Member State Reply on the 2024 AIDA country report on Malta

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AIDA covers 26 countries, including 19 EU Member States (AT, BE, BG, CY, CZ, DE, ES, FR, GR, HR, HU, IE, IT, MT, NL, PL, PT, RO, SE, and SI) and 4 non-EU countries (Egypt, Serbia, Switzerland, Türkiye, Ukraine and the United Kingdom). Each report documents asylum procedures, reception conditions, detention and the content of international protection in the country concerned.

Based on the final draft for the AIDA country report on Malta, we would like to offer you the opportunity of a right of reply concerning the facts and legislative information presented in the report. ECRE will only be able to consider comments that are provided in the template below within two weeks from the date of receipt, to avoid delays in publication.

Upon the request of the Member State, the comments will be published in a separate annex to the country report on the AIDA website. Otherwise, they will be treated as confidential. The template reflects the chapters of the report.

Please ensure that responses remain within the scope of each section. Where possible, information provided should be sourced.

Extract from the Report	Page and Section	Comments
10	All types of applications	This should read First and Subsequent applications.
19	Is there any political interference possible by the responsible Minister with the decision making in individual cases by the determining authority? Yes	**REPETITION:** All migrants disembarked in Malta following a SAR operation are given written information material upon arrival, including on their right to seek asylum and voluntary return.
19/20	According to the International Protection Agency, 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 International Protection Agency 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, International Protection Agency had a total staff of 21 persons: 2 conducing first instance interviews and 4 taking decisions or making final recommendations. According to the Home Affairs Ministry, by the end of 2023, the International Protection Agency was in the process of recruiting 25 new protection officers, with several already in place by December 2023.	Reference is made to so-called 'leaked documents,' suggesting secrecy, when in fact this information is publicly available from open sources.
21	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 International Protection Agency, and in 2023 and 2024 some applicants were detained following this initial contact.	This statement is incorrect. Please refer to feedback provided on pg.114 pertaining to detention following contact with the IPA.
21	A more experienced officer or manager reviews the caseworkers' decision on the application and the International Protection Agency makes the final decision.	To clarify, each decision is reviewed by a minimum of 2 officials; a Senior Protection officer and a Manager. Depending on the circumstances of the case, a decision may also be reviewed by the IPA's Quality Control Unit

		before being forwarded to the Agency's CEO for final approval.
22	Accelerated procedures are also foreseen in national law for applications that are deemed to be inadmissible or manifestly unfounded.	**REPETITION:** The accelerated procedure per se only applies to applications that appear to be manifestly unfounded. However, certain provisions of the accelerated procedure also apply to applications deemed inadmissible.
22	In practice, all applicants are interviewed by the International Protection Agency although their case might be classified as being inadmissible or manifestly unfounded following an evaluation of their asylum claim.	**REPETITION:** The vast majority of applications deemed to be inadmissible are not subject to an interview. This is so, because in the majority of cases these applications are deemed inadmissible because the applicant was already granted international protection in another Member State (this info is either provided directly by the applicant, available in Eurodac, or given to us by the Member State concerned after sending a take back request in accordance with the Dublin regulation).
22	In such cases, the decision of the IPA is automatically transmitted to the IPAT Chairperson, who must assess and review the decision of the IPA within three days.	**REPETITION**: It is important to clarify that the International Protection Agency does not simply transfer the decision to the International Protection Appeals Tribunal, but the applicant's file in its entirety. Thus, when reviewing the IPA's decision, the International Protection Appeals Tribunal has access to all information upon which the IPA based its decision, including the application form, the transcript of the interview and any documentary evidence submitted by the applicant.
22	Appeals are to be filed before the International Protection Appeals Tribunal (International Protection Agency), an administrative tribunal which is currently operating in a one-chamber composition of three members.	The information is incorrect. The International Protection Appeals Tribunal is independent of the International Protection Agency and it is composed of four members not three, including the Chair.
22	The Tribunal is empowered to regulate its own procedure, and its decisions are binding on the parties. Although the Act states that the Tribunal will not remit cases back to International Protection Agency to take a new decision, in 2024 International Protection Agency referred three cases back to the International Protection Agency	**REPETITION:** It is to be pointed out that cases referred back were either cases falling under an accelerated procedure or applications deemed inadmissible by the IPA, wherein following a review the Tribunal did not agree with the IPA's conclusion and either ordered the Agency to examine the application through a normal procedure or declared the application admissible. In this regard, it should also be noted that national law specifically allows for the referral of such cases back to the International Protection Agency.

		No cases involving normal appeals were returned back to the International Protection Agency.
22	The decision generally consists of a one-page document confirming the International Protection Agency 's decision	REPETITION: This is incorrect. The length of a decision on applications falling under an accelerated procedure depends on the specific circumstances of the individual application.
24	Access to the procedure was hindered to some applicants in 2023 through a speedy channelling to 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.	All migrants disembarked in Malta following a SAR operation are given written information material upon arrival, including on their right to seek asylum and voluntary return. During return counselling, migrants are informed of their right to apply for asylum as well as the possibility to pursue voluntary return. The decision ultimately rests with the individual who may choose to return voluntarily instead of seeking asylum. It is also important to note that the State is obliged to provide all available information to migrants in detention, enabling them to make informed decisions. Furthermore, the Ministry believes that in addition to information on asylum and voluntary return, it is important for migrants to be duly informed of their prospects here in Malta, including on the likelihood of being granted international protection.
24	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.	**REPETITION:** All migrants disembarked in Malta following a SAR operation are given written information material upon arrival, including on their right to seek asylum and voluntary return.

26	On the basis of a policy of "prevention, return and relocation", 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.	**REPETITION:** Malta strongly rebuts any allegations on pushbacks and arbitrary delays in responding to distress calls. Malta abides with international obligations and responds to distress calls in its Search and Rescue Region and has never relinquished any responsibility or abandoned distress cases in its Search and Rescue Region. All notifications received are investigated, assessed, prioritised and actions are taken accordingly. Malta seeks to continue to respect all its international obligations regarding the rescue of persons in distress at sea inside its area of responsibility. All such efforts are conducted in full respect of relevant instruments of international law, as applicable to Malta; fulfilling all Search and Rescue obligations as set out in the United Nations Convention on the Law of the Sea, and applicable provisions contained within the 1979 Maritime Search and Rescue Convention. It is also worth pointing out that not all migrant boats are considered as Search and Rescue cases, such as the case of autonomous landings in Malta and in Lampedusa. The authorities cannot intervene in such cases on the basis of Search and Rescue or conduct any forceful rescues in case persons at sea refuse further assistance in order to proceed to their intended destination. On the other hand, it is recognised that other States are responsible and free to exercise border control and enforce migration laws in their areas of competence. In conclusion, the references in the report related to alleged pushbacks and ignoring of distress calls lack hard evidence and are based only on emotion, personal opinions and hearsay which regrettably seems to be purposely intended to provide a distorted image. Malta has saved thousands of lives in the past twenty years and hosts a significant community of refugees and beneficiaries of international protection, as compared to the size of its population. Indeed, Malta has rescued more than 28,500 migrants in distress in the past two decades, that is, more than 6% of the population.

27	The UN Human Rights Committee has also 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.	Malta has not engaged in any push-backs towards Libya and to our knowledge the Libyan coast guard acted exclusively within waters falling under Libya's responsibility. Malta remains responsible for the coordination of rescue activities within its Search and Rescue Region, wherein disembarkation is affected at the closest place of safety as per the applicable convention. In view of the relevant geography this 'place' would either be Tunisia, Lampedusa, Sicily or Malta itself. Moreover, it is to be pointed out that Malta is not responsible for any autonomous interceptions on the high seas. Therefore, the allegation, or rather the implication, that Malta is in any way infringing its obligations in this regard is not substantiated. The Maltese Government signed a Memorandum of Understanding with Libya in May 2020 which was renewed in 2024. This Memorandum of Understanding, which publicly available and can be accessed online, aims at increasing cooperation between Malta and Libya in the fight against irregular migration, in particular through the establishment of 2 Coordination Centres, one in Tripoli and one in Malta. Malta views cooperation with the Libyan authorities as essential to: • address the challenges posed by irregular migration; • significantly decrease the risk of loss of life at sea; and • dismantle smuggling networks. In this regard, Malta supports the competent Libyan authorities through measures aimed at enhancing the latter's capacity building and operational readiness vis-à-vis border management, SAR operations and the fight against smuggling networks.

27	According to UNHCR by the end of 2024 there were 238 persons arriving by sea in Malta. 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.	Reference is made to so-called 'leaked documents,' suggesting secrecy, when in fact this information is publicly available from open sources.
32	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 European Union MS. No information was provided on the Member States of relocation, or the criteria used in their selection. 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. For 2024, IOM stated that no asylum-seekers were relocated from Malta throughout the year	Statistical data should read that there were 159 relocations in 2023 States and 60 relocations in 2024. While Malta did register a reduction in the number of arrivals in the first half of 2023, it did not relocate the same number of individuals who had arrived. IOM's statement that no asylum seekers were relocated from Malta in 2024—a statement that, if a verifiable source exists, should be cited for transparency and accuracy – is incorrect. By contrast, during 2024, a total of 60 asylum seekers were relocated from Malta to other EU Member States under the Voluntary Solidarity Mechanism. Additionally, 54 beneficiaries of international protection were successfully resettled to the United States and Canada with the support of IOM and UNHCR.
32	According to the Home Affairs Ministry, in 2024 Malta committed to 20 resettlement pledges and 20 relocation pledges.	Whereas in 2024 Malta committed to resettle 20 persons (a process that is currently ongoing), no relocation pledges were made.
32	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.	The use of false documentation to enter the country is a criminal offence liable to prison term. Furthermore, the fact that someone subsequently applied for international protection does not change the fact that a criminal offence was committed. Finally, it should be noted that the punishment to be handed for such offence falls under the sole remit of the judiciary, which is completely independent from the Government.

