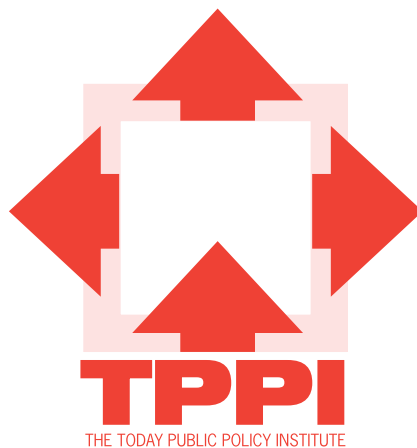


# MANAGING THE CHALLENGES OF IRREGULAR IMMIGRATION IN MALTA



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Report Published by The Today Public Policy Institute

Lead Authors: Stephen Calleya and Derek Lutterbeck

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**Managing the Challenges of Irregular Immigration  
In Malta**

November 2008

The Today Public Policy Institute  
c/o The Malta Chamber of Commerce and Enterprise,  
Exchange Buildings, Republic Street, Valletta  
VLT 1117MALTA  
Email:martins@onvol.net

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# MANAGING THE CHALLENGES OF IRREGULAR IMMIGRATION IN MALTA

## INTRODUCTION

1. Over recent years, Malta has increasingly moved into the international spotlight as a front-line state for irregular migration from the African continent towards the EU. Since 2002, Malta has experienced a growing influx of migrants predominately from the Horn of Africa, practically all of which have departed from the Libyan coast towards Europe. Even though, in absolute terms, the total number of sea-borne migrants landing on Malta has been rather modest, the impact in proportional terms – given the country's small size and very high population density - has been higher than in most, if not all, European countries.
2. Consequently, illegal immigration has become one of Malta's top policy priorities, nationally as well as at the EU level, where Malta has been calling for burden-sharing mechanisms and support from other EU countries in coping with the growth in irregular immigration. Moreover, boat migration across the Mediterranean has also become an increasingly pressing humanitarian challenge; it is estimated that, over recent years, several hundred would-be immigrants have died every year in the Mediterranean trying to reach the EU from the south.

## AIM

3. This report discusses the main challenges Malta is facing in managing irregular boat migration from the African continent. The report focuses on the following main areas of Malta's immigration policy: detention policy, integration policy, return and readmission policy, EU burden-sharing, maritime patrols, and development cooperation as a means of addressing the root causes of migration. In all these areas, the report sets forth recommendations with a view to improving the country's current policies.

## THE SIZE OF THE PROBLEM: SOME FIGURES

4. There were about 11,500 arrivals in Malta between 2002 and September 2008. Relative to population size, this equates to around 1.72 million immigrants arriving in France or the UK, 2.35 million in Germany, 1.6 million in Italy and about 1.15 million in Spain. However, while on a per capita basis Malta has thus experienced one of the largest - if not the largest - influx of undocumented immigrants among EU countries over recent years, it should also be noted that Malta's total foreign-born population—estimated at around 2.7% - remains very small by comparison with other European countries. Among EU countries, only Slovakia with 2.3% and Poland with 1.8% have smaller foreign-born populations, whereas in most western European countries, the foreign-born population ranges between seven and 15 percent. The challenge for Malta has thus not really been one of coping with a comparatively large immigrant population but rather with a population of (irregular) immigrants which has increased dramatically over a very short period of time.
5. The recent picture in Malta is a cause for concern. 2006 and 2007 saw about 1800 arriving each year. During the first nine months of 2008, arrivals were 40% higher than in 2007. The numbers for 2008 will probably exceed 2500.
6. The total number of immigrants housed in Closed Accommodation Centres (ie in detention) as at the end of September was just over 2000. But the maximum capacity in Closed Accommodation Centres (including a new Block at Ta' Kandja when it is completed) is 1817. There is clearly a need for one more detention compound to cope with peak demand and any emergencies.
7. The total number of immigrants housed in Open Accommodation Centres (including Church Centres) as at September 2008 was about 2400. The maximum capacity in the Open Accommodation Centres has already

been exceeded. Both Hal Far and Marsa Open Centres are severely over-crowded. They were designed to take 600 and 500 respectively, and currently hold about 850 and 750 respectively. The Church Centres are at maximum capacity. A new Open Centre is being opened at Hal Far to cope with increasing demand as detainees are steadily released from the Closed Accommodation Centres.

