

Unaccompanied Migrant and Refugee Children: Alternatives to Detention in Malta

Summary Report

IOM-UNHCR Joint Technical Mission

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IOM • OIM



UNHCR
The UN
Refugee Agency



President of Malta

Her Excellency Marie-Louise Coleiro Preca

Foreword

I am writing this foreword with immense gratitude in my heart. This report is the result of a process that began in Geneva, continued in San Anton Palace, and resulted in this publication. The report summarizes the discussions held in Malta during the IOM and UNHCR technical mission, and identifies specific areas that require attention, while acknowledging those other areas that the Maltese islands are managing well, in which time, energy and financial resources have been invested to offer quality services.

I am grateful to both UNHCR and IOM for their generous response, joint collaboration and proposals for a way forward whereby the Maltese Government together with IOM and UNHCR can embark on collaborative projects with additional support from these two international organizations, jointly and individually.

I am also very grateful to the Prime Minister of Malta and the Ministries, who also responded to my call, concern and invitation, to come together around the same table and share our concerns, our good practice but also our difficulties. This has served to identify those areas in which the Maltese islands need additional support in fulfilling not only our international obligations but our core values and beliefs as a small Nation for whom the innate dignity of each and every human being is paramount.

I also want to thank civil society for their participation, for offering their analysis and experience and for highlighting those areas which are well managed, though might require further resources, and those areas which require more investment. The outcomes of this mission are the reflection of discussions held around the same table, where both Government and civil society representatives, together with the delegation from both UNHCR and IOM, shared information, and discussed good practice and areas of concern. I hope that such discussions continue because all views are relevant and dialogue crucial when discussing irregular migration.

During the technical mission, the main areas of concern under discussion were issues relating to separated and unaccompanied children, and possible emergency scenarios. A number of reports have been published through the years, identifying the short comings of the country in its reception of asylum seekers in Malta, and these have provided valuable insight. However, few reports specifically identify ways in which those same organizations can commit in practical ways to help those same countries and offer additional support and expertise in order that services may be improved for the wellbeing of both asylum seekers and society at large.

In recent years we have seen a global trend of more children on the move and Malta was part of this trend as well. In 2013 an unusual increase in numbers of separated and unaccompanied child asylum seekers coming to Malta was reported. I felt duty bound to respond to this plight, first and foremost as a human being, as a Former Minister for the Family and Social Solidarity and as the President of Malta. It is within this spirit that I chose to lead the way to bring concerns in relation to the wellbeing of separated and unaccompanied children at the forefront of the National Agenda. As the President I offered San Anton Palace, as a neutral space where difficult discussions could be held, to facilitate a multi-stakeholder process to discuss the wellbeing of separated and unaccompanied children living in Malta. They are our children too.

Irregular migration is a complex reality and while focusing on the wellbeing of children on the move we cannot forget the various complex matters on the table which need addressing. I am mindful of the multidimensional realities of migration, including the needs, resources and limitations of our own islands when faced with such a reality. At times we may feel that the needs of asylum seekers coming to Malta are beyond our capacity and that we may not adequately provide for those same needs, particularly in relation to large numbers of separated and unaccompanied children coming to Malta at once. However, I firmly believe that it is intrinsically within our identity to find the courage to face difficulties directly, with the aim of respecting the innate dignity of each and every human being, no matter what or who that person may be. This has been our historical struggle, to reject, stand up against and oppose oppression. To stand tall in front of others who wanted to belittle us a small nation. We well understand what discrimination and oppression are. As a nation we stand firm against all forms of oppression and we must live out this truth in relation to all people irrespective of ethnicity, nationality, status, gender expression, ability, age, belief, sexual orientation or economical background.

While this report specifically focuses on the needs of separated and unaccompanied children, it also incorporates other realities, such as possible emergency scenarios and the need for support in such situations. These concerns reflect discussions held for the preparation of the IOM and UNHCR technical mission during the meetings of the delegation when in Malta. This report is not only concerned with what should be done, but also comments on the how it is going to be done and by whom. It is a great joy to witness both IOM and UNHCR coming forward with specific proposals for the Maltese government to consider, for their further and increased support to our islands in managing irregular migration and facilitating asylum seeking processes.

Finally, I am pleased to see this Presidency at the service of our beautiful and beloved country. I am content that what we have embarked upon, has already given fruit, and has more to give. The way forward in finding durable solutions for these difficulties is cooperation. Only through creative cooperation can we face such difficulties in a way that is for the wellbeing of both those who need our support and for those of us who are trying to respond and offer that support. Moreover, we cannot seek durable solutions for these complex international realities only from our local perspective alone. International, European and regional approaches need to be strengthened and enhanced.

The Presidency offered a space whereby a multi-stakeholder discussion could take place and my hope is that this is only the start of similar initiatives. Historically Malta was considered as the cross-road of civilisations and I hope that this small Nation State can become a Capital for our region, where structured dialogue between nations can take place. It is my hope that Governments together with Civil Society can engage in constructive dialogue to address difficult situations such as irregular migration, to explore creative possibilities which can shed light on future solutions and to genuinely seek peace. The Maltese Islands render themselves well for such dialogue between the North and South of the Mediterranean region, embracing the East and West, and also for more dialogue to be held between the European Union, the Mediterranean Region and the African continent.

