%)
<b>EU (*)</b> ( <sup>†</sup> )	7 582 068	43.4	9 935 373	55.7	10 248 919	54.1	10 171 153	51.9	10 357 741	51.0
<b>Belgium</b> ( <sup>‡</sup> )	103 493	28.2	201 195	49.9	194 872	46.8	192 055	44.4	191 063	42.3
<b>Bulgaria</b>	13 670	30.2	16 205	44.9	31 578	61.9	33 524	63.1	45 236	69.7
<b>Czechia</b>	183 919	63.8	191 292	61.8	196 904	64.7	200 798	60.1	205 660	58.7
<b>Denmark</b>	.	.	.	.	.	.	.	.	.	.
<b>Germany</b> ( <sup>‡</sup> )	9 557	0.3	2 276 486	56.1	2 333 478	50.2	2 345 124	48.6	2 369 156	48.8
<b>Estonia</b>	168 086	87.1	165 924	86.7	163 188	86.2	160 294	84.8	157 461	83.2
<b>Ireland</b>	2 019	1.8	1 473	1.3	1 484	1.2	1 272	0.9	1 125	0.7
<b>Greece</b>	181 440	32.0	187 515	32.1	194 712	34.5	197 597	34.4	188 229	32.3
<b>Spain</b>	1 302 148	50.4	1 296 525	50.4	1 314 314	49.3	1 315 847	47.8	1 322 579	46.2
<b>France</b>	1 964 092	74.6	2 003 737	75.0	2 082 038	74.2	2 115 301	71.8	2 153 101	69.7
<b>Croatia</b>	11 789	49.16	11 856	45.2	11 647	37.5	11 492	26.2	11 508	15.6
<b>Italy</b>	2 384 852	60.9	2 257 224	60.8	2 293 099	61.8	2 099 223	56.5	2 099 223	58.1
<b>Cyprus</b>	6 900	14.6	11 688	22.5	17 397	30.8	22 440	26.7	27 168	28.8
<b>Latvia</b>	304 202	92.3	295 158	92.0	286 547	91.5	278 301	90.7	270 587	89.8
<b>Lithuania</b>	18 275	51.2	18 238	47.0	18 444	41.4	18 193	34.7	18 358	26.5
<b>Luxembourg</b>	11 813	34.4	12 793	34.8	13 754	34.1	13 928	32.6	14 173	30.8
<b>Hungary</b> ( <sup>†</sup> )( <sup>‡</sup> )	14 034	30.9	21 376	39.0	50 975	43.6	50 506	38.6	66 665	33.7
<b>Malta</b>	1 119	6.0	1 152	5.6	1 374	5.2	1 751	4.9	2 541	5.3
<b>Netherlands</b>	133 326	27.6	132 123	25.9	131 506	23.9	140 444	24.3	153 870	25.1
<b>Austria</b>	275 336	60.8	285 104	60.5	291 374	61.2	299 009	61.1	307 174	60.2
<b>Poland</b> ( <sup>‡</sup> )	74 585	14.9	84 666	15.5	97 972	15.9	111 894	19.3	128 492	19.8
<b>Portugal</b>	3 168	1.1	3 240	1.2	53 281	18.7	87 775	27.3	90 917	22.4
<b>Romania</b>	12 177	19.8	12 338	19.6	12 914	23.9	13 436	22.4	13 581	17.1
<b>Slovenia</b> ( <sup>‡</sup> )	51 661	50.8	51 954	47.2	52 251	42.4	53 135	36.6	88 425	53.8
<b>Slovakia</b>	12 786	37.5	13 690	34.3	14 298	29.7	15 364	24.6	16 695	20.3
<b>Finland</b> ( <sup>‡</sup> )	261	0.3	674	0.7	783	0.8	895	0.8	44 376	24.1
<b>Sweden</b>	337 360	76.4	381 747	75.8	388 735	67.9	391 555	67.3	370 378	64.7
<b>Iceland</b>	1 645	43.8	1 602	38.3	1 929	38.9	1 963	34.7	1 991	30.0
<b>Liechtenstein</b>	3 884	62.0	3 979	63.9	4 050	64.8	4 148	65.8	4 234	66.0
<b>Norway</b>	.	.	.	.	.	.	.	.	109 302	54.9
<b>Switzerland</b>	411 076	64.1	414 273	63.8	416 715	63.5	.	.	.	.

