



## **UNHCR Report on the Malta-The Netherlands Responsibility-sharing exercise**

### **Background**

In 2005 the governments of Malta and The Netherlands initiated a responsibility-sharing exercise which was funded by the European Union's ARGO Programme.

The project, implemented by the Maltese Ministry for Justice and Home Affairs (MJHA), the Dutch Immigration Service (IND) and the Dutch Central Organisation for the Reception of Asylum-seekers (COA), was aimed at:

1. Transferring a number of persons who had been granted international protection according to Maltese asylum legislation from Malta to The Netherlands;
2. Providing technical assistance and expertise to relevant Maltese institutions so as to increase the quality of reception conditions provided in Malta; and
3. Facilitating the visit of a Maltese mixed delegation (government officials and centre managers, including two NGOs) to The Netherlands.

UNHCR was closely involved in project segments (1) and (2). For the logistical implementation of the project's first sub-heading, MJHA used the services of one of Malta's leading NGOs in asylum issues, the Emigrants' Commission (EC) and UNHCR was involved in the project in a support capacity.

### **UNHCR's activities**

#### *Transfer of persons*

UNHCR's main interest in the transfer of persons from Malta was two-fold. First of all, UNHCR wanted to ensure that the selection criteria adopted took into consideration the protection needs of refugees/persons with humanitarian status in Malta. Secondly, UNHCR wished to contribute to secure a fair and efficient selection procedure that guaranteed (1) informed choices by the persons eligible to be transferred, through the appropriate dissemination of relevant information by the Dutch and Maltese authorities, (2) transparency of the selection process and (3) respect for the confidentiality of documentation and information.

This was achieved primarily through close liaison with the EC, MJHA, IND and COA through the provision of briefing material and utilisation of appropriate consent forms. Throughout the exercise UNHCR also provided recommendations on the selection criteria and procedure.

Following UNHCR's recommendations, the Dutch authorities decided to adopt the following three selection criteria, to apply to persons with refugee or humanitarian status in Malta:

1. Persons with family members residing in The Netherlands;
2. Persons with medical problems;
3. Single heads of households (male and female).

On the basis of these criteria, the EC – in consultation with UNHCR, which also liaised with other NGOs for referrals – presented a tentative list of candidates to the Dutch authorities.

The final selection of persons was made by the Dutch government. UNHCR provided candidates for transfer with information about the reception and settlement process in the Netherlands.

### *Capacity-building*

The implementation of this project segment was wholly the responsibility of COA, which cooperated with MJHA and Malta's reception centres to ensure feasibility of work and a maximisation of limited resources.

Throughout the project UNHCR frequently met with COA officials. At the outset UNHCR provided detailed information of the *status quo* of Malta's reception facilities so as to highlight areas requiring particular attention and also to recommend work methodology. UNHCR also offered ongoing support in terms of its local expertise. COA organised monthly missions during which they worked in the reception centres, identifying areas requiring support and providing relevant guidelines and recommendations. UNHCR was kept informed of progress.

### **Comments and recommendations**

As this was the first time beneficiaries of international protection were transferred from Malta to another EU Member State, the procedure was developed gradually and sometimes on an *ad hoc* basis, as a reaction to the inputs from a number of interested institutions.

As this exercise can represent an important precedent for future responsibility-sharing arrangements, UNHCR would like to present a number of observations:

1. UNHCR commends the Dutch authorities for embracing the spirit of responsibility-sharing, central to the 1951 Convention and to the EU's Hague Programme. The project signified recognition of Malta's limited capacity in offering durable solutions to persons in need of international protection, provided a durable solution to several dozen persons.
2. UNHCR also commends MJHA for its close and effective cooperation with UNHCR and with the Emigrants' Commission. The involvement of an NGO having direct contact with persons of concern ensured that the selected persons were amongst the most vulnerable;
3. UNHCR recommends that additional NGOs be involved in future such exercises in responsibility-sharing as these partners could have valuable input and enhance the capacity to reach out to vulnerable persons. UNHCR suggests the establishment of an inter-agency procedure involving representatives from a number of relevant NGOs, UNHCR and GOM;
4. UNHCR is satisfied that all candidates were provided with adequate information on the process and that the confidentiality of relevant documentation was maintained throughout the procedure through the use of appropriate safeguards;
5. Throughout the process, UNHCR stressed the need to provide sufficient information on the procedure to candidates. In fact, UNHCR directly contributed to such efforts by explaining the procedure, distributing the consent forms and providing information on reception and integration in The Netherlands. UNHCR recommends that similar exercises include information stages whereby all candidates are provided with detailed information as to the legal implications of the decision to be transferred, as well as the

- rights and obligations pertaining in the receiving country. Pre-transfer orientation provided by expert officials from the receiving country would be highly appropriate;
6. With regards to the selection criteria, UNHCR was satisfied with the adopted criteria and would recommend that the GOM be involved at all stages in the discussions. UNHCR underlines that the transfer of persons, or resettlement, from Malta should be seen as (1) a tool for protection and (2) a durable solution. The criteria contained in *UNHCR's Resettlement Handbook* may provide useful guidance for future exercises;
  7. More generally, for similar future exercises it is highly recommended that Standard Operating Procedures are established prior to the beginning of the implementation of the exercise to ensure consistency in approach and added transparency.

Neil Falzon  
Head of Office,  
UNHCR Office in Malta

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