While it is important to discuss national difficulties in carrying such a demand for help in relation to people seeking asylum, we should never forget our commitment to democracy, democratic processes, and human rights. I would go so far as to say that even this is not enough. We must not forget the aspirations and dreams of those who seek asylum in our countries. They too are often longing for democratic process and the valorisation of human rights. In conclusion, while multiculturalism might instil fear within us, we should not be afraid of our fellow human beings. This is why, as President, I am committing to enhancing and creating new spaces for intercultural and interreligious dialogue through the President's Foundation for the Wellbeing of Society. Our commitment should not stop at rescue and reception but continue in processes of genuine and truthful dialogue between cultures, centred round the core values of our countries and identities. I believe that when people encounter each other from a place of love and friendship, not only do their lives flourish, but the very communities and countries they call home thrive as well.

IOM and UNHCR wish to thank Her Excellency Marie-Louise Coleiro Preca for initiating and facilitating the Joint Technical Mission to Malta.

The two agencies highly appreciate the invaluable contributions of all relevant stakeholders, including the President and her staff, the Prime Minister, the Ministry of Home Affairs and National Security (including the Armed Forces of Malta), the Ministry of Foreign Affairs, the Ministry for the Family and Social Solidarity, the Ministry for Social Dialogue, Consumer Affairs and Civil liberties, the Ministry of Health, the President's Foundation for the Wellbeing of Society as well as representatives from civil society and the Roman Catholic Church.

Last but not least, the mission delegation is grateful for the opportunity to meet migrants and refugees in Malta who shared first hand accounts and views about the current situation. Without the active engagement and participation of all involved, the Joint Technical Mission would not have been able to pursue objectives and outcomes as described in the mission objectives.

1. INTRODUCTION AND CONTENTS OF THE REPORT

In her capacity of Minister for the Family and Social Solidarity, Marie Louise Coleiro Preca undertook a visit to Geneva in April, where she met with International Organisation for Migration (IOM) Director William Lacey Swing and United Nations High Commissioner for Refugees (UNHCR) Antonio Guterres in separate meetings.

As part of an agreed follow up to the visit, IOM and UNHCR carried out a Joint Technical Mission to support Malta in assessing its responsibilities relating to reception arrangements for unaccompanied and separated children and to identify areas where further support may be required from the two agencies.

The objectives of this Joint Technical Mission assessment were set as follows:

- To support Malta in managing the issue of unaccompanied migrant and refugee children in the context of mixed migration flows. More specifically, the Joint Technical Mission will be looking at how to support Malta with developing a revised framework for identification of unaccompanied and separated migrant children and how their needs are assessed and addressed.
- To reach consensus on a consolidated framework that identifies appropriate roles of all relevant stakeholders, including through cooperation between IOM, UNHCR as well as the Maltese authorities, and as appropriate, with civil society.
- To open avenues for further international cooperation and burden-sharing mechanisms to support Malta in dealing with unaccompanied and separated children as well as to identify any potential support in the implementation of this new framework.

The expected outcomes were:

- To develop and propose for coordination with the Government and relevant actors, a comprehensive operational framework of national and international actions in addressing migration flows to and in Malta.
- To include in the reporting to the Government concrete recommendations for addressing any identified gaps in operating capacities and in the promotion of international standards for the rescue, intake, processing, screening and care of migrant inflows.
- To define potential `next steps` for all parties involved and particularly IOM, UNHCR and the Government of Malta, promoting international cooperation to support Malta`s priority actions, while creating synergies with the current existing European Union (EU) efforts, in particular as regards the work of the Task Force Mediterranean (TFM).

The information collected and analyzed by the Joint Technical Mission is presented below in line with the following table of contents:

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2. OVERVIEW OF THE JOINT TECHNICAL MISSION

The Joint Technical Mission was facilitated by Her Excellency Marie Louise Coleiro Preca, President of Malta and her office staff with the involvement of the various ministries and other actors directly involved with migration and refugee issues in Malta. The mission members included relevant officials from the two agencies' Headquarters in Geneva, as well as staff from the Southern Europe region and Malta.

Prior to the mission, IOM and UNHCR jointly produced the Terms of Reference (ToR) as outlined above and identified several key issues for analysis and discussion with relevant stakeholders during the mission in Malta.

The agenda for the three-day mission was prepared and coordinated with relevant parties in Malta in order to facilitate focused meetings and discussions with all relevant stakeholders, including the Maltese authorities, civil society, migrants and refugees.

The agenda for the Mission included two main elements:

- Meetings with relevant stakeholders, including group discussions.
- Visits to reception and detention facilities including consultation with unaccompanied migrant and refugee children.

Throughout the mission, technical discussions took place as regards assessing the current situation in Malta as well as towards developing a comprehensive framework for managing reception and solutions for unaccompanied children arriving irregularly in the country.

Following the mission, IOM and UNHCR have produced this joint technical report with a threefold objective: 1) present the analytical results of the technical mission, 2) develop a concrete and comprehensive operational framework of national and international actions addressing the management of reception for unaccompanied and children and 3) suggest specific next steps to promote additional support and cooperation in the Maltese context.

3. MAIN FINDINGS FROM THE MISSION

3.1 The situation of unaccompanied migrant and refugee children arriving in Malta

Over the recent years, Malta has increasingly entered into the international spotlight as one of the front-line States affected by mixed migration movements from the African continent towards the EU. Since 2002, Malta has experienced a growing influx of migrants and refugees, predominantly from the Horn of Africa, practically all of whom have departed from the Libyan coast towards Europe. Analysis of the number of arrivals by sea indicate an upward trend in the percentage of children arriving, including unaccompanied and separated children.