8. The estimated number of people already living in the community (ie not in official Open Accommodation, but elsewhere on the Island) is thought to be about 1400 though there is no certainty about this figure since no track is currently kept of those who leave the Open Accommodation Centres. There are therefore about 4000 immigrants now living in Malta (quite apart, that is, from the 2000 or so in detention) generally free to work and obtain medical and educational facilities in the same way as their Maltese counterparts. They do not receive unemployment benefits and only those granted refugee status receive social benefits. By the end of this year there could be as many as 4500 living in Malta either in Open Accommodation or in the community. The estimated total registered for employment is about 1200, while the estimated total in employment is about 500. The estimated total in 'unofficial' employment is about 650 (but this could be much higher during the peak tourism season).
9. **Caveat.** There is an important caveat about these figures. Many are based on 'best guesses' (especially those affecting immigrants who have left the Open Centres or the employment figures). There is now a need for a more methodical collection of statistics to be undertaken, especially in establishing what is happening to those immigrants who have chosen to leave the official Open Centres. If government is to make the right future judgements about dealing with illegal immigration – especially the social effects – our statistics need to be more comprehensive and reliable.

## MINISTERIAL RESPONSIBILITIES

10. At present, a number of government ministries are dealing with different dimensions of the irregular immigration issue in Malta. The Ministry of Justice and Home Affairs is the lead policy department for all issues to do with irregular immigration. The Commissioner of Police is the Principal Immigration Officer. The Ministry of Justice and Home Affairs is responsible for the open and closed centres where the migrants are being housed. The Ministry of Foreign Affairs also has a large role to play since it deals with all repatriation and foreign policy issues affecting immigration. The Ministry of Social Policy is responsible for the provision of medical and social benefits, housing and employment of immigrants. Finally, the Ministry of Education is in charge of providing educational programmes for migrants in Malta.
11. However, the impression given is that all these ministries regard irregular immigration as solely the responsibility of the Ministry of Justice and Home Affairs. Support on medical, social security, housing, employment and education matters tends to be given with reluctance. Yet all these aspects have a central role in how immigrants are treated. A holistic approach to the immigration issue, which covers all of its various facets, requires stronger coordination between these different ministries than currently seems to exist.

## DETENTION POLICY

12. Malta is currently the only EU country which practices a policy of automatic detention of all irregular migrants setting foot on Malta, regardless of whether they are asylum-seekers or not. At least internationally (and among refugee NGOs in Malta), the government's strict detention policy has been the most contentious aspect of its immigration policy, as the country has repeatedly come under fire from human rights and other organizations, including the Council of Europe. These organizations have not only criticized Malta's policy of indiscriminate detention as such, but also the conditions in Malta's detention centres, which are considered as falling (far) below international standards and as worse than in any other EU country.
13. The Government of Malta, for its part, has justified its strict detention policy on two main grounds. First, detention is considered necessary to ensure adequate control of the immigrants during the asylum application process. Second, detention allows the government to release the immigrants into the open centres and the community at large in a well-calibrated and organised manner, so as to minimize the social and other consequences on Maltese society.
14. While Malta's detention policy, provided that it is reviewed on a regular basis, can arguably be justified by the country's particular circumstances, and especially its small size and high population density, there is

nevertheless a need to ensure adequate living conditions in the closed and open centers. This seems essential not only on humanitarian grounds, but also in order to preserve the image of Malta as a just and civilized country. Therefore, the following policy recommendations seem appropriate.

### Build Another Open Accommodation Centre

15. The first priority must be to erect another 1000-bed Open Accommodation Centre as soon as possible. Steps are currently underway to convert a disused warehouse at Hal Far into an Open Accommodation Centre using mobile homes as the basic accommodation unit. Although the current expansion is taking place at Hal Far because a site was immediately available to cope with the emergency which had arisen, there may be wider social considerations to be borne in mind when choosing future sites for Open Centres. For example, is it sensible to have such a large concentration of migrants (more than 2000) in one location in Malta? As to the alternative possibility of finding a new location elsewhere, the advantage would lie in the ability to disperse the immigrants more widely in Malta and the possibility of finding a site which already had some of the basic facilities in place.
16. Given that our Closed Accommodation Centres contain over 2000 detainees and that these will be released gradually over the next year, it would seem prudent to start the search now for a disused factory site for another Open Centre as that will be needed soon enough and it will be as well to be prepared instead of having to cope with an emergency.

### Ensure the Detention Service is Equipped with Trained Personnel

17. When the Detention Service was set up in August 2005 it was officially established with 52 police officers and 117 AFM personnel, a total of 169 personnel. Since then, the Detention Service has recruited about 97 Detention Service Officers. But both the Police Commissioner and the Commander AFM have reduced their contribution to the Detention Service by about 30 police officers and 20 soldiers respectively. It is estimated that with the opening of the new Detention Compound for 256 detainees at Ta' Kandja, another 28 Detention Service personnel will be required to man it.
18. Since its inception, the Detention Service has coped manfully with its task. But it is essential that the Detention Service is properly manned. Not to do so is to take unacceptable risks affecting both the security and safety of detainees which undermines the whole policy of detention. It seems reasonable to increase the strength of the Detention Service from today's 266 (169 plus 97) to about 300. Despite the obvious difficulties for both Police Force and AFM manpower, the 30 policemen and 20 soldiers removed by the Police Commissioner and the Commander AFM should immediately be reinstated and a further 28 Detention Service personnel should be recruited as soon as possible to cope with the opening of the new compound at Ta' Kandja. However, in the longer term, the policy of gradually returning police officers and AFM soldiers to their primary duties with the Police Force and Army and replacing them with Detention Service personnel specifically recruited and trained for the job should be pursued.

