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UPDATE ON 2024

MALTA

COUNTRY REPORT

AUGUST 2025

Acknowledgements & Methodology

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The update on 2024 to the AIDA country report on Malta was shared with the Ministry of Home Affairs, Security and Employment to provide an opportunity for comments. The comments were taken into account by the author and are published in a separate annex on the AIDA website.

The information in this report is up to date as of 31 December 2024, unless otherwise stated.

The Asylum Information Database (AIDA)

The Asylum Information Database (AIDA) is managed by the European Council on Refugees and Exiles (ECRE). It aims to provide up-to date information which is accessible to researchers, advocates, legal practitioners and the general public through the dedicated website www.asylumineurope.org. It covers 23 countries, including 19 EU Member States (AT, BE, BG, CY, DE, ES, FR, GR, HR, HU, IE, IT, MT, NL, PL, PT, RO, SE, and SI) and 5 non-EU countries (Serbia, Switzerland, Türkiye, Ukraine and the United Kingdom). The database also seeks to promote the implementation and transposition of EU asylum legislation reflecting the highest possible standards of protection in line with international refugee and human rights law and based on best practice.

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Table of Contents

Glossary & List of Abbreviations 6

Statistics 7

Overview of the legal framework 12

Overview of the main changes since the previous report update 18

Asylum Procedure 21

A. General 21
1. Flow chart 21
2. Types of procedures 22
3. List of authorities intervening in each stage of the procedure 22
4. Number of staff and nature of the determining authority 22
5. Short overview of the asylum procedure 23

B. Access to the procedure and registration 26
1. Access to the territory and push backs 26
2. Preliminary checks of third country nationals upon arrival 36
2. Registration of the asylum application 37

C. Procedures 39
1. Regular procedure 39
2. Dublin 55
3. Admissibility procedure 62
4. Border procedure (border and transit zones) 65
5. Accelerated procedure 65
6. National protection statuses and return procedure 72

D. Guarantees for vulnerable groups 74
1. Identification 74
2. Special procedural guarantees 81
3. Use of medical reports 84
4. Legal representation of unaccompanied children 85

E. Subsequent applications 87

F. The safe country concepts 90
1. Safe country of origin 90
2. Safe third country 91
3. First country of asylum 92

G. Information for asylum-seekers and access to NGOs and UNHCR 92
1. Provision of information on the procedure 92
2. Access to NGOs and UNHCR 94

H. Differential treatment of specific nationalities in the procedure 95
1. Syria, Eritrea and Somalia 95
2. Bangladesh and North African countries (excluding Libya) 95

Reception Conditions 97

A. Access and forms of reception conditions 98
1. Criteria and restrictions to access reception conditions 98
2. Forms and levels of material reception conditions 99

3. Reduction or withdrawal of reception conditions 101
4. Freedom of movement 103
B. Housing 104
1. Types of accommodation 104
2. Conditions in reception facilities 106
C. Employment and education 107
1. Access to the labour market 107
2. Access to education 109
D. Health care 111
E. Special reception needs of vulnerable groups 111
F. Information for asylum applicants and access to reception centres 113
1. Provision of information on reception 113
2. Access to reception centres by third parties 114
G. Differential treatment of specific nationalities in reception 114
Detention of Asylum Seekers 115
A. General 115
B. Legal framework of detention 118
1. Grounds for detention 118
2. Alternatives to detention 123
3. Detention of vulnerable applicants 124
4. Duration of detention 128
C. Detention conditions 129
1. Place of detention 129
2. Conditions in detention facilities 129
3. Access to detention facilities 138
D. Procedural safeguards 143
1. Judicial review of the detention order 143
2. Legal assistance for review of detention 149
E. Differential treatment of specific nationalities in detention 150
Content of International Protection 152
A. Status and residence 152
1. Residence permit 152
2. Civil registration 153
3. Long-term residence 153
4. Other forms of regularisation 154
5. Naturalisation 155
6. Cessation and review of protection status 156
7. Withdrawal of protection status 157
8. Lapse of protection status 158
B. Family reunification 159
1. Criteria and conditions 159
2. Status and rights of family members 161
C. Movement and mobility 162
1. Freedom of movement 162
2. Travel documents 162
D. Housing 163

E. Employment and education 164
1. Access to the labour market 164
2. Access to education 165
F. Social welfare 167
G. Health care 168
ANNEX I - Transposition of the CEAS in national legislation 170
ANNEX II – Asylum decisions taken by IPA in 2024 171

Glossary & List of Abbreviations

AAT	Age Assessment Team
ASD	Asylum-Seeker Document
ATD	Alternatives to Detention
AFM	Armed Forces of Malta
AWAS	Agency for the Welfare of Asylum-seekers
CEO	Chief Executing Officer
CPT	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
DSA	Detention Services Agency
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
EDAL	European Database of Asylum Law
EEPO	European Employment Policy Observatory
EUAA	European Union Agency for Asylum
HRD	Human Rights Directorate
IAB	Immigration Appeals Board
IOM	International Organization for Migration
IPAT	International Protection Appeals Tribunal
IPA	International Protection Agency
IRC	Initial Reception Centre
MHSE	Ministry for Home Affairs, Security and Employment
MQF	Malta Qualifications Framework
MQRIC	Malta Qualifications Recognition Information Centre
MRC	Malta Refugee Council
NCFHE	National Commission for Further Higher Education
OHCHR	Office of the United Nations High Commissioner for Human Rights
PD Form	Personal Details Form
PIO	Principal Immigration Officer
PQ	Preliminary Questionnaire
SAR	Search and Rescue
SRA	Specific Residence Authorisation
TCN	Third Country National
THP	Temporary Humanitarian Protection
TP	Temporary Protection
UNGDAW	United Nations Working Group on discrimination against women and girls
UNHCR	United Nations High Commissioner for Refugees
UNHRC	United Nations Human Rights Committee
UNRWA	United Nations Relief and Works Agency for Palestinian Refugees
VAAP	Vulnerable Adult Assessment Procedure

Statistics

Overview of statistical practice

Regular statistics are not published by the authorities. According to IPA, a total of 985 decisions were taken in 2024.[1] Comprehensive data on all decisions taken by IPA in 2024 is presented in Annex II.

Applications and granting of protection status at first instance: figures for 2024

	Applicants in 2024	Pending at end of 2024	Total decisions in 2024[2]	Total in merit decisions	Total inadmissible	In merit rejection	Refugee status	Subsidiary protection	Temporary Humanitarian Protection (THP)[3]
Total	528[4]	507	985	396	88	194	52	145	5
Breakdown by countries of origin of the total numbers									
Syria	204	117	323	143	47	7	8	128	0
Ukraine	33	89	34	10	1	7	0	3	0
Colombia	30	38	22	16	0	16	0	0	0
Libya	29	31	51	23	3	18	5	0	0
Bangladesh	27	10	69	21	2	21	0	0	1
Pakistan	25	0	46	35	2	29	6	0	0
Sudan	23	57	77	2	8	2	0	0	0
Egypt	16	0	26	11	7	11	0	0	0
Eritrea	14	12	40	9	0		1	8	0
Nigeria	14	19	11	8	3	6	1	1	0

Source: International Protection Agency.

1 The total number of decisions includes the following types of decisions: Administrative Closure, Dublin Closure, Explicitly Withdrawn, Implicitly Withdrawn, Inadmissible, No Change, Refugee Status, Subsidiary Protection, Temporary Humanitarian Protection and In Merits Rejection.

2 These figures include other decisions not reflected in this table, such as implicitly withdrawn, explicitly withdrawn, administrative closures, Dublin closure, or a no change from their previous decision after they lodged a subsequent application. These are included in the 'Total' to represent an accurate amount of decisions for these nationalities.

3 THP is a form of national protection regulated by Article 17A of the International Protection Act and awarded to applicants for international protection who does not qualify for refugee status or subsidiary protection status, but who is deemed to qualify for protection on humanitarian grounds (see National forms of protection).

4 This figure includes first and subsequent applications as well as applications defined by IPA as 'new'. Such applications are "*those instances where a previous application was discontinued as explicitly or implicitly withdrawn and the person concerned subsequently requests the application to be re-opened but the legal time limit for re-opening has lapsed.*" The IPA reported 444 first applications, 24 new applications and 60 subsequent applications in 2024.

Applications and granting of protection status at first instance: rates for year 2024

According to IPA, a total of 985 decisions were taken in 2024, as explained above.

	Overall protection rate	Refugee rate	Subsidiary protection rate	Temporary Humanitarian protection rate	Share of in merit rejections in total decisions
Total	20.5%	5.3%	14.7%	0.5%	19.7%
Syria	42.1%	2.5%	39.6%	0%	2.2%
Ukraine	8.8%	0%	8.8%	0%	20.6%
Colombia	0%	0%	0%	0%	72.7%
Libya	9.8%	9.8%	0%	0%	35.3%
Bangladesh	1.4%	0%	0%	1.4%	30.4%
Pakistan	13%	13%	0%	0%	63%
Sudan	0%	0%	0%	0%	2.6%
Egypt	0%	0%	0%	0%	42.3%
Eritrea	22.5%	2.5%	20%	0%	0%
Nigeria	9%	4.5%	4.5%	0%	27.2%

Source of the percentages: Based on calculations of the figures shared by the International Protection Agency. All rates are calculated on the basis of **total** decisions taken on applications from those countries.

Gender/age breakdown of the total number of applicants: 2024 (528 total applications)

	Men	Women
Number	376	152
Percentage	71%	29%

	Adults	Children	
		Accompanied	Unaccompanied
Number	433	84 (40 male, 44 female)	11 (8 male, 3 female)
Percentage	82%	16%	2%

Source: International Protection Agency.

First instance and appeal decision rates: 2024

It should be noted that, during the same year, the first instance and appeal authorities handle different caseloads. Thus, the decisions below do not concern the same applicants.

	First instance		Appeal[5]	
	Number	Percentage	Number	Percentage
Total number of decisions[6]	985	100%	450	100%
Positive decisions	202	20.5%	34	7.6%
• *Refugee status*	*52*	*5.3%*	*2*	*0.4%*
• *Subsidiary protection*	*145*	*14.7%*	*29*	*6.5%*
• *Temporary Humanitarian Protection*	*5*	*0.5%*	*0*	*0%*
• *Other*[7]	*0*	*0%*	*3*	*0.7%*
Negative decisions[8]	783	79.5%	416	92.4%

Source: International Protection Agency, International Protection Appeals Tribunal.

5 The IPAT also determines Dublin appeals, so the total number of decisions includes decisions on such appeals. The decisions upholding Dublin appeals are included under Other, below, whilst the negative decisions are included as such. The total number of IPAT decisions includes: decisions in merits (positive and negative), inadmissibility (including manifestly unfounded), Dublin decisions and withdrawn (implicit and explicit).

6 For this table, the total number of decisions includes decisions of inadmissibility, therefore presenting numbers and percentages different to those in previous tables

7 In relation to the IPAT, this number includes: refugee status, subsidiary protection, THP and applications reversed to IPA.

8 This figure incorporates: Administrative Closure, Dublin Closure, Explicitly and Implicitly Withdrawn, Inadmissible, No Change, Rejection.

First and subsequent applications breakdown by country of Origin: 2024[9]

Country of Origin	First applications	Subsequent applications
Algeria	4	2
Argentina	1	
Bangladesh	26	1
Brazil		1
Burkina Faso	1	
Cameroon	2	
China, including Hong Kong	4	
Colombia	30	
Egypt	15	1
Eritrea	14	
Estonia	1	
Ethiopia	3	3
Georgia	5	6
Ghana	2	
Guinea	3	2
Honduras	1	
Iran	1	
Iraq		1
Jamaica	1	
Lebanon	1	

[9] Information provided by International Protection Agency.

Libya	22	7
Morocco	1	
Nigeria	9	4
Niger		1
North Macedonia	2	
Pakistan	20	5
Palestine	9	
Peru	6	
Russia	4	
Senegal	1	
Serbia	8	
Somalia	5	
South Africa	2	
Stateless	2	
Sudan	4	14
Syria	197	4
Tunisia	1	1
Türkiye	1	
Ukraine	21	7
United States	2	
Venezuela	11	
Vietnam	1	
Grand Total	**444**	**60**

Overview of the legal framework

Main legislative acts and policies relevant to asylum procedures, reception conditions, detention, and content of protection. The green-coloured rows indicate the principal Act, with the following rows including the subsidiary legislation adopted within these Acts. The yellow-colour rows include policy documents.

Title	Abbreviation	Link	Amendments with links
Cap. 420 International Protection Act	IP Act	https://legislation.mt/eli/cap/420/eng	Amended by Act VIII of 2004 - https://legislation.mt/eli/act/2004/8 Amended by Legal Notice 40 of 2005 - https://legislation.mt/eli/ln/2005/40 Amended by Legal Notice 426 of 2007 - https://legislation.mt/eli/ln/2007/426 Amended by Act VII of 2008 - https://legislation.mt/eli/act/2008/7 Amended by: Act VI of 2015 - https://legislation.mt/eli/act/2015/6 Amended by: Act VII of 2015 - https://legislation.mt/eli/act/2015/7 Amended by: Act XX of 2017 - https://legislation.mt/eli/act/2017/20 Amended by: Act XXI of 2020 - https://legislation.mt/eli/act/2020/21 Amended by Legal Notice 198 of 2020 - https://legislation.mt/eli/ln/2020/198 Amended by Act XL of 2020 - https://legislation.mt/eli/act/2020/40 Amended by: Act XIX of 2022 - https://legislation.mt/eli/act/2022/19 Amended by: Act XXXV of 2023 - https://legislation.mt/eli/act/2023/35 Amended by Legal Notice 104 of 2024 - https://legislation.mt/eli/ln/2024/104/eng
S.L. 420.01 International Protection Appeals Tribunal (Procedures) Regulations	IPAT Regulations	https://legislation.mt/eli/sl/420.1/eng	Amended by Legal Notices 426 of 2007and 426 of 2012.
S.L. 420.04 International Protection Appeals Tribunal (Chambers) Rules	IPAT Chambers Regulations	https://legislation.mt/eli/sl/420.4/eng	Amended by Legal Notice 46 of 2014
S.L. 420.05 Temporary Protection for Displaced Persons (Minimum Standards) Regulations		https://legislation.mt/eli/sl/420.5/eng	Amended by Legal Notice 188 of 2022
S.L. 420.06 Reception of Asylum-seekers Regulations	Reception Regulations	https://legislation.mt/eli/sl/420.6/eng	Amended by Legal Notices 417 of 2015,487 of 2021 and 2 of 2023 and 87 of 2024

S.L. 420.07 Procedural Standards for Granting and Withdrawing International Protection Regulations	Procedural Regulations	https://legislation.mt/eli/sl/420.7/eng	Amended by Act XL of 2020 and Legal Notices 488 of 2021, 273 of 2022 and 104 of 2024
S.L. 420.08 Fees Payable for Lost or Destroyed Documents Regulations		https://legislation.mt/eli/sl/420.8/eng	
Cap. 217 Immigration Act	Immigration Act	https://legislation.mt/eli/cap/217/eng	Amended by Act VIII of 2004 - https://legislation.mt/eli/act/2004/8 Amended by Legal Notice 248 of 2004 - https://legislation.mt/eli/ln/2004/248 Amended by Act XIII of 2005 - https://legislation.mt/eli/act/2005/13 Amended by Act XVII of 2005 - https://legislation.mt/eli/act/2005/17 Amended by Legal Notice 274 of 2007 - https://legislation.mt/eli/ln/2007/274 Amended by Legal Notice 411 of 2007 - https://legislation.mt/eli/ln/2007/411 Amended by Act VII of 2008 - https://legislation.mt/eli/act/2008/7 Amended by Act XV of 2008 - https://legislation.mt/eli/act/2008/15 Amended by Act XVIII of 2009 - https://legislation.mt/eli/act/2009/18 Amended by Legal Notice 20 of 2013 - https://legislation.mt/eli/ln/2013/20 Amended by Act XXVI of 2015 - https://legislation.mt/eli/act/2015/36 Amended by Act XV of 2022 - https://legislation.mt/eli/act/2022/15 Amended by Act XXXV 2023 - https://legislation.mt/eli/act/2023/35
S.L. 217.01 Fees payable for Residence Permits and Employment Licences Regulations		https://legislation.mt/eli/sl/217.1/eng	Amended by Legal Notices 32 of 1995,233 of 1997, 267 of 2006, 254 of 2009 2 of 2013 and 84 of 2021; and Act XIII of 2015.
S.L. 217.02 Detention of a Person at Savio College Regulations		https://legislation.mt/eli/sl/217.2/eng	
S.L. 217.03 Places of Detention Designation Order		https://legislation.mt/eli/sl/217.3/eng	
S.L. 217.05 Status of Long-term Residents (Third Country Nationals) Regulations		https://legislation.mt/eli/sl/217.5/eng	Amended by Legal Notices 370 of 2010,197 of 2014, 366 of 2015 and 84 of 2021 and Act XXIX of 2019
S.L. 217.06 Family Reunification Regulations	Family Reunification Regulations	https://legislation.mt/eli/sl/217.6/eng	Amended by Legal Notice 148 of 2017and 166 of 2018

S.L. 217.07 Permission to Reside for Victims of Trafficking or Illegal Immigration who co-operate with the Maltese Authorities Regulations		https://legislation.mt/eli/sl/217.7/eng	
S.L. 217.08 Monitoring Board for Detained Persons Regulations	MBDP Regulations	https://legislation.mt/eli/sl/217.8/eng	Amended by Legal Notices 251 of 2012 and 425 of 2015
S.L. 217.11 Agency for the Welfare of Asylum-seekers Regulations	AWAS Regulations	https://legislation.mt/eli/sl/217.11/eng	
S.L. 217.12 Common Standards and Procedures for returning Illegally Staying Third-Country Nationals Regulations	Returns Regulations	https://legislation.mt/eli/sl/217.12/eng	Amended by Legal Notice 15 of 2014,410 of 2020 and 43 of 2021
S.L. 217.13 Immigration Appeals Board (Division) Regulations	IAB Divisions Regulations	https://legislation.mt/eli/sl/217.13/eng	Amended by Legal Notice 82 of 2023
S.L. 217.14 Minimum Standards on Sanctions and Measures against Employers of Illegally Staying Third-Country Nationals Regulations		https://legislation.mt/eli/sl/217.14/eng	
S.L. 217.16 Immigration Appeals Board (Additional Jurisdiction) Regulations		https://legislation.mt/eli/sl/217.16/eng	Amended by Legal Notice 133 of 2017
S.L. 217.17 Single Application Procedure for a Single Permit as regards Residence and Work and a Common Set of Rights for those Third Country Workers legally residing in Malta Regulations		https://legislation.mt/eli/sl/217.17/eng	
S.L. 217.18 Malta Residence and Visa Programme Regulations		https://legislation.mt/eli/sl/217.18/eng	Amended by Legal Notices 189 of 2017,122, 384 of 2021 and 56 of 2024
S.L. 217.19 Detention Service Regulations	Detention Service Regulations	https://legislation.mt/eli/sl/217.19/eng	
S.L. 217.21 Conditions of Entry and Residence of Third-Country Nationals in the Framework of an Intra-Corporate Transfer Regulations		https://legislation.mt/eli/sl/217.21/eng	

S.L. 217.22 Conditions of Entry and Residence of Third-Country Nationals for the Purposes of Research, Studies, Training and Voluntary Service in the Mobility Project for Young People: Voluntary Projects Regulations		https://legislation.mt/eli/sl/217.22/eng	
S.L. 217.24 Procedure for the Inspection of Illegally Staying and Illegally Employed Third-country Nationals and the Monitoring of Third Country Nationals enrolled in Educational Establishments Regulations		https://legislation.mt/eli/sl/217.24/eng	
S.L. 217.25 Residence Status of United Kingdom nationals and their family members in accordance with the Agreement on the Withdrawal of the United Kingdom and Northern Ireland from the European Union and the European Atomic Energy Community Regulations		https://legislation.mt/eli/sl/217.25/eng	
S.L. 217.26 Malta Permanent Residence Programme Regulations		https://legislation.mt/eli/sl/217.26/eng	
S.L. 217.27 Conditions of the Entry and Residence of Third-Country Nationals for the Purpose of Highly Qualified Employment Regulations		https://legislation.mt/eli/sl/217.27/eng	
Cap. 36 Prevention of Disease Ordinance		https://legislation.mt/eli/cap/36/eng	
Cap. 465 Public Health Act		https://legislation.mt/eli/cap/465/eng	
Cap. 602 Minor Protection(Alternative Care) Act	Minor Care Act	https://legislation.mt/eli/cap/602/eng	Amended by Act XXXIX of 2020 - https://legislation.mt/eli/act/2020/39/eng/pdf Amended by Act XXIII of 2021 - https://legislation.mt/eli/act/2021/23/eng Amended by Act XI of 2023 - https://legislation.mt/eli/act/2023/11/eng

S.L.602.01 Children's House Regulations		https://legislation.mt/eli/sl/602.1/eng	
Cap. 595 Public Administration Act		https://legislation.mt/eli/cap/595/eng	
S.L. 595.36 International Protection Agency (Establishment) Order	IPA Order	https://legislation.mt/eli/sl/595.36/eng	
S.L. 595.45 Detention Services Agency (Establishment) Order	DSA Order	https://legislation.mt/eli/sl/595.45/eng	
Cap. 318 Social Security Act		https://legislation.mt/eli/cap/318/eng	
S.L. 318.16 Social Security (U.N. Convention relating to the Status of Refugees) Order	Refugees Social Security Regulations	https://legislation.mt/eli/sl/318.16/eng	
Cap 188 Maltese Citizenship Act	Citizenship Act	https://legislation.mt/eli/cap/188/eng	Amended by Act II of 1970, Act XXXI of 1972, Act LVIII of 1974, Act XXXI of1975, Act IX of 1977, Act XIII of 1983 - https://legislation.mt/eli/act/1983/13/eng/pdf Act XXIV of 1989 - https://legislation.mt/eli/act/1989/24/eng/pdf Act IV of 2000 - https://legislation.mt/eli/act/2000/4/eng/pdf Act X of 2007 - https://legislation.mt/eli/act/2007/10/eng/pdf Legal Notice 410 of 2007 - https://legislation.mt/eli/ln/2007/410/eng/pdf Act XV of 2013 - https://legislation.mt/eli/act/2013/15/eng/pdf Act XXIV of 2017 - https://legislation.mt/eli/act/2017/24 Act XXVI of 2017 - https://legislation.mt/eli/act/2017/26/eng/pdf Act XV of 2020 - https://legislation.mt/eli/act/2020/15/eng/pdf Act XXXVIII of 2020 - https://legislation.mt/eli/act/2020/38/eng/pdf
Anti-Racism Strategy 2021-2023	Anti-Racism Strategy	https://tinyurl.com/5yrphd5c	

Policy regarding Specific Residence Authorisation	Specific Residence Authorisation	https://tinyurl.com/432x46m3	
Strategy for the Reception of Asylum-seekers and irregular migrants (2015)	2015 Strategy Document	https://tinyurl.com/6ppyhw5k	
Integration=Belonging: Migrant Integration Strategy and Action Plan, Vision 2020	Integration Strategy 2020	https://tinyurl.com/mtcknahr	
Integration Strategy and Action Plan 2025 – 2030	Integration Strategy 2025	https://tinyurl.com/55yyh6yn	

Overview of the main changes since the previous report update

The report was previously updated in **September 2024**.

International protection

Asylum procedure

- **Key asylum statistics**: In 2024, Malta received a total of 528 applications, including 444 first applications, 24 new applications and 60 subsequent applications. 82% of these were submitted by adults, whilst 18% were submitted by children. The IPA ended the year with 507 pending applications. The majority of applications received in 2024 came from Syrian nationals (204). The IPA took 985 decisions in 2024, whilst 450 decisions at second instance were issued by the IPAT. Overall, including decisions taken at the appellate stage, 54 persons were recognised as refugees and 174 persons were granted subsidiary protection. Malta's protection rate for the year stood at 27.4%.[10] Of the 985 decisions, 586 were negative decisions based on procedural issues. This included 194 decisions that applications were *"implicitly withdrawn"* and 132 decisions on *"administrative closure".*

- **Country of origin decision making trends**: in terms of country profiles, Malta generally continued to acknowledge the protection needs of Syrians, Eritreans and Palestinians whilst also issuing more positive decisions in individual cases of Iranians, Libyans and nationals of Türkiye. However, the IPA continued to indicate a negative stance on international protection applications by nationals of Ukraine, Bangladesh and Pakistan. In relation to Libya, aside from the individualised recognition of refugee status, most applications were negatively assessed.

- **Access to the territory**: 2024 marked another year of Malta's migration policy effectively limiting the number of applicants reaching the country; with 239 arrivals by sea in total. As in previous years, accusations highlighting that Malta failed to fulfil its international maritime obligations in relation to people in distress at sea persisted. Many reports of incidents seeing Malta failing or delaying to intervene, instructing private ships not to rescue and engaging in cooperation with the Libyan Coast Guard were published throughout the year. All these activities were also flagged in two key UN human rights reviews Malta underwent in 2024.

- **Automatic detention of new arrivals**: With the previous practice of *de facto* detaining all new arrivals under public health legislation for months being declared a violation of the ECHR, in 2024 Malta reverted to automatically detaining all new arrivals for an almost mandatory minimum of two months, with the exception of visibly vulnerable persons. Moreover, Malta started arresting and detaining people directly from the premises of the asylum office (IPA) following their spontaneous asylum application, at times including persons who were living in Malta under a valid visa or during the visa free period.

- **Lack of access to the procedure and legal assistance in detention**: people faced increased challenges to access the procedure and to participate in it effectively due to their detention. Detained newly-arrived applicants were denied any form of contact with NGOs or independent support, with notably the telephones in the detention centre being turned off. Despite efforts in being more present and active in detention, NGOs lamented logistical challenges in visiting their clients and the impossibility to organise group information sessions on the procedure. UNHCR was only permitted to visit applicants following their lodging of the applications. Only the

[10] This includes decisions recognising refugee status and granting subsidiary and temporary humanitarian protection by the IPA and the IPAT. Positive decisions of the IPAT that resulted in reversals back to IPA are not included.

authorities could visit newly-arrived persons and according to testimonies focused on voluntary return procedures.

- **Access to asylum applicant status following withdrawal of protection**: Applicants seeking reinstatement after their international protection had been withdrawn by the IPA after one year following their non-renewal of expired documentation, were not treated as asylum applicants during the reinstatement procedure. They were not protected against *refoulement*, not provided with an Asylum-Seeker Document and could not benefit from any form of reception conditions.

- **Inadmissibility criteria**: Practitioners expressed concern at several applications declared inadmissible on the basis that the applicant had been granted international protection in another EU MS when that international protection was not actually being enjoyed, either due to revocation or withdrawal following non-renewal. In most cases, these were spouses to persons granted international by Malta.

- **Return procedure**: A Strasbourg judgement blocked the removal of two Uighurs, flagging deficiencies in the various elements of their asylum procedures.

Reception conditions

- **Conditions in open centres**: Despite the very low number of applicants reaching Malta in 2024, living conditions in the open reception centres remained challenging for most residents. Marsa Initial Reception Centre was closed in 2024. Despite an increasing number of applicants benefitting from reception conditions whilst living in the community, little effort was made to shift Malta's reception regime from large centres towards a more community-based approach. Whilst provision of support and care in some centres, especially those accommodating the most vulnerable, did improve, living conditions for all applicants remained a serious challenge. The largest centre, the Ħal Far Tent Village, is composed of several rows of metal containers and shared facilities underlining the temporary nature of this accommodation.

- **Withdrawal of reception conditions**: The policy of withdrawing material reception conditions for all applicants, save the most vulnerable, following six months of residence in the reception centres was maintained, yet it is not formally described or treated as a withdrawal. In 2024, the reception agency, AWAS, strengthened its material support for applicants opting to live in the community, but this remains an exceptional approach and not a mainstream programme.

Detention of asylum-seekers

- **Detention of newly arrived asylum-seekers**: Malta maintained administrative detention as the primary reception model for newly-arrived asylum-seekers. All persons, including children and vulnerable persons, were detained on public health grounds under a regime found to be illegal by Maltese Courts and the European Court of Human Rights. Although this initial detention was reduced to a couple of days at the beginning of 2024, largely following an ECtHR ruling, a new unwritten policy mandates the automatic detention of all applicants – save vulnerable persons – for around two months.

- **Detention upon applying for asylum**: Several applicants spontaneously approaching IPA to apply for asylum were immediately arrested and detained, including persons who were regularly staying in Malta. NGOs and UNHCR were approached by persons wishing to seek asylum but fearful of being detained.

- **Detention of vulnerable persons**: the Detention Services Agency was involved in the assessment of vulnerable persons for the purpose of decision-making regarding their ongoing detention. Originally the exclusive remit of AWAS, given the Agency's expertise, in 2024

vulnerability assessments were carried out by the DSA and invariably led to increased detention of vulnerable persons. Furthermore, Malta adopted legal amendments enhancing the use of detention for vulnerable persons, including children.

- **Access to detention centres**: Access to detention centres and to detained asylum-seekers was a key challenge throughout 2024: UNHCR was not allowed to be in contact with newly-arrived applicants; NGOs are only permitted to visit named clients; the DSA decides dates, times and possibility of NGO lawyer visits; centre telephones were turned off for several days following new arrivals; NGOs offering anything other than legal services were denied access to detention.

- **Appeals mechanism re. detention decisions does not meet ECHR standards**: An ECtHR ruling found that the Immigration Appeals Board, tasked with deciding on the legality of detention decisions as well as age assessment appeals, does not fulfil basic requirements of impartiality and independence from the Executive and is therefore not an effective remedy under the Convention. Despite this judgement, no changes were made to the IAB in 2024 and early 2025.

- **Detention conditions**: Living conditions in the detention centres remained extremely poor, particularly for vulnerable persons and children. This was confirmed in a European Court of Human Rights judgement, the CPT report published in mid-2025 and several other reports by human rights bodies.

Content of international protection

- **Access to naturalisation**: NGOs welcome the adoption of Malta's second national integration strategy. Nevertheless, Malta further restricted its approach to integration by increasing the minimum number of years of residence in Malta refugees must demonstrate before being eligible to apply for Maltese citizenship to 15, up from 10 previously. Beneficiaries of subsidiary protection, together with being permanently ineligible for family reunification, are required to have lived in Malta for over 20 years.

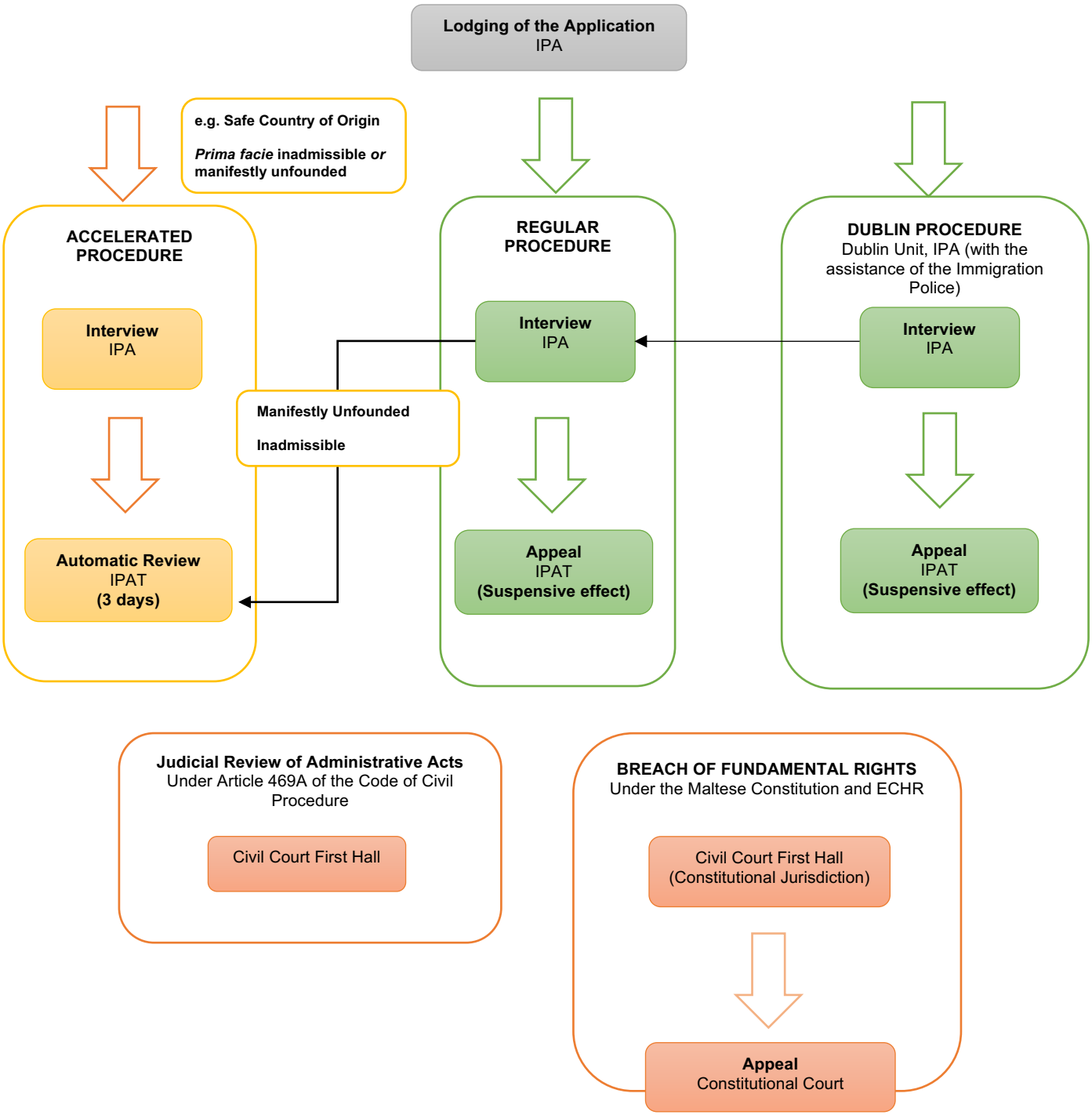
- **Derivative status of family members and loss of protection**: Malta does not recognise derivative protection status for dependant family members of refugees. In 2024, in several situations children of refugees turning 18 reverted to an undocumented status. At 18 these children are required to obtain a residence permit in their own name on the basis of either international protection, employment or studies, yet several factors prevent them from being eligible for any of these.

- **Re-accessing protection status following lapse in documentation due to expiration**: persons whose international protection had been withdrawn due to administrative reasons, namely failure to renew documentation following their expiry, faced serious challenges in being reinstated into the asylum procedure.

Asylum Procedure

A. General

1. Flow chart[11]



11 According to IPA, the vast majority of applications deemed to be inadmissible are not subject to an interview, as also the majority of cases in the Dublin procedure. According to the Home Affairs Ministry, this is since the vast majority of inadmissible decisions are taken based on applicants already having international protection in another EU Member State, rendering them inadmissible to the substantive procedure.

2. Types of procedures

Indicators: Types of Procedures

1. Which types of procedures exist in your country?
   - ❖ Regular procedure: ☒ Yes ☐ No
     - ▪ Prioritised examination:[12] ☒ Yes ☐ No
     - ▪ Fast-track processing:[13] ☒ Yes ☐ No
   - ❖ Dublin procedure: ☒ Yes ☐ No
   - ❖ Admissibility procedure: ☒ Yes ☐ No
   - ❖ Border procedure: ☐ Yes ☒ No
   - ❖ Accelerated procedure:[14] ☒ Yes ☐ No
   - ❖ Other:

2. Are any of the procedures that are foreseen in the law, not being applied in practice? ☐ Yes ☒ No

3. List of authorities intervening in each stage of the procedure

Stage of the procedure	Competent authority (EN)
Application	International Protection Agency
Dublin (responsibility assessment)	Dublin Unit, (within the International Protection Agency)
Refugee status determination	International Protection Agency
Accelerated procedure	International Protection Agency and International Protection Appeals Tribunal (joint procedure)
Appeal	International Protection Appeals Tribunal
Subsequent application (admissibility)	International Protection Agency
Revocation/Withdrawal	International Protection Agency

4. Number of staff and nature of the determining authority

Name in English	Number of staff as of March 2024	Ministry responsible	Is there any political interference possible by the responsible Minister with the decision making in individual cases by the determining authority?
International Protection Agency (IPA)	14	Ministry for Home Affairs, Security and Employment	☒ Yes ☐ No

The International Protection Agency (IPA) is the authority responsible for examining and determining applications for international protection at first instance.[15] The IPA is a specialised authority in the field of asylum. However, it falls under the Ministry also responsible for Police, Immigration, Correctional Services and National Security.

According to the IPA, at the end of 2024, the Agency had 14 officials responsible for examining applications, of which nine were also responsible for taking decisions. This is less than previous years, in 2020, the IPA employed 28 staff, among them 19 are caseworkers. Out of these, 5 were in charge of drafting decisions on asylum applications. At the end 2022, IPA had a total staff of 21 persons: 2

12 For applications likely to be well-founded or made by vulnerable applicants. See Article 31(7) recast Asylum Procedures Directive.
13 Accelerating the processing of specific caseloads as part of the regular procedure.
14 Labelled as "*accelerated procedure*" in national law. See Article 31(8) recast Asylum Procedures Directive.
15 Article 4 International Protection Act.

conducing first instance interviews and 4 taking decisions or making final recommendations.[16] According to the Home Affairs Ministry, by the end of 2023, the IPA was in the process of recruiting 25 new protection officers, with several already in place by December 2023.[17]

In a report published in July 2021, the National Audit Office noted that the IPA was lacking the capacity to expediently address the high number of outstanding applications for international protection and that EUAA's input in this regard had been a critical factor to minimise application processing time.[18] The Follow-up Audit Report 2023 welcomed the IPA's September 2023 call for 25 protection officers.[19]

Malta has received operational support by the EUAA since 2019. The 2022-2024 operational plan was amended in April 2022 and April 2023 to take into account the changes in the operational context and in light of the invasion of Ukraine and the decreased pressure to the Maltese asylum and reception systems.[20] The provided support included registration of asylum applications, vulnerability assessments, and first instance interviews and recommendations. It also included structural components, seeking to support the establishment of protocols, SOPs, and units in various entities.

Malta has received operational support by the EASO/EUAA since 2019. The 2022-2024 operational plan was amended twice in April 2022 and April 2023 to take into account the changes in the operational context, in light of the invasion of Ukraine and the decreased pressure to the Maltese asylum and reception systems.[21] In December 2024, the EUAA and Malta agreed on an operational plan for 2025-2026, with continued support for relocation.[22]

In 2024, the EUAA deployed 32 experts in Malta Operations,[23] mostly temporary agency workers (23). The majority of deployed experts were interim support caseworkers (4), interim support flow management support officers (3), quality assurance experts (3) and other supporting staff (*e.g.*, caseworkers, interim support Dublin procedures assistants and interim support operations officer/field coordination, *etc*).[24]

As of 11 December 2024, there were a total of 2 EUAA experts in Malta operations, an operations officer and interim support operations officer/field coordination.[25]

In 2024, the EUAA delivered 5 training sessions to a total of 45 local staff members.[26]

5. Short overview of the asylum procedure

The procedure in place is a single procedure with the examination and determination of eligibility for refugee status, subsidiary protection and Temporary Humanitarian Protection (THP)[27] being undertaken

16 Information provided by the Ministry for Home Affairs via a Freedom of Information Request, on 24 March 2023.
17 Information provided by Home Affairs Ministry in January 2024.
18 National Audit Office, Performance Audit: Fulfilling obligations in relation to asylum-seekers, 7 July 2021, available at http://bit.ly/3CT0VeK, 72.
19 National Audit Office, Follow-up Audit Report 2023, Volume II, November 2023, available at: https://tinyurl.com/3et2zzpr.
20 EUAA, Operational Plan 2022-2024 agreed by the European Union Agency for Asylum and Malta, April 2023, available at: https://bit.ly/3uVutb7.
21 EUAA, *Operational Plan 2022-2024 agreed by the European Union Agency for Asylum and Malta*, April 2023, available at: https://bit.ly/3uVutb7.
22 EUAA, *Operational Plan 2025-2026 agreed by the European Union Agency for Asylum and Malta*, December 2024, available here.
23 EUAA personnel numbers do not include deployed interpreters by the EUAA in support of asylum and reception activities.
24 Information provided by the EUAA, 14 March 2025. In the figures above, the same persons may have been included under different profiles, if a change of profile took place in the course of 2024.
25 Information provided by the EUAA, 14 March 2025.
26 Information provided by the EUAA, 14 March 2025.
27 THP is a form of national protection regulated by Article 17A of the International Protection Act and awarded to applicants for international protection who does not qualify for refugee status or subsidiary protection status, but who is deemed to qualify for protection on humanitarian grounds (see National forms of protection).

by the International Protection Agency (IPA) within the context of the same procedure and at the same time. The language of the procedure is English. The IPA is the only entity authorised by law to receive applications for international protection. Should the individual express a need for international protection at the border, this information is passed on to the IPA for the necessary follow-up.

The registration process consists of collecting personal details and issuing a unique IPA number as well as the Asylum-seeker Document (ASD). The lodging of applications consists of completing and signing an application form stating the reasons for seeking international protection, personal and family background information, memberships and affiliations and the travel route taken to reach Malta.

Immigration and asylum procedures only commence following confirmation by the Health Authorities that applicants have been screened and found not to suffer from any contagious disease (namely COVID-19 and tuberculosis). All those who apply for asylum are systematically fingerprinted and photographed by the immigration authorities for insertion into the Eurodac database. In 2024 this procedure, conducted by the Immigration Police, moved to the IPA premises with police officers in plainclothes. Still in 2024, applicants rescued at sea are immediately placed in detention on health grounds, and subsequently fingerprinted and photographed. Other applicants, namely persons who had entered Malta through other means than following a rescue operation, are directed to the health authorities following their initial contact with IPA, and in 2023 and 2024 some applicants were detained following this initial contact.

Following the initial health-based detention, or often simultaneously, the Principal Immigration Officer (PIO) decides whether the applicant should remain detained or be released, as described below in the relevant section on Legal framework of detention.

Dublin assessments are conducted for all cases and, if necessary, an interview with the Dublin Unit is scheduled. If required, the examination of the application for protection is suspended pending the outcome of the Dublin procedure. The IPA CEO is designated as the head of the Dublin Unit.

Following the initial collection of information in the application form, and if Malta is deemed responsible for processing the application, the IPA schedules an appointment for an interview with the applicant. After the recorded interview takes place, the applicant is informed that they will be notified of the decision in due course. No interviews are scheduled for applicants claiming to be unaccompanied children until an age assessment procedure is finalised and, if necessary, a guardian is appointed. JRS reported that, in certain individual cases, the appeals stage of the age assessment procedure lasted for more than two years.

A more experienced officer or manager reviews the caseworkers' decision on the application and the IPA makes the final decision.[28] According to information provided by the Ministry of Ministry of Home Affairs, Security and Employment, as of 2024 each decision is reviewed by a minimum of 2 officials (a Senior Protection officer and a Manager), and may, depend on the circumstances of the case, also be reviewed by the IPA's Quality Control Unit before being forwarded to the IPA's CEO for final approval.[29]

According to the amended Procedural Regulations, the IPA shall ensure that the examination procedure is concluded within six-months of the lodging of the application. The examination procedure shall not exceed the maximum time limit of twenty-one months from the lodging of the application.[30] However, most of the decisions by the IPA are, in practice, not taken before the period of time established by the Regulations.

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28 ECRE, *Asylum authorities: an overview of internal structures and available resources*, October 2019, available at: https://bit.ly/2Ut8QIK, 55.

29 Information provided by the Ministry of Ministry of Home Affairs, Security and Employment on 24 July 2025, see annex to the report.

30 Regulation 6(6) Procedural Regulations, S.L.S.L. 420.07.

The International Protection Act provides for a right of appeal against a negative decision in the regular procedure, within a two-week time period from the day of the notification of the decision for rejected applicants to apply for an appeal.[31] Appeals against negative decisions in the accelerated procedure are generally not possible in practice due to inadmissibility, although in 2023 and 2024 IPAT accepted as admissible a very small number of appeal applications against such negative decisions.

Appeals are to be filed before the International Protection Appeals Tribunal (IPAT), an administrative tribunal which is currently operating in a one-chamber composition of one Chairperson and three Board Members. Appeals to the Tribunal have suspensive effect, which guarantees that an asylum applicant may not be removed from Malta prior to a final decision being taken on their appeal.[32] The Tribunal is empowered to regulate its own procedure, and its decisions are binding on the parties. The Tribunal may not remit cases processed under the regular procedure back to the IPA for a new decision and must take a decision itself; however, the law does allow the Tribunal to refer an application back to the IPA for either cases processed under an accelerated procedure or applications deemed inadmissible by the IPA, when following review of the case and appeal the Tribunal does not agree with the IPA's conclusion: it can in such cases order the IPA to respectively examine the case under a normal procedure or declare the application admissible (and thus resume examination on the merits). In 2024 IPAT referred three cases back to the IPA.[33] By law, the Tribunal must decide within a total of six months of the appeal, and this can only be extended for a further 6 months in exceptional circumstances.[34] In practice however, the IPAT takes on average more than two years to decide on appeals. It is noted that the IPAT is housed within the Home Affairs Ministry and its members are all effectively appointed by the Prime Minister.

The International Protection Act specifies that no appeal is possible from the decision of the IPAT[35], and the Home Affairs Minister has not yet brought the IPAT under the provisions of the Administrative Justice Act.[36] Procedural issues could be the subject of an application before the Civil Court (First Hall). A human rights claim to the Civil Court (First Hall) in its Constitutional jurisdiction alleging a violation of fundamental human rights in terms of the European Convention on Human Rights (ECHR) and/or the Maltese Constitution is available should the rejected appellant be faced with a return that is prejudicial to their rights. Finally, applications to the Civil Court (First Hall) for situations involving alleged breaches of the EU Fundamental Rights Charter should also be possible.

Accelerated procedures are also foreseen in national law for applications that are deemed to be manifestly unfounded, and several provisions of the accelerated procedure also apply to applications deemed inadmissible.[37] Applicants whose case is deemed to be inadmissible because of existing protection in another Member States are usually not invited to an interview.

In such cases, the case file (application form, interview transcript, documentary evidence submitted by the applicant, etc) and decision of the IPA is automatically transmitted to the IPAT Chairperson, who must assess and review the decision of the IPA within three days.[38]

Within the scope of this procedure, applicants are not entitled to appeal against the decision and no provision provides for the right to express their views by way of written or oral submissions. No hearing is held and the IPAT Chair's decision is generally taken before applicants are notified of their first instance rejection. The decision generally consists of a one-page document confirming the IPA's decision. The law provides that when the IPAT does not confirm the decision, the case must be remitted back to IPA for a new decision to be issued, however this is a scenario that rarely happens.

31 Article 7(2) of the International Protection Act, Chapter 420.
32 Regulation 12 of the Procedural Regulations, S.L.S.L. 420.07.
33 Articles 7(9) and 7(11) of the International Protection Act, Chapter 420.
34 Article 7(7) of the International Protection Act, Chapter 420.
35 Article 7(10) International Protection Act, Chapter 420.
36 Administrative Justice Act, Chapter 490 , available at: https://tinyurl.com/49j3d8nu.
37 Articles 23 and 24 of the International Protection Act, Chapter 420.
38 Articles 23(3) and 24(2) of the International Protection Act, Chapter 420.

The asylum procedure and return procedures are not automatically linked in law. In practice however, they are indeed linked as practitioners have confirmed in 2024 ongoing communications between the IPA, the IPAT, the PIO and, at times, the Detention Services Agency (DSA) regarding pending applications, particularly of applicants coming from countries deemed safe.

Applicants granted subsidiary protection at first instance have the right to appeal this decision according to the regular procedure. [39] Additionally, rejected applicants can apply to THP within a separated procedure at any time[40] and their status will be considered as rejected asylum-applicants until a decision is issued.

The law provides that no appeal can be filed against a decision of the IPA not to grant THP.[41]

The law foresees the possibility to file a subsequent application. Few subsequent applications pass the stage of admissibility, and most are rejected as inadmissible. Inadmissible subsequent applications are channelled through the accelerated procedure as presented above and the review of the IPAT generally confirms the IPA's decisions. Between 2021 and 2025, applicants with a subsequent application deemed inadmissible were not entitled to access the labour market; this was a policy decision, that was reversed in early 2025.

IPA reports that in 2023 it received 600 asylum applications, of which 491 were first applications, 76 were subsequent and 33 were new applications. 833 cases remained pending at the end of the year. The majority of applicants were Syrian nationals, and of the IPA decisions: 18 recognised refugee status; 241 cases of subsidiary protection; 6 granted THP; 70 dismissed as inadmissible; and 616 rejected.

In 2022, protection was mainly granted to Eritreans (31%), Syrians (50%) and Libyans (6%) followed by Sudanese and Palestinians (2% each).[42] In 2023, eight Syrians, two Pakistanis and one Bangladeshi, Sudanese and Somali were recognised as refugees, whilst 161 Syrians, 51 Eritreans and 28 Somalis were granted subsidiary protection.

B. Access to the procedure and registration

1. Access to the territory and push backs

Indicators: Access to the Territory

1. Are there any reports (NGO reports, media, testimonies, etc.) of people refused entry at the border and returned without examination of their protection needs? ☒ Yes ☐ No
2. Is there a border monitoring system in place? ☐ Yes ☒ No

The PIO confirmed that in 2024 238 persons 'arrived irregularly' at Malta's borders:

Country	Number
Bangladesh	113
Syria	46
Pakistan	31
Egypt	28
Eritrea	9

39 Article 17A (3) of the International Protection Act, Chapter 420.
40 Article 17A (1) of the International Protection Act, Chapter 420.
41 Ibidem.
42 UNHCR, Malta Fact Sheet, December 2022, available at: https://bit.ly/3IZf2Ai.

Ethiopia	3
Ghana	3
Sudan	3
Palestine	2
TOTAL	**238**

47 beneficiaries of protection were resettled from Malta by the end of 2024 (45 from Somalia, one from Eritrea and another from Sudan) whilst 60[43] were relocated to other EU MS (20 to France, 7 to Romania, 33 to Portugal).

In 2022 and 2023, the number of sea arrivals reaching Malta steadily decreased. UNHCR reported 380 arrivals in Malta in 2023, compared to 444 in 2022, 832 in 2021 and 2,281 in 2020. The Agency also reported on the nationalities of those who reached Malta via sea: 62% were Bangladeshi, 9% were Syrian, 7% were Guinean, and the rest were composed of various nationalities.[44] As highlighted by UNHCR, this decline continued in 2024, as UNHCR reported 238 sea arrivals.

Access to the procedure was hindered to some applicants in 2023 through a speedy channelling into the Home Affairs Ministry's voluntary return procedure. Lawyers visiting detention reported that at least one group of Bangladeshi nationals voluntarily returned to Bangladesh without having been informed of the possibility of seeking asylum. This situation was made possible due to a number of factors, including: limited information to detained persons on the right to seek protection, challenges for NGOs and other information-providers to access and monitor detention centres, active presence in detention of Ministry officials promoting voluntary return including by informing particular nationalities of their limited chances of receiving international protection with the consequential detention for a number of months. See relevant section on Procedural safeguards for detention.

In May 2023 a Maltese delegation visited Eastern Libya to hold diplomatic talks with representatives of Field Marshal Khalifa Haftar. Malta's delegation met with various entities, including representatives from the Armed Forces, the Coast Guard and the Interior Ministry. Talks included security and migration issues, including new cooperation possibilities following the renewal of the 2020 MOU.[45]

In relation to the latter MOU, although it contains reference to the establishment of two coordination centres funded by Malta (one in Libya and one in Tripoli), a Freedom of Information request revealed that no further information exists on these centres and their regulation. The request confirmed that three persons are engaged as coordinators with the Malta-Libya Coordination Centre.[46]

In January 2025, the Parliamentary Ombudsman severely criticised Malta's special envoy to Libya sitting on the Malta-Libya Coordination Centre, Alexander Dalli, for incident occurring when he headed Malta's prison.[47] The Ombudsman's investigation revealed gross institutional mismanagement and highlighted a number of incidents that could amount to inhuman and degrading treatment, including against migrants. Following publication of the report, several calls were made for the resignation of the Home Affairs Minister

43 These were applicants from Cameroon (2), Chad (1), Eritrea (7), Ethiopia (4), Gambia (1), Guinea (2), Libya (8), Nigeria (1), Somalia (18) and Sudan (16).
44 UNHCR Malta Fact Sheet.
45 MaltaToday, Maltese officials in first meeting with Easter Libya military leader Khalifa Hafter, 31 May 2023, at: https://tinyurl.com/yc4uvu7v.
46 Times of Malta, Persons of trust and missing documents: Malta's secretive migration project, 3 July 2023, at: https://tinyurl.com/mr3vy7z8.
47 Parliamentary Ombudsman, Own Initiative Investigation into possible systemic maladministration within the Corradino Correctional Facility, 31 January 2025, at: https://tinyurl.com/4wuazuhj.

and for Dalli to be arrested and removed from his position overseeing search and rescue policy and operations.[48]

1.1. Arrivals by boat

Throughout 2023 and 2024, it was reported on several occasions that Malta continued its policy of preventing access to its territory for persons arriving by sea. Furthermore, in 2023 the Home Affairs Ministry strengthened its negative rhetoric against NGOs rescuing people at sea, indirectly associating them with human trafficking networks and attributing to them the responsibility for deaths of people at sea.[49] The Government vehemently denied having adopted such an approach.[50]

This situation seems to be an escalation of practices adopted in previous years, within Malta's broader policy goal of reducing the numbers of arrivals by sea. A 2021 OHCHR report confirmed numerous incidents of pushbacks orchestrated by the AFM and Malta's failure to provide prompt assistance to migrants in distress in the central Mediterranean[51], whilst the Council of Europe Commissioner for Human Rights made the same observations in her 2022 report on her visit to Malta.[52]

In 2022, the European Centre for Constitutional and Human Rights (ECCHR) and Sea-Watch filed a Communication to the International Criminal Court (ICC) calling for an investigation of Prime Minister Robert Abela and his predecessor Joseph Muscat, among others, of the commission of crimes against humanity against migrants and refugees who have been intercepted at sea and systematically returned to and detained in Libya.[53]

Throughout 2024, UNHCR was able to maintain its presence at all disembarkations, monitoring the registration process.

In its 2024 Concluding Observations on Malta[54], the UN Human Rights Committee expressed severe concern about reports of activities potentially resulting in 'unlawful deprivations of life that have not been investigated' and refers to reports of Malta's failure to respond to distress situations at sea and Malta's instructions to private vessels not to respond. It flagged the MoU with Libya as a serious concern and also Malta's attitude towards rescue NGOs.

The main case regarding criminalisation of rescue at sea was the El Hiblu case, going on since 2019.

El Hiblu

In March 2019, a group of 108 migrants escaping Libya were rescued by the merchant vessel 'El Hiblu 1' within the Libya SAR zone, but outside its territorial waters. At first, the ship continued towards Libya but changed its course shortly before reaching the Libyan coast and headed instead towards Europe. A Maltese special operation unit boarded the ship and disembarked the migrants in Malta. Upon arrival, the

48 Times of Malta, Calls for Camilleri to resign and Dalli to be arrested after shock prison report, 1 February 2025, https://tinyurl.com/4funbat6; Newsbook, Byron Camilleri's resignation is 'necessary' – Repubblika, 1 February 2025, https://tinyurl.com/2zmu9rxk.

49 Times of Malta, 'NGO boats are a pull factor'- minister doubles down on comment on migration, 12 January 2023, available at https://tinyurl.com/36t6wsk6; Malta Today, Minister: Preventing migrant departures from Libya crucial to avoiding deaths at sea, 13 March 2023, available at: https://tinyurl.com/4fne2haf.

50 The Malta Independent, 'Totally false': Home Affairs Minister denies claims of delayed rescue of migrants, 6 February 2023, available at https://tinyurl.com/ybdahswd.

51 OHCHR, Report: A call to safeguard migrants in central Mediterranean Sea, 25 May 2021, available at https://bit.ly/3KvOEPA.

52 Commissioner's report following her visit to Malta from 11 to 16 October 2021, available at: https://bit.ly/3InhWhS.

53 ECCHR, Interceptions at sea and returns of migrants and refugees to Libya constitute a crime against humanity, 30 November 2022, available at https://bit.ly/3vOZ86B

54 United Nations Human Rights Committee, *Concluding Observations on the third periodic report of Malta*, 26 August 2024, available at: https://tinyurl.com/3pp4ea4s.

authorities arrested five asylum-seekers and subsequently charged three of them – all teenagers - on suspicion of having hijacked the ship which had rescued them, so as to prevent the captain from returning them to Libya. The three teenagers were immediately detained in the high-security section of prison for adults and charged with very serious offences, some falling under anti-terrorism legislation and punishable with life imprisonment. The three teenagers were released on bail in November 2019 and remain in Malta, pending their criminal proceedings.

The case is followed closely by the Office of the UN High Commissioner for Human Rights which urged Malta to reconsider the severity of the charges, and by Amnesty International which publicly stated that 'the severity of the nine charges currently laid against the three youths appears disproportionate to the acts imputed to the defendants and do not reflect the risks they and their fellow travellers would have faced if returned to Libya. The use of counter-terrorism legislation is especially problematic'.[55] This case was taken up by Amnesty International as part of their international campaigning,[56] as well as by several other Maltese and international NGOs.[57]

On 6 November the Office of the Attorney General filed Bill of Indictment No. 49/2023 before the Criminal Court, including the same list of nine accusations as defined in the preliminary charges, namely: committing acts and activities of terrorism; illegally arresting or detaining the ship's Captain and crew; unlawfully removing the ship's Captain and crew to another country; committing private violence; causing fear that violence will be used against the ship's Captain and crew.

