**Questionnaire of the Special Rapporteur on the human rights of migrants:**

**Ending immigration detention of children and seeking adequate reception**

**and care for them**

**Feedback of the Government of Malta**

**Questions:**

1. **Please provide information on any legislation or policy that prohibits or restricts the use of immigration detention of children and their families in your country. Grateful if you could kindly submit the original text of the legislation or policy, accompanied by an English translation if it is in a language other than English, French or Spanish.**

The Strategy for the Reception of Asylum Seekers and Irregular Migrants, published in December 2015, provides that vulnerable persons as defined in the Reception of Asylum Seekers Regulations, SL 420.06 are not to be issued with Detention Orders by the immigration authorities upon discharge from the Initial Reception Centre (IRC). Such persons are therefore accommodated at Open Centres suited to their specific circumstances.

The freedom of vulnerable persons may therefore be restricted only until such time as they are residing in the IRC. While the stay at the IRC is kept as short as possible, this may be extended for medical reasons. In any case, migrants are discharged from the IRC as soon as medical clearance is obtained.

1. **Please provide information on existing non-custodial alternatives to immigration detention of children in your country (e.g. community-based reception solutions) and elaborate how these alternatives effectively enhance the protection of the rights of migrant children and their families.**

Malta does not pursue a detention policy in respect of children, irrespective as to whether they are accompanied or otherwise. All care methods applicable to children are therefore community-based reception solutions (e.g. issuance of care orders and accommodation in dedicated open reception centres for unaccompanied minors). Accompanied children are accommodated with their families in Open Reception Centres. The family’s stay at the centres is voluntary.

1. **Please provide information on any existing good practices or measures taken in your country to protect the human rights of migrant children and their families while their migration status is being resolved, including inter alia their rights to liberty, family life, health and education(e.g. by ensuring effective access to inter alia adequate reception, healthcare, education, legal advice, family reunion).**

Minors and their families are typically accommodated at Open Centres for 9-12 months, although this period may be longer if humanitarian considerations so dictate. Persons accommodated at Open Centres are provided with accommodation free of charge and, so long as they are not employed, with an allowance intended to cover daily expenses, such as meals and transport. Residents are offered integration-oriented and other courses intended to address skills gaps. Any minors forming part of family units, irrespective of the status of their parents or their own status, is given access to free State education. Individuals also have access to medical care and attention; vulnerable persons are offered additional support, be it psychological, medical or otherwise as required.

Unaccompanied minors are accommodated at apposite Centres, as already indicated. The centres, further to being equipped with all the basic amenities as for the other centres, also cater to other needs, including meals and clothing among others. Furthermore, all unaccompanied minors have access to State School education free of charge. Whenever necessary, particularly with reference to linguistic needs, preparatory classes are made available to such minors at State Schools.

Moreover, migrants have access to support offered by Appoġġ Agency and the Agency for Community and Therapeutic Services to Families, Children and Youths.

Procedures to trace the family members of Unaccompanied Minors are initiated once such minors are accorded International Protection, in accordance with Regulation 18 of the Procedural Standards in Examining International Protection Regulations (SL 420.07). In the eventuality that family members are positively identified, further action would be taken, possibly with a view to reuniting the minor with his or her family members, provided that this is in the best interest of the child.

Free legal aid is provided to all asylum seekers at appeal stage.

It should also be noted, further to the above, that the Department for Social Welfare Standards (DSWS) within the Ministry for the Family, Children’s Rights and Social Solidarity, was responsible for the National Standards for Out-of-Home Childcare. The standards described what was expected from the service providers and the residential homes. The operationalization of these standards enabled the Welfare Service Assessment Unit within this Department to assess the services being provided to the children in care.

As of May 2018, by virtue of Act No. XV of 2018, the Social Care Standards Authority was established and replaced the Department for Social Welfare Services. The Authority is a regulatory body set up to improve quality and standards in social welfare services thus protecting and enhancing the dignity, safety, and welfare, of all service users. The Authority is responsible for the implementation and evaluation of the Social Regulatory Standards for Children in Alternative Care which were launched for public consultation in 2019 and officially came into force in 2020. Such model varies from the one utilised in the past since the standards are enacted through a Legal Notice. Additionally, the Social Care Standards Authority Act (Cap. 582 of the Laws of Malta) establishes that no entity and/or person shall provide a social welfare service unless the service provider is in possession of a valid licence issued by the Authority. In fact, the Inspectorate Office within the Authority assesses the services being delivered to the children in care prior to any licence being issued. The Authority is also responsible for investigating and addressing any feedback received by the service users, relatives, and the general public, with regard to the provision of social welfare services.

1. **Please indicate any challenges and/or obstacles in the development and/or implementation of non-custodial alternatives to immigration detention of children and their families.**

Maltese legislative provisions relating to alternatives to detention do not apply to children and their families, given that these groups are not subject to detention in the first place. There are no particular obstacles to the implementation of the measures indicated in response to questions 1-3, except for difficulties arising from disproportionate migratory pressures. Malta has requested assistance in the form of intra-EU relocation in order to address these pressures.

1. **What support could other stakeholders (other than your Government) provide to strengthen the development and/or implementation of non-custodial alternatives to immigration detention of children and their families that enhance the protection of their rights?**

Assistance by other EU Member States as well as other States in the form of intra-EU relocation and resettlement would enable the Maltese authorities to better address existing pressures and to deliver better services to those migrants who remain in Malta.