### Improve Conditions in Open and Closed Accommodation Centres

19. The conditions under which immigrants in both Open and Closed Accommodation Centres are kept leave a lot to be desired. Malta has rightly been subject to severe international criticism and its image has taken a battering with each succeeding report.
20. **Open Accommodation Centres.** Malta's Open Centres at Hal Far and Marsa are still over-crowded. Their condition and appearance are depressing. The state of Hal Far is particularly poor. The toilets leave a lot to be desired and there are no proper cooking facilities for the migrants. The use of tents at Hal Far are inadequate to the task and not cost-effective. We should ideally be looking at stronger, more permanent accommodation. The tents at Hal Far are proving expensive to replace (each tent costs Lm 750 [EURO 1747] and has to be replaced after one year) and the foundation bases on which they have been placed are not adequate. When it rains the tents are not water-proof. In the winter they are very cold (they are not heated) and in the summer they are too hot. There is a need to replace them with purpose-built more permanent accommodation.

21. While the physical state of the Open Centres is a key issue, there are also other conditions affecting the immigrants which are unsatisfactory. For example, the calculation and entitlement to the Daily Allowance is in urgent need of review to ensure it is fair as well as cost-effective. The Daily Allowance tends to institutionalise living in Open Centres, whereas there is a need to encourage the migrants to live in the community. This would not only reduce costs since the Daily Allowance would no longer be paid after a reasonable period, but also lead to the gradual process of integration into the community. This is an aspect which requires further close study by government to ensure the removal of the Daily Allowance does not create problems in other areas.
22. **Detention Compounds.** By contrast, the majority of detention compounds are solidly built. The one exception is the Tent Compound (with 364 detainees) at Lyster Barracks which, while better than the Open Centre at Hal Far, still suffers from the same inadequacies described above. This too should be replaced with more permanent accommodation.
23. Conditions inside the detention compounds are also unsatisfactory due essentially to the overcrowding that occurs during the peak months from May to about November. Hermes Block at Hal Far is in urgent need of refurbishment. The poor living conditions in the compounds are exacerbated by the deficient arrangements for keeping detainees gainfully occupied while they are there. This policy is short-sighted since it leads to boredom and frustration, which leads directly to unruly behaviour and ill-discipline. It is essential that, in conjunction with the Ministry for Education, Youth and Sports, the Ministry for Justice and Home Affairs puts in place a properly structured system of preparation of detainees for life in Malta after their release. Although the Organisation for the Integration and Welfare of Asylum Seekers (OIWAS) has made a start with this in Open Centres, the process should start while detainees are still in detention. Basic lessons in English and familiarity courses about Malta should constitute the minimum we should be aiming for at this stage. This should not prove an expensive undertaking which could probably be implemented by using spare existing capacity. It seems more a question of putting the organisational building blocks in place.

## INTEGRATION POLICY: THE URGENT NEED FOR A NATIONAL INTEGRATION PLAN

24. Thus far, Malta has not yet developed any real policy on integration of immigrants. For the last few years it has tended to turn a blind eye to what happens to these individuals after their period in detention. But the reality is that the numbers living and working (or wanting to work) in the community are growing. The figure may reach 4500 by the end of this year. By 2012 – unless there is some extraordinary break-through on EU burden-sharing – it could be as high as 8000 or more at present rates.
25. Malta's generally underdeveloped integration policy, in comparison to other European countries, has recently been highlighted by a study carried out by the British Council and the Migration Policy Group, which examined integration policies across 25 EU and three non-EU European countries, using over 130 policy indicators. According to the study, Malta overall ranked 23rd of the 28 countries covered in terms of immigrants' opportunities to participate in society. It ranked particularly poorly in the area of labour market access (26th) and access to nationality. Similarly, a recent EU-funded report drafted under the auspices of the Appogg agency in Malta showed that 98% of young immigrants in Malta are not exposed to any formal learning, thus severely hampering their prospects of integrating into the national labour market.
26. The reality is that irregular immigration is a problem which will not go away. While problems of extreme poverty and civil strife in Africa continue – problems which may be exacerbated by climate change – we must plan on dealing with this influx of refugees for at least another generation. Continuing with the current policy of neglect in the area of integration of immigrants runs the risk that Malta will have to face the same consequences which many of the old immigrant countries of north-western Europe are now confronted with, as they have not made sufficient efforts to integrate their immigrant communities. The experience of many of these countries over recent years and decades, has been the emergence of a new form of immigrant ghettos which are characterized by extreme social marginalization and exclusion, and which often have little to do with the traditional black ghettos in the US, or other urban ethnically defined communities, such as 'little Italies' or 'little Polands'.
27. Contemporary immigrant ghettos, sometimes referred to as "hyper ghettos", are much more extreme, as they have lost most of the social solidarity and civil society that used to characterize the "traditional" ghet-

