

Immigrants in Malta

The high number of migrants in Malta poses a real challenge, especially as xenophobia and human rights infringements are increasing. To address this, Malta needs to review its automatic detention policy for ‘irregular’ migrants.

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Irregular immigration

In the last few years, Malta has witnessed a considerable increase in irregular immigration. The irregular immigration phenomenon in Malta started in 2001 with the arrival of 1,686 asylum seekers; in 2008, 2,775 boat people were registered as irregular immigrants in Malta. Most of these immigrants are from Sub-Saharan Africa, attempting to emigrate to Europe. Malta is a densely populated island country, with 1,282 inhabitants per square kilometre. It is at the crossroads of the Mediterranean, making it one of the main routes for ‘boat people’ from North Africa headed to mainland Europe.

Upon joining the EU, Malta became subject to the Dublin Convention, which provides that asylum seekers must remain in the country where they land. Thus, all boat people passing through the Maltese search and rescue area are referred back to Malta.

Dealing with the high number of migrants is a challenge for Maltese authorities and has caused the Maltese people to become increasingly insular and xenophobic. Malta has asked for aid from the EU and for the immigration burden to be more fairly shared. Malta deals with the immigration problem by systematically detaining all migrants and asylum seekers. In the last few years, the island has introduced asylum legislation (Refugee Act 2000) and reinforced its immigration legislation in line with the criteria for admission to the EU. Since 2005, the Reception Conditions Directive has been integrated into national policy and the EU authorities have become increasingly concerned about the welfare of vulnerable persons held in open and closed centres (Policy Paper 2005).

Detention

Malta has maintained its automatic detention policy for irregular migrants. On arrival, irregular migrants are held in closed detention centres for up to 18 months, after which they are transferred to open centres. This policy clearly violates international human rights laws and standards. Migrants are detained before proper medical screening, potentially putting the health of other detainees and staff at risk. NGOs and journalists have limited and restricted access to detention centres. Four of the administrative detention centres are in a deplorable

condition and fail to meet legally binding international standards.

Detention centres are overcrowded, with the overflow of immigrants living in tents. Detainees are managed by army and police officials, who are responsible for security, accommodation, meeting basic needs, providing access to medical care and day-to-day administration. These soldiers are not trained to look after people, and are clearly not the right people to be entrusted with this task. A report drawn up by the French NGO Médecins du Monde (MdM) in 2007 criticised the living conditions in Malta’s overcrowded closed detention centres as “detrimental” and “incompatible with a minimal respect for human rights” (MdM, 2007).

A United Nations Working Group on Arbitrary Detention that visited Malta in January 2009 described the conditions at the Safi and Lyster Barracks camps as “appalling” and detrimental to the health of those confined there (Malta Independent, 2009). They also pointed out that asylum applications take far too long to be processed: some migrants are still waiting to be interviewed on their applications after six months in Malta. The so-called ‘fast track’ system is not much better: it is intended for the most vulnerable people, but it still takes up to three months to release these individuals from detention centres.

In 2008 and during the first five months of 2009 a record number of boat people arrived in Malta (Frontexwatch, 2009). Médecins sans Frontières (MSF) suspended its humanitarian services at the detention centres on 13 March 2009 because the conditions were so appalling and inhuman (MSF, 2009). MSF Malta complained of poor sanitary conditions and a lack of facilities in many of the detention centres, including hot water and clothes. The assessment of migrants in vulnerable condition (the young and pregnant women) was taking far too long. People who arrived in a good state of health were deteriorating while in detention. The absence of a pharmacy in centres meant that medicines prescribed to immigrants were not delivered on time, or at all, making adequate and effective treatment impossible. The lack of a proper isolation area means that immigrants with infectious diseases are being kept with healthy individuals. MSF has advised the Government of the critical situation and requested that measures be taken since October 2008. While acknowledging that Malta needs EU help to cope, MSF insisted that Malta do its part by adhering to international and EU basic reception standards for immigrants.