In 2013, 2008 people arrived in Malta by boat, the vast majority applying for asylum. Out of these, 443 claimed to be unaccompanied children upon arrival.

To date in 2014 there have been fewer boats arriving in Malta. This development should be seen in the context of the Italian-led Mare Nostrum operation at sea, which has led to a significant increase in disembarkations in Sicily. By mid-year a total of some 300 people have been rescued and disem-

barked in Malta. Others have arrived through regular means.

The seasonal arrival of boats from Libya has at times caused tremendous pressure on the reception infrastructure and capacity for children, as Malta is generally not well-equipped to receive larger numbers of unaccompanied children. For example, in 2013, the two main homes used as children's residences were at full capacity, and therefore children have also been housed in various facilities, including in a centre for adults in Hal-Far.

The Government of Malta is extremely concerned about this situation. Statistics show that, since 2002, the number of unaccompanied children arriving in Malta has been on the rise. The President and the Prime Minister have in recent months given the issue further attention, including through media comments about the need to improve reception arrangements for children.

3.2. The institutional responses

3.2.1 Legislative framework

The main legislative acts forming the basis of the asylum system in Malta, including regulations dealing with migrant children are: The Immigration Act, Chapter 217; The Refugees Act, Chapter 420; Reception of Asylum Seekers (Minimum Standards) Regulations, Subsidiary Legislation 420.06; Procedural Standards in Examining Applications for Refugee Status Regulations 420.07; Children and Young Persons (Care Orders) Act, Chapter 285; Child Protection Act – Bill.

It is important to note that currently the age assessment process is not regulated by law (other than the area which deals with the medical test). It is regulated through an internal procedure of the Agency for the Welfare of Asylum Seekers (AWAS), which has been recently revised and put into practice on boat arrivals this year. Further adjustments to the system are currently being piloted in the context of the most recent arrivals.

Current legislative reviews:

The current system concerning unaccompanied children is currently under review as a new draft Child Protection Act is being discussed in Parliament. According to the presentation by the Drafting Commission, the main changes envisaged are the following:

- Removing Care Orders responsibility from the Minister for Family and Social Solidarity and shifting it to the Family Court, providing enhanced planning, enforcement and appeal procedures.
- The introduction of new concepts of mandatory reporting, child protection register, permanent foster care, freeing for adoption and shared parenting.
- The choice of more than one order to provide for the needs of the child and his/her family and the regulation on the child's right to be heard regarding his/her placement.
- The setting up of Child Court Services comprising the Child Protection Service, Child Advocate, Child Protection Mediator and Guardian under the authority of the Court composed of a judge and two professional advisors.
- The establishment of a Child Assessment Centre and a Children's House to reduce trauma caused to children by the investigative process with specific

provision for psycho-social support.

- Throughout the process, the child is assured full participation rights in line with the UN CRC and parents' rights are fully respected in terms of ECHR judgments. The State also honours its commitment under the CRC to provide "special care and protection".
- The draft Bill foresees a change in the disembarkation procedure whereby the children are no longer to be placed into systematic detention, but in a determination centre where an age assessment decision will be taken within 2 weeks. This will allow for assessment of a care plan tailored to each child's individual needs, including possible contact with family members. This will include efforts in relation to family reunification where this is in the best interests of the child.
- The Bill states the setting up of the Child Court Services comprising of Child Protection Services, Child Advocate, Child Protection Mediator and Guardian under the authority of the Court.
- The Bill also allows for the regulation of "voluntary" placements which will aim to provide residential, foster care or adoption tailored for the needs of the child.

The draft Child Protection Act is still subject of discussion, currently in its second reading in Parliament. The Joint Technical Mission did not assess or analyze the substantive elements of the draft legislation.

3.2.2 Reception and care systems in place

Malta has a system of reception which is extensively based on detention, which raises particular concerns as regards children¹.

After people are rescued at sea by the Armed Forces of Malta (AFM), the Immigration Police are the first authorities who carry out an initial assessment. If the individual declares himself or herself to be a child, the Police will refer the case for age assessment by the Agency for the Welfare of Asylum Seekers (AWAS). This is the main agency dealing with unaccompanied children. Before the age assessment procedure takes place, the 'alleged child' is held in a detention centre, normally together with adults. If the child is clearly under the age of 18, then the release procedure will be fast tracked, at times implemented within days. However, if there is doubt whether the individual is actually below the age of 18, then the procedure often takes longer.

Once it is determined that the individual is a child, and the necessary health checks have been completed, then a legal guardian is appointed. The child is removed from the detention centre and placed in an open centre facility for unaccompanied migrant children. A care order is issued and, as the law stands today, the Minister for the Family and Social Solidarity is responsible for the care and

¹ See also UNHCR's Position on the Detention of Asylum-seekers in Malta <http://www.refworld.org/docid/52498c424.html>

custody of the child². The Minister then delegates this responsibility to a legal guardian. The current procedure is that AWAS appoints the legal guardian who will normally be one of the staff employed by them, there is no fixed procedure or time limit in this regard.

AWAS has recently amended its age assessment procedure and put it into practice on the most recent boat arrivals in 2014. Whereas the prior age assessment procedure could take up to several weeks, in some cases even months, the new procedure requires the process to be completed within 10 days³.

The regulation of accommodation and other issues relating to the child is done through the Children and Young Persons (Care Order) Act which makes no distinction between a migrant child and Maltese children. Article 14 of the Reception of Asylum Seekers (Minimum Standards) Regulations, states that for all purposes unaccompanied children are individuals in need of care under this Act. The Refugees Act states that children in need of care must be placed under a care order.

