

# An Investigation of Visas issued by the Maltese Consulate in Algiers

Report by the  
Auditor General  
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Maltese Consulate in Algiers

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# List of Abbreviations

AG	Auditor General
CVU	Central Visa Unit
EC	European Commission
EU	European Union
LEP	locally engaged person
ME	Malta Enterprise
MFA	Ministry for Foreign Affairs
MFIN	Ministry for Finance
MFTP	Ministry for Foreign Affairs and Trade Promotion
MoU	Memorandum of Understanding
NAO	National Audit Office
OPM	Office of the Prime Minister
PAC	Public Accounts Committee
VFS	VFS GCC LLC Global
SIS	Schengen Information System
VIS	Visa Information System

# Executive Summary

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1. On 18 November 2015, the Opposition Members of Parliament on the Public Accounts Committee (PAC) requested the Auditor General (AG) to investigate matters relating to the issuance of visas by the Maltese Consulate in Algiers. An additional related request was made by the Government Members of Parliament on the PAC on 20 November 2015. In correspondence submitted to the Chair PAC on 30 November 2015, the AG set out the terms of reference that addressed the requests made to the National Audit Office (NAO). To this end, the following terms of reference were established:
  - a. to review the process employed in the issuance of visas by the Maltese Consulate in Algiers between March 2014 and September 2015;
  - b. to examine the systems and information available to Government in order to ensure that the visa conditions were being honoured;
  - c. to establish whether the Government was informed of any irregularities and what action, if any, was taken in this regard;
  - d. to review the manner through which the officials of the Maltese Consulate in Algiers were appointed and their conditions of employment; and
  - e. to examine the selection of the premises from where the Maltese Consulate operates and the contractual arrangements entered into in this regard.

Hereunder are the salient conclusions arrived at by the NAO.

2. During the period reviewed, the Maltese Consulate in Algiers received 14,640 applications, of which 6,779 were issued a visa while 7,589 were refused. The remaining 272 applications were either closed, discontinued, revoked or annulled. Comparison to previous years was not possible as, according to the Ministry for Foreign Affairs and Trade Promotion (MFTP), this data was purged. This precluded the NAO from understanding the grounds on which Government's decision to establish a consular presence in Algeria was based.
3. In its review of the processing of applications, the NAO established that 99.5 per cent of visa applications were decided within the 15-day period stipulated in the Visa Code (the European code regulating procedures and conditions for issuing visas) and therefore no concerns emerge in respect of the role of the Consulate in this regard. Notwithstanding this, there was no visibility over the process beyond the point at which the Consul decides to issue or refuse a visa. In other words, the NAO was unable to determine when the visa or refusal letter, together with the passport, were handed over by the Consulate to the VFS GCC LLC Global, the Consulate's

external service provider, and when these were subsequently returned to the applicant by the VFS as no records of such interactions were retained. In the NAO's opinion, the lack of visibility over the latter stages of the process heightened the risk of wrongdoing and precluded this Office from establishing whether the delivery of visas was intentionally prolonged so as to elicit payments for the hastening thereof.

4. The NAO was requested to investigate whether the majority of applicants hailed from particular regions in Algeria. This Office established that the greatest proportion of applications corresponded to Algiers; however, a significant number of applications originated from other provinces. Factoring in the population of each province, the highest number of applications per million inhabitants was noted in Tizi Ouzou. Also evident was the bearing of the geographical proximity of provinces to Algiers, with provinces closer to Algiers generally registering more applications per million inhabitants than those further away. While the NAO acknowledges the variation evident in issuance rates across the provinces, the Office is unable to determine whether this difference was the result of random variation, real differences in the profile of applicants across regions, or an element of bias in the processing of applications.
5. This review must be considered in light of the numerous allegations of wrongdoing cited in relation to the process of the issuance of visas. From the analysis of Consular mailboxes undertaken by the NAO, this Office noted the various allegations levelled at the Consulate's staff and employees of the VFS, indicating the payment of bribes for the issuance of visas. The allegations originated from different sources and, while some made broad claims of irregularity, others provided specific details of wrongdoing, citing persons involved and amounts exchanged, among others. Generally, correspondence regarding allegations made was addressed to the Consul; however, in other instances, the Police and the MFTP were informed. It must be noted that the investigation of alleged wrongdoing, in this case the payment of bribes by citizens of another state to a Government official or third parties, does not fall within the remit of the NAO, with this Office's attention focused on the institutional response to such allegations.
6. The NAO is of the opinion that the setting within which the Consulate operated somehow facilitated the incidence of allegations. The fact that the Consulate operated from the same premises as the VFS blurred the distinction between the two from the perspective of applicants. Aggravating matters were the difficulties encountered by prospective applicants when seeking to schedule appointments with the VFS, with accessibility to services provided significantly hindered. Other factors relating to the occurrence of allegations emanated from the modus operandi of the Consulate. For example, in this Office's understanding, the preferential treatment of agents in terms of the scheduling of appointments readily contributed to allegations by others. Gaps in the screening process, attributed by the Consul to a lack of resources, also resulted in a less than optimal system of vetting applicants, with particular reference made to the fact that interviews were not being held. Another factor was the poor contract management of the VFS by the Consulate, with various contractual obligations not adhered to with no consequence. The extent to which this and other shortcomings could be attributed to the lack of experience of the Consul is debatable, with the language-related issues



identified in correspondence reviewed by this Office compounding matters. The NAO also acknowledges the possible effect that the high refusal rate may have had on agents and other third parties, which rate was deemed significant when compared to that of other Member States represented in Algeria. Ultimately, the Office is of the opinion that better controls in the visa vetting process could have been implemented; however, it must be acknowledged that it was not always possible to detect persons who intended to abusively travel to Malta.

7. Another facet of the review undertaken by the NAO entailed the examination of what systems and information were available to Government in order to ensure that the visa conditions were being honoured. The NAO acknowledges a number of inherent limitations in its review of visas issued during the period under consideration. While movement into and out of the Schengen area was monitored and recorded by the Immigration Police, movement within the Schengen area was not. The only information that captures intra-Schengen movement is retained by individual airlines operating flights from and to Malta, which could not be sourced due to limitations imposed by this Office's mandate. Nevertheless, the NAO obtained information regarding the movement of passengers between Algeria and Malta from the Immigration Police. Based on this information, during the period under review, arrivals from Algeria to Malta and departures from Malta to Algeria amounted to 5,083 and 2,664, respectively. Evident is the difference between arrivals and departures, with arrivals exceeding departures by 47.6 per cent between March 2014 and September 2015.
8. Of the 5,083 arrivals and 2,664 departures, 3,696 and 882, respectively, travelled on the basis of a visa issued by the Maltese Consulate in Algiers. The NAO noted that others travelled through use of other documents such as a national identity card or passport pertaining to Malta or other European Union (EU) member states. This Office established that for every four arrivals presenting a visa issued by the Consulate, there was one departure presenting a visa by the Consulate. The ratio of 4.19:1 for arrivals to departures utilising a visa issued by the Maltese Consulate in Algiers contrasts sharply with that of other document types. In the case of visas issued by other Schengen Area countries, the ratio was of 1.72:1. The significance of the 4.19:1 ratio is also noted when one considers the overall actual passenger movement data, which yields a ratio of 1.91:1. At a more detailed level of analysis, the NAO reconciled movement data with respect to passengers utilising a visa issued by the Maltese Consulate. This Office established that at least 2,846 of the 3,696 arrivals, equivalent to 77 per cent, did not have a corresponding departure. Of the 882 departures, the NAO noted that in 32 instances, no corresponding arrival was identified within the audit period, that is, from March 2014 to September 2015.
9. The discrepancies between arrivals and departures must be considered in the context of the regulatory framework that allows for free movement within the Schengen Area. Although this freedom of movement applies to passengers who hold a 'C' type visa, which represented the vast majority of visas issued during the period under review, the NAO identified 96 'D' type visas that limit movement to the Member State issuing the visa, in this case, Malta. Of these, 45 utilised the 'D' type visa issued. From these, 14 effected a return journey to Algeria within the period reviewed, while the remaining 31 'D' type visa holders could not be accounted for by the NAO.