Malta is a signatory to various UN and international conventions respecting the dignity of refugees and asylum seekers and has a national code of conduct issued by the Ministry for Justice and Home Affairs on the entitlements, responsibilities and obligations of detainees. Various reports on the state of Maltese detention centres categorise Malta as a backward third world country where human rights and human dignity and respect have not yet been discovered!

Government response

The Maltese Government needs to achieve a balance between security and humanitarian concerns, taking into consideration the rights of asylum seekers. Efforts are being made to improve conditions; however, the number of migrants is continuously increasing: in 2008, there were 2,775 new arrivals, compared to 1,702 the year before.

Declaring that its resources are over-extended, Malta has called upon the international community to help tackle its refugee problem through burden sharing and resettlement schemes. The EU, which is the real magnet for those fleeing Africa, needs to develop a consistent response. Malta’s request for assistance is not to be construed as an abdication of its international obligations, but as an expression of a genuine need for short-term help. Such assistance is not viewed as a permanent solution, which Malta recognises can only be found within the framework of a long-term approach addressing the root causes of emigration from Africa. The Maltese Government comments that illegal immigration is a problem that should be shared by the world as a whole. It is worth noting that such appeals are being made by the EU and UN delegations visiting Malta, to little effect (DOI, 2009). It is time to translate them into practice.

Justice Commissioner Jacques Barrot reiterated that the island had been allocated over €126 million in funds to spend from 2007 to 2013 in the field of asylum, immigration and borders. Barrot criticised Malta for spending only €18 million (Malta Today, 2009b). According to estimates published in the local media, Malta was allocated €24.4 million in 2007; €32.5 in 2008 and €18 million for each year until 2013, plus other entitlements and grants.

Malta should utilise EU aid to eradicate hardship and ensure respect for human rights and the dignity of immigrants.

Social assistance to refugees

The Government of Malta offers asylum seekers and refugees free accommodation in open centres,

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lawyers; and a lack of motivation and skill on the part of the lawyers appointed to defend detainees. These obstacles are magnified by the expeditious nature of procedures in detention centres: e.g., in detention centres an appeal regarding asylum must be lodged within 15 days, instead of the normal 30 days. These accelerated procedures make it more stressful for the lawyer and client, compounding other obstacles.

These and other findings were made public in November 2008 in a report by NGOs visiting detention centres (CIRE, 2008).

To challenge their detention, foreigners may appeal to the *Chambre du Conseil*, the tribunal responsible for deciding about remanding people in custody. However, this judicial review is not automatic, as in criminal affairs, and control by the tribunal is limited. The judge may only assess the lawfulness of the detention, not whether or not the detention is proportionate and adequate according to the specific circumstances of the case. These limitations explain why only a small proportion of detention orders, 16 per cent, are challenged. ■

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in family structure and the stresses imposed by living 'between' two countries and cultures can also lead to children experiencing learning difficulties in school, and, in some cases, drug and alcohol abuse (Brzuskiwicz, 2004), although other factors may also play a part.

BOX 9: Siemiatycze chain migration to Brussels

Since the late 1980s, the small town of Siemiatycze of 16,000 inhabitants, located 140 km north-east of Warsaw has had a particular economic, social and cultural relationship with Brussels. It is difficult to remember who initiated the chain migration, but the town mayor estimates that between 2,000 and 3,000 thousand people from the town are working in Brussels. Interestingly, the local newspaper publishes daily weather reports for Brussels. Until 1 May 2009 and the opening of the Belgian labour market to new EU members, the vast majority of migrants worked illegally in construction and housekeeping or as nannies. The majority of migrants have been investing money in Siemiatycze. The successful ones, locally called 'Brusselites', own expensive villas on the lake shore, wear fashionable hairdos and clothes, and go to trendy pubs and restaurants, atypical of other towns in the region. Since this migration flow began, the number of divorces in Siemiatycze has risen significantly, and there has been an increase in drug and alcohol abuse among youth from non-traditional family structures. Nevertheless, a vast majority of school students surveyed consider Brussels as an obvious, although often temporary, option for their future (Brzuskiwicz, 2004).