tos. These new ghettos are places of extreme social fragmentation and exclusion, with its inhabitants often focused exclusively on sheer survival. Needless to say that, for the countries concerned, they pose a broad range of severe social and other problems.

28. In order to avoid such a scenario from occurring in Malta, there is a need to develop a comprehensive, long-term integration plan which addresses every aspect of the integration issue holistically on a national basis. Consideration must be given, inter alia, to the employment and economic consequences (both positive and negative); the social consequences as young children grow up in Malta and inter-marriage starts to happen; the need to allay racist and xenophobic fears; the educational implications; as well as the positive and negative consequences on the national health and social security and housing systems.
29. Such a plan would go beyond the remit of the Ministry of Justice and Home Affairs alone and will require a concerted and coordinated government approach. While the Minister for Justice and Home Affairs would be in the lead, there are also crucial contributions to be made by Education, Social Policy (including employment, social housing, medical and social benefits), Foreign Affairs and Finance, as ultimately the issue affects virtually every part of government. The earlier the integration issue is addressed, the easier it will be to avoid the pitfalls which have handicapped and tripped up other European countries. It would be foolish to continue to ignore it.

### **INTEGRATION OF IMMIGRANTS IN THE NATIONAL LABOUR MARKET**

30. A comprehensive integration policy will also require more efforts to integrate immigrants into the national labour market. As Malta's demography ages, it will in any case be to our advantage for selective labour shortages to be filled in this way. But as already mentioned above, in this area in particular, immigrants in Malta face higher obstacles and stronger discrimination than in most other European countries. Policy measures in this sector would include, inter alia, the development of skills enhancement programmes and the creation of job placement centres for immigrants. Moreover, there is a need to provide young immigrants with adequate educational programmes so as to facilitate their access to the labour market.
31. Better integration of immigrants into the labour market will also require an effort to at least reduce Malta's informal economy, as it can be assumed that the majority of immigrants who currently work in Malta are active in the shadow economy. Like many other southern European countries, Malta's underground economy is rather large, estimated at around 25% of GDP. In addition to the various social and economic problems this poses, the informal economy arguably also acts as a pull factor in attracting irregular immigrants to Malta. This seems to be evidenced by the growing number of undocumented immigrants who actually intend to come to Malta. Although the numbers are still relatively small, these have increased, in contrast to the situation a few years ago when practically none of the migrants had Malta as their intended destination.

### **EU BURDEN-SHARING IN THE AREA OF ASYLUM**

32. The great majority of undocumented immigrants landing on Malta apply for political asylum (between 70% and 80%), and relative to population size, Malta has been one of the main recipients of asylum applications within the EU. Moreover, Malta is very generous in this area, as almost half of all applicants receive some form of protection, i.e. either formal refugee status or – much the larger number - temporary humanitarian protection. The latter reflects the fact that many of those heading to Malta have come from countries where civil strife is rampant.
33. In the EU context, Malta has found itself in a particularly disadvantageous situation due to the so-called Dublin Convention, which provides that the EU member country in which the asylum seeker enters first shall be responsible for processing the application. While the main rationale of the Dublin Convention is to prevent "asylum shopping" within the EU, it imposes a disproportionate burden on small countries, such as Malta, which happen to be located at the EU's external borders. Moreover, in Malta's case, unlike virtually every other country in Europe, there is no 'hinterland' to which they can move.
34. While amending the Dublin Convention currently seems politically difficult due to resistance from other EU member countries, the EU Commission in its recent Green Paper on the future Common European Asylum System, has shown some understanding for small EU front-line states such as Malta or Cyprus which have experienced a large influx of undocumented immigrants. Even though the Commission has refrained

from calling for a full revision of the Dublin rules, it has suggested to introduce “corrective burden-sharing mechanisms”—or “responsibility-sharing” as it is sometimes referred to—for countries with limited reception capacities which are facing particular migratory pressure because of their geographical location. Malta must continue to press for this by seeking changes to allow for greater flexibility in the way the Convention is applied based on an equitable mechanism allowing for a quota of those landing here to be processed by other nations in the EU.