10. The NAO was tasked with establishing whether the Government was informed of any irregularities and what action, if any, was taken in this regard. In the context of the request made by the PAC, this Office specifically sought to determine whether the Prime Minister, the Minister for Foreign Affairs and the Police were aware of any wrongdoing at the Maltese Consulate in Algiers.
11. Through enquiries made with the Permanent Secretary MFTP, it was established that the Ministry was first aware of possible irregularities through correspondence received on 20 August 2014. The Consul's views were sought in this respect, with the relevant reply copying the Chief of Staff of Minister MFA and his Private Secretary. The Permanent Secretary MFTP indicated that, at the time, no further action was deemed necessary. Referral to the Minister MFA was made in December 2015, at which stage the Consul in Algiers had been replaced; however, the same allegations persisted. On 9 December 2015, the Permanent Secretary MFA referred the matter to the Minister MFA, who instructed onward referral to the Police.
12. Based on the analysis of the Consulate's mailboxes, the NAO established that the Police were first informed of possible irregularities on 20 August 2014. Following queries raised by the NAO, the Police forwarded a report dated 30 March 2015, which outlined action taken in relation to allegations involving the Consulate in Algiers. According to the report, the Algerian travel agent alleged that irregular payments were being made by applicants to employees of the VFS and those of the Consulate for preferential treatment. No evidence was provided in support of these claims and following referral to the Algerian Police by the travel agent, nothing illegal was established. Recorded in the Police report was that the alleged wrongdoing did not include the Consul and that should any specific information be acquired, then this was to be referred to the Police.
13. Also cited in the Police report was that the views of the Consul were sought. According to the Police report, the Consul maintained that he was not aware of such facts and attributed what was stated by the Algerian travel agent to the termination of his status as Air Malta's general service agent. The Police drew the Consul's attention to the need for vigilance in the issuance of visas, citing cases of persons that were refused entry due to their inadmissibility and other instances of persons travelling to Malta to then settle in other Schengen countries.
14. In terms of whether the Prime Minister was aware of any irregularities, according to the Permanent Secretary MFA, the matter was not referred to the Prime Minister. Instead, the Permanent Secretary MFA asserted that allegations of irregularity were always channelled to the Minister MFA and/or his Chief of Staff, as per standard procedures.
15. The NAO established that Government was in fact aware of the allegations made in relation to the Maltese Consulate in Algiers. This Office deemed action taken by Government as appropriate, as the Consul and the Permanent Secretary MFA duly informed the Police of alleged irregularities, while the Permanent Secretary MFA also drew the attention of the Minister MFA. On their part, the Police took action by seeking the views of persons of interest, in particular the Consul and

the Algerian travel agent, from whom most allegations originated. Whether any other action could have been taken by Government remains subject to debate, largely conditioned by the context within which the Consulate was operating, as well as its operational set up. Moreover, the NAO acknowledges that there were aspects of the allegations beyond the direct control of the Consulate, and therefore Government, particularly the inevitable involvement of the VFS and other agents in the visa process.

16. Another aspect that the NAO was tasked to review was the manner by which the officials of the Maltese Consulate in Algeria were appointed, as well as their conditions of employment. The Consul was engaged following an internal call for applications for commercial representatives issued by the Malta Enterprise (ME), with consular duties forming part of this role. The selected candidate possessed the stipulated requirements set out in the call, in terms of business promotion-related experience and qualifications cited. However, while the NAO acknowledges an element of convergence in the responsibilities of a commercial representative and that of a consul, this Office is of the understanding that the latter's role encompasses a broader array of functions that extend beyond the promotion of business. It is in this respect that the NAO contends that, irrespective of the appointed official, requirements deemed satisfactory for the appointment of a commercial representative may have been inadequate in the selection of a consul. The Consul's appointment in Algiers was terminated in October 2015. Submissions made by the ME and the Consul indicated that this was related to personal matters.
17. The NAO established that, when initially set up, the Maltese Consulate in Algiers operated from the premises of the VFS, which arrangement was in place up to August 2014. In early 2015, Government initiated proceedings to identify permanent housing for its consulate, with the MFTP appointing an Evaluation Committee to undertake this assignment. Four properties were considered by the Evaluation Committee; however, the Committee concluded that only one satisfied most of the requirements and could be easily adapted to suit consular needs. This property was located in the El Biar area, which housed a considerable number of embassies and consulates. The bill of sale for the property at 27, Rue des du Père et Fils Boufatit, El Biar town, Algiers, was signed on 2 June 2015. The sale price of the property was 77,000,000 Algerian Dinars, which corresponded to approximately €710,000, revised to €735,000 following the payment of tax due. Financing for this disbursement was secured by the MFTP through EU funds sourced under the External Borders Fund for the period 2007-2013, part of the General Programme 'Solidarity and Management of Migration Flows'.

# Chapter 1

## Introduction

### 1.1 Request by the Public Accounts Committee

- 1.1.1 On 18 November 2015, the Opposition Members of Parliament on the Public Accounts Committee (PAC), the Shadow Minister for European and Foreign Affairs, and the Opposition Spokesperson for Immigration requested the Auditor General (AG) to investigate matters relating to the issuance of visas by the Maltese Consulate in Algiers. The request was signed by the Hon. Tonio Fenech, Chair PAC, the Hon. Dr Beppe Fenech Adami, Shadow Minister for Home Affairs and the Hon. Claudio Grech, Shadow Minister for the Economy, members on the PAC, as well as the Hon. Roberta Metsola, Shadow Minister for European and Foreign Affairs, and the Hon. Dr Francis Zammit Dimech, Spokesperson for Immigration (Appendix A refers).
- 1.1.2 In the correspondence submitted to the AG, reference was made to the reply to parliamentary question 19,903, wherein it was indicated that as from March 2014, visa applications were being processed by the Maltese Consulate in Algeria. Also indicated was that between March 2014 and September 2015, 6,781 visas had been issued by the Maltese Consulate in Algeria, of which 6,748 pertained to Algerian nationals. Reference was made to the fact that the issuance of these visas allowed for free movement within Schengen and that flights from Algeria to Malta were operating at capacity while return flights were practically empty.
- 1.1.3 Reference was also made to a number of newspaper articles wherein it was stated that in order to secure the issuance of a visa, one had to bribe third parties. According to that reported in the press articles, three members of staff at the Maltese Consulate had requested additional payments for the processing of visa applications. It was in this respect that applicants would be asked for additional fees to speed up a process that was not in reality delayed, but which was intentionally protracted. In other press coverage on the matter, it was stated that the Prime Minister, the Hon. Dr Joseph Muscat, the Minister for Foreign Affairs, the Hon. Dr George Vella, and the Police were aware of the wrongdoing months earlier.
- 1.1.4 Furthermore, concerns were raised with regard to the suitability of the Maltese Consul to Algeria. Specific reference was made to his lack of diplomatic work experience and the fact that he was related to the Prime Minister. It was alleged that the Consul had been recalled to Malta following the termination of his appointment a few weeks prior to the submission of a reply to the aforementioned parliamentary question.