Note: figures in *italics* are estimates or provisional. Long-term residents are defined as non-EU citizens who have been legal residents for a total duration of at least five years in the reporting country (combined with a series of other conditions that must be met to qualify). The information shown refers to the year-end situation (as of 31 December).

(<sup>†</sup>) Number/share based on available data.

(<sup>‡</sup>) 2018: break in series for the share.

(<sup>‡</sup>) 2016: break in series.

(<sup>‡</sup>) 2017: break in series.

(<sup>‡</sup>) 2019: break in series.

Source: Eurostat (online data codes: migr\_reslong, migr\_resvald and migr\_resshare)

clear what is taken into consideration in calculating the income of an applicant, for example would the income of a spouse or maintenance from an ex-spouse be taken into consideration<sup>81</sup>.

Furthermore, the law requires the applicant to have passed a Maltese language test with a pass mark of at least 65% and a cultural integration test with a pass mark of 75%. In addition, the applications must show at least 100 hours attendance in an intercultural course focusing on the social, economic, cultural, and democratic history and environment of Malta<sup>82</sup>. The Intercultural and Anti-Racism Unit within the Human Rights Directorate offers free Maltese and English language and Cultural orientation classes in two stages<sup>83</sup>. The certificate for Stage 2 of the I Belong programme is valid for five years after completion. Applicants for Long-Term Residence must pass both stages of the programme.

In practice, it is difficult for beneficiaries to access long-term residence as the threshold for income is high when applicants have family members living with them, and the language requirements are particularly burdensome. These problems are exacerbated by the fact that applicants would only have one year from the completion of Stage 2 of the I Belong Programme within which to file the application.

It is also extremely hard for those on a low wage to attend the courses and take exams whilst simultaneously

working to ensure they fulfil the financial requirements. Under the family reunification regulations, refugees are exempt from having to satisfy certain requirements, such as the financial and the accommodation requirements. This is not mirrored in the LTR regulations, and the absence of any exemptions for persons with protection fails to take into consideration their particular circumstances and vulnerabilities<sup>84</sup>.

The European Commission has kicked off infringement proceedings against Malta by sending a letter of formal notice for non-compliance with EU law in the implementation of the long-term residence regulations<sup>85</sup>. The letter to Malta highlighted the fact that applicants for long-term residency must possess knowledge of the Maltese language, while applicants for Maltese citizenship by naturalisation have the choice between providing evidence of their Maltese or English language skills. The European Commission considers that the additional language requirement for long-term residents does not comply with the principle of proportionality. The Maltese Government had two months from the date of receipt to respond to the letter two months to respond to the arguments put forward by the Commission. The Commission may then decide to proceed with a reasoned opinion if it decides that Malta's reply was not satisfactory. The procedure, at this stage,

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81 Jesuit Refugee Service Malta, aditus foundation, Integra Foundation, Long-Term Residence and Citizenship by Naturalisation: A Necessity for Integration, Project Integrated Publication, 2018 [https://aditus.org.mt/Publications/pipublicationltrcitizenship\\_2018.pdf](https://aditus.org.mt/Publications/pipublicationltrcitizenship_2018.pdf).

82 Identity Malta, CEA Form L and Checklist for third-country nationals applying for the long-term resident status in Malta, 2019 <https://www.identitymalta.com/wp-content/uploads/2019/10/CEA-Form-L-2.pdf>.

83 I Belong Courses <https://humanrights.gov.mt/en/Pages/Intercultural%20and%20Anti-Racism%20Unit/I-Belong-Courses.aspx>.

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84 Jesuit Refugee Service Malta, aditus foundation, Integra Foundation, Long-Term Residence and Citizenship by Naturalisation: A Necessity for Integration, Project Integrated Publication, 2018 [https://aditus.org.mt/Publications/pipublicationltrcitizenship\\_2018.pdf](https://aditus.org.mt/Publications/pipublicationltrcitizenship_2018.pdf).