Following the Bill of Indictment, in November 2023 the accused filed preliminary pleas mainly claiming the lack of jurisdiction of the Maltese courts. These pleas were rejected by the Criminal Court and, in January 2025, also by the Court of Criminal Appeal. In 2024 one of the accused fled Malta and was eventually arrested in the United Kingdom in early 2025.

In 2024, the UN Human Rights Committee expressed concern at the charged brought against the three, urging Malta to ensure a fair and transparent trial.[58]

The case remains ongoing, including extradition proceedings in the UK.

Reported incidents in Malta's Search and Rescue Zone[59]

On the basis of a policy of "*prevention, return and relocation*",[60] many reports attested to the fact that people at sea attempting to reach safety were met with the same obstacles as in previous years: pushbacks and pullbacks, delayed assistance, and refused assistance. Additionally, these incidents remain shrouded in mystery as to their facts and decision-making processes since the authorities repeatedly refused to divulge relevant details or open investigations, including when the incidents involved deaths.

For detailed information on incidents in previous years, see previous updates to this country report here. The following information details the situation in 2024

55 Amnesty International, Malta: The El Hiblu 1 Case: Three Teenagers in the Dock for Daring to Oppose Their Return to Suffering in Libya, 23 October 2019, available at: https://bit.ly/34T5dRi; UN High Commissioner for Human Rights, Press briefing note on Malta, 7 May 2019, available at: https://bit.ly/2XUEbY8.

56 Amnesty International, 'Demand justice for the El Hiblu 3', available at: https://bit.ly/3lq3jQu.

57 For more information see 'The El Hiblu 3!' at: https://bit.ly/3s02nVr.

58 United Nations Human Rights Committee, *Concluding Observations on the third periodic report of Malta*, 26 August 2024, available at: https://tinyurl.com/3pp4ea4s.

59 The information in this section is collected from various publicly available sources, in each case reported in the corresponding footnote. Neither the authors of the report nor ECRE are able to verify most of the information, mainly since the reported incidents occur at sea. For the vast majority of incidents, there is no publicly available information from the Maltese authorities.

60 The Malta Independent, Abela says that preventing people from leaving Africa is key principle of migration solution, 18 June 2023, available at: https://tinyurl.com/5n6rd2dk.

Longstanding issues in Malta's SAR operations, with continued reports of unresponsiveness, pushbacks, and lack of transparency remained prevalent during 2024. The issue of lack of transparency on these incidents' facts and decision-making processes has remained prominent. Local NGOs are largely left to rely on other organisations' reports, news reports and clients themselves to gather information about Malta's Search and Rescue operations. For the most part, rescue operations in the Maltese SAR zone are ultimately conducted by foreign NGOs or the Italian Authorities; there is little information available that would confirm Malta's fulfilment or coordination of these rescue operations.

When rescue operations were conducted or coordinated by the Maltese authorities, it remains difficult to access information including through official channels. A spokesperson for NGO Alarm Phone, which provides hotline support for boats in distress, said the Maltese authorities *"*rarely respond on the phone and, if they do, they do not provide any relevant information.*"* [61]

The UN Human Rights Committee has also, in 2024, raised concerns regarding Malta's search and rescue practices, citing specific incidents where Malta failed to respond promptly to calls of distress within its SAR zone. The Committee also raised concern on the Memorandum of Understanding signed with Libya, which presents risks of illegal returns of asylum applicants, placing them at risk of serious human right violations. Malta has consistently denied these allegations on pushbacks.[62]

Unlike Italy, Malta has not enacted legislation or policies hindering or criminalizing the search and rescue activities of NGO actors.

NGOs working in the Mediterranean repeatedly reported in 2024 that Malta (as well as Italy), aided by Frontex, systemically outsourced rescue operations to the Libyan Coast Guard. This was sometimes accompanied by instructions not to rescue sent to vessels in the vicinity or for them to transfer the rescued persons to the Libyan Coast Guard. Sea-Watch and other NGOs report that Frontex's intelligence-sharing primarily enables interceptions by Libyan and Tunisian authorities rather than rescues, leading to forced returns to conditions of torture and abuse.[63]

According to UNHCR by the end of 2024 there were 238 persons arriving by sea in Malta.[64] Leaked documents about Malta's SAR reported that Malta rescued 92 migrants in the period of January to October 2024 which is significantly lower than the neighbouring Italian and Libyan authorities' rescues in the same period, which together was over 20,000 people.[65]

Throughout 2024, SeaWatch's Airborne operations spotted 221 boats carrying around 10,929 persons in distress in the Mediterranean.[66]

Below is a detailed list of information available as to people in distress at sea and SAR:

January

- 1 January – 108 persons were reported by Alarmphone and rescued by Italy in the Maltese SAR zone.[67]
- 2 January – 35 persons disembarked in Malta.

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61 Jacob Borg and James Cummings, 'Malta 'refuses' to cooperate in migrant rescue missions – leaked EU memo' (*Times of Malta*, 13 March 2025), available here.

62 Centre for civil and Political Rights, 'Malta Faces Criticism Over Migrant and Refugee Rescue Operations at Sea at Human Right Committee', 10 July 2024, available here.

63 Sea Watch, *Crimes of the European Coast Guard Agency Frontex – Second Report*, May 2024, available here.

64 UNHCR, *Malta October – December 2024 Factsheet*, February 2025, available here.

65 Jacob Borg and James Cummings, 'Malta 'refuses' to cooperate in migrant rescue missions – leaked EU memo' (*Times of Malta*, 13 March 2025), available here.

66 As summed up from the 4 Sea-Watch Quarterly Reports.

67 Jurgen Balzan, '108 shipwrecked asylum seekers rescued by Italy in Malta's SAR' (*Newsbook Malta*, 1 January 2024), available here.

- 11 January – A boat with around 40 persons disappeared in the Maltese SAR zone. Despite being sighted by a Frontex aircraft (Eagle1) and Alarm Phone repeatedly updating their position, the Maltese and Italian authorities did not launch a rescue operation. The Italian Coast Guard also failed to provide information such as GPS-position of the distress case even though they had been seen and located by different actors. They are assumed to have drowned.[68]

February

- 1 February – 125 persons on an overcrowded boat. Seabird called for assistance from merchant vessels but got no answer. Later on, it saw that they were intercepted by the Libyan Coast Guard in the Maltese SAR zone.[69]
- 23 February – capsized boat of 34 persons, of whom 5 were confirmed dead and 8 persons injured and hospitalised. The Armed Forces of Malta (AFM) and the Maltese authorities refused to disclose any details on the circumstances which led to the capsizing of the boat, and the events surrounding it. Amongst those hospitalised there was a pregnant woman. Reports indicate that the AFM received a distress call prior to 23 February but this has been denied by the Home Affairs Minister. Civil society organisations called for a public inquiry into the five tragic deaths that occurred in this incident, but no inquiry has been launched to date.[70]
- 28 February – 59 persons, of whom two lost their lives, four were found unconscious. The rescue was coordinated between NGOs (SEA-EYE 4 and German Doctors e.V) in the Maltese SAR. AFM conducted a helicopter evacuation for one injured person, three others by the Italian coastguard and all other persons were sent to disembark in Sicily. [71]

March

- 6 March – 56 people rescued from the Maltese SAR zone by Sea-Watch 5 on 6 March. A 17-year-old boy died on board after having suffered a cardiac arrest and being resuscitated on board. Malta, Italy and Tunisia refused to evacuate him, or to coordinate any form of rescue. Four persons in critical condition were taken to Italy after nine hours whilst the 51 remaining people and the boy's body landed in Pozzallo on 8 March. The Italian authorities detained Sea-Watch 5 for 20 days after carrying out the rescue.[72]
- 15 March – 135 persons rescued by Ocean Viking off Malta's coast within the Maltese SAR zone. The NGO published a statement on Malta and the EU's absconding of responsibility in rescue efforts. The article reporting the incident also documents Malta facing criticism on ignoring distress call and coordinating illegal pushbacks. This incident occurred shortly after another Mediterranean tragedy which the same Ocean Viking came across a few days back with 25 survivors and 60 persons lost and feared dead.[73]
- 15 March – around 80 persons were illegally intercepted by the Libyan Coast Guard (coordinated by RCC Malta) in the Maltese SAR.[74] Sea watch stated the following: 'The duty of Malta, as the responsible RCC for the Maltese SAR zone, is to ensure that a rescue operation takes place with the subsequent disembarkation in a safe port. Instead the RCC Malta and Frontex cooperate with the so-called Libyan Coast Guard and again violate international law.'[75]

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68 Sea Watch, *Airborne Quarterly Factsheet January March 2024*, May 2024, available here.
69 Sea Watch, *Airborne Quarterly Factsheet January March 2024*, May 2024, available here.
70 Infomigrants, 'Malta: At least five migrants die as boat capsizes during rescue operation', 23 February 2024, available here; Kurt Sansone, 'Migrant deaths during AFM rescue operation need to be investigated, NGO says' (*Malta Today*, 26 February 2024), available here; 'Group calls for public inquiry into death of five migrants off Malta (*Malta Independent*, 26 February 2024), available here; 'Investigate migrant deaths during AFM rescue: network of activists, NGOs urge' (*Times of Malta*, 26 February 2024), available here; Jurgen Balzan, 'Victims of capsized boat off Malta aged between 22 and 33' (*Newsbook Malta*, 5 March 2024), available here; Jurgen Balzan, 'Civil society calls for public inquiry into tragic deaths of asylum seekers' (*Newsbook Malta*, 26 February 2024), available here.
71 Jurgen Balzan, 'Two lives lost as asylum seekers rescued by NGO in Malta's SAR' (*Newsbook Malta*, 28 February 2024), available here.
72 Sea Watch, 'Rescue ship Sea-Watch 5 detained', 9 March 2024, available here.
73 Jurgen Balzan, '60 feared dead while crossing Mediterranean from Libya' (*Newsbook Malta*, 15 March 2024), available here.
74 Sea Watch, *Airborne Quarterly Factsheet January March 2024*, May 2024, available here.
75 Sea Watch, *Airborne Quarterly Factsheet January March 2024*, May 2024, available here.

- 25 March – 150 persons were in distress in Malta's SAR zone. Alarmphone appealed to Malta and Italy for intervention. Three persons remained missing after several people went overboard during the rescue by the Vault. They were disembarked in Lampedusa. Alarmphone criticised the EU for its non-assistance.[76]

April

- 6 April – 30 persons were adrift Maltese SAR zone. They reportedly received fuel from a small grey ship, suspected by Alarmphone to be the AFM, who directed them to move to Italy.[77]
- 7 April – 20 persons were intercepted and pulled back by the Libyan Coast Guard after their position was potentially communicated by AFM. [78]
- 9 April – Alarm Phone reported that around 83 people in distress were forcibly intercepted by the Libyan coastguard in an illegal pushback while in Malta's SAR zone, between eastern Tunisia and south of Lampedusa.[79] This event led to 22 organisations coming together to advocate against illegal pushbacks, referring to Malta's declared prevention policy and how such policy must not be implemented resulting in loss of life and human rights violations.[80]
- 11 April – A vessel in Malta's SAR zone capsized, resulting in at least nine deaths including a child and 15 missing persons, including three children. There were 23 survivors rescued by the Italian Coast Guard at the request of the Maltese authorities and taken to Lampedusa. Rescue operations were hindered by rough seas; some deaths were due to hypothermia. One survivor died at Lampedusa's health centre. [81]

May

- 8 May – 30 persons in distress were rescued by Italian authorities. The Maltese authorities were accused of instructing all vessels that were responsive not to change their course and rescue the people in distress.[82]
- 13 May – 21 persons in the Maltese SAR zone rescued by the AURORA,[83] which requested further assistance from the Maltese and Italian authorities. Eventually the Italian Coast Guard assisted in the rescue.
- 20 May – The Ocean Viking[84] rescued 35 persons from a fiberglass boat in waters between Malta and Italy after 3 days at sea. They disembarked in Ortona, Italy, despite the rescue carried out closer to Malta and Sicily.[85]

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76 John Paul Cordina, 'Three reported missing after delayed rescue in Malta SAR' (*Newsbook Malta*, 25 March 2024), available here.

77 Monique Agius, 'Alarm Phone suspects AFM provided fuel to 30 asylum seekers adrift in Maltese SAR' (*Newsbook Malta*, 6 April 2024), available here.

78 Sea Watch, *Airborne Quarterly Factsheet April June 2024*, July 2024, available here.

79 Miguel Azzopardi, '83 persons abducted from Maltese SAR in illegal pushback to Libya – Alarm Phone' (*Newsbook Malta*, 9 April 2024), available here.

80 Sarah Carabott, 'Stop illegally pushing people back to Libya: 22 organisations, academics urge' (Times of Malta, 11 April 2024), available here.

81 John Paul Cordina, 'At least 9, including small girl, dead in Malta's SAR' (*Newsbook Malta*, 11 April 2024), available here; 'Nine migrants, including little girl, drown in Malta's search and rescue area' (Times of Malta, 11 April 2024), available here; '11/04: Shipwreck of a boat departed from Sfax, 22 people survived, 9 people died, 15 people missing' (*Watch the* Med, 12 April 2024), available here; Stefano Andrea Pozzo, 'Tragedia in mare: naufragio di migranti al largo di Malta, 9 vittime e 15 dispersi' (Corriere di Malta, 11 April 2024), available here.

82 Sea Watch, *Airborne Quarterly Factsheet April June 2024*, July 2024, available here.

83 The AURORA is a search and rescue vessel operated by Sea-Watch.

84 The Ocean Viking is a search and rescue vessel operated by SOS MEDITARRANEE.

85 'Ocean Viking ship rescues 35 Bangladeshi migrants' (*Infomigrants*, 21 May 2024), available here; Jurgen Balzan, 'Asylum seekers heading to remote Italian port after being rescued off Malta' (*Newsbook Malta*, 21 May 2024), available here; Giulia Magri, 'Group rescued eight hours from Malta to be taken to port "two days away"' (*Times of Malta*, 21 May 2024), available here.

- 20 May – The SEA-EYE 4[86] rescued 52 people from distress in Malta's SAR zone. Despite the urgency, vulnerable persons on board and deteriorating weather conditions, the vessel was assigned to dock at Ravenna, Italy, approximately 900 nautical miles away. [87]

June

- 9 June – Alarm Phone reported that Malta failed to respond to a distress call from a boat carrying 32 persons in Malta's SAR zone.[88]

July

- 10 July – Three rescue operations, one in the Libyan SAR and two in Maltese SAR zone. In one of the Maltese SAR operations 64 individuals including two unaccompanied minors were rescued. Their boat had departed from Tripoli and had been adrift for hours without fuel. The other Maltese SAR operation rescued 40 people including 9 women and 5 unaccompanied minors. They were rescued from a boat with a broken engine that had also departed from Tajura. Both cases of distress were reported to Life Support[89] via Alarm Phone and then confirmed by Sea Bird.[90]
- 13 July – 15 persons were in distress in the Maltese SAR zone, reported by Alarm Phone. An AFM vessel was sighted 60nm away from the boat. A merchant vessel was instructed by RCC Malta to stand-by and was later released from the duty. The Maltese RCC did not further communicate with Seabird 2's crew, even hanging up the phone. The rescue was eventually carried out by the Italian Coast Guard.
- 18 July – 28 persons rescued by AFM, including 3 women and 8 minors. AFM once again failed to issue a public statement and answer questions on the rescue operation and disembarkation.[91]

August

- 5 August – The Italian Coast Guard rescued 46 individuals who found themselves in distress, to the east of the Maltese islands. Alarm Phone said it had been in contact with a group that was travelling on a small boat earlier that week on Tuesday, when they sent out a distress call. The Maltese authorities were informed and so where other nearby authorities, with the NGO stressing that the group was closest to Malta. Alarm Phone said the group was eventually disembarked by the Italian Coast Guard in Pozzallo, Sicily.[92]
- 31 August – 289 people rescued by Sea-Watch 5 over 4 operations in international waters. A 17-year-old was medically evacuated by the Maltese emergency services. The Italian authorities assigned Civitavecchia as a safe port and upon docking on 3 September (due to the long distance from the rescue to the port of safety) Sea-Watch 5 was detained once again for 20 days.[93]

September

- 4 September – Seabird spotted a boat with 25-30 persons on board in Malta's SAR zone. Sea-Watch's ground crew alerted both Italian and Maltese authorities about the boat in distress on 2 September. The Italian Coast Guard announced that the ship had sunk on 4 September and

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86 The SEA-EYE 4 is a search and rescue vessel operated by Sea Eye.

87 ANSA, 'German boat Sea-Eye rescues 52 migrants in Maltese waters' (*Infomigrants*, 23 May 2024), available here.

88 Jurgen Balzan, 'Malta allegedly ignores distress call again, 32 people taken to Lampedusa' (*Newsbook Malta*, 10 June 2024), available here; Alarm Phone on X, 9 June 2024, available here.

89 Life Support is a search and rescue vessel operated by EMERGENCY.

90 Sea Bird 1 and 2 are airborne vessels operated by Sea-Watch; 'Emergency rescues 178 in mediterranean sea, assists disembarkation of 378 in Sicily' (*Emergency*, 11 July 2024), available here; 'Hundreds of migrants rescued in Central Mediterranean' (*Infomigrants*, 10 July 2024), available here.

91 Monique Agius, 'Palestinian asylum seekers being held in detention following rescue operation' (*Newsbook Malta*, 23 July 2024), available here.

92 Monique Agius, '46 people rescued off Malta' (*Newsbook Malta*, 15 August 2024), available here.

93 Sea Watch, 'Rescue ship Sea-Watch 5 detained', 4 September 2024, available here; Matthew Vella, 'After rescuing 289 from drowning, Sea Watch vessel is detained by Italians' (*Malta Today*, 5 September 2024), available here.

published footage of the rescue of survivors, with 21 persons remaining missing.[94] Sea-Watch filed a criminal complaint against the Italian authorities.[95]

- 8 September – Six children were airlifted to Malta, but no further information is available on the other persons.

October

- 1 October – SeaWatch reported 26 persons in distress in the Maltese SAR zone. Seabird 2 overheard mayday relay calls presumably from the AFM and on by Frontex. A Maltese fishing boat also alerted port authorities in Lampedusa and informed them of a person in critical condition. The Maltese authorities stated that they were working on the case without providing further information. Seabird 2 witnessed the interception by the Libyan Coast Guard deep within the Maltese SAR zone under Maltese responsibility.[96]
- 10 October – Ocean Viking rescued 41 people in the Maltese SAR, including 3 children. The group was disembarked together with six other persons rescued in the Libyan SAR in Ravenna, Italy.[97]
- Around 12 October – 52 persons were disembarked in Malta.
- 31 October – 72 persons were rescued by Life Support in the Maltese SAR zone and disembarked in Livorno, Italy on 4 November.[98]

November

- 1 November – Alarmphone alerted the authorities of 44 people in distress and were informed that RCC Malta *"have it under control"*.[99] No further information was made available.
- 12 November – Alarmphone received a distress call from 23 persons in the Maltese SAR. They were spotted by Frontex earlier on; however they did not inform nearby NGO ships. They provided coordinates to Seabird 2 upon request but it was too late, and they witnessed an illegal interception by the Libyan Coast Guard in the Maltese SAR.[100]
- 12 November – Life Support rescued 49 shipwreck survivors from the Maltese SAR zone, including 3 diabetic persons. They were assigned a safe port far from the operational area, in Ancona. The NGO commented on suspected pushbacks in the area and noted that it took 5 days to reach the assigned port of safety.[101]
- 30 November – Alarmphone reports 2 boats with a total of 115 people in the Maltese SAR zone. AFM did not state anything regarding these two boats and their suspected forced return to Libya.[102]

December

- 1 December – Over 70 persons were disembarked in Malta, although no further information is available on the rescue operation.
- 14 December – 20 people in distress in the Maltese SAR zone were monitored by Frontex, but Malta's RCC ordered the merchant vessel XT Prosperity not to rescue them. Despite one person being in the water, the vessel was told to remain an observer. The Libyan Coast Guard later

94 '21 persons missing: Italian non-assistance likely leads to shipwreck' (*Sea Watch*, 5 September 2024), available here.

95 Sea Watch, '21 dead in shipwreck – Sea-Watch files charges against Italian authorities' (*Sea Watch*, 12 November 2024), available here.

96 Sea Watch, *Quarterly Factsheet October December 2024*, April 2025, available here.

97 Emma Wallis, 'More than 80 migrants rescued from boats adrift in Mediterranean' (*Infomigrants*, 11 October 2024), available here.

98 '72 people rescued by life support disembark in Livorno' (*Emergency*, 4 November 2024), available here.

99 Alarm Phone on X, 1 November 2024, see here; 'Barca con 44 migranti alla deriva nel Mediterraneo centrale, Alarm Phone: «nessun aiuto da Malta»' (*Corriere di Malta*, 2 November 2024), available here.

100 Sea Watch, *Quarterly Factsheet October December 2024*, April 2025, available here.

101 ANSA, 'Italy: Emergency's ship reaches Ancona with 49 migrants on board' (*Infomigrants*, 19 November 2024), available here.

102 'Migrants in distress, pushed back to Libya from Malta rescue zone – Alarm Phone' (*Times of Malta*, 30 November 2024), available here.

intercepted the group, leading people to jump into the water; one person drowned, and their body was not recovered.

1.2. Relocation

According to IOM, Malta is included in the list of five first-line Member States benefitting from relocation under the 2022 Solidarity Declaration and EU-funded Voluntary Solidarity Mechanism (VSM). In coordination with the European Commission, the respective national authorities involved and other stakeholders, such as the EUAA, IOM will ensure that people benefitting from this assistance are adequately prepared for and subsequently transferred to the Member State of Relocation (MSR) in safety and dignity and on a voluntary basis, receiving comprehensive support throughout the entire process.

Whereas in 2022, IOM facilitated the relocation from Malta of 14 asylum-applicants, as of September 2023 104 asylum-applicants were relocated from Malta to other EU MS.[103] No information was provided on the Member States of relocation, or the criteria used in their selection. According to the Ministry of Home Affairs, Security and Employment of Malta, there were 159 relocations in 2023.

In a statement welcoming the relocation programme, the Home Affairs Minister commented that, in the first half of 2023, Malta managed to reduce the number of arrivals and relocate the same number of people that had arrived.[104]

According to the Ministry of Home Affairs, Security and Employment of Malta, there were 60 relocations in 2024 to other EU Member States under the Voluntary Solidarity Mechanism, and 54 BIPs were resettled to the United States and Canada with support of IOM and UNHCR.[105]

1.3. Legal access to the territory

No incoming relocation scheme, resettlement or humanitarian visa exist Malta. However, in 2024 five children who were wounded in Gaza reached Malta to receive medical treatment.

According to the Ministry of Ministry of Home Affairs, Security and Employment in a FOI request, in 2024 Malta committed to 20 resettlement pledges and 20 relocation pledges. However, in information provided on 24 July 2025, the Ministry stated that no relocation pledges were made.[106]

An interesting case was decided in November 2022 by the Court of Appeal in its Inferior Jurisdiction. The case involved a Syrian national applying for a Single Work Permit in Malta, from Lebanon. Identitá rejected his application, arguing that: '(Y)our application is being refused on public policy grounds given the current situation in Syria. Malta does not provide legal avenues for persons to seek protection whilst residing in their own country and providing you with the facility to come to Malta, there is the possibility that once you are here you may eventually seek such protection. Furthermore, in view of this situation it is not possible to conduct due diligence on persons wishing to proceed to Malta for the purpose of residing here.' The applicant appealed this decision before the Immigration Appeals Board and the Court of Appeal, both deciding against him.[107]

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103 Ministry for Home Affairs, Security, Reforms and Equality, 32 more migrants relocated to other countries, 2 September 2023, available at: https://tinyurl.com/4eu4p8hn.; Information provided by IOM on 11 February 2023.

104 Gozo.News, 32 irregular immigrants relocated to other countries, 2 September 2023, available at: https://tinyurl.com/2xeesky7

105 Information provided by the Ministry of Home Affairs, Security and Employment on 24 July 2025, see annex to the report.

106 Information provided by the Ministry of Ministry of Home Affairs, Security and Employment on 24 July 2025, see annex to the report.

107 Court of Appeal (Inferior Jurisdiction), Adnan Almahmoud vs. Identity Malta Agency, No. 26/2022, 16 November 2022, available at: https://tinyurl.com/yufynwps.

One refugee – a person with particular vulnerabilities – was resettled to Malta in 2023.

Refuges may apply for family reunification (see section on Family reunification).

2. Preliminary checks of third country nationals upon arrival

Indicators: Preliminary checks at the arrival point

1. Are there any checks that are applied systematically or regularly at the point of entry when a person enters the territory? ☒ Yes ☐ No

2. Is the person considered under law to have entered the territory during these checks? ☐ Yes ☒ No

The Immigration Act[108] states that, unless enjoying a right of entry and/or residence, any person requires leave from the PIO in order to enter Malta. Anyone without such permission is considered a 'prohibited immigrant'. The Act also specifies that a person will also be considered a prohibited immigrant where other conditions are met, such as: inability to sustain themselves; persons suffering from mental health problems; criminal conviction punishable with imprisonment for over one year; violations of the Immigration Act; failure to comply with entry and residence conditions; the person is involved in sex work. The PIO will also deny entry to any person *"*who must be in possession of a visa and who is not in possession of such a visa*."*

Per Article 10, when a person is refused entry following arrival at the air border, the person may be detained pending their return on the same flight with which they arrived, or on the next available flight. Persons denied entry after arriving by sea may request to disembark and be detained pending their return. Persons detained under these provisions are deemed not to have landed in terms of Article 10(3). NGOs confirm that these provisions are relied upon in practice, although there are no publicly available statistics on the number of persons detained under these provisions. Details on this detention regime are provided below under the section 'Detention under the Immigration Act'.

Complementing the Act, the Immigration Regulations[109] provides for the logistical aspect of border checks and other related matters, with Part III regulating the rights of TCNs and Part IV travel documents, visas and border checks, in terms of the Schengen Acquis. They underline that, generally, no border checks are to be carried out on Maltese and EU nationals, whilst regular border checks are to be carried out on TCNs to establish identity and to ensure they are in possession of visas, where required.

Border checks are conducted by border officers, being public officers assigned by the PIO to conduct such checks. They may, in terms of Regulation 16A, detain a person in order to bring them before a police officer. Border officers may also detain a person if the latter refuses to cooperate with requests to provide information or in order to prevent unauthorised entry into Malta. Failure to cooperate with information requests in the context of border checks is a punishable offence. According to the PIO, border checks presently only require security checks and document checks.

Lastly, the Regulations stipulate that persons aggrieved by PIO decisions relating to residence permits, visas or carrier liability have the right to appeal these before the IAB. As mentioned below, persons detained under Article 10 of the Act are denied even the most basic procedural guarantees.

An asylum application or a declaration of the intention to seek asylum does not in itself entail additional checks, but if checks are uncompleted prior to the asylum application, these would need to be finalised.

Criminalisation of asylum-seekers arriving by air

108 Immigration Act, CAP. 217 of the Laws of Malta, available at https://tinyurl.com/3un9ah4b.
109 Immigration Regulations, S.L. 217.04, 2004, available at https://tinyurl.com/3p2br48c.

Since 2016, concerns have been raised regarding the criminalisation by the authorities of the use of false documentation by asylum-seekers in their attempt to enter Malta.[110] Asylum seekers entering Malta with false documents are brought before the Magistrates Court (Criminal Judicature) and in most cases condemned to serve a prison sentence. The prosecutions are based on the Maltese Criminal Code in its Article 189[111] and the Immigration Act in its Article 32 (d),[112] which foresee the use of false or forged documents as invariably constituting a criminal offence, with no exception for refugees in law, practice or jurisprudence.

The person is generally remanded in custody at the Corradino Correctional Facility for the entire duration of the criminal proceedings, which generally last for about one to two months from the date of institution of the proceedings. The accused are entitled to request the appointment of a legal aid lawyer, or to hire a private lawyer should they have access to one. If found guilty, the Court may sentence the accused to either a fine of not more than around €12,000 or a maximum imprisonment term of two years, or for both the fine and imprisonment. It is noted that decisions are largely unpredictable, as some individuals have also been sentenced to imprisonment yet with a suspended sentence for a number of years. The provisions are applied in practice.

Although the prison authorities would generally refer to IPA anyone expressing a wish to seek asylum, this has no bearing on the criminal procedure.

Whilst a 'not guilty' verdict is difficult to secure due to the legal situation created by local legislation, in certain cases, the court has decided to implement suspended sentences rather than effective imprisonment convictions. However, the provision of suspended sentences is not the norm, and highly depends on the accused's circumstances, quality of legal assistance, vulnerabilities and motivations in the past. Furthermore, suspended sentences are nonetheless added to the person's criminal conduct certificate, potentially affecting future employment possibilities.

2. Registration of the asylum application

Indicators: Registration

1. Are specific time limits laid down in law for making an application? ☐ Yes ☒ No
   - ❖ If so, what is the time limit for lodging an application?
2. Are specific time limits laid down in law for lodging an application? ☐ Yes ☒ No
   - ❖ If so, what is the time limit for lodging an application?
3. Are registration and lodging distinct stages in the law or in practice? ☒ Yes ☐ No
4. Is the authority with which the application is lodged also the authority responsible for its examination? ☒ Yes ☐ No
5. Can an application be lodged at embassies, consulates or other external representations? ☐ Yes ☒ No

The authority responsible for registering asylum applications in Malta is the International Protection Agency (IPA). The IPA is also the authority responsible for taking decisions at first instance on asylum

110 Times of Malta, Refugees should not be prosecuted for using false documents, say NGOS, 1 July 2016, available at: http://bit.ly/3Hfr7mx; MaltaToday, Man fled Iran on fake passport to escape death sentence for renouncing Islam, court told, 26 March 2019, available at: http://bit.ly/3wnzLsN; MaltaToday, Man fled Iran on fake passport to escape death sentence for renouncing Islam, court told, 26 March 2019, available at: http://bit.ly/3wnzLsN

111 *"Whosoever shall commit any other kind of forgery, or shall knowingly make use of any other forged document, not provided for in the preceding articles of this Title, shall be liable to imprisonment for a term not exceeding six months".*

112 *"Any person who […] forges any document or true copy of a document or an entry made in pursuance of this Act".*

applications as well as for granting Temporary Humanitarian Protection (see: Number of staff and nature of the determining authority).[113]

The law no longer establishes time limits for an asylum-seeker to apply for international protection, and it specifies that the Agency shall ensure that applications are neither rejected nor excluded from examination on the sole ground that they have not been made as soon as possible.[114] However, an application may be determined to be manifestly unfounded where 'the applicant entered Malta unlawfully or prolonged his stay unlawfully and, without good reason, has either not presented himself to the authorities or has not made an application for international protection as soon as possible.'[115]

In 2023, the EUAA carried out a total of 405 registrations, of which 81% related to the top 10 citizenships of applicants, mainly of nationals from Bangladesh (105) and Syria (88).[116] In 2023, the EUAA carried out 476 registrations for temporary protection in Malta.[117]
In 2024, the EUAA carried out a total of 89 registrations, of which 91% related to the top 10 citizenships of applicants, mainly of nationals from Syria (44).[118]

Whilst practitioners note that persons indicating a protection need at the Malta International Airport are generally referred to the IPA, it is unclear whether formal protocols or guidelines exist.

Applications must be made at the IPA premises in Blata l-Bajda.[119] Any person approaching any other public entity, particularly the Malta Police Force, expressing their wish to seek asylum, will be referred to the IPA.

Unaccompanied children do not need a legal guardian to submit an asylum application and be duly registered as asylum-applicants, yet a legal guardian is required to proceed with the lodging of the application and the personal interview. [120]

It is possible for a person to express a wish to file an asylum application when in prison, and the prison authorities regularly alert the IPA as to these cases.

113 Article 4(3) International Protection Act.
114 Regulation 8(1) Procedural Regulations.
115 Article 2, International Protection Act.
116 Information provided by the EUAA, 26 February 2024.
117 Information provided by the EUAA, 26 February 2024.
118 Information provided by the EUAA, 14 March 2025.
119 See the International Protection Agency's website, https://bit.ly/3ko82G0
120 Ministry for Home Affairs, Security, Reforms and Equality, Feedback on the 2022 AIDA Country Report on Malta, shared with ECRE in January 2024.

C. Procedures

1. Regular procedure

1.1. General (scope, time limits)

Indicators: Regular Procedure: General	
1. Time limit set in law for the determining authority to make a decision on the asylum application at first instance:	6 months
2. Are detailed reasons for the rejection at first instance of an asylum application shared with the applicant in writing?	☒ Yes ☐ No
3. Backlog of pending cases at first instance at the end of 2024:	507

According to the IPA, in 2024, it received 528 applications for international protection, of which 444 were first applications, 60 subsequent and 24 new applications. Furthermore, 507 cases remained pending at the end of 2024, of which 117 were Syrian nationals, , 89 were Ukrainians, 57 were Sudanese and 38 were Colombian.

According to the Procedural Regulations, the IPA shall ensure that the examination procedure is concluded *"as soon as possible"*, specifying a limit of 6 months from the lodging of the application. The IPA may extend this time limit for an additional period not exceeding 9 months for limited reasons: when complex issues are involved; when a large number of third-country nationals simultaneously apply for international protection; or when the delay can clearly be attributed to the failure of the applicant to comply with their obligations.[121] The examination procedure must in any case not exceed the maximum time limit of 21 months from the lodging of the application.[122] The Act does not define *"complex issues of fact and, or law"*.

The Regulations further provide that when a decision cannot be made by the IPA within six months, the applicant concerned shall be informed of the delay and receive information on the time frame within which the decision on their application is to be expected. However, such information does not constitute an obligation for the Agency to take a decision within that time frame.[123]

In practice however, this provision is not applied and applicants and lawyers seeking updates on pending cases normally receive a generic message indicating that the IPA is unfortunately unable to provide a timeframe regarding when a decision will be taken, and the applicant will be notified in due time.

In a report published in July 2021, the National Audit Office confirmed that the IPA lacked the administrative capacity to be able to keep up with the number of applications lodged and that "*given the complexities involved and the thoroughness of the asylum procedure, RefCom's shortage of officials transcended in processing delays – which in cases surpassed legal requirements*" highlighting that applicants remain uninformed on the status of their case.[124]

On this specific observation, the NAO's 2023 follow-up report notes that the IPA rejected the Audit's recommendation to speed up the asylum procedure. According to the report, the IPA stated that the asylum procedure is regulated by law, and that individual circumstances should also be taken into account.[125]

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121 Regulation 6(4) of the Procedural Regulations, S.L.S.L. 420.07 ,
122 Regulation 6(6) of the Procedural Regulations, S.L.S.L. 420.07 ,
123 Ibid., Regulation 6(7).
124 National Audit Office, Performance Audit: Fulfilling obligations in relation to asylum-seekers, 7 July 2021, p. 72, available at http://bit.ly/3CT0VeK
125 National Audit Office, Follow-up Audits Report 2023, Volume II, November 2023, available at: https://tinyurl.com/3tfbv386.

Most decisions in the regular procedure are, in practice, not taken before the lapse of six months. The IPA reported that the average length of the regular asylum procedure in 2024 was as follows:

- First applications – 99 days;
- New applications – 174 days;
- Subsequent applications – 86 days.

It also reported the following duration for the accelerated procedure:

- First applications – 71 days;
- Subsequent applications – 28 days.

In a 2022 judgement, the ECtHR identified various failures of the Maltese asylum system and found that the IPA deprived the applicant of rigorous individual assessment of his asylum claim, highlighting that "*general measures could be called for*".[126]

Interviews and opinions, as well as decisions taken by the IPA, are written in English.

According to legal practitioners, asylum interviews are generally conducted at the IPA premises. If detained, applicants are brought to IPA by Detention Services in handcuffs. Handcuffs are removed prior to commencement of the interviews. Up until the end of 2023, interviews of detained applicants and of applicants who had been detained were held at Safi Barracks. This practice was discontinued in 2024, with applicants being interviewed at IPA premises.

1.2. Prioritised examination and fast-track processing

The Procedural Regulations provide that the IPA may decide to prioritise an examination of an application for international protection when the application is likely to be well-founded and when the applicant is vulnerable or is in need of special procedural guarantees, in particular unaccompanied children.[127] According to IPA, this clause does not limit its discretion to the two mentioned scenarios, allowing it to prioritise applications for other reasons.[128]

The IPA confirmed that priority was given to vulnerable applicants or those in need of special procedural guarantees (see Special Procedural Guarantees).

For 2025, the IPA prioritised the claims of five applicants due to their vulnerability. NGOs confirm it is possible to request fast-tracking cases due to vulnerability, yet also flag that such cases – including when the fast-track request is approved – could remain waiting for their interview for several months.

126 *S.H. v. Malta*, 37241/21, 20 December 2022, available at: https://bit.ly/3KKz7OH
127 Regulation 6(8) of the Procedural Regulations, S.L.S.L. 420.07.
128 Ministry for Home Affairs, Security, Reforms and Equality, Feedback on the 2022 AIDA Country Report on Malta, shared with ECRE in January 2024.

1.3. Personal interview

Indicators: Regular Procedure: Personal Interview

1. Is a personal interview of the asylum applicant in most cases conducted in practice in the regular procedure? ☒ Yes ☐ No
   - ❖ If so, are interpreters available in practice, for interviews? ☒ Yes ☐ No
2. In the regular procedure, is the interview conducted by the authority responsible for taking the decision? ☒ Yes ☐ No
3. Are interviews conducted through video conferencing? ☐ Frequently ☒ Rarely ☐ Never
4. Can the asylum applicant request the interviewer and the interpreter to be of a specific gender? ☒Yes ☐ No
   - ❖ If so, is this applied in practice, for interviews? ☒Yes ☐ No

The Procedural Regulations provide for a systematic personal and individual interview of all applicants for international protection but foresee a few restrictive exceptions. The grounds for omitting a personal interview are the same as those contained in the recast Asylum Procedures Directive, namely: (a) when the Commissioner is able to make a positive recommendation on the basis of evidence available; or (b) when the applicant is unfit or unable to be interviewed owing to enduring circumstances beyond his control.[129]

In practice, most asylum applicants are interviewed and in 2024 the IPA held 415 interviews, 71 of which were conducted by remote communication means. All those who are issued with a substantive decision are interviewed. However, in 2024, 464 decisions were taken without a personal interview. Family members are interviewed individually and privately. An interview is generally not carried out in relation to THP when the request for THP is filed by a rejected asylum applicant. Interviews are also not carried out for applicants granted protection in another EU MS.

Although practitioners are aware of internal IPA guidelines regarding specific procedures or applicants, these are not publicly available.

In 2024, EUAA caseworkers carried out interviews concerning 93 applicants, of which 75% related to the top 10 citizenships of applicants interviewed by EUAA, mainly concerning nationals from Pakistan (15), Syria (15), Colombia (10) and Ukraine (9).[130] In 2024, the EUAA drafted 107 concluding remarks, of which 73% related to the top 10 citizenships of applicants in concluding remarks drafted by the EUAA, mainly concerning applicants from Pakistan (18) and Syria (17).[131]

In view of EUAA's end of operations in Malta in 2024, IPA conducts all interviews (since March 2024) and assessments.

Asylum applicants are generally informed by phone by the IPA a couple of days in advance. Lawyers reported that they are rarely notified and must usually rely on their clients to informing them.

In July 2021, the National Audit Office of Malta published the report 'Performance Audit: Fulfilling obligations in relation to asylum-seekers', which assessed the efficacy of the asylum process. The report identified inadequacies, including a lack of resources at first instance, and proposed strategic and

129 Regulation 10 of the Procedural Regulations, S.L.S.L. 420.07 .
130 Information provided by the EUAA, 14 March 2025.
131 Information provided by the EUAA, 14 March 2025.

operational recommendations.[132] The 2023 follow-up report noted that recommendations related to the change from RefCom to IPA were fully implemented, resulting in a reduction in the number of pending applications. It also flagged as a positive development the fact that IPA signed its first Collective Agreement relating to personnel, which allowed the Agency to attract and retain the necessary human resources.[133]

In its 2022 annual Asylum Report,[134] the EUAA reported that the IPA had taken several measures to seek to increase quality of decision making (lessons learned, meetings with quality control unit, etc).[135]

IPA drafted guidelines on the involvement and conduct of legal representatives (NGOs or private lawyers) during an asylum interview, allowing lawyers to intervene at certain parts of the interview and limiting their presence in cases of disruptive behaviour. According to the new rules, a lawyer can submit supplementary statements within 5 days of the interview.[136]

Whereas NGOs and lawyers noted a marked improvement in the quality of interviews in terms of approach, structure and attitude, they also reported concerns in the decision-making process. A particular example relates to the heavy reliance on ACLED statistics to determine national safety levels, giving consideration to other COI elements. ACLED was relied upon to determine that Libya, Sudan and Ukraine, or at least specific areas within the countries, were safe for applicants to return to.[137]

Furthermore, in *S.H. v. Malta,* the ECtHR decision seems to confirm these remarks, at least regarding assessments carried out between 2020 and 2021. The Court found the assessments to be "*disconcerting*" and plagued by "*rampant incongruence*".[138] While the Court did not refer to the entity which was in charge of the applicant's assessments, the applicant's lawyers later reported that the first assessment was carried out by an EUAA caseworker as indicated in the applicant's file. In March 2024, the Committee of Ministers of the Council of Europe adopted a decision in relation to this judgement, requesting Malta to submit information on the redress measures against the shortcomings identified by the Court related to the accelerated procedure and to introduce an appropriate Convention-compliant remedy with automatic suspensive effect.[139]

1.3.1. Interpretation

The presence of an interpreter during the personal interview is required according to national legislation and interpreters are generally made available.[140]

Applicants are allowed to request an interpreter of a specific gender or nationality.[141] Requests to this end must be made either by the applicant themselves, or by their legal adviser before the interview is carried out.

132 National Audit Office, Performance Audit: Fulfilling obligations in relation to asylum-seekers, 7 July 2021, available at http://bit.ly/3CT0VeK, 73-83.
133 National Audit Office, Follow-up Audits Report 2023, Volume II, November 2023, available at: https://tinyurl.com/3tfbv386.
134 EUAA, Annual Asylum Report (2022), p. 138, available at: https://bit.ly/3YgYL0q
135 For details, see AIDA, *Country Report: Malta – Update on the year 2023*, September 2024, available here.
136 EUAA, Annual Asylum Report (2022), available at: https://bit.ly/3LrbVVE p.140.
137 "*The Armed Conflict Location and Event Data Project (ACLED) collects real-time data on the locations, dates, actors, fatalities and types of all reported political violence and protest events around the world.*" See: https://tinyurl.com/5emk8sec.
138 ECtHR, *S.H. v. Malta*, 37241/21, 20 December 2022, cited above.
139 Council of Europe, Committee of Ministers, Decision CM/Del/Dec(2024)1492/H46-22, 14 March 2024, available at: https://tinyurl.com/56s5c9p8.
140 Regulations 4(2)(c) and 5(3) Procedural Regulations.
141 Regulation 10(10)(d) of the Procedural Regulations, S.L.S.L. 420.07 .

1.3.2. Transcription

English is the main language of asylum interviews. The interview transcript is taken by the caseworker in charge of the interview during the interview itself. Lawyers assisting applicants during their interviews noted that the caseworker oftentimes abruptly stops applicants or interpreters in the middle of a sentence in order to write down their answers which generates frustration and anger for applicants and interpreters alike.

Whereas in 2023, interviews were generally carried out by EUAA staff who were often non-native English speakers, in 2024 most interviews were carried out by IPA staff.

Applicants generally have access to the written transcript of the interview before any decision is taken, provided a request is made to that effect by the applicant or their legal adviser. It is however not possible for the applicant to make any comments at this stage since transcription issues can only be raised at the appeal stage.[142] The Government indicated that, since confirmation of the correctness of the transcript is not currently required by EU and national law, it is not offered as a possibility.

Practitioners often expressed concerns regarding the fact that detained applicants had no safe place to store their interview transcripts, leading to fears that these were read by other detained persons. Some applicants also mentioned that, due to these confidentiality issues, they might refrain from full disclosure during their interviews.

The law provides for the possibility of audio or audio-visual recording of the personal interview and interviews are generally digitally recorded.[143] The applicant is informed of such at the beginning of the interview; however their consent is not requested as the law does not require it. The IPA will only provide the audio recording for cases at the appeals stage in accordance with the Procedural Regulations.[144] The recording can only be consulted at the IPA's premises and applicants and their legal representatives cannot get copies of it. The audio recording of the interview will be accepted as evidence by the IPAT if a request is made to that effect.

Interviews can be conducted through video conferencing. According to the IPA, interviews through video conferencing are considered to be essential in situations where there is a lack of interpreters available in order to proceed with the interview of an asylum applicant. The IPA indicated that it does not keep data on the method of interview used and it is therefore unable to provide information on how many were conducted by remote methods in 2024.[145]

Asylum applicants receive the assessment report explaining in detail the motivation of the decision along with the decision and the interview notes. Practitioners noted an improvement in the format and structure of the assessment.

142 Regulation 11(5) of the Procedural Regulations, S.L.S.L. 420.07 .
143 Regulation 11(2) of the Procedural Regulations, S.L.S.L. 420.07 .
144 Regulation 11(9) of the Procedural Regulations, S.L.S.L. 420.07 .
145 Request for Information 315240434264 issued by the International Protection Agency

1.4. Appeal

Indicators: Regular Procedure: Appeal		
1. Does the law provide for an appeal against the first instance decision in the regular procedure?	☒ Yes ☐ No	
❖ If yes, is it	☐ Judicial	☒ Administrative
❖ If yes, is it suspensive	☒ Yes ☐ No	
2. Average processing time for the appeal body to make a decision:[146]	Over 6 months.	

1.4.1. Appeal before the International Protection Appeals Tribunal

An appeal mechanism of the first instance decision is available before the International Protection Appeals Tribunal (IPAT). The appeal is of a quasi-judicial nature and involves the assessment of facts and points of law. It has a suspensive effect.

The IPAT is composed of one chairperson, three Board members and one Tribunal Secretary.

Concerns over the independence and impartiality of the Tribunal

The IPAT falls under the Ministry for Home Affairs and consists of one Chairperson on a full-time basis and two or more members on a part-time basis.[147] Members of the Tribunal are appointed for a period of three years and are eligible for reappointment.[148] All members are appointed by the President acting on the advice of the Prime Minister.[149]

Since 2020[150], the Tribunal was composed of only one chamber appointed until 22 August 2023. There is no publicly available information on the appointment of Tribunal members following this date, although the IPAT was indeed operational throughout 2023 and 2024.

The Act provides that members must be of known integrity and be qualified "*by reason of having had experience of, and shown capacity in, matters deemed appropriate for the purpose*". The Act further provides that one of the members of the Tribunal must be a person who has practised as an advocate in Malta for a period amounting to not less than seven years and that one of the members must be a person representing the disability sector.[151] Little is known on the actual selection process, there is no public call for applications or interested parties, the process is not made public or reviewed by any independent body, and there is no possibility for any member of the public to question an appointment made under the Act. The appointment of a member is only made public through the Government Gazette and the Tribunal's actual composition is not available on any of the Government's websites. Tribunal members are appointed by the Prime Minister.

NGOs assisting applicants at appeal stage have called for a reform of the appeal procedure for years. Whilst the establishment of a full-time Chairperson was welcome, they criticised the modalities of appointments of the members where the Prime Minister directly appoints members of a tribunal that is supposed to be independent and impartial.[152]

146 Article 5(1) of the International Protection Act, Chapter 420 .
147 Art 5 International Protection Act.
148 Article 5(3) of the International Protection Act, Chapter 420 .
149 Art 5.5 International Protection Act.
150 Ministry for Home Affairs, Security, Reforms and Equality, Feedback on the 2022 AIDA Country Report on Malta, shared with ECRE in January 2024.
151 Art 5 International Protection Act, Chapter 420 .
152 aditus foundation, JRS Malta, Comments on Bill No.133 Refugees (Amendment) Bill, July 2020, available at: https://bit.ly/2P2xUr6.

One of the main concerns expressed by NGOs over the years regarding the appeal stage remains the lack of asylum-related training and capacity of the Tribunal's Members. These concerns were confirmed by the National Audit Office in a report published in 2021 where it was reported that Chairs themselves deemed selection criteria were not in line with the expertise essential to rule on such technical and life-changing matters since there was no onus or requirements for the members to possess any direct educational or legal preparation or experience in asylum matters. The National Audit Office added that "*this lack of familiarity shown by the members in legal interpretation of the appellants' cases resulted in the chairpersons or members from the legal profession within the Chambers to practically decide the outcome of the appellants' cases on their own, with the rest of the Chamber simply endorsing the decisions.*"[153]

No information is available as to the IPAT's members' participation in any training activities organised by EUAA, UNHCR or similar entity. It is noted that Malta's appeal system was not included in the EUAA Operating Plan.

The audit also noted a critical shortage of administrative and support staff, including interpreters, research assistants and/or officers that could qualitatively assist the Tribunal in its hearings or in researching and drafting decisions.

The NAO's follow-up report noted that, together with a full-time Chairperson, the Ministry had also appointed a full-time coordinator and two administrative staff.

Stakeholders, including the Chamber of Advocates, have expressed concerns regarding specialised tribunals such as the IPAT.[154] In the feedback to DG Justice on the Malta Country Chapter for the 'Rule of Law Report', aditus foundation highlighted the following shortcomings regarding the Board:

- Although the basic principles of natural justice apply to the Tribunal, its members are not part of the judiciary and are not bound by any code of ethics that applies to members of the judiciary. The only requisite for the Tribunal to be validly constituted is that its members are "*persons of known integrity who appear to be qualified by reason of having had experience of, and shown capacity in, matters deemed appropriate for the purpose*" and that at least one of the members of the Tribunal "*shall be a person who has practised as an advocate in Malta for a period or periods amounting, in the aggregate, to not less than seven(7) years*". The appointment of persons who lack any specific qualification and experience on a Board that examine particularly sensitive issues such as the detention of migrants and asylum-seekers might deny individuals the right to an effective remedy.

- Most members of the IPAT are part-time members. This means that they often have full-time jobs, usually in the private sector, and perform their Board functions for a limited number of hours during the week. This can raise serious conflict of interest issues, besides affecting the Board's efficiency.

- Members of the IPAT are appointed by the Prime Minister. Whilst it is not possible to automatically assume that such an appointment would lead to political interference, it is clear that the system could have an impact on independence and impartiality of the body and could play a part in strengthening the Government's agenda on migration and asylum, as the Board examine decisions taken by Government bodies.

153 National Audit Office, Performance Audit: Fulfilling obligations in relation to asylum-seekers, 7 July 2021, pp. 73-83, available at http://bit.ly/3CT0VeK

154 See European Commission For Democracy Through Law (Venice Commission), opinion 993/2020, 8 October 2020, available at https://bit.ly/3Kwh7nS and European Commission, 2021 Rule of Law Report, Country Chapter on the rule of law situation in Malta, available at: https://bit.ly/3vBtXN9, 4-5.

- Despite the procedural rules laid down in S.L. 420.01, the manner in which the IPAT conducts its proceedings in practice is not publicly available through published guidelines. There are no detailed written rules on the matter. Lawyers commented that timelines are not uniformly stipulated or enforced, and the hearings' excessive informality due to lack of written procedures leads to inconsistent procedures in relation to oral submissions, witnesses, experts, etc. Lawyers noted that there is a lack of procedural transparency: proceedings are not appropriately recorded, and the minutes of the hearing are poorly done (if done at all). The decisions are not publicly available.

- The IPAT's decision is final, and no further appeal is possible on substantive issues. Whilst proceedings before such quasi-judicial tribunals are subject to judicial scrutiny, , there is no possibility to bring substantive elements before the Courts of law outside of a separate and independent human rights case alleging, for example, a violation of Article 3 ECHR if the applicant were to be returned.

These concerns were shared by the Venice Commission which considered that specialised tribunals such as the IPAT do not enjoy the same level of independence as that of the ordinary judiciary and reiterated in October 2020 its recommendations in that respect.[155]

In its 2022 Rule of Law Report, the European Commission echoed such concerns and indicated that the Government had committed in the Maltese Recovery and Resilience Plan[156] to carry out a review of the independence of specialised tribunals such as the IPAT in communication with the Venice Commission. This review was to include a study, to be completed by end 2024, as well as legislative amendments to enter into force by 31 March 2026.[157] No progress was made in this regard throughout 2024.

The 2023 Rule of Law Report reiterated its 2022 concerns, underlining that IPAT members are appointed by the executive authorities, also flagging the S.H. judgement of the ECtHR. The EU Commission also underlined that IPAT decisions, as those by most similar tribunals, are only subject to review on points of law but not on points of fact.[158]

In their submissions for the 2023 Rule of Law Report, aditus foundation and the Daphne Caruana Galizia Foundation stated that although aware of the review of the system, they expressed their concerns at the deadline of the implementation – being 2026 - highlighting that in the meantime, the boards are deciding on crucial issues relating to detention, age assessment, refoulement and asylum, which have clear implication on fundamental rights in the implementation of European Union law. They further reported that the independence of the tribunals, specifically of the IPAT was also raised in pending Commission Complaint CHAP(2021)02127 - Systematic breach of EU law in accelerated procedures, breach of Charter (Asylum Unit).[159]

The NGOs also underlined how the IPAT, despite being a Court of last resort, consistently failed to accede to requests for Preliminary Rulings made by practitioners. Although some requests were rejected on the basis of the acte clair principle, the majority of requests remain pending before the IPAT.

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155 Venice Commission, CDL-AD(2020)019-e, para. 98; see also CDL-AD (2020)006 paras. 97-98; and CDL-AD (2018)028 paras. 80-83.

156 Government of Malta, Recovery and Resilience Plan, September 2023, available at: https://tinyurl.com/yw25ehxk, 268.

157 EC, *Rule of Law Report, Country Chapter on the rule of law situation in Malta*, 13 July 2022, available at: https://bit.ly/3XRYS2D, 5-6.

158 EC, *Rule of Law Report, Country Chapter on the rule of law situation in Malta*, 5 July 2023, available at: https://tinyurl.com/2rx6mvuu.

159 Information provided by aditus foundation and Daphne Caruana Galizia Foundation, January 2023.

These concerns were reiterated in aditus' submissions for the 2024 Rule of Law Report of the EU Commission.[160]

Procedure to lodge an appeal before the Tribunal

An appeal can be made within 15 days from the notification on the applicant of the decision of the International Protection Agency for appeals lodged within regular procedure.[161] A recent amendment reduced this deadline to 1 week for appeals lodged against a decision of the IPA withdrawing a refugee status or subsidiary protection (see Withdrawal of Protection).[162]

This is generally understood as referring to an appeal application, being a confirmation in writing that the applicant wishes to appeal a negative decision and also whether the applicant wishes to request the appointment of a legal aid lawyer. In cases where the appellant is being represented by an NGO lawyer or a private lawyer, the letter is generally drafted by the lawyer or NGO. NGOs such as aditus and JRS provide template letters to the appellants indicating whether the appellant is represented by a lawyer or wishes to request legal assistance.

The decision of the IPA is issued in English and mentions the deadlines for appeal. The IPA generally also provides a document in several languages briefly mentioning the appeal procedure and its deadlines along with a document providing the address and contact of the Tribunal and relevant organisations. The appeal is to be lodged in person by the appellant at the IPAT premises in Valletta. Appellants are then issued with their identity document, the Asylum-Seeker Document (ASD) which they have to renew at the IPAT every three or six months. The IPAT does not accept late appeals under any circumstances.[163]

Following submission of the appeal application, the IPAT notifies the appellant of the deadline for submission of written pleadings. Where the appellant had requested a legal aid lawyer, the Ministry will appoint a lawyer from the pool of available legal aid lawyers who will then set an appointment with the appellant. The timeline for submitting written pleadings is provided for in Article 7(6) of the Act, set at a maximum of fifteen days following the filing of the appeal application.

Whereas in the past, lawyers were required to request access to the applicant's asylum file during this timeframe, the new procedure providing rejected applicants with a full assessment, decision and transcript has dramatically improved the system's efficiency. Nonetheless, practitioners noted the difficulty of meeting a 2-week deadline to make written submissions, particularly in situations where the appellant was detained or where individual circumstances required the procurement of further documents, such as vulnerability assessments, original documents from countries of origin, etc.

In 2023, the number of appeals lodged against negative first instance decisions was 649: 382 for regular appeals and 267 in the context of the accelerated procedure.[164] 595 cases were decided on appeal. In 2024, the IPAT received 325 appeal applications, excluding Dublin appeals.[165]

There are no established or publicly available rules or procedures for appeals filed by asylum-seekers who are detained or in prison. At the outset, they do not have access to any advice, information or clarification on their IPA decision. They face significant obstacles to appeal and generally rely on NGOs to liaise with the competent authorities. Standard appeal forms are not available to asylum-seekers in the premises where they are detained or imprisoned, the whole process being carried out on an ad hoc basis

160 aditus foundation, *2025 Rule of Law Submission Malta*, January 2025, available at: https://tinyurl.com/3rmu9679.
161 Article 7(2) of the of the International Protection Act, Chapter 420 and Regulation 5(1) (a) of the IPAT (Procedure) Regulations, S.L.S.L. 420.01 .
162 Articles 10(6) and 22(6) of the International Protection Act, Chapter 420 , as amended by Act XIX of 2022.
163 Request for Information 315240434264 issued by the International Protection Agency.
164 Information provided by IPAT following a Freedom of Information request.
165 Information provided by IPAT, 2025.

in complete opacity. Detainees can hardly communicate with the Tribunal themselves since they have limited access to phones and generally rely on their legal representative calling or visiting them to inform them of their rejection. This is particularly serious for applicants channelled in the accelerated procedure in view of the extremely tight timeframes and, overall, their impossibility of appealing or attempting to challenge the legality of IPA's decision to channel in the accelerated procedure.