1.1.5 It was in this context that the AG was requested to investigate:

- a. the manner by which 6,781 visas had been issued by the Maltese Consulate in Algeria over a one-and-a-half year period, that is, between March 2014 and September 2015, bearing in mind the serious allegations of corruption cited in press coverage on the matter;
- b. whether the Prime Minister was made aware of the wrongdoing taking place at the Maltese Consulate in Algeria;
- c. whether the Minister for Foreign Affairs was made aware of the wrongdoing taking place at the Maltese Consulate in Algeria;
- d. whether the Police were made aware of the wrongdoing taking place at the Maltese Consulate in Algeria;
- e. whether, between March 2014 and September 2015, flights from Algeria to Malta by Air Malta plc were at close to capacity, while those from Malta to Algeria were practically empty;
- f. whether many of the Algerian nationals who arrived in Malta with a visa travelled to another country within Europe, particularly France, on the day of arrival in Malta;
- g. whether the process leading to the issuances of visas was intentionally prolonged in the case of many applicants so as to elicit illicit payments for the hastening thereof;
- h. the manner by which the Maltese Consul to Algeria was appointed, whether he possessed the required qualifications and experience for the post, whether a public call had been issued for the post, what financial remuneration was paid, and the reason for his removal from the post;
- i. the manner by which staff at the Maltese Consulate in Algeria were selected, what experience and qualifications they possessed, and what financial remuneration was paid;
- j. the manner by which the office from where the Maltese Consulate in Algeria operates was selected, the title of ownership held, who the owners of the premises were and payments made thereto for the use of the premises;
- k. which travel agency had been used for the purchase of airline tickets by persons whose visa had been issued and whether any pattern could be established between persons whose visa had been issued and the travel agency from where airline tickets had been acquired;
- l. whether the majority of applicants for a visa at the Maltese Consulate in Algeria were from a particular region;

- m. whether Malta observed all international obligations when issuing visas from the Maltese Consulate in Algeria; and
- n. whether any serious shortcomings were noted in the manner by which visas were accepted, processed and issued by the Maltese Consulate in Algeria.

1.1.6 On 20 November 2015, the Government Members of Parliament on the PAC submitted correspondence to the Chair PAC with reference to the Opposition's request to the AG for an investigation of visas issued to Algerian nationals between March 2014 and September 2015 (Appendix B refers). In this context, the Chair PAC was informed that Government acknowledged the request for investigation in terms of Article 108 of the Constitution of Malta (Cap. 1) and the Auditor General and National Audit Office Act (Cap. 396). To this end, the Government Members of Parliament proposed that the AG and the National Audit Office (NAO) investigate whether visas issued in the indicated period were reprehensible in terms of the cited legislation. The correspondence was signed by the Hon. Dr Owen Bonnici, Minister for Justice, Culture and Local Government, the Hon. Dr Edward Zammit Lewis, Minister for Tourism, and Hon. Chris Agius, Parliamentary Secretary for Research, Innovation, Youth and Sport.

1.1.7 In correspondence submitted to the Chair PAC on 30 November 2015, the AG set out the terms of reference that addressed the requests made to the NAO on 18 November 2015 and 20 November 2015 (Appendix C refers). To this end, the following terms of reference were established:

- a. to review the process employed in the issuance of visas by the Maltese Consulate in Algeria between March 2014 and September 2015;
- b. to examine the systems and information available to Government in order to ensure that the visa conditions were being honoured;
- c. to establish whether the Government was informed of any irregularities and what action, if any, was taken in this regard;
- d. to review the manner through which the officials of the Maltese Consulate in Algeria were appointed and their conditions of employment; and
- e. to examine the selection of the premises from where the Maltese Consulate operates and the contractual arrangements entered into in this regard.

## 1.2 Methodology

1.2.1 This audit was conducted in accordance with Article 9(a) of the First Schedule of the Auditor General and National Audit Office Act, 1997 (Cap. 396), and in terms of practices adopted by the NAO.

- 1.2.2 During the course of this audit, meetings were held with the Permanent Secretary Ministry for Foreign Affairs and Trade Promotion (MFTP), as well as the Senior Manager Central Visa Unit (CVU) within Identity Malta. The MFTP is responsible for consular services abroad, providing strategic management of representations and oversight of such functions. The CVU plays a vital role in the authorisation process of visa issuance to third-country nationals entering Malta and/or travelling to other Member States of the European Union (EU) in the Schengen area who require entry clearance. The CVU is, inter alia, responsible for the implementation of the EU visa policy through the proper functioning of the visa issuing procedures in all of Malta's diplomatic missions and consular posts.
- 1.2.3 Enquiries were also made with the Commissioner of Police, given the critical role of the Immigration Unit in border control and their involvement in vetting applications for visas. The Immigration Unit was instrumental in providing the NAO with data of persons arriving from and departing to Algeria during the period under review. A walkthrough of the border control process was undertaken at the Malta International Airport.
- 1.2.4 Queries were also addressed to the Malta Enterprise (ME) in view of the Memorandum of Understanding (MoU) entered into between the Ministry for Foreign Affairs (MFA)<sup>1</sup> and the ME dated 26 May 2011 whereby, inter alia, ME commercial attachés could be deployed to MFA missions abroad as consuls. According to the MoU, in cases where there was no bilateral representation and the ME decided to appoint a commercial attaché, the MFA would consider the sharing of expenses incurred in the running of the consulate, provided that the appointed commercial attaché accepted the position of consul in that particular country or region. The NAO held a meeting with the Consul to Algiers who held office between March 2014 and October 2015. Information was also sourced from the Cabinet Office with regard to the decision leading to the setting up of a consulate in Algiers and the appointment of an ME official as Consul.
- 1.2.5 In addition, the NAO obtained copies of the mailboxes utilised by all consular staff during the period under review, as well as the Consulate's generic email. The volume of emails reviewed in this respect was extensive.

### 1.3 Limitations

- 1.3.1 The NAO acknowledges a number of inherent limitations in its review of visas issued during the period under consideration. While information relating to passengers on flights from and to Algeria was sourced, information regarding movement within the Schengen area could not be obtained. Movement into and out of the Schengen area was monitored and recorded by the Immigration Unit, whereas, in line with applicable provisions, movement within the Schengen area was not. The only information that captures intra-Schengen movement is retained by individual airlines operating flights from and to Malta. Aside from concerns regarding the Office's mandate to request such information, its analysis was deemed not feasible.

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<sup>1</sup> The portfolio of the Ministry of Foreign Affairs was revised to include trade promotion following the change in administration in June 2017. The terms MFA and MFTP are used interchangeably, according to the nomenclature of the Ministry at the time being reported on.

- 1.3.2 Other constraints encountered related to visa records maintained. According to the MFTP, data of visas issued in Algeria from September 2009 to February 2014<sup>2</sup> was purged and was no longer available. Consequently, no appropriate comparatives were available for the period under review, namely March 2014 to September 2015. In the absence of such data, a comparative analysis of visas issued in the timeframe under consideration to previous periods could not be undertaken. The only comparisons that could be drawn was to data made available with respect to 2008 and 2009.
- 1.3.3 The fact that certain web-based sources could only be viewed and accessed in their present format also hindered the NAO's review. A case in point was the website of VFS GCC LLC Global (hereinafter VFS),<sup>3</sup> the Consulate's external service provider in Algeria as from February 2014. This Office could not establish whether the present format and level of functionality were in place during the period under review; consequently, claims of service shortcomings could not be verified. Similar constraints exist with regard to the assistance provided through the VFS call centre, since service levels provided then could not be ascertained.
- 1.3.4 While the NAO was in a position to ascertain when the final decision regarding a visa application was taken by the Consul, it could not be determined when this was forwarded to VFS and eventually communicated to the applicant. Decisions regarding the granting of a visa or otherwise were invariably submitted to VFS in a sealed envelope for either eventual collection by the applicant or the submission to same through the post or courier service. This Office was informed that records of collection by the applicant were retained by the Consulate from 2016 onwards.
- 1.3.5 Another limitation noted by the NAO in its review of mailboxes pertaining to Consular staff related to the use of email accounts other than the assigned government email accounts. Although the use of other email accounts noted by the NAO was occasional, the Office was unable to ascertain the actual extent of such use. The Office's attention was drawn to the use of other email accounts when threads of correspondence in the government mailbox indicated other correspondence through accounts other than those officially designated. Furthermore, the NAO noted instances of several weeks where no record of any electronic correspondence was retained.

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<sup>2</sup> In February 2014, the Consulate in Algiers entered into an agreement with VFS GCC LLC Global, wherein the latter was appointed the Consulate's external service provider.