85 European Commission Press Corner: [https://ec.europa.eu/commission/presscorner/detail/EN/INF\\_21\\_2743](https://ec.europa.eu/commission/presscorner/detail/EN/INF_21_2743); Times of Malta, Malta's language rules for long-term residents spark EU legal action <https://timesofmalta.com/articles/view/maltas-language-rules-for-long-term-residents-spark-eu-legal-action.879146>.

is confidential and at the time of writing no further information is available publicly.<sup>86</sup>

As can be seen from the Table 3, Malta is one of the countries with the lowest share of TCN migrants with long-term residency status in the European Union. In a recent study, it resulted that migrants residing in Malta have bigger obstacles to settle long-term than the large group of countries within the study<sup>87</sup>. This was due to Malta's restrictive language and economic requirements, as described above, and the discretionary procedures adopted by Identity Malta and insecure residence status with regards to duration and renewal of permits.

Once a person is granted long-term residence status, they should be granted a set of uniform rights which is as near as possible to those rights enjoyed by Maltese nationals. The acquisition of a long-term residence permit is considered to be a crucial tool for achieving the integration of migrants<sup>88</sup>. The LTR status also allows for individuals and their family members to move and settle in another Member State, in accordance with the LTR rules of the second Member State.

## 2.6.2 Citizenship

Citizenship is a complex multidimensional concept that holds three key elements: an individual's legal status, the rights and obligations of that individuals and finally

that person's national identity<sup>89</sup>. Citizenship allows individuals to enjoy specific rights, as well as allowing them to nature a sense of identity and belonging.

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. Citizenship can also be acquired through adoption, through marriage after five years of marriage, by registration and acquisition by naturalisation.

The local naturalisation process has been called-out by international monitoring bodies as being lengthy, non-transparent and not subject to judicial review<sup>90</sup>. Malta's citizenship policy has been found to be outdated and non-reflective of the fact that Malta has changed from a country of emigration to a country of immigration<sup>91</sup>.

In order to be eligible for naturalisation, a person must have been resident in Malta throughout the twelve (12) months immediately preceding the date of application and a have resided in Malta for periods amounting in the aggregate to a minimum of four (4) years, during the six (6) years preceding the above period of twelve (12) months. Applicants must also be of good character, have an adequate knowledge of the Maltese or the English languages and be a suitable citizen of Malta<sup>92</sup>.

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86 European Commission, Stages of EU infringement procedure in a nutshell, 2015 [https://ec.europa.eu/info/sites/default/files/file\\_import/Commission\\_report\\_2015\\_infograph\\_en\\_0.pdf](https://ec.europa.eu/info/sites/default/files/file_import/Commission_report_2015_infograph_en_0.pdf)

87 Migrant Integration Policy Index, 2020 <https://www.mipex.eu/malta>.

88 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, COM/2011/0585 final <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A52011DC0585>.

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89 European Parliament, Briefing on the Acquisition and loss of citizenship in EU Member States Key trends and issues, 2018 [https://www.europarl.europa.eu/RegData/etudes/BRIE/2018/625116/EPRS\\_BRI\(2018\)625116\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2018/625116/EPRS_BRI(2018)625116_EN.pdf)

90 Human Rights Council Working Group on the Universal Periodic Review Thirty-first session, Summary of Stakeholders' submissions on Malta, A/HRC/WG.6/31/MLT/3, 2018 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/257/06/PDF/G1825706.pdf?OpenElement>

91 Migrant Integration Policy Index, 2020 <https://www.mipex.eu/malta>.

92 Article 10 of the Citizenship Act, Chapter 188, September 1964 <https://legislation.mt/eli/cap/188>.

Furthermore, a new amendment to the Citizenship Regulations increased the fee from €34.94 to €450.00<sup>93</sup> for applications for naturalisation.

Unlike many other countries, Malta does not require applicants to pass a citizenship test. However, the broad and vague requirements such as “good character”, “adequate knowledge” and “suitable citizen” and the absence of any guidelines on how to assess or satisfy these requirements makes legal certainty an impossibility.