Interpreters are not available in the detention centres and not all rejected applicants are able to communicate their intention to appeal to the Detention Services (DS). NGOs visiting the detention centres will take upon themselves to refer the appellant to the IPAT's registry, the Detention Services (DS) and the Legal Aid Agency, when the appellant requests a legal aid lawyer. This requires the NGOs to be aware of the appellant, which is not always the case considering their limited access to detention (see Access to Detention).

Since the appeal must be lodged in person, the appellant must be brought by the DS to the IPAT's premises within the prescribed deadline.

For asylum-seekers who are in prison, the Correctional Service Agency must be informed instead of DS and while they are reportedly more organised than DS, they lack the understanding of the whole asylum procedure and unless a lawyer or an NGO informs them it is likely the appeal will not be filed.

Proceedings before the Tribunal

The Act provides that the IPAT can regulate its own procedure.[166] Specific rules of procedures were adopted in S.L. 420.01, entitled International Protection Appeals Tribunal (Procedures) Regulations. The Regulations add the obligation for all members to swear an oath that *"they will faithfully and impartially perform the duties of their office or employment, and that they will not divulge any information acquired by them under the Act".*[167]

However, the regulations remain superficial in nature and do not formalise the decision process of the Tribunal. In 2021, the National Audit Office found that there were no written procedures that guide the Tribunal's Chambers which reportedly worked differently to determine decisions. The audit found that some Chambers claimed that they met and actually discussed files together and agreed upon a decision while other Chambers distributed cases and then agreed on decisions. The Audit Office found that the latter point showed that such practice meant that not all four members would have viewed the files deeply but relied on each other's opinions. According to the Audit Office, the current Chair of the Tribunal contended that this is a practice which is used even by the Court of Appeal and the ECHR and that it is legitimate for one member or two to look into the details of the case and report findings to their colleagues.[168] The NAO's follow-up report, in 2023, welcomed the introduction of Act XL of 2020 amending Section 7 of the Act, yet lawyers noted that these amendments did not resolve the problem relating to the IPAT's lack of written rules of procedure.

Once the appeal is filed, appellants and their lawyers must present written submissions within no more than 15 days following the registration of the appeal.[169] The IPAT does not accept late submissions.

Upon lodging the appeal, the parties are issued with a Decree providing for clear deadlines for their respective submissions. The IPA must file its submission within 15 days following the expiry of the deadline given to the appellant to file its own submissions. The Decree states that the IPA must present

166 Article 7(9) of the International Protection Act, Chapter 420 .
167 Regulation 4 of the IPAT (Procedure) Regulations, S.L.S.L. 420.01 .
168 National Audit Office, Performance Audit: Fulfilling obligations in relation to asylum-seekers, 7 July 2021, pp. 73-83, available at http://bit.ly/3CT0VeK
169 Art 7.6 International Protection Act.

its submissions even if the appellant failed to do so and that if the IPA does not wish to file submissions, it must inform the Tribunal and motivate such a decision.

In practice, the IPA only submits written observations on selected cases, at times after the deadline. The Tribunal will however generally uphold a request to strike out the IPA's late submissions, if it is made. However, this is without prejudice to the right of the IPA to file oral submissions during any hearing appointed by the Tribunal. It remains unclear if counter-observations submitted by the appellant are permitted *de jure,* but this is generally accepted by the IPAT and considered to be the final note of submissions with the possibility for the IPA to reply with its own final note of submissions. Parties are therefore generally allowed to file two notes of submissions each.

Appellants are further allowed to file new evidence beyond the 15 days initially awarded to them provided this new evidence was not available when the submission was made.[170] The fact that appeals remain pending for several years means that new facts are likely to emerge within the proceedings, yet practitioners are unaware of any measures adopted by the IPAT to ensure a decision-making process that is truly full and *ex nunc*. In practice further submissions on new points of fact are allowed and the IPA is generally given 2 weeks to provide a written reply.

For the appellant, failure to file submissions will automatically lead the IPAT to reject the case on the basis that the appellant "*did not indicate on which ground the appeal was made*".[171] The number of rejections linked to the absence of submissions filed by the appellant is substantial, amounting to 139 out of 283 decisions (49%) in 2021.[172] NGOs reported that on some occasions, the registry of the IPAT failed to print the lawyer's submissions on file, therefore leading the IPAT to reject the case on the presumption that no submissions were filed. While it is possible to file a request to reopen the case, the IPAT generally rejects such requests on the basis that the law does not provide for it. These cases are considered to be rejections "*on the merits*" by the IPAT. The Government states that, in the absence of specific and uniform provisions or procedural rules governing the reopening of appeals, the IPAT has on certain instances made reference to the general law of procedure relating to new trials following a judgement of Malta's superior civil courts.[173]

There is no obligation for the IPAT to hold hearings. However, it can decide to hold one on its own initiative or following a request from the appellant.[174] As a result, asylum-seekers can be heard in practice at the appeal stage, but only on a discretionary basis.[175] The law foresees the possibility for the Tribunal to authorise the hearing to be public after the request by one of the parties or if the Tribunal so deems fit.[176]

The National Audit Office reported that it was not in a position to establish if and how many times the relevant Chamber would have met with the appellant for an oral hearing. It noted that the current Chair of the IPAT contends that the Board would hold an appeal worthy of a hearing when there was a particular point of law or fact which needed clarification, or where there was a specific request by the appellant for an oral hearing. The Audit Office expressed concerns that that "such difference in procedures raises the question as to whether appellants are being given an equal opportunity to present their case".[177]

The data provided is limited to cases that were heard from November 2021, with 16 hearings held so far. In 2023, the IPAT ordered 23 appeals under oral hearings and 587 cases were decided with no oral

170 Article 7(6) of the International Protection Act, Chapter 420 .
171 Information reported by aditus foundation, January 2022.
172 Information provided by the Secretary of the IPAT, January 2021.
173 Information provided by the Ministry of Home Affairs, Security and Employment on 24 July 2025, see annex to the report.
174 Regulation 5(1)(h) RAB Procedures Regulations.
175 Regulation 5(1)(n) RAB Procedures Regulations.
176 Art 7.5 International Protection Act.
177 National Audit Office, *Performance Audit: Fulfilling obligations in relation to asylum-seekers*, 7 July 2021, available at: http://bit.ly/3CT0VeK, 77.

hearings (4%), whilst 15 hearings (all in-person) were held in 2024. For 2024, 439 appeals were adjudicated without a hearing.

The hearings held by the Tribunal do not follow clear steps or set procedures. They rarely last more than 15 minutes, with a time allocated to the appellant to summarise the case and the relevant arguments, and a time for the IPA's representative to reply. Despite requiring a full and *ex nunc* examination, the law also provides that the Tribunal should normally hear only new evidence regarding which it is satisfied that such evidence was previously unknown or could not have been produced earlier.[178]

The hearing is generally held in the presence of the Chairperson and the Secretary, and the written transcript does not make any mention of the oral submissions made by the appellant or the IPA beyond the mention "*the appellant made his submissions*".[179] Hearings are always attended by a representative of the IPA.

The UNHCR is entitled by law to attend the hearings held by the Tribunal.[180] It will consider doing so if the appellant requests it and so far, has been attending hearings whenever requested. It also has the possibility to file observations in the appeal.

Time limits and decisions

The Act provides that an appeal must be concluded within three months of the lodging of the appeal and that in cases involving complex issues of fact or law, the time limit may be further extended under exceptional circumstances but cannot exceed a total period of six months.[181]

For 2023, IPAT reports that the average duration of the appeal procedure is of 452 days however practitioners reported having appeals pending for up to 5 years. For cases decided in 2024, the average duration of the appeal procedure was of 465.5 days.[182]

Applicants whose application is rejected as manifestly unfounded or inadmissible are not entitled to appeal against such decision. The IPA's decision is automatically transferred to the IPAT for the three-days review. Such reviews do not allow the applicant to express their views or to be heard. The decision generally consists of a one-sentence document confirming the IPA's decision. According to the Government, *"when reviewing the decision taken at first instance, the IPAT is in possession of the applicant's asylum file which includes the application form filled when lodging the application, the transcript of the interview(s), the assessment report and decision of the IPA, as well as any documentary evidence submitted by the applicant throughout the course of the asylum procedure."* [183]

450 decisions were taken by the IPAT in 2024:

Type		Number of decisions
Protection decisions	Refugee status	2
	Subsidiary protection	29
	THP	0
Rejection decisions	Inadmissible (including manifestly unfounded)	154
	Rejection in merits	166
Dublin cases	Confirmed Dublin	31
	Reversed Dublin	0

178 Regulation 5(1)(h) of the IPAT Procedures Regulations, S.L.S.L. 420.01 .
179 Information provided by JRS and aditus, January 2022.
180 Article 7(8) of the International Protection Act, Chapter 420 .
181 Art 7.7 International Protection Act, Chapter 420 .
182 Information provided by IPAT, 2025.
183 Ministry for Home Affairs, Security, Reforms and Equality, Feedback on the 2022 AIDA Country Report on Malta, shared with ECRE in January 2024.

Withdrawn	Explicit	28
	Implicit	37
Reversed to IPA		3
TOTAL		**450**

Source: IPAT, 2025.

The past few years have shown a certain improvement in the quality of the decision issued with an increased number of references to EU and national legal norms, country of origin information and jurisprudence of the European Court of Human Rights (ECtHR) and the Court of Justice of the European Union (CJEU). However, the concerns over the Tribunal's independence remain. In 2024, the recognition rate before IPAT stood at 8.8% overall when including inadmissibility decisions, or 15.7% when excluding inadmissibility decisions.

The Tribunal is under the obligation to carry out a full and *ex nunc* examination of both facts and points of law,[184] the expression "*full and ex nunc*" being introduced by amendment XIX of 2022. The Act further specifies that such an examination shall also lie against decisions finding an application to be unfounded, inadmissible. It seems incongruent, and possibly in breach of EU primary law, that the Act also specifies that the previously-described 3-day accelerated procedure – with no access to legal assistance and no possibility of the appellant to present any written or oral submissions – is deemed to constitute an appeal.

The decisions of the Tribunal are not published or publicly available, although they are all transmitted to UNHCR.

1.4.2. Judicial review

Although the International Protection Act stipulates that the IPAT's decisions are final, it is possible to submit an application before the Civil Courts in order to review decisions that allegedly breach principles of natural justice or that are manifestly contrary to the law. Almost identical to a formal judicial review process under Article 469A of Malta's Code of Organisation and Civil Procedure (COCP), this recourse of action is not formally described as such since the IPAT, being or at least purporting to be a quasi-judicial body - is not an administrative body and therefore not subject to judicial review procedures.

The self-assumed jurisdiction by the Courts, often named 'residual jurisdiction' has been reiterated in several cases and is based on clear principles. In fact, in several cases, within asylum but also in other areas, Maltese Courts have rejected the plea presented by the Government that the IPAT's decisions are final and that therefore the Courts should decline from taking cognisance of the case.[185]

The Civil Court's competence to review the decision of any administrative tribunal to ensure "*firstly that the principles of natural justice are observed and secondly, to ensure that there is not any wrong or incomplete statement of the law*" is a longstanding principle established by jurisprudence.[186]

Even where the law stipulates that certain decisions are final and may not be challenged or appealed, Maltese Courts have held that "*not even the legislator had in mind granting such unfettered immunity to*

184 Article 7(1A) of the International Protection Act, Chapter 420 as amended by Act XIX of 2022.

185 See for instance, Paul Washimba v Refugee Appeals Board, the Attorney General and the Commissioner for Refugees, 65/2008/1, 28 September 2012, available at: https://tinyurl.com/5ymbey5t; Saed Salem Saed v Refugee Appeals Board, the Commissioner of Police as Principal Immigration Officer and the Attorney General, 1/2008/2, 5 April 2013, available at: https://tinyurl.com/33x586cu; Abrehet Beyene Gebremariam v Refugee Appeals Board and the Attorney General, 133/2012, 12 January 2016, available at: https://tinyurl.com/3cez8wsn.

186 Anthony Cassar pro et noe vs Accountant General, 667/1992/1, 29 May 1998, available at: https://tinyurl.com/mphbx2em; Dr. Anthony Farrugia vs Electoral Commissioner, 18 October 1996.

the Board as would make it unaccountable for breaches which, in the case of other administrative tribunals, ground an action for judicial review."[187]

As with the more regular judicial review, this is a regular court procedure assessing whether administrative decisions comply with required procedural rules such as legality, nature of considerations referred to and duty to give reasons. Applicants could be granted legal aid if eligible under the general rules for legal aid in court proceedings. It is not excluded that the relevant provisions of the EU Charter could be relevant for such cases.

Nonetheless, this procedure does not deal with the merits of the asylum claim, but only with the manner in which the concerned authority reached its decision. Moreover, the lack of suspensive effect and the length of the procedure, which can take several years before any decision is reached, tend to discourage lawyers and rejected asylum-seekers to file cases.

1.5. Legal assistance

Indicators: Regular Procedure: Legal Assistance

1. Do asylum applicants have access to free legal assistance at first instance in practice?
   ☐ Yes ☐ With difficulty ☒ No

2. Do asylum applicants have access to free legal assistance on appeal against a negative decision in practice? ☒ Yes ☐ With difficulty ☐ No
   - ❖ Does free legal assistance cover ☒ Representation in courts ☒ Legal advice

Regulation 10(4) of the Procedural Regulations provides that a legal adviser shall be allowed to assist the applicant in accordance with procedures laid down by the International Protection Agency and, "*where entitled to free legal aid shall be provided to the applicant*".[188] However, Regulation 12(1) provides that an applicant is allowed to consult a legal adviser "*at their own expense*" in relation to their application for international protection "*at all stages of the procedure*" provided that, in the event of a negative decision at first instance, free legal aid shall be granted under the same conditions applicable to Maltese nationals.[189]

In practice, free legal assistance is limited to the appeal stage and NGOs reported that they are not aware of any legal aid lawyer intervening at the first instance stage and that applicants who request the assistance of a lawyer at first instance are generally referred to the NGOs by the IPA which usually provides them with a document containing the contact details of the NGOs and the UNHCR.

Legal assistance at the appeal stage is not restricted by any merits test or other considerations such as that the appeal is likely to be unsuccessful. In practice, the appeal forms the applicants fill in and submit to the IPAT contain a request for legal aid, unless an applicant is assisted by a lawyer working with an NGO or a private lawyer. This request is forwarded to the Ministry for Home Affairs which will distribute the cases amongst a pool of asylum legal aid lawyers. One appointment with the applicant is then scheduled. To date, legal aid in Malta for asylum appeals has been financed through the State budget.

Lawyers providing assistance to asylum applicants and migrants before the Immigration Appeals Board (IAB) and the International Protection Appeals Tribunal (IPAT) are selected from a pool of lawyers which is different from the one provided for civil and criminal cases and fall directly under the Ministry for Home Affairs. Legal aid lawyers are generally chosen on the basis of an open call issued by the Ministry for

187 Saed Salem Saed v Refugee Appeals Board, the Commissioner of Police as Principal Immigration Officer and the Attorney General, 1/2008/2, 5 April 2013.
188 Regulation 10(4) of the Procedural Regulations, S.L.S.L. 420.07 .
189 Regulation 12(1) Procedural Regulations.

Home Affairs to provide specific migration and asylum related legal services. The contracts of service are awarded after interviews conducted by Ministry officials.

Legal aid lawyers must undertake to represent appellants to the best of their ability and submit an appeal on their behalf to the relevant body at law. They must undertake to examine the grounds of appeal and present, in writing, the appellant's case before the relevant Board or Tribunal as well as attending hearings to explain case submissions and provide other general assistance to the respondents during their appeal.

The contract is a fee-based service contract where lawyers are paid per completed appeals and upon presentation of an attendance sheet. The fees are paid according to the below:

- Asylum Appeals: 100 euro (inc. VAT) for every appeal submission;
- Dublin Appeals: 80 euro (inc. VAT) for every appeal submission;
- Age Assessment: 80 euro (inc. VAT) for every appeal submission;
- Detention: 40 euro (inc. VAT) per case;
- Removal: 80 euro (inc. VAT) per case;
- Other legal services: 40 euro (inc. VAT) per session.

According to some legal aid lawyers, the fee perceived is not enough to cover the work involved in preparing and submitting an asylum appeal, including attending the oral hearing. Additionally, some practical and logistical obstacles may arise during the procedure such as appellants not showing at their appointments with the legal aid lawyer either because they are unaware they are required to so or simply because they missed the call or message. In such instances, it has happened that the legal aid lawyer does not file submissions for the appeal leading, resulting in the appeal being decided negatively without an assessment on the merits of the case.

It must also be noted that few lawyers apply to be legal aid lawyers subcontracted through public calls by the Ministry, presumably due to insufficient fees and a lack of interest or specialisation in this field. The length of the appeal procedure and the lack of any prospect of success is also likely to demotivates lawyers to involve themselves more than the minimum required. In 2022, 10 legal aid lawyers were available.

The 2023 call for applicants to be part of the legal aid pool only referred to *"administrative and technical"* criteria, yet no indication was given as to any specific knowledge or expertise in national or EU asylum and immigration law. Ongoing training is mentioned as a possibility, with no attached participation requirement.[190]

State sponsored legal aid in asylum cases being restricted to the appeal stage, free legal assistance at first instance is only provided by lawyers working with NGOs[191] and the Legal Clinic of the Faculty of Laws of the University of Malta.[192] This lack of legal aid from the outset of proceedings was highlighted as a serious concern in the UN Human Rights Committee's latest report on Malta.[193]

Legal assistance and counselling provided by the NGOs as part of their ongoing services, which are funded either through project-funding or through other funding sources and therefore subject to funding limitations which could result in the services being reduced due to prioritisation. NGO lawyers provide legal information and advice both before and after the first instance decision, including an explanation of the decision taken and, in some cases, interview preparation and appeals.

190 MHAS, Call for Legal Aid Service, available at: https://tinyurl.com/zbn7vdd7.
191 These are aditus foundation, JRS Malta, the Migrants Commission, and the Women's Rights Foundation.
192 See https://bit.ly/41JSugE
193 UN Human Rights Committee, *Concluding observations on the third periodic report of Malta*, CCPR/C/MLT/CO/3, 26 August 2024, available here, 7-8.

The Procedural Regulations provide that the IPA must allow applicants to bring with them a legal adviser for the interview. They further provide that the legal adviser can only intervene at the end of the interview and that the absence of the legal adviser does not prevent the IPA to carry out the interview. The Regulations empower the IPA to draft further rules covering the presence of legal advisers during the interview.[194] These rules were drafted in 2021 and cover the presence of any third parties at the interview, including the UNHCR.[195]

The UNHCR is entitled to have access to information on individual applications, be present during personal interviews and submit their views in writing during the first instance and at appeal stage, provided the applicant has consented to it.[196]

According to the new rules, legal advisers are allowed to make comments or ask questions to the applicant only at the end of the interview, which will be recorded and included in the interview transcript. The rules provide that third parties (including the UNHCR and legal adviser) may not intervene directly during the questioning of the applicant and if they do so, they will be given a warning to desist from such interventions by the case officer. The guidelines further state that the interview will be suspended if the interventions continue, and that the IPA reserves the right not to authorise the attendance of the legal adviser when the interview is subsequently rescheduled. It must be noted that the guidelines fail to mention that legal advisers are legally entitled to intervene at any point in the interview on matters of procedure, however this is generally confirmed by the case officers at the beginning of the interviews. Finally, the new rules provide for a stringent 5-day deadline from the interview to submit a supplementary statement.[197]

NGOs have consistently raised concerns about the lack of or insufficient access to legal assistance and representation during the asylum procedure, especially for those placed in detention and in prison and the ECtHR found against Malta in several cases.[198]

In December 2022, the ECtHR found a violation of Article 3 ECHR taken in conjunction with Article 13 after highlighting the numerous shortcomings of the asylum procedure in Malta. The Court noted that "*the applicant had not had the benefit of any legal assistance in the preparation of his asylum application, during his interview and all throughout the process until a few days before the first decision*" and did not did not accept the argument of the Government that the applicant had not claimed he had asked for such assistance and had been denied, noting that, "*during the processing of his first asylum claim the applicant had been in detention (between September 2019 until December 2020) and the Court has repeatedly expressed its concerns in the Maltese context about concrete access to legal aid for persons in detention*". The Court found that the situation of the applicant was further exacerbated by the COVID-19 pandemic and held that it "*had no reason to doubt the applicant's submission, supported by the CPT report that, due to increased limitations following the outbreak, detained asylum-seekers were even less likely to obtain any form of access to legal aid, or of NGO lawyers, or any other lawyer of choice*".[199]

Furthermore, as described in further detail in the relevant section below, meetings with appellants who are in detention can be particularly problematic for practical and logistical reasons that can be of detriment to both the appellants and the lawyers, for example: interpreters are not always available; only one

194 Regulation 12(2) of the Procedural Regulations, S.L.S.L. 420.07 .
195 EUAA, Annual Asylum Report (2022), p. 194, available at: https://bit.ly/3EU7fUn.
196 Regulation 21 of the Procedural Regulations, S.L.S.L. 420.07 .
197 The guidelines are not publicly available; this information was provided by the IPA upon request on 20 January 2022.
198 See, Aden Ahmed v. Malta, no. 55352/12, § 66, 23 July 2013, available at: https://hudoc.echr.coe.int/?i=001-122894; Mahamed Jama v. Malta, no. 10290/13, § 65, 26 November 2015, available at: https://hudoc.echr.coe.int/?i=001-158877; Abdi Mahamud v. Malta, no. 56796/13, § 46, 3 May 2016, available at: https://hudoc.echr.coe.int/?i=001-162424; Feilazoo v. Malta, no. 6865/19, § 58, 11 March 2021, available at: https://hudoc.echr.coe.int/?i=001-208447; *S.H. v. Malta*, no 37241/21, § 82, 20 December 2022 available at: https://hudoc.echr.coe.int/?i=001-221838 in the immigration context and Yanez Pinon and Others v. Malta, nos. 71645/13 and 2 others, § 6, 19 December 2017 available at: https://hudoc.echr.coe.int/?i=001-179568 in the prison context.
199 ECtHR, *S.H. v. Malta*, no 37241/21, § 82, 20 December 2022.

boardroom is shared with all actors is available for visits at the Safi Detention Centre; lawyers are generally not permitted to take phones or any electronic devices to these meetings; all meetings need prior authorisation from the Detention Services; the meeting request procedure is cumbersome, the Detention Services decides on the day and time of the meetings. (see Access to Detention). Coupled with the extremely strict and tight deadlines within which to file asylum appeals, these logistical hurdles are challenging for lawyers assisting asylum applicants.

The law states that access to information in the applicants' files may be precluded when disclosure may jeopardise national security, the security of the entities providing the information, and the security of the person to whom the information relates.[200] Moreover, access to the applicants by the legal advisers or lawyers can be subject to limitations necessary for the security, public order or administrative management of the area in which the applicants are kept.[201] In practice, however, these restrictions are rarely, if ever, implemented.

2. Dublin

2.1. General

Dublin statistics: 1 January – 31 December 2024

The Dublin Unit, within the IPA, provided the following information:

Outgoing procedure				Incoming procedure			
	Requests	Accepted	Transfers		Requests	Accepted	Transfers
Total	**130**	**124**	**68**	**Total**	**250**	**227**	**77**
Take charge				**Take charge**			
FR	45	45	21	DE	96	93	17
PT	30	30	33	IT	40	36	0
RO	27	27	7	BE	21	19	0
IT	20	18	0	NL	19	17	0
ES/NL	2/2	2/0	2/2	FR	17	12	5
Take back	37	5		**Take back**	275	181	
BG	15			FR	75	42	
EL	12			DE	73	50	
DE/FR/IT	2/2/2	1/1/2		NL	45	36	
AT/BE/NO	4/4/4	0/0/1		IT	30	21	
				BE	21	15	

NB: Transfers refers to the number of transfers actually implemented, not to the number of transfer decisions.

200 Regulation 7(2) Procedural Regulations, S.L.S.L. 420.07.
201 Regulation 7(3) Procedural Regulations, S.L.S.L. 420.07.

Country Codes

European Union (EU)

Belgium	(BE)	Greece	(EL)	Lithuania	(LT)	Portugal	(PT)
Bulgaria	(BG)	Spain	(ES)	Luxembourg	(LU)	Romania	(RO)
Czechia	(CZ)	France	(FR)	Hungary	(HU)	Slovenia	(SI)
Denmark	(DK)	Croatia	(HR)	Malta	(MT)	Slovakia	(SK)
Germany	(DE)	Italy	(IT)	Netherlands	(NL)	Finland	(FI)
Estonia	(EE)	Cyprus	(CY)	Austria	(AT)	Sweden	(SE)
Ireland	(IE)	Latvia	(LV)	Poland	(PL)		

European Free Trade Association (EFTA)

Iceland	(IS)	Norway	(NO)
Liechtenstein	(LI)	Switzerland	(CH)

Outgoing Dublin requests by criterion: 2024		
Dublin III Regulation criterion	Requests sent	Requests accepted
"Take charge": Articles 8 to 17		
Article 8 (minors)	2	
Article 9 (family members granted protection)		
Article 10 (family members pending determination)		
Article 11 (family procedure)		
Article 12 (visas and residence permits)	5	3
Article 13 (entry and/or remain)	20	18
Article 14 (visa free entry)		
"Take charge": Article 16		
"Take charge" humanitarian clause: Article 17(2)	103	103
"Take back": Articles 18 and 20(5)		
Article 18 (1) (b)	36	5
Article 18 (1) (c)		
Article 18 (1) (d)		
Article 18 (1) (a)	1	
Article 20(5)		

Source: International Protection Agency Dublin Unit.

Incoming Dublin requests by criterion: 2024		
Dublin III Regulation criterion	Requests received	Requests accepted
"Take charge": Articles 8 to 17		
Article 8 (minors)	10	9
Article 9 (family members granted protection)	12	10

Article 10 (family members pending determination)	1	
Article 11 (family procedure)	2	1
Article 12 (visas and residence permits)	205	195
Article 13 (entry and/or remain)	17	9
Article 14 (visa free entry)		
"Take charge": Article 16		
"Take charge" humanitarian clause: Article 17(2)	1	
Article 18(1) (a)	1	2
"Take back": Articles 18 and 20(5)		
Article 18 (1) (b)	237	154
Article 18 (1) (c)	3	2
Article 18 (1) (d)	35	25
Article 20(5)		

Source: International Protection Agency Dublin Unit.

In 2024, in 68 cases approx. 6 months passed between the moment the outgoing request was issued and the effective transfer to the Member State responsible. Data on cases where the average duration was more was not available for 2024.

There is no specific legislative instrument that incorporates the provisions of the Dublin Regulation into national legislation. The procedure relating to the transfers of asylum applicants in terms of the Regulation is an administrative procedure, with reference to the text of the Regulation itself. The Chief Executive Officer of IPA is the designated head of the Dublin Unit. This brought positive changes in terms of organisation, access to information and procedural safeguards. The Immigration Police is in charge of the Eurodac checks and the rest of the procedure, including transfer arrangements, is handled by the Dublin Unit.[202]

In 2024, Eurodac checks were physically conducted at IPA premises by police immigration officials. Although the decision to ensure the officials are in plainclothes was taken to avoid visible police presence at the IPA, practitioners reported that this resulted in a lack of transparency as to the entities applicants were engaging with at IPA. Coupled with the increased practice of detaining asylum applicants – including those regularly staying in Malta – at the moment of lodging the applications, seemed to have a deterrent effect for some people, often hesitating to apply for asylum out of fear of being apprehended and detained by the police.

According to NGOs' experience, there is no clear rule on the application of the family unity criteria as it usually depends on the particular circumstances of the applicant. NGOs report a 2023 case where IPA rejected the asylum application of a child who had earlier been transferred to Malta through Dublin's family reunification procedures.

NGO observations note that visa and residence permit criterion is the most frequently used for outgoing requests whilst, for incoming requests, the most frequently used criteria are either the first EU Member State entered or the EU Member State granting a Schengen visa.

202 Information provided by the Dublin Unit, February 2021.

2.2. Procedure

Indicators: Dublin: Procedure

1. Is the Dublin procedure applied by the authority responsible for examining asylum applications? ☒ Yes ☐ No
2. On average, how long does a transfer take after the responsible Member State has accepted responsibility? >1 year

All those who apply for asylum are systematically fingerprinted and photographed by the immigration authorities for insertion into the Eurodac database. Those who enter Malta irregularly are immediately taken to detention and they are subsequently fingerprinted and photographed.

Asylum applicants who are either residing regularly in Malta or who apply for international protection prior to being apprehended by the Immigration authorities, have their fingerprints taken at IPA premises by the police immigration authorities. Practitioners commented that 2024 saw an increase in the number of regularly-staying applicants detained at the moment of lodging their asylum applications. According to the Police, this is done in situations where, in the opinion of the duty Inspector and a superior officer, the applicant is seeking asylum for the purpose of frustrating a potential removal (for example in situations where their visa is about to expire) or where their identity may not be readily confirmed.

In registering their intention to apply for international protection, asylum applicants are also asked to answer a 'Dublin questionnaire' wherein they are asked to specify if they have family members residing within the EU. Should this be the case, the examination of their application for protection is suspended until further notice. It is up to the IPA to then contact the asylum applicant to request further information regarding the possibility of an inter-state transfer, such as the possibility of providing documentation proving familial links.

2.2.1. Individualised guarantees

No information is provided by the Dublin Unit on the interpretation of the duty to obtain individualised guarantees prior to a transfer, in accordance with the ECtHR's ruling in *Tarakhel v. Switzerland*,[203] yet Malta rests on EU Commission Communications to rebut the presumption of compatibility of other MS with the Reception Conditions Directive.[204] Lawyers report that since 2018 there were a number of cases wherein the IPAT commented that it is not its duty to explore the treatment the appellant would be subjected to following the Dublin transfer.

In the only relevant case on the matter, in September 2019, an asylum applicant filed an application for a warrant in front of the Civil Court to stop a Dublin transfer to **Italy** before individual guarantees are actually provided by the Italian authorities. The Court declared itself competent to review the application without entering into the merits of the case. It did not find there was an obligation for the Italian authorities to present individual guarantees before executing an accepted transfer. It held that the socio-economic conditions of the applicant in Italy are irrelevant to the matter of the case and that in case of further issues to be raised in Italy, the applicant could address them to the Italian judicial system. Consequently, the Court rejected the application.[205]

203 ECtHR, Tarakhel v. Switzerland, Application No 29217/12, Judgment of 4 November 2014.

204 Ministry for Home Affairs, Security, Reforms and Equality, Feedback on the 2022 AIDA Country Report on Malta, shared with ECRE in January 2024.

205 Civil Court First Hall, Enas Mhana vs Hon Prime Minister, Minister for Home Affairs and National Security, Attorney General and the Office of the Refugee Commissioner, 2019/118742, 18 October 2019, available at: https://bit.ly/2XE0t06.

2.2.2. Transfers

According to the authorities, the transfer arrangements start immediately if the person accepts to leave and most of the transfers are carried out within a year, with a few cases requiring more than a year.[206] In the case of appeals, the transfer is implemented when a final decision is reached. NGOs have reported that in practice transfers can be implemented several weeks or several months after the final decision taken by the IPAT.

The length of the Dublin procedure remains an issue since applicants are kept waiting for months, sometimes more than a year, before receiving a decision determining which Member State is responsible for their application. In 2020, there were applicants who were not transferred within the Regulation's deadlines, yet who were not taken up by the IPA as falling under its responsibility and left without any documentation or information about their status. NGOs encountered a few individuals in this situation in 2021, 2022, 2023 and 2024.

Applicants pending an appeal decision are provided with an asylum-seeker document issued by the IPAT. When a Dublin decision is confirmed at appeal, applicants will therefore lose the asylum-seeker document provided by the IPAT and the IPA will not issue a new document since the Agency considers that following a final Dublin decision (either because the time limit to appeal the Dublin transfer decision has lapsed, or because the IPAT upholds the decision taken by the Dublin Unit), the person is no longer to be considered as an applicant for international protection in Malta, seemingly contradicting legislation and CJEU jurisprudence in this regard.[207]

According to the Dublin unit of IPA, there were 22 cases where the discretionary clause pursuant to Article 17(1) Regulation 604/2013 ("sovereignty clause") was applied.

2.3. Personal interview

Indicators: Dublin: Personal Interview

☐ Same as regular procedure

1. Is a personal interview of the asylum applicant in most cases conducted in practice in the Dublin procedure? ☒ Yes ☐ No
   - ❖ If so, are interpreters available in practice, for interviews? ☒ Yes ☐ No
2. Are interviews conducted through video conferencing? ☐ Frequently ☐ Rarely ☒ Never

Upon notification that an asylum applicant might be eligible for a Dublin transfer, they will be called by IPA operating the Dublin Unit to verify the information previously given and will be advised to provide supporting documentation to substantiate the request for transfer. These interviews always take place at the Dublin Unit premises under the same conditions are regular asylum interviews (see Regular procedure - Personal interview).

206 Information provided by the Dublin Unit, January 2022.
207 Information provided by the IPA Legal Unit, November 2020.

2.4. Appeal

Indicators: Dublin: Appeal
☒ Same as regular procedure

1. Does the law provide for an appeal against the decision in the Dublin procedure? ☒ Yes ☐ No
   - ❖ If yes, is it ☐ Judicial ☒ Administrative
   - ❖ If yes, is it suspensive ☒ Yes ☐ No

The responsibility to hear and determine appeals filed against a decision taken under the Dublin Regulation was shifted from the Immigration Appeals Board to the IPAT in 2017.[208]

Dublin appeals are heard by the IPAT in a similar manner as appeals filed against a decision of the IPA taken under the Regular Procedure and the comments made therein are also relevant for Dublin appeals (see Regular Procedure). Appellants are invited to submit written pleadings substantiating their appeal, followed by IPA's opportunity to also submit written observations.

An oral hearing may be held on the party's request, and in 2023 lawyers confirmed that they did attend a number of Dublin appeal hearings.

2.5. Legal assistance

Indicators: Dublin: Legal Assistance
☒ Same as regular procedure

1. Do asylum applicants have access to free legal assistance at first instance in practice? ☐ Yes ☐ With difficulty ☒ No
   - ❖ Does free legal assistance cover: ☐ Representation in interview ☐ Legal advice
2. Do asylum applicants have access to free legal assistance on appeal against a Dublin decision in practice? ☒ Yes ☐ With difficulty ☐ No
   - ❖ Does free legal assistance cover ☒ Representation in courts ☒ Legal advice

Following the transfer of jurisdiction from the Immigration Appeals Board to the International Protection Appeals Tribunal, applicants appealing a Dublin transfer are entitled to legal assistance in the same manner as for appeals filed under the Regular Procedure (see Regular Procedure).

2.6. Suspension of transfers

Indicators: Dublin: Suspension of Transfers

1. Are Dublin transfers systematically suspended as a matter of policy or jurisprudence to one or more countries? ☐ Yes ☒ No
   - ❖ If yes, to which country or countries?

Malta has not suspended transfers as a result of an evaluation of systemic deficiencies in any EU Member State.

However, the Government also confirmed that '(I)n practice, transfers to Greece rarely take place since the Greek authorities do not provide assurances pertaining to reception conditions.'[209]

208 Article 7(1) of the International Protection Act, Chapter 420 , as amended by Act XX of 2017.
209 Ministry for Home Affairs, Security, Reforms and Equality, Feedback on the 2022 AIDA Country Report on Malta, shared with ECRE in January 2024.

2.7. The situation of Dublin returnees

The main impact of the transfer on the asylum procedure relates to the difficulties in accessing the procedure upon return to Malta.

Asylum applicants leaving Malta pending the procedure run the risk of having their applications closed as 'implicitly withdrawn', per Regulation 13 of the Procedural Regulations. In 2024, IPA considered 194 cases as being implicitly withdrawn, although the available data does not clarify the specific factual basis for this conclusion.

In 2023 and 2024, cases were reported where the IPAT closed as implicitly withdrawn asylum applications where the applicants had – subsequent to their applications in Malta – made further applications in other EU MS. The IPAT considered that the appellants had failed to inform the Tribunal of this detail – being the application in another EU MS – and proceeded to close the appeal. The statistics provided by the IPAT do not make any reference to these cases although they do reveal that 28 applications were explicitly withdrawn and 37 implicitly in 2024.

Furthermore, persons stopped at the airport with forged documents run the risk of facing criminal charges (see Access to Territory).

As of 2023 and 2024, there seems to be no clear policy regarding Dublin returnees in Malta and NGOs are unable to confirm whether Dublin claimants are systematically detained following their return to Malta. Whilst a number of returnees were in fact detained followed their return to Malta, authorities also stated that there is no blanket policy of detaining Dublin returnees.[210]

Practitioners also report that returning applicants were granted accommodation in the open centres, particularly where AWAS was alerted to the return by NGOs. In view of Malta's strict policy of cutting off reception conditions after six months, including accommodation in the open centres, it is unclear whether time spent benefitting from reception conditions prior to the departure from Malta is counted as part of this six-month limit.

Regarding the first instance procedure, applicants will not be provided with state sponsored legal assistance for the first instance procedure and are likely to undergo their whole procedure without any legal assistance considering the limited capacity of the few NGOs providing this service (see Legal Assistance).

Applicants from countries of origin listed as safe[211] will be automatically channelled through the accelerated procedure and barred from filing an appeal against their negative decision. Furthermore, observations made in relation to applications deemed 'manifestly unfounded' – consequently not rejected on the merits and denied an appeal – are also relevant for applications by Dublin returnees. (see Accelerated Procedure).

The concerns expressed in relation to the effectiveness of the appeal remedy within the regular procedure are applicable to Dublin returnees (see Regular Procedure).

On 15 December 2021, the Dutch Council of State (highest administrative court) ruled that the Dutch immigration authorities can no longer rely on the principle of mutual trust for Dublin transfers to Malta. If immigration authorities wish to proceed with Dublin transfers to Malta, they are required to prove that the transfer will not result in a breach of article 3 ECHR. The court specifically mentioned the structural detention of Dublin 'returnees' and found these detention conditions to be a breach of article 3 ECHR and

210 Information provided by the Ministry of Home Affairs, Security and Employment on 24 July 2025, see annex to the report.

211 Article 24 of the International Protection Act, Chapter 420 .

article 4 of the EU Charter. The court also specifically mentioned the lack of effective remedy against detention because of the lack of access to justice, which is deemed a breach of article 18 of the RCD and article 5 of the ECHR.[212]

On 7 April 2022, the Tribunal of Rome annulled a Dublin transfer to Malta for a Bangladeshi applicant. The applicant claimed that during his stay in Malta, he was detained for 16 months and, due to inhumane and degrading conditions of the detention centre, he fell ill and spent two months in hospital. The Tribunal of Rome noted that the risk of inhumane and degrading treatment upon transfer to Malta is well-founded, taking into consideration reports from the European Council for Refugees and Exiles (ECRE), Amnesty International, the US Department of State, and UNHCR. The Tribunal noted that the transfer was in violation of Articles 3.2, 4, 5 and 17 of the Dublin III Regulation and ruled to annul the decision. [213]

On 14 November 2022, the Austrian Constitutional Court quashed a decision of the Federal Administrative Court regarding a Dublin return to Malta of a Syrian national. In its decision, the Constitutional Court looked at living conditions of applicants returned to Malta and ordered a reconsideration of the decision based on a closer assessment of the applicant's situation should he be returned to Malta.[214]

3. Admissibility procedure

3.1. General (scope, criteria, time limits)

The International Protection Act provides for a new definition of "*inadmissible applications*". The following grounds allow for deeming an asylum application inadmissible:[215]

(a) Another Member State has already granted the applicant international protection;
(b) The applicant comes from a First Country of Asylum;
(c) The applicant comes from a Safe Third Country;
(d) The applicant has lodged a Subsequent Application presenting no new elements;
(e) A dependant of the applicant has lodged a separate application after consenting to have their case made part of an application made on their behalf; and
(f) The applicant has been recognised in a third country and can avail him or herself of that protection or otherwise enjoys sufficient protection from *refoulement* and can be readmitted to that country.

Although inadmissible applications are not formally deemed to fall within the accelerated procedure, the International Protection Act provides that inadmissibility is a compulsory ground for an application to be processed under the same rules as the Accelerated Procedure. The Act further specifies that, prior to deciding on admissibility, applicants are to be granted a full interview and the possibility to present their views on the above-listed grounds of inadmissibility. Yet, in view of the grounds' compulsory nature, the relevant of the possibility of presenting views has been questioned by practitioners.

Admissibility decisions generally concern applicants who are or were beneficiaries of international protection in another EU Member State, and applicants who file a subsequent application where no new elements are presented (see Subsequent Applications). Practitioners observe that the number of applications deemed 'inadmissible' has increased due to these being presented by applicants having family members, often spouses, enjoying international protection in Malta. This is particularly noted in respect of spouses of beneficiaries of subsidiary protection – granted by Malta – since these are not entitled to family reunification. This often results in families based in Malta yet with a member – usually a spouse – not enjoying protection in Malta. Practitioners commented that IPA relies on ground (a) above,

212 Dutch Council of State, 15 December 2021, available in Dutch at: https://bit.ly/3JPAFUz.
213 Italy, Civil Court [Tribunali], Applicant v Dublin Unit of the Ministry of the Interior (Unita di Dublino, Ministero dell'Interno), R.G. 4597/2022, 07 April 2022, available at https://bit.ly/3kKXOzy.
214 Austrian Constitutional Court, Decision Number E622/2022, 14 November 2022, available at: https://bit.ly/3MDkU73
215 Article 24, International Protection Act.

further stating that the Directive and national rules do not require that the protection that had been granted by another MS be still active but merely that it had been granted.

Practitioners also noted a practice adopted by IPA in relation to paragraph (a), i.e. situations where an applicant in Malta had been recognised protection in another EU Member State. There were a number of situations where applicants had been indeed granted international protection in other EU Member States, but this protection was no longer valid, either due to expiration, revocation or other situations. Nevertheless, the IPA automatically considered these applications inadmissible, without granting an Asylum-Seeker Document to the applicants.

The principles of Safe Third Country and First Country of Asylum are generally not applied by the IPA and in 2024 no applications were deemed inadmissible on these grounds.

In 2024 the IPA issued 88 inadmissibility decisions, of which 55 applications were considered inadmissible on the basis that another Member State had granted international protection and 38 were closed inadmissible on the basis that the application is a subsequent application with no new elements.

Due to its close proximity to Italy, Malta has always seen individuals granted protection in Italy come and work in the country. However, these individuals generally do not lodge applications for international protection.

The IPA's current position on Greece is that beneficiaries of international protection enjoy sufficient guarantees in Greece and therefore all applications lodged by those applicants are generally rejected on admissibility. The application is immediately channelled through the accelerated procedure provisions, which provides for an automatic review by the chairperson of the IPAT within 3 working days, and there is no possibility for the applicant to file an appeal. In this context, the concerns expressed in relation to the accelerated procedure are applicable to the admissibility procedure and the conclusions of the ECtHR in *S.H. v. Malta* are applicable (see Accelerated Procedure).

Applicants were usually not provided with an ASD pending admissibility decisions in 2024. There were a few cases of first time subsequent applicants receiving ASDs in 2024 but this was not standard practice and it remains to be seen if it will become standard practice in the future.

3.2. Personal interview

Indicators: Admissibility Procedure: Personal Interview

☒ Same as regular procedure

1. Is a personal interview of the asylum applicant in most cases conducted in practice in the admissibility procedure? ☒ Yes ☐ No
   - ❖ If so, are questions limited to identity, nationality, travel route? ☐ Yes ☒ No
   - ❖ If so, are interpreters available in practice, for interviews? ☒ Yes ☐ No

2. Are interviews conducted through video conferencing? ☐ Frequently ☒ Rarely ☐ Never

The International Protection Act provides that the IPA shall allow applicants to present their views before a decision on the admissibility of an application is conducted.[216] In practice, an interview is held in the vast majority of cases. However, one exception is applicants coming from a first country of asylum or a safe third country, who generally do not benefit from an interview, as stated above. Interviews for applicants already granted protection in another Member State are generally limited to the preliminary interview (i.e., the lodging of the application).

[216] Article 24 (3) of the International Protection Act, Chapter 420.

Despite the International Protection Act stating that a personal interview on the admissibility of the application shall be conducted before a decision on admissibility is taken, without distinguishing between first and subsequent applications,[217] applicants submitting a subsequent application where no new elements were presented are not given the opportunity to be heard during a personal interview. The procedure is in writing only, with the ability for the applicant to present submissions along with the application. In the (rare) event where the subsequent application is deemed admissible, the IPA will interview the applicants on the merits of their case with further questions on the new evidence provided (See Subsequent Applications).

3.3. Appeal

Indicators: Admissibility Procedure: Appeal
☐ Same as regular procedure

1. Does the law provide for an appeal against the decision in the admissibility procedure? ☐ Yes ☒ No
   - ❖ If yes, is it ☐ Judicial ☒ Administrative
   - ❖ If yes, is it suspensive ☒ Yes ☐ No

The International Protection Act provides that the provisions of the accelerated procedure "*shall apply mutatis mutandis*" to inadmissible applications (see Accelerated Procedure).[218] In short, this means that applications deemed inadmissible are immediately transmitted to the IPAT, the latter having 3 days to decide on the application. The applicant has no role in this accelerated procedure and has no legal or practical possibility to challenge the inadmissibility decision. The IPAT's decision is final.

3.4. Legal assistance

Indicators: Admissibility Procedure: Legal Assistance
☒ Same as regular procedure

1. Do asylum applicants have access to free legal assistance at first instance in practice? ☐ Yes ☐ With difficulty ☒ No
   - ❖ Does free legal assistance cover: ☐ Representation in interview ☐ Legal advice
2. Do asylum applicants have access to free legal assistance on appeal against an inadmissibility decision in practice? ☐ Yes ☐ With difficulty ☒ No

Norms and practice for legal assistance during the admissibility procedure are identical to those applicable in the regular procedure. Summarily, there is no right to free legal assistance, and this is not provided by the State. NGOs are the only entities providing free legal services, including interview preparation, for this procedure. Applicants are entitled to seek private legal services.

Article 7(3) of the International Protection Act provides for the right to free legal aid for all appeals submitted to the IPAT. However, as inadmissible applications are automatically referred to the Tribunal in accordance with the accelerated procedure, the appellant is not able to participate in the review or to be represented (See Accelerated Procedure).

217 Ibid.
218 Art. 24(2) of the International Protection Act, Chapter 420 .

3.5. Suspension of returns for beneficiaries of protection in another Member State

In relation to applications deemed inadmissible due to protection granted in another EU MS or Associated Country, Malta has not formally suspended returns to any of these countries. Regular police raids on residences, workplaces and also roadblocks, are conducted.

Following these raids and arrests, persons were detained and subsequently removed, largely to Italy.

4. Border procedure (border and transit zones)

There is no border procedure in Malta.

5. Accelerated procedure

5.1. General (scope, grounds for accelerated procedures, time limits)

Article 23(1) of the International Protection Act provides that a person seeking international protection in Malta shall be examined under accelerated procedures in accordance with this article when their application appears to be manifestly unfounded. The Article also states that applications may only be so considered if IPA establishes that the applicants does not qualify for international protection, implying that a substantive assessment of the application should occur prior to determining that an application is manifestly unfounded.

Furthermore, as previously stated, Article 24(2) of Act provides that most provisions of the accelerated procedure shall also apply to applications decided as inadmissible (see Admissibility Procedure).[219]

The definition of "*manifestly unfounded applications*" reflects the grounds for accelerated procedures laid down by Article 31(8) of the recast Asylum Procedures Directive. An application is considered manifestly unfounded where the applicant:[220]

(a) In submitting their application and presenting the facts, has only raised issues that are not relevant to the examination as to whether such applicant qualifies as a beneficiary of international protection;
(b) Is from a safe country of origin;
(c) Has misled the authorities by withholding relevant information or documents with respect to their identity and/or nationality that could have had a negative impact on the decision;
(d) Is likely, in bad faith, to have destroyed or disposed of an identity or travel document that would have helped establish their identity or nationality;
(e) Has made clearly inconsistent, contradictory, false, or obviously improbable representations which contradict sufficiently verified country-of-origin information, thus making the claim clearly unconvincing in relation to whether they qualify as a beneficiary of international protection;
(f) Has introduced a subsequent application for international protection that is not inadmissible in accordance with article 24(1)(d);
(g) Is making an application merely in order to delay or frustrate the enforcement of an earlier or imminent decision which would result in their removal;
(h) Has entered Malta unlawfully or prolonged their stay unlawfully and, without good reason, has either not presented themself to the authorities or has not made an application for international protection as soon as possible, given the circumstances of their entry;
(i) Refuses to comply with an obligation to have their fingerprints taken in accordance with the relevant legislation;

219 Article 23(1) and 24 (2) of the International Protection Act, Chapter 420 .
220 Article 2 of the International Protection Act, Chapter 420 .

(j) May, for serious reasons, be considered a danger to the national security or public order, or the applicant has been forcibly expelled for serious reasons of public security or public order under national law.

Children travelling alone are not exempt from accelerated procedures. In terms of Article 23A, unaccompanied minors may be subjected to these procedures when they originate from a 'safe country of origin', they submitted an inadmissible subsequent application or, for serious reasons, they are considered a danger to national security.

Article 23(2) of the Act provides that when the IPA is of the opinion that an application is manifestly unfounded, it shall examine the application within three working days and "*shall, where applicable"*, decide that the application is manifestly unfounded. Article 23(7) of the Act further provides that where the application is considered not to be manifestly unfounded such application shall be examined under normal procedures.

As an exception, regulation 7(3) of the Procedural Regulations provides that whenever it is considered that an applicant requires special procedural guarantees as a consequence of having suffered torture, rape or other serious form of psychological, physical or sexual violence, the accelerated procedure shall not be applied.

However, this requires the IPA to promptly identify and recognise the vulnerability of the applicant, which is unlikely considering the lack of appropriate referral mechanisms[221] between agencies and the fact that the IPA does not consider itself to be bound by the conclusions of AWAS on the vulnerability of the applicant.[222] NGOs confirmed that survivors of violence and other vulnerable persons were still channelled through the accelerated procedure despite mentioning these episodes of violence during their interview, and that no apparent effort was made to ensure these individuals were not channelled through the accelerated procedure (see Procedural Guarantees).

The 2024 Concluding Observations to Malta by the UN HRC flags manifestly unfounded decisions as a particular concern, noting issues in relation to proportionality and necessity of such decisions[223]. The Committee urges Malta to 'review the grounds for determining applications deemed "manifestly unfounded", guaranteeing that any restrictions are proportionate and necessary.'

NGOs noted that the Act makes a confusion between inadmissible applications, manifestly unfounded applications and accelerated procedures. According to the APD, the consideration that an application is manifestly unfounded does not entail procedural consequences. However, in the Act, the qualification "*manifestly unfounded*" entails serious consequences, depriving the applicant of the possibility of challenging the decision before a competent court.

NGOs assisting asylum applicants reported an increase in the number of cases processed under the accelerated procedure since 2018. In 2020, 196 applications were deemed inadmissible and therefore channelled through the accelerated procedure and 238 cases were rejected as manifestly unfounded. For 2021, the IPA indicated that it does not keep statistical data pertaining to applications for international protection that are processed under the accelerated procedure, but the IPAT indicated that it carried out reviews for 482 applications, 114 inadmissible applications and 368 manifestly unfounded applications.[224]

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221 In information provided on 24 July 2025 (see annex to the report), the Ministry of Home Affairs, Security and Employment mentioned a referral mechanism between the IPA and AWAS on the matter; however NGOs in the field had not heard of this mechanism previously in their experience and thus cannot provide any information as to its effectiveness.

222 Information provided by the Ministry of Home Affairs, Security and Employment on 24 July 2025, see annex to the report.

223 United Nations Human Rights Committee, *Concluding Observations on the third periodic report of Malta*, 26 August 2024, available at: https://tinyurl.com/3pp4ea4s.

224 Information provided by the IPAT, February 2022.

According to IPA for 2024, it processed 70 applications in the accelerated procedure (Bangladesh, 25; Egypt, 12; Serbia, Pakistan and Algeria four each) and took 68 decisions within the procedure. Furthermore, 50 applications were rejected as being manifestly unfounded.

In practice, per stakeholders' observations, rejected applications from individuals coming from a country of origin listed as safe are usually considered to be manifestly unfounded on above ground (b). In the past and until 2022, the IPA generally refrained from making this finding when applicants from a safe country of origin claimed to be LGBTIQ+, thus offering them the possibility to file an appeal against the first instance rejection in accordance with the regular procedure. IPA also states that it has adopted internal guidelines on the processing of such applications, but these have never been made public or shared with NGOs or practitioners.

In November 2022, aditus foundation launched the #Safe4All legal initiative[225] advocating for the removal of countries of origin which criminalise LGBTIQ+ identities and/or behaviour from the safe countries list of the International Protection Act. The campaign featured heavily during Malta's 2023 hosting of EuroPride, during which the plight of LGBTIQ+ asylum applicants was also featured in the human rights conference.[226]

Practitioners report that in 2023 a number of appeal applications from decisions of inadmissibility were actually accepted by the IPAT, despite the above-mentioned legal obstacles. It is not clear which criteria the IPAT relies upon in order to grant or deny access to appeal procedures for similar cases. No similar reports were received for 2024.

5.2. Personal interview

Indicators: Accelerated Procedure: Personal Interview

☒ Same as regular procedure

1. Is a personal interview of the asylum applicant - in most cases - conducted in practice in the accelerated procedure? ☒ Yes ☐ No
   - ❖ If so, are questions limited to nationality, identity, travel route? ☐ Yes ☒ No
   - ❖ If so, are interpreters available in practice, for interviews? ☒ Yes ☐ No
2. Are interviews conducted through video conferencing? ☐ Frequently ☐ Rarely ☒ Never

All applicants are interviewed according to the regular procedure (see Regular Procedure) and no substantial difference was noted with regard to the way the interview is conducted.

The quality of the credibility assessment conducted within the accelerated procedure was severely criticised by the ECtHR in *S.H. v. Malta* which found that the first instance assessment of the IPA was "disconcerting". The Court considered that:

> (F)rom an examination of the interview of the applicant, during which he was unrepresented, it is apparent that the inconsistencies and lack of detail highlighted in the report are not flagrant, as claimed by the Government. For example, it would appear that the authorities expected the applicant, a 20-year-old Bangladeshi who claimed to be a journalist and whose journalistic academic studies consisted of two trainings of three days and three months respectively, to cite the titles of relevant laws, as the reference to the relevant provisions and their content had been deemed insufficient. Also, the authorities seem to have expected the applicant to narrate election irregularities which were mentioned in COI documents, despite the applicant not having witnessed

225 The campaign is endorsed by over 25 European and Maltese human rights NGOs, including ILGA-Europe, PICUM and ECRE. aditus foundation, Safe4All legal initiative – practice in other EU Member States, November 2022, available at: https://tinyurl.com/bdhx77tx.

226 EuroPride Valletta 2023, see here: https://tinyurl.com/3ystkd9u.

them. Normally detailed descriptions were repeatedly considered brief and superficial and even the applicant's replies about his very own articles (concerning other matters of little interest) were deemed insufficient. Clearly spelled out threats were also considered not to be detailed enough.[227]

The Court also noted that:

> No reasoning was provided as to why the evidence presented by the applicant (press card, copies of articles, and other evidence of the applicant performing as a journalist) had not been taken into account. Importantly, at no point did the authorities express the view that the material was false, they limited themselves to noting that their authenticity had not been established as they were only copies" It also commented that "the authorities did not proceed to a further verification of the materials or give the applicant the possibility of dispelling any doubts about the authenticity of such material (compare, Singh and Others v. Belgium, no. 33210/11, § 104, 2 October 2012, and M.A. v. Switzerland, cited above, § 68). Indeed, they had not questioned the applicant's identity or nationality (which had also been based on copies of identity documents), or the fact that the applicant, who was present before them, was the person in the pictures.[228]

As was the case for S.H., practitioners observe that almost all applicants they engaged with and channelled through the accelerated procedure saw their applications rejected as manifestly unfounded on the basis that the applicant made 'clearly inconsistent and contradictory, clearly false or obviously improbable representation which contradict sufficiently verified country-of-origin information, thus making the claim clearly unconvincing in relation to whether he qualifies as a beneficiary of international protection' and that the applicant is from a safe country of origin.

Applicants from countries of origin where returns are carried out are generally detained for the whole duration of the first instance procedure, so that their original detention ground is then converted to a removal-based detention. In 2023 and 2024, applicants from Bangladeshi nationals were mostly affected by this approach (See Fast Tracking). Practitioners observed how in recent years, the IPA seemed to prioritise these applications, often finalising the entire procedure within weeks from the arrival. Due to the swiftness of the accelerated procedure, this often meant that applicants were channelled to the removal track in a very short period of time. It is noted that throughout 2023 and 2024 NGOs providing information and legal services and UNHCR faced serious difficulties accessing detention centres and engaging with applicants. This effectively meant that Malta returned significant numbers of applicants without them ever having received independent information and advice on their claims (see Detention).

5.3. Appeal

Indicators: Accelerated Procedure: Appeal
☐ Same as regular procedure

1. Does the law provide for an appeal against the decision in the accelerated procedure? ☐ Yes ☒ No
   - ❖ If yes, is it ☐ Judicial ☐ Administrative
   - ❖ If yes, is it suspensive ☐ Yes ☐ No

At the stage of the appeal, two types of applications are channelled through the accelerated procedure, manifestly unfounded applications, as per Articles 23(2) and 23(3) of the International Protection Act, and inadmissible applications, as per Article 24(2) of the Act. Rejections channelled through the accelerated procedure are referred immediately to the Chairperson of the International Protection Appeals Tribunal, who shall examine and review the decision of the International Protection Agency within three working days.

227 ECtHR, *S.H. v. Malta*, application no 37241/21, 20 December 2022, § 84.
228 Ibid., § 86.

The decision of the Chairperson of the International Protection Appeals Tribunal on whether the application is manifestly unfounded or inadmissible is final and conclusive and no appeal or form of judicial review lies before the Tribunal or before any other court of law.[229]

This is without prejudice to the right of the applicant to file a human rights complaint or an application for judicial review (see Judicial Review) before the Civil Court (First Hall).