		It is also to be underlined that a vast majority of these asylum seekers would not be arriving in Malta directly from their country of origin.
35	In a 2022 judgement, the EctHR identified various failures of the Maltese asylum system and found that the International Protection Agency deprived the applicant of rigorous individual assessment of his asylum claim, highlighting that "general measures could be called for"	**REPETITION**: The International Protection Agency refutes any allegation that its assessment is of low quality. The assessment carried out by the Agency is a comprehensive and detailed one based on the various guidelines published by the European Union Agency for Asylum, and which takes into account not only the applicant's credibility, but also his/her profile and the situation in his/her area of origin. Furthermore, before a decision is issued this is always reviewed by by at least two officials; a senior protection officer and a manger, to ensure the quality and correctness of the decision.
37	In view of EUAA's end of operations in Malta in 2024, International Protection Agency conducts all interviews and assessments.	The International Protection Agency started conducting all asylum interviews in March 2024.
37	Asylum seekers are generally informed by phone by the International Protection Agency a couple days in advance, lawyers reported that they are rarely notified and must usually rely on their clients to informing them.	**REPETITION**: The International Protection Agency has no legal obligation whatsoever to notify the lawyer of the appointment date. Indeed, it is the applicant's sole responsibility to inform his/her lawyer if he/she wants the lawyer to be present. Without prejudice to the above, lawyers are notified by the Agency if they so reques. Furthermore, in cases involving vulnerable people, the applicant, social worker and lawyer, if applicable, are all informed of the appointment date.
38	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.	**REPETITION:** This statement is misleading. Case workers may call a pause at times during the interview to indicate to the interpreter and the applicant that the applicant needs to pause in between sentences, to give the interpreter time to translate and the caseworker time to type verbatim. However, the case worker does not stop applicants/interpreters in the middle of a sentence.

41	Despite the procedural rules laid down in S.L. 420.01, the manner in which the International Protection Agency conducts its proceedings in practice is not publicly available through published guidelines. Lawyers commented that timelines are not uniformly stipulated or enforced, and the hearings' excessive informality 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 published and are not publicly available	**REPETITION:** This is not correct. Timelines are clearly provided for in law(Article 7(6) and (7) and Article 23(3) of the International Protection Act). Whereas hearings are heard at the premises of the Tribunal, instead of in a Court of law, this does not mean that the sittings are not formal. Furthermore, minutes of every hearing are taken to accurately record the proceedings and are made available in the acts of the appeal. It should also be noted that whereas decisions are not made publicly available, these are published and sent to all interested parties.
44	While it is possible to file a request to reopen the case, the International Protection Agency generally rejects such requests on the basis that the law does not provide for it	**REPETITION:** This is incorrect as the IPAT does allow a retrial according to law. In the absence of specific rules in Chapter 420 of the Laws of Malta, the Tribunal regulates this aspect of the proceedings through the application of general procedural principles found in the law, namely Section 811 of Chapter 12 of the Laws of Malta. This has been used by the Tribunal in practice whenever it was established that there was one of the grounds found in Section 811, which gives rise to a new trial according to law.
48	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	**REPETITION:** The Ministry for Home Affairs, Security and Employment provides free legal assistance during the appeals process for appeals filed against a decision by the International Protection Agency, including Dublin transfers, decisions issued by the Principal Immigration Officer, including detention orders, return decisions and removal orders, and appeals against the outcome of the age assessment carried out by the AWAS. Besides the appeals process, free legal advice is provided on a request basis. Interpretation, where necessary, is provided both during meetings between the legal aid lawyer and the appellant and during open hearings before the Immigration Appeals Board or the International Protection Appeals Tribunal.

	apply to be legal aid lawyers with 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.	Legal Aid lawyers are not employed by the Ministry but subcontracted through a public Call for Applications advertised on local newspapers and the website of the Ministry responsible for Home Affairs. This Call is open to all practising lawyers in Malta. Subcontracted lawyers do not answer to the Ministry. They are professional and warranted lawyers who are bound by the Code of Ethics of the Chamber of Advocates which has the force of law, thus ensuring that they act independently and in the best interests of their clients. The procurement of legal aid services is made as per national and international procurement regulations, and lawyers are encouraged to apply. If the applicants meet all the required criteria, they are engaged by the Ministry. The Ministry is only involved in the administrative part, which is limited to the engagement and remuneration of lawyers, and the allocation of cases. The fee per case payable to legal aid lawyers reflects the guidelines issued by the Chamber of Advocates on legal fees.
50	The International Protection Agency is the designated head of the Dublin Unit.	The Chief Executive Officer of the International Protection Agency is the head of the Dublin Unit and not the International Protection Agency. As a matter of fact, the Dublin Unit is part of the International Protection Agency.
50	Although the decision to ensure the officials are in plainclothes was taken to avoid visible police presence at the International Protection Agency, practitioners reported that this resulted in a lack of transparency as to the entities applicants were engaging with at International Protection Agency .	Appropriate tags are always worn by respective staff and applicants are informed of the procedure both at the beginning of lodging and when moving from one phase to another of the procedure.
51	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.	**REPETITION:** All asylum seekers, including unaccompanied minors are provided with a leaflet containing information on the asylum procedure, including on the Dublin procedure.

52	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 International Protection Agency 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 and 2022, 2023 and 2024.	**REPETITION:** This statement is legally and factually incorrect. In those cases where the legal time limit to complete the transfer lapses the International Protection Agency immediately assumes responsibility, proceeds to re-open the application and contacts the applicant to inform him/her that Malta is now the Member State responsible for examining his/her application and to provide him/her with an Asylum Seeker's Document.
54	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 confirmed that there is no blanket policy of detaining Dublin returnees.	Malta has consistently maintained that there is no system of systematic detention. Detention is always enforced upon clear legal grounds as set out either in Article 6(1) of the Reception Regulations, as far as asylum seekers are concerned, or in line with the Return Regulations for those failed asylum seekers or irregular migrants who are in the return process. Thus, a detention order is not issued arbitrarily but only following an individual assessment and as a measure of last resort, after having established that other less coercive alternative measures cannot be applied effectively. Additionally, a detention order is subject to an automatic review within a maximum period of 14 days and to regular reviews every 2 months thereafter to ensure its continued legality. The automatic review of each Detention Order and each subsequent review is done by an independent quasi-judicial Board. In the case of Dublin transfers, the same detention policies apply as for other third-country nationals seeking asylum in Malta.
54	The main impact of the transfer on the asylum procedure relates to the difficulties in accessing the procedure upon return to Malta.	**REPETITION:** The Agency for the Welfare of Asylum Seekers, Health authorities and the Immigration Branch within the Malta Police Force are all informed by the Dublin Unit prior to an arrival of a Third Country National, including any medical needs or any other

		relevant information pertaining to the person being transferred.
54/55	The court also specifically mentions 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 European Court of Human Rights.	**REPETITION:** Detention orders can be appealed and are immediately reviewed by the Immigration Appeals Board. Furthermore, if detention is confirmed it is subsequently reviewed at regular intervals.
56	Applicants are not provided with an Asylum Seekers Document pending admissibility decisions.	Only applicants filing a second or further subsequent application do not receive an Asylum Seeker's Document pending admissibility decisions. For the first subsequent application, an Asylum Seeker's Document is issued upon lodging.
56	The International Protection Agency'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. Following the lodging of their application, applicants are generally not called for an interview and received an inadmissibility decision. The application is therefore processed through the accelerated procedure at the appeal stage and there is no possibility for the applicant to file an appeal.	**REPETITION:** Similarly to applications rejected as manifestly unfounded, in the case of applications deemed to be inadmissible, the applicant's file is forwarded in its entirety to the International Protection Appeals Tribunal for the decision to be reviewed (according to law, the automatic review by the International Protection Agency constitutes an appeal). The International Protection Appeals Tribunal thus has at its disposal all the information upon which the International Protection Agency based its decision, including all the information submitted by the applicant. It should also be noted that there have been cases where the International Protection Agency did not agree with the International Protection Agency's decision and deemed certain (subsequent) applications admissible. This shows that the system does work in practice and provides an effective remedy. It is to be noted that legislation will be amended to guarantee the provision of free legal aid to all asylum applicants at appeals stage, including those whose application has been rejected as manifestly unfounded or as inadmissible. Nonetheless, such appeals will be processed within shorter timeframes compared to appeals against applications processed under the regular procedure.