35. The so-called European Pact on Immigration and Asylum, which has just been signed by EU heads of state, includes a section dealing with burden-sharing for countries facing a disproportionately large influx of irregular immigrants. However, this is only being invoked as a mechanism on a voluntary basis – a situation which is little different from what exists today where The Netherlands, Germany and others have already made similar offers of help. It therefore remains to be seen whether this disappointingly limited response from the EU countries will lead to any long term relief for Malta. Burden-sharing is at least now on the EU agenda and Malta must exercise all its efforts to ensure the Commission comes up with arrangements which are workable and expeditious.
36. Despite the absence of formal obligatory burden-sharing mechanisms, there have nevertheless been some voluntary resettlement programmes for refugees from Malta to other EU countries, but the figures have been very modest, ranging between 10 and 30 per year. Perhaps ironically, the US has been more generous in this respect than Malta’s fellow EU member countries. In 2007, the US Embassy in Malta announced a plan to resettle up to 200 refugees from Somalia who had landed on Malta.
37. Regardless of the current political difficulties in revising the Dublin Convention, Malta should nevertheless continue to insist on EU-wide burden sharing in the form of a re-distribution of asylum seekers landing on Malta among EU countries on a proportional basis. This will require an effective diplomatic campaign which clearly demonstrates the inequity of the Dublin Convention and the disproportionate burden Malta has been facing in coping with the growing number of irregular immigrants arriving on the island.

## **COMBATTING NEGATIVE ATTITUDES ABOUT IRREGULAR IMMIGRANTS**

38. As in many other European countries, the growth in irregular immigration into Malta has been accompanied by a rise in anti-immigrant and racist attitudes and activities. Even though these have overall remained at a relatively low level, and one can thus not yet speak of a “racist backlash”, the emergence of overtly xenophobic movements and parties has been a complete novelty in Malta’s political landscape. Moreover, and somewhat more worrying, there has been a rise in attacks against organizations and individuals working to protect the rights of immigrants, or against people denouncing racism. In 2006, for the first time, a number of violent acts were committed against the Jesuit Refugee Service in Malta, and the houses of two journalists who had written articles condemning racism were also attacked.
39. A recent study on xenophobic attitudes among the Maltese population has also revealed some disturbing results. According to a survey conducted in 2005, 95% of respondents had no objections to having a European neighbour, while an almost equally high number were unwilling to live next to Arabs (93%), Africans (90%) or Jews (89%). Moreover, more than 75% of respondents said they would not give shelter to refugees who had fled their home country because of political persecution, war, hunger or poverty.
40. Politicians, church leaders and opinion-formers more generally have a responsibility, at least in part, to counteract these racist tendencies, and the earlier action is taken, the easier it will be to avoid a real “racist backlash” which some European countries have had to confront in recent years. The Catholic Church in Malta, in particular, has been practically silent on the immigration issue. This will require that politicians and other opinion leaders generally avoid language which could incite racism or aggravate tensions between communities, and also highlight the potentially positive effects of a managed immigration scheme. This issue underlines – if it needed underlining – the vital need for a properly coordinated and structured integration policy to be put in place by government.
41. The media, as well, in their role as educators of public opinion, bear a responsibility in this regard. Efforts should be made, if necessary with the help of EU financial support, to implement a sustained information exercise in the media through which professionals can articulate the plight of illegal migrants and the challenges that all countries in the world are facing as a result of displaced persons. Such a campaign needs to air regularly so that everyone concerned becomes more familiar with the socio-economic and socio-cultural

reality these people are facing and the ways in which Malta intends to deal with them—humanely and in a properly managed manner.