It is to be noted that the term "*shall immediately*", referring to IPA's forwarding of the application to IPAT, in itself lacks precision and it appears, and practice shows that some first instance rejections are taken months before the IPAT actually carries its review while some other are issued within a few days of the rejection. It is assumed that detained applicants and applicants are prioritised as they tend to receive their rejections faster than the others. According to IPA, in 2023 the average duration of the accelerated procedure was 66 days (first applications), 87 days (new applications) and 78 days (subsequent applications).

Practitioners and the UNHCR do not consider this review to constitute an effective remedy as laid out in Article 46 of the recast Asylum Procedures Directive.[230] Nevertheless, the International Protection Act specifies that "*the review conducted by the Chairperson of the IPAT shall be deemed to constitute an appeal.*"[231]

Notably, under Regulation 22 of the Procedural Regulations the applicant is able to appeal against a decision of inadmissibility on the basis of the safe third country if they are able to show that return would subject them to torture, cruel, inhuman or degrading treatment or punishment. In practice, this provision is never implemented.[232]

The manifestly unfounded or inadmissible decisions of the IPA do not contain any information on, or reference to, the possibility to participate in the appeal nor the right to free legal assistance. In some cases, applicants receive the IPA decision and the IPAT confirmation of the decision on the same day. In other cases, the confirmation from IPAT is received within a few days from receiving the IPA's decision.

Legal practitioners observed that since the IPAT review is carried out within three days from receipt of the IPA decision and that the applicant cannot submit any pleas, the obligation to provide free legal assistance at appeal stage under the Directive and the right to participate in appeals although mandated by law is legal fiction.[233]

The majority of the decisions taken by the IPAT are review decisions (contrary to appeal decisions) made within the accelerated procedure, which consist of a mere confirmation of the decisions made in the first instance without any further assessment. In 2023, the IPAT received 649 appeal applications, of which 267 related to accelerated cases (41%). Of the 595 decisions taken by the IPAT in 2023, 205 were deemed manifestly unfounded and 59 were dismissed as inadmissible. Due to lack of clarity in the available data, it cannot be established whether the 205 and 59 decisions were taken within the accelerated procedure or within the regular procedure.

IPAT decisions on manifestly unfounded or inadmissible 'appeals' are generally not motivated and only contain a simple statement confirming the IPA decision. It is argued by commentators[234] that this does not constitute a *full and ex nunc* examination of both facts and law before a court or tribunal of first

229 Article 23(4) of the International Protection Act, Chapter 420 .
230 Information provided by UNHCR, January 2019.
231 Article 7(1A) (a)(ii) International Protection Act, Chapter 420 .
232 Regulation 22(1) of the Procedural Regulations, S.L.S.L. 420.07 .
233 Carla Camileri, Accelerated procedures in Maltese asylum law: Making Violations of Fundamental Rights the order of the day, Id-Dritt XXXII (2022), available at https://bit.ly/3IP8y8d
234 Carla Camileri, Accelerated procedures in Maltese asylum law: Making Violations of Fundamental Rights the order of the day, Id-Dritt XXXII (2022), cited above.

instance, as required by the Procedures Directive despite the recent introduction of this mention in the Act.[235]

The UNHCR observed in 2019 that the Tribunal tends to automatically confirm the IPA's recommendation.[236]

The incorrect transposition of the recast Asylum Procedures Directive in respect of an effective remedy was subject to a legal challenge before the civil court in the case of a Palestinian asylum applicant who was not allowed to appeal his inadmissibility decision in *Chehade Mahmoud vs L-Avukat Ġenerali et* filed in 2018.[237] In this case, the applicant claimed that Malta's asylum legislation violates the recast Asylum Procedures Directive and that, as a consequence, his procedural rights were violated. This being one of Malta's first cases regarding state liability for incorrect transposition of EU asylum law, the court (as well as the Government) was unsure how to proceed, inviting the parties to explain whether the case was one of judicial review or one of damages. The Civil Court finally rejected the case on the basis that it concluded it was a judicial review case, and, therefore, time-barred, as opposed to an action for damages on the basis of an incorrect transposition of EU law. An appeal was filed against this decision was filed and on 9 May 2024 Malta's Court of Appeal decided that the First Court was wrong in determining that this case in a judicial review case. The Appeal Court reiterated that judicial review may not be relied upon against decisions of quasi-judicial tribunals, as there are other legal avenues to question the validity of these decisions. Consequently, the case was referred back to the First Court for it to hear and decide the case on its substance.[238]

In Parsons Mariama Ngady vs L-Aġenzija Għal Protezzjoni Internazzjonali et,[239] filed on 28 December 2020 and decided on 1 March 2022 by the Civil Court (First Hall), Ms. Parsons was issued a decision that her application was manifestly unfounded by the IPA, followed by a confirmation of such decision by the IPAT 7 days later. The applicant claimed a breach of the right to a fair trial under Article 32(a) and Article 39(2) of the Constitution Malta, a violation of Article 47 of the Charter of Fundamental Rights, and of Articles 6 and 13 of the European Convention for Human Rights. The Court observed that the Appeals Tribunal's role in the accelerated procedures is not that of an appeal *stricto iure*, as an appeals process is one where there is equal access to both parties in a case. The Court noted the lack of further appeal and the "*strange and byzantine*" decisions which lack motivation and concluded by stating that the denomination of 'Appeals Tribunal' in these circumstances is a "*misnomer*".[240] The Court found that Article 23 of the International Protection Act breaches the rights protected in Article 39(2) of the Constitution and Article 6 of the European Convention on Human Rights. It therefore ordered the International Protection Tribunal to re-examine the decision relating to the applicant in accordance with the principles guaranteed by the Directive. On 25 January 2023 the Constitutional Court, following an appeal filed by the Maltese authorities, overturned the first decision. In its decision, the Constitutional Court relied on ECtHR jurisprudence stating that asylum procedures are not covered by Article 6 of the Convention.[241]

In *S.H. v. Malta*,[242] filed before the ECtHR on 28 July 2021 and decided on 20 December 2022, the Bangladeshi applicant was channelled through the accelerated procedure despite providing evidence that he was a journalist persecuted by the ruling party in his country of origin and could therefore not appeal his rejection decision which was confirmed by the IPAT within 1 day. The applicant then filed a subsequent

235 Article 7(1A) of the International Protection Act, Chapter 420 .
236 Information provided by UNHCR, January 2019.
237 Civil Court (First Hall), Chehade Mahmoud vs L-Avukat Ġenerali et., 909/2018, 28 January 2020, available at: https://bit.ly/2Vqn2CT.
238 Court of Appeal, Chehade Mahmoud vs L-Avukat Ġenerali et., 9 May 2024, available at: https://ecourts.gov.mt/onlineservices/Judgements/Details?JudgementId=0&CaseJudgementId=146147.
239 Civil Court (first Hall), Parsons Mariama Ngady vs L-Aġenzija Għal Protezzjoni Internazzjonali et, 318/2020, 1 March 2022.
240 Carla Camileri, Accelerated procedures in Maltese asylum law: Making Violations of Fundamental Rights the order of the day, Id-Dritt XXXII (2022), cited above.
241 Constitutional Court, Parsons Mariama Ngady vs L-Aġenzija Għal Protezzjoni Internazzjonali et, No. 18, 5 January 2023, available at: https://bit.ly/3ApAL1I
242 ECtHR, S.H v. Malta, application no. 37241/21, 20 December 2022.

application with further evidence of his claim, which was rejected as inadmissible and channelled again through the accelerated procedure and again confirmed by the IPAT. In the meantime, he had appealed his removal order before the Immigration Appeals Board on the basis of the risks of inhuman or degrading treatment he would face upon return to Bangladesh. Following the rejection of the appeal and confirmation of the removal order, the aditus foundation filed a request for interim measure to the ECHR on the basis of Article 3.

On 10 August 2021, the ECtHR decided that *"in the absence of an adequate assessment, by the domestic authorities, of the applicant's claim that he would risk ill-treatment if returned to Bangladesh based on his activity as a journalist, it was in the interests of the parties and the proper conduct of the proceedings before it to indicate to the Government of Malta, under Rule 39, that he should not be removed to Bangladesh."* The applicant was subsequently released from the Safi Detention Centre where he had been held for two years. The case was communicated to Malta on 20 January 2022.

The applicant argued that he fears return to Bangladesh and complained that the Maltese authorities failed to properly assess his claims, in particular, the risk he, as a journalist, would face upon being returned to Bangladesh, in violation of ECHR Article 3. He further argued that he had no effective remedy under Article 13 of the Convention, taken in conjunction with Article 3, in so far as the asylum procedure was lacking in various respects namely, he had no access to relevant information and legal services; there had been excessive delays in the decision-making process; there had been no serious examination of the merits and the assessment of the risk incurred; he had not been informed of the relevant decisions while he was in detention, nor had there been any interpretation of such decisions, and he had had no access to a proper appeal procedure. He further noted that the reviews by the International Appeals Tribunal and the Immigration Appeals Board had not been effective remedies in his case and that constitutional redress proceedings were also not effective as far as they had no suspensive effect.

On 20 December 2022, the ECtHR found in favour of the applicant. With regard to the accelerated procedure, the Court noted that it took seven months for the authorities to render a first-instance decision following the applicant's interview, but a mere twenty-four hours for the Tribunal to reassess the claim and while the Court reiterated that there exists a legitimate interest in maintaining a system of accelerated procedures in respect of abusive or clearly ill-founded applications, the Court found "*it hard to believe that anything but a superficial assessment of all the documentation presented could have been undertaken by the Tribunal within such a time-frame. The brief stereotype decision, confirming the incongruous conclusions reached at first instance and providing no further reasoning, support such a conclusion*."

The ECtHR further observed that the Government was able to rely on only one situation (three decisions in respect of different family members affected by the same situation) whereby the Tribunal overturned the Agency's decision and, referring to the AIDA report, noted that in the remaining 478 reviews undertaken in 2021 the Tribunal confirmed the first-instance decision. The Strasbourg Court therefore found it reasonable to conclude that at the time relevant to the case, the Tribunal tended to automatically confirm the Agency's decision within a short timeframe. The Court concluded that "*the first asylum procedure undertaken by the applicant and examined under the accelerated procedure, ab initio, did not offer effective guarantees protecting him from an arbitrary removal."* and found a violation of Article 3 taken in conjunction with Article 13.[243]

Furthermore, the ECtHR considered that "*the present case has identified various failures in the domestic procedures, in particular in relation to the failures in the communication system, the provision of legal assistance and particularly the procedure and scope of the Tribunal's review in accelerated procedures, in the light of which general measures could be called for. However, bearing in mind that this is the first of such cases and that the parties have referred to legislative amendments in process, which may improve the system and ensure the existence and effectiveness, in practice, of a remedy for the purposes of Article*

[243] ECtHR, S.H v. Malta, application no. 37241/21, § 90-93.

13 in conjunction with Article 3 in the context of asylum requests, the Court will stop short of indicating general measures at this stage."[244]

With respect to constitutional proceedings before the FHCC, the ECtHR considers that this remedy does not provide applicants with an automatic suspensive effect and therefore falls short of this effectiveness requirement. In coming to this conclusion, the Court noted that it is possible to seek a provisional measure from the FHCC but that such a request does not itself have an automatic suspensive effect either, and the relevant decision depends on an assessment on a case-by-case basis.[245] This means that applicants alleging a breach of Article 3 on the basis of the principle of non-refoulement are not required to exhaust the remedy offered by the FHCC.

On 10 August 2022, an appellant assisted by aditus foundation filed a request for a preliminary reference before the CJEU to the IPAT in the context of an appeal filed following the rejection of his application as manifestly unfounded. The appellant contends that Article 23 of the International Protection Act is contrary to EU law and that therefore he should be allowed to appeal according to the normal procedure. In view of such claim which raises issues of interpretation of EU law, the appellant requested the IPAT to file a request for a preliminary reference before the CJEU. A hearing was held on 11 October 2022 and the request is still pending.

5.4. Legal assistance

Indicators: Accelerated Procedure: Legal Assistance

☐ Same as regular procedure

1. Do asylum applicants have access to free legal assistance at first instance in practice?
   ☐ Yes ☐ With difficulty ☒ No
   - ❖ Does free legal assistance cover: ☐ Representation in interview ☐ Legal advice

2. Do asylum applicants have access to free legal assistance on appeal against a negative decision in practice?
   ☐ Yes ☐ With difficulty ☒ No
   - ❖ Does free legal assistance cover ☐ Representation in courts ☐ Legal advice

Article 7(3) of the International Protection Act provides for the right to free legal aid for all appeals submitted to the IPAT. However, as decisions on manifestly unfounded and inadmissible applications are automatically referred to and reviewed by the Tribunal without an opportunity to submit any pleas, in accordance with the rules on the accelerated procedure, the appellant is not able to participate in the review or to be represented.

Practitioners confirm that in 2023, there was a small number of cases where the IPAT accepted appeals in the context of the accelerate procedure. Some of these appeals were filed within the three days envisaged in the procedure whilst others were filed within the regular procedure timeframe attempting to rely on the Directive's provisions regarding the right to an effective remedy.

6. National protection statuses and return procedure

6.1. National forms of protection

THP is a form of national protection regulated by Article 17A of the International Protection Act and awarded to applicants for international protection who does not qualify for refugee status or subsidiary protection status, but who is deemed to qualify for protection on humanitarian grounds. The law lists

244 ECtHR, S.H v. Malta, application no. 37241/21, § 108.
245 ECtHR, S.H v. Malta, application no. 37241/2, § 53.

several categories of persons eligible for such status: an unaccompanied minor who cannot return to his country of origin pursuant to the principle of the best interest of the child; a terminally ill applicant or one who suffers from a severe or life-threatening medical condition not treatable in his country of origin; and an applicant who cannot be returned for other humanitarian reasons which can include serious disability affecting the applicant's normal life.

Rejected applicants can apply to THP within a separated procedure at any time[246] and their status will be considered as rejected asylum-applicants until a decision is issued.

An interview is generally not carried out in relation to THP when the request for THP is filed by a rejected asylum applicant.

The law provides that no appeal can be filed against a decision of the IPA not to grant THP.[247]

All UAMs whose asylum applications have been rejected are automatically granted Temporary Humanitarian Protection until they reach the age of eighteen, at which point their asylum decision is revived.

The status of Temporary Humanitarian Protection (THP) may be revoked, ended or not renewed whenever the conditions under which it was granted no longer subsist, if after being granted temporary humanitarian protection, the beneficiary should have been or is excluded from being eligible or if the beneficiary did not originally meet the eligibility criteria.[248] The provisions applicable to the withdrawal of subsidiary protection apply mutatis mutandis to the for beneficiaries of THP (see Withdrawal of protection status). IPA stated that in 2024, 12 THP statuses were withdrawn (including lapsed decisions).

Recent law changes stipulate that THP holders should have access to non-contributory benefits similarly to beneficiaries of subsidiary protection.

Beneficiaries of subsidiary protection and THP have access to state medical services too, according to national legislation and guidelines provided by the Healthcare Entitlement Unit[249]. Furthermore, NGOs report that all third-country nationals are entitled to full access to public health services if they are able to present at least three most recent payslips to the hospital payment desk.

Temporary Humanitarian Protection are issued an Alien's Passport as travel document.

6.2. Return procedure

Return decisions are not issued jointly with the asylum rejection. Once an application is finally rejected, either by the IPAT or following the expiration of the appeal possibility, the PIO is informed and return procedures are initiated. Rejected applicants are required to present themselves to the PIO in order to obtain documentation confirming their status as rejected applicants, as the IPAT or IPA would terminate the person's ASD.

According to the PIO, data on the number of return decisions issued following negative IPA decisions is not possible to provide, but it was also confirmed that in 2024 82 return decisions were issued by the PIO to persons who had entered Malta irregularly by sea.

246 Article 17A (1) of the International Protection Act, Chapter 420.
247 Ibidem.
248 Article 17A(2) of the International Protection Act, Chapter 420 .
249 Regulation 20 Procedural Regulations, S.L. 420.07 ; Entitlement Unit Malta, available at: https://bit.ly/4eaeDeD. The guidelines are available here: https://tinyurl.com/4dsr6n3j.

Furthermore, the PIO also confirmed that in 2024 there were a total of 23 return decisions issued that were not implemented: 21 relating to persons pending repatriation and 2 to persons released from detention.

D. Guarantees for vulnerable groups

1. Identification

Indicators: Identification

1. Is there a specific identification mechanism in place to systematically identify vulnerable asylum-seekers? ☒ Yes ☐ For certain categories ☐ No
   - ❖ If for certain categories, specify which: Minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of human trafficking, persons with serious illnesses, persons with mental disorders and persons who have been subjected to torture, rape or other serious forms or psychological, physical or sexual violence, such as victims of female genital mutilation

2. Does the law provide for an identification mechanism for unaccompanied children? ☒ Yes ☐ No

In terms of the Reception Regulations, vulnerable individuals include minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of human trafficking, persons with serious illnesses, persons with mental disorders and persons who have been subjected to torture, rape or other serious forms or psychological, physical or sexual violence, such as victims of female genital mutilation.[250]

The Regulations provide that the identification of vulnerable applicants must be carried out by the Agency for the Welfare of Asylum-seekers (AWAS) in conjunction with other authorities as necessary and that the vulnerability assessment must be initiated within a reasonable period of time after an application for international protection has been lodged.[251] AWAS' assessment of vulnerability does not occur in the context of the asylum procedure but rather for the purpose of identifying suitable reception conditions, particularly in relation to detention and provision of psycho-social support.

The amendments of December 2021 (Legal Notice 487 of 2021) introduced new provisions for vulnerable applicants to the Reception Regulations, which now transposes the Directive more faithfully, as they include a more comprehensive implementation of provisions related to the material reception conditions of vulnerable individuals and the guardianship and care of minors (see Special Reception Needs of Vulnerable People and Legal Representation of Unaccompanied Minors).

Furthermore, applicants are also screened by IPA at the moment of lodging the application in order to assess whether the applicant is in need of special procedural guarantees.[252] The IPA confirmed that, in 2024, five applicants were identified as vulnerable, coming from the following countries: Colombia (1), Palestine (2), Syria (1) and Venezuela (1).[253]

In January 2024, UNHCR provided training to 11 IPA staff members on gender-based violence as a ground for international protection.[254]

250 Regulation 14(1) (a) of the Reception Regulations, S.L.S.L. 420.06 .
251 Ibid.
252 Information provided by AWAS, 2025.
253 Information provided by IPA, 2025.
254 Information provided by UNHCR in February 2025.

1.1. Screening of vulnerability

Vulnerability assessments and age assessments are carried out by the Assessment Team (AT) of AWAS, The AT will carry out assessments on referral from other governmental entities, UNHCR and NGOs, including for people in detention.

AWAS is present at the point of disembarkation and conduct a prima facie vulnerability assessment for new arrivals. Persons identified as vulnerable at this stage are flagged to the PIO, as the assessment will affect decisions relating to the person's detention. Persons identified as vulnerable are generally released from detention after a couple of days. Since all persons are automatically detained following disembarkation, a more in-depth assessment of other persons is generally conducted at a later stage, either in detention or in the open centres.

The AT will undertake an assessment whenever a person who potentially falls within the vulnerable profiles referred to in the Regulation is referred to them. These referrals can be done by the IPA, the PIO or NGOs visiting people in detention or reception centres. A referral form is made available to NGOs.

Throughout 2023, EUAA worked closely with AWAS to further develop structural elements such as Standard Operating Procedures, Guidelines, reception assessments and other internal mechanisms. (see Number of staff and nature of the determining authority). In 2024, AWAS was wholly responsible for conducting vulnerability assessments.

The team operates both in reception centres and in detention centres. It uses new and updated tools created jointly with the EUAA.

Vulnerability is assessed on 4 levels:

- being a very urgent support need, L1: Urgent (immediate follow up/on the spot) – Risk of self-harm, Risk of harm to others, Suicidal Ideations, Life-threatening issues;
- being in need of medical support, L2: high priority (within 0-3 days) – Severe Trauma, Victims of THB, Urgent medical attention;
- being in need of medical but not urgent, L3: medium priority (within 2 weeks from the date of assessment) – Important medical appointments and other medical issues, counselling, psychologist;
- being a need in terms of housing and education, L4: low priority (within a month from the date of referral) – Issues of employment, education and housing.

Following the assessment, a report is produced, and recommendations are made in relation to the need or otherwise of special reception conditions or procedural guarantees in the asylum procedure.

It is noted that the AWAS assessments and recommendations are not binding for the PIO and the IPA, which is particularly relevant in the context of detention.

Lawyers and NGOs reported that throughout 2023 and 2024 they faced serious challenges to obtain the vulnerability assessments from AWAS, despite these being shared with other Government entities such as the Immigration Police and the IPA. As such, NGOs and lawyers are unable to monitor or assess the effectiveness of the authorities in implementing the recommendations of the reports and are unable to effectively refer to relevant vulnerability issues in the context of the asylum procedure.

NGOs and lawyers reported that the assessments do not always mention clearly whether the individual is considered to be vulnerable and AWAS is generally reluctant to clarify. This leads to situations where vulnerable individuals are kept in detention despite clearly belonging to one of the categories above.

In 2024, 69 persons underwent a full vulnerability assessment, but no information is available as to whether they were in detention during the assessment, or otherwise. Information is also not available as to when the assessments were conducted. 69 decisions were taken, as follows: [255]

Main vulnerability category identified	Number
Elderly	1
FGM/GBV	2
Medical concerns	8
Persons living with disability	3
Survivors of other forms of serious psychological, physical or sexual violence	4
Survivors of torture	5
Mental health concerns	22
Persons with serious or chronic illnesses	8
Pregnant women	1
Single parents with children	2
Others	6
None	7
Total	**69**

The vulnerability screening is not regulated by clear and publicly available rules. Where a referral is rejected, the individual concerned is not always informed of the decision; where the decision is communicated, it is rarely communicated in writing and no reasons are given to the individual concerned. In terms of Regulation 16 of the Reception Regulations, an appeal against a vulnerability assessment procedure should be available to applicants, yet in the absence of the Agency's reports and conclusions this is difficult to implement.

According to the Home Affairs Ministry, there is indeed no positive or negative decision following a vulnerability screening, but migrants are asked if they would like to receive further support, and, if they agree, they are referred to the psychosocial unit within AWAS.

The length of time taken to conclude assessment procedures varies.

NGOs confirmed that in 2023 and 2024, the PIO was more reluctant to release vulnerable applicants from detention, noting the authorities' reliance on the increased provision of services within Safi detention centre, including mental health services. It was noted that this occurred in parallel to the adoption of Legal Notice 87, essentially codifying the detention of vulnerable persons. They also noted that 2023 saw a revision of AWAS' remit to exclude rejected asylum applicants, effectively leaving this group of persons without the possibility to have their needs assessed and, if vulnerable, to receive any form of support or care.

In another case, AWAS failure to act in a timely manner resulted in a minor LGBTI applicant being physically abused and humiliated by his co-detainees. On another occasion, an applicant suffering from tuberculosis claiming to be minor was kept in detention despite a vulnerability report mentioning that he was exhibiting clear signs of mental distress, and that detention had a detrimental impact on his health. The report was only shared with his lawyers following his release, some 4 months after the initial

[255] Information provided by AWAS, 2025.

assessment, despite the lawyers numerous requests to be provided with it.[256] In yet another case concerning a LGBTI applicant, the PIO claimed that AWAS failed to inform them that a report had concluded that the applicant should be transferred to an open centre on account of his vulnerability as an LGBTI individual.[257]

Asylum applicants arriving regularly are not automatically screened by AWAS and their vulnerability may never be identified unless referred by Government entities, NGOs or UNHCR.

1.2. Age assessment of unaccompanied children

Unaccompanied asylum-seekers who declare that they are below the age of 18 upon arrival or during the asylum procedure are referred to AWAS for age assessment. Persons claiming to be adults but who, in the opinion of AWAS on first encounter, appear to be children are also referred to the age assessment procedure. The Minor Protection (Alternative Care) Act[258] provides that persons claiming to be unaccompanied minors should be immediately referred to the PIO for onward referral to the Director of the Child Protection Services.

The Director is responsible for filing a request for a provisional Care Order to the Maltese Courts, which should be issued within 72 hours. The Care Order stipulates that the Head of AWAS is responsible for the care and custody of the minors. The Unit Leader of the Unaccompanied Minors Services within AWAS assigns the representative, who in turn delegates the responsibility to the social workers within the same unit. The Act further specifies that the Director should refer the applicants to age assessment procedures and other investigations in order to ascertain whether they really are unaccompanied children.

If, following these procedures, it transpires that the child is indeed found to be an unaccompanied minor, the Director will file applications before the Court for the issuance of the Care Order and for the appointment of a legal guardian.

After years in which practitioners and NGOs lamented the fact that AWAS lacked independence in the way it simultaneously conducted age assessments, provided legal guardianship and secured accommodation for UAMs, it can be observed that currently there is a higher degree of separation of these responsibilities amongst the Agency's various units.

Age Assessments are conducted by the AWAS' Assessment Team (AT), also responsible for vulnerability assessments. AWAS' UMAS Protection Unit is now strictly responsible for the care of minors confirmed as such by the AT and those who are pending age assessment decision either from the AT or at appeal. The team leader of the UMAS Protection Team is the appointed legal guardian for all minors, with each minor being also appointed a social worker of the team. NGOs remain concerned at the lack of independence of the legal guardian, being a public offer engaged by AWAS.

The age assessment consists of an interview conducted by three social workers of the AT team of AWAS and an interpreter, if required. For persons visibly under the age of 14, AWAS begins this first phase on the day immediately following their arrival. For other claims, AWAS begins two working days later and this phase must be completed by the sixth working day. If the age assessment is inconclusive, the minor may be referred for a medical examination which is a bone density test of the wrist by X-Ray carried out by the Ministry for Health according to the Greulich and Pyle method. If the panel recommends that the person is a minor, the minor is referred to the Director responsible for child protection who will file an application before the Juvenile Courts for the issuance of a Care Order and appointment or confirmation of the legal guardian.

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256 See ECtHR, *A.D. v. Malta*, no 12427/22 (Communicated Case), 24 May 2022, available at: https://bit.ly/3mjiOOB.

257 Immigration Appeals Board (Div. II) in Reagan Jagri v. the Principal Immigration Officer, 7 April 2022 (unpublished).

258 Minor Protection (Alternative Care) Act, Chapter 602 .

AWAS stated that they take into account any documentation provided by the applicant or third parties, including the PIO.

In of *K.J. and K.B.D.*, the Bangladeshi appellants challenged AWAS' decision, which reversed a previous decision of the Agency to declare the appellants as minors, following the submission of a "*photo of documentation*" by the PIO which allegedly showed that the appellants were adults. The Immigration Appeals Board declared both appeals closed, noting that the Principal Immigration Officer has no *locus standi* in age assessment procedures and that AWAS has no competence to review its own decisions on age assessment. The Board concluded that the appellants are minors, as originally concluded by the AWAS and that they must be released and returned to the Dar Il-Liedna open shelter for unaccompanied children.[259]

Since this decision, the PIO systematically submits pictures of passports which are found in the confiscated phone of the applicants before AWAS decides on the age assessment procedure and AWAS appears to give significant weight to this evidence.

The Age Assessment Tool filled by the panel and the transcript of the interview is not provided to applicants unless they file an appeal against the decision declaring them as adults. The decision provided to applicants is a one-page document in English mentioning the date of birth the panel decided to attribute to the applicant.

Whilst NGOs acknowledge the significant improvements in the age assessment system, they flagged the following shortcomings:

- Conflict of interest of the legal guardian, who remains a Government employee engaged by AWAS;
- No best interest assessment is carried out before the age assessment procedure;
- No sufficient information is provided to those undergoing age assessments;
- Lack of legal representation and legal assistance during the age assessment process;
- The age assessment process is generally undertaken while minors are detained, and no consideration is given to such for the purpose of the assessment;

Essentially, NGOs pointed out that the UMAS Protection Team and the Assessment Team still report to the same Senior Managers and that, since ultimately AWAS falls under the Ministry for Home Affairs, interference is inevitable.

Moreover, a substantial number of applicants are kept in detention by the PIO for the whole duration of the procedure (see Detention of vulnerable applicants). NGOs report that, in such cases, vulnerable persons face difficulties in having their vulnerability recognised and their specific needs met.

In 2024, AWAS stated that 71 persons underwent age assessment procedures, and it issued 71 decisions: 21 applicants were declared to be adults (30%), 39 as minors (55%), and 11 were not conclusive (15%). As with the vulnerability assessment procedure, no information is available as to when the age assessment was carried out, or whether these were carried out whilst the applicants were in detention. The numbers also do not include applicants who were declared to be minors at the appeals stage, by the Immigration Appeals Board.

On 12 January 2023, following an application filed by aditus foundation, the ECtHR issued an interim measure ordering Malta to ensure that six applicants claiming to be minors are provided "*with conditions that are compatible with Article 3 of the Convention and with their status as unaccompanied minors*". The six minors had been detained with adults in the so-called China house since their arrival on 18 November

259 Immigration Appeals Board, Div. II., K.J. and K.B.D. (Bangladesh) vs. the PIO and AWAS (AA/11/22/DO), 14 July 2022, available at: https://bit.ly/3U2UVGf and the press release from aditus foundation at: http://bit.ly/3Ess4Fm.

2022, some 50 days after their arrival and AWAS was not aware of their existence before they were referred by aditus foundation in January 2023 and despite a decision of the Immigration Appeals Board, dated 6 December 2022, confirming the detention of the minors but ordering the PIO to refer these applicants to AWAS.[260] Judgement by the ECtHR was delivered in October 2024, confirming that the children were exposed to treatment in violation of Article 3 ECHR and that their detention was in violation of Article 5.[261]

Age Assessment Appeals before the Immigration Appeals Board

Regulation 17 of The Receptions Regulations provides that applicants who feel aggrieved by a decision in relation to age assessment are entitled to appeal before the Immigration Appeals Board in accordance with the provisions laid down in the Immigration Act.[262]

The Immigration Appeals Act provides that appeals must be filed within 3 days of the notification of the decision[263] and this stringent deadline is strictly adhered to by the Board. Age assessment appeals are generally heard by Division II of the Board since the Chairperson of Division I has declared a conflict of interest in relation to her position of Chairperson of the Minor Care Review Board.[264]

However, it must be noted that Division II also has a conflict of interest when the appellant is detained since they also hear appeals and reviews of Detention Orders issued under the Reception Regulations (see Judicial review of the detention order). Division II recognised that a conflict of interest may arise when they are also responsible to decide on the legality of the appellant's detention and confirmed that appellants are entitled to raise an objection.[265] At the end of 2023 a new IAB Division was established, yet it is still premature to assess how cases will be internally allocated amongst the three Divisions.

No detailed procedure is established in legislation or regulations, or elsewhere in writing, for these appeals: the first stage of the proceedings includes questions to be sent by lawyers to AWAS about the age assessment report. Then, unless the appellant's lawyer requires to ask further questions, they will be invited to send their final notes of submissions. The appellant's lawyer may request the IAB to hold a hearing with the appellant and the social worker in charge of the assessment.[266]

According to NGOs, minors have a limited understanding of the possibility to appeal the age assessment decisions and do not receive any legal advice prior to the appeal stage. The short deadline to appeal makes this remedy difficult to access, especially for minors who are detained. In 2023 AWAS amended its notification procedures and now delivers the decision to the applicants, together with an interpreter. The decision is explained in detail and information is provided about the possibility of file an appeal. The 3-day time limit to file an appeal remains a serious challenge, particular for children in detention at the time of the negative decision. If they would have had a lawyer, generally an NGO lawyer, during the age assessment procedure, it would be easier for them to file the appeal, yet this would require them to contact the lawyer before the lapse of the mandatory time limit. Applicants without a lawyer during the procedure would need to identify one in order to file the appeal in time (See Access to detention facilities). NGOs confirmed that in the vast majority of cases, applicants provided with negative decisions inform AWAS right away of their decision to appeal, and a legal aid lawyer is appointed to handle the case.

As in previous years, for 2024, lawyers continued to report that the Immigration Appeals Board lacks the necessary expertise to evaluate appeals on age assessment with no member having any background on

260 aditus foundation, European Human Rights Court orders Malta to release children from detention, 12 January 2022, available at http://bit.ly/3j3aVeM.
261 ECtHR, *J.B. and Others v. Malta*, Application no. 1766/23, 22 October 2024, at: https://tinyurl.com/mr2h83rs.
262 Article 16(1) of the Reception Regulations, S.L.S.L. 420.06 .
263 Article 25A(7) of the Immigration Act, Chapter 217 .
264 See https://bit.ly/3KXft28
265 Immigration Appeals Board (Div. II), R.M v. the Principal Immigration Officer, 24 March 2022, available at https://bit.ly/3KVfl36
266 Information provided by the Immigration Appeals Board, January 2022.

the matter. Despite this, the Board refuses to appoint or consult independent experts and these must be brought at the own cost of the appellants if they so wish. This has never been attempted since NGOs do not have the capacity and financial means to bring these experts. Legal aid lawyers have also not attempted to do this as such activities seem to fall outside their remit.[267] According to both aditus and JRS, the Board either waits until the person comes of age in order to then close the case or, when a decision cannot be avoided, systematically rejects the appeal after several months of procedure. Both NGOs criticised the Board for issuing stereotyped two-page decisions which do not address any of the arguments raised by the appellant and make no reference to any law, jurisprudence or standards, only referring to the initial age assessment decision. Both NGOs declared that their lawyers usually filed several pages of submissions generally highlighting the shortcomings reported above.

The NGOs reported that this situation leads AWAS to make little effort to address the appellant's pleas during the proceedings. According to them, the Agency's lawyer usually files a one-page note of submissions generally stating that the arguments put forth by the appellant "*have been amply responded to in the course of the proceedings*", declaring "*we remit ourselves to the wise and superior judgement of this Board*".

Additionally, concerns have been expressed in relation to the independence of specialised tribunals such as the Board,[268] as its members are appointed through a procedure involving the executive power and do not enjoy the same level of independence as that of the ordinary judiciary (see Composition of the Board).

As per the Immigration Act, the decisions of the Board are final and cannot be challenged before any Court of law, save for human rights complaints before the Civil Court (First Hall). The Decisions of the Board are not published by the Board and not publicly available. aditus foundation at times publishes significant decisions relating to its clients.[269]

Legal Assistance

Following the referral by AWAS to the Child Protection Directorate, provisional case orders are issued, and representatives – AWAS social workers – are appointed for each person. This representative is also present during the age assessment process. Furthermore, according to the Home Affairs Ministry, before starting the process of assessing an applicant's age, relevant information on the process is provided to the applicant in a language they understand, with the support of interpreters where necessary.

Nonetheless, lawyers representing unaccompanied minors observed that they are not allowed to be present during the interview carried out by AWAS and the appointed legal guardians are mostly absent from the procedure, beyond having a clear conflict of interest since they are employed by AWAS itself.

The procedure generally happens while the minor is being detained and the observations made on the access to legal assistance in detention are applicable to age assessment procedures (see Legal Assistance). As such, unaccompanied minors are deprived of legal assistance during the initial age assessment procedure.

With regard to the appeal, the Reception Regulations provide that appellants who lack sufficient resources to appeal from an age assessment decision are entitled to free legal assistance and representation which must entail free legal assistance and representation, the preparation of the required procedural documents and participation in the hearing before the Immigration Appeals Board.[270]

267 Information provided by the Immigration Appeals Board, January 2022.
268 EC, Rule of Law Report, Country Chapter on the rule of law situation in Malta, 13 July 2022, 5-6, available at https://bit.ly/3XRYS2D.
269 Under 'Our Cases', https://tinyurl.com/yc8jeb82.
270 Article 16(1) of the Reception Regulations, S.L.S.L. 420.06 .

Until 2022, legal aid for these cases was almost always provided by aditus foundation, JRS and the Legal Clinic of the Faculty of Laws since the provision was not fully implemented.

Since 2022 and throughout 2023 and 2024, minors have full access to the legal aid lawyers provided by the Ministry for Home Affairs.

According to the Ministry for Home Affairs,[271] legal aid lawyers are to provide the following assistance:

- Prepare procedural documents and participate in any hearing before the Immigration Appeals Board.
- Examine the grounds of appeal and present, in writing, the appellant's case before the Immigration Appeals Board.
- Attend, if required, sessions of the Immigration Appeals Board to explain the case submissions and provide other general assistance to respondents during their appeal.
- Carry out administrative work related to the preparation and presentation of the cases as well as in relation to the overall management of the caseload indicated by MHSE.
- Report on the outcomes of interviews held with appellants and bring to MHSE's attention any pertinent matters which may arise.
- Make sure to file the appeal within the deadline prescribed at law (3 days) and failure to do so might lead to the termination of the contract.

Legal Aid lawyers perceive a fee of 80 euro (inc. VAT) per case submission.

2. Special procedural guarantees

Indicators: Special Procedural Guarantees			
1. Are there special procedural arrangements/guarantees for vulnerable people?	☒ Yes	☐ For certain categories	☐ No
❖ If for certain categories, specify which:	See below		

2.1. Adequate support during the interview

The law does not define the notion of "*adequate support*" contained in Article 24(3) of the recast Asylum Procedures Directive. The Procedural Regulations provide that the IPA must assess within a reasonable period of time after an application for international protection is made whether the applicant is in need of special procedural guarantees and lay down a procedure with a view to determining whether a person is in need of special procedural guarantees.[272]

The Regulations further provide that the IPA must ensure that where an applicant has been identified as an applicant in need of special procedural guarantees, such applicant will be provided with adequate support throughout the whole procedure[273] and that the need for special procedural guarantees shall also be addressed even if such need becomes apparent at a later stage and even without the necessity of initiating new procedures.[274]

The early stages of the asylum procedure, meaning the period of time before the formal lodging of the application, do not incorporate a vulnerability screening process, and vulnerable applicants are generally referred to IPA by NGOs, AWAS and other entities. The Government underlined that IPA does indeed conduct an initial vulnerability screening during the lodging stage.

271 See https://bit.ly/3mn9zx0
272 Regulation 7(1) of the Procedural Regulations, S.L.S.L. 420.07.
273 Regulation 7(2) of the Procedural Regulation, S.L.S.L. 420.07.
274 Regulation 7(4) of the Procedural Regulation, S.L.S.L. 420.07.

According to the IPA, AWAS' vulnerability assessments are not binding on IPA as it is the latter entity that is responsible to decide whether an applicant is in need of special procedural guarantees.[275]

Fast Tracking Procedure

The IPA established a special fast-track procedure for applicants identified as vulnerable and in need of special procedural guarantees. Substantiated referrals may be made by any entity, following which the IPA will assess the alleged vulnerability and proceed accordingly.[276]

According to the IPA guidance note on the procedure, the purpose of this fast-track process is to have the possibility to prioritise and quickly process applications for international protection submitted by particularly vulnerable individuals, who may be at risk of further psychological or other harm if their asylum determination procedure is protracted for a period of time.

A vulnerable applicant can be a minor, an elderly person, a pregnant woman, single parents with minor children, victims of human trafficking, persons with serious illnesses or medical conditions, persons with disabilities, persons with mental health issues or mental disorders, survivors of torture or rape, female genital mutilations survivors, persons who have been subjected to other serious forms of psychological, physical or sexual violence, and LGBTIQ persons.

In practice, to be considered vulnerable and to benefit from this fast-track procedure, an asylum applicant must be referred to IPA by AWAS or by external entities such as UNHCR, NGOs or lawyers. Such referrals must be accompanied by a medical, social, psychological, or psychiatric report signed by a professional attesting the applicant's vulnerability.

Approval for the fast-tracking must be given by the Chief Executive Officer, who reserves the discretion not to grant approval and process the case through the regular procedure.

According to the protocol, if the case is fast-tracked, the applicant will:

- Receive information in a manner which is sensitive and relevant to their needs;
- Be offered referral for free legal assistance to relevant NGOs or lawyers;
- Be offered the possibility for a support person to accompany them and be present during the personal interview;
- Be informed of the personal interview date well in advance;
- Be interviewed over more than one time if needed;
- Be assessed by a case worker and an interpreter duly briefed about the applicant's individual situation;
- Be offered the possibility to choose the gender of the case worker and interpreter whenever possible;
- In the event that the applicant is an unaccompanied minor, the interview will be conducted in a child-friendly manner taking into account the individual experiences and circumstances of the applicant;
- In case of an unaccompanied minor under 16 years old, effort shall be made to fast-track the processing of the application after a legal representative is formally appointed;
- The personal interview shall be prioritised, and the examination of the application shall be concluded within two weeks from the date of the personal interview, the decision shall be taken within four weeks following the personal interview.

IPA indicated that, for 2024, five applications were fast-tracked.

275 Ministry for Home Affairs, Security, Reforms and Equality, Feedback on the 2022 AIDA Country Report on Malta, shared with ECRE in January 2024.

276 IPA, Guidance Note on the Fast-tracking of Applications Submitted by Vulnerable Persons, 2 September 2020 (unpublished).

Survivors of Female Genital Mutilation (FGM)

On 8 March 2021, the IPA and AWAS signed a Memorandum of Understanding on procedures regarding medical referrals of applicants for international protection with FGM-based claims. The MOU establishes an automatic referral mechanism whereby the IPA can refer female asylum applicants, who base their protection claim on FGM grounds, to AWAS for onward referral to national health authorities. According to the IPA, the aim is to obtain a medical assessment resulting in a certificate documenting whether or not FGM has been performed on the applicant.

Referrals shall only be made if the applicant gives her consent in writing to be referred to AWAS and the national health service for the purposes of a medical examination related to FGM and the applicant may withdraw her consent at any time during the referral procedure.

If the applicant gives her consent the IPA refers the case by email to the AWAS Care Team Units Leader and the Senior Manager Services. Upon receipt of the referral, AWAS will liaise with the applicant and facilitate the applicant's access to a medical doctor at the respective health centre in order to obtain a Ticket of Referral for the Department of Obstetrics and Gynaecology at Mater Dei Hospital (MDH). Where required, AWAS will subsequently liaise with the Department of Obstetrics and Gynaecology at MDH in order to facilitate and explain to the medical consultant what is required, including the importance of using the standard form certificate provided by the IPA. The medical certificate is to be given to the applicant in original format, and it is the responsibility of the applicant to present this medical certificate to the IPA for the purposes of the examination of her application for international protection. Should the applicant not provide the IPA with the medical certificate, this will of course be taken into account during the examination of the application. IPA will only accept medical certificates in the prescribed format and signed by a medical professional from the Dept of Obstetrics and Gynaecology at MDH.

The number of referrals is unknown.

In January 2023, the National Commission for the Promotion of Equality published an interview with a Senior Nurse at the national health department. The interview, conducted to commemorate the International Day for Zero Tolerance or FGM, touched upon the issue of FGM in the context of asylum and underlined the absence of data regarding FGM cases in Malta.[277]

Victims of Human Trafficking

The IPA also has a referral mechanism with Aġenzija Appoġġ[278] for applicants who are identified as potential victims of human trafficking. However, various stakeholders, including Appoġġ, reported that the IPA rarely makes use of this referral mechanism.

Victims of human trafficking are generally referred to the PIO for their status as trafficking victims to be determined and, if so, to Identitá (formerly Identity Malta) for issuing the relevant residence permit.

Unaccompanied Minors

As part of the guarantees for unaccompanied minors set out by the Regulations,[279] the minor must be represented and assisted by a person appointed by the CEO of AWAS, during all the phases of the asylum procedure. The representative must be given the opportunity to inform the minor about the meaning and possible consequences of the personal interview and, where appropriate, how to prepare himself for

277 National Commissioner for The Promotion of Equality, "FGM nowadays is no longer a problem of 3rd world countries but a worldwide problem" – Maali Boukadi, 31 January 2023, available at: https://tinyurl.com/58fcfzdh.

278 See https://bit.ly/3SPm2FB

279 Regulation 18(1) of the Procedural Regulations, S.L.S.L. 420.07 as amended by Legal Notice 273 of 2022.

the personal interview. The representative must be present at the interview and may ask questions or make comments within the framework set by the person who conducts the interview. The minors shall be provided with legal and procedural information, free of charge, in accordance with the general rules on legal assistance. Lastly, the asylum interview must be conducted, and the decision prepared by a person who has the necessary knowledge of the special needs of minors.

NGOs expressed concerns on AWAS' ability to carry out its mission with sufficient independence from the other State entities falling under the Ministry for Home Affairs and its capacity to cater for the minors, considering the Agency's other responsibilities (see Identification and Legal Representation of Minors).

2.2. Exemption from special procedures

According to the Procedural Regulations, the accelerated procedure shall not be applied in case it is considered that an applicant requires special procedural guarantees as a consequence of having suffered torture, rape, or other serious form of psychological, physical, or sexual violence.[280]

In practice, this provision is largely ignored and individuals claiming to have suffered such treatments will be channelled through the accelerated procedure if possible.

The International Protection Act provides that unaccompanied children may only be subject to the accelerated procedure where:

(a) they come from a safe country of origin;
(b) have introduced an admissible subsequent application; or
(c) present a danger to national security or public order or have been forcibly expelled for public security or public order reasons.[281]

In 2024, of the applications conducted under an accelerated procedure, two were made by UAMs from Bangladesh.

It is worth mentioning that the Regulations under the Immigration Act provides for the possibility to carry forced return of unaccompanied minors if sufficient guarantees exist[282] but it is unknown whether the PIO will take such risk.

3. Use of medical reports

Indicators: Use of Medical Reports

1. Does the law provide for the possibility of a medical report in support of the applicant's statements regarding past persecution or serious harm?
   ☐ Yes ☐ In some cases ☒ No

2. Are medical reports taken into account when assessing the credibility of the applicant's statements? ☒ Yes ☐ No

The law does not mention the submission of medical reports in support of an asylum applicant's claim. When these are presented, the IPA treats them as documentary evidence presented by the applicant. Practitioners who assist asylum applicants at first instance reported that medical reports are taken into consideration, especially with regard to applicants with mental health problems. In these cases, reports provided by medical professionals are given consideration in the evaluation of the applicant's need for protection. Asylum applicants do not routinely provide medical reports documenting torture and other violence. The above observations are valid as far as the source of the medical report is sufficiently trusted

280 Regulation 7(3) of the Procedural Regulations, S.L.S.L. 420.07 .
281 Article 23A of the International Protection Act, Chapter 420.
282 Regulation 8 of the Return Regulations, S.L.S.L. 217.12.

and the original document is provided. As such only reports from Maltese practitioners will be duly taken into account.

Medical or professional reports are nonetheless necessary for a referral to the fast-track procedure for vulnerable applicants.

It is further noted that most applicants spend a number of weeks or months in detention, in a context where communication with lawyers or with other entities that could assist in the procurement of medical reports is extremely challenging.

4. Legal representation of unaccompanied children

Indicators: Unaccompanied Children

1. Does the law provide for the appointment of a representative to all unaccompanied children?
   ☒ Yes ☐ No

The Minor Protection (Alternative Care) Act came into force in July 2021, replacing earlier legislation on the protection of children in need of care and support, including unaccompanied minors and/or separated children. The Act establishes the position of the Director (Protection of Minors) within the Foundation for Social Welfare Services (FSWS), Malta's welfare entity, who is responsible for protecting minors. It introduces the duty for all professionals to report any minor who is at risk of suffering or being exposed to significant harm and establishes various forms of protection orders the Court may impose, including care orders.

In terms of Article 21 of the Act, "any person who comes in contact with any person who claims to be an unaccompanied minor shall refer that minor to the Principal Immigration Officer who shall thereupon notify the Director (Child Protection) so that the latter registers such minor and issues an identification document for such minor within seventy-two (72) hours".

The Act provides that immediately after the registration of the minor and the issuing of appropriate identification documents, the Director (of Child Protection) shall request the Court to provide any provisional measure relating to the care and custody of the minor according to the circumstances of the case and in the best interests of the minor and shall appoint a representative to assist the minor in the procedures undertaken in terms of the International Protection Act. AWAS is identified by the Act as being the entity responsible for the care of unaccompanied minors and will act as the legal guardian.

The amendments to the Reception Regulation of December 2021 also reflect these changes. The Regulations now provide that "entity for the welfare of asylum-seekers shall as soon as possible take measures to ensure that the unaccompanied minor is represented and assisted by a representative".[283]

After receiving the conclusions of the investigations and evaluations from the competent authority (AWAS) that establish that the applicant is in fact an unaccompanied minor, the Director (Child Protection) shall, by application, request the Court to issue a Protection Order and shall prepare a Care Plan. In practice, the Court will entrust the UMAS to the care of AWAS. There is no maximum number of children that may be represented by the same person or entity.

The Procedural Regulations provide that, as soon as possible and no later than 30 days from the issue of the Care Order, unaccompanied minors shall be represented and assisted by a representative during all the phases of the asylum procedure.[284] The assigned legal guardian is an AWAS social worker from the UMAS Protection Team who must have the necessary knowledge of the special needs of minors.

283 Regulation 14(1)(b) of the Reception Regulations, S.L.S.L. 420.06.
284 Regulation 18 Procedural Regulations, S.L.S.L. 420.07.

On the contrary, if the investigations and evaluations from the competent authority establish that the applicant is not an unaccompanied minor, the Director (Child Protection) shall request the Court to revoke its first decree and to provide according to the circumstances of the case.

In practice, AWAS is the entity responsible for referring the minor to the Child Protection Services which would then request the issuance the temporary care order to the Court. Upon confirmation by AWAS that the individual was assessed as an UAM, then it would inform the Child Protection Services of its conclusions for it to request the Court to issue a Care Order and confirm a care plan.

2023 saw major improvements in the procedures relating to UAMs. The referrals to Child Protection Services were conducted within days of arrival, promptly followed by the necessary applications to the Courts for the issuing of Care Orders. The above-mentioned division within AWAS now ensure that children are indeed provided with a legal guardian.

In 2024, the key concerns of previous years were confirmed by NGOs regarding Age assessment of unaccompanied children.

NGOs have expressed their disagreement with a system whereby AWAS is entrusted with the guardianship of unaccompanied minors, stating that 'the multiple roles and responsibilities of persons currently working as representatives for UAMs coupled with limited capacity and resources may result in conflict of interest issues to the detriment of the minors', adding that 'It is clear that it's involvement in so many aspects of the child's life do not only pose a huge strain on the Agency's capacity but, in particular, positions it in several situations of conflict of interest. We have encountered several such instances in our work with UAMs and, inevitably, the burden of these short-comings is borne by the children themselves.' NGOs exhorted the Government to commit to exploring alternative guardianship options that will ensure a quality and independent service with the child's best interests in mind, including with the support of entities such as the European Guardianship Network.[285]

In theory, it is the role of the Minors Care Review Board – established in the Minor Protection Act (Article 31) – to review care plans made in respect of unaccompanied children and to take decisions on the child where there is disagreement. NGOs noted that, in practice, the Board does not perform an active role in relation to unaccompanied children. Although it would be possible for the child to present complaints to the Board, in practice the child is rarely provided with this information and hardly ever engages with the Board. Since the law establishes AWAS as the entity providing representation for unaccompanied children, it is not clear what would happen if the child expressed disagreement with their representative or a wish to have the representative changed.[286]

AWAS is the assessor, the legal guardian and the entity responsible to accommodate and provide protection and care to the UMAS, which raises concerns regarding the agency's ability to ensure that no interference exist between these activities and with the Ministry for Home Affairs, under which AWAS falls.

Despite recent improvements in the age assessment procedure (see Identification), the legal representative's position as an employee of AWAS and the Leader of the UMAS Protection Unit raises serious concerns as to the level of independence enjoyed from other State Entities. JRS and aditus reported that the legal representative is not present at any stage of the age assessment procedure and

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285 aditus foundation, Technical Comments on Bill No. 2 of 2022, June 2022, available at: https://bit.ly/3EVTSTM, 11.

286 The Ministry of Home Affairs, Security and Employment states that if the minor requests a change in legal guardian, this request is duly considered and may be accepted, provided it is deemed to be in the best interest of the minor. See information provided by the Ministry of Home Affairs, Security and Employment on 24 July 2025, see annex to the report. However, it should be noted that any other legal guardian would also be an AWAS employee, thus not resolving the issue of the conflict of interest.

has already acted against the best interest of the child on several instances, including refusing to facilitate the release of unaccompanied minors pending age assessment appeal procedures.[287]

E. Subsequent applications

Indicators: Subsequent Applications

1. Does the law provide for a specific procedure for subsequent applications? ☒ Yes ☐ No

2. Is a removal order suspended during the examination of a first subsequent application?
   - ❖ At first instance ☒ Yes ☐ No
   - ❖ At the appeal stage ☒ Yes ☐ No

3. Is a removal order suspended during the examination of a second, third, subsequent application?
   - ❖ At first instance ☐ Yes ☒ No
   - ❖ At the appeal stage ☐ Yes ☒ No

A person whose international protection claim has been rejected may submit a subsequent application to the International Protection Agency.[288] A person may apply for a subsequent application if they can provide elements or findings that were not presented before – subject to strict interpretation – at first instance. The applicant is required to submit evidence of which they were either not aware, or which could not have been submitted at an earlier instance.

Act XIX of 20 December 2022 removed the requirement to present new facts or evidence within 15 days of becoming aware of such information. This brought the Act in line with the CJEU judgement *in XY v Bundesamt für Fremdenwesen und Asyl.*[289]

The IPA will first assess the admissibility of the subsequent application, and this also includes an assessment as to whether the new elements or findings "significantly add to the likelihood of the applicant qualifying as a beneficiary of international protection." If the application is deemed admissible, the applicant may be called for an interview, at the discretion of the Agency. Once the application is evaluated, a decision on the case is communicated to the appellant in writing. Since there is no free legal aid at this stage of the proceedings, asylum applicants are almost entirely dependent on NGOs or private lawyers to present an appeal.

There is no limit as to the number of subsequent applications lodged, as long as new evidence is presented every time. Second, third, and other subsequent applications are generally treated in the same manner.

The International Protection Agency created a standard form that applicants or their representatives need to fill in in order to file a subsequent application. This form is meant to facilitate the filing of such applications by exempting applicants to draft submissions.

Despite the International Protection Act clearly stating that a personal interview on the admissibility of the application shall be conducted before a decision on the admissibility of an application has been taken, this rarely happens in practice.[290] Applicants submitting a subsequent application where no new elements were presented are not given the opportunity to be heard during a personal interview. The procedure is only in writing, with the ability for the legal representative to present submissions along with the

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287 Immigration Appeals Board (Div. I), A.M. v. The Principal Immigration Officer, 5 November 2021, available at: https://bit.ly/3jba8bL; Immigration Appeals Board (Div. I), Y.M.O. v. The Principal Immigration Officer, available at: https://bit.ly/3j070zE.

288 Articles 7A of the International Protection Act, Chapter 420.

289 CJEU (Third Chamber), XY v Bundesamt für Fremdenwesen und Asyl. Request for a preliminary ruling from the Verwaltungsgerichtshof. Case C-18/20, 9 September 2021.

290 Article 24 (3) of the International Protection Act, Chapter 420.

application. In the (rare) event where the subsequent application is deemed admissible, the IPA will interview the applicants on the merits of their case with further questions on the new evidence provided.

Removal orders are only suspended once the applicant has formally been confirmed to be an asylum applicant by the IPA, since this confirmation triggers the general protection from *non-refoulement* guaranteed to all asylum applicants.

In practice, asylum applicants filing a first subsequent application are entitled to an ASD and all the rights attached to it. However, they usually will have to renew the document every month (until the application is deemed admissible), hence limiting their ability to apply for a work permit as employers are reticent to employ people with such a limited right to remain. At the beginning of 2025, the Home Affairs Ministry confirmed the revocation of the previous policy/practice of barring from the labour market applicants whose subsequent applications had been deemed inadmissible.

For asylum-seekers who filed a second or more subsequent application, the ASD will only be provided if the application is deemed admissible. The Procedural Regulations provide that an exception from the right to remain in the territory may be made where a person makes another subsequent application in the same Member State, following a final decision considering a first subsequent application inadmissible or after a final decision to reject that application as unfounded.[291]

The Procedural Regulations mention that this exception may be lifted if the International Protection Agency or the International Protection Appeals Tribunal indicate, by means of a notice in writing, that the return decision in respect of the person in question would constitute direct or indirect refoulement. However, no such case was encountered, and it was indicated by the IPA that this cannot be requested by the applicant itself.

As a practice, the PIO generally refrains from removing any individual with a pending subsequent application independently of the number of applications filed but is likely to detain the applicant on the basis of the Reception Regulations.

Processing time is similar to first-time applicants with the exception of detained applicants who are prioritised. In practice, NGOs find that asylum-seekers who filed a second or more subsequent application are likely to remain undocumented for more than 6 months before they can hope to have a decision on the admissibility of their application.

In the eventuality that a subsequent application is deemed admissible but is not accepted on the merits, it is automatically rejected as manifestly unfounded. In these cases, the applicant would not have the right to appeal[292] (see Accelerated procedure - Appeal regarding the review process).

In case the subsequent application is deemed inadmissible, the decision is immediately forwarded to the IPAT for a review in accordance with the accelerated procedure, which does not allow for the applicant to file an appeal, and be heard and will likely be confirmed by the IPAT as practice indicates (see Accelerated Procedure).