<sup>3</sup> <https://www.vfsglobal.com/malta/algeria/>



## Chapter 2

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### The Setting up of the Maltese Consulate in Algiers

- 2.1.1 The NAO established that on 30 October 2013, Government requested the consent of the Algerian authorities to set up a consulate in Algiers, approval for which was granted on 27 November 2013. However, the Office sought to determine the basis leading to Government's decision to set up this Consulate. Requests for information in this respect were made with the Permanent Secretary MFTP who in turn referred to the Cabinet Office. While the Cabinet Office confirmed that Cabinet had agreed on the opening of a consulate in Algiers, no supporting documentation was forwarded to the NAO despite requests to this effect.
- 2.1.2 In comments submitted to this Office by the Consul, it was indicated that the decision to set up the Consulate in Algiers was tied to Air Malta's decision to introduce a flight route to and from Algeria. In turn, this necessitated the setting up of a consulate in order to process visa applications.
- 2.1.3 From the date of establishment up to 7 August 2014, the Maltese Consulate in Algiers operated from Rue Mohammed Ouidir Amellal, El Biar. VFS, the company entrusted by the MFTP to manage the collection of visa applications, owned the property. According to the MFTP, following an increase in the number of applications received, the Consulate moved to another VFS-owned property. This was corroborated by the Consul, who affirmed that from 8 August 2014 until the end of his tenure, the Consulate operated from Avenue Mestapha El Ouali, at the time referred to as Avenue Claude Debussy.
- 2.1.4 Queries were raised by the NAO regarding any fees charged by VFS in respect of the use of these properties. According to the MFTP, no fees were levied on the Ministry for the period. This was in line with the contracts entered into between Government and VFS on 24 February 2014 and 17 March 2015 that required the contractor, that is, VFS, to provide office facilities for the representative of Government, as the contracting authority.
- 2.1.5 While the agreements with VFS provided Government with temporary office space for the conduct of consular duties, in early 2015, Government initiated proceedings to identify permanent housing for its consulate. To this end, on 8 January 2015, the MFTP appointed an Evaluation Committee to recommend a property in Algiers to be purchased by Government that would be suitable as a consulate for the Republic of Malta. This Committee was chaired by the Chief Information Officer MFTP, supported by the Consul and the First Secretary as members. The NAO sought to establish the rationale for the purchase of a property rather than continue with the complimentary use of the VFS offices. According to the MFTP, the acquisition

of a property was deemed more cost-effective in the long run, more so when considering the expected increase in the number of visas as a result of newly introduced direct flights to and from Malta and Algiers. In addition, the MFTP stated that the shift of Maltese entrepreneurs from a focus on Libya to Algeria, following unrest in the former, consolidated the need for a permanent establishment.

2.1.6 According to the evaluation report dated 17 February 2015, the budget allocated towards the purchase of the consular property was between €800,000 and €950,000. Furthermore, the selected property was to have the following general requirements:

- a. location in a reputable area, close to the city centre and close to other embassies;
- b. a visa reception area and waiting area;
- c. a strong room, back office space and office space for Malta-based officers, including the ambassador's office; and
- d. separate entrances for the general public and the permanent staff of the consulate.

Parking and storage facilities within this property were considered an asset, although not necessarily a requirement.

2.1.7 A meeting was held with an Algerian legal representative to discuss the legal requirements for the purchase and the registration of the property in Algiers. In this case, apart from the usual authorisation that was required from the Algerian foreign affairs office, the sanction of the local council (wilaya) was also required. The legal representative was also tasked with conducting the necessary due diligence once the property to be purchased was identified. It was also to be ascertained that the necessary building permits were in hand.

2.1.8 Cited in the evaluation report was that other fees were payable on the purchase of property. In this regard, a commission of up to five per cent of the selling price, payable by the seller, was due to the real estate agent. A notarial fee of one per cent of the property value was to be paid by the MFTP, as the buyer. Other property fees payable were:

- a. value added tax of 17 per cent;
- b. Government stamp duty of 500 Algerian Dinars (circa €4.64);
- c. payment to the Registry Office of 2.5 per cent of the property price; and
- d. publicity rights of one per cent of the property value.

- 2.1.9 In respect of these fees, a request was to be made for an exemption in line with the Vienna Convention on Diplomatic Relations. According to Article 23(1) of the Convention, the sending state and the head of the mission were exempt from all national, regional or municipal dues and taxes in respect of the premises of the mission, whether owned or leased, other than payment for specific services rendered. However, exemption from taxation was not to apply to such dues and taxes payable under the law of the receiving state by persons contracting with the sending state of the head of the mission. Queries were raised by the NAO regarding any exemptions obtained by the MFTP; however, the Ministry indicated that, at the time of purchase, all relevant taxes were paid by the Ministry as an exemption had not yet been obtained. A note verbale was sent by the Maltese Consul in Algiers to the Algerian authorities on 23 February 2015, requesting their approval and assistance in securing the exemption sought; however, as at November 2018, the MFTP had not received a reply to this request.
- 2.1.10 Indicated in the evaluation report was that a promise of sale was to be signed to seal the price and allow for a wait period of 15 working days in order to finalise the necessary paperwork. Although no deposit was required at this stage, a notarial fee for the drawing up of the promise of sale could be applied.
- 2.1.11 The Consulate engaged the services of a real estate agent in its search for properties that met the Government's requirements, which agent was identified by the Consul. The real estate agent shortlisted four properties, which were inspected by the Evaluation Committee through site visits held between 10 and 11 February 2015. Of the four properties, the Evaluation Committee concluded that only one satisfied most of the requirements and could be easily adapted to suit consular needs. This property was located in the El Biar area, which housed a considerable number of embassies and consulates. At 83,200,000 Algerian Dinars, approximately equivalent to €800,000, it was also the only property within budget. The other three properties shortlisted, which were priced at over €1,000,000, were either in shell form, were too large, required a considerable amount of maintenance or were well outside the city centre and not very accessible to the public.
- 2.1.12 Queries were raised by the NAO with the MFTP regarding the limited number of properties considered and the fact that the real estate agent shortlisted only one property that essentially satisfied the Ministry's requirements. The MFTP confirmed that no other alternatives were considered due to the fact that the property opted for met most prerequisites.
- 2.1.13 To this end, the Evaluation Committee recommended the purchase of the property located in El Biar. This property comprised a corner semi-detached bungalow with a one-car garage and a driver's room. The ground floor consisted of an entrance hall, five rooms, two bathrooms, a kitchen and a yard. The property was well located, structurally sound, well kept and surrounded by a perimeter wall. There was also the possibility to build a second floor. In view of these considerations, the authority of the MFTP was requested to sign a promise of sale to secure the property until the necessary approvals and paperwork were completed.

- 2.1.14 The Evaluation Report also comprised an architect's report of the four properties considered. Therein, further structural information and pictures of the properties were provided. With respect to the selected property, the architect's report indicated that although the plot size was small, and therefore could only accommodate consular facilities and no residency, additional floors could be built, up to a maximum of three floors. However, the architect recommended that appropriate certification be obtained from the relevant authorities in this regard. In addition, the architect recommended that the stability of the property be checked, due to the characteristics of the ground material in the area. In his report, the architect noted that to facilitate use as a consular office, an extension was necessary to provide for storage space, and an area for the placement of a generator and other ancillary facilities.
- 2.1.15 The NAO enquired with the MFTP regarding whether a promise of sale for the purchase of this property was entered into. This Office was informed that the concept of a promise of sale did not exist in Algeria; nevertheless, the MFTP drew up a document to secure the price until the necessary paperwork for the property transfer was concluded. A copy of the Pre-Sale of Property Contract was made available to the NAO. This contract, dated 29 April 2015, registered the promise of the vendor to sell the property to the purchaser, being the Government of Malta, at an agreed price of €722,000, equivalent to 77 million Algerian Dinars. Also noted in the contract was that the property was to be reserved for the purchaser for a period of ten working days from its signing. Nonetheless, the MFTP confirmed that this contract was not binding on the parties and that no money was exchanged at this point.
- 2.1.16 In addition, the MFTP provided the NAO with a copy of the due diligence conducted in respect of this property. This consisted of a Property Sale File Deposit Certificate, which stated that a file dated 14 May 2015 was submitted, regarding the property which was to be sold to the Embassy of Malta at the agreed price of 77 million Algerian Dinars, following the completion of the required legal procedures.
- 2.1.17 The bill of sale for the property at 27, Rue des du Père et Fils Boufatit, El Biar town, Algiers, was signed on 2 June 2015. The Chief Information Officer MFTP, as authorised by the Minister MFTP on 27 April 2015, appeared on behalf of Government. In the bill of sale, a description of the property was provided, indicating that the land on which the property lay was 217 square metres. Stated in the bill of sale were the conditions regulating the use of the property, as well as other costs and terms. The buyer became the owner of the property from the date of the bill of sale; however, title to use was to commence on the date the property was unoccupied. The property was purchased in its existing state and included all commodities known to the buyer. As from the bill of sale, responsibility for all bills relating to the property rested with the buyer. According to the bill of sale, the owner was to bear all costs related to the sale, including notarised duties and taxes, except for those imposed on the seller in terms of the law. The sale price of the property was 77,000,000 Algerian Dinars, which corresponded to approximately €710,000. The Government paid 2,695,000 Algerian Dinars in taxes in respect of this property, equivalent to approximately €25,000, resulting in an approximate total cost of €735,000.

