



IOM International Organization for Migration
OIM Organisation Internationale pour les Migrations
OIM Organización Internacional para las Migraciones

IOM contribution to the White Paper Consultation

Towards the Establishment of the Human Rights and Equality Commission

The International Organization for Migration (IOM) welcomes the initiative of the Ministry for Social Dialogue Consumer Affairs and Civil Liberties to open public consultations on the White paper on human rights and equality. Furthermore, IOM recognises the efforts already undertaken in these fields in Malta.

The recast of the current legislation in favour of a comprehensive Equality Act as well as the establishment of an independent Human Rights and Equality Commission, are also to be recognized as important steps towards a holistic approach to human rights recognition and safeguard, where human rights and equality are effectively mainstreamed in all areas.

Additionally, IOM welcomes the revision of the list of the grounds for discrimination, this way responding to the changed features of the Maltese society, whereby diversity is recognised as a contribution towards enriching the social fabric. The grounds for discrimination should also include the discrimination based on nationality (besides racial and ethnic origin) and in any case the list should be non-exhaustive as it is in the South African Law that will be taken as a Model (p. 25).

The exclusion of the application of the principle of non-discrimination to non-citizens provided for in the Constitution (page 11, ii, of the White Paper) should also possibly be repelled. Alternatively, perhaps the new Equality Act could at least narrow down this exclusion and explain in which specific cases the principle does not apply (i.e. access to civil service, vote, etc.).

As to possible ameliorations to the proposed line of action, IOM suggests that when listing the *Compositions, appointment process, tenure and functions* of the new Human Rights and Equality Commission, this be given the task, when necessary and possible, to ask the Government to redress the consequences of its actions or lack of actions, rather than to “criticise the Government”, as currently stated in the White paper (page 29, no. viii).

IOM appreciates the fact that training and awareness raising activities have been indicated as priority areas to focus on. In this regard, IOM remains available to lend its expertise, through its International Migration Law Unit at IOM Headquarters in Geneva. It is therefore suggested to add International Organisations among the resources that the Commission can refer to when performing its tasks.

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IOM considers the reference to human trafficking extremely important, and in particular the need to ensure more effective access to protection to the victims of trafficking, so as to avoid that lack of proper measures bring to re-victimising the same people. In addition to protection, prevention and prosecution are two other critical pillars of an effective strategy to combat trafficking in persons.

Despite the numerous measures in place, IOM expresses its concerns about the fact that migrants and refugees continue to experience discrimination in the field of employment, both to access labour market and with reference to employment conditions. IOM recommends that reference to these specific circumstances be made in the revised legislation and increased attention be given to these issues.

IOM stands ready to provide its inputs in the development of different policy areas, including by facilitating sharing of experiences and knowledge at international level.

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