Migrant children whose asylum claim has been rejected will still be granted protection on the basis of temporary humanitarian grounds, valid at least until they turn 18. During this period all children are normally accommodated in designated centres for children, regardless of their asylum status.

Current Changes in the Care plans by the Children and Young Persons` Advisory Board

According to the Advisory Board members, the Care Plan which is drawn up for every child will have to be reviewed more often, at least every 6 months. The Board will have increased contact with children with the aim to create a more child-friendly environment. This board has the function of dealing with all children under Care Orders of the Minister, and positive steps have been taken to ensure that there should be a separation within the Board of those people who will be dealing with Maltese children under care orders and those dealing with refugee and migrant children because their needs are often substantially different as well as for capacity reasons.

3.3 Gaps in the Maltese system of care and protection of unaccompanied migrant and refugee children

3.3.1 Infrastructure for first reception of migrant and refugee children after disembarkation

One of the main challenges for the Maltese Government and national stakeholders is the physical infrastructure to accommodate and adequately care for migrant and refugee children. It is often stated that the existing residences are not considered adequate. The challenging living conditions in the Maltese detention centres have also been reported on numerous occasions.

These conditions are of great concern, given that children are kept in the centres for varying periods of time. Article 15 of the Reception Regulations concedes that “an unaccompanied minor aged sixteen years or over may be placed in accommodation centres for adult asylum-seekers”. International organisations and NGOs have voiced concerns that migrant and refugee children should as a rule not be kept in detention and the currently available alternatives are not considered adequate.

Prime Minister Joseph Muscat made a public statement on the 3rd of April 2014 wherein he stated that his government is committed to ending the detention of unaccompanied migrant children. This objective was repeated and elaborated also in the context of a meeting with the Prime Minister

² The Child Protection Act foresees a change to this system, whereby the child will be in the custody of the courts.

³ Phase 1 commences the following day after the rescue and ends by the 6th working day – all referrals must be seen within this period. Those who are deemed to be adults will be sent to the detention centres and the Refugee Commissioner is informed within 24 hrs. If those assessed are deemed to be minors, a Social Report is issued, which is sent to the Minister for Family and Social Solidarity (MFSS) for a care order to be issued. The undetermined cases at this phase, pass onto Phase 2

Phase 2 commences on the 3rd working day and ends by the 8th working day. All referrals from Phase 1 have to be seen within this time range. Decisions are not taken at this phase of the assessment but are discussed with the Age Assessment Team, Chairperson during Phase 3;

Phase 3 starts on the 4th working day and ends by the 10th working day. The cases are discussed and if from the assessment there are clear indications that the individual is a minor, the case is closed and the Social Report is sent to the MFSS for a care order to be issued.

If the case is still doubtful, the person will be recommended to go through a further age verification assessment. This could either be the Bone Density Test or a second interview.

organised on the last day of the mission. The Prime Minister also identified the Junior Minister for Family and Social Solidarity as one of the focal points to enable this commitment.

3.3.2 Capacity in terms of trained personnel

In order to properly address systemic gaps and current pressures there is an urgent need for additional personnel to be identified, trained and equipped in dealing with unaccompanied children.

During the discussions several NGO representatives and ministerial departments stressed the need for additional human resources (especially during time of emergency) and the need to train personnel on how to handle the reception and care of unaccompanied migrant and refugee children. Particularly of concern was the challenging situation of children showing signs of post-traumatic stress and who are in need of specialised attention and care. It is noted that many of these children have fled situations of war and violence.

In addition, it was pointed out that there is an urgent need to support the skills and work of the cultural mediators, in order to be able to address challenges related to establishment of trust and effective communication with children from different cultural backgrounds and with different languages (Somalia, Eritrea, Mali, etc).

Moreover, trained cultural mediators can support the work of health professionals by facilitating access to medical care and mental health services for unaccompanied migrant and refugee children.

3.3.3 Legal guardianship system and age assessments

With respect to the issue of Legal Guardianship, as the law stands today, the system for providing care for asylum-seekers and migrants is managed primarily by AWAS. The assigned legal guardian is normally an AWAS staff member, often a social worker. There are no specific requirements set out in the law as regards legal guardians' general qualifications. The Procedural Regulations set out that the legal guardian shall inform the unaccompanied child about the meaning and consequences of the personal interview and prepare the child for interview. Moreover, the guardian attends the status determination interview and may ask questions during the procedure. In practice, although the legal guardian attends the interview together with the child, information and advice regarding the asylum procedure is provided by NGOs upon referral.

This procedure is not described in law, and no formalised safeguards or timelines exist to ensure compliance. The only reference to age assessment procedures in law is found in Regulation 15(2) of the Procedural Regulations, which deals with the use of medical procedures to determine age, within the context of an application for asylum. Guardians are generally not independent from public authorities and in most cases responsible for a large number of children, due to capacity and resource constraints.

The new draft Bill envisages a fundamental shift in the approach, however, currently, AWAS remains responsible for the implementation of the system.

Various stakeholders, including NGOs, have raised the concern that the number of guardians are too limited, many are not well-trained for some of the tasks at hand and are not independent as they fall under AWAS which is regulated by the Ministry for Home Affairs and National Security. The procedure has often been criticised for the frequent delays and the lack of adequate procedural guarantees. One such example is the right to effective appeal of age assessment decisions.