**2.1.18** Financing for this disbursement was secured by the MFTP through EU funds sourced under the External Borders Fund for the period 2007-2013, part of the General Programme 'Solidarity and Management of Migration Flows'. More specifically, the MFTP applied for such funds through the project titled 'Maximising Malta's Capacity to Issue Visas'. The grant agreement was signed on 27 May 2014 and stipulated a budgeted eligible cost of approximately €5,000,000, of which the External Borders Fund was to contribute 75 per cent, that is approximately €4,000,000. This project mainly comprised the:

- a. setting up of six new consulates, two in Libya and one in Brazil, China, Qatar and Kuwait;
- b. renovation of an existing consulate in Libya; and
- c. provision of physical security through the installation of security equipment in the seven aforementioned consulates.

**2.1.19** On 23 April 2015, an addendum to the grant agreement was signed whereby the three new consulates in Libya and Brazil were replaced with consulates that were to be set up in Algeria and the United Arab Emirates. With respect to the consulate in Algeria, the addendum established that the MFTP was to purchase and refurbish a property to serve as a consulate in Algiers, in accordance with Schengen requirements. The budgeted eligible cost of this project was revised to approximately €7,000,000, of which a maximum of 75 per cent, equivalent to €5,250,000 was to be financed through the External Borders Fund Annual Programme 2012.

# Chapter 3

## Visa Applications, Approval and Issuance Processes

### 3.1 Entities involved in Visa Application and Issuance

- 3.1.1** According to the European Commission (EC), during 2017, 5,029 short stay visas were applied for at the Maltese Consulate in Algiers. Of these, 405 were issued while 4,615 were refused, accounting for a staggering refusal rate of 91.8 per cent. Uniform short stay visas, also referred to as 'C' visas, entitled the holder to stay in the territories of all Member States for a maximum of 90 days in a period of 180 days. Such visas could be issued for the purpose of a single entry or multiple entries to the territories of Member States. Of the 405 visas issued by the Maltese Consulate in Algiers, 144 (35.6 per cent) were multiple entry uniform visas. The remaining 260 were single entry visas, while another visa was issued for a short stay visa with limited territorial validity. The latter entitles the holder to stay only in the territory of the Member State for which the visa is valid.<sup>4</sup>
- 3.1.2** Integral to the processing of this volume of visa applications is the work of several government agencies, involved in the administration of visa application, approval and issuance. Principal in this respect are the CVU within Identity Malta, the MFTP through its missions and representations abroad, and the Police.
- 3.1.3** The CVU, formerly the Schengen Implementation Unit, was originally set up in 2004. At the time, the remit of the CVU comprised the introduction of all legal, organisational, operational, practical and technical conditions relating to the issuance of visas, particularly in view of preparations then underway for Malta's integration in the Schengen area in December 2007. Since then, the CVU assumed the role of Government's immigration central authority, responsible for the implementation of the provisions of the Schengen acquis. The Unit was to ensure that the EU visa policy was implemented through the proper functioning of the visa issuing procedures in all of Malta's diplomatic missions and consular posts.
- 3.1.4** The CVU operates in collaboration with consular offices and the Immigration Police with regard to the authorisation of visa issuance to third-country nationals who require such entry clearance. Other functions include support and surveillance of Malta's missions in relation to visa issues. Furthermore, the CVU provides information to the public regarding visa requirements and procedures, authorises requests from applicants lodging a visa application, and extends visas within the territory.

<sup>4</sup> Figures as cited on [https://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/visa-policy\\_en#stats](https://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/visa-policy_en#stats), accessed on 14 November 2018.

3.1.5 In the case of the Maltese Consulate in Algiers, the CVU had, for a time, provided additional assistance in the issuance of visas. This was largely due to the fact that no staff were deployed at the Consulate between November 2013 and March 2014. Such assistance was extended from March 2014 to July 2014, when the Consulate's staff complement comprised solely the Consul. Subsequently, as from 1 August 2014, a locally engaged person (LEP) was engaged as an Executive Assistant, thereby partly relieving the level of support afforded by the CVU. It was in this context that, for a limited period, inputting and checking generally carried out by a consulate's employees were undertaken by the CVU. Notwithstanding this, the CVU asserted that checking was based solely on the information available on the scanned applications as furnished by the VFS.

3.1.6 Consular staff are, inter alia, responsible for examining and taking decisions on visa applications in accordance with the EC's common visa policy, which regulates the issuance of visas for transit through or intended stays in the territory of the Member States not exceeding three months in any six-month period. Essential in this respect is the need to, on the one hand, be vigilant in order to detect persons posing a risk to public policy and internal security, as well as potential illegal immigrants and, on the other hand, to ensure the smooth handling of visa applications submitted by persons who fulfil the entry conditions.

3.1.7 The Police routinely carry out immigration checks across Malta in order to verify the legality of persons present. According to the Police, these include verifications on the conditions of visas. Reported in the Police departmental annual report for 2016-2017 was that the visa-on-line system ensured that the process of visa application was in line with the regulations of the EU. Moreover, an ad hoc unit within the Immigration Unit dealt with part of the process of visa issuance and assisted the CVU in this regard. According to the report, hundreds of visas were vetted daily for eventual processing by the respective consulates or by the authorities responsible at external borders.

## 3.2 Visa Eligibility and Application

3.2.1 Third-country nationals could enter and travel within the EU for a period of up to three months provided they fulfilled the entry conditions. Admission to Malta, through the external borders of the Schengen area, was only permitted to third-country nationals who:

- a. were in possession of a valid travel document (passport) or recognised equivalent travel document permitting them to cross the border;
- b. were in possession of documents substantiating the purpose and the conditions of the planned visit to Malta, and had sufficient means of support, both for the period of the planned visit and return to their country of origin, or for transit to a third country;
- c. were in possession of a valid entry or transit visa, if required;

- d. had not been prohibited to enter through an alert on the Schengen Information System (SIS); and
- e. were not considered a threat to public policy, national security or the international relations of any other Schengen State, under Maltese law or the law of another Schengen State.

3.2.2 If any one of the above conditions was not met, the third-country national could be denied entry by the border authorities, even if in possession of a valid entry or transit visa. Nationals of certain third countries could enter the Schengen area on presenting their passports, provided they fulfilled the entry conditions specified above. Nationals of other third countries were required to have a visa, as in the case of Algerian nationals.

3.2.3 Since 2004, Malta concluded five representation arrangements for the purpose of Schengen visa issuance with the Schengen Member States of Austria, Italy, Spain, France and Germany. These representation agreements allowed third country nationals, who intended to travel to Malta and required a visa for entry, to apply for such a visa with the diplomatic representations of these Member States, in view of the fact that Malta did not have a presence in the country where the application was being lodged.

3.2.4 Regulation 810/2009 of the European Parliament and the Council, dated 13 July 2009, established a Community Code on Visas (hereinafter the Visa Code), which came into force on 5 April 2010. The Visa Code set out the procedures and conditions for the application for and issuance of short stay visas to third country nationals, having a maximum duration of three months in any six-month period, as well as the transit through Member States of the EU.