		Existing legislation will also be amended to ensure that: ▪ Applicants whose application has been rejected as manifestly unfounded or as inadmissible will be able to file an appeal against said decision, to file submissions at appeals stage, and to attend hearings if deemed necessary by the International Protection Appeals Tribunal; and ▪ Applicants whose application will be rejected as manifestly unfounded will not have an automatic right to remain on Maltese territory pending the conclusion of appeal proceedings. Instead, the International Protection Appeals Tribunal will determine ex-officio, within a stipulated timeframe, if such a right should be granted.
56	The International Protection Act provides that the International Protection Agency shall allow applicants to present their views before a decision on the admissibility of an application is conducted. It is assumed that applicants coming from a first country of asylum or a safe third country would be heard during an interview, however as stated above, the International Protection Agency generally does not apply these principles. Interviews for applicants already granted protection in another Member State are generally limited to a preliminary interview (i.e., the lodging of the application)	**REPETITION:** Persons who have already been granted international protection in another Member State are never subject to an interview as this is not required to reach a decision. A decision is generally reached on the basis of documents submitted by the applicant when lodging his/her application, information from Eurodac, or information provided by another Member State after sending a request for information or a take back request.
56	Practitioners also noted a practice adopted by International Protection Agency in relation to paragraph (a), meaning where an applicant in Malta had been recognised protection in another European Union Member State. A number of situations arose there such applicants had been indeed granted international protection in other European Union Member States, yet this protection was no longer valid, either due to expiration, revocation or	**REPETITION:** This is not a 'practice adopted by the International Protection Agency' but an application of the law which states that the application is inadmissible if the applicant was previously granted international protection in another Member State. In this regard, it should be noted that the law does not provide any further elements that need to be fulfilled to apply this provision, like ensuring that said protection is still valid. Furthermore, contrary to what is being stated here, all first instance applicants get an

	other situations. The International Protection Agency automatically considered these applications inadmissible, without granting an Asylum-Seeker Document to the applicants.	Asylum Seeker's Document upon lodging their application. If the application is later deemed inadmissible, applicants are duly notified and their Asylum Seeker's Document is withdrawn.
56/57	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, 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 International Protection Agency will interview the applicants on the merits of their case with further questions on the new evidence provided (See Subsequent Applications).	**REPETITION:** This is done in accordance with the law, specifically Article 7A of the International Protection Act. A preliminary examination to determine admissibility is a desk-based assessment of the elements submitted by the applicant when filing a subsequent application. An interview only takes place if the subsequent application has been deemed admissible. This is in accordance with Article 7A(3) of the International Protection Act which clearly stipulates that the preliminary examination may be conducted on the sole basis of written submissions. This is also in line with the Asylum Procedures Directive which clearly stipulates that the application shall be further examined in conformity with Chapter II (which includes the personal interview) only if the preliminary examination concludes that new elements or findings have arisen or been presented by the applicant which significantly add to the likelihood of the applicant qualifying as a beneficiary of international protection by virtue of the Qualification Directive.
58	implying that a substantive assessment of the application should occur prior to determining that an application is manifestly unfounded.	A substantive decision is issued for all applications that are examined on the merits, regardless of whether the decision is positive or negative, or the type of procedure under which it was processed (accelerated or normal). In this regard, it should be noted that whereas applications from safe countries of origin are processed under an accelerated procedure, all procedural guarantees are applied in the same manner as applications processed under a normal procedure, including a personal interview and a full and thorough assessment of the protection needs claimed by the applicant. Indeed, during the administrative stage of the asylum procedure, the only differences between a normal and an accelerated procedure are that applications processed under an accelerated procedure

		are processed within a shorter timeframe and if the application is rejected, it would be rejected as manifestly unfounded.
59	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 International Protection Agency to promptly identify and recognise the vulnerability of the applicant which is unlikely considering the lack of appropriate referral mechanisMember States between Agencies and the fact that the International Protection Agency does not appears to consider itself to be bound by the conclusions of Agency for the Welfare of Asylum Seekers not he vulnerability of the applicant. NGOs confirmed that survivors of violence 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 are not channelled through the accelerated procedure.	**REPETITION:** The International Protection Agency is indeed not bound by the conclusions of the Agency for the Welfare of Asylum Seekers since establishing that an applicant is vulnerable, or that an applicant is in need of special reception conditions, does not automatically entail that the applicant is also in need of special procedural guarantees. Finally, the International Protection Agency, being the determining authority, is the sole entity responsible for deciding whether an applicant is in need of special procedural guarantees.

59	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.	**REPETITION:** The International Protection Act makes a clear distinction between manifestly unfounded, accelerated procedure and inadmissibility, and that national law is fully in line with the Asylum Procedures Directive. The fact that an application is processed under an accelerated procedure only means that a decision will be taken in a much shorter timeframe compared to applications processed under the normal procedure. When applying the accelerated procedure all procedural guarantees pertaining to the administrative phase of the asylum procedure still apply (e.g. lodging of the application, personal interview and a full and thorough assessment of the applicant's need for international protection). In this regard, it should also be noted that there were cases where multiple interviews were carried out with the same applicant within the framework of an accelerated procedure. As regards effective remedy, the Maltese government remains of the view that an automatic appeal system in case of applications deemed inadmissible or rejected as manifestly unfounded still allows for an effective remedy (please see previous comments on this point).
59	However, this requires the International Protection Agency to promptly identify and recognise the vulnerability of the applicant which is unlikely considering the lack of appropriate referral mechanisms between agencies and the fact that the International Protection Agency does not appears to consider itself to be bound by the conclusions of Agency for the Welfare of Asylum Seekers on the vulnerability of the applicant.	**REPETITION:** The International Protection Agency and the Agency for the Welfare of Asylum Seekers have established a referral mechanism pertaining to possible vulnerable applicants. Specifically, when IPA officers detect indicators of vulnerability at lodging stage, they refer the case to AWAS, which subsequently decides whether to proceed with a psychosocial assessment. If AWAS deems it necessary, they complete a special procedure guarantee form and return it to the IPA, with recommendations for the application of special procedural guarantees and, where deemed appropriate the formal vulnerability assessment. The IPA remains the sole entity responsible to decide whether to apply special procedural guarantees.

59	All rejected applications from individuals coming from a country of origin listed as safe will be considered to be manifestly unfounded on above ground (b), almost invariably independently of the claim raised by applicants	The assertion that all applications from nationals of safe countries of origin are automatically deemed manifestly unfounded is factually and legally wrong. Applications from nationals of safe countries of origin are processed under an accelerated procedure in accordance with the law, but are only rejected as manifestly unfounded if following a thorough assessment of the protection needs put forward by the applicant, the applicant's profile, and the security situation in his/her area of origin, it is concluded that the applicant does not meet the eligibility criteria to be granted international protection.
60	All applicants are interviewed according to the regular procedure (see Regular Procedure) and no substantial difference was noted with regards to the way the interview is conducted although it can arguably be said that the case officer would presume the applicant not to be worthy of protection and this may affect the way the interview is carried out.	**REPETITION:** The claim that a case officer may prejudge an applicant's eligibility for international protection, thereby influencing the conduct of the interview, does not reflect the principles and practices adhered to by the IPA. All applications, regardless of the country of origin or type of procedure (normal or accelerated), are assessed in an objective and impartial manner to determine whether the applicant is in need of international protection.

60	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 International Protection Agency was "disconcerting". The Court considered that "From 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 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".	**REPETITION:** While fully respecting the decision of the ECtHR, the Maltese Government respectfully disagrees with the Court's observations for the following reasons: a) While the applicant's journalistic studies might have been relatively short, according to the applicant's account he worked as a journalist for three years. Hence, the Government is of the opinion that it is reasonable to expect that someone who worked as a journalist in Bangladesh for a number of years would be well aware of the limitations imposed on journalists by the Bangladeshi government, including on laws that specifically aim at curtailing criticism towards the government; b) The level of detail expected by the International Protection Agency is proportional to the profile of the applicant, including his background. Hence, it stands to reason that the authorities would expect more detailed information from an applicant who allegedly worked as a journalist for three years and who allegedly reported on electoral irregularities; c) Contrary to what has been stated, the applicant specifically stated that he witnessed electoral irregularities carried out by the Awami League. Indeed, the applicant's alleged need for international protection was based on his claim that he was attacked by members of the Awami League for reporting on these electoral irregularities; d) The applicant's claim for international protection was deemed not credible not merely on the basis of one or two negative credibility findings, but after having taken into account all relevant elements at the disposal of the International Protection Agency, including the applicant's oral declarations; and e) The Maltese Government once again reiterates the fact that the applicant's account was replete with numerous inconsistences and did not contain the level

		of detail one would expect from a person claiming to have worked as a journalist for three years, who reported on electoral irregularities and who was subsequently beaten because of this.
60/61	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	**REPETITION:** The International Protection Agency refutes any claim that evidence provided to substantiate a material fact is dismissed without any assessment. Indeed, contrary to what is being stated, all submitted evidence is duly taken into account. Regarding the case S.H. v Malta, the Maltese Government would like to point out that contrary to what is being stated by the Court, the fact that the International Protection Agency noted that the authenticity of these documents could not be established, these being photocopies, does not mean that these documents were not taken into account when determining the applicant's credibility. Indeed, when assessing the applicant's credibility, in all aspects of his account, the International Protection Agency took into account all relevant elements at its disposal, including any documentary evidence submitted by the applicant and his oral

	(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."	declarations. However, it is important to keep in mind that documentary evidence on its own does not suffice to establish credibility. This is more so in those cases where the documentation submitted is in the form of photocopies, which could easily be fabricated evidence, and which due to its format cannot be subjected to a document analysis to establish its authenticity or otherwise. It is therefore a standard practice that evidence submitted through documentary means also needs to be substantiated by the applicant's oral declarations. In this regard, while the applicant's statements did not give rise to any doubts regarding his claimed nationality, the negative credibility findings concerning his alleged need for international protection were so significant that the documentary evidence presented was not deemed sufficient to tip the scale in the applicant's favour in terms of credibility. Furthermore, the Government would like to point out that the fact that the applicant features in a number of documents he presented, does not automatically entail that his account is credible, since as previously mentioned, it is not uncommon for applicants to present documentary evidence that has been forged or tampered with in order to increase one's likelihood of being granted international protection.
62	International Protection Agency Tribunal decisions on manifestly unfounded or inadmissible 'appeals' are generally not motivated and only contain a simple statement confirming the International Protection Agency decision.	The length of a decision on applications that have been rejected as manifestly unfounded or deemed inadmissible by the IPA depends on the specific circumstances of the individual application. Decisions issued by the Tribunal are always motivated and clearly indicate what elements led to the decision. In this regard, it should be noted that whereas there are instances where the establishment of a particular fact is enough to confirm the decision of the International Protection Agency (e.g. the fact that an applicant has already been granted international protection in another Member State), other applications require a thorough assessment of the merits of the application.