There is no time limit foreseen for a decision and the law does not require the authorities to provide reasons for rejections of applications. Furthermore, the law precludes any right of appeal or review in any court for the refusal of an application for citizenship<sup>94</sup>. In practice, it is close to impossible for many migrants to access citizenship by naturalisation as the procedure is entirely at the discretion of the Minister. Moreover, while there is no written policy available, TCNs are, in practice, only allowed to apply for citizenship after ten years of regular residence in Malta. Whilst refugees are also eligible for citizenship after ten (10) years of continued residency in Malta, persons granted subsidiary protection status had to demonstrate 18 or 20 years of continued residency in Malta to be considered for citizenship<sup>95</sup>.

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93 Citizenship Regulations, S.L. 188.01 <https://legislation.mt/eli/sl/188.1/eng>.

94 Jesuit Refugee Service Malta, aditus foundation, Integra Foundation, Long-Term Residence and Citizenship by Naturalisation: A Necessity for Integration, Project Integrated Publication, 2018 [https://aditus.org.mt/Publications/pipublicationltrcitizenship\\_2018.pdf](https://aditus.org.mt/Publications/pipublicationltrcitizenship_2018.pdf).

95 Human Rights Council Working Group on the Universal Periodic Review Thirty-first session, Compilation on Malta Report of the Office of the United Nations High Commissioner for Human Rights, A/HRC/WG.6/31/MLT/2, 2018 [https://www.upr-info.org/sites/default/files/document/malta/session\\_31\\_-\\_november\\_2018/a\\_hrc\\_wg.6\\_31\\_mlt\\_2\\_e.pdf](https://www.upr-info.org/sites/default/files/document/malta/session_31_-_november_2018/a_hrc_wg.6_31_mlt_2_e.pdf); Jesuit Refugee Service Malta, aditus foundation, Integra Foundation, Long-Term Residence and Citizenship by Naturalisation: A Necessity for Integration, Project Integrated Publication, 2018 [https://aditus.org.mt/Publications/pipublicationltrcitizenship\\_2018.pdf](https://aditus.org.mt/Publications/pipublicationltrcitizenship_2018.pdf).

It has also been called out for not granted any form of citizenship entitlements to children born or raised in Malta. Minors cannot apply for citizenship in their own name and any application for the naturalisation of a minor child can only be submitted by a parent who is a Maltese citizen<sup>96</sup>.

The Platform of Human Rights Organisations in Malta highlighted the need for there to be a simplified procedure for children who have resided in Malta for a substantial period of time to be granted citizenship, including those who have obtained the age of majority<sup>97</sup>.

In 2019, Malta acceded to the 1954 Statelessness Convention<sup>98</sup>, but not the 1961 Convention of the Reduction of Statelessness. It however still does not have any stateless determination procedure and it does not have any stateless protection status<sup>99</sup> within the national system. It is particularly problematic for those persons whose asylum applications have been refused and who have been recorded as “*nationality unknown*”, specifically in view of the fact that Malta has stopped the SRA regularisation procedure.