3.2.5 According to the Visa Code, applications were to be examined and decided on by the consulates; nonetheless, the involvement of other authorities and consultation or exchange of information with other Member States could be required. In the exceptional cases where visas were issued at external borders, applications could be examined and decided on at the borders by the responsible authorities.

3.2.6 In the case of a uniform visa, the competence for the examination and decision on an application rested with:

- a. the Member State whose territory constituted the sole destination of the visit;
- b. where more than one destination was involved, the Member State whose territory constituted the main destination of the visit on the basis of length or purpose of stay; and
- c. if no main destination could be determined, the Member State whose external border the applicant intended to cross.

Therefore, for a uniform visa, third party nationals were to apply for a visa at the consulate of the applicable Member State as indicated above.



- 3.2.7 Stipulated in the Visa Code was that an application was to be examined and decided on by the consulate of the Member State in whose jurisdiction the applicant legally resided. Applications presented by third country nationals who were legally present but not resident in the jurisdiction were assessed only if the applicant provided justification for lodging the application at that consulate.
- 3.2.8 Applicants were to lodge their application no earlier than three months before the date of the intended visit. In the case of multiple entry visa holders, applicants were to apply prior to the expiry of their visa. Where an appointment was required, as a rule, the appointment was to take place within two weeks from the date of request. However, the Visa Code provided consulates with the discretion to allow applicants to lodge their application without an appointment, or give an immediate appointment in justified cases of urgency. Applications could be lodged at the consulate by the applicant and accredited commercial intermediaries, or through external service providers, as provided for in the Visa Code.
- 3.2.9 Generally, applicants were to appear in person when lodging an application, but consulates could waive this requirement when the applicants were known to them for their integrity and reliability. Applicants were to submit a duly filled application form, prove possession of valid travel medical insurance with a minimum coverage of €30,000, as well as a travel document whose validity extended to at least three months beyond the intended departure date from the territory of the Member State. Furthermore, the travel document was to contain at least two blank pages and was to have been issued within the previous ten years. In terms of the Visa Code, applicants were to allow for the collection of biometric identifiers, namely fingerprints and a photograph, scanned or taken at the time of application. Applicants were to pay the respective visa fee and provide all the supporting documentation.
- 3.2.10 Supporting documentation required with respect to an application for a uniform visa included documentation:
- a. indicating the purpose of the journey;
  - b. in relation to accommodation or proof of sufficient means to cover accommodation;
  - c. evidencing that the applicant possessed sufficient means of subsistence for both the duration of the stay and the return to the country of origin/residence, or for the transit to a third country to which admission was certain, or that such means could be acquired lawfully; and
  - d. enabling an assessment of the applicant's intention to leave the territory of the Member State before the visa applied for expired.

Nonetheless, any one or more of the above requirements could be waived by consulates where applicants were known for their integrity and reliability, particularly the lawful use of previous visas.

- 3.2.11 In the case of airport transit visas, that is, visas valid for transit through the international transit areas of one or more airports of the Member States, documentation provided was to indicate the onward journey to the final destination after the intended transit. Documentation presented was to enable assessment of the applicant's intention to leave the territory of the Member State before the expiry of the visa applied for.
- 3.2.12 Member States could further require applicants to present proof of sponsorship and/or private accommodation. The form was to be completed by the applicant, indicating:
- a. whether its purpose was a proof of sponsorship and/or accommodation;
  - b. whether the host was an individual, a company or an organisation;
  - c. the host's identity and contact details;
  - d. invited applicant or applicants;
  - e. the address of accommodation;
  - f. the length and purpose of stay; and
  - g. possible family ties with the host.

The Visa Code included a further non-exhaustive list of supporting documents, which consulates could request from the applicants.

- 3.2.13 With regard to visa fees, the Visa Code specified a fee of €60, while a fee of €35 was applicable for children between six and eleven years of age. When charged in a currency other than euro, the amount due was to be based on the euro foreign exchange reference rate set by the European Central Bank. While consulates could round up the fee, similar fees were to be charged by the different consulates. Furthermore, set fees were to be revised regularly in order to reflect the changes in the exchange rate and administrative costs. Visa fees paid were to be covered by a receipt, given to the applicant on payment. The Visa Code also specified circumstances where the visa fee was to be waived. Moreover, consulates had the discretion to waive the visa fee for children between six and eleven years of age, participants up to twenty five years of age attending seminars, conferences, sports, cultural or educational events organised by non-profit organisations, and holders of diplomatic and service passports. However, the Visa Code also promoted a harmonised application of exemptions by Member States within local Schengen cooperation.

### 3.3 Visa Processing and Issuance

- 3.3.1 According to the Visa Code, Member States should be present or represented in all third countries whose nationals were subject to visa requirements. Where a Member State was

represented by another Member State, applications submitted were to be forwarded to the authorities of the represented Member State when contemplating the refusal of a visa, in order for a final decision to be taken. Representation arrangements were to be governed by a bilateral agreement between the two Member States. Details were to include the duration of the arrangement, as well as the provision of premises, staff and payments by the represented Member State. The agreement could also authorise the consulate of the representing Member State to refuse to issue a visa after the examination of the application. The represented Member State was to inform the EC of such representation arrangements or termination thereof before these became effective.

- 3.3.2 Further specified in the Visa Code was that while Member States could co-operate with an external service provider, such cooperation was to be based on a legal instrument stipulating the exact responsibilities of the external service provider. Also to be specified were provisions regarding the direct and total access to the external service provider's premises, information for applicants, confidentiality and the circumstances, conditions and procedures for the suspension or termination of the cooperation. Nonetheless, irrespective of any such cooperation, Member States were to maintain the possibility for applicants to lodge applications directly at the diplomatic mission or consular post.
- 3.3.3 The Visa Code also specified that, due to the registration of biometric identifiers in the Visa Information System (VIS)<sup>5</sup>, the applicant was required to appear in person at least for the first application. For subsequent requests, lodged within a period of 59 months from the first entry into the VIS, it was possible for the biometric data already collected to be utilised and thereby facilitate the visa application process.
- 3.3.4 As a rule, the visa fee was non-refundable; however, when the application was deemed inadmissible, the visa fee together with the application form and all other supporting documentation were to be returned to the applicant. Any biometric data collected was to be destroyed. Inadmissibility arose in any of the following circumstances:
- a. the application was lodged more than three months before the intended visit;
  - b. the application was not duly filled and signed;
  - c. no travel document was provided;
  - d. no photograph was provided;
  - e. no biometric data was collected; and
  - f. the visa fee was not paid.

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<sup>5</sup> The VIS was established by Council Decision 2004/512/EC of 8 June 2004 as a system for the exchange of visa data between Member States. Furthermore, Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 defined the purpose, the functionalities and responsibilities for the VIS, and established the conditions and procedures for the exchange of visa data between Member States to facilitate the examination of visa applications and related decisions.

- 3.3.5 Where a consulate engaged an external service provider, the latter could charge an additional fee, provided that this was specified in the agreement entered into. The fee was to be proportionate to the costs incurred by the service provider; however, it was not to exceed half of the visa fee (€60 or €35) levied.
- 3.3.6 Applications deemed to be admissible by the competent consulate were to be processed in line with the procedures stipulated in the VIS regulations and data was to be recorded in the VIS by duly authorised consular staff, as per the provisions of the same regulations. The applicant's travel document, other than a diplomatic, service/official and special passport, was to be duly stamped.
- 3.3.7 Examination of uniform visa applications was to be undertaken in order to ascertain whether the applicant satisfied the entry criteria set out in the Schengen Borders Code. Particular attention was to be given to the risk of illegal immigration, the risk to the security of the Member States, and whether the applicant intended to leave the Member State's territory before the expiry of the visa applied for. Also specified was that checks were to comprise verifications that the travel document presented was not false, counterfeit, or forged. Moreover, checks were to ascertain that applicants had sufficient means of subsistence, justification for the purpose and conditions of the intended stay and were in possession of adequate and valid travel insurance. Furthermore, verifications undertaken were intended to provide assurance that applicants were not considered a threat to public policy, internal security, public health or internal relations, or were associated with any alerts issued in the SIS for the purpose of refusing entry.
- 3.3.8 Also stipulated in the Visa Code was that, where applicable, the consulate was to verify the length of previous and intended stays in order to ensure that the applicant did not exceed the maximum duration of any authorised stay in the territory of the Member State. Verifications undertaken by consulates with respect to airport transport visas were to ascertain that the travel document was not false, counterfeit or forged, provided proof of onward journey to the final destination, indicated the departure and destination points of the applicant and ensured coherence of the intended itinerary and airport transfer.
- 3.3.9 The Visa Code specified that while the examination of the application was based mainly on the authenticity and reliability of documentation submitted, together with the veracity and reliability of statements made by the applicant, consulates could, in justified cases, call the applicant in for an interview and request additional documentation. Further stipulated was that every new application was to be assessed separately and a previous refusal was not to lead to an automatic refusal of a new application.
- 3.3.10 In instances where the examination of applications entailed consultation with central authorities of other Member States, the latter were to provide a reply within seven calendar days from the request. Failure to reply within this timeframe would mean that there were no grounds for objecting to the issuing of the visa.