AWAS has, however, recently introduced a system where the individual is informed in writing of the right to appeal an age assessment decision. The Joint Mission was informed that additional changes

are currently under consideration to ensure that further necessary procedural safeguards are put in place.

3.3.4 Care plans reviewed by the Children and Young Persons` Advisory Board

The Board stressed problems which arise due to a lack of interpreters, mainly preventing them to communicate effectively with the children due to the language barrier. This seems to be a major issue in Malta in many sectors dealing with migrants and refugees, as mentioned above.

3.3.5 Family reunification

It appears that there are relatively few cases where children are reunited with family members in other EU Member States. Further efforts and assistance are needed in the area of reunification of unaccompanied asylum seeking children with close family members as regulated by the Dublin Regulation, in particular in the context of the newly adopted Dublin III rules which extend the relevant criteria in this regard.

It was highlighted by IOM that this is precisely the scope behind the PRUMA project and that is why feedback on the questionnaire, which was already circulated within a number of governmental and non-governmental institutions, is extremely important. This questionnaire has already received feedback from the Office of the President, AWAS, as well as from the Immigration Police.

3.3.6 Access to education

Formally all children have a right to attend school, attendance is mandatory for those under 16. However, effective access to education is not always ensured for asylum seekers and migrants.

One problem is that children are detained for the duration of the age assessment process, (from weeks to months) and they do not have access to schooling during this period. As mentioned above, the recently revised age assessment procedure is aimed at ensuring a decision on age assessment within 10 days. This will potentially improve the situation, but the results of the new process will have to be analysed in the coming months.

During the visit by the Joint Technical Mission to an unaccompanied children's home, the education issue was raised by several children who indicated their interest in attending school. For some of them the language barrier presents a particular challenge, notwithstanding the introduction of induction classes by the Ministry of Education. The fact that many consider Malta as a transit country also presents difficulties in terms of engaging children and families in longer term planning as regards individual education needs.

3.3.7 Health care system

Asylum seekers and migrants have access to core health services and several children indicated that they appreciate the quality of care available in Malta.

There are, however, also challenges with respect to ensuring effective access to the Health Care System, particularly within the ambit of mental health as well as the Emergency Ward. Due to the fact that there is a lack of interpreters available in the hospital, migrant and refugee children might not fully understand what information is being requested of them and what documents they must present etc. Doctors cannot intervene with a child without first having the approval of the guardian. Delays in this regard may impact on timely access to quality medical services.

NGOs presented concerns that refugee and migrant children are not always being properly moni-

tored on health issues – and there is limited capacity to provide psycho-social support. For example, proper monitoring of the use of any necessary medication often proves to be very challenging.

Issues were raised concerning the need for more resources for relevant medical divisions and discussions took place as regards how the health department can overcome these challenges.

3.3.8 Contingency planning

The discussion revolved around the high number of asylum seekers, refugees and migrants still in Libya, potentially waiting to cross the Mediterranean. This year there has been a rapid increase of the number of arrivals to Italy (more than 100, 000 from the beginning of 2014). Malta will also have to be prepared for an increase in arrivals, not least given the continued instability in North Africa and the uncertain future of the Mare Nostrum operation at sea. Against this background the Maltese stakeholders around the table were calling for tangible and concrete proposals and inputs by the Joint Technical Mission.

UNHCR outlined their Guidance Note on the Preparedness for Refugee Emergencies (PPRE) and highlighted the importance of strengthening the national emergency preparedness and contingency planning in the asylum and migration field. IOM underlined their long experience in the reception and movement of high number of displaced persons and refugees fleeing conflicts, as has been the case during the joint efforts spent over the Arab Spring in 2011 and the massive evacuations from Libya.

IOM stressed the fact that in the Maltese situation it would be extremely important to identify and focus on the immediate, medium and long term needs in order to better engage all stakeholders and apply UNHCR's and IOM's expertise within such a context. To this end, IOM suggested the option of a permanent task force involving the main Government stakeholders be convened on a regular basis, helping not only to better define roles and responsibilities of each entity but also to jointly pursue effective preparations in response to a potential emergency situation as regards irregular arrivals.

Several stakeholders informed the Joint Technical Mission that there is currently no specific and comprehensive contingency plan in place as regards a potential increase in arrivals from Libya. Rather there is an expectation that problems would be addressed on an ad hoc basis, when any urgency arises. According to the Armed Forces of Malta, there are internal standard operating procedures on the recovery and disembarkation of people rescued, however, there is no specific contingency plan to manage a mass influx situation, including as regards addressing the situation of unaccompanied children arriving in this context.

4. GENERAL CONCLUSION

From the above description of findings it is clear that Malta has entities and systems in place to respond to mixed migration and asylum challenges. However, it is evident that with the sustained pressure in recent years, and the requirements of the recast EU Regulations, Malta will need to pursue further enhancement and strengthening of its reception framework through reviewing its detention system, improving institutional coordination, identifying additional resources and pursuing capacity building for specialized personnel.

The Joint Technical Mission did not address all issues relating to mixed migration movements affecting Malta, but it is evident that one key priority is to improve the reception system for unaccompanied children arriving in the country, in line with the requirements of the application of the best interests principle as provided for in the Convention on the Rights of the Child and reflected in the EU asylum acquis. This includes the mechanisms in place for managing first reception, age assessment as well as the capacity to provide appropriate care arrangements and solutions.