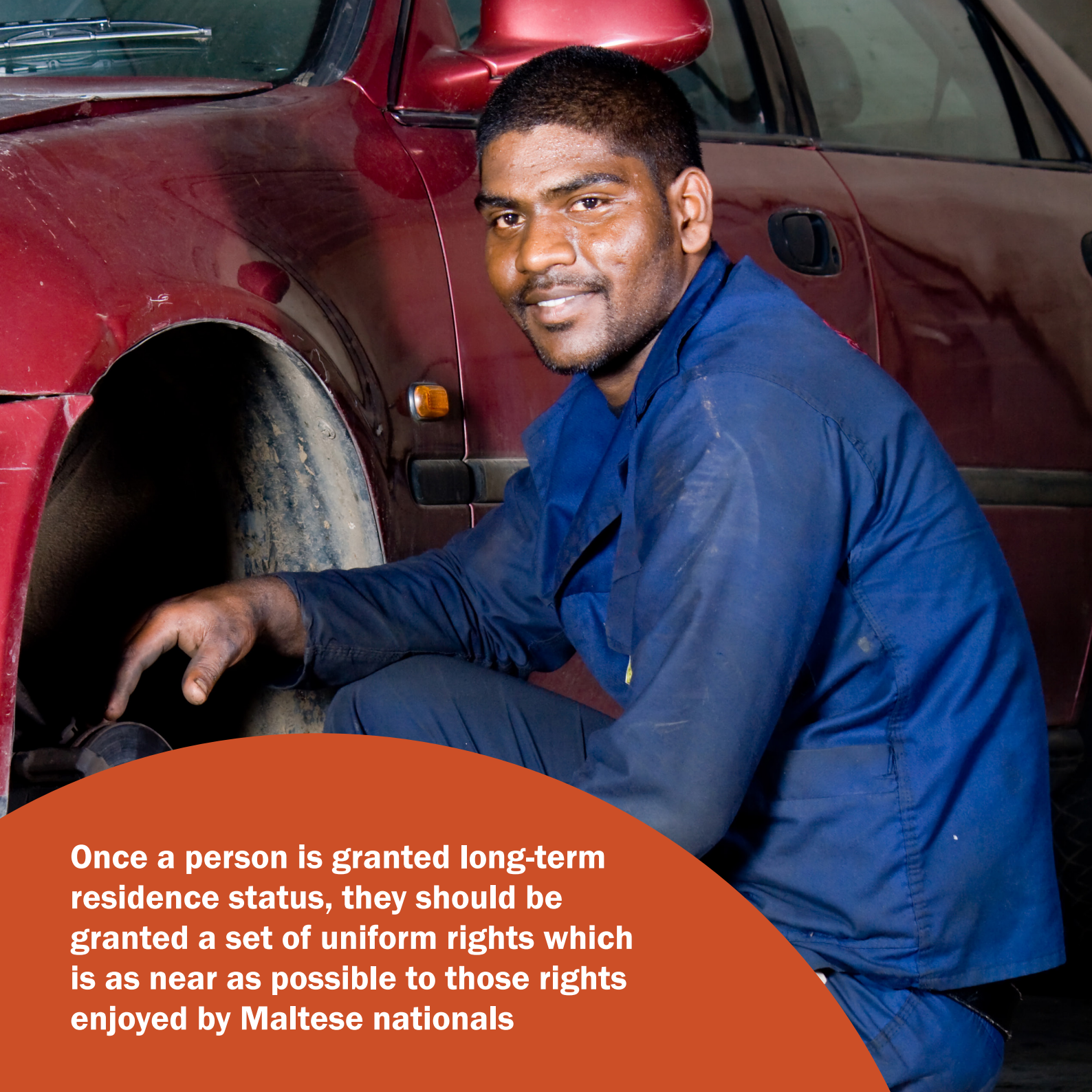
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96 CEA/10 Form J <https://komunita.gov.mt/wp-content/uploads/2020/11/Form-J.pdf>

97 The Platform of Human Rights Organisations in Malta (PHROM) on the Rights of the Child in Malta Submissions to the Committee on the Rights of the Child, 81st Session (2019) [http://www.humanrightsplatform.org.mt/phromdocuments/PHROMCRCSUBMISSION\\_2019.pdf](http://www.humanrightsplatform.org.mt/phromdocuments/PHROMCRCSUBMISSION_2019.pdf).

98 <https://www.unhcr.org/uk/protection/statelessness/3bbb25729/convention-relating-status-stateless-persons.html>.

99 ENS Stateless Index, Malta, 2021 <https://index.statelessness.eu/country/malta>.



**Once a person is granted long-term residence status, they should be granted a set of uniform rights which is as near as possible to those rights enjoyed by Maltese nationals**

# 3. Solutions

## 3.1 Provision of Information and Publication of Public Guidelines

Provide and promptly update information on all applicable websites, such as Identity Malta and the International Protection Agency, on matters relating to documentation of migrants.

- Provide and promptly update information on all stages of the migration path: pre-departure, application, arrival, residency and end of stay.
- Provide clear and public information and guidelines in relation to each type of residence permit: documents that should be submitted, the costs relating to residence permits, the right of appeal, the right of applicants, renewal procedures and processing timelines.
- Provide clear information for asylum-seekers, and persons with international protection on the asylum process, the appeal and the rights they are entitled to after the procedure.
- Provide clear information for persons with international protection on the procedures to apply for residence documents for themselves and their families, including birth certificates.
- Create a migrant-friendly information hub that would provide information in simple language and translated into multiple key languages.
- Amend and consolidate current legislation in order for it to be clearer and more comprehensive.