- 3.3.11 Decisions on admissible applications were to be provided within 15 calendar days from the date of application. In cases where further scrutiny of the application was required, or in the case of representations requiring consultations with the authorities of the represented Member State, the deadline could be extended up to a maximum of 30 calendar days from the lodging of an application. In exceptional cases, where additional documentation was required, the decision period could be extended up to 60 calendar days after the application was made. The outcome of the decision process would determine whether a uniform visa was to be issued, whether a visa with limited territorial validity was to be granted, or whether a visa was to be refused or the examination of an application discontinued.
- 3.3.12 In the case of a uniform visa, the visa's validity period and length of authorised stay were to be based on the examination conducted, but were not to exceed five years. Additionally, the validity period was to include a further 'period of grace' of fifteen days; however, Member States could forego the period of grace for reasons of public policy or international relations of any of the Member States. The length and authorised stay in case of transit was to correspond to the time required for such transit. Airport transit visas were valid for transitions through international transit areas of airports situated in the territory of Member States. Multiple airport transport visas were to be issued with a maximum validity period of six months.
- 3.3.13 A visa with limited territorial validity was to be issued only in exceptional cases, where a Member State considered it necessary on humanitarian grounds, due to international obligations, or for reasons of national interest to:
- a. issue a visa despite an objection to the issue of a uniform visa;
  - b. issue a visa for reasons of urgency even though consultation was not carried out; and
  - c. derogate from the entry conditions stipulated in the Schengen Borders Code.

The consulate could also authorise a visa where, for justified reasons, a new visa was required for an applicant who, over the six-month period, was already provided with a uniform or limited territorial validity visa allowing a three-month stay.

- 3.3.14 In accordance with the Visa Code, the visa was to be refused if:
- a. the travel document presented was false, counterfeit or forged;
  - b. no justification was provided for the purpose and conditions of the intended stay;
  - c. no proof of sufficient means of subsistence was provided;
  - d. the applicant had already stayed for three months in the territory of the Member State during the current six-month period on the basis of a uniform visa or a visa with limited territorial validity;

- e. an alert had been issued in the SIS for the purpose of refusing entry to the applicant;
- f. the applicant was considered to be a threat to public policy, internal security or public health; or
- g. no proof of valid and adequate travel medical insurance was provided.

3.3.15 A visa could also be refused if there were reasonable doubts as to the authenticity of the supporting documents submitted or the veracity of their contents, as well as the reliability of the applicant's statements or the intention to leave the territory of the Member State before the expiry of the visa. In cases of refusal, the consulate was to inform the applicant of the decision taken, which decision could be appealed by the latter.

3.3.16 The Visa Code stipulated that all entries on the visa sticker, that is the uniform format for visas, were to be printed and no manual adjustments were to be made to the printed sticker. Manual filling of the visa sticker was only permitted in the case of a technical force majeure, and no changes were allowed to a manually filled visa. Nevertheless, the manually recorded information was still to be logged in the VIS.

3.3.17 Further specified in the Visa Code was that a sufficient number of appropriate staff were to be allocated for the examination of applications, ensuring reasonable and harmonised quality of service. Member States were to provide adequate training to expatriate and locally employed staff. Furthermore, Member States were to ensure regular monitoring of the application examination process, taking corrective measures where deviations were detected.

3.3.18 With respect to cooperation with external service providers, the Visa Code stipulated that external service providers were not to have access to the VIS under any circumstances, with such access being reserved solely for authorised consular staff. Tasks comprising the examination of applications, interviews, decisions and the printing and affixing of visa stickers were also restricted to the consulate's employees. Tasks entrusted to the external service provider could include the:

- a. provision of general information on visa requirements, application forms and the required supporting documentation;
- b. collection of data, applications, visa fees, biometric identifiers, and transmission thereof to the consulate;
- c. management of appointments for appearance in person at the consulate or the premises of the external service provider; and
- d. collection of travel documents, including refusal notices where applicable, and the return of same to applicants.

3.3.19 Member States were to provide training to the external service provider and monitor closely the implementation of the contract between the two parties, particularly the areas relating to general information on visa requirements and application forms, the technical and organisational security measures required to protect personal data, collection and transmission of biometric identifiers, and the measures taken to ensure compliance with data protection provisions. Moreover, the consulate of the Member State concerned was to carry out spot checks on the premises of the external service provider on a regular basis.

3.3.20 The Visa Code allowed for the cooperation between Member States and commercial intermediaries for the lodging of applications, except for the collection of biometric identifiers. Such cooperation was to be based on the granting of an accreditation by the Member States' relevant authorities. The accreditation process involved verification of the following aspects:

- a. the current status of the commercial intermediary, including current licence, commercial register and contracts with banks;
- b. existing contracts with commercial partners based in the Member States offering accommodation and package tour services; and
- c. contracts with transport companies, including an outward journey and a guaranteed and fixed return journey.

3.3.21 Regular spot checks on accredited commercial intermediaries were to be carried out. Such checks were to involve personal or telephone interviews with applicants, confirmation of trips and accommodation, verification that travel medical insurance provided was adequate and covered individual travellers, and the review of documents relating to group return when deemed necessary. Information on the performance of accredited commercial intermediaries concerning irregularities detected and refusal of applications submitted by the intermediaries, as well as identified travel document fraud and the non-performance of scheduled trips, was to be exchanged within local Schengen cooperation. Information indicating commercial intermediaries accredited and those whose accreditation had been withdrawn, together with consulates granting such accreditation and the reasons for accreditation withdrawal, were also to be exchanged within the local Schengen cooperation. In addition, consulates were to ensure that the public was informed of the commercial intermediaries with which it operated.

3.3.22 The Visa Code also listed the information which Member States' central authorities were required to provide to the public in relation to visa applications. This included:

- a. the criteria, conditions and procedures related to visa application;
- b. the means of obtaining an appointment, where applicable;
- c. details of where the information was to be submitted;

- d. accredited commercial intermediaries;
- e. the proviso that the stamp indicating the admissibility of the application had no legal implications, and that the mere possession of a visa did not confer an automatic right of entry, with holders requested to prove fulfilment of entry criteria at external borders;
- f. timeframes for the examination of applications;
- g. the stated obligation that applicants would be notified of negative decisions, including the reason for refusal and the right to appeal, together with the procedure applicable in cases of appeal; and
- h. the third countries whose nationals were subject to prior consultation.

**3.3.23** Other provisions included in the Visa Code comprised the compilation of statistics, which were to be submitted by Member States on an annual basis. Other conditions related to local Schengen cooperation between the consulates of Member States, including the exchange of information and cooperation meetings aimed at ensuring a harmonised application of the common visa policy. The Visa Code also included the requirement for the setting of operational instructions on the practical application of the Code. As a result, the 'Handbook for the processing of visa applications and the modification of issued visas' was introduced in July 2014.