62	The United Nations High Commissioner for Refugees observed in 2019 that the Tribunal tends to automatically confirm the International Protection Agency 's recommendation.	This statement is misleading for the following reasons: 1. Whereas according to statistical data the then Refugee Appeals Board confirmed most of the recommendations of the then Office of the Refugee Commissioner, there were also cases where the Board did not agree with the Commissioner's decision. 2. The fact that in the majority of appeals were reconfirmed by the then Refugee Appeals Board can in no instance be construed as an inclination by the Board to automatically confirm the recommendation of the Refugee Commissioner.
69/70	In yet another case concerning a LGBTI applicant, the Principal Immigration Officer claimed that Agency for the Welfare of Asylum Seekers 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.	While we are unable to comment on the specifics of individual cases, it is important to underscore that the existence of a vulnerability does not, in and of itself, preclude the possibility of detention. Nevertheless, in the case of vulnerable individuals, particular attention is given to their situation when considering whether a detention order is appropriate. Where it is determined that the vulnerability cannot be adequately addressed within a detention environment, a detention order is not issued. In instances where an individual is already in detention and is subsequently identified as unable to be appropriately supported in that context, the necessary steps are taken to ensure his/her release. This approach reflects the authorities' ongoing commitment to safeguarding fundamental rights while ensuring that each case is assessed with due regard to its specific circumstances and merits. Moreover, identifying as LGBTI does not, in itself, constitute a vulnerability that would automatically exempt an individual from detention under the applicable EU and national legal frameworks.

70	The age assessment consists of an interview conducted by three social workers of the AT team of Agency for the Welfare of Asylum Seekers and an interpreter, if required. For persons visibly under the age of 14, Agency for the Welfare of Asylum Seekers begins this first phase on the day immediately following their arrival. For other claims, Agency for the Welfare of Asylum Seekers 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.	**REPETITION:** The Age Assessment Procedure has been established by the Agency for the Welfare of Asylum Seekers in conjunction with the EUAA and is considered as a best practice at European Union level. Age Assessment is carried out by professional social workers and other professionals, such as counsellors or therapists. All staff undergo a period of Observation and Training before being part of the panel. The competent staff receives continuous training in Malta, mainly from the European Union Agency for Asylum, on child interviewing techniques. The four phases of the age assessment process are: <u>Phase 1</u> PART I consists of gathering the necessary information such as family history, education, employment and description of journey to Malta. Further evidence analysis includes: - additional documentation; - statements by other applicants; - observation of interaction with peers and others; and - relevant observations captured by other professionals and part of the file PART II includes observations of the physical appearance, age indicative facial and body characteristics, voice, language and demeanour. During this phase, the Age Assessment panel members take into account important interviewing aspects and possible age indicators such as: - verbal and non-verbal communication; - physical characteristics and consistency patterns throughout the assessment; and - life experiences during flight and journey that might impact the development of the person of concern (in terms of emotional development/physical appearance). <u>Phase 2</u>

		This assessment is a more in-depth one carried out by different panel members. This assessment mostly focuses on gathering comprehensive information regarding the country of origin, cultural identity, childhood, likes/dislikes and further information as required. During this phase, the person assessing and interviewing the person ensures the interview is conducted with utmost sensitivity since traumatic memories or other unpleasant experiences might come up. The emotional condition of the person is taken into consideration at all times and safeguarding measures put in place (e.g. breaks, referrals for follow-up counselling, etc). This phase might include the involvement of social workers as well as the presence of a professional child psychologist. <u>Phase 3</u> This phase consists of a Skeletal Assessment of the Hand (wrist bone test) carried out by local medical authorities. The wrist bone test provides a result of a scientific age range. The person of concern is exposed to radiation and therefore this method is seen as a last resort option. This test can only be conducted by a medical professional. <u>Phase 4</u> Age Assessment Panel recommends a final decision that is reviewed, checked and analysed and if agreed, this is approved by the Senior Manager and the Unit leader. A decision is subsequently formulated and signed. The decision is notified the person of concern immediately after it has been approved by the Senior Manager and Unit Leader, and in any case, by not later than three working days following said approval. When notifying the decision, the person concerned is also

		provided with information on how to appeal the decision should he/she not agree with its content.
71	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;	By way of clarification, a meeting is carried out by a social worker prior to the Age Assessment. During this initial meeting, the social worker introduces himself/herself to the alleged minor, explains his/her role and provides a clear overview the age assessment process. Before starting the process of assessing an applicant's age, relevant information on the process is always provided to the alleged minor in a language he/she understands or is reasonably supposed to understand. In order to ensure proper communication with the alleged minor, interpretation services are used as necessary. Furthermore, alleged minors are always briefed on the purpose of the assessment to be conducted to avoid any misunderstandings.

	❖ 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;	
72	The Immigration Appeals Act provides that appeals must be filed within 3 days of the notification of the decision 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. 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. 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.	**REPETITION:** Contrary to what is being stated here, the Chairperson of Division I have no conflict of interest since the only other Board she presides, due to her expertise, reviews care plans of minors placed under a care order, which simply enhances protection of children's rights. Nonetheless, when assigned age assessment appeals, the Chairperson of Division I clarified her position to the lawyers concerned, none of whom found any objections for her to preside over said appeals. Detention orders are mainly dealt with by Division II. In the eventuality that an appellant appears in front of Division II both in relation to an appeal against a detention order and an age assessment, it is the responsibility of the lawyer assisting the appellant to raise a possible conflict of interest. When this occurs, Division II stays proceedings and requests that the appellant, tramite his/her lawyer decides whether both appeals can be heard by Division II or if he/she prefers the age assessment appeal to be heard by Division III.

72	No clear procedure is established for these appeals: the first stage of the proceedings includes questions to be sent by lawyers to Agency for the Welfare of Asylum Seekers 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.	During the first sitting, AWAS typically presents the IAB with the age assessment report. The IAB confirms with AWAS that, at the time the appellant declared to be a minor, a legal guardian and a social worker were appointed to represent and assist him, and this is duly noted in the record. The Board then inquires whether a bone test has been conducted; if not, the appellant is asked whether he consents to undergo the test. If consent is given, the test is carried out; if not, the objection is formally recorded. The Board also asks whether the appellant has any documents to submit (such as a birth certificate). If documents are available, a deadline is set for their submission—this is often extended to avoid potential procedural complications. Final submissions are generally made orally, following which the case is adjourned for judgment. This procedure is consistent across cases and well known to legal representatives and relevant stakeholders, ensuring clarity, predictability, and procedural fairness throughout the process.

72/73	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 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. 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 claim that the Immigration Appeals Board lacks relevant expertise and systematically rejects age assessment appeals is inaccurate. While the Board does not include medical experts, appellants and their legal representatives are free to submit expert evidence. The Board operates within its legal mandate, and delays often stem from the complexity of cases or prolonged timeframes taken by legal representatives to present supporting evidence. All decisions are reasoned in fact and in law, and efforts have been made to further improve their quality.
*73	Additionally, concerns have been expressed in relation to the independence of specialised tribunals such as the Board, 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).	The independence of the Immigration Appeals Board is ensured as its members are appointed upon the recommendation of the Minister responsible for migration and as subsequently approved by the President of Malta, who serves as Head of State but does not form part of the executive branch.

73	Nonetheless, lawyers representing unaccompanied minors observed that they are not allowed to be present during the interview carried out by Agency for the Welfare of Asylum Seekers and the appointed legal guardians are mostly absent from the procedure, beyond having a clear conflict of interest since they are employed by Agency for the Welfare of Asylum Seekers itself.	**REPETITION:** Contrary to what is being stated here, the representative of the alleged minor is present during the whole procedure. Before starting the process of assessing an applicant's age, relevant information on the process is provided to the applicant in a language he/she understands or is reasonably supposed to understand. All alleged minors referred to the Agency for the Welfare of Asylum Seekers, regardless of their nationality, are referred to Child Protection within 72 hours from disembarkation. They are issued with a provisional care order and are appointed with a representative. A Social worker from the Unaccompanied Minors Protection Services is assigned to the alleged unaccompanied minor to act on their behalf from the beginning/moment of referral. Since March 2022, prior to the age assessment, the alleged minors are informed about the roles of all persons involved, including their representative and panel

		members, as well as about the process itself and what it entails. The social worker appointed as representative of the alleged minor follows the case until its closure. If the case is closed as minor, the social worker will keep on following the minor, who if in detention will be immediately released and placed in a specialized open centre for minors. If the case is closed as an adult and the person concerned files an appeal, the same social worker will continue to follow the person concerned till the conclusion of appeal proceedings. It is also important to note that the age assessment team functions entirely independently from the pool of designated legal representatives, thereby eliminating any potential or perceived conflict of interest.
75	an asylum-seeker must be referred to International Protection Agency by Agency for the Welfare of Asylum Seekers or by external entities such as EUAA, UNHCR, NGOs or lawyers	This statement is incorrect as the IPA has a procedure in place for internal referrals from own staff and subsequent follow-up as deemed necessary.
75	Such referrals must be accompanied by a medical, social, psychological, or psychiatric report signed by a professional attesting the applicant's vulnerability.	The documentation required depends on the applicant's (claimed) vulnerability. Specifically, the International Protection Agency would in general not require documentation to proof readily apparent vulnerabilities (e.g. elderly persons or disabled persons). However, documentation would be required to confirm a vulnerability based on a medical/psychological condition.
76	NGOs indicated that very few women claim to be survivors of FGM as they generally escaped their country of origin before being subjected to it. According to lawyers, the credibility assessment is extremely difficult to pass and such claims are generally rejected.	**REPETITION:** Claims related to FGM are rare and generally based on a fear of being subjected to FGM upon return to the country of origin. Hence, the need for a referral and medical assessment as the only way to determine that the applicant has not already been subjected to FGM. The threshold in terms of credibility assessment is not higher than any other case. Furthermore, it should be noted that the risk assessment is a forward-looking approach, meaning that what is analysed is the risk of persecution or serious harm upon return. Past episodes of persecution or serious harm (e.g. having been subjected to FGM) does not

		in itself necessarily entail that a risk of persecution or serious harm still subsists upon return.
76	However, various stakeholders, including Appoġġ reported that the International Protection Agency rarely makes use of this referral mechanism.	**REPETITION:** As in all identified cases of human trafficking, the International Protection Agency asks for the applicants consent to be referred to APPOGG, for psychosocial support, and to the Police.
77	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. In practice, this provision is largely ignored and individuals claiming to have suffered such treatments will be channelled through the accelerated procedure if possible.	**REPETITION:** Allegations that this provision is largely ignored are completely unfounded. The reality is that there are very few cases where applicants are deemed to be in need of special procedural guarantees (as previously indicated, the fact that someone has been subjected to torture, rape, etc. does not automatically mean that he/she is in need of special procedural guarantees). Whenever an applicant is identified as being in need of special procedural guarantees, these are provided accordingly.
78	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.	There is an established procedure in effect since July 2023 for requesting medical files or reports from the Primary Health Care's Migrant Health Service, from which non-governmental organizations, including Aditus foundation, have benefitted regularly throughout 2023 and 2024. it should be noted that all requests received since the establishment of this procedure have been entertained, and that neither Aditus, nor any other non-governmental organization, has ever complained about the procedure of flagged the need to modify it.
78	Medical or professional reports are nonetheless necessary for a referral to the fast-track procedure for vulnerable applicants.	**REPETITION:** For the sake of clarity, this applies only where the claim for vulnerability is based on a medical /psychological condition.