The decision to migrate is often based on accounts given by family or friends. These personal links create rather curious patterns, resulting in chain migrations, like between the small town of Gostynin and Antwerp, Skarysko Kamienna and Rome, Gorzów Wielkopolski and Alsace, and the small village of Stare Juchy and Iceland (Gazeta Wyborcza, 4 August 2004).

The global financial crisis has affected Polish migration. With unemployment rising in West European countries, East-West migration flows are shrinking. An ILO report (2009) indicates that, in the United Kingdom, the number of work applications from nationals of new EU member states, and particularly Poland, are shrinking. The number of applications decreased from 53,000 for a three-month period in 2007 to 29,000 for the same period in 2008.

Some Polish trade unions recently called for restrictions towards foreign workers from the Ukraine and Belarus to make room for potential Polish returnees from Western European countries.

However, a massive return of Polish migrants has not been registered (ILO, 2009). According to a report by the Migration Department of the Ministry of Labour and Social Policy (2009, p.63), there has been no massive return, perhaps because migrants are trying to make use of every option available to them in their country of residency, such as accepting lower pay, taking on jobs below their qualification level, and unemployment and family subsidies. An additional alternative is migration to a country where the effects of the crisis are less severe. ■

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as well as an allowance for food and transport for unemployed immigrants. Services and the duration of the period for which services are offered are regulated by an 'integration and service agreement' or a 'return and service agreement'. Refugees are given social security benefits and are also assisted with a rent subsidy.

Since January 2007, the daily allowance for unemployed refugees in open centres varies according to their status. A person with temporary humanitarian protection is given €4.65, an asylum seeker awaiting a reply from the Refugee Commission receives €4.65, and a rejected asylum seeker receives €3.5. Couples with children receive €2.33 for every child. Those with refugee status receive weekly social security benefits, which amount to €81.20 plus €8.14 for every dependant. Both refugees and individuals with temporary humanitarian protection are entitled to work after being issued a work permit by the Employment Licence Unit, valid for one year. Upon employment, all social security benefits and allowances are stopped. All allowances given in the open centres, as well as social security benefits and rent subsidies to refugees, are taken from the government budget. All immigrants, irrespective of their status, are entitled to free health care.

In April 2009, there were changes to these rules. The Employment Training Corporation stopped renewing work permits for asylum seekers whose applications had been rejected twice (Vassallo, 2009). OAIWAS, the government agency for the integration of migrants that coordinates open centres, began to encourage rejected asylum seekers to leave the open accommodation centres. Since April 2009, permission to remain in open centres is limited to a maximum of six months, after which all existing benefits – including the per diem allowance – are automatically suspended. Before this policy change, failed asylum seekers could reside in an open centre after their period of mandatory detention, and were also eligible to receive a 'per diem' allowance.

It should be noted that, if not supplemented by charity organisations, asylum seekers and rejected asylum seekers living on allowances are on par or worse off than people living on 'two dollars a day' in a developing country. Under the new policy, failed asylum seekers can no longer renew their work permits, and, hence, are unable to obtain the basics for survival.

Turning immigrants into criminal offenders

The changes in policy will automatically transform all undocumented migrants into criminal offenders in order to survive. The new policy is inhumane and will create an environment for racism to soar in Malta. Although rejected asylum seekers do not have any legal right to remain in Malta, there are some who cannot be returned home, in spite of the fact that they are not granted legal protection; these people should be provided with their basic needs and the means to live with human dignity.