## MARITIME PATROLS

42. It is clear that Malta does not have sufficient assets to control effectively its vast search and rescue zone. With only three off-shore patrol boats, as well as a handful of smaller vessels, the Armed Forces of Malta are responsible for an area which measures around 250,000 square kilometers. Moreover, the challenge in this regard is not only to deter irregular migration, but also to prevent the loss of life at sea—a particularly difficult task as the would-be immigrants typically travel in overloaded and unseaworthy boats across the Central Mediterranean and accidents are frequent. According to estimates of the Maltese government, at least 600 would-be immigrants drown in the Mediterranean every year, with the real figure probably being much higher.
43. With the launch of Frontex operations in the Central Mediterranean (so-called Operation Nautilus) in 2006, the EU has begun providing some support in this regard. However, Frontex made a rather slow start, its operations have repeatedly been delayed and interrupted, mainly due to uncertainties over Libya's role as well as budgetary constraints. In 2008, Frontex patrol missions, have, for the first time, been carried out throughout the entire migration season.
44. Nevertheless, the assets deployed in Frontex operations have thus far been very limited. In Operation Nautilus 2007, for example, contributions from other EU countries were limited to two German helicopters and an occasional presence of a Greek and a Spanish vessel as well as an Italian patrol aircraft. EU countries have generally been reluctant to provide the most needed patrol boats, as this entails the "risk" that the country providing the vessels will remain responsible for migrants rescued or intercepted at sea. As a result, at least according to officials of the Armed Forces of Malta, Malta has remained responsible for 90% of the surface coverage in Malta's search and rescue area, even in the framework of Frontex's operations.
45. The most serious shortcoming of Frontex' operation in the Central Mediterranean, however, has been the lack of Libyan participation, as Libya seems to consider measures such as joint maritime patrols as being incompatible with the country's sovereignty. It is commonly agreed that Frontex's maritime patrols can ultimately only be successful if Libya, as the main transit country, can be involved in these efforts through joint patrolling within its own territorial waters. In this respect, there is also a fundamental difference between Frontex's maritime patrols in the Central Mediterranean and its operations between the Canary Island and the West African coast, which have been carried out under Spanish leadership. In the latter case, Spain has been able to engage in very close collaboration with the main transit countries, Mauritania and Senegal, in the form of joint patrols and readmission of intercepted immigrants. Arguably as a consequence of this close collaboration, there has in recent years been a sharp decline of irregular migration from the West African coast towards the Canary Islands.
46. Given the still rather limited contribution from other EU countries to the Frontex operation in the Central Mediterranean, Malta should continue to lobby for a strengthening of Frontex. More EU countries should be encouraged to contribute, and those countries which are already contributing should provide more assets. Moreover, there is need to engage more closely with Libya in this area. Ultimately this will, of course, require a concerted EU effort, as Malta alone will hardly be able to elicit more collaboration from Libya. Nevertheless, the Armed Forces of Malta should further pursue their thus far rather low-key collaborative activities with Libya, such as training and information exchange in the area of search and rescue, in the hope that eventually Libya will be fully integrated into Frontex's maritime patrols.
47. In so doing, Malta should also explore possible ways of building on the recently concluded agreement between Italy and Libya on border and immigration controls. In December 2007, the two countries signed an agreement which inter alia provides for joint maritime patrols between Italy and Libya, coupled with the provision of border control equipment and technical assistance by Italy to Libya. However, as collaboration with Libya is stepped up in the area of immigration control, Malta (and other EU countries) should also encourage Libya to sign and respect the Geneva Refugee Convention, as Libya is one of the few countries which have thus far not signed this fundamental document, and abuses of irregular immigrants in Libya have reportedly been rather wide-spread.
48. As a next step, one should also investigate the feasibility of upgrading the Frontex operation in the Medi-

terranean into a permanent Euro-Mediterranean Coastguard Agency (EMCA) that would be mandated to co-ordinate the co-operative security network with a mission statement and plan of action similar to those carried out by a coastguard. As with the case of Frontex, it is essential that this initiative should involve collaboration not only between EU countries, but also between EU and southern Mediterranean states.

49. As experiences with irregular migration over recent years have shown, the challenges of coping with sea-borne migrants concern not only Malta's (and other countries') naval forces, but also the role of fishermen, as in the large majority of cases the would-be immigrants are first spotted or encountered by fishing vessels, which have a much larger presence at sea. However, while the fishermen could, in principle, play an important role in saving the lives of migrants who are in distress at sea, Maltese fishermen themselves have felt "under threat" from the growth in illegal immigration, and have criticized the insufficient support they have received from the government in coping with migrant encounters at sea.
50. According to representatives of the country's main fishermen association (*Ghaqda Kooperativa tas-Sajd*), Maltese fishermen, who often sail with a crew of only two or three, usually avoid coming too close to a boat carrying 20 to 30 migrants, as they fear being overpowered. Moreover, if they alert the authorities, these can take several hours to arrive on the spot, meaning that the fishermen's day of work is lost without compensation. As a consequence, as Maltese fishermen themselves readily admit, in most cases when they come across irregular migrants at sea, they simply "put the engine on full thrust", leaving the migrants to fend for themselves.
51. From a humanitarian perspective, this situation is unacceptable, and some kind of mechanism should be introduced whereby fishermen, who, as a consequence of rescue activities lose work, are compensated for this loss. Moreover, there is a need to inform Maltese fishermen more clearly about their international law obligations to rescue immigrants in situations of distress.