In *S.H. v. Malta*, the applicant filed two subsequent applications, both rejected as inadmissible by the IPA. The ECtHR noted that the first subsequent application was deemed inadmissible despite the IPA concluding that the applicant had presented new elements and noted that *"despite the rampant incongruence, the Tribunal's review confirmed the decision, without any reasoning"*. With regard to the second subsequent application which was filed on the basis of the Court's order for interim measure, which in the Court's own words *"had precisely referred to the absence of an adequate assessment"*, the Court noted *"with no surprise"* that the Tribunal confirmed the decision. The Court ultimately concluded

291 Article 16(3) of the international Protection Act, Chapter 420.

292 Ministry for Home Affairs, Security, Reforms and Equality, Feedback on the 2022 AIDA Country Report on Malta, shared with ECRE in January 2024.

that the applicant did not have access to an effective remedy under Article 13 for the purposes of his claim under Article 3.[293]

In February 2025 the ECtHR decided the case *A.B. and Y.W. v. Malta*,[294] a case concerning two Chinese nationals of Uighur ethnicity who, after arriving legally in Malta in 2016, applied for asylum citing persecution risks in China. Their application was rejected by the Maltese Refugee Commissioner (former title of the IPA) and this was later upheld on appeal. In 2022, upon applying for a nomad visa, their irregular stay was discovered, and they were issued removal orders. They contested the removal before the IAB, bringing updated evidence, including COI and UN findings regarding persecution of Uighurs in China. The IAB concluded that the applicants had not presented new evidence warranting reconsideration and upheld the removal orders.

The ECtHR held unanimously that there would be a violation of Article 3 ECHR if the applicants were returned to China without an updated, *ex nunc* risk assessment. The Court noted that Malta failed to properly reassess the risk posed by the 2022 removal, relying instead on asylum findings made in 2017. The IAB, while competent to undertake a fresh assessment, declined to do so substantively. The Court rejected Malta's objection that the applicants had not exhausted domestic remedies by not filing a new asylum application. It found that applicants were not required to lodge repetitive or formally burdensome applications where an available remedy (IAB appeal) had already been pursued and proved ineffective.

Additionally, the Court reaffirmed that the applicants belonged to a group systemically exposed to persecution and arbitrary treatment in China and that recent UN reports supported this risk. The removal, without adequate procedural safeguards or reassessment, would thus breach Article 3.

The ECtHR found a **procedural violation of Article 3** ECHR due to the Maltese authorities' failure to conduct an updated risk assessment prior to removal. The judgment underscores the necessity of an *ex nunc* review of risks in expulsion proceedings, especially for persons belonging to vulnerable or persecuted groups. The Court did not find it necessary to separately examine the complaint under Article 13.

NGOs reported challenges faced by LGBTIQ+ applications when disclosing their identities after having obtained a rejection at first instance. Attempts to tackle this issue by underlining late disclosure concepts, particularly within a context where applicants are most generally detained, are met with a reiteration of the legal obligation of applicants to present their stories as effectively as possible, and that ample information and reassurances are provided by the authorities to all applicants.

aditus foundation reported that the IPA rejected at least one Palestinian national on two occasions, his second application being remitted back to IPA by decision of the IPAT. The UNHCR intervened in this case by submitting their written observations and being present during the interview. The case is still pending. Several subsequent applications from Sudanese non-Arab Darfuri were also rejected as inadmissible by the IPA. The Government reiterated that all cases were handled in line with the rules on subsequent applications.[295]

IPA confirmed that in 2024, 60 subsequent applications were lodged:

Country of Origin	Total
Algeria	2
Bangladesh	1
Brazil	1
Egypt	1

293 ECtHR, *S.H. v. Malta*, application no 37241/21, 20 December 2022, § 92-97.
294 *A.B. and Y.W. v. Malta*, 2025, 2559/23, 4 February 2025, available here.
295 Information provided by Home Affairs Ministry in January 2024.

Ethiopia	3
Georgia	6
Guinea	2
Iraq	1
Libya	7
Niger	1
Nigeria	4
Pakistan	5
Sudan	14
Syria	4
Tunisia	1
Ukraine	7

F. The safe country concepts

Indicators: Safe Country Concepts

1. Does national legislation allow for the use of "safe country of origin" concept? ☒ Yes ☐ No
   - ❖ Is there a national list of safe countries of origin? ☒ Yes ☐ No
   - ❖ Is the safe country of origin concept used in practice? ☒ Yes ☐ No
2. Does national legislation allow for the use of "safe third country" concept? ☒ Yes ☐ No
   - ❖ Is the safe third country concept used in practice? ☐ Yes ☒ No
3. Does national legislation allow for the use of "first country of asylum" concept? ☒ Yes ☐ No

1. Safe country of origin

According to Article 2 of the International Protection Act, a safe country of origin means a country of which the applicant is a national or, being a stateless person, was formerly habitually resident in that country and the applicant has not submitted any serious grounds for considering the country not to be a safe country of origin in his particular circumstances. It is not clear how the second limb of this definition is applied in practice, as the designation of a country as safe for all nationals of that country seems to be an automatic and irrebuttable presumption. However, the IPA remarks that all procedural guarantees apply to such applicants.[296]

The Act also provides, by way of a Schedule,[297] the list of countries of origin considered safe. The last amendment to the list is dated from 2020 and included Bangladesh and Morocco. Currently the countries designated as 'safe' are: Algeria, Australia, Bangladesh, Benin, Botswana, Brazil, Canada, Cape Verde, Chile, Costa Rica, Egypt, Gabon, Ghana, India, Jamaica, Japan, Morocco, New Zealand, Senegal, Tunisia, United States of America, Uruguay, Member States of the European Union and EEA countries. The criteria as to which countries are listed/removed is unclear.

The Act provides that the Minister for Home Affairs may amend the list of countries specified in the Schedule by regulations, provided that only countries which in his opinion are countries of safe origin may be listed in the said Schedule. The Minister shall remove from the said Schedule any country which in his opinion is no longer a safe country of origin.[298]

Legal Notice 488 of December 2021 introduced a new provision in the Procedural Regulations which establishes that "the concept of safe country of origin can only be applied to those countries which have

296 Ministry for Home Affairs, Security, Reforms and Equality, Feedback on the 2022 AIDA Country Report on Malta, shared with ECRE in January 2024.
297 Schedule (Article 24) of the International Protection Act, Chapter 420.
298 Article 24(4) of the International Protection Act, Chapter 420.

been designated as safe countries by the International Protection Agency and included in the Schedule to the Act."[299] The Agency has not made any Declaration so far and it remains to be seen how this amendment will be implemented in practice.

Legal Notice 488 creates a legal anomaly whereby it seemingly conflicts with the provision of the Act designating the Minister as the entity responsible for the list of safe countries of origin. The Act does not authorise the Minister to delegate this power, and Legal Notice 488 does not speak of IPA's decision to remove a country from the list of safe countries of origin. Considering the primacy of the Act over the Regulations and also considering the obligatory nature of an inadmissibility decision in relation to persons originating from safe countries designated safe, the only reasonable reading of the present legal situation is that applicants originating from countries of origin deemed safe by the Minister and included in the Schedule should have their applications automatically declared inadmissible.

The concept of safe country of origin is used to consider an application manifestly unfounded and trigger the automatic application of the controversial accelerated procedure (see Accelerated Procedure).

In *S.H. v. Malta*, the applicant noted that his claim had been rejected on the basis that Bangladesh was a safe country despite providing a large amount of evidence to dispel this presumption that Bangladesh was a safe place for him based on his specific situation, including his work as a journalist. The applicant further argued that the decision of the Minister to designate Bangladesh as safe was not in compliance with Article 31(8) of the EU Asylum Procedures Directive and evidently arbitrary, particularly as the Government had failed to provide any information on the decisional process, including any information on the evidence relied upon to conclude that Bangladesh is a safe country of origin. The ECtHR declared that it did need to enter into the ministerial decision designating Bangladesh as a safe country, considering that the exceptions highlighted throughout the case went to show that a full individual assessment is nonetheless called for in certain circumstances, despite such designation.[300]

In 2022, 161 applications were rejected as manifestly unfounded on the basis that the applicants were coming from a safe country of origin. These were mainly applications submitted by nationals of Egypt (58), Senegal (33), Bangladesh (32) and Ghana (18).

In 2024, 55 applications were rejected as manifestly unfounded on the basis that the applicants were coming from a safe country of origin. These were mainly applications submitted by nationals of Bangladesh (22), Egypt (12), Algeria (2), USA (2), Colombia (3), Palestine (2)[301], Morocco (4), Senegal (2), Ghana (4), and Tunisia (2).

2. Safe third country

A safe third country means a country of which the applicant is not a national or citizen and where:

(a) Life and liberty are not threatened on account of race, religion, nationality, membership of a particular social group or political opinion;
(b) The principle of non-*refoulement* in accordance with the Convention is respected;
(c) The prohibition of removal, in violation of the right to freedom from torture and cruel, inhuman or degrading treatment as laid down in international law, is respected;
(d) The possibility exists to request refugee status and, if found to be a refugee, to receive protection in accordance with the Convention;
(e) The applicant had resided in the safe country of origin for a meaningful period of time prior to his entry into Malta.

299 Regulation 23(2) of the Procedural Regulations, S.L. 420.07.
300 ECtHR, *S.H. v. Malta*, no 37241, 20 December 2022, § 62 and 91.
301 IPA clarified that the persons were Palestinians hailing from Morocco, with their protection needs assess vis-á-vis Morocco.

Under the International Protection Act, the concept of a safe third country can be used to determine if an application should be considered inadmissible, and therefore to be processed within the accelerated procedure as inadmissible.[302]

According to IPA, depending on the particular circumstances of the case, it could be determined that the concept of safe third country could apply.[303] However, no specific information was provided as regards the actual interpretation and application of the safe third country concept by the IPA. The latter confirmed that no decision has been taken on the basis of this concept since 2020. NGOs and lawyers confirmed that, in their experience, the principle is never used.

3. First country of asylum

The concept of first country of asylum is defined as a country where the applicant has been recognised as a refugee or otherwise enjoys sufficient protection, including respect of the *non-refoulement* principle, and maybe readmitted thereto. This is also mentioned as a ground for inadmissibility.[304]

No information is available about the application of this concept. According to the IPA this provision may apply 'on a case-by-case basis'. The IPA reported that no decision has been taken on the basis of this concept in 2021, 2022 , 2023 and 2024.

G. Information for asylum-seekers and access to NGOs and UNHCR

1. Provision of information on the procedure

Indicators: Information on the Procedure

1. Is sufficient information provided to asylum-seekers on the procedures, their rights and obligations in practice? ☐ Yes ☒ With difficulty ☐ No

   ❖ Is tailored information provided to unaccompanied children? ☐ Yes ☒ No

The Procedural Regulations provide that asylum-seekers have to be informed, in a language that they understand, or they may reasonably be supposed to understand, of, among other things, the procedure to be followed and their rights and obligations during the procedure. The Regulations also state that asylum-seekers have to be informed of the result of the decision in a language that they may reasonably be supposed to understand, when they are not assisted or represented by a legal adviser and when free legal assistance is not available.[305]

The Regulations also cover the information about the consequences of an explicit or implicit withdrawal of the application, and information on how to challenge a negative decision. However, the law does not state in which form such information has to be provided except for the first instance decision which has to be provided in a written format.[306]

Newly arrived applicants are detained on health grounds and the Public Health authorities provide them with a short document called 'Restriction of Movement Notice', available in English, French, Arabic and Bangladeshi. The Notice informs the person that their freedom of movement is being restricted on public health grounds. Lawyers visiting persons detained under this regime often noted that the document did not contain the person's own particulars, or that the person was provided with a document in the wrong language and that the document was never actually explained to the person receiving it. Furthermore,

302 Articles 8(1)(g), 23 and 24(1)(c) of the International Protection Act, Chapter 420.
303 Information provided by the Refugee Commission, 12 January 2018.
304 Article 24(1)(b) Refugees Act.
305 Regulations 4 and 5 of the Procedural Regulations, S.L.S.L. 420.07 .
306 Regulation 14 of the Procedural Regulations, S.L.S.L. 420.07 .

lawyers also noted that the Notice does not impose detention but, rather, a mere restriction of free movement (see Detention). In 2024, persons were generally detained under this regime for a couple of days.

Due to their limited access to detention, NGOs are not able to inform all newly arrived asylum-seekers and most of them never get the chance to access a lawyer before they lodge their applications or – at times – their asylum interviews. The UNHCR provides information sessions but has not been able to do so for all asylum-seekers due to their limited capacity. Furthermore, UNHCR is only permitted to meet detained applicants only after they have lodged their asylum applications. It reported having carried out only six information sessions in 2024, reaching 61 asylum-seekers. Of these six visits, five were conducted to provide information whilst individual sessions were held with five individuals.

NGOs reported they received consistent testimonies of applicants arriving in 2022, 2023 and 2024 claiming that the first people they met were individuals from the Returns Unit from the Ministry for Home Affairs, who reportedly tried to urge them into signing declarations of voluntary departure by telling them that if they apply to asylum, they will remain in detention for 2 years before they are sent back to their country of origin. Applicants also claimed that they were later given the same options by inspectors of the Immigration Police which they could identify by name. This, they claimed would happen weeks or months before they could access a lawyer or apply for international protection.

NGOs also reported meeting some individuals who were visibly minors who nonetheless opted for voluntary return for fear of staying 2 years in detention.

Unless visited by the UNHCR or NGOs, in 2024 detained applicants were not provided with information on the asylum procedure prior to the lodging of their application. At the lodging stage, they received information about the asylum procedure and were given a leaflet on the Dublin procedure. They were also provided information on the possibility of being relocated to another EU Member State. The lodging of the application can happen several weeks or months after the arrival.

The Ministry claims that the DSA, AWAS and the IPA provide information to asylum-seekers through booklets and videos.[307] Lawyers assisting applicants, including through visits to detention, confirm having seen booklets in their clients' possession. They also confirmed that none of their clients ever mentioned watching information videos and none mentioned anyone explaining the information booklet in a language they understood. NGOs also flagged situations where detained applicants specifically requested DS administrative assistance in their asylum procedure, but this was not forthcoming. Finally, NGOs question the wisdom of tasking DS officials with providing technical and sensitive information on asylum when their knowledge or experience in the matter is generally limited to that acquired in an IPA training session. Ultimately, practitioners and NGOs underlined that lack of systemic and structured access to independent information.

According to information provided by the Maltese authorities, “upon arrival, migrants are given the medical attention required by national authorities. Once irregular migrants are medically cleared, they are spoken to by the Returns Unit, IPA officials and Immigration Police. Prior to any other discussions, migrants are informed that it is their legal right to apply for asylum. Immigration Police and the Returns Unit inform migrants on their rights and return prospects. The Ministry believes that it is important for migrants to know all options and services offered to them by the Government of Malta. No physical or non-physical coercion has ever been used.” [308]

Legal Notice 488 of December 2021 introduced provisions for applicants held in detention facilities or present at border crossing points whereby “the relevant authorities shall provide them with information on the possibility to do so and shall make arrangements for interpretation to the extent necessary to facilitate

307 Information provided by information provided by the Ministry of Home Affairs, Security and Employment on 24 July 2025, see annex to the report.

308 Information provided by Home Affairs Ministry in January 2024.

access to the asylum procedure".[309] However, these provisions were not followed by any meaningful change in practice.

The EUAA Operating Plan with Malta for 2020 foresaw the development of information material "covering the various procedural steps with simple and clear content, appropriate for the age and level of understanding of the applicants, in a language that the applicant is reasonably supposed to understand and using appropriate dissemination tools".[310] It seems this material was finalised towards the end of 2023 or the beginning of 2024, as practitioners and NGOs confirmed first seeing these documents in March 2024. They also confirmed that most applicants seen in detention were in possession of these documents.

There is no systematic and structured way to provide comprehensive information to applicants outside detention and applicants have consistently raised their lack of awareness about the procedure to NGOs assisting them. They only receive basic information about the asylum procedure but not about their rights regarding reception. For example, they do not have access to information about access to healthcare or education, while asylum-seekers in detention see their basic needs covered.

However, some positive improvements were registered in recent years, with the creation of the Migrant's Advice Unit (MAU) by AWAS staffed with welfare officers who provide information on employment, housing, education and health. The Unit reportedly gives group sessions on services and activities to assist with integration into the community. Each open centre has a member of the team operating as a focal point for referrals to other stakeholders.

NGOs welcomed this improvement and confirmed having regular meetings with the Unit to share updated information on procedures, entitlements and other matters.

Alternative sources of information are available mostly through NGOs and the UNHCR. In 2024 UNHCR Malta finalised the Agency's Help page[311], and aditus has a dedicated 'Know your rights!' page with several Fact Sheets on several aspects of the asylum procedure.[312]

2. Access to NGOs and UNHCR

Indicators: Access to NGOs and UNHCR

1. Do asylum-seekers located at the border have effective access to NGOs and UNHCR if they wish so in practice? ☐ Yes ☒ With difficulty ☐ No
2. Do asylum-seekers in detention centres have effective access to NGOs and UNHCR if they wish so in practice? ☐ Yes ☒ With difficulty ☐ No
3. Do asylum-seekers accommodated in remote locations on the territory (excluding borders) have effective access to NGOs and UNHCR if they wish so in practice? ☒ Yes ☐ With difficulty ☐ No

National legislation provides that UNHCR shall have access to asylum applicants, including those in detention and in airport or port transit zones.[313] Moreover, the law also states that a person seeking asylum in Malta shall be informed of his right to contact UNHCR.[314] There is no provision in the law with respect to access to asylum applicants by NGOs, however, it states that legal advisers who assist applicants for asylum shall have access to closed areas such as detention facilities and transit zones for

309 Regulation 5A of the Procedural Regulations, S.L.S.L. 420.07 .
310 EUAA Operating Plan 2020, December 2019, available at: https://bit.ly/2XxYx9K.
311 UNHCR Malta Help page, available at: https://tinyurl.com/3ckt9p3d.
312 aditus foundation, Know your rights! Page, available at https://tinyurl.com/yyfuyw5f.
313 Regulation 16(a) Procedural Regulations.
314 Regulation 3(3)(c) Declaration Regulations.

the purpose of consulting the applicant.[315] Thus, NGOs have indirect access to asylum applicants through lawyers who work for them

Applicants detained in the IRC facilities in the early days of their arrival have no access to UNHCR and very limited access to NGOs. Otherwise, applicants in other detention centres face the challenges identified below (See Access to Detention), whilst applicants in open centres are free to visit NGOs in their offices and NGOs are able to request access from AWAS and this is generally granted.

H. Differential treatment of specific nationalities in the procedure

Indicators: Treatment of Specific Nationalities

1. Are applications from specific nationalities considered manifestly well-founded? ☒ Yes ☐ No
   - ❖ If yes, specify which: Eritrea, Somalia

2. Are applications from specific nationalities considered manifestly unfounded?[316] ☒ Yes ☐ No
   - ❖ If yes, specify which: Algeria, Australia, Bangladesh, Benin, Botswana, Brazil, Canada, Cape Verde, Chile, Costa Rica, Egypt, Gabon, Ghana, India, Jamaica, Japan, Morocco, New Zealand, Senegal, Tunisia, United States of America, Uruguay

1. Syria, Eritrea and Somalia

Applicants confirmed to be Eritrean and Somali are generally granted, as a minimum, subsidiary protection, although practitioners confirmed seeing in 2024 rejections for some applicants from these countries owing to either credibility issues or to the fact that they come from safer parts of Somalia. Although Syrian and Libyan applicants also benefitted from such an assumption until 2023, in 2024 many applicants from both countries of origin were rejected on the ground that safety levels in some parts of the countries were high enough to offer adequate protection.

At the end of 2024, IPA decided to put on hold all pending applications from Syrian nationals following news of Assad's departure from Syria.[317] This decision also affected several Syrians whose applications had been pending for a number of years. There is no further information available as of April 2025.

2. Bangladesh and North African countries (excluding Libya)

NGOs reported that applications from individuals from Bangladesh and North African countries (excluding Libya) are processed expediently from detention and applicants from these countries are likely to see their applications for asylum channelled through the accelerated procedure with a return decision and a removal order being issued a few weeks or months after arrival (see accelerated procedure).

Forced and voluntary returns of Bangladeshi nationals have been regularly carried out since 2021 on the basis of the non-binding readmission agreements concluded with the EU in 2017 and 2018 respectively.[318] In 2023, the number of forced returns on Bangladeshis decreased, primarily due to challenges in securing diplomatic channels. The Home Affairs Ministry's Voluntary Return Unit was extremely proactive in promoting voluntary return to this group of applicants, oftentimes even before they were informed of asylum or before they had the opportunity to meet with NGOs, lawyers or UNHCR. In 2024, NGOs continued to receive reports of applicants being urged to apply for voluntary return, being told that an asylum application would be automatically rejected due to Bangladesh being deemed safe and that pending the asylum procedure they would remain locked up in detention. Similar reports were also received from Bangladeshi UAMs.

315 Regulation 7(3) Procedural Regulations.
316 Whether under the 'safe country of origin' concept or otherwise.
317 Times of Malta, 'Malta suspends Syrian asylum applications', 10 December 2024, available here.
318 See EC, Migration and Home Affairs, Return and readmission, http://bit.ly/3QM5Bcj.

These practices continued throughout 2024 despite the recent decision of the ECtHR where the Court found that the asylum procedure undertaken by the Bangladeshi applicant and examined under the accelerated procedure did not offer effective guarantees protecting him from an arbitrary removal.[319]

[319] ECtHR, *S.H. v. Malta*, 37241/21, 20 December 2022.

Reception Conditions

Short overview of the reception system

The Agency for the Welfare of Asylum-Seekers (AWAS) is in charge of the open elements of the reception system for asylum applicants in Malta. The Agency manages the reception centres and provides welfare services to asylum applicants and some beneficiaries of international protection (since protection beneficiaries are entitled to access mainstream services). AWAS is also responsible for providing support services to detained asylum applicants.

Officially, the reception system in Malta is still regulated by the 2015 Strategy for the Reception of Asylum-seekers and Irregular Migrants.[320] This policy is based on the transposition into national legislation of the Reception Conditions Directive and the Return Directive. According to the policy, all applicants arriving irregularly by boat are sent to an Initial Reception Centre (IRC) where checks and assessments (age assessment, vulnerability assessment, need to detain) are conducted before being referred to detention or reception centres.

This policy was informally suspended during the summer of 2018, due to a significant increase in the number of asylum-seekers arriving by boat. The whole Maltese reception system, not sufficiently equipped to deal with such high numbers, was put under extreme pressure. Due to lack of space available in overcrowded reception centres, the authorities decided to automatically detain all applicants arriving irregularly in Malta or rescued at sea.

Despite the drastic decrease in arrivals since 2021, including throughout 2023 and 2024, and a low rate of occupancy in the open centres, the Government still automatically detains all persons arriving by boat on health grounds. Following the ECtHR *A.D. v. Malta* judgement in January 2024, this health-based detention lasts for a couple of days, following which the Immigration Police will almost invariably detain all applicants – excepting persons deemed vulnerable – for a minimum of two months.

Families, UAMs, and vulnerable applicants are prioritised and, according to the authorities, should not be detained. However, applicants may stay for prolonged periods of time in detention before they undergo an assessment, and it is established that they are a minor or vulnerable.

Once admitted to the open reception centres, families and vulnerable applicants can be accommodated for one year while non-vulnerable adults are given a six-month contract which can be extended if the applicant is considered to be vulnerable or facing significant challenges. People are asked to leave at the end of their contract irrespective of their status, including when their application for international protection is still pending. It is at this point that material reception conditions are formally withdrawn, although in 2023 and 2024 AWAS exceptionally agreed to continue providing the *per diem* to applicants living in the community.

The Maltese reception system consists of several reception facilities, largely gathered in the large-scale area in the industrial town of **Ħal Far**. An NGO also runs a large open centre, catering mainly for family units. AWAS confirmed that at the end of 2024, four centres were in use: Ħal Far Open Centre/Initial Reception Centre; Ħal Far Open Centre (families and single women); Ħal Far Tent Village (largely adult men); Dar il-Liedna (UMAS).

Six months remain an extremely limited amount of time for asylum applicants to acquire language skills, find a regular employment and save what is sufficient to make front to regular rent payments. Access to formal employment remains an issue, with asylum applicants from countries deemed safe barred from accessing regular employment for the first 9 months of their stay. As a result, many asylum applicants

320 AWAS, Migration Policy, Strategy for the reception of asylum-seekers and irregular migrants, available at: https://bit.ly/3f4YE5s.

have to resort to irregular, unstable work positions. Homelessness, particularly amongst vulnerable persons was reported to be on the rise. Upon intervention of social workers or NGOs, extensions of contracts in open centres were granted if places are available. Additionally, NGOs report that, following individual interventions, AWAS often agrees to continue granting the *per diem* to applicants when they leave – freely or forcibly – the open reception centres.

A report published in December 2021 by JRS and aditus foundation entitled '*In Pursuit of Livelihood: An in-depth investigation of asylum-seekers' battle against poverty and social exclusion in Malta* concluded "*that asylum-seekers face poverty and social exclusion from the very start of their life in Malta. The interviews painted a picture of a reception system that fails to act as a stepping stone towards self-sufficiency due to the absence of a language and/ or vocational programme that is intrinsically linked to the reception stage and the meagre per diem allowance. Participants left the open centre with the same deficiencies in skills, competencies, savings and job prospects they had when they entered*." The report draws on data collected by interviewing the head of household on income and health indicators, deprivation and dwelling conditions from 116 households.[321]

Given the phaseout of EUAA support, there was no EUAA presence with AWAS in 2024.

A. Access and forms of reception conditions

1. Criteria and restrictions to access reception conditions

Indicators: Criteria and Restrictions to Reception Conditions

1. Does the law allow access to material reception conditions for asylum applicants in the following stages of the asylum procedure?
   - ❖ Regular procedure ☒ Yes ☐ Reduced material conditions ☐ No
   - ❖ Dublin procedure ☒ Yes ☐ Reduced material conditions ☐ No
   - ❖ Admissibility procedure ☒ Yes ☐ Reduced material conditions ☐ No
   - ❖ Accelerated procedure ☒ Yes ☐ Reduced material conditions ☐ No
   - ❖ Appeal ☒ Yes ☐ Reduced material conditions ☐ No
   - ❖ Subsequent application ☒ Yes ☐ Reduced material conditions ☐ No
2. Is there a requirement in the law that only asylum applicants who lack resources are entitled to material reception conditions? ☒ Yes ☐ No

Maltese law does not distinguish between the various procedures to determine entitlement to reception conditions, nor does it establish any distinction in the content of such conditions linked to the kind of procedure. Relevant legislation simply refers to "*applicants*", defined as a person who has made an application for international protection.[322]

Despite this, NGOs report that in 2023 and 2024 challenges were faced by some applicants in being defined as such by IPA and, therefore, in securing access to reception conditions. Examples include applicants in the Dublin out-going procedure pending their departure from Malta, applicants filing a reinstatement application following a revocation or withdrawal of their international protection status in Malta or in another EU MS.

No reference is made to the duration of entitlement to reception conditions, the six-months' deadline being a policy implemented by AWAS yet seemingly not equated to a formal withdrawal or reduction in reception conditions.

321 JRS and aditus foundation, In Pursuit of Livelihood: An in-depth investigation of asylum-seekers' battle against poverty and social exclusion in Malta, December 2021, available at https://bit.ly/3INSF1W

322 Regulation 2 of the Reception Regulations, S.L. 420.06.

In terms of law, material reception conditions shall be available for applicants from the moment they make their application for international protection. According to the law, reception conditions are available for "*applicants [who] do not have sufficient means to have a standard of living adequate for their health and to enable their subsistence*".[323] Applicants with sufficient resources or who have been working for a reasonable amount of time may be required to contribute to the cost of material reception conditions. However, no specific indication is provided as to the level of personal resources required, and it is unclear how this is determined, and by whom. It is also unclear as to whether an assessment of the risk of destitution is actually carried out. Asylum applicants are not formally required to declare any resources, keeping in mind that the vast majority of applicants in Malta arrive irregularly by boat and do not have any resources.

Applicants arriving regularly, or who were already present in Malta, are entitled to reception conditions in the same manner as those coming irregularly by boat. They rarely request a space in an open centre but can always access this service in the event where they would not be able to maintain themselves in the community. Reception conditions are similarly available to Dublin returnees.

The Reception Regulations provide that asylum applicants who feel aggrieved by a decision relating to the Regulations may be granted leave to appeal before the Immigration Appeals Board, established by the Immigration Act.[324] In practice, issues are settled between NGOs and AWAS through informal requests.

Whilst the Reception Regulations apply to all asylum applicants, in practice, reception conditions may not be offered to asylum applicants who might have benefitted from them earlier and subsequently departed from the open centre system. This is generally the case for persons who have submitted subsequent applications. As a matter of policy, persons departing from the open centre system are not generally authorised to re-enter it, consequently leading to them being excluded from reception conditions. However, AWAS has indicated that some individuals may be authorised to return to reception centres through the Agency's intake system, although this is rarely the case. Usually, those persons are asked to come to AWAS' office to apply for accommodation. An assessment is then made by a social worker who first tries to refer the person to the mainstream services. No formal criteria exist to decide on why certain persons can be reintegrated in reception centres, but AWAS indicated that vulnerability is taken into account as a priority.[325] It is not clear whether persons receive formal decisions on their application for re-entry.

A limited number of NGOs also provide accommodation to applicants, together with beneficiaries of international protection and possibly other migrants. These NGO services are incorporated within the reception system and coordinated by AWAS.

2. Forms and levels of material reception conditions

Indicators: Forms and Levels of Material Reception Conditions	
1. Amount of the monthly financial allowance/vouchers granted to asylum applicants as of 31 December 2024 (in original currency and in €):	€ 130

The Reception Regulations cover the provision of "*material conditions*", defined as including "*housing, food and clothing, provided in kind, or as financial allowances or in vouchers, and a daily expenses allowance*".[326]

323 Regulation 11(4) of the Reception Regulations, S.L. 420.06.
324 Regulation 16 of the Reception Regulations, S.L. 420.06.
325 Information provided by AWAS, January 2019.
326 Article 2 of the Reception Regulations, S.L. 420.06.

In practice, asylum applicants in open centres are provided with accommodation and a daily food and transport allowance. Detained asylum applicants have all their personal possessions confiscated upon their detention – including money – and are provided with accommodation, food, and clothing in kind.

The Reception Regulations specify that the level of material reception conditions should ensure a standard of living adequate for the health of the asylum applicants, and capable of ensuring their subsistence. However, legislation neither requires a certain level of material reception conditions, nor does it set a minimum amount of financial allowance. Asylum applicants living in open centres are given a small food and transport allowance, free access to state health services and in cases of children under sixteen, free access to state education services. Asylum applicants in detention enjoy free state health services, within the practical limitations created by their presence within a detention centre. No educational activities are organised for detained children or adults.

Asylum applicants living in open centres experience difficulties in securing an adequate standard of living. The daily allowance provided is barely sufficient to provide for the most basic of needs, and the lack of access to social welfare support exacerbates these difficulties. Social security policy and legislation precludes asylum applicants from social welfare benefits, except those benefits which are defined as "*contributory*". With contributory benefits, entitlement is based on payment of a set number of contributions and on meeting the qualifying conditions, which effectively implies that only a limited number of asylum applicants would qualify for such benefits, if any.

AWAS provides different amounts of daily allowance, associated with the asylum applicant's status. As of December 31, 2024, the rates were following:

- € 4.66 for asylum applicants; € 130.48 per 28 days
- € 2.91 for persons returned under the Dublin III Regulation; and
- € 2.33 for children (including unaccompanied minors) until they turn 17.

According to AWAS, any applicant duly registered with the IPA and holding the ASD can apply to receive the financial allowance. This is granted following an assessment of the applicant's situation, taking into account vulnerability and financial income. As such, applicants who are employed full-time will generally not be granted the financial allowance. The *per diem* is generally tied to residence in an open centre, yet it is possible for applicants to request to receive the *per diem* if living in the community and NGOs confirmed that throughout 2023 and 2024 AWAS did in fact provide financial support to community-based applicants.

AWAS confirmed that, at the end of 2024, a total of 167 applicants were residing in the community and registered with AWAS receiving financial assistance. Together with these, AWAS was also providing financial support to the following community-based persons: one refugee, 15 beneficiaries of subsidiary protection, 7 THP beneficiaries, 12 rejected applicants and 12 Dublin closures.

However, since no information is provided to applicants about the possibility of receiving financial support whilst living in the community, and since NGOs have limited resources, many applicants were left outside of the reception system and did not benefit from allowances for lack of information or documentation.

According to AWAS, at the end of 2024:

Centre	Residents
Ħal Far Tent Village	114
Han gar Open Centre/Initial Reception Centre	17
Ħal Far Open Centre	55
Dar il-Liedna	22
TOTAL	**208**

3. Reduction or withdrawal of reception conditions

Indicators: Reduction or Withdrawal of Reception Conditions

1. Does the law provide for the possibility to reduce material reception conditions? ☒ Yes ☐ No
2. Does the legislation provide for the possibility to withdraw material reception conditions? ☒ Yes ☐ No

The Reception Regulations state that reception conditions may be withdrawn or reduced where the asylum applicants abandon their established place of residence without providing information or consent or where they do not comply with reporting duties, request to provide information, or to appear for personal interviews concerning the asylum procedure, and finally when an applicant has concealed financial resources and has therefore unduly benefited from material reception conditions.[327]

The Regulations state that such decisions shall be taken *"individually, objectively and impartially and reasons shall be given"* with due consideration to the principle of proportionality.

The decision to reduce or withdraw material receptions conditions is taken by AWAS or DS, if the applicant is detained.

According to AWAS, if a resident has not signed at the 'designated' open centre for 3 weeks, their place is reclaimed at the centre.[328] Cases of termination when failing to comply with rules are very rare and implemented in extreme cases. AWAS indicated that less than 5 persons were evicted in 2020 for such reason. For 2024, AWAS indicated that the Agency does not collect data relating to reduction or withdrawal decisions.

Asylum applicants may appeal these decisions before the Immigration Appeals Board, in accordance with the Receptions Regulations and the Immigration Act.[329] However, this remedy is considered to be inaccessible in practice due to the lack of information and the extremely stringent deadlines to file the appeal: 3 days.

According to AWAS, during 2023 the total number of decisions reducing or withdrawing reception conditions was solely attributed to the end of contracts. There were no instances where conditions were withdrawn or reduced other than this ground. For 2024, AWAS stated that this data is not collected.

Evictions and Homelessness

Single men are allowed to remain in the reception centres for no more than six months, while families benefit from a one-year contract. AWAS indicated that is it working closely with the communities to find alternative accommodation for applicants.

Residents receive a written reminder to leave, six weeks before the end of their contract. AWAS indicated that the list of people evicted is always reviewed by social workers and the psychosocial team.

People are entitled to challenge that eviction with AWAS, and the decision is internally reviewed by a care team and management, although no guidelines or documents on this procedure are publicly available. According to NGOs, AWAS might reconsider such decisions on a case-by-case basis depending on the vulnerability of the applicant.[330]

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327 Regulation 13 of the Reception Regulations, S.L. 420.06 .
328 Information provided by AWAS, January 2021.
329 Regulation 16(1) of the Reception Regulations, S.L. 420.06 , taken in conjunction with Article 25A(7) of the Immigration Act, Chapter 217 .
330 Information provided by Home Affairs Ministry in January 2024.

Families are requested to leave after a year and upon assessment and if needed they can receive financial assistance for the first three more months. According to the Ministry, their contract with AWAS could also be extended.[331]

Upon arrival, applicants are briefed about the reception rules and the length of their stay in the reception centre. They are also made to sign an Agreement with AWAS covering their stay.

Nevertheless, such evictions remain a major problem in Malta where accommodation is very hard to secure due to high prices in a largely unregulated private rental market, and due to the fact that landlords are usually extremely reluctant to rent accommodation to non-nationals, particularly from specific countries. Thus, these evictions often result in homelessness.[332] This continued in 2021, 2022, 2023 and 2024. However, there have been cases where AWAS have extended contracts of those who were identified as vulnerable in some way. This includes homelessness as a vulnerability.

According to official data published by the Social Affairs Ministry, homelessness further increased in 2023 with non-Maltese nationals particularly affected by the problem. The data shows that, in the first six months of 2023 the social welfare agency APPOĠĠ handled 667 cases of homelessness, of which 369 were non-Maltese nationals.[333] No data was available for 2024.

A 2023 report by the YMCA zoomed in on the several causes of homelessness amongst the migrant population.[334] According to the report, homelessness among migrants in Malta is primarily driven by bureaucratic barriers, misinformation, and systemic exclusion. Many migrants struggle to access services due to red tape, language barriers, and delays in asylum processing. The six-month limit in open centres often ends without sustainable employment or housing solutions, leaving individuals vulnerable. Exploitative working conditions, tied work permits, and inflated or discriminatory rental practices further exacerbate the risk. Migrants often lack legal status or the ability to change it, excluding them from rent subsidies and decent work, while racism and precarious living conditions heighten their marginalisation and instability.

Moreover, due to the delays in processing asylum applications, individuals are usually evicted while they are still considered applicants for international protection holding only a three-month renewable asylum-seeker document. This makes it difficult for them to find employment and accommodation, with the monthly €130.48 (covering 28 days) allowance not being sufficient to find a place to rent. The introduction of the new policy restricting access to the labour market for asylum applicants hailing from countries listed as safe has caused new difficulties for asylum applicants whose contracts in the open centres end but are not allowed to find regular employment before they have been in the country for 9 months.

In 2020, authorities constantly and publicly stated that Malta had no more capacity to welcome migrants. The Foreign Affairs Minister stated in May 2020 that "*centres are full and we have no place for more migrants*". However, it was pointed out by NGOs on several occasions that Malta failed to build the expected new centre mainly funded by the EU.[335] As of January 2025, the new centre has not yet been built and it remains unclear what has happened to the EU funds that had been allocated to this project.

As mentioned above, at the end of 2023 and 2024 the Agency was accommodating the following number of persons:

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331 Information provided by Home Affairs Ministry in January 2024.

332 Times of Malta, 'Migrants end up homeless as centres overflow', 2 July 2020, available at: https://bit.ly/3tDzPkS.

333 Newsbook, Social cases double between 2012 and 2022, 12 March 2024, available at: https://tinyurl.com/343sa8hm.

334 YMCA Malta Platform Against Homelessness, Home Inclusration, February 2023, available at: https://tinyurl.com/ptsu9fbp.

335 The Shift, 'Malta risks losing €5 million EU funds for "unbuilt" migrant centre, PM to detain migrants offshore', 4 September 2020, available at: https://bit.ly/3vOpIf4.

Centre	Capacity	2023	2024[336]
Dar il-Liedna	56	18	22
Ħal Far Open Centre	128	45	55
Hangar Open Centre	532	13	17
Ħal Far Tent Village	1232	114	114
Initial Reception Centre	251	21	CLOSED
TOTAL	**2,199**	**211**	**208**

Essentially, throughout 2023 and 2024 Malta's open centres were virtually empty with a residency of a mere 10% of available capacity. This was mainly due to the extremely low number of arrivals, as explained above, related to Malta's harsh policy on preventing access to the territory. Contrary to what would be expected in such a situation, 2023 did not see the Government increasing investment in community-based schemes or integration measures.

Both aditus and JRS indicated that, for 2023, they did not file appeals against withdrawal or reduction of reception conditions, due to lack of capacity and the decision to prioritise more pressing concerns.[337]

4. Freedom of movement

Indicators: Freedom of Movement

1. Is there a mechanism for the dispersal of applicants across the territory of the country? ☐ Yes ☒ No
2. Does the law provide for restrictions on freedom of movement? ☒ Yes ☐ No

Asylum applicants residing in open centres enjoy freedom of movement around the island(s). All persons living in an open centre are required to regularly confirm residence through signing in three times per week. These signing procedures also confirm eligibility for the *per diem* (see Forms and Levels of Material Reception Conditions) and to ensure the continued right to reside in the centre. Residents who are employed, and who, therefore, might be unable to sign three times a week, are not given the *per diem* for as long as they fail to sign.

The only restriction on freedom of movement envisaged in the law relate to public health risks, whereby the Superintendent for Public Health may issue an order restricting the free movement of any person. Since 2019, this was the basis for Malta's health-based detention, a practice denounced by the ECtHR in *A.D. v. Malta*. As mentioned in the detention sections, throughout 2024 this detention period continued to be reduced. Nonetheless, newly-arrived asylum-seekers who are found to carry infectious diseases are issues with such an order for the duration of the necessary medical tests and medication.

Malta does not operate any dispersal scheme, since residence in open centres remains voluntary. Nonetheless, placement in a particular open centre generally implies a limited possibility to change centre, although such decisions could be taken on a case-by-case basis. Moreover, legislation foresees that transfers of applicants from one accommodation facility to another shall take place only when necessary, and applicants shall be provided with the possibility of informing their legal advisers of the transfer and of their new address.[338] Beyond individual situations, movement between centres is sometimes affected by space considerations. Asylum applicants might be moved from one centre to another in order to maintain security and order within particular centres.

Asylum applicants arriving irregularly by boat are automatically *de facto* detained under health grounds, until medically cleared by health authorities. In terms of the law, the Government considers this situation

336 Five refugees, 139 applicants, 21 beneficiaries of subsidiary protection, 21 THP beneficiaries, 37 rejected applicants.
337 Information provided by JRS Malta in June 2024.
338 Regulation 13 of the Reception Regulations, S.L. 420.06.

not to amount to detention but to a restriction on the freedom of movement necessary to safeguard public health (See Detention).

B. Housing

1. Types of accommodation

Indicators: Types of Accommodation

1.	Number of reception centres:[339]	7
2.	Total number of places in the reception centres:	around 2,199
3.	Total number of places in private accommodation:	around 200

4. Type of accommodation most frequently used in a regular procedure:
☒ Reception centre ☐ Hotel or hostel ☐ Emergency shelter ☐ Private housing ☐ Other

5. Type of accommodation most frequently used in an accelerated procedure:
☒ Reception centre ☐ Hotel or hostel ☐ Emergency shelter ☐ Private housing ☐ Other

There are 6 reception centres in Malta (down from eight in 2017). Of these, 5 are run by AWAS and the other by an NGO. This latter centre falls within AWAS' overall reception system.

- Ħal Far Tent Village: UMAS between the ages of 16 years to 18 years and single male adults
- Hangar Open Centre: families and single female adults
- Ħal Far Open Centre: families
- Dar il-Liedna: UMAS under 16 years old
- Ħal Far Initial Reception Centre (China House): everyone, at arrival
- Balzan Open Centre (NGO-run): families and single women

AWAS confirmed that, at the end of 2023, the total number of residents by legal status was the following:

- Asylum applicants: 358
- Rejected asylum applicants: 11
- Refugees: 4
- Asylum applicants at appellate stage: 35
- Beneficiaries of Subsidiary Protection: 9
- Beneficiaries of Temporary Humanitarian Protection: 11

Notably no beneficiaries of Temporary Protection were residing in the open centres during this period.

Additionally, the number of residents breakdown by gender was:

- Male: 197
- Female: 88
- Male minor: 83
- Female minor: 60

According to an AWAS statement, no data is available regarding the total number of places for applicants for international protection in private accommodation at the end of 2023. Nevertheless, there was data referring to applicants for international protection residing in private accommodation. More specifically, the number of applicants residing in the community who register for financial assistance at the AWAS Head Office was 214.

339 Both permanent and for first arrivals.

Ħal Far Tent Village (HTV), the largest reception centre, is divided into various sections, with the larger part dedicated to adult men and the smaller separate sections reserved for single women (when accommodated there) and UAMs. The latter section is not accessible to adults who are not authorised to enter and includes a zone for UMAS confirmed as minors and another called 'Buffer zone' for those that are in the AAT procedure.

The Centre retains its original name when it was, in fact, a series of rows of military tents. It is now a series of rows of metal containers on elevated platforms, generally unbearably hot in the summer months and extremely cold in winter due to Malta's high humidity levels. Residents lack any form of privacy as they often share containers and have little or no space to store their belongings. A reception area is used to provide information to new residents, but the Centre has little else in terms of activities or services. Ħal Far Tent Village is clearly intended to be temporary living space. Since residents arrive there after weeks or months of detention and they are usually only permitted a stay of six months, the imposition of such a temporary accommodation structure and system is almost inhumane. It expects residents to overcome any personal issues they might have and set on the path of self-reliance in far too short a period. In most cases, applicants would not yet have received a decision on their procedure, further underlining their precarity and mental state of anxiety.

According to the Home Affairs Ministry, different activities are organised by the Migrants Advice Unit and Activity Team (AWAS) including football sessions, information sessions about various topics and English classes.[340]

Ħal Far Open Centre has two sections, one for families and the other for single women without children and for families. These two sections of the centres are separated, and men cannot enter the section for women and families. This Centre is able to provide better living conditions than HTV, mainly because it is an actual physical structure and because AWAS' presence there is more significant. Families enjoy privacy and the space is generally safe.

Ħal Far is Malta's largest industrial estate close to Malta's airport. It is cut off from other towns and has no amenities since it is, in fact, not a town but an industrial zone. There are no residential areas and public transport connections are extremely sporadic. The closest town, so therefore the closest grocery stores, bars, cafes and other basic and social amenities is around a half hour's walk from the Ħal Far.

Unaccompanied children are generally accommodated alone in the designated part of HTV or at **Dar il-Liedna**. Regulation 15 of the Reception Regulations specifies that unaccompanied children aged 16 years or over may be accommodated with adult asylum applicants, and, in practice, this has been the case for UAMs living in **Ħal Far**. According to the Government, in 2023 no minors were accommodated in HTV.[341] Liedna is an apartment block in a central town in Malta (Fgura). Living conditions are comfortable, with various bedrooms and activity rooms for the children. The place is safe and is staffed 24/7. Since Liedna is located in a central town, residents are more well-connected with the public transport system and are able to have a more active social life. JRS reported that in 2023 and 2024 the organisation collaborated on several activities within Dar il-Liedna, including language classes, access to education and information provision.[342]

AWAS indicated that vulnerable applicants and UAMs are usually accommodated near the Administration Block of each centre in order for them to have an easier access to the staff and services offered.

Apart from the above considerations (age, family composition), there are no clear allocation criteria on the basis of which persons are accommodated in specific centres.

340 Information provided by Home Affairs Ministry in January 2024.
341 Information provided by Home Affairs Ministry in January 2024.
342 Information provided by JRS Malta in June 2024.

2. Conditions in reception facilities

Indicators: Conditions in Reception Facilities

1. Are there instances of asylum applicants not having access to reception accommodation because of a shortage of places? ☐ Yes ☒ No
2. What is the average length of stay of asylum applicants in the reception centres? Maximum 6 months, the time of actual stay varies on a case-by-case basis.
3. Are unaccompanied children ever accommodated with adults in practice? ☐ Yes ☒ No[343]
4. Are single women and men accommodated separately? ☒ Yes ☐ No

Conditions in the open centres vary greatly from one centre to another. In general, the centres provide sleeping quarters either in the form of rooms housing from four (the centres for unaccompanied children) to 24 people (**Initial Reception Centre**), or mobile metal containers sleeping up to eight persons per container (**Ħal-Far Hangar Open Centre** [HOC], and **Ħal Far Tent Village** [HTV]). Small common cooking areas are provided in the family centre, the IRC and DIL. Otherwise, ready-made meals are provided three times a day to all residents and attempts are made to observe dietary requirements.

According to the authorities, AWAS significantly increased its capacity by putting in place two coordinators in each centre, one being in charge of the welfare of residents. The Ministry further confirmed that the number of coordinators per centre varies according to the number of residents and vulnerable individuals.[344] In the first quarter of 2021, four Welfare officers were recruited to follow the health care of vulnerable clients in tandem with Social Workers. These Welfare Officers operate in Centre Hotspots. Medical Doctors contracted by AWAS, started operating in the 1st quarter of 2021 and provide their services in the IRC, and the main Open Centres. AWAS also established a Migrant Advice Unit in order to provide information to residents. EUAA indicated to be supporting this initiative by providing information material and interpreters.[345] AWAS indicated that there is now an info point available in each centre (with interpreters) for people to go either by appointment or drop-in. AWAS reported that a total of 2,947 information sessions were delivered by Migrants Advice Unit in 2021. Actors in the field confirmed that each centre disposes of an information point, with a welfare officer and interpreters regularly present. Furthermore, NGOs also reported having regular discussions with the Units in order to share updates and referrals.

Despite this increased presence, most residents still report lack of sufficient information and access to services. They are accommodated in the centres after months spent in detention and are usually in need of assistance and specialised guidance.

According to NGOs regularly visiting the centres, the living conditions in the reception centres remained very difficult. Sanitary facilities are often run down and quickly become unsanitary. Cabins are very cold in winter and very hot in the summer. Residents are not allowed to have fridges in their cabin or cook their own food (except in HOC), which often leads to intense frustration. Food is provided daily, but residents often mention its poor quality and lack of variety.[346] In 2021, conditions improved slightly with the reintroduction of cooking facilities in HOC, and the opening of the classroom in the minors' section of HTV. However, cabins remain poorly insulated and sanitary facilities have not increased. Aside from a new learning centre established by the NGO MOAS, NGOs reported no major changes to this situation in 2024.

343 This reply refers to accommodation in open reception centres, as unaccompanied children are detained with adults for a period of time. As mentioned above, children between 16 and 18 years of age are accommodated in an enclosure within Ħal Far Tent Village.
344 Information provided by Home Affairs Ministry in January 2024.
345 Information provided by EUAA, September 2021.
346 Information provided by JRS Malta 2021.

The majority of centres offer limited options for activities for residents, and it is largely NGOs providing certain activities, such as free language classes in English or Maltese. AWAS indicated that the Agency offers social, psychosocial, and mental health support upon request. The Agency also indicated working with JobsPlus to offer basic English or Maltese courses in view of employment.

In January 2021, the CoE Commissioner for Human Rights published the report following her visit in October 2021. The report stated, when describing both the HTV and HOC, that "accommodation was provided in containers which appeared overcrowded and lacked air conditioning and heating. While the premises were clean, there was a lack of adequate hygiene conditions for residents, including as regards access to water and sanitation. Work was under way in the "Hangar", however, to install additional showers and toilets. While playrooms had been set up for young children in the "Hangar" centre, the outside environment was stark, with no vegetation or furnishings in place for children's open-air activities."

The Commissioner added that in the Hal Far Tent Village most of the unaccompanied minors she talked to stated that they were not attending school and were not involved in other meaningful activities. While the minors confirmed that they were being assisted by the social services, they had difficulties in understanding their situation at the time and their future prospects. Furthermore, contrary to the authorities' obligations under Maltese legislation regarding protection of the rights of the child, no guardians had yet been appointed for these minors.[347] Throughout 2023, the latter situation regarding guardians saw dramatic improvement thanks to speedier judicial and administrative procedures.

Despite a series of measures in place, such as vulnerability headcounts, regular check-ins and accommodating vulnerable persons close to AWAS offices in the centres, physical security is a challenge. LGBTIQ+ applicants and persons presenting other vulnerabilities faced challenges in securing safe and specialised accommodation. NGOs report that, despite AWAS' interventions, structural limitations led to vulnerable persons being exposed to situations of violence, harassment and lack of targeted attention. This is exacerbated by the fact that most specialised shelters would either not have sufficient space or would rely on AWAS being the mainstream service-provider for anyone in the asylum system.

C. Employment and education

1. Access to the labour market

Indicators: Access to the Labour Market	
1. Does the law allow for access to the labour market for asylum applicants?	☒ Yes ☐ No
❖ If yes, when do asylum applicants have access the labour market?	Variable
2. Does the law allow access to employment only following a labour market test?	☐ Yes ☒ No
3. Does the law only allow asylum applicants to work in specific sectors?	☐ Yes ☒ No
❖ If yes, specify which sectors:	
4. Does the law limit asylum applicants' employment to a maximum working time?	☐ Yes ☒ No
5. Are there restrictions to accessing employment in practice?	☒ Yes ☐ No

Asylum applicants are entitled to access the labour market, with the main limitation being positions with the public service and jobs requiring a Maltese driving licence, as they are barred from applying for one. In terms of the Reception Regulations, this access should be granted no later than nine months following

[347] Commissioner's report following her visit to Malta from 11 to 16 October 2021, available at: https://bit.ly/3InhWhS.

the lodging of the asylum application. In practice, asylum applicants are authorised to work immediately unless they originate from a country listed as safe.

At the beginning of 2025, the Home Affairs Ministry confirmed the revocation of the previous policy/practice of barring from the labour market applicants whose subsequent applications had been deemed inadmissible.

Jobsplus is the Agency in charge of delivering 'employment licences for asylum applicants, the duration of which varies from three months for asylum applicants whose applications are initially rejected, up to six months for those whose applications are still pending. Fees are payable for new licences (€ 58) and for every renewal (€ 34) and cover the issuance for one year (meaning renewals within that timeframe do not incur extra cost). Application forms are available online.[348]

In May 2021, the Maltese Ministry of Home Affairs introduced a new policy that impedes access to the labour market for asylum applicants from countries included in the list of safe countries of origin for nine months from the lodging of their application. On 5 June 2021, 28 human rights organisations endorsed a statement issued by the Malta Refugee Council, expressing their concern about this new policy. The statement described the new policy as *"discriminatory and inhumane"*, claiming that it is aimed at denying people the possibility to work and earn a living.[349] NGOs outlined that asylum applicants from countries deemed safe are now deprived of the income necessary to secure a minimum level of human dignity and self-reliance. The NGOs deplored that the absence of any meaningful State support will leave these asylum applicants no other options than resorting to extreme labour exploitation or dependence on the material support provided by non-State entities such as NGOs, friends/social networks, and the Church. It also makes them infinitely more vulnerable to involvement in criminal or other irregular activity. The policy was not withdrawn or amended in 2024.

The 2021 policy also introduced a new system whereby Jobsplus is obliged to request clearance from the Immigration Police for each employment licence issued. This led to an increase of rejections due to 'security issues', without provision of further information. NGOs reported difficulties obtaining access to the applicants' files to obtain the reason of the rejection from Jobsplus or the Police. People that had been issued several employment licences in the past saw their applications refused from one day to the other without any reason. Asylum applicants are not informed of their right to appeal the decision before the Immigration Appeals Board.

In practice, employers are deterred from applying for the permits because of their short-term nature and the administrative burden associated with the application, particularly in comparison to the employment of other migrants.[350]

Asylum applicants, even if not detained, face a number of difficulties, namely: language obstacles, limited or no academic or professional background, intense competition with refugees and other migrants, and limited or seasonal employment opportunities. Issues highlighted include low wages, unpaid wages, long working hours, irregular work, unsafe working conditions, and employment in the shadow economy.[351] Furthermore, applicants are not permitted to obtain a driving licence.

A number of vocational training courses are available to asylum applicants, some also targeting this specific population group. In recent years JobsPlus and throughout 2024, the national employment agency, implemented several AMIF projects (now closed as of 2025, applicants remain eligible to the general trainings if they meet the conditions) targeting asylum applicants and protection beneficiaries and

348 Jobsplus, https://tinyurl.com/6jtp73rr.
349 Malta Refugee Council, A New Policy to Drive People Into Poverty and Marginalisation, 11 June 2021, available at: https://bit.ly/3KkYC6y.
350 European Commission, Challenges in the Labour Market Integration of Asylum-seekers and Refugees, EEPO Ad Hoc Request, May 2016, available at: http://bit.ly/2kX5NsN.
351 Ibid.

focusing on language training and job placement.[352] Organisations such as JRS Malta, Blue Door Education, Ħal Far Outreach, Migrant Women Association (Malta) offer support with CV Writing and Job Search support.[353] The Migrant Advice Unit (MAU) at AWAS assists residents with updating a CV and looking for work and JRS also offers this service.

A report published in December 2021 by JRS and aditus foundation, entitled 'In Pursuit of Livelihood: An in-depth investigation of asylum-seekers' battle against poverty and social exclusion in Malta', investigated the phenomenon of poverty among asylum applicants in an in-depth manner, with a focus on exploring the causes and maintaining factors of asylum applicants' livelihood difficulties. The report draws on data collected by interviewing the head of household on income and health indicators, deprivation and dwelling conditions from 116 households.[354]

In relation to employment, the report comments on the challenges faced by migrants in securing regular and stable employment. The research participants underlined the jobs available to them being generally low-skilled jobs in the construction or services industries, were often unsafe, strenuous, and seasonal. They also flagged how these sectors tend to treat employees as disposable workers rather than part of a regular workforce. For asylum applicants, the system granting employment licences in employers' names limited employment opportunities to those employers willing to undergo the documentation procedure, and in all cases created situations dependency that often gave rise to risks of exploitation and abuse.

The report further highlights how, due to these structural issues, most migrants preferred seeking irregular employment as it secured quick payment and side-stepped administrative obstacles relating to status and documentation.

2. Access to education

Indicators: Access to Education		
1.	Does the law provide for access to education for asylum-seeking children?	☒ Yes ☐ No
2.	Are children able to access education in practice?	☒ Yes ☐ No

Article 13(2) of the International Protection Act states that asylum applicants shall have access to state-funded education and training. This general statement is complemented by the Reception Regulations, wherein asylum-seeking children are entitled to access the education system in the same manner as Maltese nationals, and this may only be postponed for up to three months from the date of submission of the asylum application. This three-month period may be extended to one year *"where specific education is provided in order to facilitate access to the education system"*.[355] Primary and secondary education is offered to asylum applicants up to the age of 15-16, as this is also the cut-off date for Maltese students. Access to state schools is free of charge. These rules apply to primary and secondary education.

352 European Website on Integration, Malta – Project update meeting: Employment Services for Migrants, available at: https://tinyurl.com/y4fku3vb.

353 See Ħal Far Outreach, available at: https://bit.ly/3cadCFp.

354 JRS and aditus foundation, In Pursuit of Livelihood: An in-depth investigation of asylum-seekers' battle against poverty and social exclusion in Malta, December 2021, available at https://bit.ly/3ZCiicS. The report concluded that, "The combined impact of a steep rise in cost of living, including an exponential surge in rent prices, on one hand, and stagnant wages on another, emerged clearly as one of the main factors. Another significant factor appears to be the reality that most asylum-seekers, due to a mix of poor English or Maltese, basic levels of education, racial discrimination and low transferability of job-related skills and competencies, are restricted to a very limited section of the employment market. At best, participants could aim for jobs slightly above the minimum wage, with no or little chances of progression. In this regard, in Malta's current economic climate, the best they can aim for may still not be enough to lift them out of poverty, especially if they need to support a family. Furthermore, limited access to financial services appears to act as another barrier towards financial stability for this population."