BOX 7: Detention – Violating human rights

To deprive people of their liberty through detention, when they have committed no serious crime, is a very serious measure in a democratic society. Although human rights law allows for detention in very specific cases, detaining people for 18 months is a very long time and can destroy detainees both physically and mentally. An Eritrean migrant, Mr Berhe, filed a constitutional case against the Principal Immigration Officer and the Justice and Home Affairs Minister in May 2007, claiming violation of Article 34 of the Constitution of Malta and Article 5 of the European Convention on Human Rights (part of Maltese Law) due to the lengthy procedures for asylum and inhumane conditions of detention, including crowded conditions, lack of appropriate hygiene and medical care, and lack of access to legal services. Mr Berhe is still awaiting a verdict. Judicial proceedings started two years ago and have been postponed from time to time.¹

¹ Information on the Court hearing is available from: <www2.justice.gov.mt/kawzi/ccm_sitt.asp?FrmCM=213021&lng=>

The growing number of migrants settling in distinct areas and the new measures to cut all forms of help will create 'ghetto-isation'. These ghettos are poverty traps and breeding grounds for social tension. The Government should use EU aid to help immigrants to live a decent respectable life during this difficult stage in their life.

Maltese nationals and immigrants: The perception of immigrants

The issue of undocumented migrants has recently been at the core of media and political debate. Most of the Maltese public and political parties look upon 'boat people' as a burden and, as such, they are unwanted by the local population. This has made irregular immigration in Malta a hot political issue, leading to the formation of a number of Right-wing parties that are opposed to providing asylum to these individuals.

A survey carried out by a local paper revealed that immigration levels have reached crisis point, with thousands of migrants arriving, but only a few leaving. Since March 2002, there have been around 12,500 arrivals of irregular migrants. Malta repatriated 2,958 immigrants between January 2004 and September 2008. Experts like Martin Scicluna, a government advisor on this issue, contend that, in total, over 7,000 immigrants have departed, either through repatriation or of their own accord (Malta Today, 2009a).

The survey also revealed that 75 per cent of Maltese have no contact with illegal immigrants. Only 25 per cent reported ever having spoken to an illegal immigrant. Asked how the authorities should respond to a distress call from a drowning boat full of illegal immigrants, 4.3 per cent brutally replied that the authorities should take no action and let the immigrants drown. A further 55.3 per cent replied that the authorities should offer their help on the high seas and allow the migrants to proceed on their journey – which is illegal under international law. Another 38 per cent replied that Malta should bring the migrants to Maltese shores to offer them assistance.

Malta is a Roman Catholic country that talks about solidarity and the Maltese people pride themselves on how they welcome people. It has been

eight years since the immigration crisis began, but it is only lately that leaders of the Church have started to visit detention centres and voice their concern. In a homily by Gozo Bishop Mario Grech on 4 April 2009, he sharply criticised the detention policy for migrants, whose only crime is escaping persecution in their own countries. He stated that it is unfortunate that a:

civilized country such as ours, having the values we think we are defined by, sees nothing wrong in keeping locked in detention women and men who committed no crime and who are only here because they are seeking another country's protection? (Grech, 2009).

One has to give credit to the Maltese Church, which has been working through different organisations such as the Secretariat of Emigration and Tourism, the Jesuit Refugee Service, Suret il-Bniedem and the Good Shepherd Nuns, among others, to assist refugees and immigrants.

The Maltese people must be educated to be more tolerant towards asylum seekers and to better understand their situation, while the Maltese Government must respect immigrants' human rights. The Government should accept that immigration is a long-term situation. Malta must make better use of the aid given by the EU and organise a humane reception for incoming people until such time as they are accepted by other countries, or the situation changes for the better. The EU must recognise the fact that Malta is by far the Member State that is bearing the heaviest burden relative to its size and resources. Member States should show solidarity with Malta and share the responsibility of asylum seekers by accepting them in their own countries and working towards eradicating poverty and establishing governance in the impoverished nations that these people are coming from. The EU must also work towards a more just world where natural resources, international trade and wealth are shared in a more humanitarian and equal way. ■

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