79	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.	. The minor is always accompanied by both a social worker and his/her legal guardian during hearings before the Minors Care Review Board. 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.
81	However, they usually will have to renew the document every month,	This is only applicable until an admissibility decision is issued, afterwards it is renewed for a 6-month period.
81	Processing time is similar to first-time applicants with the exception of detained applicants who are prioritised. 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.	**REPETITION:** This statement is incorrect as the International Protection Agency's policy is to try and issue a decision on the admissibility of a subsequent application as soon as possible. Whereas the timeframes for issuing a decision depends on a number of factors, including the number of subsequent applications the Agency receives at any given time and available resources, the International Protection Agency generally tries to issue a decision on the admissibility of a subsequent application within a matter of weeks from the date of lodging.
81	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.	**REPETITION:** A subsequent application that is deemed admissible but is then rejected on the merits, is rejected as manifestly unfounded on the basis of point(f) of the definition of manifestly unfounded applications as found in the International Protection Act. In such cases, the appeal takes the form of an automatic review by the International Protection Appeals Tribunal (please refer to previous comments on the appeal process

		against applications rejected as manifestly unfounded).
81	In S.H. v. Malta, the applicant filed two subsequent applications, both rejected as inadmissible by the International Protection Agency. The ECtHR noted that the first subsequent application was deemed inadmissible despite the International Protection Agency 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.	**REPETITION**: The Maltese Government notes that Article 40(2) of the Asylum Procedures Directive (Directive 2013/32/European Union) stipulates that a subsequent application for international protection shall be subject first to a preliminary examination as to whether new elements or findings have arisen or have been presented by the applicant which relate to the examination of whether the applicant qualifies as a beneficiary of international protection by virtue of the Qualification Directive. Paragraph three of the same article stipulates that if the preliminary examination referred to in paragraph 2 concludes that new elements or findings have arisen or been presented by the applicant which significantly add to the likelihood of the applicant qualifying as a beneficiary of international protection by virtue of the Qualification Directive, the application shall be further examined in conformity with Chapter II. This essentially entails that in order for a subsequent application to be deemed admissible the applicant needs to present new elements or findings which significantly add to the likelihood of him/her qualifying as a beneficiary of international protection. Thus, both criteria need to be fulfilled for a subsequent application to be further examined following a preliminary examination. In the case at hand, the Maltese Government would like to clarify that whereas it was concluded that the applicant presented new elements or findings which indeed confirm that he worked as a journalist in Bangladesh and that he reported on the electoral process, the evidence presented in no way substantiated the applicant's claim that he reported on any electoral irregularities and that as a result of this he was attacked by members of the Awami League.

		REPETITION: In this regard, the Maltese government contends that the mere fact that it has been established that the applicant is a journalist, and that he reported on the electoral process in Bangladesh, does not significantly add to the likelihood of him qualifying for international protection since according to Country of Information it is clear that none of these elements on their own are enough to indicate a well-founded fear of persecution or a real risk of suffering serious harm in Bangladesh. Furthermore, it should also be noted that the applicant's claim that he was attacked by members of the Awami League was dismissed as not credible by the International Protection Agency not only because the Agency did not initially believe the applicant's claim that he was a journalist, but also in view of numerous other elements, including lack of detail and inconsistencies in the account provided by the applicant. With regards to the second subsequent application, the Maltese Government contends that an indication of an interim measure by the European Court of Human Rights cannot be construed as a new element or finding which significantly adds to the likelihood of the applicant qualifying as a beneficiary of international protection within the meaning of the Article 40(2) and (3) of the Asylum Procedures Directive. Hence, the reason why this second subsequent application was also deemed inadmissible by the International Protection Agency.

81	In February 2025 the ECtHR decided the case A.B. and Y.W. v. Malta, 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 International Protection Agency) 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 Maltese authorities would like to point out that: - The Court did not conclude that there is an actual risk of refoulement but rather that an ex nunc risk assessment must be conducted prior to any removal; - Under normal circumstances, return and removal decisions are issued shortly after a negative asylum decision, and the assessments by the asylum-determining agency and appeals board would suffice to ensure compliance with non-refoulement obligations, as removals typically occur within a short timeframe. However, in this specific case, the persons in questions did not remain available to the competent authorities and therefore their removal could not be implemented following the rejection of their asylum application at appeals stage; - It is important to note that there are no limitations on the number of subsequent applications that may be submitted or time restrictions on when such applications must be filed; and - The persons in questions filed a subsequent application on 5th February 2025.

84	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 European Union 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.	**REPETITION:** Please refer to previous comments on this judgment by the European Court of Human Rights. As for the last point, the Maltese Government once again reiterates the fact that applicants from a safe country of origin still enjoy a full individual assessment of their protection needs. Furthermore, in this specific case, the mere fact that it was established that the applicant is a journalist (which the International Protection Agency confirmed in the first subsequent application) does not mean that he is automatically at risk of persecution or serious harm in Bangladesh as there is no Country of Information to substantiate such a conclusion. Finally, it should also be noted that Bangladesh has been designated as a safe country of origin by a number of other Member States and was also included as a safe country of origin with no exceptions in the Commission proposal for the establishment of a European list of safe countries of origin.
85	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, lawyers also noted that the Notice does not impose detention but, rather, a mere restriction of free movement (see Detention). In 2024, persons were	**REPETITION:** The Public Health Authorities is issues a restriction of movement order until the person is screened for infectious diseases to safeguard the individual and all third parties who might meet him. In 2024, the Restriction of Movement Order of the health authorities did not constitute the sole basis for the issuance of a detention order. The Principal Immigration Officer conducts an individualized assessment on all the people concerned and if necessary, a Detention Order is issued according to the provisions of the Reception Conditions Directive or the Return Directive, depending on whether the migrant concerned applies for asylum or not. It is in the best interest of the migrant and of the society to identify and treat any potential communicable diseases. The Maltese authorities will continue the health screening

	generally detained under this regime for a couple of days.	of all individuals arriving irregularly. The Maltese Health Authorities are working to amend the Public Health Act to allow for such mandatory screening to take place. Communicable diseases include but are not limited to Tuberculosis, Hepatitis and HIV. If and when untreated these illnesses can lead to further transmission in the community especially in unvaccinated vulnerable individuals, such as young children, and could eventually also lead to death. * To further expedite this process, the Detention Services Agency and Health Authorities have worked together to establish the Migrant Health Service which operates within the Detention Services Agency. The screening equipment has been installed at Safi Detention Centre to further facilitate the process. This screening is being done within the first week of arrival with results being issued immediately. *Since 2021, the Health Authorities have amended their notification forms, which are now individualized, more detailed and are being provided in a language the person understands. These forms are handed to the persons on the day of arrival following the initial assessment. The Professional Staff of the Migrant Health Service are mostly foreign nationals and speak a number of different languages. This factor facilitates communication with detainees. Furthermore, when translation is needed the Migrant Health Service within the Detention Services Agency makes use of professional interpreters through an on demand online interpretation service.
85	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.	Documents are provided in a language the person concerned is reasonably supposed to understand, taking into account the claimed nationality upon disembarkation. However, regrettably it is quite common that irregular migrants subsequently claim different personal details, including nationality, date of birth and name/surname.