355 Regulation 9(2) of the Reception Regulations, S.L. 420.06 .

The Ministry for Education and Employment established a Migrant Learners' Unit which seeks to promote the inclusion of newly arrived learners into the education system. They provide guidance and information about the Maltese educational system to assist migrants. In 2024, around 1,420 international protection beneficiaries accessed the Migrant Learners' Unit.[356] (see Content of international protection - Access to education).

In practice, children present with their families do attend school. Children with particular needs are treated in the same manner as Maltese children with particular needs, whereby a Learning Support Educator (LSE) may be appointed to provide individual attention to the child. Yet it is noted that in the situation of migrant or refugee children, language issues are not appropriately provided for, with possible implications on the child's long-term development.

Access to education for unaccompanied children is a longstanding issue, mainly due to the children's preferences to work, difficulties settling within the national educational system and, in a worrying number of cases, their eventual disappearance.

Adults and young asylum applicants are eligible to apply to be exempted from fees at state educational institutions - including the University of Malta - vocational training courses, language lessons, and other adult education classes. Vocational training courses offered by JobsPlus, the State-run job placement service, are also accessible to asylum applicants. Furthermore, applicants and protection beneficiaries may also access courses provided within the Lifelong Learning Programme, some of which are free, others against minimum payment. NGOs confirm that these courses are particularly popular amongst refugee and migrant communities since the fees are generally extremely low, courses are held during the evenings, the list of topics is extremely varied, and they are usually accessible for persons with all educational backgrounds.[357]

NGOs observed that, in recent years, beneficiaries of protection are increasingly making use of these educational services, primarily since information on their availability is becoming available to the various communities through NGO activities and increased openness by the relevant governmental authorities.

2024 saw around 1,700 international protection beneficiaries (including family members thereof) enrolled in public education for the academic year 2023-2024: 855 in Kindergarten; 575 in Primary Schools; 132 in Middle Schools and 87 in Secondary Schools[358] (see Content of international protection - Access to education).

Several NGOs also offer free language classes in English or Maltese, but this service is not provided within reception centres.

Moreover, the Government introduced, in 2018, the 'I belong" Programme', an initiative run by the Integration Unit. The initiative consists of English and Maltese language courses and basic cultural and societal orientation as part of an integration process, generally targeting applicants of long-term residence but open to anyone. It is open to all persons of migrant background, meaning asylum applicants are able to benefit from it. The courses continue to run as of January 2025.

Furthermore, in 2019 (revised in 2022) the Ministry for Education, Sport, Youth, Research and Innovation adopted 'A Policy on Inclusive Education in Schools: Route to Quality Inclusion'[359]. The report specifically mentions asylum applicants in its section on 'Multiculturalism and Language Diversity', with focus placed on the need for educators to be adequately trained on inclusive education in order to deal with increasingly diverse classrooms.

356 Information provided by the Ministry for Education, Sport, Youth, Research and Innovation.
357 Lifelong Learning, at: https://tinyurl.com/2s4dccxf.
358 Information provided by the Ministry for Education, Sport, Youth, Research and Innovation.
359 Ministry for Education, Sport, Youth, Research and Innovation, A Policy on Inclusive Education in Schools: Route to Quality Inclusion, 2019, available at: https://tinyurl.com/yj5jea2r.

In recent years, NGOs noticed an increase in the number of children not granted free access to State education, as a result of a stricter approach by the relevant authorities towards this entitlement. The majority of cases seen involved children granted protection in other EU MS, in Malta as part of attempts to reunite with family or community members.

Where such children are not formally entitled to free State education, they are required to pay the relevant fees which are, as of January 2025, a total of € 465.88 for Primary School, € 559.05 for Secondary School and € 652.22 for High Secondary School.

D. Health care

Indicators: Health Care

1. Is access to emergency healthcare for asylum applicants guaranteed in national legislation? ☒ Yes ☐ No
2. Do asylum applicants have adequate access to health care in practice? ☐ Yes ☒ Limited ☐ No
3. Is specialised treatment for victims of torture or traumatised asylum applicants available in practice? ☐ Yes ☐ Limited ☒ No
4. If material conditions are reduced or withdrawn, are asylum applicants still given access to health care? ☒ Yes ☐ Limited ☐ No

Article 13(2) of the International Protection Act states that asylum applicants shall have access to state medical care, with little additional information provided. The Reception Regulations further stipulate that the material reception conditions should ensure the health of all asylum applicants, yet no specification is provided as to the level of health care that should be guaranteed. The Regulations specify that applicants shall be provided with emergency health care and essential treatment of illness and serious mental disorders.[360]

Asylum applicants outside of detention centres may access the state health services, with the main obstacles being linked to language difficulties.

Limited specialised services exist in Malta for victims of torture or trauma, primarily owing to the lack of such capacity on the island.

Decisions to reduce or withdraw material reception conditions would not affect access to health care.

The situation of access to health care by detained applicants is tackled below under the Detention section.

E. Special reception needs of vulnerable groups

Indicators: Special Reception Needs

1. Is there an assessment of special reception needs of vulnerable persons in practice? ☒ Yes ☐ No

National legislation transposes the recast Reception Conditions Directive regarding the definition of applicants with special needs and provides that "an evaluation by the entity responsible for the welfare of asylum applicants, carried out in conjunction with other authorities as necessary shall be conducted as soon as practicably possible".[361]

360 Regulation 11(2) of the Reception Regulations, S.L. 420.06.
361 Regulation 14 of the Reception Regulations, S.L. 420.06.

The amendments of December 2021 (Legal Notice 487 of 2021) introduced new provisions for vulnerable applicants to the Reception Regulations, which now transposes the Directive more faithfully. The amendments include a more comprehensive implementation of provisions related to the material reception conditions of vulnerable individuals and the guardianship and care of minors.

In particular, the Reception Regulations now provide that "the entity for the welfare of asylum-seekers shall also ensure that support is being provided to applicants with special reception needs, taking into account their special reception needs throughout the duration of the asylum procedure, whilst conducting appropriate monitoring of their situation" and that "an unaccompanied minor shall be accommodated in centres specialised in accommodation for minors".[362]

The Regulations, however, still provide that unaccompanied minors aged sixteen years or over may be placed in accommodation centres for adult asylum applicants.

Specific measures provided by law for vulnerable persons are as follows: the maintenance of family unity where possible;[363] and particular, yet undefined, attention to ensure that material reception conditions are such to ensure an adequate standard of living.[364]

AWAS is responsible for implementing government policy regarding persons with special reception needs and is in charge of these assessments that are now mainly conducted in detention. Despite positive improvements in the last 3 years including in 2024, NGOs report ongoing difficulties for vulnerable people to receive appropriate care and support. The increasing reliance on detention as the primary reception model and it's further entrenchment through the establishment of support services within the centres, has often led to persons identified as vulnerable being left in detention since it was deemed – by AWAS and/or the Immigration authorities – appropriate for them to receive support in the detention centres (see Identification).

By way of example, in 2025 the ECtHR communicated to Malta an application submitted in 2024 regarding a vulnerable person held in detention, despite several official reports confirming their vulnerability. In their application, the applicant, an LGBTIQ+ person, laments treatment in Malta's detention centre including incidents of bullying and harassment, as also the ineffectiveness of the system in place to verify legality of detention.[365] The application indicates that, in 2024, practice shifted towards one where AWAS is no longer the sole entity responsible for vulnerability assessments for the PIO's determination of the detention or otherwise of an applicant. With increased resources provided to the Detention Services to enhance its health services, the PIO increasingly relies on information and reports from these health services in its detention decision-making procedures.

As mentioned above, all applicants reaching Malta by sea are detained under public health grounds, including children (accompanied or unaccompanied) and other vulnerable persons. Persons who are visibly vulnerable and deemed as such by AWAS were generally not kept in detention following this initial period, but applicants with invisible or latent vulnerabilities continued to be detained under Detention Orders (See Detention of vulnerable applicants).

Following the phaseout of EUAA's operations in Malta, vulnerability assessments are entirely conducted by AWAS, albeit along a methodology jointly developed by AWAS and EUAA.

The psychologists working in the therapeutic unit at AWAS provide psychosocial support to applicants following a referral from the Assessment Team. The support provided includes regular sessions and referral to psychiatric care if required. The psychologist will draft a report which can be requested by the applicant's lawyer. However, delays in receiving the report oftentimes precludes lawyers from raising the

362 Regulation 14 (b) of the Reception Regulations, S.L. 420.06.
363 Regulation 7 of the Reception Regulations, S.L. 420.06.
364 Regulation 11(2) of the Reception Regulations, S.L. 420.06.
365 M.S. v. Malta, 30737/24, communicated on 19 March 2025, available at: https://tinyurl.com/mrx26tda.

vulnerability of their client before the competent authorities and appeal bodies (see Identification). Lawyers noted that, throughout 2023, they faced considerable challenges obtaining access to the clients' files. They also noted inconsistencies in the reports and their conclusions.

Aside from the regular open reception facilities, there are no other facilities equipped to accommodate applicants with other special reception needs. All other vulnerable individuals are treated on a case-by-case basis by AWAS social workers, with a view to providing the required care and support.

For 2024 AWAS confirmed that women with special reception needs and LGBTIQ+ applicants are housed at the Ħal Far Open Centre, while men with such needs are accommodated at designated areas at ĦTV.

In 2024 AWAS' remit became limited to asylum-seekers, meaning rejected asylum-seekers are unable to access their services, including vulnerability assessments. For detained persons, this means that their well-being is entirely dependent on the Detention Services.

F. Information for asylum applicants and access to reception centres

1. Provision of information on reception

The Reception Regulations require that within 15 days from lodging the asylum application, the Principal Immigration Officer ensures that all applicants are informed of reception benefits and obligations, and of groups and individuals providing legal and other forms of assistance.[366]

There are no structured information sessions on asylum within the reception centres. AWAS provides information about the reception conditions, such as rules of the centre, *per diem*, etc. Information is also contained in the agreement signed between applicants and AWAS on the day of their entry into the reception system.

Information is given to residents entering the centres about their rights and rules of the centres. AWAS also established an information point at the end of 2020, either by appointment or drop in. The Migrant's Advice Unit (MAU) has an office in each centre and AWAS staff is present on site on a daily basis. As highlighted by the Ministry for Home Affairs, Security, Reforms and Equality. "Additionally, the MAU established a private Facebook group in 2022, which currently comprises of 51 members. The MAU actively manages the group, uploading new content three times a week on various topics. This Facebook group serves as an additional means for the Migrant Advice Unit to communicate with beneficiaries, fostering a dynamic and interactive channel for information dissemination."[367]

The MAU is staffed with welfare officers who provide information on employment, housing, education and health. The Unit reportedly gives group sessions on services and activities to assist with integration into the community. Each open centre has a member of the team operating as a focal point for referrals to other stakeholders.

NGOs welcomed this improvement and cooperate with the MAU on a regular basis in relation to info-sharing as well as referrals.

366 Regulation 4 of the Reception Regulations, S.L. 420.06.
367 Ministry for Home Affairs, Security, Reforms and Equality, Feedback on the 2022 AIDA Country Report on Malta, shared with ECRE in January 2024.

2. Access to reception centres by third parties

Indicators: Access to Reception Centres

1. Do family members, legal advisers, UNHCR and/or NGOs have access to reception centres?
   ☐ Yes ☒ With limitations ☐ No

Access to the IRC is regulated by AWAS. Family members are not granted access and only a limited number of NGOs and the UNHCR are granted access. JRS reported that in 2024 the organisation did not experience any issues regarding access to reception centres.

Access to open centres is also regulated by AWAS and permission is required. Criteria to be granted access to the centres are unclear. Permission is not easily granted to non-service-related visits, as is the case for academics, friends, research students, reporters, etc.

G. Differential treatment of specific nationalities in reception

NGOs have not observed any form of preference given to particular nationalities. In practice, however, the new work policy introduced in May 2021, whereby asylum applicants coming from listed safe countries of origin can only access work 9 months after they apply for asylum, coupled with the eviction policy of AWAS at 6 months seriously puts these asylum applicants at risk of destitution and poverty (see Access to labour market).

Detention of Asylum Seekers

A. General

Indicators: General Information on Detention		
1.	Total number of asylum-seekers detained in 2024:	262[368]
2.	Number of asylum-seekers in detention at the end of 2024:	144[369]
3.	Number of detention centres:	10 in law, 4 in use
4.	Total capacity of detention centres:	Not available

Official data regarding the number of detained applicants throughout 2024 is elusive, due to the lack of available disaggregated data and to the instances in which measures that can be considered as amounting to detention are implemented without being registered as cases of detention by the authorities.

Detention of asylum applicants is regulated by national law and currently includes *de facto* detention under health grounds in terms of the Prevention of Disease Ordinance[370] and detention under the Reception Regulations.[371]

In 2018, Malta reintroduced automatic and mandatory detention, relying on public health legislation that does not, in fact, offer public authorities a legal basis to detain migrants or asylum seekers.

Throughout 2022 and 2023, all applicants arriving by sea were held for at least two weeks in the Ħal Far Initial Reception Centre (HIRC), the so-called 'China House', on the basis of the above-mentioned Prevention of Disease Ordinance for several weeks, pending a medical clearance by the Public Health authorities. Persons identified upon disembarkation by AWAS as being vulnerable were detained at the Marsa Initial Reception Centre.
This period was reduced throughout 2024, as a consequence of the *A.D. v. Malta* ECtHR judgement where the Court confirmed the illegality of detaining any person on the basis of an order from the Superintendent for Public Health.

Once applicants are "*medically cleared*", the Public Health authorities inform the Principal Immigration Officer (PIO) who carries out an assessment as to whether grounds exist to detain under the Reception Regulations.[372] Following the *A.D. v. Malta* judgement, the PIO introduced a new policy of mandatory detention for a minimum of around two months for all persons, exempting those flagged as vulnerable by AWAS at the point of disembarkation. This 2-month detention applies to all persons. At the end of the 2-month period, the PIO undertakes another assessment to determine whether to release or continue detaining applicants. Generally, applicants having *prima facie* protection claims (e.g. Syrians during 2024) would be released, whereas other applicants would be kept in detention on the basis of the same Detention Order.

As explained below, in recent years the health service within Safi Barracks has seen considerable improvement with the installation of primary healthcare service providers offering general and specialised medical services. Whilst NGOs welcomed this significant improvement, they nonetheless lamented the fact of their inability to provide independent services to detained clients. They underlined that, in view of the fact that detention-related decisions were often being made on the basis of reports and assessments compiled by State entities, the need for independent reports was key to ensuring the effective exercise of

368 This figure is provided by the PIO and therefore does not include the persons detained upon arrival for public health grounds and subsequently released.
369 According to the PIO, most of these people were not asylum applicants.
370 Prevention of Disease Ordinance, Chapter 36, 10 August 1908.
371 Reception Regulations, S.L. 420.06.
372 Regulation 6(1) of the Reception Regulations, S.L. 420.06.

the right to liberty. Furthermore, they also expressed disagreement with the State's approach that, if a service is being provided by a State entity, NGO services would not be permitted.

Despite some efforts to refurbish some blocks of Safi Detention Centre, detention conditions still have a carceral setting offering substandard living arrangements. Access to legal assistance remains a long-standing issue, with no proper means of communication and restricted access to lawyers, NGOs and UNHCR. Interferences from the Ministry or the PIO are reported to be frequent and private and privileged information is reported to be freely shared between governmental entities.

Throughout 2023 and 2024, access to the centres and to detained applicants remained the most pressing concern for NGO, together with living conditions and treatment of vulnerable persons.

In March 2021, the CPT published a report following its visit to Malta in September 2020.[373] The report highlighted the serious failures of the Maltese detention system in 2020, stressing that migrants were deprived of their liberty without any legal basis for arbitrarily long periods in conditions, which appeared *"to be bordering on inhuman and degrading treatment as a consequence of the institutional neglect"*. The CPT considered that *"certain of the living conditions, regimes, lack of due process safeguards, treatment of vulnerable groups and some specific COVID-19 measures undertaken are so problematic that they may well amount to inhuman and degrading treatment contrary to Article 3 of the European Convention on Human Rights"*.

During her visit to Malta in October 2021, Council of Europe Commissioner for Human Rights noted that, "*although the number of those detained, including children, was significantly reduced recently, the Commissioner observed that uncertainties remain about the legal grounds and the safeguards related to some detention measures*". She called on the authorities "*to focus on investing in alternatives to detention and to ensure that no children or vulnerable persons are detained*". The Commissioner also stressed the need to ensure independent monitoring of places of detention as well as unhindered access for NGOs to provide support and assistance to those detained.[374]

The CoE Commissioner for Human Rights noted that some efforts were made to improve living conditions in the centres, however she was struck by the deplorable situation in Block A in the Safi Detention Centre and urged the authorities to take immediate action to ensure dignified conditions for all those currently held there.[375] This was again underlined in her report published in January 2022.[376]

Access to effective remedies to challenge detention is reported to be limited and, at times, inexistent due serious concerns by legal practitioners and NGOs over independence and impartiality of the Immigration Appeals Board (IAB). In *J.B. and Others v. Malta*, the ECtHR issued interim measures to Malta regarding the IAB's operations, underlining that it does not fulfil Convention criteria to review detention legality:

> The Court notes that it has found that the applicants did not have an effective remedy for the purposes of Article 5 § 4, considering, inter alia, that in the absence of any safeguards the applicants had legitimate doubts as to the independence of the IAB. Bearing in mind that both independence and impartiality are important constituent elements of the notion of a "court" within the meaning of Article 5 § 4 of the Convention and that the general principles concerning the independence and impartiality of a tribunal, for the purposes of Article 6 of the Convention apply equally to Article 5 § 4 (see 143 above) the Court calls on the Government to ensure that legislation is put in place in order for the IAB to conform with those requirements, having regard

373 CPT, Report to the Maltese Government on the visit to Malta carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from 17 to 22 September 2020, March 2021, available at: https://bit.ly/3mPtelf.

374 Council of Europe, Reforms needed to better protect journalists' safety and the rights of migrants and women in Malta, 18 October 2021, available at: https://bit.ly/3IevJqA.

375 Ibid.

376 Commissioner's report following her visit to Malta from 11 to 16 October 2021, available at: https://bit.ly/3InhWhS.

to the manner of appointment of its members and their term of office, the existence of guarantees against outside pressure and the necessity for the body to present an appearance of independence.[377]

State sponsored legal assistance is provided for the initial review of detention under the Reception Regulations before the IAB. For the second review, legal practitioners noted that these are not regularly held but, if and when held, legal aid is provided. Legal practitioners noted that throughout 2024 unaccompanied children in the age assessment procedure did not have their detention reviewed by the IAB, but it is not clear why.

In April 2023, the Detention Services Agency (DSA) was established by law,[378] giving it a distinct legal personality. The DSA is a body corporate with the capacity to execute contracts, engage personnel, manage property, and litigate. In terms of formal structure, the DSA is established under the authority of the Home Affairs Ministry and, although it operates autonomously, it remains subject to directives issued by the Ministry. The Order states that the Agency has the obligation to submit an annual report to the Minister within six weeks following the conclusion of each financial year. This report is expected to encompass a comprehensive overview of the Agency's activities throughout the year, accompanied by an audited statement of accounts. Additionally, the report should include pertinent information regarding the Agency's proceedings, operations, and future plans aimed at fulfilling its functions. Furthermore, it stipulates that the Minister is responsible for presenting this report to Parliament, within six weeks of receiving it. At the time of writing of this update (April 2025), no DSA report had been submitted to Parliament.

The possibility to detain vulnerable persons, including children, was strengthened in 2024 with the adoption of Legal Notice 87, whereby specific provisions on their detention were incorporated in the Reception Regulations, summarised below.[379]

Throughout 2024, UNHCR held three training sessions covering 44 DSA staff on the UNHCR mandate, refugee law and human rights standards in administrative detention, identification of persons with specific needs, and cultural sensitivities including trauma and conflict resolution.[380]

377 ECtHR, *Case of J.B. and Others v. Malta*, Application 1766/23, 22 October 2024, available here, para. 167.
378 Detention Services Agency (Establishment) Order, S.L. 594.45, 8 April 2023, available at: https://tinyurl.com/3t4txnu7.
379 Reception of Asylum-Seekers (Amendment) Regulations, L.N. 87 of 2024, available at: https://tinyurl.com/ywd7rxkd.
380 Information provided by UNHCR in February 2025.

B. Legal framework of detention

1. Grounds for detention

Indicators: Grounds for Detention

1. In practice, are most asylum-seekers detained:
   - ❖ on the territory: ☒Yes ☐ No
   - ❖ at the border: ☒Yes (sea arrivals) ☐ No
2. Are asylum-seekers detained in practice during the Dublin procedure?
   ☒ Frequently ☐ Rarely ☐ Never
3. Are asylum-seekers detained during a regular procedure in practice?
   ☒ Frequently ☐ Rarely ☐ Never

Detention of asylum applicants is regulated by national law and currently includes also *de facto* detention under health grounds in terms of the Prevention of Disease Ordinance[381] and detention under the Reception Regulations[382] which transpose the recast Reception Conditions Directive.

Persons found to be entering Malta irregularly via the airport are usually detained at the airport's holding space pending their immediate return on the same or next flight to the country they had travelled from to reach Malta. If they express an intention to seek asylum, they are referred to the IPA.

Detention under the Immigration Act

Immigration legislation authorises the detention of any person who, arriving by plane, is not granted permission to land in Malta. In such situation, Article 10 of the Immigration Act specifies that the purpose of detention is to ensure the person's removal either on the same flight on which they arrived, or on the next available flight. The same article specifies that persons arriving by any other means and not granted leave to land may also be detained by the PIO. Article 10 states that all persons detained under this article are in legal custody and are deemed not to have landed. No appeal or review is mentioned in Article 10, and it is not clear whether the provisions regulating challenges and reviews of detention under other provisions apply to Article 10. Given the speed with which these proceedings are carried out, including the possible immediate return, it is not clear what information is given to detained persons in terms of their right to seek asylum and other related rights. NGOs confirm they are hardly ever made aware of the presence of these persons during their time at the airport holding space.

However NGOs also confirm that, in the cases known to them, persons requesting asylum at the airport are immediately referred to the IPA. The PIO was unable to provide data on the number of persons kept in custody under these provisions.

In 2023, amendments to the Immigration Regulations introduced new detention possibilities. The amendments allow border officers to detain any person whilst conducting border checks. In such cases, the detention must be for the purpose of taking the person before a police officer or until the police officer arrives. Furthermore, anyone may be also detained if they refuse to stop in order to provide information requested or in order to prevent their entry to Malta where they do not meet entry requirements.

'*De Facto*' Detention under the Prevention of Disease Ordinance

Article 13 of the Prevention of Disease Ordinance[383] provides that that *"[w]here the Superintendent has reason to suspect that a person may spread disease he may, by order, restrict the movements of such*

381 Prevention of Disease Ordinance, Chapter 36.
382 Reception Regulations, S.L. 420.06.
383 Prevention of Disease Ordinance, Chapter 36.

person or suspend him from attending to his work for a period not exceeding four weeks, which period may be extended up to ten weeks for the purpose of finalising such microbiological tests as may be necessary".

No form of individualised assessment is conducted, and the called Restriction of Movement Order issued to applicants is a template document which generally lacks any individualised information and does not provide for any remedies by which applicants could challenge the lawfulness and length of their continuing detention under the Ordinance. According to the Government, this situation does not amount to a situation of detention but merely to a restriction on the freedom of movement. However, the ECtHR, the CPT and the Court of Magistrates of Malta confirmed that this qualifies as a situation of deprivation of liberty in the sense of Article 5 ECHR.[384]

In *Frank Kouadioané v. the Detention Services,*[385] decided on 29 October 2020, the Court of Magistrates went as far as to state that it is extremely worrying that, although there is a significant number of illegally detained asylum applicants in Malta, only seven similar requests for release have been lodged before the court over the last year, and that in a democratic society based on the rule of law, persons such as the present applicant remain illegally detained without a legal basis.

The Prevention of Disease Ordinance does not empower the Superintendent of Public Health to detain individuals. The wording of the law is clear and unambiguous: the Superintendent, being a public officer, is not authorised to detain a person but merely to restrict his/her movements, which is in essence what Article 13 of the Ordinance states. This is confirmed by other Articles contained in the Public Health Act and the Ordinance: all rest the decision to detain persons in order to protect public health on the authority of the Courts.[386] Various sources, including the CPT, confirm that the Ordinance has been consistently and exclusively applied to asylum-seekers reaching Malta by sea which suggests that the Ordinance has been relied upon as a tool of migration management rather than an instrument to protect public health, in breach of Article 5 ECHR.

NGOs emphasised that the suspicion that a disease may be spread is not a valid ground for detaining asylum-seekers under international, EU and national law. They further noted that the place of detention in no way conforms to the intended purpose of a public health regime and that the government has not provided any evidence that the health authorities explored less severe alternatives in order to protect public health. They further observed that no effective legal remedy is available to challenge the Restriction of Movement Order and that applicants do not have access to legal assistance.

In its report published in March 2021, the CPT called on the Maltese authorities to urgently review the legal basis for detention on public health grounds as its current application "*may well amount to hundreds of migrants being de facto deprived of their liberty on unlawful grounds*". The CPT noted that over 90% of the persons held in detention were detained on public health grounds and that this was the case despite the fact that the Maltese courts had declared this form of detention unlawful on account of, inter alia, the vagueness of the legislation relied on by the authorities, the lack of assessment of the concerned persons' specific situations and of individualised detention orders issued to them, and the lack of clear remedies.[387]

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384 CPT, Report to the Maltese Government on the visit to Malta carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from 17 to 22 September 2020, March 2021, available at: https://bit.ly/3mPtelf.

385 Court of Magistrates of Malta, Frank Kouadioané (Ivory Coast) v Detention Services, 29 October 2020 available at: https://bit.ly/3Jckpii

386 Article 29(3) of the Public Health Act, Chapter 465 ; Articles 25 and 26 of the Prevention of Disease Ordinance, Chapter 36 .

387 CPT, Report to the Maltese Government on the visit to Malta carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from 17 to 22 September 2020, March 2021, para. 34, 47-50, available at: https://bit.ly/3mPtelf.

The UNHCR condemned this policy, describing the reintroduction of automatic detention as a big "*setback*", commenting on the very poor conditions of the detention centres and underlining the fact that UAMs were being unlawfully detained with adults.[388]

The Superintendent of Public Health confirmed that all asylum-seekers who arrived by boat to Malta in the past years were issued the Restriction of Movement Order in terms of the Ordinance.

On 17 October 2023, the Second Section of the European Court of Human Rights (ECtHR) delivered its judgment in the case of A.D. v. Malta, no. 12427/22.[389] The case concerns an Ivorian national (then a minor) who had arrived irregularly to Malta from Libya by boat in late 2021. Although he claimed to be seventeen on arrival, an age assessment conducted by the Maltese authorities in the absence of legal assistance and his legal guardian deemed him to be nineteen years old. He was immediately detained and held in various detention facilities, with the authorities citing "*health reasons*".

The applicant was held in detention for 225 days, during which he had limited access to water, medical care, and psychological support, and absence of any communication in his native (and only) language – French. He complained of gruelling conditions in the winter months, extremely limited clothing and hygiene possibilities, and no outdoor or prayer spaces. He was also placed in a 120-day isolation in a cargo container, during which his mental health plummeted and thought frequently of suicide. The applicant complained of a violation of Article 3 ECHR in respect of his treatment in Malta, of Article 5(1) ECHR in that his stay amounted to a *de facto* deprivation of liberty, and of Article 13 ECHR, due to the lack of an effective remedy to challenge the former.

The Court noted the *"incredible state of affairs"* by way of which the Maltese authorities consistently failed to keep accurate records of who was being detained and by whom, as well as the vulnerable, underage status of the applicant at the time. It criticized his detention in isolation, as well as with unrelated adults, and the living conditions in Malta's detention centres in general.

The Court held that the detention of individuals at centres such as 'China House' for health reasons is not in conformity with human rights standards and must cease. Followingly, the Court upheld the complaints of the applicant, finding that Malta had violated Article 3 ECHR, Article 13 and Article 5(1) ECHR on two occasions.

Importantly, the Court also recommended that Malta takes the necessary general measures to ensure that the relevant law is effectively applied in practice and that vulnerable individuals are not detained, as well as to limit any necessary detention periods so that they remain connected to the ground of detention applicable in an immigration context, and that they are undertaken in places and conditions which are appropriate.

Following this judgement, detention practice changed slightly towards the end of 2023, as the duration of health-based detention reduced to a couple of days. It also led to a new practice whereby the vast majority of applicants were automatically detained under the Detention Order for a minimum period of around two months. This practice continued throughout 2024, with all newly arrived applicants detained for public health grounds for a number of days.

In *Ayoubah Fona vs. L-Avukat tal-Istat* filed on 12 July 2022 before the Civil Court of Malta (First Hall), the applicant complains of his conditions of detention and the unlawfulness of his detention under the Prevention of Disease Ordinance. The minor applicant arrived in Malta in November 2021 and remained

388 The Times of Malta, 1400 migrants detained illegally at Marsa and Safi – UNHCR, January 2020, available at: https://bit.ly/2JbWIXp.

389 ECtHR, *A.D. v. Malta*, no 12427/22, 17 January 2024, available at: https://hudoc.echr.coe.int/eng?i=001-228153.

in detention for 58 days, with a substantial amount of time spent with adults in the HIRC.[390] At the time of writing, the case is pending.

Detention under the Reception Regulations

According to the Reception Regulations,[391] the Principal Immigration Officer may order the detention of an applicant for the same grounds foreseen in the Reception Conditions Directive, namely:

1. In order to determine or verify their identity or nationality;
2. In order to determine those elements on which the application is based which could not be obtained in the absence of detention, in particular when there is a risk of absconding on the part of the applicant;
3. In order to decide, in the context of a procedure, in terms of the Immigration Act, on the applicant's right to enter Maltese territory;
4. When the applicant is subject to a return procedure, in order to prepare the return or carry out the removal process, and the Principal Officer can substantiate that there are reasonable grounds to believe that the applicant is making the application merely in order to delay or frustrate the enforcement of the return decision;
5. When protection of national security or public order so require; or
6. In accordance with the Dublin III Regulation.

In *Rana Ghulam Akbar,*[392] the Court of Magistrates of Malta examined Regulation 6(1)(b) in an application filed in terms of Article 409A of the Criminal Code (Habeas Corpus). It assessed that, since *"the guiding principles are that detention is only a measure of last resort and that less coercive measures should always be sought before going for detention"* and concluded that his detention was in breach of Maltese law, as the "*declaration that the applicant's "risk of absconding" is one that is not sustainable within the strict parameters of Regulation 6(1)(b)".* The Court ordered the applicant's immediate release from detention.

In *Jovica Kolakovic v. Avukat* Generali, the Constitutional Court of Malta held that it:

> subscribes to the view held recently by the Strasbourg Court to the effect that it is hard to conceive that in a small island like Malta, where escape by sea without endangering one's life is unlikely and fleeing by air is subject to strict control, the authorities could not have at their disposal measures other than the applicant's protracted detention (vide Louled Massoud v. Malta, ECHR 27th July 2010). Nor should the authorities' inability to adequately monitor movements into and out of Malta be shifted as a burden of denial of release from detention on a person accused of an offence, particularly if such a person is of foreign nationality.[393]

According to law, the individual detention order shall be issued in writing, in a language that the applicant is reasonably supposed to understand, and it shall state the reasons of the detention decision. Information about the procedures to challenge detention and obtain free legal assistance shall also be provided. Detention Orders may be appealed within three working days. Furthermore, a review by the Immigration Appeals Board shall be automatically conducted after seven days and every two months in case the individual is still detained.[394] After a period of nine months, any person detained, if they are still an applicant for international protection, shall be released.[395]

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390 Civil Court (First Hall), Ayoubah Fona vs. L-Avukat tal-Istat, 375/2022.
391 Regulation 6 of the Reception Regulations, S.L. 420.06.
392 Court of Magistrates of Malta, Rana Ghulam Akbar v Kummissarju tal-Pulizija, 26 February 2018.
393 Constitutional Court, Jovica Kolakovic v. Avukat Generali, 26/2010/1, 14 February 2011.
394 Regulation 6(3) of the Reception Regulations, S.L. 420.06.
395 Regulation 6(7) of the Reception Regulations, S.L. 420.06.

Legal Notice 487 of 2021 amended the Reception Regulations and introduced the requirement to carry out an individual assessment and only order detention if it proves necessary and if other less coercive measures cannot be applied effectively.[396] It also introduced a provision which states that administrative procedures relevant to the grounds for detention set out in the Regulations shall be executed with due diligence.

Throughout 2023 and 2024, despite the requirement for individual assessments, the vast majority of applicants remained in detention following their detention on public health grounds, with detention duration largely depending on the person's nationality. Practitioners noted that applicants from countries of origin with generally low protection rates and high return rates, such as Bangladesh, Egypt, Morocco, Ghana, Ivory Coast and Nigeria were automatically detained under the Reception Regulations for the entirety of their asylum procedures or for the maximum duration whilst others – particularly from Syria and Libya – remained in detention for around two months. The only groups of applicants not remaining in detention following the health-based detention were those who had been identified as vulnerable by AWAS at the moment of disembarkation. In the decision-making procedure between the health-based detention and one based on the Reception Regulations, no individualised assessment is made and less coercive alternatives are hardly ever explored.

At the end of 2023 and throughout 2024, following the *A.D. vs. Malta* judgement, persons who previously were not being automatically detained, started being detained for a minimum of around two months. Although no formal change in policy was announced by the authorities, NGOs and practitioners report a change in detention practice just after the A.D. judgement. Whereas before the judgement the initial detention period was generally limited to the two weeks 'required' for public health reasons, following the judgement this initial period was extended to two months for almost all newly-arrived persons. This new period also applied to persons who, under the pre-judgement regime, would have been released following the public health detention such as Syrians and Libyans.

Under a new policy implemented by the PIO in 2024 as observed by stakeholders, certain groups of applicants were detained immediately following the lodging of their asylum applications. According to NGOs, the PIO regularly liaises with the IPA, the latter sharing with the PIO lists of persons having appointments to lodge their asylum applications, in order for the PIO to be alerted as to specific groups of applicants and coordinate accordingly.

At IPA premises, the PIO would conduct Eurodac fingerprinting at the moment of lodging, and the PIO officials liaised with the duty Inspector once information has been obtained from the applicant lodging the asylum application. The Inspector would then decide whether to issue a Detention Order, in terms of the Reception Conditions Directive, often relying on the grounds listed in Article 4(a), (b) or (f).

This policy was applied to persons spontaneously presenting themselves to apply for asylum – including some who were regularly staying in Malta – and who, in the PIO's assessment, submitted an asylum application 'too late' or with a view to frustrating a possible eventual return/removal. The assessment primarily looked at the applicant's nationality and the date of the lodging of the application, targeting persons seeking asylum towards the end of their visa-free period. Although the groups mainly affected were South American applicants, aditus lawyers reported that in November an 18-year-old Syrian woman was also detained.

As a result of this policy, applicants approached UNHCR and NGOs to accompany them to the lodging, hoping their presence would prevent detention. Indeed, it was reported that on some occasions NGO lawyers were able to prevent the applicant's detention, however the same NGOs also reported that they are unable to sustain this form of support.[397]

396 Regulation 6 (1) of the Reception Regulations, S.L. 420.06.
397 Information provided by JRS Malta and aditus.

Some applicants also reported being threatened by Immigration Inspectors that if they failed to withdraw their asylum applications they would be immediately detained.

In December, Malta notified the EU Commission that it would be temporarily reintroducing border controls at internal borders due to its hosting of a ministerial summit of the Organisation for Security and Cooperation in Europe.[398] During this period, a Syrian woman and 6 children were intercepted at Malta International Airport and were issued an Order to Return after the Immigration police established that they did not meet the criteria to enter into Malta. The group was intended to be returned to Greece on the same incoming flight, but one of the children developed chicken pox. The woman and children were detained at Safi Barracks in the female's section for around a week.[399]

Practitioners also confirmed that challenges before the IAB proved to have limited impact. The creation of a third Chamber in 2023 did not affect the overall approach of the IAB towards detention challenges, with the Board almost invariably confirming legality. Furthermore, in 2023 the IAB developed a practice whereby persons detained under the first above-mentioned ground – relating to identity – were only released if they were able to present an official document with their personal details, such as a passport. Despite the fact that lawyers challenge this approach on the basis of CJEU jurisprudence, the practice continued and is now a consolidated procedure. Lawyers also noted that applicants reaching Malta with personal documents were effectively being penalised by the PIO since further detention was deemed necessary to verify the authenticity of the documents. These practices continued throughout 2024. There is no further judicial stage beyond the IAB in relation to the administrative detention.

It was reported further by NGOs that applicants are not always provided with a copy of their Detention Order, which is moreover only available in English and often issued as a standard template to all persons.

2. Alternatives to detention

Indicators: Alternatives to Detention	
1. Which alternatives to detention have been laid down in the law?	☒ Reporting duties ☒ Surrendering documents ☒ Financial guarantee ☒ Residence restrictions
2. Are alternatives to detention used in practice?	☒ Yes ☐ No

According to the Reception Regulations, when a Detention Order of an applicant is not taken, alternatives to detention may be applied for non-vulnerable applicants when the risk of absconding still exists.[400] These alternatives to detention foreseen in the Regulations are the same as the ones listed in the Directive, namely the possibility to report to a police station, to reside at an assigned place, to deposit or surrender documents or to place a one-time guarantee or surety. These measures would not exceed nine months.[401]

Following the transposition of the recast Reception Conditions Directive, concerns were expressed by NGOs that alternatives to detention could be imposed when no ground for detention is found to exist.[402] The wording of the legislation seem to imply that alternatives to detention may apply in all those cases where detention is not resorted to, including those cases where there are no grounds for the detention of the applicant. This goes against the letter and the spirit of the Directive where alternatives to detention should only be applied in those cases where there are grounds for detention.

398 EU Commission, Member States' notification of the temporary reintroduction of border control at internal borders pursuant to Articles 25 and 28 et seq. of the Schengen Borders Code, number 455, available here.
399 aditus foundation, We are shocked that Malta detained and isolated a Syrian woman and a group of children, some sick!, 11 December 2024, available at: https://tinyurl.com/urtekjz6.
400 Strategy Document, November 2015, 26.
401 Regulation 6(8) of the Reception Regulations, S.L. 420.06.
402 aditus foundation, et al., NGO Input on the Draft Strategy Document: Strategy for the Reception of Asylum-Seekers and Irregular Migrants, November 2015; available at: http://bit.ly/2kX6K4j.

Practice shows most applicants released from detention are imposed alternatives to detention arrangements, even though there might have been no ground to detain them in the first place. They are usually provided with a document in English stating the obligations and the grounds at law for ordering the alternatives to detention. According to this document, the alternatives to detention can be imposed for a maximum period of 9 months. This means that in practice applicants could be detained for the maximum period of 9 months prescribed in the law and then issued with alternatives to detention for 9 more months. It is unclear whether legal challenges on the nature and duration of alternatives to detention actually exist in law or in practice.

NGOs reported that there is no clear pattern on the reason, when and why alternatives to detention are applied. However, it transpires very clearly from practice that alternatives to detention are often seen by the authorities not as actual alternatives, but as a natural continuation of the status post-detention, including where the detention itself has no legal basis.

At the end of its 2023 visit to Malta, the UN Working Group on discrimination against women and girls underlined the limited possibility of detained women to successfully challenge their detention and urged Malta to actively consider alternatives to detention for asylum-seeking women.[403]

In 2024, a joint CoE/UNHCR workshop on alternatives to detention took place to discuss Malta's practices and ways forward.
According to information provided by the PIO, during 2024 alternatives to detention were applied in the cases of 163 persons.[404] To further clarify, a table provided bellow will demonstrate by type of alternative to detention:

Released with alternative to detention	To report at regular intervals	To reside at a specific address/ Place	To notify the PIO of change of address	To deposit or surrender documents
163	95	154	37	6

3. Detention of vulnerable applicants

Indicators: Detention of Vulnerable Applicants

1. Are unaccompanied asylum-seeking children detained in practice?
   ☒ Frequently ☐ Rarely ☐ Never
   - ❖ If frequently or rarely, are they only detained in border/transit zones? ☐ Yes ☒ No
2. Are asylum seeking children in families detained in practice?
   ☒ Frequently ☐ Rarely ☐ Never

Prior to 2024, the Reception Regulations prohibited the detention of vulnerable applicants, stating that "whenever the vulnerability of an applicant is ascertained, no detention order shall be issued or, if such an order has already been issued, it shall be revoked with immediate effect".[405] This legal norm was not reflected in practice as vulnerable persons were regularly detained in various contexts: immediately following disembarkation; whenever the PIO disagreed with AWAS regarding a vulnerability assessment; unaccompanied children pending age assessment. In 2024 the legal situation was brought in line with

403 UN Working Group on discrimination and against women and girls, End of mission statement (Malta), 7 July 2023, available at: https://bit.ly/3UPBrr2.
404 This figure is not specifically for asylum applicants. The PIO was unable to specify how many of these 163 were asylum applicants.
405 Regulation 14(3) of the Reception Regulations, S.L. 420.06 .

practice through amendments to the Reception Regulations, largely enshrining in law the possibility to detain vulnerable persons, accompanied and unaccompanied children and families.[406]

Regulation 6B, entitled 'Detention of vulnerable persons' requires the authorities to monitor and provide for the situation of detained vulnerable persons, also referring to their health situation. In relation to detained families, the Regulations require the authorities to provide 'separate accommodation' and to ensure that women are only detained with male family members, and only with their consent.

The Regulations treat children different, depending on whether they are accompanied or unaccompanied. Accompanied children are only to be detained as a measure of last resort and only where other less coercive measures cannot be effectively applied. The child's best interests are to be the primary consideration. During their detention, children should have access to leisure and play activities. Unaccompanied children may only be detained exceptionally and never in *"restrictive accommodation".*

These provisions are to be read in conjunction with Regulation 14(1)(c) as the latter relates to persons claiming to be children and these should only be detained as a measure of last resort unless their age claim is "evidently and manifestly unfounded".
Upon arrival at disembarkation, all persons are detained under public health grounds. This includes vulnerable persons. Families, single women and children whose age is undisputed are detained at HOC whilst adult men are detained at China House. No vulnerability screening is conducted at disembarkation other than what is readily visible to the AWAS representatives.

After this initial detention period on public health grounds and considered a human rights violation by the ECtHR, persons who are visibly vulnerable are accommodated in open reception centres, whilst others are detained under the Reception Regulations.

Unless they are, in the eyes of the authorities, visibly children, unaccompanied minors are detained pending age assessments and there is no evidence of any assessment being done by the PIO to determine whether their age claims are "evidently and manifestly unfounded". The CPT confirmed in its report that, "in practice, many children, including those awaiting age-assessment results, are being deprived of their liberty both in Marsa IRC and in Safi and Lyster". The report highlights that "due to space constrictions, children were held in the same cramped space together with related and non-related adults. In Marsa IRC, children of all ages – including infants – were locked on all of the units in very poor conditions together with unrelated single male adults". The delegation mentioned that children have no access to any activities, education, or even the exercise yard to play games, and notes the lack of any psychosocial support or tailored programmes for children and other vulnerable groups. [407] These practices continued throughout 2021, as the CoE Commissioner for Human Rights noted in October 2021.[408] The UNHCR also reiterated concerns in February 2021, stating that "children are (still) being held in closed centres".[409]

The PIO confirmed that throughout 2024 11 children were detained, of whom nine were alleged unaccompanied children subsequently confirmed to be children, and two accompanied. However, as with the above figures relating to the total number of detained applicants, these figures do not take into account the children – accompanied and unaccompanied – detained immediately upon arrival. The figures also

406 Reception of Asylum-Seekers (Amendment) Regulations, L.N. 87 of 2024, available at: https://tinyurl.com/ywd7rxkd.

407 CPT, Report to the Maltese Government on the visit to Malta carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from 17 to 22 September 2020, March 2021, available at: https://bit.ly/3uXeCD1.

408 CoE, Reforms needed to better protect journalists' safety and the rights of migrants and women in Malta, 18 October 2021, available at: https://bit.ly/3IevJqA.

409 The Times of Malta, Migrant detention numbers shrink, fears about child detainees remain, 7 February 2021, available at: https://bit.ly/3cP8Mwj.

confirm that Malta fails to implement the presumption of minor age, as also highlighted by the ECtHR in *A.D. vs. Malta*.[410]

Data regarding the detention of persons with special reception needs is not available, but NGOs confirm that vulnerable persons were in fact detained throughout 2024. In particular, NGOs report a practice developing throughout 2024 whereby AWAS' vulnerability assessments were not considered final or conclusive by the PIO in determining whether persons ought to remain in detention or be released, on the basis of their vulnerability. NGOs report that, whereas pre-2024 the PIO relied almost exclusively on AWAS' determinations of a person's vulnerability and released them almost automatically, in 2024 the PIO requested or was provided with additional information by the DS (Detention Services), often stating that either the person was not in fact vulnerable or that, if vulnerable, adequate support services were being provided in detention by the enhanced medical services. The application *M.S. v. Malta*[411], brought to the ECtHR by a person unequivocally determined to be highly vulnerable by AWAS yet kept in detention, supports this NGO observation.

In early 2022, a specific area in Safi Barracks was designated as a space for detaining children pending their age assessments. No information is available on the layout of this space or on activities/services organised therein (if at all), as access to UNHCR and NGOs remained prohibited throughout 2023 and 2024.

In 2023, a dedicated Female Section was opened in the Safi Detention Centre. However, it was never accessed or seen by NGOs or lawyers visiting the Centre. NGOs visiting detention noted that they were mostly unaware of the presence of women in detention. Newly arrived single women were hardly ever detained in Safi Barracks, the detained women generally being those arrested on the territory with a view to their removal. No information of their presence in Safi was formally provided to NGOs, and they were not referred to NGOs for the provision of services. In 2024 NGOs learnt of the presence of women in Safi in the course of their regular calls to the various zones in the centre. In view of the policy introduced in 2024 whereby asylum applicants were detained at the moment of their lodging, it is highly likely that several women were detained and removed without NGOs or other practitioners being made aware of their presence.

In *A.D. v. Malta*, the applicant complained about the lawfulness and arbitrariness, as well as about the dismal conditions, of his different periods of detention under both the Prevention of Disease Ordinance and the Reception Regulations and claimed that he had no effective remedies in this respect. The applicant had arrived in Malta in November 2021 and had claimed to be a minor upon arrival. He was later diagnosed with Tuberculosis. He had been detained for 16 days under the Period of Quarantine Order and 62 days under the Prevention of Disease Ordinance. He had then been issued a Detention Order and remained in detention in complete isolation in a container in the Safi Detention Centre for 147 days.[412] The ECtHR found violations of Articles 3, 5 and 13 in conjunction with Article 3, noting that:

> In the present judgment the Court also found a violation of Article 3 in respect of the conditions of detention of the applicant (a vulnerable individual due to his presumed minority and health situation), as well as of Article 5 § 1, inter alia, in relation to his prolonged immigration detention in those conditions. Having regard to those findings, the Court recommends that the respondent State envisage taking the necessary general measures to ensure that the relevant law is effectively applied in practice and that vulnerable individuals are not detained, as well as to limit any necessary detention periods so that they remain connected to the ground of detention applicable in an immigration context, and that they are undertaken in places and conditions which are appropriate, bearing in mind that the measure is applicable not to those who have committed criminal offences but to aliens in an immigration context.

410 ECtHR, *A.D. v. Malta*, no 12427/22, 17 January 2024, available here.
411 *M.S. v. Malta*, 30737/24, communicated on 19 March 2025, available at: https://tinyurl.com/mrx26tda.
412 ECtHR, *A.D. v. Malta*, no 12427/22, 17 January 2024, available at: https://hudoc.echr.coe.int/eng?i=001-228153.

In *Ayoubah Fona vs. L-Avukat tal-Istat* filed on 12 July 2022 before the Civil Court of Malta (First Hall), the applicant complains of his conditions of detention and the unlawfulness of his detention under the Prevention of Disease Ordinance. The minor applicant arrived in November 2021 and remained in detention for 58 days, with a substantial amount of time spent with adults in China House. The case remains pending at the time of writing.[413]

In *J.B. and Others v. Malta*[414] filed in February 2023, the six applicants (five of whom were minors) complained that they were detained with adults in China House since their arrival on 18 November 2022. On 12 January 2023, the ECtHR issued an interim measure ordering Malta to ensure that the six applicants are provided "with conditions that are compatible with Article 3 of the Convention and with their status as unaccompanied minors".

The ECtHR examined the conditions of detention experienced by the six applicants, five of whom were minors, under Article 3 of the Convention. It emphasised that Malta bore full responsibility for the applicants' welfare throughout their detention, regardless of whether their initial confinement constituted a deprivation of liberty under Article 5. The minors were dependent on the authorities for basic needs and under their complete control. Although the Maltese authorities eventually recognised the minor status of five applicants, this acknowledgment did not lead to immediate or meaningful changes in their detention conditions. For approximately two months, they were held with adults in the Initial Reception Centre (HIRC), which the Court deemed inappropriate for minors. The Court scrutinised the conditions at HIRC, relying in part on the 2021 CPT report, which described bathrooms without doors, blocked plumbing, and detainees being locked inside units 24 hours a day without activities, television, telephone access, or access to an exercise yard. The Court noted that the Government had failed to rebut these findings with concrete evidence, such as photographs or records of refurbishments.

Importantly, the Court underscored that these conditions were not adapted to children, creating 'a situation of stress and anxiety, with particularly traumatic consequences.' No measures were implemented to provide the applicants with psychological or educational support, despite their age and vulnerability.

Subsequently, the applicants were transferred to Safi Detention Centre's Block A, Zone 4, which was undergoing refurbishment. Psychological evaluations in early 2023 revealed "significantly elevated" and "extremely high" levels of anxiety, PTSD, and suicidal ideation among the minors. The Court found that this prolonged detention, despite such medical evidence, and reports of harassment and deceptive conduct by authorities, "must have exacerbated their fears." In light of the applicants' young age, the duration and quality of detention, the lack of tailored care, and the psychological impact, the Court concluded that the conditions amounted to "inhuman and degrading treatment." Accordingly, it found a violation of Article 3 in respect of the five minor applicants.

The Court also found violations of Article 13 taken in conjunction with Article 3 and of Articles 5(1) and 5(4). Importantly, the ECtHR accepted the applicant's arguments that the IAB cannot be considered an effective remedy due to several shortcomings in its structure and operations, drawing on observations made by the EU Commission and the CoE Venice Commission:

> In other words, the members' initial mandates, their reappointment to that body as well as to other government bodies – which, considering the multiple appointments for each member, certainly constituted a substantial financial interest – depended on the satisfaction of the executive. Indeed, and in the absence of any rebuttal by the Government as to its veracity, the practice of resigning at each general election supported the idea that this was a mere political appointment. At this juncture it is important to note that the present case does not concern determinations of disputes

413 Ayoubah Fona vs. L-Avukat tal-Istat, 375/2022.
414 ECtHR, *J.B. and Others v. Malta*, no. 1766/23, 22 January 2025, available at: https://tinyurl.com/mr2h83rs.

between private parties, but rather an individual's challenges to actions or inactions of State authorities falling under the direction of the Government of the day.

Lastly, the Court cannot but note that both the European Commission and the Venice Commission expressed serious concerns about the functioning of tribunals similar to the one at issue in the present case (see paragraph 133 in fine above). Bearing in mind all the above, and in the absence of any relevant safeguards, the Court considers that the applicants' doubts as to the independence of the IAB were legitimate.

Limitations on UNHCR and NGO access have exacerbated this situation, further preventing vulnerable persons from being identified, assessed and provided for. In order for them to be released, AWAS would need to confirm their vulnerability and confirm that this conclusion has an implication on reception conditions. NGOs note meeting several applicants who, despite being deemed vulnerable, remained in detention since the authorities felt that appropriate care could be adequately provided in detention. These included persons with serious mental health issues, LGBTIQ+ applicants and persons who faced harassment and/or violence in detention. NGOs also noted that, since 2023, the AWAS vulnerability assessments and conclusions were not necessarily conclusive with further reports and inquiries being sought for by the PIO.

NGOs also commented on the fact that, due to their lack of regular access and contact with detained persons, they were effectively kept in the dark about the presence of particular persons in the detention centres. Specifically, they noted how they would only be made aware of women being detained by sheer chance or if family members contacted them for assistance. In 2023 and 2024, women detained in Safi Barracks were detained in single containers with little or no access to the outside world. With no information on their detention being made available by the authorities or by the detained men – as they were generally unaware of the women's presence – NGOs are unable to say how many women were detained at Safi throughout 2024, whether they presented any vulnerability, whether they were provided with information on asylum or other elements or how they were treated whilst being detained.

UNHCR noted that AWAS' continued advocacy for the use of alternatives to detention resulted in 40% of sea arrivals having specific needs, including UASC, accommodated in open reception centres.

4. Duration of detention

Indicators: Duration of Detention	
1. What is the maximum detention period set in the law (incl. extensions):	9 months
2. In practice, how long in average are asylum-seekers detained?	48 days[415]

The Reception Regulations specify a time limit for the detention of asylum applicants, which is limited to nine months. According to the Regulations 'any person detained in accordance with these regulations shall, on the lapse of nine months, be released from detention if he is still an applicant'.[416]

The PIO indicated that the average duration of detention for persons under a Detention Order was 48 days in 2024.[417] As previously mentioned, this figure does not portray a comprehensive picture of detention duration. It only takes into account individuals issued with a Detention Order. As such, people detained under the public health legislation are not accounted for by the PIO. .

415 Information provided by the Immigration Office of the Malta Police Force, 2025.
416 Regulation 6(7) of the Reception Regulations, S.L. 420.06
417 Information provided by the Immigration Office of the Malta Police Force.

C. Detention conditions

1. Place of detention

Indicators: Place of Detention		
1. Does the law allow for asylum applicants to be detained in prisons for the purpose of the asylum procedure (i.e. not as a result of criminal charges)?	☒ Yes	☐ No
2. If so, are asylum applicants ever detained in practice in prisons for the purpose of the asylum procedure?	☐ Yes	☒ No

In terms of the Places of Detention Designation Order,[418] 10 places are designated as places of detention in terms of the Immigration Act. In practice, the ones used throughout 2024 for the purposes of administrative detention were:

- Ħal Far Initial Reception Centre (China House). This is used to detained newly arrived persons not deemed vulnerable and, subsequently, as a regular detention centre;
- Ħal Far Open Centre (HOC). Although not formally listed as a place of detention, newly arrived vulnerable persons are detained here for health-based reasons following the closure of the Marsa IRC. HOC is composed of a number of metal containers surrounded a large hangar, with shared spaces for toilets and showers;
- Safi Barracks. The largest detention centre, holding applicants as well as rejected asylum-seekers and persons set to be removed from Malta. Although the main population is single men, Safi also has a section for unaccompanied children in the age assessment procedure and also a section for single women. Safi Barracks are the headquarters for the Armed Forces of Malta, so the area is a heavily militarised space. The spaces designed for detention, including meeting rooms, clinics and other buildings for administrative use, are generally metal containers whilst one zone is a building on two floors, with large, shared bedrooms. All areas have an outdoor fenced-in space;
- The policy custody space at Malta International Airport. This space is used for persons who, having attempted to enter Malta without fulfilling entry requirements and denied entry, are returned on the same or next flight back to the country they had flown to Malta from.

The Detention Centres are managed by the Detention Services (DS), until 2023 a public entity established and regulated by the Detention Services Regulations[419] and formalised into a public Agency in 2023.[420]

2. Conditions in detention facilities

Indicators: Conditions in Detention Facilities		
1. Do detainees have access to health care in practice?	☒ Yes	☐ No
❖ If yes, is it limited to emergency health care?	☐ Yes	☒ No

2.1. Legal Framework

The policy document published at the end of 2015[421] following the transposition of the Reception Regulations commits to improve the quality of living conditions in the detention centres. The document foresees that detention facilities shall comprise of, or have access to, a clinic, medical isolation facilities, telephone facilities, an office for the delivery of information by the IPA, rooms for interviews with the IPA and NGOs, facilities for leisure, and the delivery of education programmes as well as a place of worship.

418 S.L. 217.03, 1996, available at: https://tinyurl.com/47zzyrah.
419 Detention Services Regulations, S.L. 217.19.
420 Detention Services Agency (Establishment) Order, S.L. 595.45, 2023, available at: https://tinyurl.com/3t4txnu7.
421 Ministry for Home Affairs and National Security, Strategy for the Reception of Asylum-seekers and Irregular Immigrants, 2015, available at https://goo.gl/FFz7qJ

According to the Reception Regulations,[422] applicants for international protection shall be detained in specialised facilities and they shall be kept separate, insofar as possible, from third country nationals who are not asylum applicants. They shall also have access to open-air spaces. Separate accommodation for families shall be put in place in order to guarantee adequate privacy as well as separate accommodation for male and female applicants.

The detention centres are managed by the Detention Services Agency (DSA), a public Agency which falls under the Ministry for Home Affairs. The DSA was set up specifically 'to be responsible for the confinement of third country nationals who entered Malta irregularly or are irregularly present in Malta, and who have been issued with an order prescribing their detention.'[423] The DS is made up of personnel civilians specifically recruited for the purpose. DS staff receive some in-service training; however, people recruited for the post of DS officer are not required to have particular skills or competencies.

The Detention Services Regulations of 2016 provide the necessary framework for adequate reception conditions to persons detained under either the Reception or Returns Regulations. Part II of the Regulations provide for rules of conduct for Detention Services officers, Part III concerns the rights of detained persons, Part IV establishes rules on maintenance of security and safety and in particular rules concerning the confinement of a detained persons for safety reasons, medical reasons or due to a violent behaviour, Part V regulates access to the detention centres and Part VI the discharge of detainees.

