



Malta's National Youth Council and its Member Organisations' Concerns Regarding the Recent developments on THPn holders

Introduction

The National Youth Council (KNZ) is the body elected by its member organisations to represent not only the interests of young people living in Malta, but also, to push forward young people's opinions, recommendations and concerns regarding current affairs, political decisions and international events. After bringing up the issue in its first Organisations' Committee meeting, KNZ felt the need to collect the thoughts of the member organisations on the recent news about the deportation of THPn holders and the new updates to the concerned policies on those who are eligible to renew their documents allowing them to continue to live, work and have a valid and legally recognised status in Malta. This document was sent for consultation and unanimously approved.

Context

After the recent news on threatened deportations of irregular migrants and upon clarification by the media and a number of human rights organisations, KNZ felt that since there are a number, no matter how few, of young people and children living in Malta that are THPn holders, we would like to voice our concerns on the matter. These young people and children have grown up with us, gone to school with us, lived and contributed to our societies and we feel that although the government may, in its discretion, feel that it is time for these persons to be returned, we would like to make sure that the process is transparent and respects the hardships and dignity of these persons.



Firstly, we would like to publicly endorse and support the work by a number of NGOs in Malta entitled “Joint NGO input on Temporary Humanitarian Protection N” which also, taking into consideration recent developments, has put forward a considerable amount of insight and recommendations for the concerned Ministry’s consideration.

Following the Valletta Summit on Migration held in Malta this year and the large number of integration projects that are both locally and internationally based in Malta, we have no doubt that the issue of migration in Malta is a priority for both our local government and the large number of NGOs working in the migrant community. Upon the realisation that some THPn holders, who according to calculations by the aforementioned document presented to the Minister total around 1000 persons, have lived in Malta for up to 18 years, have raised families in Malta and have suddenly received the news of deportation which has left them without any legal options, KNZ and its member organisations, while respecting the complexity of the issue, would like to highlight some of our main concerns for consideration. Whilst recognising that Temporary Humanitarian Protection Status N has a temporary function of retaining individuals who, through no fault of their own, are unable to be returned to their country, we believe that the process of return should be one which is transparent and up to par with the human rights standards which Malta holds close to the heart of its democratic functioning.

Concerns and Recommendations

1) Unnecessary delays in relaying the new procedures regarding THP and its renewal

Human Rights NGO’s in Malta have conveyed a large concern for the delays in getting across information on the new regulations and procedures surrounding THPn holders. Although it is understandable that changes in the system may be due to certain complexities, KNZ believes that according to the legally followed principle of legitimate expectation, migrants bearing THPn status must be informed on the changes in procedure and how they can expect to renew this protection, if at all. We would also like to share the concerns of human rights NGO’s



in hoping that conditions for renewal are attainable and do not depend on documentation which must be brought from country of origin, which many times is impossible since even Maltese diplomacy relations with these countries are impossible.

2) Concerns for lack of appeal process for persons denied THPn renewal and facing deportation

The right to a free and fair trial is one of the fundamental human rights enshrined in the Maltese constitution. The right to appeal a decision is part and parcel of this right. With the recent news of the 28 migrants awaiting deportation, no mention of the possibility to appeal is evident. KNZ believes that it is absolutely crucial that the right to appeal a decision to deportation and/or renewal of THPn or whichever the new temporary status given to migrants may be. This will make sure that the fundamental rights of vulnerable persons are respected, with even the possibility of such appeals' court to extend temporary protection for as long as is needed for the migrants', NGO's and government authorities concerned to plan a safe return. This would mean that persons who are informed of deportation without a fair warning and without concrete plans to go back to their countries are given the opportunity to do so. This would also mean that certain persons whose countries or regions, like the Malians awaiting deportations, whose countries have been affected by war and are now hit by a growingly large number of instabilities and lack of access to basic fundamental rights, have the right to appeal before a court which may grant them an extended stay in Malta should the need arise.

3) Involvement of Human Rights NGO's and established Migrant networks in the change process

Whilst changes may be needed in the current system, KNZ would like to recommend that trusted Human Rights NGO's and migrant networks which may be able to give insight into the current system, are able to participate in the process and are also involved in explaining the changes to the current laws and policies to the migrants themselves as this may involve the use of interpreters and professionals in the human rights and migration fields.



4) Ensuring a safe return for migrants

This may involve both steps before the return while the migrants await deportation in Malta, but also, once they are returned to their home countries. We would like to stress the imperative nature of the concerns laid out by Human Rights NGOs of persons awaiting deportation currently in Malta. We believe that the safety and successful reintegration of these migrants in their homelands is a commitment which the Maltese government foresaw once Temporary Humanitarian Protection Status and THPn were given since 2008 or so. This means that while the migrants are waiting for deportation, they need to be assured that they will arrive safely. Lack of this assurance may lead to human rights breaches due to the fears and anxieties which may constitute breaches of the Maltese constitution, the ECHR and other international human rights laws and policies.

We believe that ensuring that these migrants are safe is not only an obligation under international humanitarian law, but also, a way by which Malta can successfully set out to accomplish further ties with foreign diplomats and NGOs which may be used as contacts in the future. As the Valletta Summit documents show, the priority of helping out the countries of origins' of these migrants was a central focus of the Summit. Malta as a neutral country with the commitment to ensuring peace in Malta and oversees under our constitution, we believe that a good place to start tackling root problems in the countries of origin would be to not only be in contact with diplomats but also NGOs and human rights institutions and bodies such as UN presence in that country. We strongly believe that these migrants need a guarantee that they will be safe in their home countries.