## **IMPLEMENT A MORE ELABORATE RETURN ASSISTANCE STRATEGY**

52. Malta has thus far not been effective in its repatriation of rejected asylum seekers, whether of obligatory or voluntary returns, although efforts to do so continue to be made. It is, however, commonly agreed that an effective return policy is an essential element of any immigration control strategy. Many European countries have in recent years begun to adopt policies on assisted returns of rejected asylum seekers and most of the major EU countries – with the resources to do so – have implemented strong repatriation policies. Malta must seek ways of coordinating their efforts in this field with those of the larger countries.
53. The following services of Return Assistance could be provided based on the Swiss model:
  - Return counseling services in Closed Accommodation Centres;
  - Individual return assistance;
  - Programmes abroad;
  - Structural assistance in the country of origin;
  - Return assistance for other categories of migrants.
54. The Return Counselling Services are contact points for persons wishing to learn more about return assistance. In the case of a definitive negative decision on asylum, the Return Counselling Service applies on behalf of the person to the Ministry of Foreign Affairs for individual Return Assistance.
55. Individual Return Assistance is tailored to meet the specific needs of the returnee and can include the organisation of the return journey including transfers to the place of domicile, initial financial aid, medical assistance, reintegration assistance for vocational training and education, housing solutions (rental costs, renovation) and special actions for vulnerable people. Certain other categories of migrants (such as victims of human trafficking) should also have access to Return Assistance.
56. Programmes abroad encourage the return and reintegration of certain groups of people. These programmes are temporary and can include measures to carry out work in Malta on a contract basis until the individuals return to their country of origin.
57. Structural Assistance as an element of programmes abroad benefits the corresponding countries, the native population and returnees alike. Structural assistance would be financed by the Ministry of Foreign Affairs

as part of Malta's development aid programmes. Typical structural assistance projects include the construction of school buildings or hospitals, the creation and placement of jobs or the resettlement of internally displaced persons.

58. Malta has recently launched a pilot project on assisted voluntary returns, which is co-funded by the EU. The aim of the project is to help migrants return to their home countries by providing them with financial assistance to initiate a business activity or similar project back in their home country. Financial assistance amounts to 5,000 USD per person. The project is implemented with the help of local NGOs, such as SOS Malta, as well as the Institute of Migration (IOM) in the countries of origin. The objective of the project is to encourage 50 immigrants to return from Malta to their home countries. Thus far, a total of about 30 migrants—mainly from Sudan, Nigeria and Ghana—have returned to their countries of origin through this scheme, and it is expected that the target of 50 will be met by the time the project ends in January 2009.
59. Given the effectiveness of this voluntary assisted return programme, which ultimately is in the interest of both the returnees and Malta, it is recommended that such a programme be set up on a permanent basis. At least in the long-run, such a programme will arguably lead to reduced costs for Malta. It should also considerably expand the existing programme to cover as many as 1,000 immigrants.

## **AN EFFECTIVE EU DEVELOPMENT POLICY AIMED AT ADDRESSING THE ROOT CAUSES OF MIGRATION**

60. In the long run, the issue of irregular migration can only be effectively tackled by addressing the root causes in the countries of origin. Irregular migration to Europe will only be reduced if Africa is able to employ its population and to offer them a more decent living. Malta is not in a position to do any of this alone; it has neither the resources nor the diplomatic leverage to do so. However, it should encourage the EU to be more active in this area. In particular, it should propose that the EU focus its efforts on those reforms that stand the best chances of improving the economic and employment situation in the target countries. The EU has not sufficiently done so in the past, and it is in its own self-interest to do so. What can it do more and better?
61. The EU should give priority to economic over political reforms and focus on a functioning judiciary, transparency of regulations, fiscal regime, education and training. This is the only realistic path. Governments will not – in any near future – implement radical political reforms that might undermine their power positions. The EU has to acknowledge this, without abandoning its constant appeal for democracy and, more urgent, the respect of basic human rights. It has to proceed incrementally starting with economic and also judicial reforms.
62. The generous allocation of development aid for the eradication of poverty in countries of origin must be encouraged. It lies at the heart of the humanitarian problem. The EU's development goals for Africa must be adhered to even in the face of an economic down-turn.
63. The success of coordinating Euro-African relations will be determined by the extent to which interaction between these two continents contributes to an improvement in the standard of living of all peoples. In such an exercise one needs to guard against abstract grand designs. The focus needs to be on delivering practical modalities of cooperation. An enhanced dialogue will also provide more dynamism and substance for regular and constructive cooperation between countries of origin and destination countries to identify common solutions. If we can manage to establish a truly interactive network with countries of origin, this will go a long way to fostering a closer understanding of one another and start to edge closer to a long-term solution to the root cause of the problem.
64. One of the main elements of the currently proposed EU Immigration Pact is to establish a "global partnership" between the EU and source and transit countries of migration. Inter alia, this would include the opening up of legal channels of migration in line with the labour market needs of EU countries; efforts to avoid a "brain drain" from countries of origin, the establishment of effective and secure financial transfer mechanisms, enabling emigrants to invest their capital back in their home countries; and a better coordination between migration and development policies of EU countries, so as to improve the living and employment conditions in the source countries of migration. If consistently pursued, these policies would certainly contribute to reducing the root causes of irregular migration in the countries of origin.