According to the Regulations, the "purpose of the detention centres shall be to provide for the secure but humane accommodation of detained persons in a regime allowing as much freedom as possible, consistent with maintaining a safe and secure environment."[424] Accordingly, female detained persons shall be provided with sleeping accommodation separate from male detained persons.[425]

The Regulations provide that every detainee must be provided with a document (known as the "*compact*") setting out certain rights to be enjoyed and responsibilities to be undertaken by detained persons during their stay at the detention centres in a language they understand, and a copy of the regulations must be made available to any detained person who requires it.[426]

The Regulations provide that a personal record for each detained person shall be prepared and maintained[427] and the Head Detention Services must provide a detained person enquiring on his case, with an update on the progress of any relevant matter relating to him as follows when this is made available, this includes asylum applications and applications made under the Immigration Act and any judicial proceedings pending before the Immigration Appeals Board or the Maltese Courts.[428]

Detained persons are entitled to retain all their personal property, other than cash, for their own use at the detention centre save where such retention is contrary to the interests of safety or security or is incompatible with the storage facilities provided at the centre.[429] Furthermore, detained persons may wear clothing of their own insofar as it is suitable and clean and are permitted to arrange for the supply of sufficient clean clothing to them from outside the detention centre. Where necessary, all detained persons shall be provided with clothing adequate for warmth and to ensure the detained persons' health in accordance with arrangements approved by the Minister. Non-governmental organisations shall be

422 Regulation 6A of the Reception Regulations, S.L. 420.06.
423 Detention Services Agency (Establishment) Order, S.L. 595.45, 2023, available at: https://tinyurl.com/5n97pznx.
424 Regulation 10S.L.
425 Regulation 17S.L.
426 Regulation 11S.L.
427 Regulation 12S.L.
428 Regulation 16.
429 Regulation 13.

permitted to distribute clothing to all detained persons in accordance with arrangements approved by the Head Detention Services. Facilities for the washing and drying of items of clothing shall be provided.[430]

With respect to the food provided to detainees, the Regulations establish that the food must be 'wholesome, nutritious, well prepared and served, reasonably varied, sufficient in quantity' and insofar as possible "meet all religious, dietary, cultural and medical needs". The officer in charge of a centre must furthermore inspect the food at regular intervals and must report any deficiency or defect to the Head Detention Services.[431]

The Regulations provide that accommodation must have adequate lighting, heating, ventilation and fittings adequate for health. Every detained person shall have proper regard for personal hygiene, including toilet articles, separate facilities for females and males, access to facilities to shave and have their hair cut.[432]

All detained persons must be provided with recreational, educational, and physical activities and a library should be provided in every centre. Detainees must be allowed at least 1 hour in the open air every day. Moreover, the practice of religion in detention centres shall take account of the diverse cultural and religious background of detained persons.[433]

All detained persons shall have access to public telephones at the detention centres.[434]

Regarding healthcare, the Regulations provide that every detained person must be given a medical examination by the medical officer or another registered medical practitioner as soon as possible after his admission to the detention centre. Furthermore, the medical officer must report to the officer in charge on the case of any detained person whose health is likely to be injuriously affected by continued detention or any conditions of detention, especially in case of suicidal thoughts. The medical officer shall pay special attention to any detained person whose mental condition appears to require it and make any special arrangements including counselling arrangements which appear necessary for his supervision or care. The Head Detention Services must render a monthly report to the Minister on any incidents arising.[435]

In practice, the situation in the detention centres is extremely far from that envisaged in the above-described Regulations.

2.2. Overall living conditions

Despite the commitments made in the 2015 Strategy Document and the Detention Regulations, the Maltese detention centres have for several years been reported to offer substandard living conditions likely to amount to inhuman and degrading treatment contrary to Article 3 ECHR. The situation is particularly critical for vulnerable persons.

Upon entering a detention centre, all applicants have their personal property confiscated by the PIO. This includes documentation, items of clothing, money, jewellery and mobile phones. A receipt is given, and the items may be retrieved when the applicant is eventually released. Despite the clear Regulation saying that detained persons may keep and use their own property, throughout their detention period, applicants are prohibited from using their personal items and are required to wear the clothing provided by the DS. All items are kept in the storeroom of the detention centre. The legal basis for this confiscation is unclear.

430 Regulation 19.
431 Regulation 20.
432 Regulations 22 and 23.
433 Regulations 24, 25 and 27.
434 Regulation 34.
435 Regulations 38 and 39.

Mobile phones are confiscated on the pretext that the Immigration Police might need to conduct investigations into possible criminal activity. NGOs however report that, following some days or weeks from their confiscation, mobile phones are transferred from the Police to the Detention Services and stay there for the entire duration of the person's detention, seemingly because they are no longer required for investigative purposes. Furthermore, this investigative purpose is not explained, orally or in writing, to the phones' owners.

NGOs lost access to the living quarters in 2020 and are now only able to visit detainees in a boardroom on the margin of the Safi Detention Centre. They are therefore unable to provide accurate and detailed information regarding detention conditions other than that information relayed by their clients and by those monitoring bodies permitted access. The UNHCR also does not have access to the living quarters and is only authorised to speak to applicants from the moment they lodge their asylum applications.

The Monitoring Board for Detained Persons is currently the only entity monitoring detention conditions, established as Malta's National Preventive Mechanism under OPCAT. It is established by the Monitoring Board for Detained Persons Regulations[436] and falls under the Ministry for Home Affairs. The Board is composed of a Chairperson, a minimum of two and a maximum of four members, including the secretary appointed by the Minister for Home Affairs. According to the Regulations, the Board reports and monitors on conditions of detention. It is also empowered to investigate complaints from detainees and decide on such complaint. Its opinions are not binding to the Head of the Detention Services.

The Monitoring Board's Annual Reports 2021 and 2022, published following a Parliamentary Question, concluded with a series of recommendations to the Home Affairs Ministry:

- Immediately and urgently refurbish Block A and the Hal Far Initial Reception Centre;
- Take effective steps to ensure access to a lawyer by all detained persons, including a list of all NGOs and their services;
- Maintain records of requests to visit lawyers and decisions on these requests;
- Improve access to psycho-social support;
- Provide training to all personnel working in detention centres on social health, including clear messages against use of excessive force and verbal abuse;
- Ensure that all detained persons are granted access to open spaces in order for them to engage in *"purposeful activities"*;
- Make available a list of available interpreters;
- Improve contact with the outside world, including through setting up a computer room and educational activities;
- Provide facilities for sports and training;
- Improver information-provision activities to ensure humane and individual communication of sensitive information, particularly on asylum applications;
- Urgently refurbish Block A Zone 1, and the room used for distribution of food is described as *"not adequate and totally unhygienic"*;
- Provide space for persons returned to detention from hospital, particularly when they require further intensive nursing;
- Ensure sufficient personnel to manage the centre and meet the needs of detained persons;
- Introduce an effective complaint system in all blocks at Safi Detention Centre.

According to the Board's 2023 Annual Report,[437] on 1 January 2023 there were 239 persons in detention whilst at the end of December there were 195 persons. It also states that, throughout 2023, a total of 1,705 persons spent time in a detention centre. Whilst the report mentions that the Board found no cases of ill-treatment, it makes the following recommendations:

436 Monitoring Board for Detained Persons Regulations, S.L. 217.08.
437 The Monitoring Board for Detained Persons, Annual Report 2023, available at: https://tinyurl.com/r5ux6ysr.

- Create an emergency plan in the case of a sudden large arrival of persons;
- Increase the number of on-site officers as the recent reductions are having a negative impact on staff and detained persons. The Board also underlines the need to employ professionally-trained staff;
- Strengthen training on prevention of use of excessive force, verbal abuse and disrespectful/provocative behaviour;
- Establish a computer room;
- Provide facilities for sports and training;
- Improve conditions for persons under medical isolation.

NGOs active in detention centres reported that dialogue with the Board was ongoing, including through meetings and referral of complaints by detained persons.

As of May 2025, the 2024 report was not yet submitted in Parliament by the Home Affairs Minister.

In July 2025, the CPT published the report of its visit to Malta in 2023.[438] The CPT found that while overall conditions have improved since the 2020 visit - primarily due to a reduction in the number of detainees – significant human rights concerns remain in Malta's immigration detention facilities. The delegation received several allegations of physical and verbal abuse, particularly during an escape incident at Hal Far Initial Reception Centre in May 2023. Detainees reported being punched and kicked while restrained, subjected to tight handcuffing, and verbally abused with racist language. *"A few of the allegations were also consistent with the injuries documented in the medical records."* The CPT urged Maltese authorities to reinforce a zero-tolerance approach to ill-treatment and racism.

The CPT further noted that, although occupancy had dropped, conditions in Safi and Hal Far remained carceral, with poor regimes and overcrowded dormitories: Safi's non-operational warehouses could house up to 300 persons and lacked adequate facilities. The CPT found dirty mattresses, unsanitary toilets, non-functional showers, and limited outdoor access – especially in Safi, where males often did not receive the stipulated three hours of yard time.

The CPT reiterated that Safi is unsuitable for juveniles, especially unaccompanied minors or those undergoing age assessment. These individuals had no activities, spent 23 hours a day confined, and lacked psycho-social support. The CPT insisted they be transferred to semi-open, juvenile-appropriate facilities.

In the report, the CPT also flagged how Safi detainees had their phones confiscated, with insufficient access to fixed-line phones, making it hard to contact legal representation or family. The CPT recommended that detainees be allowed to retain their mobile phones or have access to VOIP and Wi-Fi, as implemented at Marsa. The continued lack of translated information about legal rights and detention procedures was underlined, and the CPT urging Malta to ensure qualified interpretation services and individual legal updates are available in all facilities.

Staff in some facilities were described as "*distant*" and often referred to detainees by numbers instead of names.

In relation to access to health services, the CPT acknowledged improvements in the medical infrastructure at Safi and Hal Far, including better-equipped clinics and more medical staff. However, some gaps remained, especially in mental health support and continuity of care.

By way of key recommendations, the CPT urged the following:

438 CoE CPT, *Report to the Maltese Government on the visit to Malta carried out by the CPT from 26 September to 5 October 2023*, 10 July 2025, available at: https://tinyurl.com/4jj66kvy.

- ❖ End detention of minors in carceral settings;
- ❖ Guarantee daily outdoor access and meaningful activities;
- ❖ Allow communication via mobile or internet-based tools;
- ❖ Ensure safeguards against ill-treatment and provide effective complaint mechanisms;
- ❖ Improve translation, legal aid access, and healthcare continuity.

Despite welcoming the improvement in detention centres in particular relating to the work of the Migrant Health Service, in 2024 the UN HRC expressed concern in relation to:

- ❖ Lack of data on the use of detention and alternatives to detention;
- ❖ Living conditions;
- ❖ Excessive use of force within the centres;
- ❖ Reliance on health-based detention, in particular the absence of remedies against this form of deprivation of liberty.[439]

The HRC made a series of recommendations, including:

- ❖ Adequate collation and publication of detention-related data;
- ❖ Increased use of alternatives to detention with a matching reliance on detention only as a measure of last resort for the shortest time possible;
- ❖ Strengthening of the principles of necessity and proportionality in relation to sue of force, with reference to the Basic Principles on the Use of Force and Forearms by Law enforcement Officials;
- ❖ Sustainable improvement in living conditions.

In *Feilazoo v. Malta*, decided in March 2021,[440] the ECtHR found violations of articles 3, 5(1), and 34 ECHR in the case of a Nigerian national placed in immigration detention pending deportation for fourteen months. The applicant's complaints concerned the conditions of his detention; not being given the opportunity to correspond with the Court without interference by the prison authorities; and being denied access to materials intended to substantiate his application. Regarding article 3, the Court considered several aspects of his detention and concluded, overall, that conditions were inadequate in particular because of the time spent in isolation without exercise (he was kept in a container seventy-five days without access to natural light or air). The Court also noted that he was later unnecessarily detained with individuals under COVID-19 quarantine, a measure that did not comply with basic sanitary requirements. The Court concluded unanimously that the conditions of his detention were a violation of the applicant's article 3 rights. The findings in this case were also referred to in the more recent case *AD v. Malta*, summarised above.[441]

The most recent report publicly available remains the CPT report published in March 2021 following its visit to Malta in September 2020. The CPT reported a catastrophic situation, it found an immigration system that was 'struggling to cope: a system that purely "contained" migrants who had essentially been forgotten, within poor conditions of detention and regimes which verged on institutional mass neglect by the authorities.' The CPT urged the Maltese authorities to 'change their approach towards immigration detention and to ensure that migrants deprived of their liberty are treated with both dignity and humanity.'[442]

In 2021, the Migrant Health Service within the Detention Service was launched, which resulted in a reduction of around 80% of referrals to local health centres and of around 85% to the Accident and Emergency Department at the national hospital. The Government further reported the introduction of a Close Monitoring Unit (CMU) in 2021 to provide separate accommodation for high-risk persons, for

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439 United Nations Human Rights Committee, *Concluding Observations on the third periodic report of Malta*, 26 August 2024, available at: https://tinyurl.com/3pp4ea4s.

440 ECtHR, Feilazoo v. Malta, Application No. 6865/19, Judgment 11 March 2021.

441 ECtHR, *A.D. v. Malta*, no 12427/22, 17 January 2024, available here.

442 CPT, Report to the Maltese Government on the visit to Malta carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from 17 to 22 September 2020, March 2021, available at: https://bit.ly/3mPtelf.

persons with specific medical conditions or for persons who require separate accommodation for their mental wellbeing.

The Government reported the introduction of a Welfare Officer in 2020 to maintain contact with persons held in detention centres, deal with any complaints or issues they may have, and focusing on providing support and assistance to detainees, objectives that have been met according to the Government.[443] However, in relation to 2023, NGOs visiting detention received several reports from applicants regarding the conduct of the Welfare Officer. According to the reports, the Officer was involved in incidents of harassment and threats in particular against applicants appealing negative age assessment decisions or challenging their detention orders. He was also mentioned in relation to applying undue pressure on applicants to apply for voluntary return procedures, in a context where detained applicants were having extremely limited access to UNHCR and NGOs and therefore receiving limited independent information and advice regarding their cases.

NGOs welcomed that in 2024, the Welfare Officer adopted a more cooperative and supportive stance vis-á-vis detained persons, especially vulnerable people.

A complaints system was reportedly put in place from 2021, and complaint forms and envelopes were disseminated in every compound.

Furthermore, the Government also reports carrying out refurbishment works in various parts of the detention centres yet, due to lack of access to these parts of the centres, these statements are impossible to verify. According to the Maltese Government, works were carried out in Safi as follows:

- Block A Zone 4, Total Renovation
- Block A Zone 5, Total Renovation
- Block A Zone 2, Total Renovation
- Block A Close Monitoring Unit, Total Renovation
- Block B House 1, Facelift
- Block B House 2, Total Renovation
- Block C Zone 1, New Building
- Block D Zone A, Facelift + New Ablutions
- Block D Zone B, Facelift
- Block D Zone C, Facelift + New Ablutions
- Block F Zones 3 & 6, New Building

New meeting facilities were built. These have been equipped with an open phone line system for lawyers, NGO representatives, interpreters, family members and other visitors.[444] The Ministry also noted that all visits were being recorded and purposeful meaningful activities had been introduced, such as television sets with access to educational and sports channels, board games, books and crickets sets.

In September 2022, the Committee of Ministers of the European Council took the Government's observations under consideration.[445] It noted that the authorities have taken a number of measures to improve the material conditions of detention at the Safi Detention Centre "which was, in 2021, the only official, closed detention centre for migrants in use in Malta". However, the Committee observed that "in order to allow the Committee an overall assessment on whether these measures are sufficient to remedy all the different aspects of the inadequate conditions of detention exposed in the Court's judgment, more detailed and extensive information is needed. In particular, as the shortcomings found by the Court are also supported by the recent report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) in its findings during its 2020 visit".

The Committee of Minister further invited the Maltese authorities 'to inform the Committee whether other centres than Safi are in practice used as detention centres or intended for such use, for example, Hermes Block (Lyster Barracks) (which, according to publicly available data, was closed for renovation), China

443 Information provided by Home Affairs Ministry in January 2024.
444 Ministry for Home Affairs, Security, Reforms and Equality, Feedback on the 2022 AIDA Country Report on Malta, shared with ECRE in January 2024.
445 Council of Europe, 1443rd meeting, 20-22 September 2022 (DH), available at https://bit.ly/3kWjb17

House in Ħal Far or the Marsa Initial Reception Centre (in which according to the CPT migrants can be de facto deprived of their liberty during lengthy medical clearances).'

In May 2022, Politico published a series of pictures and testimonies of former detainees who had been held in the Maltese detention centres in 2020. The pictures and testimonies confirm the conclusions of the CPT with specific references to some of its observations.[446]

In July 2022, aditus foundation released a series of testimonies from detainees who had been held for 18 to 25 months in both China House and Safi between December 2019 and April 2022. The testimonies confirmed the living conditions had not improved sufficiently since the CPT's visit.[447]

aditus foundation and JRS gathered further testimonies of minor applicants who were detained between November 2021 and June 2022 within the context of proceedings before the ECtHR[448] and the Civil Court of Malta (First Hall),[449] all confirming that the situation has not improved sufficiently. One of the applicants claims he was detained in complete isolation for 147 days in a container in the so-called CMU unit due to being diagnosed with tuberculosis.

NGOs noted recent positive improvements in some blocks of Safi which appear to have been refurbished but are unable to comment on the quality of the improvement since they have no access to the areas and the government has so far refused to provide any information which would indicate that the living conditions have significantly improved since *Feilazoo v. Malta.* NGOs therefore consider that the conditions of detention as reported by CPT are still relevant for the most part.

Additionally, NGOs reported that there is no dedicated space for minors in China House, one zone being dedicated to them in the Safi Detention Centre, offering the same living conditions as the other blocks.

In May 2023 the Public Interest Litigation Network, representing a child, filed a case against the authorities alleging a violation of the right to life when the child's father died in detention in 2012. Mamadou Kamara died in 2021 whilst in DS and AFM custody, whilst in the back of a DS van 'after being repeatedly kicked in the groin.' Following the incident, an independent inquiry established that the AFM had used excessive force.[450]

In *A.D. v. Malta*, delivered in October 2023, the ECtHR examined the physical conditions of the applicant's detention, including overcrowding, lack of privacy, inadequate sanitation, and limited access to outdoor exercise. It found that the cumulative effect of these conditions, particularly over an extended period, could lead to feelings of isolation, distress, and anxiety. The applicant was detained for over a year without a clear prospect of release or deportation. The Court emphasised that prolonged detention without foreseeable removal can exacerbate the negative effects of poor detention conditions, potentially reaching the threshold of inhuman treatment. Furthermore, the Court considered reports indicating the applicant's deteriorating mental health during detention. It noted that the authorities failed to adequately address his psychological needs, which contributed to his suffering. Taking into account the cumulative effect of the detention conditions, its duration, and the applicant's mental health deterioration, the Court concluded that the treatment he received amounted to inhuman and degrading treatment in violation of Article 3 of the Convention. Similar conclusions were reached in *J.B. and Others v. Malta*.[451]

446 Politico, In pictures: Inside Malta's crowded migrant detention centres, 18 May 2022, available at: https://tinyurl.com/4ya85r9j.
447 aditus foundation, Detained Narratives, July 2022, available at https://bit.ly/3ygs3BK
448 ECtHR, *A.D. v. Malta*, no 12427/22 (Communicated Case), 24 May 2022, available at https://bit.ly/3yfqjc6
449 Civil Court (First Hall), Ayoubah Fona vs. L-Avukat tal-Istat, 375/2022
450 The Shift, Claim filed against the Maltese State over detained migrant's brutal death, 22 May 2023, at: https://bit.ly/3wH3Lnz.
451 Additional details on the judgements are provided above in the section on the detention of vulnerable applicants.

Following release from detention, applicants often face difficulties in retrieving their possessions that had been confiscated by the Immigration Police following their arrival. These possessions may include money, jewellery, and mobile phones. Applicants are often required to rely on the intervention of NGOs to reclaim their possessions, at time months after their release from detention. The Police will inform that an investigation is conducted following every boat arrival, and that possessions can only be retrieved at the end of the said investigation, which can take more than a year.

On 2 September 2020, a dramatic incident happened at Lyster Detention Centre where an asylum -seeker died after he fell while trying to escape. The individual fell at 5am and received assistance by nurses on site but was only transferred to hospital hours later where he was certified dead at 11am. An inquiry is, as far as known, still ongoing.[452] The CPT investigated said incident and 'cannot reassure itself that staff, including health-care staff, had reacted sufficiently promptly when crucial help was needed to attempt to save this young man's life from the effects of suspected internal bleeding over a period of at least three hours'.[453] No charges have been brought in relation to this incident yet, and it is not known whether the Magisterial inquiries remains ongoing.

2.3. Health care in detention

The creation of the Primary Health Care Migrant Health Service in 2021 and a new clinic, operating in Safi Detention Centre, saw some positive improvements in the provision of health care to detained persons. This also includes a more organised approach to medical files, documentation and medical handover following release.

In its communication to the Council of Europe in relation to the execution of *Feilazoo v. Malta*, the Government reported the creation of the Migrant Health Service resulted in a drastic improvement in the healthcare that was being provided to all persons residing in Detention Centres. According to the Government, the launch of such service had resulted in a reduction of around 80% of referrals to local health centres and of around 85% to the Accident and Emergency Department at the national hospital.

According to the Government, specialist clinics are also being held in the main clinic. Ophthalmic, Infectious Disease, Dermatology and Sexual Health Specialists are doing in-house clinics, which has resulted in enhanced screening and treatment of the persons residing in Detention Centres.

NGOs reported that in 2023 and 2024, applicants appeared to be systematically screened upon arrival and referred to the appropriate services as part of a generic triage conducted upon disembarkation.

Third parties, including NGOs, can refer cases to the Migrant Health Service by email and feedback is usually provided when requested. Access to medical files is subject to the approval of the Head of DS and NGOs reported that their requests are generally ignored or only acceded granted several months after.

In January 2021, a nurses' union claimed that detainees were 'purposely self-harming to get themselves transferred out of detention centres' and asked for the hospital to refuse admissions of such people.[454] Such a statement shocked NGOs due to its lack of sensitivity. They explained that their experience in detention confirmed the severe psychological harm caused by prolonged detention in undignified conditions. The NGOs stated that self-harm and suicide attempts were not abuses of the system but the

452 Times of Malta, Man dies after trying to escape migrant detention centre, 2 September 2020, available at: https://bit.ly/31av9a5.

453 CPT, Report to the Maltese Government on the visit to Malta carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from 17 to 22 September 2020, March 2021, available at: https://bit.ly/3mPtelf.

454 Times of Malta, Union claims migrants are "purposely self-harming" to enter Mount Carmel, 29 January 2021, available at: https://bit.ly/3scNO0Q.

"*extremely worrying effects of a policy that entirely dehumanises people*". They stressed the need for all people to receive appropriate treatment for their mental health conditions without discrimination.[455]

According to Government figures, in 2023 five persons were referred from detention to mental health institutions. [456] Whereas this figure, lower than the 93 referrals in 2020, may be interpreted as a positive sign reflecting improvements in the detention centres, it is also reflective of the overall lower number of persons reaching Malta and the new approach towards attempting to provide specialised health services within the detention centres themselves.

Overall, NGOs visiting detained applicants confirm the improvement in provision of health services. The main concerns relate to the fact that the improved health services within the centres further isolates applicants by permitting the authorities to argue that, since support services – including for vulnerable persons – are adequately provided in the centres, release into open reception centres is not warranted and that support services provided by NGOs or other entities are not required. NGOs commented that this is problematic on two levels.

Firstly, AWAS' remit to assess vulnerability and recommend release from detention seems to be gradually weakening with an approach increasingly relying on reports from the services provided in detention. NGOs noted that AWASs expertise in assessing vulnerability is based on decades of experience in the sector and its institutional detachment from the DS, albeit limited in nature due to it falling within the same Ministry, provides a minimum level of independence. Secondly, NGOs note that, in a context where determination of vulnerability is closely linked to the possibility of release from detention, the impossibility of challenging a DS vulnerability determination through external and/or independent experts further limits a person's possibility from enjoying their right to freedom.

3. Access to detention facilities

Indicators: Access to Detention Facilities

1. Is access to detention centres allowed to:
   - ❖ Lawyers: ☐ Yes ☒ Limited ☐ No
   - ❖ NGOs: ☐ Yes ☒ Limited ☐ No
   - ❖ UNHCR: ☐ Yes ☒ Limited ☐ No
   - ❖ Family members: ☐ Yes ☒ Limited ☐ No

The Reception Regulations provide for the possibility for detainees to receive visits from family members and friends up to once per week. The Detention Service administration shall determine dates and times once the Principal Immigration Officer (PIO) approves such visits.[457]

The Detention Services Regulations provide that detained persons are entitled to visits from, or communications with, authorised persons and representatives of non-governmental organisations, save to the extent necessary in the interests of security or safety.[458] Representatives of international organisations and non-governmental organisations have access to detained persons after obtaining the authorisation of the Head Detention Services or the Principal Immigration Officer acting on the advice of the Minister.[459]

455 aditus foundation, Press statement from the Malta Refugee Council, network of Maltese NGOs working for the promotion of the fundamental human rights of persons in forced migration, 29 January 2021, available at: https://bit.ly/3tOrj2r.

456 Ministry for Home Affairs, Security, Reforms and Equality, Feedback on the 2022 AIDA Country Report on Malta, shared with ECRE in January 2024.

457 Regulation 6A Reception Regulations.

458 Regulation 30 of the Detention Service Regulations, S.L. 217.19.

459 Regulation 49(2) of the Detention Service Regulations, S.L. 217.19.

The legal adviser or representative of any detained person in any legal proceedings shall be afforded reasonable facilities for interviewing him in confidence, save that any such interview maybe in the sight of an officer.[460]

Religious organisations may request access to detention centres to the Head Detention Service who may grant such access on a case-by-case basis in consultation with the Principal Immigration Officer.[461]

The Regulations also provide that all detained persons shall have access to public telephones at the detention centres and that he Head Detention Services may bear the expense of any telephone calls, within reasonable limits, by providing phone cards to all detained persons.[462]

The 2023 Visitors Policy

NGOs and other entities' limitations in accessing detention centres was one of the major issues throughout 2023, after several obstacles to access being introduced in previous years.

In August 2023, the Detention Services Agency published a new Visit Policy, essentially incorporating what had been until then standard practice. The new policy limited access to centres – and therefore to applicants – to qualified and warranted lawyers and required applicants to sign their consent to be visited. Visits were limited to no more than 6 persons at a time, to be held in a designated area, and all visitors were required to leave all belongings – including phones – in locked cabinets. Frisk searches were made compulsory. Control over the visit, including the visit, was entirely at the discretion of the Detention Services. This new policy was shared with entities usually visiting detention centres and was immediately not well-received.

NGOs complained about the excessive burdens imposed on practitioners trying to access detention centres, finally impinging on the right of all detained persons to receive impartial information. In particular, they expressed disagreement with the DS' self-imposed role of approving individual lawyers for applicants, a practice that had seen DS refuse NGO access to applicants on the basis that the applicant was being provided services by other legal practitioners. This practice reinforced informal information received by NGOs that government officials were being barred from referring applicants to NGO legal services.

The new policy was rejected by aditus, JRS, UNHCR, Malta Red Cross and IOM, albeit for different reasons. Effectively this meant that, from the date of introduction of this new visitors' policy, only a few visits were organised to detention, and this situation continued until January 2024.

Following months of disagreement on the policy, difficult negotiations between NGOs and the Ministry led to the publication of a revised policy in December 2023. NGOs agreed to sign the new policy, with reservations, whilst UNHCR continued its discussion with the Government towards the signing of an MoU. As of January 2024 and throughout the year, NGO lawyers started visiting the detention centres once again, under the conditions of the new policy.

In terms of the new Detention Services Agency Visitors Policy,[463] all visits must be requested in advance indicating the details of the applicants to be visited and each visit will only permit a maximum of 6 persons. All meetings with detained persons are to be conducted in a room equipped with a CCTV camera and no personal equipment is permitted inside the room. These must be left in cabinets, and all visitors are to be frisked before entry.

460 Regulation 34 of the Detention Service Regulations, S.L. 217.19.
461 Regulation 29 of the Detention Service Regulations, S.L. 217.19.
462 Regulation 35 of the Detention Service Regulations, S.L. 217.19.
463 Detention Services Agency, Detention Services Agency Visitors Policy, December 2023, available at: https://bit.ly/3WZAu2c.

Family members and friends must request access via email and a time slot will be allocated accordingly.

Access to Journalists

Up until 2021, Times of Malta and independent journalists reported that its journalists were repeatedly denied access to the Safi detention centre.[464]

In 2020, a prominent blogger and activist filed a court application claiming that the Government's refusal to grant him access to prison and to detention centres amounted to a violation of his fundamental rights. Judgement was delivered in 2023, when Malta's Civil Court (Constitutional Jurisdiction) upheld the journalist claims that the ban had violated his right to freedom of expression. The judgment, later appealed by the Government, ordered the head of the Detention Services *"to grant the applicant access in order for him to visit the above-mentioned facilities and to allow him to take necessary photos, always in respect of the detainees' privacy."*[465] The case is currently pending at the appeal stage.

In 2021, a journalist went on a controlled visit for the tour of a detention centre, for the first time in 8 years.[466] Lawyers visiting the centre however reported that the journalist's somewhat positive account of the situation inside contradicted greatly their own experience and the detainees' testimonies.[467] The journalist reported that detainees had access to health services, that minors were kept apart from adults and that all detainees had access to an outdoor area and telephones to call their relatives. All of these statements were confirmed to be untrue by detainees and lawyers.

In 2023, as part of its reform of the detention regime, the Detention Services Agency published a protocol on media access.[468] Written requests for a visit to a detention centre should be made to the CEO of the Detention Services Agency. If approved, a date will be set for the visit, during which the following rules are to be respected:

- No recording, filming, photography or voice recordings;
- Interviews with the DS CEO are permitted, subject to prior approval;
- Mobile phones and all means of communication will be temporarily confiscated;
- Security screening will be implemented, including personal searches;
- All visits will be along a set route and accompanied by DS officials;
- Random access to areas not related to the visit's purpose are prohibited;
- Visits may be suspended at any time.

According to the Home Affairs Ministry, two media requests were granted however in the absence of further details or of any reporting, NGOs could not verify this information. One journalist interviewed the DSA CEO. In the interview, the CEO provided details on developments since the publication of the 2021 CPT report.[469]

Access to the UNHCR

UNHCR's access to detention centres and to applicants has also been affected by the recent move towards stringent rules. On the one hand, according to the Government, the UNHCR's presence in detention is sufficient to ensure that relevant information on asylum is provided, and that NGO access is

464 Times of Malta, UN slams "*shocking*" conditions for migrants in Malta, 2 October 2020, available at: https://bit.ly/2NHS4qb; Malta Today, Manuel Delia demands access to detention centres, prison', 21 February 2020, available at: https://bit.ly/2NHSeOj.

465 Emanuel Delia vs. Hon. Byron Camilleri et, Civil Court First Hall (Constitutional Jurisdiction), 201/2020, 11 December 2023, at: https://bit.ly/4awOjs1.

466 Times of Malta, Inside the Safi migrant detention centre, 5 July 2021, available at: https://bit.ly/3qdeCPk.

467 Information provided by aditus foundation and JRS Malta, January 2022.

468 Detention Services Agency, Media Protocol, 2023 at: https://bit.ly/3ViXcRD.

469 The Malta Independent, Detention Services refute claims of poor living conditions, verbal abuse for irregular migrants, 28 July 2024, available at: https://tinyurl.com/4annktdh.

not required. Regarding the need for legal assistance, the Government considers that the UNHCR is able to refer applicants to NGOs when necessary and there is no need for NGOs to be present to provide information sessions.

However, UNHCR staff visiting the detention centres reported facing issues in accessing detention during the second half of 2021 where they did not have access to the list of detainees and were not granted access to them. During the first half of 2022, the UNHCR carried only one visit to detention in February due to limited staffing capacity. It only resumed its visits in August and September where it carried out 3 visits. Overall, in 2022 UNHCR met approximately 91 persons for information counselling sessions in detention centres.

UNHCR Malta was also affected by the 2023 DSA visitors policy. When this was published and notified to entities wishing to access detention centres, UNHCR was one of the organisations that refused to accept and sign the new policy. This meant that for the second half of 2023, UNHCR enjoyed limited access to detention centres. A new rule was also introduced barring UNHCR from accessing persons unless they had formally lodged an asylum application. This policy remained implemented throughout 2024. aditus and JRS Malta commented that, coupled with a more aggressive approach urging voluntary return on persons from particular countries of origin and the effective impossibility of newly-arrived persons from accessing independent and impartial information, this has at times resulted in persons returning to their countries of origin without ever having received any information om the right to seek asylum.

In 2023, UNHCR conducted five visits to detention facilities and provided information and counselling to 103 asylum-applicants. In 2024 UNHCR conducted six visits to detention facilities and met with 61 applicants. Of these, five visits were conducted to provide information on the procedure and five visits entailed individual counselling following specific requests from detained applicants[470]. UNHCR noted that the info sessions covered the following thematic areas: UNHCR's mandate and its role in Malta, the right to seek asylum and asylum procedures, including grounds for international protection and national forms of protection, rights and obligations of applicants, detention procedures, including grounds for detention orders and rights in detention, detention reviews and translation of detention orders (written in English). During these monitoring visits, the detainees also shared with UNHCR their feedback on detention conditions, challenges and needs. Additionally, while meeting with the detainees, UNHCR identified and referred to AWAS and DSA personnel persons with specific need for specialized services.

In 2024, UNHCR and the DSA continued discussing a MOU on UNHCR's access to detention, set to be signed in 2025.

Access to NGOs and Lawyers

Throughout 2022, 2023 and 2024, only persons providing legal services were granted access to applicants, and with several practical obstacles. As such, access is only viewed within the scope of the lawyer-client relationship and not within the broader aim of information or service provision to detainees irrespectively of whether they are represented by the lawyer of the NGO. JRS Malta reported that its psychologists and social workers are not allowed to provide their services to detainees.

Lawyers are only allowed to visit identified and named clients. They are not able to access newly-arrived or newly-detained persons until they are able to provide DS with a name, surname and Immigration Number. This means that, in practice, for applicants to have access to legal information and services, NGOs must call regularly each block of the detention centres and request personal information of groups of people over the zone's public phone: police numbers, exact names, detention grounds, overview of asylum claim, vulnerabilities, countries of origins and other details have to be continuously registered and updated for the lawyers to be able to specify which individual applicants they would like to visit as clients.

[470] Information provided by UNHCR in February 2025.

It was noted that on several occasions during these weekly calls, NGOs were alerted to the presence of either new arrivals or new arrests, including of persons to be immediately removed.

NGOs commented that this system empowers information gate-keepers, creating complex ethical and safety issues. It also requires detained persons to reveal personal information in an impersonal, public and at times dangerous manner. Furthermore, NGOs noted that this system tends to favour enabled persons whilst possibly omitting the more vulnerable.

With this information, often lacking detail and clarity since only obtained over the phone, NGO lawyers are required to submit a visit request to the Detention Services in order to reserve a slot in the centre board room. NGOs are usually allocated up to four hours, during which the lawyers (accompanied by an interpreter, as needed) are able to talk to a maximum of six persons. There are weeks when NGOs visit a detention centre twice, whilst there are times when weeks pass without any slot being allocated since the board room might not be available. NGOs also noted that they received informal information that Government officials were instructed not to refer applicants to their services, including vulnerable persons, further distancing them from impartial information and services. In 2024 NGOs commented that their access to their clients was entirely dependent on the DS, including for situations of emergency. They reported being offered visit slots on weekends as the only available time. They also reported a number of incidents where the DS alleged that the persons listed on their authorisation request indicated a refusal to meet the NGO lawyer, without however providing evidence of this refusal.

NGOs flagged that, throughout 2023, each block of the Detention Centres was equipped with a phone and detainees were provided with telephone vouchers to use with these phones. According to the Home Affairs Ministry, in 2023 the DSA distributed 4,510 vouchers.[471] NGOs commented that the available credit on these phones was merely sufficient to call family members. They confirmed having met some clients with a printed sheet having lists of organisations and telephone numbers, but the system of distribution or explanation of this list remains unclear. For example, it is not clear if persons detained following raids in homes, workplaces or the streets are provided this information or any information on their rights, including the possibility to seek asylum.

Some blocks allowed applicants to ask the guards to access a mobile phone, but this required the ability and capacity to communicate with the guards. NGOs noted that language difficulties and also individual vulnerabilities often prevented detained persons from relying on this method of communication, commenting that they rarely received calls through this means.

NGOs also noted difficulties – at times the impossibility – of reaching new arrivals by phone for the first days or weeks following their arrivals. aditus noted that in 2024 several documented attempts were made to reach newly arrived people in China House, yet it was clear that the telephones in the blocks they were detained in had been either switched off or otherwise made unusable. Identical problems were flagged in relation to persons held in isolation in Safi. Despite these issues being presented to the DS, no response was provided.

This lack of access to lawyers is particularly problematic due to the fact that deadlines stipulated in Maltese legislation for the filing of appeals against Detention Orders (3 days), Removal Orders (3 days), age assessment decisions (3 days), and negative asylum decisions (15 days) are extremely stringent and template application forms are not regularly provided in detention. The actual deadlines amount more or less to the actual time needed to get the approval for a visit the following week.

This policy of heavily restricted access results in the absence of provision of basic information on the asylum procedure, identification of vulnerable persons including persons requiring specialised legal advice/information relating to their asylum claims such as LGBTIQ+ applicants and victims of sexual or other forms of violence, information on the available legal support for detainees, or the possibility to appeal

471 Information provided by Home Affairs Ministry in January 2024.

decisions within the legal deadlines. Applicants can therefore go through their entire asylum procedure without ever being given any independent legal advice or information.

In relation to detained applicants channelled through the accelerated procedure, these are issued with the IPAT review, a removal order and return decision along with their rejection. As stated above, they cannot appeal their first instance decision and they usually would miss the short deadline (3 days) to appeal the removal order, which necessarily needs the intervention of an NGO lawyer or a private lawyer. This lack of procedural safeguards coupled with the lack of communication from Immigration Police regarding removal arrangements means that individuals are at an increased risk of refoulement.

D. Procedural safeguards

1. Judicial review of the detention order

Indicators: Judicial Review of Detention		
1. Is there an automatic review of the lawfulness of detention?	☒ Yes	☐ No
2. If yes, at what interval is the detention order reviewed?	7 days, then every 2 months	

1.1. Review of asylum detention under the Reception Regulations

The Reception Regulations provide for an *ex officio* review of the lawfulness of the detention to be automatically conducted by the Immigration Appeals Board (IAB) after seven working days from the issuance of the Detention Order, which may be extended by another seven working days.[472] If the applicant is still detained, a new review would be conducted after periods of two months thereafter. If the IAB rules the detention is unlawful, the applicant should be released immediately. Free legal assistance is provided for the first review.

The Immigration Act provides that the Board shall consist of *"a lawyer who shall preside, a person versed in immigration matters and another person, each of whom shall be appointed by the President acting on the advice of the Minister. Provided that the Minister may by regulations prescribe that the Board shall consist of more than one division each composed of a Chairman and two other members as aforesaid*".[473]

The UNGDAW report noted the challenges faced by detained women in securing access to judicial review of their detention, urging Malta to consider use of alternatives, to ensure that detention-related decisions are adopted on the basis of judicial decisions and that judicial review is guaranteed.

The image of the Board and its ability to act and appear as an independent entity has been seriously undermined by various independent commentators who pointed out that all members of the Board are directly connected to the executive[474] and cumulatively sit on a dozen other specialised tribunals, including the Chair who sits on at least others.[475] All members who are lawyers are also practising as private lawyers in diverse civil and criminal matters.

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472 Regulation 6(3) Reception Regulations.

473 Article 25A of the Immigration Act, Chapter 217.

474 The Shift News, Foreign Minister Evarist Bartolo picks individuals from his district to serve as ambassadors, 6 December 2021, available at: https://bit.ly/41OTbFK; The Shift News, Labour-linked lawyer Maria Cardona chairs four government boards at the same time, 20 November 2021, available at: https://bit.ly/3KZPVkW ; Lovin Malta, Prison lawyer defending wardens in inmate's negligent death is an army officer, Magistrate's brother, and represents controversial blogger, 21 September 2021, available at: https://bit.ly/3yakT29; Manuel Delia, UPDATED: More iced buns, 3 November 2017, available at: https://bit.ly/3kJZZDZ; The Rule of Law in Malta: An overview of rule of law failings in Malta, 4 February 2018, available at: https://bit.ly/3BWci4v; Manuel Delia, What she would have written, 3 November 2017, available at: https://bit.ly/3IVOQb0.

475 This includes the Corradino Correctional Facility Monitoring Board, http://bit.ly/3XrZKM7; the Minor Care Review Board, http://bit.ly/3ibfCSU; the ad-hoc Review Board of Community Malta Agency,

Stakeholders, including the Chamber of Advocates, have expressed concerns regarding specialised tribunals such as the Board.[476] In their feedback to DG Justice on the Malta Country Chapter for the Rule of Law Report, aditus foundation highlighted the following shortcomings regarding the Board:

- Although the basic principles of natural justice apply to the Board, the Board members are not members of the judiciary and are not bound by any code of ethics, differently from members of the judiciary. The only requisite for the Board to be validly constituted is for the Chairperson to be a lawyer and one member to be a "*person versed in immigration matters*". The appointment of persons who lack any specific qualification and experience on a Board that examine particularly sensitive issues such as the detention of migrants and asylum-seekers might deprive individuals of the right to an effective remedy.

- Members of the Board are part-time members. This means that they often have regular day jobs, usually in the private sector, and perform their Board functions for some hours during the week. This can raise serious conflict of interest issues, besides affecting the efficiency of the Board.

- Members of the Board are appointed by the Prime Minister. Whilst not automatically assuming that such an appointment would lead to political interference, it is clear that the system could have an impact on independence and impartiality and could strengthen Government's agenda on any particular issue as the Board examine decisions taken by Government bodies.

- The manner in which the Board conducts its proceedings is not publicly available through published guidelines. There is a lack of procedural transparency: proceedings are not appropriately recorded, the minutes of the hearing are poorly done (if done at all), and the method of receiving submissions from parties is not formalised. The decisions are not published and are not publicly available.

- The Board's decision is final, and no further appeal is possible on substantive issues. Whilst judicial review on administrative action might be possible, as also a Constitutional case alleging human rights violations, there is rarely the possibility to bring substantive elements before the Courts of law. Furthermore, the Board has consistently refused to accept request for filing Preliminary References to the CJEU, despite it being the Court of last resort and being faced with issues for which References would be warranted.

- In 2023, two additional Board Members were made ambassadors, further highlighting their close ties with the party in Government as well as the potential for conflicts of interest.[477]

These concerns were shared by the Venice Commission which considered that specialised tribunals such as the Board do not enjoy the same level of independence as that of the ordinary judiciary and reiterated in October 2020 its recommendations in that respect.[478]

In its 2023 Rule of Law Report, the European Commission repeated statements made in its 2022 report regarding Malta's commitment in the Recovery and Resilience Plan to review the independence of its specialised tribunals, including the IPAT and the IAB. The Report also made reference to input submitted by aditus foundation and the Daphne Caruana Galizia Foundation as well as the ECtHR judgement in

http://bit.ly/3XpYF7B; the Grant Review Board, http://bit.ly/3F5rsr7; the Sentencing Advisory Policy Board, http://bit.ly/3U6uz61; the Arbiters on the Consumer Claims Tribunal, http://bit.ly/3i6qzW5; the Commissioner for Justice, https://bit.ly/3E3U9V2; and the Building and Construction Agency, https://bit.ly/3ZjzPqu.

476 Venice Commission, CDL-AD (2020)019-e, para. 98; see also CDL-AD(2020)006 paras. 97-98; and CDL-AD(2018)028 paras. 80-83.

477 The Shift News, More ambassadorial appointments for the chosen few, 29 May 2023, available at: https://bit.ly/4bWyxYf.

478 Ibid.

S.H. The Report flags that decisions of these 'tribunals are at times only subject to judicial review on points of law, but not on points of fact.'[479] According to Malta's commitment, this review should have been completed by 2024, with necessary legal amendments introduced by 31 March 2026.

The 2024 Report underlines that 'concerns persist regarding the independence of specialised tribunals'.[480] Although the report states that Malta launched public procurement procedures for the selection of the independent contractor who will assess the tribunal's independence, these procedures have not in fact been launched by May 2025.

In 2024, the ECtHR judgement unequivocally decided on the IAB's suitability to conduct detention reviews, or any other form of quasi-judicial activities, in the *J.B. and Others* judgement. The Court looked at all aspects of the IAB's operations and structure, clearly concluding that:

> …it has found that the applicants did not have an effective remedy for the purposes of Article 5 § 4, considering, inter alia, that in the absence of any safeguards the applicants had legitimate doubts as to the independence of the IAB. Bearing in mind that both independence and impartiality are important constituent elements of the notion of a "court" within the meaning of Article 5 § 4 of the Convention and that the general principles concerning the independence and impartiality of a tribunal, for the purposes of Article 6 of the Convention apply equally to Article 5 § 4 (see 143 above) the Court calls on the Government to ensure that legislation is put in place in order for the IAB to conform with those requirements, having regard to the manner of appointment of its members and their term of office, the existence of guarantees against outside pressure and the necessity for the body to present an appearance of independence.

As of May 2025, no indications have been shared by Government that any changes will be made to the IAB.

While the review of detention is usually carried out after the first seven days, NGOs report that hearings with the IAB are extremely short, lasting between 5 and 15 minutes and that the several detainees are often seen at the same time. The Board has no written or published procedural rules, particularly on oral or written submissions. This means applicants are rarely heard.

The Board rarely questions detention legality in terms of the Directive's and Regulations'' requirements. Decisions generally take the form of unsigned hearing transcripts, standardized and rarely motivated by any principle or law. Some decisions run contrary to well established jurisprudence, including national case law from the Court of Magistrates and the Constitutional Court.

In 2024, the IAB informed legal practitioners that, for some reason unknown to practitioners, it does not conduct the mandatory detention reviews of detained persons who are currently in the age assessment procedure.

In R.*M. (Bangladesh) vs. the PIO*,[481] the Board noted that the case was initially to be heard before Immigration Appeals Board, Division I, but that a conflict of interest was registered by Division I due to the role of one of its members in the Minors Care Review Board. The appellant's representative questioned whether there was a similar conflict of interest before Division II given that the same Division also decides the Age Assessment Appeals. The Board advised the appellant that an objection should be registered if the appellant's representative felt that Division II had a conflict of interest to hear both cases. The appellant declared that he wished to proceed with the hearing as this would delay his detention. The Board relied

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479 European Commission, Rule of Law Report, Country Chapter on the rule of law situation in Malta, 5 July 2023, at: https://bit.ly/4aDvuU7.

480 European Commission, Rule of Law Report, *Country Chapter on the rule of law situation in Malta*, 24 July 2023, available at: https://tinyurl.com/yhk6878p.

481 Immigration Appeals Board (Division II), R.M. (Bangladesh) v. The PIO (DO/35/2022), 24 March 2022, available at: http://bit.ly/3V5vPHU

on the fact that the appellant rectified his date of birth during the asylum procedure to deem the detention to be lawful. However, the Board decided that until the Age Assessment Appeal is decided, the appellant is to be transferred to the Buffer Zone within the AWAS Open Centre under those conditions that are considered appropriate and necessary by AWAS.

In the cases of *K.J. and K.B.D. (Bangladesh) vs. AWAS and the PIO*[482], the challenged AWAS decision reversed a previous decision of the Agency to declare the appellants as minors, following the submission of a "*photo of documentation*" by the PIO which allegedly showed that the appellants were adults. The Board declared both appeals closed noting that the Principal Immigration Officer has no locus standi in age assessment procedures and that AWAS has no competence to review its own decisions on age assessment. The Board concluded that the appellants are minors, as originally concluded by the AWAS and that they must be released and returned to the Dar Il-Liedna open shelter for unaccompanied children. Following this decision, the PIO systematically submits pictures of passports which are found in the confiscated phone of the applicants before AWAS decides on the age assessment procedure and AWAS appears to give significant weight to this evidence.

While the above decisions indicate that Division II tends to show awareness to minority claims, Division II does not appear to consider itself to be bound by its own precedents and has shown itself to be able to ignore the minority claim of some applicants despite their case being similar to the above-cited cases.

In *A.D. (Ivory Coast) vs. the PIO*,[483] the appellant was rescued and disembarked in Malta in November 2021. He declared that he is a minor upon arrival and was directly detained by the health authorities after disembarkation. The appellant was initially rejected following an age assessment procedure in January 2022 but filed an appeal in front of the Immigration Appeals Board, Division II. He then appealed the Detention Order issued to him in February 2022 and appeared in front of the Immigration Appeals Board, Division II, for a first hearing on 17 February 2022. The appellant complained that despite being an asylum applicant, he was being detained solely on the basis of his nationality since he is from a country where Malta carries out forced returns. He further complained that there was no individual assessment of the need to detain him and that alternatives to detention were never considered. Finally, he complained that as a minor he should be detained as a measure of last resort which was not the case in his situation.

Division II considered detention to be lawful and ordered that the appellant is kept in a lodging adequate for minors. The Board decided that it would review the detention of the appellant two months after unless a decision on his age assessment is given before such date or unless the PIO offered an alternative to detention. The PIO later refused to implement alternatives to detention and the appellant was kept in detention until he was released in July 2022.

Division II held 3 other hearings during which it concluded that the detention was lawful. A.D. took his case to the ECtHR, where the Court found that his rights had indeed been violated by Malta.

In *J.B. and others* decided on 6 December 2022, concerned the legality of the detention of 7 applicants assisted by legal aid lawyers, including 6 applicants claiming to be minors. Division II decided that the detention of the 7 applicants was lawful with no apparent assessment, issuing a single decision for all applicants. On 12 January 2023, following an application filed by aditus foundation, the ECtHR issued an interim measure ordering Malta to ensure that the 6 applicants claiming to be minors are provided "*with conditions that are compatible with Article 3 of the Convention and with their status as unaccompanied minors*". The 6 minors had been detained with adults in the so-called China house since their arrival on 18 November 2022, some 50 days after their arrival and AWAS was not aware of their existence before

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482 Immigration Appeals Board (Division II), Div. II., K.J. and K.B.D. (Bangladesh) vs. the PIO and AWAS (AA/11/22/DO), 14 July 2022, available at http://bit.ly/3U2UVGf and the press release from aditus foundation at: http://bit.ly/3Ess4Fm.

483 Immigration Appeals Board (Division II), A.D. v. the Principal Immigration Officer (DO/37/2022), 17 February 2022, available at: https://bit.ly/3kS5d0n.

they were referred by aditus foundation in January 2023.[484] J.B and others took their case to the ECtHR and the Court found in favour of the child applicants, noting that:

> despite that claim by all but the first applicant, the IAB indiscriminately confirmed the lawfulness of their detention, despite the fact that Regulation 14 of S.L. 420.06 provided that applicants who claim to be minors shall not be detained, except as a measure of last resort, unless the claim is evidently and manifestly unfounded. It has not been claimed that this was the applicants' situation, which is reinforced by the fact that five of the six applicants were finally found to be minors. Despite the law, there is no indication of any such assessment having been made before the detention order was issued on 30 November 2022, nor was any proper assessment made during the review by the IAB in December 2022. Additionally, the automatic reviews provided for by law did not take place, denying the applicants any procedural safeguards, and the applicants' requests for release on alternatives to detention in April remained without a formal reply. According to the applicants, the PIO verbally informed them that no alternatives to detention would be considered in view of the reports – which the Court observes, indicated that all but the first applicants were having difficulty in detention.

The operations of the Board are also being scrutinised by the ECtHR in the communicated case *M.S. v. Malta*, regarding the detention of an extremely vulnerable LGBTIQ+ applicant.
The decisions of the Board are not published. Some decisions are available online on the EUAA case law database, the International Commissions of Jurist CADRE database and aditus foundation's website.[485]
Lawyers reported that the reviews that are required by the Regulations to be carried out two months after the first one are generally not automatically done and will happen if requested by a lawyer. This is in part due to the fact that free legal aid is only provided for the first review. This results in asylum applicants often being detained without appropriate judicial oversight.

Parallel to this automatic review, the new Reception Regulations provide for the possibility to challenge the Detention Order before the IAB within three working days from the Detention Order.[486] In practice, it is nearly impossible to challenge the Detention Order itself as asylum applicants do not have the capacity to submit such an appeal on such short notice as there is not enough time to seek the assistance of a lawyer (see Access to Detention).

There is no remedy envisaged for persons detained under the Prevention of Disease Ordinance, as the provisions relied upon by the authorities do not authorise them to detain persons. Persons detained under this regime may, however, challenge the lawfulness of their detention before the Criminal Courts, provided they have access to a lawyer, which is rarely the case.

1.2. Other remedies

Together with the remedies offered by the ECtHR, there are a number of remedies available to detainees to challenge their detention. Yet most do not meet the ECHR requirements of being "*speedy, judicial remedies*" in terms of Article 5(4) ECHR and also in terms of EU law.[487]

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484 Immigration Appeals Board (Division II), J.B. and others (DO/174-220/2022), 6 December 2022, available at aditus foundation, European Human Rights Court orders Malta to release children from detention, 12 January 2022, available at: http://bit.ly/3j3aVeM.

485 EUAA Case Law Database, https://bit.ly/3XQZJ4c; CADRE Database, http://bit.ly/3HaA932; aditus foundation, Our Cases, https://tinyurl.com/yc8jeb82.

486 Article 16 of the Reception Regulations, S.L. 420.06 and Article 25A of the Immigration Act, Chapter 217.

487 ECtHR, Louled Massoud v. Malta, Application No 24340/08, Judgment of 27 July 2010; ECtHR, Suso Musa v. Malta, Application No 42337/12, Judgment of 9 December 2013 and ECtHR, Abdullahi Elmi and Aweys Abubakar v. Malta, Application Nos 25794/13 and 28151/13, Judgment of 22 November 2016.

Human rights complaints before the Civil Court (First Hall) in its Constitutional Jurisdiction

This remedy, which allows detainees to challenge the lawfulness of their detention in terms of the ECHR and the Constitution of Malta, has failed the Article 5(4) ECHR test for detained persons as, although it is clearly judicial, it is far from speedy.

In addition to the length of time for the delivery of judgments, Constitutional proceedings are virtually inaccessible to detainees as in practice most do not have access to a lawyer who could file a court case on their behalf. In fact, to date most cases have been filed by lawyers working with NGOs. In such cases there is no waiver of court fees, as there would be if the applicant had been granted the benefit of legal aid.

This remedy is deemed to be an effective one for persons who, at the time of the Court application, are no longer detained and wish to obtain a judicial pronouncement on their detention experience.

In *Ayoubah Fona vs. L-Avukat tal-Istat* filed on 12 July 2022 before the Civil Court of Malta (First Hall), the applicant complains of his conditions of detention and the unlawfulness of his detention under the Prevention of Disease Ordinance. The minor applicant arrived in November 2021 and remained in detention for 58 days, with a substantial amount of time spent with adults in China House.[488] At the time of writing, the case was ongoing.

Application under Article 409A of the Criminal Code (*Habeas Corpus*)

This remedy also allows a detainee to challenge the lawfulness of ongoing detention before the Court of Magistrates (Criminal Jurisdiction) and is based on an assessment on whether a legal basis for the detention exists, or otherwise. Several successful applications were brought before the Courts since 2019, resulting in the immediate release of the applicants. All the cases challenging the *de facto* detention of applicants under the Prevention of Disease Ordinance filed before the Court of Magistrates were successful except for one case decided in January 2022.[489]

An ongoing legal discussion in *Habeas Corpus* applications relates to the nature of Court's assessment in determining whether a legal basis for the detention exists or otherwise, and Court practice has not been too clear on this. Most Magistrates refrain from engaging in a discussion as to the quality of a detention legal basis, including whether this conforms to EU or ECtHR provisions, insisting that the Criminal Code provision does not demand that assessment.

In *J.B. and Others v. Malta*, the ECtHR assessed the quality of the remedy presented by Article 409A in the context of persons detained under the Prevention of Disease Ordinance and also under the Reception Regulations, in the context of establishing whether it is a required domestic remedy for applicants before seeking redress before it. The Court found that the Government failed to show that remedies under Section 409A of the Criminal Code were effective or accessible during the first period of detention, particularly as the applicants – mostly minors – were not informed of the reasons for their detention, had no access to legal assistance or relevant information, and no evidence was provided that such remedies had ever succeeded in similar cases. Regarding the second period of detention, the Court held that Section 409A was not the appropriate remedy due to the principle of *lex specialis*, as the Immigration Appeals Board (IAB) had jurisdiction under the Immigration Act and Regulation 6 of S.L. 420.06.

1.3. Review of pre-removal detention under the Returns Regulations

Since the transposition of the Returns Directive, the law provides for the possibility to institute proceedings to challenge the lawfulness of detention before the Immigration Appeals Board.

488 Civil Court (First Hall), Ayoubah Fona vs. L-Avukat tal-Istat, 375/2022.
489 See aditus foundation, our cases, https://bit.ly/3kP38Ch

The law provides that reviews should be carried ex-officio by the PIO at regular intervals of 3 months and supervised by the Board for people detained after 6 months.[490] However, lawyers and NGOs reported that the PIO reviews do not follow any formal procedures.

Parallel to these reviews, the detained migrant can appeal the removal order in terms of Article 25A of the Immigration Act within 3 days of the notification of the removal order.