Based on the current system there is a range of actions that can be considered towards improving the response. The Prime Minister's commitment towards avoiding detention for children constitutes a significant step in this regard, but this general statement needs to translate into concrete adjustments of current policy and practice in the short term.

For the medium and longer term there is also the potential for the Government to undertake a fundamental overhaul of the system in place for receiving unaccompanied children in line with the application of the best interests principle. The draft Child Protection Act presents one such option, however, the Joint Mission did not undertake a detailed review of the newly proposed legislation.

Given the unstable and unpredictable situation in Libya, it appears essential for Malta to analyse potential future scenarios as regards mixed migration flows, including in the shorter term. This should include consideration of contingency plans for a possible rapid increase in the number of arrivals (as has been the case in Italy).

Such contingency plans should foresee not only involvement of national stakeholders, but also identify potential support from the EU as well as by international agencies such as UNHCR and IOM. There may also be potential for a regional approach to the situation in the Mediterranean, and both IOM and UNHCR are ready to provide support in this regard, working with relevant regional entities such as EASO.

5. RECOMMENDATIONS by IOM and UNHCR

General recommendation:

Malta should consider establishing a [national reception model which includes a separate track for the identification, assessment, reception and care of unaccompanied migrant and refugee children](#) within the complex migration flows affecting Malta.

The aim would be to facilitate and capacitate entities in Malta, in line with the best interests principle, to provide specialized assistance and identify long term solutions, in particular through the strengthening of institutional national coordination to maximize the resources of relevant entities, upgrade facilities of care and enhance the skills of relevant personnel. The capacities of international organisations and NGOs can be considered an inherent part of such a framework. This approach could contribute to the implementation of the commitment expressed by the Maltese Prime Minister as regards avoiding detention for children arriving in Malta.

Specific recommendations:

1. CONSOLIDATING INSTITUTIONAL COORDINATION

Ongoing coordination and cooperation is essential to ensure effective planning and implementation. In this context, Malta may consider to establish a permanent inter-ministerial task force— potentially to include relevant international organisations (such as IOM and UNHCR) and selected NGOs as well as experts on a consultative basis. The task force could continually review relevant aspects of migration management and asylum issues and propose adjustments to approaches and policies as needed. Such an inter-ministerial task force can contribute to:

- Dealing with migratory challenges and emergencies in a holistic and comprehensive fashion in line with international and regional standards.
- Securing effective responses by involving the different sectors of the government and institutions as need be.
- Providing technical inputs as needed with tailor-made approaches to different scenarios and different groups of migrants and asylum seekers.
- Identifying appropriate national capacities and external support mechanisms in response to potential emergencies and operational interventions.

2. STRENGTHENING EARLY IDENTIFICATION AND FIRST RECEPTION

It is an essential task of any reception system to ensure early identification of unaccompanied migrant and asylum seeking children as well as other groups with specific needs. The management of initial registration and age assessment are key elements in this regard.

Relevant Guidelines and Tools developed by IOM and UNHCR, as well as by the European Asylum Support Office (EASO), offer practical guidance as regards general reception management and addressing special needs. On this basis, UNHCR and IOM can potentially support Malta with identification of vulnerable migrants and addressing protection and solution needs. Such support may take several forms:

- Conducting specialised training provided for relevant categories of staff based on agreed objectives.
- Further developing standard operating procedures relevant to various responsible agencies in Malta.
- Pursuing ad hoc project activities, specifically developed to address gaps in the current response to unaccompanied children, potentially based on EU funding.
- Coordinating and/or sharing staff capacity within a broader framework of the reception system, based on a multifunctional approach (eg along the lines of the Praesidium framework which coordinates ongoing activities by multiple agencies as regards monitoring, information and assistance upon arrival).
- Considering deployment of expert staff by UNHCR and/or IOM, with a specific objective to offer time-limited, transitional support.
- Pursuing regional engagement in the context of the Mediterranean and the EU, including as regards promoting shared responsibility for solutions.

In order to address the particular needs of unaccompanied children, a new First Reception Centre may be considered to be established as a transitional facility for both girls and boys who claim minority upon arrival. The infrastructure would have to be identified by the Government, potentially in collaboration with the Roman Catholic Church. Such a facility would include a profiling mechanism to identify needs and special care requirements for migrant and refugee children. It would also facilitate other processes such as age assessment, counselling, including information on family reunification, tracing and assessments.

When appropriate, counselling for AVRR could contribute to the Best Interest Assessment and Determination processes. Following the determination phase, appropriate structures according to the established care plan of each child could be considered in line with a new framework for reception of unaccompanied children.

Potential inputs by IOM and UNHCR:

- A multifunctional approach to managing reception could include establishment of an agreed framework with parameters for practical collaboration between the Ministry of Home Affairs and National Security, including the Immigration Police, and the various authorities managing the reception centres (AWAS/DS), the Refugee Commissioner, as well as the Ministry for the Family and Social Solidarity, the Health Authorities, IOM, UNHCR and relevant NGOs.
- On this basis, IOM, UNHCR and other stakeholders can provide assistance to the Government of Malta in the early identification of the vulnerable groups such as unaccompanied and separated children, families, victims of trafficking, etc. This can include training sessions as well as tailored guidance as regards further developing current operating procedures for age assessment and Best Interest Assessment and Determination.