		At this stage, the unique identifier of the individual is the Police Number assigned by the Principal Immigration Officer. This is written down on the top part of the front page of the document together with the date the document was handed over.
86	Due to their limited access to detention, NGO are not able to inform all newly arrived asylum seeker and most of them never get the chance to access a lawyer before their asylum interview. The United Nations High Commissioner for Refugees provides information sessions but has not been able to do so for all asylum seekers due to their limited capacity.	**REPETITION:** The competent Maltese Authorities, including the Detention Services Agency, the Agency for the Welfare of Asylum Seekers and the International Protection Agency, are already providing detailed information to asylum seekers on the asylum procedure. Such information is being provided through diverse means including, detailed information booklets and videos that are available in different languages. It should also be noted that the information booklets and videos being disseminated by the International Protection Agency were developed in collaboration with the European Union Agency for Asylum, and that different information material is provided for adults and unaccompanied minors. Furthermore, the United Nations High Commissioner for Refugees is also involved in the provision of information on the asylum process in reception centres, including through the dissemination of an information booklet that was developed in conjunction with the competent Maltese Authorities.
86	Unless visited by the United Nations High Commissioner for Refugees or NGOs, in 2024 detained applicants were not provided with information on the asylum procedure prior to the lodging of their application.	**REPETITION:** This statement is not true. All applicants are handed an information leaflet by the United Nations High Commissioner for Refugees upon disembarkation and another information booklet by the Detention Services Agency. In this regard, it should be noted that personnel from the United Nations High Commissioner for Refugees is also present as observers during disembarkation.
86/87	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 they have consistently raised their lack of awareness about	The International Protection Agency provides information about the asylum procedure in a structured manner. Before lodging, personnel from the International Protection Agency conduct a 20-30 minute information provision session with each applicant, informing them about the procedure, the various stages and their rights and obligations. This information in also provided

	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.	in writing. Since March 2024, asylum seekers are also provided with a booklet explaining the procedure in greater detail in a language they are reasonably supposed to understand (a different child-friendly booklet is provided to Unaccompanied Minors).
88	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.[1] 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.	**REPETITION:** All migrants disembarked in Malta following a SAR operation are given written information material upon arrival, including on their right to seek asylum and voluntary return. During return counselling, migrants are informed of their right to apply for asylum as well as the possibility to pursue voluntary return. The decision ultimately rests with the individual who may choose to return voluntarily instead of seeking asylum. It should be noted that both the European Union Voluntary Return Strategy and European Union various recommendations highlight the need to ensure that return counselling is provided at all stages of the asylum procedure, including at the beginning of the asylum process. Once national authorities are notified that a migrant wants to apply for asylum, the International Protection Agency is notified accordingly so that the application can be registered and lodged in accordance with the applicable legal provisions. Legal aid is offered as per national and international obligations. It is worth mentioning that there were also cases where persons who had originally opted for voluntary return subsequently changed their mind and decided to apply for international protection, and vice- versa. The fact that immigration police speak with all newly disembarked migrants is part of the screening process. Immigration police also inform them about the possibility to opt for voluntary return or apply for international

[1] See EC, Migration and Home Affairs, Return and readmission, http://bit.ly/3QM5Bcj.

		protection. The State is obliged to provide all available information to migrants in detention, enabling them to make informed decisions. Furthermore, the Ministry believes that in addition to information on asylum and voluntary return, it is important for migrants to be duly informed of their prospects here in Malta, including on the likelihood of being granted international protection. Finally no form of coercion has ever been used to induce someone to opt for voluntary return.
89	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.	Personnel from the Agency for the Welfare of Asylum Seekers is physically present on site during disembarkation following a SAR operation to assist the Immigration Branch within the Malta Police Force with the needs and requirements of the irregular migrants. A team comprising of interpreters, reception staff and services staff is present according to the number of arrivals. A prima Facie vulnerability assessment is carried out there and then by AWAS' professional staff. Consequently, families, pregnant women, unaccompanied minors are immediately accommodated at the Initial Reception Centre administered by AWAS where their needs are attended to immediately and as necessary. Other vulnerable persons whose vulnerability cannot be addressed within a detention context are also accommodated in a centre operated by AWAS. Migrants who are issued with a detention order following disembarkation are assessed accordingly for any further vulnerability at the Detention Centre in a timely manner. The ECtHR judgment in *A.D. v. Malta* established that current legislation does not provide a sufficiently clear legal basis for detention on health grounds. In view of this, the Government is in the final stages of amending the law to ensure legal certainty in

		such cases. Notably, no detention orders were issued on health grounds in 2024. What is currently applied in such situations is a restriction of freedom of movement, not detention. Detention orders issued in 2024 were based exclusively on the Reception Conditions Directive (RCD) or the Return Directive. It is also important to underline that detention is always applied as a measure of last resort, following an individual assessment, and only when it has been determined that less coercive alternatives cannot be effectively implemented.
89	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.	All beneficiaries of protection/asylum seekers residing in centres operated by AWAS sign a service agreement upon their entry in the centre. They are assisted by an interpreter to ensure that the person is understands the contract he/she is signing. All families sign a one-year contract and before any upcoming termination of services all cases are individually re-assessed by the services team and reviewed accordingly. Adult males sign a 6-month period contract and similar to the afore mentioned case, each person's situation is reassessed and reviewed before termination of services. Termination of accommodation within centres operated by AWAS is never automatic, and each case is treated according to the individual situation. Services provided by AWAS have recently been improved through the establishment of a new information hub in central Malta whereby non-residents can access the community services including (re)accommodation, financial assistance, psychosocial support etc. Social workers are present during in-take days and recommendations for support are immediately sent for the attention of the management.
92	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	All centres are presently equipped with Quality assurance measures to ensure that residents can file a complaint about any ailment or concern they have. This complaint form is then forwarded to the relevant unit within a stipulated time frame and the required intervention is actioned. This is yet

	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.	another effort to ensure that the services provided by the Agency for the Welfare of Asylum Seekers ' are up to date and in line with the Reception Conditions Directive. Regarding migrants in detention, it should be noted that the Migrant Health Service available to them offers healthcare on par with that provided by the government health centres in the community.
92	Asylum applicants in detention enjoy free state health services, within the practical limitations created by their presence within a detention centre.	Asylum applicants who are issued with a detention order have round the clock access to healthcare as the Migrant Health Service caters for all General Practice needs and provides services on par with the Primary Healthcare available to the general public in any government clinic. Specialty clinics such as Psychiatry, GU, Dermatology and Ophthalmic are also available to detainees. Referrals to the Health Department are made for several other specialties as needed.
95	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.	* The ECtHR judgment *A.D. v. Malta* established that the current national legislation does not provide a sufficient legal basis for detention on health grounds. Therefore, we are in the final stages of amending the relevant law to ensure legal certainty. Notably, in 2024, no detention orders were issued on the basis of health grounds. In such cases, restriction orders on the freedom of movement were applied instead. It is to be noted that detention measures in 2024 were issued solely under the Reception Conditions Directive (RCD) or the Return Directive.

98	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.	Supplementary food provision has recently been introduced at both the unaccompanied minors centre and the Initial Reception Centre. Meals provided for breakfast, lunch and dinner are designed to meet a variety of dietary requirements and are based on a healthy and nutritious diet. Cultural preferences are also taken into account; in fact the provision of food items vary from time to time according to the present cohort in both centres.
100	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). Application forms are available online	Fees payable for new licences (€58) and for renewals (€34) cover the issuance of an Employment Licence for one year. In the case of failed asylum-seekers (employment licence valid for 3 months) and asylum seekers (employment licence valid for 6 months), once the employment licence validity period elapses, and provided that there has been no change in their application status, the employment licence is renewed without any additional costs for the next 3 months/6 months depending on the status.
100	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. 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	The 2021 national policy governing access to the labour market for asylum seekers originating from designated safe countries is fully aligned with both the Reception Conditions Directive and the relevant national legislation. Both legal frameworks permit Member States to restrict access to employment during the first nine months following the lodging of an asylum application. Within this framework, it ultimately remains at the discretion of each Member State to establish the specific arrangements applicable during this initial period. Notably, the policy in question strikes a careful and proportionate balance between preserving the integrity of the asylum procedure—thereby helping to prevent potential abuse of the system—and managing migration in a manner that is consistent with national priorities. At the same time, it fully

	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.	respects fundamental rights and remains firmly grounded in applicable legal obligations.
	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.	*The reason for refusal of an employment licence is always listed on the refusal letter. Moreover, persons whose application for an employment licence has been rejected have the right to submit a request for reconsideration of Jobsplus' decision. This possibility is duly noted on the refusal letter itself and on Jobsplus' Employment Licences Guidelines which are available on the Corporation's website. Finally, persons aggrieved by a decision of Jobsplus have the right to file an appeal with the National Employment Authority within 15 days from the date of notification of such a decision.
100/101	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 targeting asylum applicants and protection beneficiaries and focusing on language training and job placement. Organisations such as JRS Malta, Blue Door Education, Ħal Far Outreach, Migrant Women Association (Malta) offer support with CV Writing and Job Search support.[2] The Migrant Advice Unit (MAU) at AWAS assists residents with updating a CV and	It should be noted that while AMIF projects are now closed, asylum seekers and beneficiaries of protection remain eligible to participate in Jobsplus' free of charge training courses, including language courses, provided that they meet the eligibility criteria. Additionally, job placements are also still being offered to both asylum seekers and beneficiaries of protection. In addition to what is being mentioned here, it should be noted that migrants receive assistance in enrolling in vocational and mainstream education programs, language courses, and IT literacy training through partnerships with educational institutions and non-governmental organizations. Additionally, the Migrant Advice Unit aids in

[2] See Ħal Far Outreach, available at: https://bit.ly/3cadCFp.

	looking for work and JRS also offers this service.	securing job opportunities by offering guidance on CV preparation, job applications, interview training, labour rights, and employment licensing, while also monitoring workplace challenges.
101	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.	While employment licences for asylum seekers and failed asylum seekers are issued in the employer's name, they are allowed to take up self-employment (thus, having an employment licence in their name) while being exempt from the investment criteria.
103	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,	Asylum seekers are given the necessary m*edical care they require.