- Training Identity Malta staff on the requirements of each residence document, the eligibility of applicants and supporting documentation in order for there to be uniformity in the application of rules.

## 3.2 Reducing processing times and bureaucracy

- Standardise procedures and requirements for application and renewal of residence permits.
- Include an automatic appeal in all legislation regulating residence permits when the set timeline for the processing of a residence permit lapses.
- Disallow desk clerks from refusing to accept applications, unless manifestly incomplete by allowing applicants to submit further information during the process.
- Allow for the communication of applicants or their legal advisor with Identity Malta staff.
- Increase the duration of the validity of single work permits, family reunification, study and research permits to two or three years.
- Decrease the costs for processing applications and in particular for renewal applications.
- Institute fast-track procedures for approvals from the respective regulatory bodies for regulated professionals, e.g., MQRIC, in a single work permit process.
- Use the National Commission for Further Higher Education (NCFHE) or establish a body to assess the skills of migrants who do not possess any form of recognised qualification.

- Fast-track health screening procedures at the Infectious Disease Prevention and Control Unit (IDPCU) for TCNs in a single work permit process.
- Remove the requirement for repeated vetting with every renewal when this is not necessary.
- Allow for migrants who do not have a rental agreement to either use an alternative address, such as a hotel, or for them to show other evidence to prove residence at a certain location, such as utility bills.

### **3.3 International Protection Agency**

- Speed up procedures for registering of asylum-seekers and the provision of their ASDs.
- Ensure that fast track procedures in relation to minors and to vulnerable applicants are effective.
- Increase competent staff that is specifically trained in asylum procedures.
- Allow for asylum-seekers and persons with protection to renew their documentation in a timely fashion when they fail to renew on time, especially for those who could not renew due to circumstances beyond their control.
- Ensure that IPA staff visit asylum-seekers at Corradino Correctional Facility and Young Persons Offenders Unit in order for them to lodge an application for asylum.
- Draft and publish an anti-Racism and anti-Discrimination Strategy for the staff at the IPA.

### **3.4 Provision of support**

- Malta should enter into bilateral agreements with countries from which the majority of workers originate in order to facilitate the movement of workers.

- Facilitate the issuance of Visas for persons with an employment contract or a single work permit, and their family members.
- Facilitate the issuance of Visas for family members of refugees who were granted a family reunification permit.
- Establish an official Identity Card with a temporary address for people who are homeless in order to be able to apply for and access social and health services and benefits.

### **3.5 Anti-Racism Strategy and Cultural Mediators**

- Increase the use of cultural mediators within state agencies that could assist with the documentation process.
- Provide information which covers integration issues to migrants, such as work ethic and Maltese society, in key languages.
- Draft and publish an anti-Racism and anti-Discrimination Strategy for the staff at the Identity Malta.
- Train Identity Malta staff, including desk clerks and security staff in anti-racism and intercultural competence.
- Integrate intercultural competence into public sector training programs.
- Offer language courses to Identity Malta staff.
- Introduce an internal efficient and effective complaints procedure in relation to staff and administrative procedures within state agencies.

### **3.6 Long-term solutions**

- Reinstate the Specific Residence Authorisation or similar permit.

- Facilitate the requirements for the LTR permit by requiring Maltese or English language skills.
- Publish clear and public guidelines on what is considered to be “*stable and regular resources*” and what documents may be provided to demonstrate fulfilment of this criterion in terms of LTR permit applications.
- Exempt persons with protection from having to satisfy the conditions of regular and stable resources, appropriate accommodation and also sickness insurance.
- Publish clear guidelines for the application for citizenship by naturalisation.
- Give value to individual integration efforts when assessing applications for naturalisation.
- Reduce the fee for citizenship applications by naturalisation.
- Amend the law to include the obligation of the Minister to give reasons for the refusal of citizenship applications.
- Introduce a facilitated naturalisation process for children who have been residing in Malta long-term.
- Amend the law to include the right of appeal for refused citizenship applications.
- Establish an effective and efficient statelessness determination procedure, with an identification and referral mechanism for individuals who are undocumented and at risk of statelessness.
- Introduce a stateless protection status within the local legal system.





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