- Depending on needs and available funding, IOM and UNHCR can potentially deploy teams composed of expert staff and cultural mediators to provide support in relation to disembarkation and initial reception. To implement a new interdisciplinary framework, a transitional phase aimed at conducting an initial assessment, providing training for staff and establishing special operating procedures (SOPs) could also be foreseen.
- IOM and UNHCR can assist with the development of an ad hoc training programme for specialized management staff in charge of care centers for children, and with setting up the standards and develop a sustainable plan for managing the centre. Depending on needs and resources available, UNHCR and IOM can also deploy staff to support the national capacity on a temporary basis.

3. REINFORCING CONTINGENCY PLANNING

UNHCR and IOM are available to provide concrete support to further develop existing national contingency plans for managing maritime arrivals. This may include consolidating national Standard Operating Procedures (SoPs) for any sudden increases in arrivals, in particular as regards assisting vulnerable migrants and asylum seekers with an age appropriate, gender specific and diversity sensitive approach (i.e. specific needs of children, women including victims of trafficking).

Potential inputs by UNHCR and IOM:

- In coordination with the immigration and asylum authorities as well as civil protection actors, IOM and UNHCR can assist with developing tailored plans for how to handle significant increases in mixed migration landings in Malta. This would include how to provide first reception and care, including for groups with specific needs and children. Such plans would also identify potential external support mechanisms, such as emergency capacities of UNHCR and IOM as well as regional arrangements for long term solutions.
- To complement the EU's early warning mechanisms, UNCHR and IOM can provide Maltese authorities with updated information from its own operations in North Africa, in order to strengthen analysis as regards migration trends and arrival projections.
- UNHCR is already in the process of handing over its contingency stocks in Malta to the relevant authorities, which include 100 emergency tents and related items.

4. SOLUTIONS SUPPORT - Family Reunification (Dublin Regulation) and Family Tracing

It is acknowledged that Malta has limited capacity as regards facilitating long term solutions for a larger number of people rescued in international waters. IOM and UNHCR continues to support Malta with identifying solutions in other countries for some of those granted international protection, including through resettlement to the United States and relocation among other EU Member States.

In parallel, there is a need to establish mechanisms that can facilitate self reliance and local integration. During 2014, both UNHCR and IOM have presented research and analysis as regards facilitating the integration process in Malta, for refugees as well as for third country nationals in general.

While it is expected that the topic of responsibility sharing will remain high on the EU agenda in the coming months, it is clear that the existing framework provides opportunities to be further explored. In this context, additional assistance is needed in the area of reunification of asylum seeking children with close family members as regulated by the Dublin Regulation. The amendments entering into force with the Dublin III are expanding the possibilities for reunification for a greater number of children arriving alone. In fact all EU Member States have an obligation to identify and pursue such solutions, in line with Best Interests requirements.

A permanent scheme for pursuing migrant children's family tracing and transfers as required by the EU Regulations may form part of a strengthened regional response to the situation in the Central Mediterranean. Such a regional approach has been as elaborated by the EU Task Force Mediterranean, which has been complemented by comprehensive proposals presented by both UNHCR and IOM.

Potential inputs by IOM and UNHCR:

- IOM and UNHCR can assist in the early identification of children eligible to be reunited with their family members residing in other EU MS, on the basis of the EU regulations and national laws. Due to its offices in the EU and in the countries of origin, IOM can provide for the necessary documentation and possible DNA testing for the reunification. In this context, IOM and UNHCR will cooperate in implementing the PRUMA project, funded by the EU, and will liaise with the Maltese authorities to enhance its implementation in Malta. A project to boost capacity for Best Interest Assessment and Determination, family tracing and transfers to other EU Member States may also be considered specifically in the Malta context, possibly with EU funding.
- UNHCR and IOM can provide further support towards integration goals, including as regards the establishment a broader integration policy and legal framework, with special provisions targeting children and young adults.

5. COOPERATION WITH THIRD COUNTRIES ENTITIES

Establish liaison and international cooperation with consulates of third countries in Malta, to facilitate processes of information exchange, identification and documentation while supporting current projects such as the **Cooperation between Malta and African Countries to Enhance Migration Dialogue and Development** (CoMaM phase II) Project. The aim of this project is to enhance cooperation between relevant Maltese authorities and their counterparts in Sub-Saharan African countries, namely Mali, Nigeria, Ghana and Ivory Coast.

The project works in conjunction with the Restart project, which deals with Assisted Voluntary Return (and Reintegration) AVR(R) by effectively contributing to the sustainability of returns through strengthening the reintegration component in countries of origin.

Potential inputs by IOM and UNHCR:

- Promote and explore new venues for cooperation and dialogue between Maltese Authorities and reference authorities in countries of transit and origin.

6. CAPACITY BUILDING, RESEARCH AND TRAINING

It is likely that Malta will continue to be exposed to unpredictable and variable numbers of irregular arrivals departing from Libya. This means that Malta also needs to continue to develop capacity and expertise to deal with its reception and solutions responsibilities, including for unaccompanied children.

In order to ensure consistency in the quality of services, Malta may consider to set up permanent training and monitoring mechanisms to ensure quality standards of care for migrant and refugee children by psycho-social workers and cultural mediators, and maintain standard of care in every facility accommodating unaccompanied children in Malta (addressing migration, asylum status, integration, return and reintegration, relocation and resettlement).