104	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.	The European Court of Human Rights did not grant the applicant an interim measure for release from detention pending Court proceedings. Nonetheless, The Principal Immigration Officer released the individual after the return proceedings were suspended. It is important to highlight the fact that the applicant's claim for international protection based on his alleged sexual orientation was not deemed credible by the determining authority. The negative decision issued by the IPA was subsequently reconfirmed at appeals stage. It is pertinent to note that following his arrival in Malta in an irregular manner, this individual tried to abscond by escaping from the Hal Far Initial Reception Centre, injuring an officer in the process and disobeying lawful orders. He was subsequently apprehended, found guilty by the Courts of Justice and handed an effective prison sentence. The authorities regret to note that soon after his release from detention following the initiation of legal proceedings in front of the European Court of Human Rights, the person concerned failed to abide by the obligations imposed by him as an alternative to detention and is currently reported as having absconded. Finally, the competent authorities note that there is no evidence whatsoever corroborating allegations of mistreatment and bullying. On the contrary, documented evidence indicates that he was responsible for initiating a fight in detention.
105	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	The Migrant Advice Unit also leverages digital platforms, including a Facebook group, to enhance engagement and information dissemination among residents. This structured approach enables migrants to integrate into society and become self-sufficient members of their host community. The Migrant Advice Unit actively curates and updates the Facebook group with fresh content three times a week, covering a range of relevant topics such as training courses provided at AWAS centres, general

	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."	information about mainstream services including public transport and health services. This platform provides an additional, dynamic channel for communicating with residents, encouraging engagement and facilitating the timely sharing of important information.
105	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 cooperated with the MAU on a regular basis in relation to info-sharing as well as referrals.	For additional information: Community and Non-governmental organisations Collaboration: The Agency for the Welfare of Asylum Seekers partners with various organizations to deliver information sessions, language courses, cultural orientation, legal aid, and skill development programs. Legal and Social Assistance: The Migrant Advice Unit provides legal guidance on asylum applications, appeals, and connections to specialized Non-governmental organisations ensuring fair treatment and protection from exploitation. Healthcare and Well-being: Educational sessions inform migrants about healthcare services, emergency care, maternal health, and sexual health, while referrals to psychosocial support units help address medical concerns. Housing Assistance: Support includes advisory services on finding safe, affordable housing, overcoming communication barriers with landlords, and offering legal aid to prevent fraud. Cultural Integration: Sessions and online resources provide migrants with insights into Maltese culture, traditions, and legal responsibilities.
105	In 2024 Agency for the Welfare of Asylum Seekers' 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	As per Article 6 of S.L. 217.11 the function of the Agency for the Welfare of Asylum Seekers shall be the implementation of national legislation and policy concerning the welfare of refugees, persons enjoying international protection and asylum seekers. Hence, it is

	entirely dependent on the Detention Services	clear that failed asylum seekers fall outside AWAS' remit.
107	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 Agency for the Welfare of Asylum Seekers as being vulnerable were detained at the Marsa Initial Reception Centre.	In 2022 and 2023 pandemic and mitigation measures related to Covid-19 were still in place and had to be adhered to by everyone, regardless of legal status. Irregular migrants were placed in quarantine for 14 weeks like everyone else arriving from overseas. Therefore, no distinction was made between irregular migrants or Maltese and regular residents.
107	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.	It is to be underlined that the pandemic restrictions were no longer in place in 2024 and subsequently there was no need for quarantine of irregular migrants on arrival for 14 days prior to starting the health screening *process.
107/108	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 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.	The Migrant Health Service is a Primary Health Care outreach service under the auspices of the Ministry of Health. It is fully independent from the Detention Services Agency which falls under the auspices of the Ministry for Home Affairs, Security and Employment. This setup ensures professional independence, which is still a major challenge for health care provision for persons deprived of their liberty in Europe and worldwide. According to the World Medical Association, professional autonomy and clinical independence are the "assurance that individual physicians have the freedom to exercise their professional judgment in the care and treatment of their patients without undue influence by outside parties or individuals," and that "it is a critical component of high-quality medical care and an essential principle of health care professionalism". https://rm.coe.int/guidelines-organisation-and-management-of-health-care-in-

		prisons/168093ae69 The Migrant Health Service has been assigned with a full time Specialist in Family Medicine by the Health Authorities. This has led to the development of a medical facility which is at par to what is offered to the general population at the local health centres. Furthermore, this has led to the digitalisation of medical records through the Electronic Patients Record system used by the Public Health Centres. The launch of the Migrant Health Service has resulted in a reduction by around 80% of referrals to local health centres and by around 90% of referrals to the Accident and Emergency Department at the national hospital. The Migrant Health Service also hosts specialist clinics for medical and surgical specialities most required by detainees, including Psychiatric, Ophthalmic, Infectious Disease, Dermatology and Sexual Health Specialists. Furthermore, the Ministry for Home Affairs, Security and Employment would like to highlight the fact that whereas the State has a legal obligation to comply with the Reception Conditions Directive and other relevant legislation pertaining to asylum seekers and detainees, the State has no legal obligation to involve third parties, including NGOs, in the provision of such services, including the provision of information or vulnerability assessments.
107	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.	All cases of detention are recorded as such. Any lack of data on specific disaggregation as may have been requested for the purposes of the report cannot be interpreted to mean that cases of detention are not recorded.
110	However, NGOs also confirm that, in the cases known to them, persons requesting asylum at the airport are immediately referred to the International Protection Agency. The Principal Immigration Officer was unable to provide data on the number	Contrary to what is being stated here, the Immigration Branch within the Malta Police Force has always provided data pertaining to the number of persons kept in custody under these provisions.

	of persons kept in custody under these provisions.	
114	Under a new policy implemented by the PIO in 2024, 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.	No such new policy was implemented by the PIO in 2024. Tasked with assessing the existence of grounds of detention in accordance with the law and the issuing of alternatives to detention and detention orders, it has always been the practice that all asylum seekers are assessed by the PIO to establish if there are legal grounds for detention. The fact that in 2024 the taking of fingerprints for registration in Eurodac started to be done directly at the premises of the International Protection Agency instead of at the Police General Headquarters (GHQ) changed nothing in this regard. This change was implemented to make the system more efficient by ensuring that registration in Eurodac is done immediately upon lodging of an application, as opposed to the previous practice wherein applicants were given an appointment to go to the Police GHQ, which in a number of instances resulted in the appointment not being respected. As for the information sent by the International Protection Agency, this is not sent 'for the Principal Immigration officer to be alerted as to specific groups of applicants' but to co-ordinate the need to have police officers present for registration of fingerprints and other relevant data in Eurodac, since this task is exclusively carried out by the Immigration Branch within the Malta Police Force.
114	Some applicants also reported being threatened by Immigration Inspectors that if they failed to withdraw their asylum applications they would be immediately detained.	This allegation is strongly contested. Such statements, while easily made, remain unsubstantiated and unsupported by any evidence. Malta categorically rejects the claim that applicants are threatened by Immigration Inspectors to withdraw their asylum application under the threat of detention. All applicants are duly informed of their rights

		and the consequences of their decisions in a transparent and lawful manner.
116	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".[3] 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 practice through amendments to the Reception Regulations, largely enshrining in law the possibility to detain vulnerable persons, accompanied and unaccompanied children and families.	Contrary to the claims being made, the Principal Immigration officer is not responsible for evaluating vulnerability reports and has consistently relied on the assessment carried out by the competent entity. With reference to the legislative change mentioned, it is important to clarify that the current legal framework is fully in line with the Reception Conditions Directive, which permits the detention of vulnerable persons and minors. Moreover, while the report highlights the legislative amendment, it notably understates the legal and policy safeguards that are in place vis-à-vis the detention of vulnerable persons, including minors.
117	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 confirm that Malta fails to implement the presumption of minor age, as also highlighted by the ECtHR in *A.D. vs. Malta*.[4]	While both EU and national law permit the detention of minors in specific circumstances; Malta's longstanding policy is not to detain individuals who have been confirmed as minors. In cases where a person claims to be a minor but their age has not yet been verified, they may be issued with a detention order. In such instances, Malta ensures that alleged minors are held in a dedicated area, physically separate from adult detainees, in line with child protection standards and pending the outcome of the age assessment procedure.

[3] Regulation 14(3) of the Reception Regulations, S.L. 420.06 .

[4] ECtHR, *A.D. v. Malta*, no 12427/22, 17 January 2024, available here.

122	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. In practice, the situation in the detention centres is extremely far from that envisaged in the above-described Regulations.	This legal framework is being fully respected. Medical screening is done on arrival, prior to entering any detention site together with additional screening for injuries suggesting ill-treatment or torture, evidence of addictions or being under the influence of illicit substance and a health risk assessment which can influence the person's place of accommodation. Investigations and control of communicable and non-communicable conditions is ensured, independent of the person's legal status. All required treatment is made available, whether it is on the National Health Service formulary or not. Mental Health screening is done and referred accordingly to the outreach specialist clinics the Migrant Health Service has established. The current situation is that persons deprived of their liberty are getting access to the service much faster than the local citizen in the community. So, in practice, from a healthcare point of view, the situation in the detention centres is far better from that envisaged.
123	In practice, the situation in the detention centres is extremely far from that envisaged in the above-described Regulations.	**REPETITION:** The Maltese government notes that this blanket statement is not corroborated by any evidence. In this regard, the following should be noted. With regards to food: • All people are provided with three meals per day (breakfast, lunch and dinner). • Special diets were introduced for everyone depending on their cultural needs. • Special diets for diabetics, high cholesterol, vegan, vegetarian are available. With regards to clothing and personal hygiene: • All detainees are provided with brand new sets of clothing including underwear. This is important to prevent the spread of

		communicable diseases such as scabies. Seasonal clothing is also provided. • A personal hygiene kit compromising of toothpaste, toothbrush, toilet paper, clothes detergent, bodywash/shampoo and roll on are always provided on admission and every month thereafter. • Bathrooms and toilets are available in all living quarters.
		• All centres are kept clean and there are no issues concerning rodents and other insects. With regards to living conditions: • All living areas have been renovated. All rooms have mechanical ventilation, vandal proof lighting and adequate natural ventilation. • The Closed Monitoring Unit, Female Section and Block H are also fully airconditioned. The Female Section and Block H were opened in 2023 and 2025 and are brand new units. • The Female Section and Block H were opened in 2023 and 2025 respectively, and are brand new units. • Each living area has access to an outdoor recreational yard which also has outdoor gym structures. • All living areas have access to a telephone set. • CCTV systems are available in all living areas to promote accountability for everyone concerned. With regards to healthcare: • A medical admission review is done for all admissions. • A general practitioner is available two times per day.