## CONCLUSIONS AND RECOMMENDATIONS

65. It is clear that the immigration issue has emerged as one of Malta's main, if not the main, policy challenges, and will remain so for the foreseeable future. While most European countries have been confronted with a rise in irregular immigration over recent years, Malta's experience in this area has in many ways been more extreme than that of other European countries. Relative to its size and population, Malta has received a larger inflow of irregular immigrants and asylum seekers than any other EU country in a very short space of time, despite the fact that practically none of the migrants landing on the island had Malta as their intended destination. As a small EU front-line state, Malta has also been particularly penalized by the current Dublin system of allocating responsibility for asylum applications among EU countries on the basis of the first country of entry.
66. Moreover, given the very recent nature of irregular immigration into Malta, the country has not had much time to develop adequate institutional structures and policies, as they exist in other European countries which have long been confronted with immigration flows. This has also been reflected in the still rather ad hoc and piecemeal approach to immigration in Malta, whereas a comprehensive and long-term strategy which addresses all facets of the immigration issue is now crucially necessary.
67. If there is one lesson that can be learned from the experiences of the older immigrant countries of north-western Europe, it is that neglecting the issue of integrating immigrant communities into their societies will, in the long run, come at a severe cost to the host country. Most of these countries, back in the 1960s and 1970s, assumed that immigration would be a temporary phenomenon only, and that few if any of their immigrants would remain in the country in the long run. The reality, however, was that the large majority of these immigrants, even if they originally only came on a temporary basis, settled in their host countries, and that even after policies of active recruitment had come to an end, the immigrant communities continued to grow (through family reunification, higher birth rates, and in other ways).
68. Similarly, in Malta today it would be a serious mistake to assume that the presence of immigrants will be a temporary phenomenon only. In all likelihood these people are here to stay in the long run, and adequately integrating them into Maltese society will not only be in their interest but also in the national interest of Malta in the longer term.
69. It is therefore recommended that the government should:
- Adopt a holistic approach to immigration covering all its various facets, with stronger coordination between ministries and departments;
  - Adopt a comprehensive long-term plan on integration of immigrants, which addresses every aspect of the migration issue on a national basis. This must include the employment and economic consequences as well as the social impacts. It must cover employment, education, housing, social security and medical benefits;
  - Build a new Open Accommodation Centre and another Closed Accommodation compound for 250 detainees;
  - Ensure that the Detention Service is equipped with sufficient trained personnel to meet its tasks;
  - Improve the living conditions in Open and Closed Accommodation Centres;
  - Introduce a properly structured system of preparation for detainees for life in Malta after their release from Closed Accommodation Centres. Continue this process once they have gone into Open Centres;
  - Facilitate access of immigrants to the national labour market, while introducing measures to combat illegal employment;
  - Introduce arrangements for a more methodical collection of statistics to establish more accurately what is happening to those living in the community;
  - Continue to lobby for EU burden- or responsibility-sharing in the area of irregular immigration and asylum, including in the form of resettlement programmes and ensure that the terms of the recently agreed Immigra-

tion Pact are implemented expeditiously;

- Press vigorously for the revision of the Dublin Convention;
- Continue to lobby for a strengthening of Frontex maritime patrols, in particular with the active participation of Libya;
- Seek to build on the recent Libya/Italy agreement on border and immigration controls;
- Consider introducing a mechanism whereby fishermen may be compensated for lost work due to immigrant rescue activities, subject to their observance of international maritime law in respect of dealing with boats in distress;
- Seek to generate positive perceptions in the media and elsewhere about irregular immigrants in Malta;
- Encourage politicians on a bi-partisan basis, Church leaders and opinion formers to take the lead in counter-acting racist and xenophobic tendencies in society;
- Implement a sustained information campaign in the media to educate the public about irregular immigration;
- Set up a permanent (and expanded) programme of voluntary assisted returns;
- Provide structural assistance in countries of origin as part of Malta's development aid programme;
- In the EU context, promote an effective development aid policy aimed at addressing the root causes of migration.

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Lt. Col. Martin Cauchi-Inglott, Armed Forces of Malta

Mr. Carmelo Bugeja, Ghaqda Kooperative tas-Sajd, Malta

Mr Ives de Barro, Project Leader at Ministry of Foreign Affairs on the Dar Return Programme

Mr. Neil Falzon, UNHCR Office, Malta

Lt. Col. Brian Gatt, Head of Detention Service, Ministry for Justice and Home Affairs

Col Emanuel Mallia, Head Operations, Plans & Intelligence, Armed Forces of Malta

Mr. Martin Scicluna, government advisor on migration issues

Ms. Céline de Wailly, Jesuit Refugee Service Malta

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