Potential inputs by IOM and UNHCR:

- Set up a partnership with academia in Malta for a) to design a training curricula for students to specialize in different fields: migration and asylum, psychosocial, health, age assessment, assistance to VoTs etc b) build a system of data collection and monitoring migration flows with particular focus on migrant children c) to conduct research on relevant topics for policy making eg, perceptions of young migrants on concepts and models of protection, factors motivating migratory routes, long term integration prospects in Malta etc.
- Enter into a partnership with the University of Malta and potentially other universities in order to develop modules for a formal academic qualification on migration management with focus on child migration. Topics to be included are: reception and assessment of needs of migrants, psychosocial assistance to highly vulnerable cases with post-traumatic stress, victims of trafficking, victims of abuse and exploitation, cultural mediation, research methodologies addressing child migration and solutions support.
- Set up a system of data collection on migration flows with the university and other relevant entities (eg based on IOM`s experience with migration profiles conducted in many countries around the world).
- Pursue further cooperation with civil society organisations and other relevant entities such as the newly established President's Foundation for the Wellbeing of Society so as to access and analyse information, facts and perceptions as regards migration and asylum processes through various research activities.

7. IDENTIFY EXTERNAL SUPPORT AND FUNDING SOURCES

Given Malta's exposed position in the Mediterranean Sea, and its limited reception and solutions capacities, it is likely that Malta will continue to depend on various forms of external support. IOM and UNHCR can contribute by exploring with Malta any existing and future EU support and funding instruments aimed at addressing complex migration flow and special needs of vulnerable groups.

Potential inputs by IOM and UNHCR:

- IOM can provide technical assistance to the Government of Malta in assessing EU funding possibilities to co-finance specific activities proposed in this report.
- UNHCR may engage in a tripartite dialogue together with Malta and the European Asylum Support Office (EASO), to identify potential pilot projects and support initiatives for managing the arrival of asylum seekers, in the context of a regional approach to addressing challenges in the Central Mediterranean.

ANNEX A: AGENDA - UNHCR –IOM– Join Technical Mission 27 April-1 May, 2014

Sunday 27th April – San Anton

Welcome reception and dinner hosted by Her Excellency, the President of Malta

Monday 28th April - San Anton

9:00-9:15: Opening and introduction by Her Excellency Marie-Louise Coleiro Preca, President of Malta

- 1) 9:15-9:45: Introduction
- 2) 9:45-10:45: Background on mixed Migration flows, Malta's Migration legislation and policy framework - Home Affairs
- 3) 10:45-11:15: Presentation - International Principles and Challenges in the context of Child Migration, and intended deliverables - IOM
- 4) 11:15-12:30: Presentation, discussion - International Standards – UNHCR
Lunch – 12:30 – 13:30 - San Anton Palace
- 5) 13:30-14:00: Presentation – Health Concerns – Ms. Marika Podda Connor,
- 6) 14:00- 14:30 Presentation – Age Assessment – AWAS
- 7) 14:30-15:00: NGO perspective – NGO Representative,
- 8) 15:00-15:30: Coffee Break
- 9) 15:30-16:00: The case of Italy – reception/identification of vulnerable groups, family tracing, return and reintegration by Ms. Giulia Falzoi – IOM Rome
- 10) 16:00-16:30: Child Protection Bill and Discussion – Dr. Ruth Farrugia
- 11) 17:00-17:30: Discussion

Tuesday 29th April

- 1) 9:00-9:45: Presentation by the Children and Young Persons' Advisory Board, at San Anton
- 2) 9:45-10:15: AWAS introduction to site visits – Mr. Tortell,
- 3) 10:15-13:00: Visits and sessions with unaccompanied children and families,
Lunch – 13:30-15:00 – San Anton
- 4) 15:00-15:30: Discussion
- 5) 15:30 – 17:00: Workshop – Response to an emergency scenario, crisis management, family tracing and reunification - within and outside EU (Home Affairs - CPD, AFM)

Wednesday 30th April

- 1) 9:00-10:00: Views and reflections UNHCR and IOM
- 2) 10:00-11:00: Discussion, Recommendations and Way Forward
- 3) 11:00-11:30: Presentation to Her Excellency - conclusions, commitments and way forward
- 4) 11:30-12:15: Concluding note by the President, Press conference

Annex B

Members of the Delegation:

IOM Delegates

Eugenio Ambrosi – Senior Regional Advisor for Europe –ODG IOM Geneva
Ana Fonseca – Senior Specialist – Department of Migration Management– IOM Geneva
Giulia Falzoi – Head of Migration Management - IOM Rome
Martine Cassar – Projects Coordinator -IOM Malta

UNHCR Delegates

Grith Norgaard - Child Protection Officer, Division of International Protection, UNHCR HQ Geneva
Beat Schuler - Senior Regional Protection Officer, UNHCR Rome
Wilfried Buchhorn - Senior Liaison Officer, UNHCR Europe Bureau
Jon Hoisaeter - Representative - UNHCR Malta

Participants at the various meetings, audiences and off-site visits:

President of Malta and her office staff
Prime Minister and his office accompanied by Minister for Home Affairs and National Security as well as the Parliamentary Secretary for Rights of Persons with Disability and Active Ageing
The President's Foundation for the Wellbeing of Society
Auxiliary Bishop of Malta
Ministry for Home Affairs and National Security
Ministry for Justice, Culture and Local Government
Ministry for Foreign Affairs
Ministry for Social Dialogue, Consumer Affairs and Civil Liberties
Ministry for the Family and Social Solidarity
Ministry for Energy and Health
Immigration Police
Refugee Commissioner
Agency for the Welfare of Asylum Seekers
Civil Protection Department
Health Authorities
Various NGO representatives
Managers of open centres, care workers and support staff
Personnel in the detention centre
Migrants, refugees and asylum seekers