		• Medical health services are led by the Public Health Centre and not the Detention Services Agency. • All detainees have access to all the treatment necessary even when they are not entitled for free healthcare. • A Close Monitoring Unit was created for high-risk individuals. A supporting policy was also created. Given the above observations, the Detention Services Agency strongly rebut the conclusions in the report that conditions in detention centres are far below the standards stipulated in the RCD.
123	The Monitoring Board's Annual Reports 2021 and 2022, published following a Parliamentary Question, conclude with a series of recommendations to the Home Affairs Ministry:	Considering the fact that the Monitoring Board's Annual reports for 2023 and 2024 were also made public after being tabled in parliament by the Minister responsible for migration, it is unclear why reference here is being made to older reports. Without prejudice to the above, it should be noted that: • By 2024 all of Block A was totally renovated; • By the first quarter of 2025, all of Hal Far Initial Reception Centre was renovated; • Since 2022, all visits were being recorded; • psychosocial support training has been introduced since 2022; • purposeful meaningful activities were introduced; • the room where food is sorted in Block A has been demolished and centres are not overpopulated. • Each accommodation area in the Detention Centres has access to an outdoor recreational yard for at least

		four hours per day. Furthermore, each area has access to a television set with access to a number of educational and sports channels and Youtube; • Through a Memorandum of Understanding with the Malta Football Association, weekly physical activity and sports sessions are held. These are open for all detainees on a voluntary basis. Furthermore, by the second half of 2025 English Language classes shall also be held in the Detention Centres; and • Detention Services Agency also provides board games, books, cards, cricket sets and balls which are used by the detainees.
125	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. 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.	**REPETITION**: The concerns raised by the author of the report have been duly noted; however, the allegations put forward are not supported by evidence.

128	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.	Please refer to comment on pg. 77 pertaining to the use of medical reports.
128	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.	Please refer to comments on pgs. 107 and 122.
128/129	Firstly, Agency for the Welfare of Asylum Seekers' 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 Agency for the Welfare of Asylum Seekers 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.	The Migrant Health Service fully recognizes the Agency for the Welfare of Asylum Seekers' remit in the vulnerability process. It is not the intention of the Migrant Health Service to take over this responsibility, nor should it ever be. The Migrant Health Service is providing reports and feedback on requests done by the Agency for the Welfare of Asylum Seekers vulnerability team. The reports are factual, detailed, include injury reports when relevant, photographs where relevant and a compatibility view of healthcare service providers who work day-in day-out with the migrants in question. The Migrant Health Service reports are and will remain professional, independent and fair. In addition, it should be noted that neither the Reception Conditions Directive, nor national law prohibits the detention of vulnerable persons provided that the vulnerability in question can be addressed within a detention context.
131	No media visits were conducted in 2024.	In 2024, two media requests were granted and one journalist visited the Detention Services Agency. https://www.independent.com.mt/articles/2

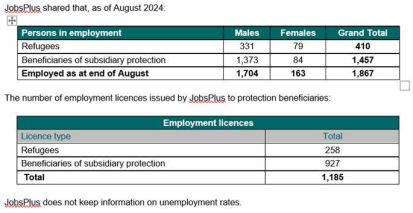
		024-07-28/local-news/Detention-Services-refute-claims-of-poor-living-conditions-verbal-abuse-for-irregular-migrants-6736263059
142	Usually, applicants are required to wait for a couple of months for their documentation (see below) to be provided. Although a receipt of their application form for residence 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.	The interim receipt issued by Identita allows the applicant temporary authorisation to reside in Malta while the residency application is processed. Therefore, it does hold legal value.
142	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 the majority of cases, Maltese landlords refuse to provide either rent agreements or personal documentation due to a fear of imposition of income tax on the income deriving for the rent. In 2024, Identitá introduced a requirement whereby rent contracts needed to be attested by legal professionals, thereby creating additional hurdles for protection beneficiaries.	**REPETITION:** National legislation mandates that all rental agreements are registered with the Housing Authority. This provides a strong safeguard for the rights of the tenants, ensuring that they are not taken advantage of by unscrupulous landlords. To suggest that this is a burden and that international protection holders should be exempt from such documentation, would provide landlords with a cohort of immigrants that may be exploited. Relevant authorities and NGOs should be encouraging and providing the necessary information on how such abuse ought to be reported and prevented.
142	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.	**REPETITION:** This statement is not corroborated by any evidence. Indeed, the Management within Identita confirms that it has never received reports of this nature.
142	Identitá confirmed that in 2024 228 first-time residence permits were issued to protection holders.	In 2024, 228 first-time permits were issued to refugee holders and beneficiaries of subsidiary protection; 6 first-time residence permits were issued for temporary humanitarian protection; 320 permits were issued for temporary protection holders; 42 residence permits were issued for family reunification purposes for persons granted refugee status. .

143	Registration of births does not record the baby's or the parents' nationalities, giving rise to potential unresolved questions of statelessness.	The Civil Code provides an exhaustive list of details which should be contained in an Act of Birth. The nationality of the child or the parents is not required by law to be listed.
143	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.	In terms of the applicable law, a legally valid identification document is required for the drawing up and registration of Acts of Civil Status. The Public Registry acknowledges that such cases pose a challenge to the department given that applicants provide conflicting declarations and documentation.
143	National legislation provides for the possibility for third-country nationals residing regularly in Malta to access long-term residence.[1] 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.	Identita' grants long-term residence status in line with the Directive, as also transposed into Maltese legislation.
144	Long-term residence status applications cost around € 140.	**REPETITION:** The cost of long-term residence document is €137.50 with a tenure of 5 years.
144	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.	Long term residence holders retain their passport if they continue to renew their protection certificate. The same applies for their family members.

147	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.	**REPETITION:** To clarify, withdrawal of subsidiary protection status also applies in case of cessation (Article 21 of the International Protection Act).
148	This provision is now included in Regulation 13A of the law since the December amendments. While the first ground is transposed from the Asylum Procedures Directive (Article 45(5)), the second ground was never foreseen by the Directive. NGOs have expressed their concerns regarding the alleged unequivocal nature of such act and the consequences it might have on people.	**REPETITION:** The Asylum Procedures Directive only refers to unequivocal renunciation of protection, Thua there is an element of flexibility in terms of interpretation. In this regard, the Government is of the opinion that if a beneficiary of protection does not renew his/her protection certificate within a period of 1 year from the document's expiry, it is clear that he/she is unequivocally renouncing his/her protection status in Malta since without a valid protection certificate beneficiaries of protection do not have access to a residence permit, travel document or any other rights/benefits in Malta.
149	Legal practitioners noted the increased use of lapsed decisions in International Protection Agency 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, International Protection Agency 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.	While some of the beneficiaries of protection whose protection status was withdrawn on the basis that it has lapsed may have been children, the majority of cases involved single males who had departed from Malta and remained abroad for extended periods, often for several years. This pattern indicates not short-term travel, but rather a decision to relocate, effectively abandoning their residence in Malta. Furthermore, the expiry dates of both residence and travel documents are aligned with the validity of the individuals' protection certificate. Therefore, it is inaccurate to suggest that these individuals simply failed to renew their documents while traveling. Their prolonged absence and failure to maintain valid documentation suggest a discontinuation of ties with Malta.

		Finally, it should be noted that over and above the fact that it is the beneficiary's sole responsibility to contact the IPA for the renewal of his/her protection certificate, the Agency only proceeds with the withdrawal of protection on the basis that this has lapsed in accordance with the law after the lapse of 12 months from the expiry of the protection certificate.
150	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 Principal Immigration Officer 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 International Protection Agency tends to split family applications and reject one or more family members while still granting protection to some others.	**REPETITION:** Each application for international protection is examined individually on its merits to determine whether an individual applicant meets the eligibility criteria for international protection. This is in line with the applicable legal provisions which clearly indicate that one needs to individually qualify for international protection.
150	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 European Union MS.	This is in line with national legislation for maintaining family unity (SL 420.07) and the definition of 'family members' found in the International Protection Act, which explicitly states that the family needs to have already existed in the country of origin.

151	NGOs have reported that there are instances whereby a beneficiary of international protection in Malta has a child after being granted protection by the International Protection Agency. In these cases, the International Protection Agency 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 European Union 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 International Protection Agency 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	**REPETITION:** Please refer to previous comment. Furthermore, it is important to highlight the fact that whereas everyone has the right to apply for international protection, the fact that the applicant's parents are beneficiaries of international protection does not automatically entail that the children are also eligible. It should also be noted that it is ultimately the parents' choice to ask for the letter confirming the family link for onward presentation to Identita' instead of applying for international protection. Finally, it should be noted that there's nothing preventing the parents to subsequently apply for international protection on behalf of their children.

151	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.	This is not the case as applicants can apply for a national visa at Visa Application Centre offices which are physically present in many third countries where there is no Maltese representation.
155	JobsPlus shared that, as of August 2024:  **Persons in employment** / 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** Licence type / Total Refugees: 258 Beneficiaries of subsidiary protection: 927 **Total**: **1,185** JobsPlus does not keep information on unemployment rates.	A footnote should be included to explain the differences in the tables as the way they are presented does not properly explain what the tables refer to. The first table lists the total number of beneficiaries of international protection in employment as at August 2024 (the last published when submitted feedback), while the second table shows the number of employment licences issued to beneficiaries of international protection in 2024.
159	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	All migrants are entitled to emergency healthcare. However, failed asylum seekers and other irregular migrants are not entitled to free medical care beyond emergency services. The category of individuals referred to by the rapporteur are those who have no entitlement to further medical care unless they cover the costs themselves. In addition to the above, it should be noted that beneficiaries of international protection are entitled to State medical care, whereas asylum seekers are entitled to receive at least emergency healthcare and essential treatment of illness and serious mental disorders.

	offered, limited available information, language barriers, and cultural issues such as obstacles relating to shame and stigma.	Finally, it is important to highlight the fact that the International Protection Agency provides detailed information to asylum seekers and beneficiaries of (international) protection pertaining to their rights and the benefits they are entitled to, including access to healthcare.