According to lawyers assisting migrants served with a removal order, the IAB rarely questions the lawfulness of detention or its validity, as it considers the detention always necessary when a removal order is taken. The Board will take the police statements regarding the removal as sufficient to conclude that it is being executed with due diligence and that there is a prospect of removal despite a significant number of individuals being detained for more than 10 months.

Regarding the application of the principle of non-refoulement, the Board never questions the decisions of the IPA and will not carry its own risk assessment, even if the matter is raised during proceedings. Detention and removal will only be questioned when a subsequent application is filed.

Unless successfully challenged, Malta generally applies the maximum permitted detention duration for persons detained pending removal. Furthermore, NGOs report cases where this maximum period is exceeded either due to delays in the required medical clearance or in situations where the detained person is unable to provide a verifiable address.

In 2024, the vast majority of people coming from countries designated as safe were detained upon arrival, channelled through an accelerated procedure that rejected them, denied appeal, and served with a removal order. Their cumulative detention experience could reach and at times exceed two years.

In *Feilazoo v. Malta* decided in March 2021, the ECtHR found a violation of article 5(1) of the Convention (right to liberty and security).[491] The case was about a Nigerian national detained pending removal. The Court considered that the entire period of detention, fourteen months in total, cannot be justified for the purpose of deportation since the authorities insufficiently pursued concrete arrangements for his return. Therefore, the Court concluded that the ground for his detention could not be considered valid for the full duration of his detention.

2. Legal assistance for review of detention

Indicators: Legal Assistance for Review of Detention

1. Does the law provide for access to free legal assistance for the review of detention?
   ☒ Yes ☐ No
2. Do asylum-seekers have effective access to free legal assistance in practice?
   ☐ Yes ☒ No

The Reception Regulations provide for the possibility for asylum-seekers to be granted free legal assistance and representation only during the first review of the lawfulness of detention.[492] Free legal assistance and representation entails preparation of procedural documents and participation in any hearing before the Immigration Appeals Board.

According to the calls issued by the Ministry for Home Affairs, legal aid lawyers must provide legal assistance and representation entailing preparation of procedural documents and participation in any hearing before the Immigration Appeals Board. They must undertake to examine the grounds of appeal

490 Regulation 11(8) of the Return Regulations, S.L. 217.12.
491 ECtHR, Feilazoo v. Malta, Application No. 6865/19, 11 March 2021.
492 Regulation 6(5) of the Reception Regulations, S.L. 420.06.

and present, in writing, the appellant's case before the Immigration Appeals Board to attend, if required, to sessions of the Immigration Appeals Board to explain case submissions and provide other general assistance to respondents during their appeal. They must carry out administrative work related to the preparation and presentation of the cases as well as in relation to the overall management of the caseload indicated by the Ministry. They must report on the outcomes of interviews held with appellants and bring to the Ministry's attention any pertinent matters which may arise. The appointment of legal aid and first hearing shall be carried out within 7 working days of the issuance of Detention Order. Payment fee in detention appeals is €40 (inc. VAT) per case submission.[493]

NGOs report that throughout 2024, legal aid lawyers were indeed generally appointed for the first detention review, also because NGO lawyers were deprived of access to newly-detained people. In most cases, NGO lawyers took over applicants' issues after this first review. Legal aid is not provided for the second or subsequent reviews.

Regulation 11(5) of the Returns Regulations provides that within the context of an application to the Board to review decisions related to return, a legal adviser shall be allowed to assist the third-country national and free legal aid will be provided where the individual meets the criteria for entitlement in terms of national law.

In 2024, NGOs visiting detention centres noticed that some detained applicants were in possession of a printed list of organisations and contact numbers, but the manner of distribution of this document remains unclear. Furthermore, NGOs reported that they aware of instructions given to public officers to refrain from referring to NGOs applicants requiring or requesting legal information and services, including vulnerable persons, but to limit referrals to the Ministry's legal aid system.

E. Differential treatment of specific nationalities in detention

In 2024, all newly arrived persons were *de facto* detained in terms of the Prevention of Disease Ordinance for the first days or weeks, after their arrival. Following this initial period, manifestly vulnerable persons were released whilst everyone else was detained under the Reception Regulations for a minimum of around two months. At the end of the two-month period, persons from countries with high protection rates or from countries where returns are not too feasible of practicable were released whilst others, notably persons from countries deemed safe, remained in detention for the remainder of their procedures. As previously mentioned, the automatic detention reviews generally confirm the legality of detention, without questioning the legal basis.

It was noticed that detainees are usually kept together based on their nationalities. They are also regularly moved from one zone or section to another, without being given any information for such change, which often creates anxiety among applicants. The Detention Service indicated that detainees are "housed according to their different protection and socio-political needs" and that moving is done "to prevent potential conflict between different cultures".[494] The random moves are also problematic since lawyers and NGOs calling into the zones to talk to clients are often unable to find them within the detention centre.

Throughout 2023 and 2024, NGOs received reports indicating that Bangladeshi nationals were specifically targeted by the authorities, urging them to refrain from seeking international protection and to apply for voluntary return. Reports received include incidents where they were told that their applications would be rejected and that, as a consequence, they would never leave detention. In 2023, some applicants also complained that they were effectively punished for challenging their negative age assessment decisions and for filing applications before the ECtHR. Persons appealing their age assessment decisions informed NGOs that they were particularly targeted: their TV sets were put onto

493 See https://bit.ly/3mtaWKw
494 Information provided by Detention Service, January 2021.

cartoons, and they were told: "*You say you are children so you should enjoy these.*" This is confirmed in the 2023 Annual Report of the Monitoring Board for Detained Persons.[495]

[495] The Monitoring Board for Detained Persons, Annual Report 2023, available at: https://tinyurl.com/r5ux6ysr.

Content of International Protection

A. Status and residence

1. Residence permit

Indicators: Residence Permit

1. What is the duration of residence permits granted to beneficiaries of protection?
   - ❖ Refugee status 3 years
   - ❖ Subsidiary protection 3 years
   - ❖ Humanitarian protection 1 year

According to the law, persons who are granted refugee status and subsidiary protection in Malta are issued a three years' residence permit, which is renewable.[496]

Once international protection is granted by the IPA, the beneficiary is issued a residence permit by Identitá, the public agency responsible for matters relating to passports, identity documents, and work and residence permits for expatriates.

Usually, applicants are required to wait for a couple of months for their documentation (see below) to be provided. Although a receipt of their application form for residence is provided, this has no real legal value, resulting in persons being unable to access their basic rights due to a lack of possession of their residence papers.

Residence permit applicants are required to present evidence of their protection status, together with evidence of their current address. This latter requirement is particularly burdensome for protection beneficiaries as it is interpreted as requiring them to present a copy of their rent agreement together with a copy of the identification document of their landlords. In practice, in the majority of cases, Maltese landlords operate through informal agreements and thus refuse to provide either rent agreements or personal documentation due to a fear of imposition of income tax on the income deriving from the rent. The issue of informal agreements (i.e., not registered with the authorities) is not specific to BIPs as legislation requires that all rental agreements be registered with the Housing authorities, but creates an additional burden for BIPs as they have a pressing need to secure an address to receive their residence permit, upon which is dependent access to their rights and these are usually the only solutions available. In 2024, Identitá introduced a requirement whereby rent contracts needed to be attested by legal professionals, thereby creating additional hurdles for protection beneficiaries.

Many protection beneficiaries report strong negative attitudes, comments, and behaviour towards them by public officials receiving and handling their residence permit applications. Many persons are ignored, rebuked, dismissed, or otherwise not handled respectfully.

The renewal of residence permits is automatic upon request.

In 2023, Identitá introduced a 'credit card only' payment policy that caused serious problems for protection beneficiaries to apply for and obtain their documentation as most still struggle to open even a basic bank account. Beneficiaries unable to open a bank account were required to rely on friends or, at times, NGOs to effect payment in their name. When raised with Identitá, NGOs were informed that the policy seeks to prevent improved financial management within Identitá yet throughout 2024 the situation remained unchanged.

Identitá confirmed that in 2024 228 first-time residence permits were issued to protection holders.

[496] Regulation 20 of the Procedural Regulations, S.L. 420.07.

2. Civil registration

Individuals can register childbirth and marriage at the Public Registry office within the public agency Identitá. A child must be registered within 15 days following their birth. The person transmitting such notice has to present their identity card, and any documentation provided to them by the hospital. NGOs reported that Identitá, the documentation Agency, makes efforts to contact parents of newly born babies to ensure their registration and that a registration office has been opened at the hospital.

Registration of births does not record the baby's or the parents' nationalities, giving rise to potential unresolved questions of statelessness.

The Marriage Registry, within the Public Registry office, receives requests for the Publication of Banns for marriages and civil unions taking place in Malta. Applications for the publication of Banns are received between three months and six weeks prior to the date of marriage or civil union. The Banns are published five to four weeks prior to the date of marriage or civil union.

Beneficiaries of international protection are also requested to inform the IPA about changes in their marital or parental situation. Applicants are not permitted to marry. Refugees are generally exempted from producing documents from their countries of origin, yet this unwritten policy is not comprehensively adhered to.

NGOs report that registration of all civic status changes is largely unproblematic, yet some challenges do remain. At times, clerks or front-office personnel at Identitá are not aware of the particular status of international protection beneficiaries requiring documentation from countries of origin. Complicated situations occur when there is a conflict between a person's declarations about their civic status provided at disembarkation and at any later stage.

NGOs observe that the authorities hold a person's first declarations as official, often provided right after an arduous sea voyage and in most cases without interpreters, cultural mediators or other forms of information and support. Whereas requests for minor changes, such as spelling, may be acceded to either directly by IPA or following a data protection complaint, more substantial changes generally require documentary evidence and a Court procedure.

3. Long-term residence

Indicators: Long-Term Residence	
1. Number of long-term residence permits issued to beneficiaries in 2024:	Not available

National legislation provides for the possibility for third-country nationals residing regularly in Malta to access long-term residence.[497] The criteria are the same for all migrants: no special conditions are foreseen for beneficiaries of international protection, except for the inclusion of half the time spent as an applicant for fulfilment of the duration requirement.

To be able to apply for such permit, applicants must have to fulfil a list of requirements:[498]

- They first need to have resided legally and continuously in Malta for five years immediately prior to the submission of the application;
- Applicants are also requested to provide '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 his family without recourse to the social

497 Status of Long-Term Residents (Third Country Nationals) Regulations, S.L. 217.05.
498 Also explained in this checklist, provided by Identitá, available at: https://bit.ly/3YhL6GA.

assistance system in Malta or to any benefits or assistance'.[499] The law provides that these resources have to be equivalent to the national minimum wage with an addition of another twenty percent of the national minimum wage for each member of the family;

- An appropriate accommodation, regarded as normal for a comparable family in Malta, a valid travel document and a sickness insurance are also requested to be entitled to apply;
- In addition, Regulations require language (Maltese) and integration conditions, including courses of at least 100 hours about the social, economic, cultural, and democratic history and environment of Malta recognised by an examination pass mark. These courses are provided by the Human Rights and Integration Directorate, as part of the 'I Belong' integration programme.

The application[500] for long-term residence has to be submitted in writing to the Director for Citizenship and Expatriate Affairs, via Identitá. The law provides for a time limit of six months after an application is lodged to receive an answer. If the Director fails to give a decision within this period specified, the application shall automatically be passed on for appeal to the Immigration Appeals Board.[501]

Long-term residence status applications cost around € 140.

Identitá indicated having issued only one long-term residence permit in 2021 issued to beneficiaries of international protection, and specifically that it was granted to a subsidiary protection holder.[502] In 2024, Identitá issued 28 long-term residence permits.

NGOs noticed that 2024 saw an increase in interest amongst protection beneficiaries seeking to obtain long-term residence, largely due to the inaccessibility of naturalisation. This was also confirmed by Identitá during talks with NGOs, where questions on the relationship between long-term residence permits and international protection were discussed. In particular, queries focused on the impossibility of long-term residents to be given a travel document, whether protection beneficiaries obtaining long-term residence would lose their protection-related entitlements and on the status of family members. According to the Ministry of Home Affairs, Security and Employment, long term residence holders retain their passport if they continue to renew their protection certificate, as do their family members, however this information could not be verified by NGOs or practitioners.[503]

Challenges experienced by protection holders attempting to access long-term residence largely relate to the requirement to undergo the 'I Belong' course, organised by HRD. The course is offered exclusively by HRD, limiting options for attendance. Furthermore, the 'I Belong' certificate expires after one year.

4. Other forms of regularisation

With the closure of fresh applications for the Specific Residence Authorisation[504], introduced in 2018 for specific groups of rejected yet well-integrated asylum-seekers, Malta's only route for alternative forms of regularisation for rejected asylum-seekers remains Temporary Humanitarian Protection, describe above. In recent years, various communities of rejected asylum-seekers organised demonstrations demanding legal recognition for their social and financial integration efforts, yet the Government has repeatedly underlined that it will not reintroduce any form of regularisation for rejected asylum-seekers.

499 Regulation 5 of the Long-Term Residence Regulations, S.L. 217.05
500 Available at: https://bit.ly/3KgHvE4.
501 Regulation 7 of the Long-Term Residence Regulations, S.L. 217.05.
502 Information provided by Identitá, April 2022.
503 Information provided by the Ministry of Home Affairs, Security and Employment on 24 July 2025, see annex to the report.
504 Ministry for Home Affairs, Law Enforcement and National Security, Policy regarding Specific Residence Authorisation, 2020, available at: https://bit.ly/4aw3xNO.

5. Naturalisation

Indicators: Naturalisation	
1. What is the waiting period for obtaining citizenship?	15 years, 20 years
2. Number of citizenship grants to beneficiaries in 2024:	8

The Maltese Citizenship Act foresees that foreigners or stateless persons may apply for citizenship in Malta, making no specific mention of beneficiaries of international protection.[505] Their access to naturalisation, although technically falling under the broader category of 'foreigners' is further regulated by an internal Government policy. Practitioners working with refugees noticed that in 2024 this policy was amended to require a minimum 15-year residence period for refugees (formerly ten years) and a 20-year period for subsidiary protection beneficiaries. In practice, subsidiary protection beneficiaries' applications are not usually considered. Naturalisation through marriage is also open to protection beneficiaries under the same conditions as other non-Maltese nationals.

The conditions to be able to apply include a residence in Malta throughout the 12 months immediately preceding the date of application and a residence in Malta for periods amounting in the aggregate to a minimum of four years, during the six years preceding the above period of 12 months. Applicants must also be of good character and have an adequate knowledge of the Maltese or the English languages.[506]

Prior to submitting an application, the person has to present a residence certificate issued by the Principal Immigration Office to the Komunitá Agency. Once the Office confirms the eligibility of the applicant, additional documents have to be produced, including a birth certificate, passport, and police conduct. Refugees are generally exempted from producing documents from their countries of origin.

There is no time limit foreseen for a decision and the law does not require the authorities to provide reasons for rejections of applications.

The fact that there are no public guidelines on how to satisfy these broad requirements makes it difficult for TCNs to apply. 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 does not grant the right of appeal in any court for the refusal of an application for citizenship.

Malta does not grant citizenship entitlements to children born or raised in Malta, which could lead to some refugee children being at risk of statelessness.

As an additional obstacle, the fee for naturalisation applications is € 450[507], with no exemptions of special considerations for refugees or stateless persons.

Komunitá Malta (the agency responsible for citizenship) responded that in 2023 it successfully processed the applications of 10 refugee status holders and that no beneficiaries of subsidiary protection obtained Maltese citizenship. More specifically, Komunitá Malta has provided a breakdown of the nationalities of the naturalised refugees: 2 Libyans, 1 Palestinian, 3 Egyptians, 3 Syrians and 1 Nepalese.[508]

In 2024, Malta granted nationality to 2 refugees (Pakistan, Libya) and 6 beneficiaries of subsidiary protection (3 from Türkiye, 3 from Syria).[509] Throughout the year, the Agency received 21 new applications from refugees and 16 from beneficiaries of subsidiary protection. The data does not explain the ground for granting nationality.

505 Maltese Citizenship Act, Chapter 188 , September 1964, available at: http://bit.ly/2lz5z8H
506 Article 10(1) Citizenship Act, Chapter 188.
507 Citizenship Regulations, S.L. 188.01, available at: https://bit.ly/3Jc90il.
508 Information provided by Komunitá Malta, April 2023.
509 Information provided by Komunitá Malta.

In a meeting with the Malta Refugee Council, the Home Affairs Ministry denied the internal policy requiring a minimum 15-year residence for refugees applying for Maltese citizenship, underlining that refugees are treated equally to other third-country nationals. Nonetheless, refugees approaching Komunitá to apply were not permitted to submit applications unless this criterion was met, citing the agency's intention to void the unnecessary expense of € 450.

6. Cessation and review of protection status

Indicators: Cessation

1. Is a personal interview of the beneficiary of international protection in most cases conducted in practice in the cessation procedure? ☐ Yes ☒ No
2. Does the law provide for an appeal against the first instance decision in the cessation procedure? ☒ Yes ☐ No
3. Do beneficiaries have access to free legal assistance at first instance in practice? ☐ Yes ☐ With difficulty ☒ No

According to the IPA, the cessation procedure is generally done through written submissions alone, and interviews are only held when deemed necessary.[510]

The International Protection Act provides for the possibility of cessation of refugee status.[511] The grounds for cessation apply to cases where the refugee:

1. Has voluntarily re-availed himself of the protection of the country of their nationality, or, having lost his nationality, has voluntarily re-acquired it;
2. Has acquired a new nationality and enjoys the protection of this country;
3. Has voluntarily re-established themself in the country which they left or outside which they remained owing to fear of persecution;
4. Can no longer continue to refuse to avail themself of the protection of the country of their nationality because the circumstances in connection with which they have been recognised as a refugee have ceased to exist;
5. Is a person who has no nationality and, because the circumstances in connection with which they have been recognised as a refugee have ceased to exist, are able to return to the country of his former habitual residence.

The law provides for the possibility of an appeal against a cessation decision before the International Protection Appeals Tribunal within 15 days after notification.[512] The rules regulating appeals for cessation decisions are the same as the ones applicable to regular appeals.

Regarding beneficiaries of subsidiary protection, the situation is different according to the EU recast Qualification Directive as the law states that such protection 'shall cease if the International Protection Agency is satisfied that the circumstances which led to the granting of subsidiary protection status have ceased to exist or have changed to such a degree that protection is no longer required. Provided that regard shall be had as to whether the change of circumstances is of such a significant and non-temporary nature that the person eligible for subsidiary protection no longer faces a real risk of serious harm.' The law further provides 'that the provisions of this article shall not apply to a beneficiary of subsidiary protection who is able to invoke compelling reasons arising out of previous persecution for refusing to avail himself of the protection of the country of nationality or, being a stateless person, of the country of former habitual residence'.[513]

510 Ministry for Home Affairs, Security, Reforms and Equality, Feedback on the 2022 AIDA Country Report on Malta, shared with ECRE in January 2024.
511 Article 9 International Protection Act, Chapter 420.
512 Article 9(2) International Protection Act, Chapter 420.
513 Article 21 International Protection Act, Chapter 420.

Reconsiderations of subsidiary protection are to be notified in writing to the protection holder, providing reasons therefor. The protection holder is permitted to present reasons in an interview or in writing, as to why subsidiary protection should not cease. Appeals against decision to cease subsidiary protection are to be submitted within one week from the notification of the decision, and the regular appeal procedures apply.[514]

There is no systematic review of protection status in Malta. In 2022, the IPA revoked, ended or refused to renew international protection in terms of Articles 10 and 22 of the Act for two persons: one Libyan national and one Palestinian national.

According to IPA, in 2023 and 2024 there were no international protection cessation decisions.

7. Withdrawal of protection status

Indicators: Withdrawal

1. Is a personal interview of the beneficiary of international protection in most cases conducted in practice in the withdrawal procedure? ☐ Yes ☒ No
2. Does the law provide for an appeal against the withdrawal decision? ☒ Yes ☐ No
3. Do beneficiaries have access to free legal assistance at first instance in practice? ☐ Yes ☐ With difficulty ☒ No

According to the International Protection Act, a declaration of refugee status can be revoked by the International Protection Agency in the case where a person should have been excluded from being a refugee in accordance with the exclusions grounds laid down by the Asylum Procedures Directive and transposed in Article 12 of the International Protection Act or where his misrepresentation or omission of facts, including the use of false documents, was decisive for the granting of refugee status.[515]

Additionally, the IPA may also revoke or refuse to renew the protection granted to a refugee when there are reasonable grounds for regarding him or her as a danger to the security of Malta or if, having been convicted by a final judgment of a particularly serious crime, he constitutes a danger to the community of Malta.

The refugee shall be informed in writing that their status is being reconsidered and shall be given the reasons for such reconsideration. The refugee shall also be given the opportunity to submit, in a personal interview or in a written statement, reasons as to why their refugee status should not be withdrawn.

Regarding subsidiary protection beneficiaries, the International Protection Agency shall revoke or refuse to renew such status if the person, after having been granted subsidiary protection status, should have been or is excluded from being eligible for subsidiary protection or if that person's misrepresentation or omission of facts, including the use of false documents, were decisive for the granting of subsidiary protection status.

The beneficiary of subsidiary protection will be informed in writing that their status is being reconsidered and will be given the reasons for such reconsideration. The beneficiary will also be given the opportunity to submit, in a personal interview or in a written statement, reasons as to why their refugee status should not be withdrawn. According to the IPA, the withdrawal procedure is mainly conducted in writing and personal interviews are no longer held unless deemed necessary. [516]

514 Article 22 International Protection Act, Chapter 420.
515 Article 10 of the International Protection Act, Chapter 420.
516 Ministry for Home Affairs, Security, Reforms and Equality, Feedback on the 2022 AIDA Country Report on Malta, shared with ECRE in January 2024.

Act XIX of December 2022 amended the International Protection Act and reduced the deadlines to appeal to one week. Accordingly, beneficiaries of international protection in whose regard the IPA has revoked, ended or refused to renew their refugee status or subsidiary protection status are entitled to appeal against this decision before the IPAT within one week from when the notification of the decision has been served to them and the appeal will be heard according to the regular procedure.[517]

In practice, the IPA will inform the beneficiary that his protection is being reconsidered and given a couple of days to submit a written statement explaining the reasons to why their status should not be withdrawn. However, no appeal lies against the decision of the Agency.

According to information provided by the IPA, in 2023 there were no international protection withdrawal decisions whilst in 2024 six withdrawal decisions were taken.

8. Lapse of protection status

Act XL of 2020 amended Article 13 of the Procedural Regulations and added the possibility for the Agency to decide that international protection lapsed where the beneficiary of international protection has unequivocally renounced their protection or has become a Maltese national. Unequivocal renunciation of protection includes a written statement by the beneficiary confirming that they are renouncing their protection status; or failure to renew international protection within a period of twelve (12) months from the lapse of the validity of said protection or its renewal.

This provision is now included in Regulation 13A of the law. While the first ground is transposed from the Asylum Procedures Directive (Article 45(5)), the second ground was never foreseen by the Directive. The Government has indicated to interpret the Directive's term "*unequivocally renounced*" as being that situation where a protection beneficiary does not renew their protection certificate within a period of one year from the document's expiry. NGOs have expressed their concerns regarding this interpretation, since whereas the Directive clearly requires an intentional action on behalf of protection beneficiary, such as a written statement or declaration, the IPA attributes such intentionality to a situation of inaction that might in fact lack intentionality.

Article 13A further provides that beneficiaries who have unequivocally renounced their protection must subsequently make a request in person to the Agency to have their international protection status reinstated, the IPA will review the request to determine whether international protection should once again be granted, provided that the person concerned still meets the eligibility criteria and is not excluded from international protection. According to the Government, a dedicated form is now available for this procedure and the assessment is generally desk-based. [518] Submitting a reinstatement request does not grant the status of an applicant and no documentation or reception conditions are provided. As mentioned above, it is not clear whether the 'reinstatement' assessment is another form of admissibility, looking the reasons for the lapse, or a full substantive process. Decisions not to reinstate international protection are not subject to appeal and defined as 'administrative closures'.

This provision also applies to beneficiaries of Temporary Humanitarian Protection.

In an appeal filed by aditus foundation in August 2022 before the IPAT, the applicant requested the Tribunal to refer a preliminary question to the CJEU regarding the legality of provision 13A of the Act. The case is still pending and a decision on the request for preliminary ruling has yet to be issued.

517 Articles 10(6) and 22(6) of the International Protection Act as amended by Act XIX of 20 December 2022.
518 Ministry for Home Affairs, Security, Reforms and Equality, Feedback on the 2022 AIDA Country Report on Malta, shared with ECRE in January 2024.

In the meantime, Act XIX of December 2022 amended the International Protection to provide that no appeal shall lie against decisions of the Agency taken in pursuance to Article 13A.[519]

IPA stated that in 2024, the total number of withdrawal decisions was 1,228 and this figure includes lapsed decisions: 12 withdrawn refugee status; 1,204 withdrawn subsidiary protection and 12 withdrawn THP.

Legal practitioners noted the increased use of lapsed decisions in IPA practice throughout 2024, as also confirmed in the provided figures. Persons mostly affected were protection beneficiaries who had travelled and failed to renew their Maltese protection documents, including their children. In most of these cases, IPA was unable to notify them of its intention to withdraw their protection, and they only became aware of their lapsed status once they returned to Malta.

B. Family reunification

1. Criteria and conditions

Indicators: Family Reunification

1. Is there a waiting period before a beneficiary can apply for family reunification? ☒ Yes ☐ No
   - ❖ If yes, what is the waiting period? 12 months
2. Does the law set a maximum time limit for submitting a family reunification application? ☒ Yes ☐ No
   - To be exempt from material conditions ☒ Yes ☐ No
   - ❖ If yes, what is the time limit? 3 months
3. Does the law set a minimum income requirement? ☒ Yes ☐ No

Recognised refugees may apply for family reunification in Malta according to national legislation.[520] *"Family members"* include the refugee's spouse and their unmarried minor children, and the parents or responsible adult in the case of minors. Following advocacy from the #Safe4All campaign, urging Government to broaden the 'family' definition to include stable partners so as to incorporate LGBTIQ+ relationships, the Government's 'LGBTIQ+ Equality Strategy and Action Plan 2023-2027' includes s a commitment to 'initiate discussions with relevant authorities to ensure better family reunification practices extending to all couples in stable relationships', but as of May 2025 no changes were made to the legislation."[521]

Only refugees may apply for family reunification, since the Regulations specify that subsidiary protection beneficiaries are excluded from this provision: 'The sponsor shall not be entitled to apply for family reunification if he is authorised to reside in Malta on the basis of a subsidiary form of protection…'.[522] The exclusion of subsidiary protection beneficiaries from family reunification was raised as a major concern by the Council of Europe Commissioner for Human Rights.[523]

In November 2018, JRS Malta, aditus foundation, and Integra foundation published a report entitled 'Family Unity: a fundamental right'.[524] The report examines national law and policy on family reunification for beneficiaries of subsidiary protection in light of European and human rights law and concludes that current law and policy in Malta is highly questionable when set against these standards. The report

519 Article 7(1A)(c) of the International Protection Act.
520 Family Reunification Regulations, S.L. 217.06.
521 Human Rights Directorate, LGBTIQ+ Equality Strategy and Action Plan 2023-2027, available here: https://tinyurl.com/f4t9hv5x.
522 Regulation 3 of the Family Reunification Regulations, S.L. 217.06.
523 Council of Europe Commissioner for Human Rights, Letter to the Minister for Home Affairs, National Security and Law Enforcement of Malta, CommHR/NM/sf 043-2017, 14 December 2017, available at: http://bit.ly/2o5Bwr6.
524 JRS Malta, aditus foundation, Integra Foundation, Family unity: a fundamental right, November 2018, available at: https://bit.ly/3dtBlyX.

highlights that the current blanket ban on family reunification for beneficiaries of subsidiary protection raises serious human rights concerns. The organisations urge the Government to review the existing legislative framework and to grant beneficiaries of subsidiary protection the right to be reunited with their families in Malta under the same conditions as refugees or, as a minimum, under the same conditions as refugees who married post-recognition. As of 31 December 2024, the situation remained unchanged.

Applications must be addressed to Identitá, which has to give a written notification of the decision no later than nine months after the lodging of the application.

In order to be able to apply, applicants need to provide evidence of their relationship with family members, and they need to have an accommodation regarded as normal for a comparable family in Malta as well as a sickness insurance. Moreover, applicants are requested to prove stable and regular resources that are sufficient to maintain the sponsor and the members of the family without recourse to the social assistance system in Malta which would be equivalent to, at least, the average wage in Malta with an addition of another 20% income or resources for each member of the family.[525]

In practice, refugees are not requested to fulfil the material conditions if they apply within three months of obtaining their status. Refugees who are applying to be joined by family members in Malta are only required to present the refugee status certificate; official documents attesting the family relationship; full copies of the passports of the family members; and the lease agreement.

Refugees whose family relationship post-dates the grant of their status, or whose application for family reunification has not been submitted within a period of three months after the grant of said status, are required to present additional documents such as an attestation by an architect confirming that the applicant's accommodation is regarded as normal for a comparable family in Malta and which meets the general health and safety standards of the country and a confirmation of stable and regular resources which have not been obtained by virtue of recourse to the social assistance of Malta and which shall be deemed to be sufficient if they are equivalent to the national minimum wage in Malta.[526]

This procedure also applies to family members who are already in Malta, including those who are here illegally. In such cases, Identitá will request the applicant to get immigration clearance from the PIO in order to process the application. If not, the applicant's only option is to leave the country to apply from abroad. This scenario was reported to be very common since the IPA tends to split family applications and reject one or more family members while still granting protection to some others.

Despite the law providing that family members of the refugee enjoy the same rights and benefits,[527] this does not translate in any actual right to residence and the only way for family members to enjoy such rights and benefits is to apply for family reunification.

The procedure is particularly long, and applicants have reported waiting for more than 2 years for a decision on the reunification.

In 2024, Identitá issued 42 permits for family reunification for persons recognised as refugees.

In relation to beneficiaries of subsidiary protection, family unity is permitted if the family member is in Malta at the time subsidiary protection is granted to the sponsor and if the family unit pre-existed in the country of origin. Family members are granted a residence permit as family members and are entitled to the same rights as the sponsor. Families created after the sponsor's arrival in Malta are unable to benefit from this situation, as also family members enjoying protection in another EU MS.

525 Regulation 12 of the Family Reunification Regulations, S.L. 217.06.
526 Information provided by Identitá, 2017.
527 Regulation 20(2)(a) of the Procedural Regulations, S.L. 420.07.

2. Status and rights of family members

As soon as the application for family reunification has been accepted, family members will be authorised to enter Malta once they are granted a visa.

In practice, problems in issuing documentation may arise in countries with no Maltese representations. This leads to scenarios where applicants must travel to another country in order to apply for the visa at the Maltese representation. Family members must then stay in this country until the visa is issued, inducing further costs for the family.

The Family Reunification Regulations provide that family members shall be granted a first residence permit of at least one year's duration and shall be renewable.[528] Since 2016, reunited family members are, in practice, granted a residence permit of three years, indicating '*Dependant family member'.*[529]

The family members of the sponsor have access, in the same way as the sponsor, to education, employment, and self-employed activity. While a refugee has access to employment and self-employment without the need for an assessment of the situation of the labour market, said family members are subject to such assessment for the first 12 months following their arrival. They also have access to vocational guidance, initial and further training, and retraining.[530] NGOs report that, in practice, they are very often required to engage with Maltese public authorities regarding cases in which they treat refugee family members as other third-country nationals.

Family members coming to Malta are barred from applying for international protection in their own name.

NGOs have reported that there are instances whereby a beneficiary of international protection in Malta has a child after being granted protection by the IPA. In these cases, the IPA does not issue a protection certificate for that child but issues a letter stating that that child is a family member of a protection beneficiary, based on the argument that a person's eligibility for international protection does not automatically mean that the children are also so entitled. NGOs commented that, whilst this is not in direct contract with EU law, it does have harmful consequences particularly on children and family unity.

This situation would result in the child having a different status noted on the residence card to their parents and siblings born before arrival to Malta. This is also the case when one of the applicants in a family unit is granted a different status to that of their spouse, either due to an appeal or different times of application or arrival. The result is that in a family unit there could be members who have different statuses, as the IPA does not grant protection to the family as a unit but on an individual basis.

Furthermore, NGOs reported that children in Malta as family members of a protection beneficiary (either following birth here or through family reunification), lose that protection upon reaching majority. That person would then have to regularise their situation independently: international protection; Single Work Permit; Student Residence Permit; Temporary Humanitarian Protection. According to NGOs, this exposes them to a risk of becoming undocumented, as the nexus to their parent's claim may have become weaker with the passing of time between arrival in Malta and becoming an adult.[531] Furthermore, family members who, regardless of the reason, sever the family tie with the refugee sponsor will also automatically lose their right to remain in Malta as such and would then need to either seek protection in their own names or apply for a residence permit on another ground. NGOs noted that this regime, coupled with the inaccessible naturalisation stream, was extremely problematic.

528 Regulation 14(2) of the Family Reunification Regulations, S.L. 217.06.
529 Information provided by Identitá, 29 September 2016.
530 Regulation 15 of the Family Reunification Regulations, S.L. 217.06.
531 aditus foundation, Documentation = Employability: Support Services for the Documentation of Various Communities, August 2022, available at https://bit.ly/3JhqJFk

2024 saw an increase in the number of refugee children affected by this situation and risking losing their documentation. Since Malta does not grant derivative status to family members of international protection beneficiaries, persons children turning 18 are required to seek a legal basis for their ongoing residence in Malta: THP, trafficking, autonomous, international protection, studies- or work-related. NGOs also noted that aged-out children of protection beneficiaries applying for work- or student-related permits are required to fulfil the eligibility criteria of other third-country nationals, criteria that they are often unable to meet: income threshold of a sponsor and presentation of a national passport.

The Family Reunification Regulations[532] provide for an autonomous residence permit to children reaching 18 years of age, yet eligibility conditions render this route applicable to only a small number of persons: minimum five years' residence, previous residence in Malta on the basis of family reunification. Both aditus and JRS noted that this permit was not accessible for several children of protection beneficiaries, exacerbated by the prolonged duration of family reunification procedures, the duration of residence in Malta of children prior to their turning 18 and its exclusion of children born in Malta to protection beneficiaries. Effectively, most children of protection beneficiaries risked becoming undocumented upon attaining majority. Furthermore, the law does not clarify the nature of extent of entitlements of persons holding this autonomous residence permit.

The Regulations also grant an autonomous residence permit to persons coming to Malta via family reunification where the sponsor dies or where there are *"particularly difficult circumstances"* such as domestic violence or marriage breakdown.[533]

C. Movement and mobility

1. Freedom of movement

Beneficiaries have freedom of movement within the Maltese territory. No dispersal scheme is in place to allocate beneficiaries to specific geographic regions.

2. Travel documents

The Procedural Regulations provide that every beneficiary of international protection is to be granted a travel document entitling him or her to leave and return to Malta without the need of a visa.[534]

Travel documents for beneficiaries of international protection in Malta are issued by the Malta Passport Office, within the agency Identitá, following a request by the refugee or subsidiary protection beneficiary. They are valid for the duration of residence permits issued by the Expatriates Unit - three years.[535]

The Malta Passport Office issues a Convention Travel Document for people who are granted refugee status while persons holding subsidiary protection and Temporary Humanitarian Protection are issued an Alien's Passport. Beneficiaries of the SRA status are also entitled to a travel document, and they are also issued with an Alien's Passport. There are no geographical limitations imposed by the Passport Office or the Immigration Police, but holders of Aliens' Passports are bound to ascertain that the document is recognised and valid for travel to the country they intend to visit, as it is not an internationally recognised travel document. There are no known obstacles to the recognition of these travel documents in other countries, yet some refugees have been returned to Malta after attempting to enter some countries without a valid entry visa.

532 Regulation 16.
533 Regulation 17.
534 Regulation 20 Procedural Regulations, S.L. 420.07 .
535 Information provided by the Passport Office, September 2016.

The travel documents issued to beneficiaries do not restrict the holder from travelling to the country of origin or any other country.

According to Identitá, in 2024 a total of 365 Convention Travel Documents were issued to refugees. The Agency was unable to share data relating to travel documents issues to beneficiaries of subsidiary protection.

D. Housing

Indicators: Housing

1. For how long are beneficiaries entitled to stay in reception centres?
   Not entitled as a general rule
2. Number of beneficiaries staying in reception centres as of 31 December 2024: 26

The main form of accommodation provided is access to reception centres, which are Ħal Far Tent Village, Ħal Far Open Centre, and Ħal Far Hangar. Two centres are especially dedicated to host minors, families and women, and provide for smaller types of accommodation, namely Dar il-Liedna and Balzan Open Centre (run by an NGO). However, beneficiaries of international protection are generally not allowed to stay in reception centres in. Exceptions can be made for vulnerable persons and families but on a case-by-case basis. AWAS reported that in 2024, a total of 26 beneficiaries were accommodated in open reception centre, and 6 THP beneficiaries.

Refugees are entitled to apply to the Maltese Housing Authority for social housing, provided they have been residing in Malta for 12 months and have limited income and assets.[536] At the end of 2024, four refugees were benefitting from social housing. Furthermore, refugees and beneficiaries of subsidiary protection may also apply for a Housing Benefit Scheme (HBS) if they are renting from private owners.[537] The HBS provides rental support in the form of a cash grant. According to the Housing Authority, at the end of 2024, 108 refugees and 234 subsidiary protection holders were benefitting from the scheme.[538]

A report published by JRS Malta and aditus foundation in December 2021 flags obstacles faced by migrants in accessing decent housing. Interviewees, who included applicants, protection beneficiaries as well as other migrants, commented on exorbitant rent prices and their impact on persons living on a minimum wage, social benefits or less. They flagged discrimination in being denied private rentals due to their immigration status as well as exploitation at being forced to live in substandard conditions, having no alternatives and largely unable to rely on a private rental regime with little monitoring or regulation.[539] Although there is no updated research for 2023, the situation remains generally similar.

According to AWAS, at the end of 2024 the total numbers of beneficiaries staying at reception centres was the following:

- Refugee status: 5
- Subsidiary Protection: 139
- Temporary Humanitarian Protection: 16

536 Housing Authority, available at https://bit.ly/3F0ntvo
537 Housing Authority, available at https://bit.ly/41OW1uo
538 Information provided by the Housing Authority in March 2025.
539 JRS and aditus foundation, In Pursuit of Livelihood: An in-depth investigation of asylum-seekers' battle against poverty and social exclusion in Malta, December 2021, available at https://bit.ly/3kKu7z4

E. Employment and education

1. Access to the labour market

Beneficiaries of international protection have access to the labour market both as employees and self-employed workers.[540] They are entitled to access the labour market under the same conditions as Maltese nationals. To do so, they need an employment licence issued by JobsPlus. The maximum duration of the employment licence is 12 months and is renewable. In such cases, the person is granted an employment licence in their own name. Obstacles in this area include the application costs. A new application costs € 58, while annual renewal costs € 34.[541]

They are eligible for all positions, saving those reserved for Maltese and/or EU nationals, thereby excluding the vast majority of positions within the public service. They also have access to employment training programmes and services at JobsPlus.
In its input to a national integration consultation, the MRC urged the authorities to grant access to the public service for beneficiaries of international protection.[542]

The report published by UNGDAW following its visit to Malta commented that a number of labour requirements tend to penalise migrant women[543].

A report published in December 2021 by JRS and aditus foundation entitled 'In Pursuit of Livelihood: An in-depth investigation of asylum-seekers' battle against poverty and social exclusion in Malta' investigated the phenomenon of poverty among asylum-seekers in an in-depth manner, with a focus on exploring the causes and maintaining factors of asylum-seekers' livelihood difficulties. The report draws on data collected by interviewing the head of household on income and health indicators, deprivation and dwelling conditions from 116 households. It concluded that "*The combined impact of a steep rise in cost of living, including an exponential surge in rent prices, on one hand, and stagnant wages on another, emerged clearly as one of the main factors. Another significant factor appears to be the reality that most asylum-seekers, due to a mix of poor English or Maltese, basic levels of education, racial discrimination and low transferability of job-related skills and competencies, are restricted to a very limited section of the employment market. At best, participants could aim for jobs slightly above the minimum wage, with no or little chances of progression. In this regard, in Malta's current economic climate, the best they can aim for may still not be enough to lift them out of poverty, especially if they need to support a family. Furthermore, limited access to financial services appears to act as another barrier towards financial stability for this population.*"[544]

A report on employment of third-country nationals, published in the context of the 2020-2022 project 'Turning The Tables', implemented by the Government's Human Rights Directorate in cooperation with the NGO African Media Association (Malta), echoed these challenges and underlined how the changing landscape of Malta's employment sector has negatively affected third-country nationals. It summarised the employment sector for migrants and refugees as being *"marked by hardship, including: discriminatory wages; rampant exploitation and abuse; precarity and lack of security; racism and xenophobia; and also high job mobility (compromising skill building and training). For a substantial number, especially asylum-seekers and refugees, chronic unemployment is also a solid reality.*"[545]

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540 Regulation 20(c), Procedural Regulations, S.L. 420.7.
541 Jobsplus, https://tinyurl.com/bd2ahv92.
542 Malta Refugee Council, Input on the National Integration Policy and Action Plan Consultation, June 2023, at: https://tinyurl.com/3u6km49p.
543 OHCHR, UN Working Group on discrimination against women and girls, End of Mission Statement, July 2023, at: https://bit.ly/3UPBrr2.
544 JRS and aditus foundation, In Pursuit of Livelihood: An in-depth investigation of asylum-seekers' battle against poverty and social exclusion in Malta, December 2021, available at https://bit.ly/3IPkoPT
545 Ministry for Equality, Research and Innovation, Turning the Tables Report on Employment, 2021, available at: https://bit.ly/3WS4IE9.

A June 2023 report by the Daphne Caruana Galizia Foundation, the relatively high number of non-Maltese fatalities on construction site was flagged.[546] In the same vein, in January 2024 a report was published looking into various issues relating to the construction industry.[547] Commenting on the racialised labour market and the extensive exploitation of migrant workers, the report generally concluded that, *"Disempowered by the various economic, legal, and wider socio-cultural factors, migrant workers' effective capacity to take simple steps to protect their safety, such as reporting unsafe work practices to the Occupational Health & Safety Authority (OHSA), approaching a union, or even changing jobs when feeling unsafe, is severely limited. What may seem like normal channels of redress for individuals with citizenship rights, good social and economic capital, knowledge of formal and informal institutional setups, access to the right people, and sufficient language skills, are far from normal and straightforward for those lacking these attributes."*

JobsPlus shared that, as of August 2024:

Persons in employment as of August 2024	Males	Females	Grand Total
Refugees	331	79	**410**
Beneficiaries of subsidiary protection	1,373	84	**1,457**
Employed as at end of August	**1,704**	**163**	**1,867**

The number of employment licences issued by JobsPlus to protection beneficiaries:

Employment licences issued to BIPs throughout 2024	
Licence type	Total
Refugees	258
Beneficiaries of subsidiary protection	927
Total	**1,185**

JobsPlus does not keep information on unemployment rates.

2. Access to education

All beneficiaries of international protection are covered under compulsory and free of charge state education up to the age of 16. After secondary school, and after obtaining the relevant and necessary Ordinary Level examination passes, students may enrol for post-secondary education: two years of study in preparation for Advanced Level Examinations. All beneficiaries of protection may also apply to enrol at the University of Malta.

Refugees who are enrolled at higher education institutions (minimum Bachelor level), are entitled to apply for the Malta Government Undergraduate Scheme. The Scheme provides eligible persons with a one-time grant, a yearly grant and ten fixed-rate four-weekly stipends.[548] The entitlements to stipends or other forms of support (e.g. exemption from fees) for beneficiaries of subsidiary protection remain unclear, although the relevant Regulations stipulate that any third-country national may apply with the Ministry to be exempted from fees and to be granted a student stipend.[549]

546 Daphne Caruana Galizia Foundation, Victims of Malta's Construction Boom: The Fatal Wait for Accountability, June 2023, available at: https://bit.ly/3wNxxaf.

547 Justice and Peace Commission, The 'Ejja Ejja' Culture: An Analysis of socio-economic, political and legal factors with impact the health and safety of workers in the construction industry, January 2024, available at: https://tinyurl.com/snmycnne.

548 Ministry for Education, Sport, Youth, Research and Innovation, Malta Government Undergraduate Scheme, 2022-2023, available at: https://bit.ly/3WWLu0f.

549 Student Maintenance Grants Regulations, S.L. 605.06, 2016, available at: https://bit.ly/3R26kYb.

The Migrant Learners Unit[550] within the Ministry for Education oversees promoting the inclusion of newly arrived learners into the education system and runs several projects which aim to provide migrant learners in school with further support in basic and functional language learning over and above the teaching provided by the class teacher. Students are given induction lessons in English and Maltese to prepare them to access public education. In 2024, 1,421 beneficiaries of international protection accessed the MLU.[551]

In 2018, Malta introduced the 'I Belong' Programme which is also available to beneficiaries of international protection. The initiative consists of English and Maltese language courses and basic cultural and societal orientation as part of the integration process. The programme is run by the Human Rights Directorate, within the Home Affairs Ministry. For 2024, HRD confirmed that 39 refugees and 109 beneficiaries[552] of subsidiary protection accessed the programme. The largest group of participants were Libyan nationals (76), followed by Syrians (21) and then Somalis (14).

JobsPlus, the national employment agency, offers several free courses covering a vast range of subjects, including: Maltese, English, job-searching techniques, digital marketing, tile-laying, health and safety, air-conditioning, etc.[553]

For 2024, the Ministry for Education, Sport, Youth, Research and Innovation provided the following data:

Beneficiaries of international protection and/or family members in schools in 2024	
By type of protection	
Refugees in 2023/2024 scholastic year (and/or family members)	1,644
Subsidiary protection beneficiaries in 2023/2024 scholastic year (or family members)	5
By school level	
Kindergarten	855
Primary Schools	575
Middle Schools	132
Secondary Schools	87

In a recent report, NGOs reported that entitlement to tertiary education is not specified in existing law or publicly available policy for any of the asylum-seeking groups. In practice however, all may apply to follow a course at the University of Malta or MCAST and for all groups, students may apply for a fee waiver. Students at tertiary level may also apply for a student maintenance grant, but this is only granted to individuals with international protection who have been residing in Malta for five years or more. Moreover, should the individual with international protection be receiving Social Assistance, this cannot be supplemented with the maintenance grant. Finally, there is once again no specified entitlement for migrants to life-long learning courses in existing law and policy. However, in practice, all migrant groups, regardless of protection status, may apply to follow such courses, as well as for an exemption from payment.[554]

Throughout 2024, NGOs noted a significant number of children not granted access to State education on the basis that they enjoyed protection in another EU MS. Whilst the policy on these children's entitlements remained unclear, efforts at having them attend school were largely unsuccessful.

550 Info on Migrant Learners' Unit available here: https://bit.ly/3L8bwr7
551 Dat provided by the Ministry for Education, Sport, Youth, Research and Innovation.
552 Of which 122 were males and 26 were females.
553 Full list available at: https://tinyurl.com/5n8zvmur.
554 JRS and aditus foundation, In Pursuit of Livelihood: An in-depth investigation of asylum-seekers' battle against poverty and social exclusion in Malta, December 2021, available at https://bit.ly/3kPti80

F. Social welfare

The Procedural Regulations provide for access to social welfare for beneficiaries of international protection.[555] However, the law makes a difference between refugees and subsidiary protection beneficiaries since social welfare benefits granted to the latter 'may be limited to core social welfare benefits'.

Refugees are entitled to the same benefits as Maltese nationals, under the same conditions. They are namely entitled to Children's Allowance, Social Benefits, Pension Benefits, Rent Subsidy, Social Housing and Unemployment Assistance. However, like Maltese citizens, refugees must satisfy the established criteria for each benefit or assistance they apply for. In practice, refugees are rarely able to benefit for Malta's Contributory Scheme since they are not present in Malta for a sufficient number of years to be able to pay the minimum number of social security contributions required for some benefits, but they are automatically entitled to the non-contributory benefits and schemes.

Subsidiary protection beneficiaries are entitled to "*core welfare benefits*", which is interpreted as being limited to what is known as 'social assistance' (as per the below table).[556] This is a form of limited unemployment support. They are, however, eligible for contributory benefits if they are employed, pay social security contributions, and satisfy the qualifying conditions.

The provision of social welfare benefits is not conditional on residence in a specific place in Malta.

Benefits entitlements fall within the remit of the Ministry for Social Policy and Children's Rights, whilst social protection and care services are provided by various agencies within the Foundation for Social Welfare Services.[557] For benefits, beneficiaries may apply to their local social security office or online.

According to NGOs, for an individual to receive the social benefits they are entitled to, they must be able to provide relevant authorities with a rent contract, residence permit (ID card) and protection certificate issued by the International Protection Agency (IPA). Specific benefits and support schemes might require additional evidence/documentation to be presented for eligibility. In practice, stringent requirements for the issuing of residence permits often result in obstacles to accessing benefits to which beneficiaries of protection are otherwise entitled.[558]

Recent law changes stipulate that THP holders should have access to non-contributory benefits similarly to beneficiaries of subsidiary protection.

At the end of 2024, around 2,000 beneficiaries of international protection and/or their family members were benefitting from social services:[559]

Type of Benefit	Refugee Status	Subsidiary Protection Status
Disablement Pension	0	1
Children's Allowance including Child Supplement	49	42
Disabled Child Allowance	6	2
Marriage Grant	0	2

555 Regulation 20 Procedural Regulations, S.L. 420.07.

556 Council of Europe Commissioner for Human Rights, Letter to the Minister for Home Affairs, National Security and Law Enforcement of Malta, CommHR/NM/sf 043-2017, 14 December 2017, available at: http://bit.ly/2o5Bwr6.

557 See https://bit.ly/3EYCuxU.

558 JRS and aditus foundation, In Pursuit of Livelihood: An in-depth investigation of asylum-seekers' battle against poverty and social exclusion in Malta, December 2021, cited above.

559 Information provided by the Ministry for Social Policy and Children's Rights in March 2025.

Age Pension	15	0
Visual Impairment Assistance	2	0
Severe Disability Assistance	0	1
Social Assistance	24	1
Social Assistance Unmarried Parent	2	0
Unemployment Assistance	10	0
Subsidiary Unemployment Assistance	0	1,734
Unemployment Benefit	1	1
In-Work Benefit	26	33

In its 2024 Concluding Observations to Malta,[560] the UNHRC flagged the need for Malta to ensure that all women, including migrant and asylum-seeker women, have equal access to complains mechanisms, protection measures, psychological support services and effective remedies in relation to gender-based violence.

G. Health care

Refugees have access to state medical services free of charge. They have equal rights compared with Maltese citizens and are, therefore, entitled to all the benefits and assistance to which Maltese citizens are entitled to under the Maltese Social Security Act,[561] as defined in the Procedural Regulations.[562] Access to medication and to non-core medical services is not always free of charge, in the same way as it is also not always free of charge for Maltese nationals. All low-income individuals may be given a Yellow Card to indicate entitlement to free medication. The main public mental health facility, Mount Carmel Hospital, also offers free mental health services to refugees.

Beneficiaries of subsidiary protection and THP have access to state medical services too, according to national legislation and guidelines provided by the Healthcare Entitlement Unit[563]. Furthermore, NGOs report that all third-country nationals are entitled to full access to public health services if they are able to present at least three most recent payslips to the hospital payment desk.

Although the Home Affairs Ministry reports that public officials working on migration are trained to effectively identify and assist migrants victims of torture[564], in practice, specialised treatment for victims of torture or traumatised beneficiaries is generally not available. As no special referral system is in place, when officers come across someone who was tortured and is in need of assistance, they refer the individual to national mental health services and to the psychiatric hospital for in-depth support. The NGO Richmond Foundation provides mental health support, on a referral basis. Since the organisation's services are largely based on a public service agreement with the Government, referrals need to be of persons having access to social support. Nonetheless, NGOs report that free services are often also provided by the NGO. JRS Malta also provides psychological support to persons referred to the organisation, whilst in 2024 the Migrant Women Association (Malta) and the NGO Tama started offering support to women. NGOs report coming across several people who have suffered torture and various forms of extreme violence, including sexual violence. Long-term support is extremely difficult to secure and where the impact impedes access to employment, victims tend to struggle due to the limited available financial and other support.

560 United Nations Human Rights Committee, *Concluding Observations on the third periodic report of Malta*, 26 August 2024, available at: https://tinyurl.com/3pp4ea4s.

561 Social Security (U.N. Convention Relating to the Status of Refugees) Order, S.L. 318.16, 2001, available at: http://bit.ly/2kvolaz.

562 Regulation 20 Procedural Regulations, S.L. 420.07.

563 Regulation 20 Procedural Regulations, S.L. 420.07; Entitlement Unit Malta, available at: https://bit.ly/4eaeDeD. The guidelines are available here: https://tinyurl.com/4dsr6n3j.

564 Information provided by Home Affairs Ministry in January 2024.

NGOs further report an increase in situations where holders of international protectional granted in other EU MS were required to pay for public medical services. This was seen in situations where the holder of protection granted in Malta held subsidiary status and was not able to present three recent payslips. Cases included medical services for pregnant women.

JRS reported that in 2023 and 2024, despite the improvements made, a significant number of the individuals followed by the organisation, or members of their immediate family, have had trouble accessing healthcare on one or more occasions. The cause of these difficulties was not always clear; however, they seemed rooted in questions regarding individual entitlement to free healthcare, lack of knowledge of the rights of the different categories of migrants living and working in Malta, lack of understanding of information among migrants about how the system works and the services offered, limited available information, language barriers, and cultural issues such as obstacles relating to shame and stigma.[565]

[565] Information provided by JRS Malta in June 2024.

ANNEX I - Transposition of the CEAS in national legislation

Directives and other CEAS measures transposed into national legislation. The table indicates the main texts incorporating into Maltese law the provisions of the indicated EU laws, yet it is underlined that some elements have been transposed in the other non-corresponding national texts, or that other elements have not been transposed.

Directive	Deadline for transposition	Date of transposition	Official title of corresponding act	Web Link	Commentaries/Analyses
Directive 2011/95/EU Recast Qualification Directive	21 December 2013	3 March 2015 11 December 2015	Refugees (Amendment) Act, No VI of 2015 Procedural Standards for Granting and Withdrawing International Protection Regulations, Legal Notice 416 of 2015	http://bit.ly/1LQjEov (EN) https://bit.ly/2ORQang. (EN)	aditus and JRS Malta, Comments on the exercise transposing the EU recast qualification directive, available at: https://tinyurl.com/423zfe6m.
Directive 2013/32/EU Recast Asylum Procedures Directive	20 July 2015	11 December 2015	Procedural Standards for Granting and Withdrawing International Protection Regulations, Legal Notice 416 of 2015	https://bit.ly/3ecdAwx. (EN)	
Directive 2013/33/EU Recast Reception Conditions Directive	20 July 2015	11 December 2015	Reception of Asylum-seekers Regulations, Legal Notice 417 of 2015	https://bit.ly/3x2SoRW (EN)	aditus and JRS Malta, Submissions to the Ministry of Home Affairs & National Security on the transposition of the recast reception conditions directive, & to changes to immigration legislation, available at: https://tinyurl.com/2p9dn94d.
Regulation (EU) No 604/2013 Dublin III Regulation	Directly applicable 20 July 2013		N/A		

ANNEX II – Asylum decisions taken by IPA in 2024

Empty boxes indicate 0.

Nationality	TOTAL	ADMIN. CLOSURE	DUBLIN CLOSURE	EXPLICITLY WITHDRAWN	IMPLICITLY WITHDRAWN	INADMISSIBLE	NO CHANGE	REFUGEE	REJECTION	SUBSIDIARY PROTECTION	THP
Afghanistan	1	1									
Algeria	7			2		2			2		1
Argentina	2	1							1		
Armenia	1	1									
Bangladesh	69	40		3	2	2			21		1
Bosnia And Herzegovina	2								2		
Brazil	1					1					
Burkina Faso	2		1						1		
Cameroon	13		4		7				2		
Chad	3		1						1		1
China (incl. Hong Kong)	1							1			
Colombia	22	4		2					16		
Congo	1				1						
Cote D'Ivoire	6			1	3	1			1		
Cuba	1	1									
Democratic Republic Of The Congo	1		1								

Egypt	26	5		2	1	7			11		
Eritrea	40	4	14	2	11			1		8	
Estonia	1					1					
Ethiopia	10		4		2	1		1	2		
Gambia, The	3	1							2		
Georgia	9	1				4			4		
Ghana	5	1							4		
Guinea	36	3	5		15	1		2	10		
Honduras	1								1		
Iran	9				1			7	1		
Iraq	2				1	1					
Jamaica	1		1								
Kazakhstan	1	1									
Kenya	1								1		
Lebanon	3	1							2		
Libya	51	2	10	2	11	3		5	18		
Mali	6	2			1				2	1	
Moldova	1								1		
Morocco	9	3			4				2		
Nepal	5								5		

Nigeria	22	2	3	1	5	3		1	6	1	
North Macedonia	2			2							
Pakistan	46	2		5	2	2		6	29		
Palestine	17				4			9	2	2	
Peru	7	3		2	1				1		
Russia	3				2				1		
Senegal	2		1						1		
Serbia	4								4		
Sierra Leone	3							2	1		
Somalia	57	7	18		15	2	1	4	8	2	
South Africa	2			1	1						
South Sudan	1		1								
Sudan	77	3	29		35	8			2		
Syria	323	35	28	4	64	47	2	8	7	128	
Tunisia	4	2				1			1		
Türkiye	6							4	2		
Ukraine	33	1	2	16	3	1			7	3	
United States	2								2		
Uzbekistan	1				1						
Venezuela	17	5		4	1				5		2

Vietnam	1								1		
Yemen	1							1			
Zimbabwe	1								1		
Total	**985**	**132**	**123**	**49**	**194**	**88**	**3**	**52**	**194**	**145**	**5**