**3.3.24** The handbook provided guidance, through operational instructions, to officers of Member States responsible for examining and deciding on visa applications and modifying issued visas. The handbook incorporated relevant European legislation regulating the issuance of transit visas for the Member States' territory for stays not exceeding three months within any six-month period. Also specified in the handbook was that, where no clear guidance was provided, visa applications were to be processed in line with the provisions of the Common Visa Policy. In essence, the Common Visa Policy comprised a set of harmonised rules setting out eligibility provisions, the procedures and conditions for the issuance of visas, a uniform format for visa stickers and the VIS.



# Chapter 4

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## Visas Processed by the Maltese Consulate in Algiers

### 4.1 The role of VFS GCC LLC Global

4.1.1 Specified in the Visa Code was that Member States could co-operate with an external service provider for the collection and lodging of applications. This created a derogation from the general rule that an applicant must appear in person at a diplomatic mission or consular post. Nonetheless, in terms of the Visa Code, such cooperation was to be based on a legal instrument entered into by the parties. The legal instrument was to contain provisions regarding the exact responsibilities of the external service provider, the direct and total access to its premises, information to be made available to applicants, confidentiality, as well as the circumstances, conditions and procedures for suspending or terminating the cooperation.

4.1.2 Through an agreement dated 24 February 2014, the MFA, as the contracting authority, engaged VFS, a specialist business process outsourcing agency set up to provide services to missions and consulates, to operate visa service centres at Algiers and Oran. This allowed for the submission of applications direct to the Maltese authorities in Algeria, rather than through a representative Member State. In terms of this agreement, VFS was to:

- a. set up the Malta Visa Application Centres, which were to be allocated the appropriate number of trained staff, and provided with IT equipment, reliable communication services and surveillance systems;
- b. provide service to the general public from Sunday to Thursday (excluding public holidays), between 09:00 hrs and 16:00 hrs;
- c. receive visa applications from individual applicants as well as accredited commercial intermediaries, and record applicants' data into the VFS' database for passport tracking and accounting purposes;
- d. ensure that applications were complete, duly signed and supported by all required documentation, but refrain from refusing any applications even if incomplete;
- e. collect biometric data (fingerprints and a facial image) for each applicant;
- f. collect the applicable visa fee on behalf of the MFA, issue receipts covering such income and forward the fees to the bank account of the Ministry on a weekly basis;

- g. enter application details, append biometric data and scan documents onto a web-based Malta visa application system provided by the MFA;
- h. deliver applications accepted during the day to the MFA by 10:00 hrs of the following day, and collect from the Ministry processed passports for return to applicants together with the application decision;
- i. process application forms other than visa applications as required by the MFA or its representative;
- j. provide a daily manifest with details of all applications processed during the day;
- k. operate an appointment scheduling system enabling the creation of a slot capacity based on date, time and visa type, free of charge, and operate the same system for applicants wishing to lodge their applications directly at the Consulate;
- l. carry out monthly meetings with the MFA or its representative;
- m. provide small office facilities for representatives of the Consulate;
- n. provide, without additional charge, a helpline and email service offering voice and written response to visa applicants' queries, as well as video conference facilities to facilitate the interviewing process; and
- o. provide a dedicated website containing general information on visa regulations and procedures, and disseminate promotional material relating to Malta provided by the MFA or its representative.

4.1.3 Further to the above, the VFS and the MFA were to draw up Local Operations Procedures, which were to cover all routines carried out in the provision of the service. Stipulated in the agreement was that the Procedures were to be documented and signed by the two parties within four weeks from signing and were to form an integral part thereof. The VFS was to abide with the provisions stipulated in the Procedures in its daily operations.

4.1.4 In return for its service, the VFS was entitled to charge applicants a service fee in addition to the application fee levied. The service fee was €28 per application submitted. Other allied services, comprising but not limited to courier and text messaging service, could also be provided by the VFS. Fixed rates were to be charged for these optional services as established in the agreement.

4.1.5 The MFA and the VFS also agreed that when specific personnel were identified to perform a service, they were not to be replaced without the Ministry's written consent. No sub-contracting of any part of the visa application process was allowed, limiting sub-contracting to ancillary duties such as cleaning, physical security, technical support and courier service.

4.1.6 Further stipulated in the agreement were the circumstances that would render the service defective, specifying penalties to be imposed. The penalty was to be proportionate to the frequency of errors in any one month and the severity of the defects. Penalties were to range from €100 for 10 to 20 errors, €250 for 21 to 25 errors and €500 for more than 25 errors. Considered as errors were instances when:

- a. an application had omitted fields and/or was not signed by the applicant;
- b. mandatory documentation was not attached with the application;
- c. biometric data, data inputting of mandatory fields and/or the scanning of the application file was erroneous or incomplete;
- d. an incorrect visa fee was charged;
- e. incorrect information was provided via telephone or email;
- f. excessive wait-time for applicants; and
- g. the Failure to Enrol Rate for the month exceeded three per cent.<sup>6</sup>

4.1.7 Also specified in the agreement was that the MFA reserved the right to:

- a. allow applicants to submit applications directly to the consular premises or that of its representative, that is, the VFS. The MFA reserved a minimum of five applications per day to be lodged at the consular premises, with a wait period not exceeding ten calendar days, and a further five applications without any wait period for special cases;
- b. interview any applicant and request the VFS to make the necessary appointment arrangements;
- c. source further documentation and request the VFS to notify the applicant and facilitate the delivery of such documentation; and
- d. carry out security checks on all employees working at the Malta Visa Application Centre and carry out inspections without prior notice.

4.1.8 The agreement was for a period of one year from the date of its entry into force, and was therefore to expire on 23 February 2015. However, the NAO established, following queries raised with the MFA, that its provisions remained in force until the signing of the new agreement entered into on 17 March 2015.

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<sup>6</sup> The Failure to Enrol Rate refers to the percentage of the population that fails to complete enrolment through a biometric solution or application. Such failure may be attributable to physical differences, lack of training, environmental conditions or ergonomics.

- 4.1.9** The new agreement was entered into between the Maltese Consulate in Algiers and the VFS for the provision of visa services. Bar minor differences, this agreement was similar to that entered into on 24 February 2014. One significant change was that the VFS was now solely engaged to operate the Visa Service Centre in Algiers. The NAO confirmed that the visa centre originally proposed in Oran was not opened at the time. Another change entailed that the VFS was now required to also receive visa applications from commercial intermediaries duly accredited by the Consulate. In this respect, the Consulate was to provide the VFS with a list of commercial intermediaries and personnel authorised to deliver applications on their behalf. An addition to the new agreement related to dispute resolution, which now required that any dispute or difference between the parties be first resolved amicably by conciliation. If unresolved, disputes were to be referred to arbitration, consisting of a sole arbiter appointed by the parties.
- 4.1.10** It is to be noted that prior to the agreements with the VFS, that is prior to 24 February 2014, Malta was represented by France in Algiers and Oran. A bilateral agreement dated 14 February 2011 confirmed France's representation of Malta with respect to short-term Schengen visas, and set out the terms of the representation. The bilateral agreement commenced on the entry into force of the Visa Code on 5 April 2010 and could be terminated through a reciprocal exchange of Notes Verbales between France and Malta. On confirmation of the VFS agreement in February 2014, consular representation for Algiers was suspended in May 2014, while that for Oran remained since the Oran visa application centre envisaged in the initial agreement with the VFS did not materialise at the time. The MFTP indicated that there were several reasons why the Oran centre was not opened immediately. Primarily, the Consulate was not confident of a seamless service since some issues in Algiers were still to be addressed. Moreover, concerns regarding the lack of trained staff in Oran and the premises persisted. However, according to the MFTP, the VFS service in Oran has since become operational.

## **4.2 The Visa Process at the Maltese Consulate in Algiers**

- 4.2.1** The NAO sought to establish the visa issuance process employed at the Maltese Consulate in Algiers during the period under review, that is, March 2014 to September 2015. To this end, this Office sought information from the MFTP relating to the lodgement of applications and the subsequent internal processing that took place leading to the issuance, or otherwise, of a visa. The NAO sought to ascertain the stakeholders involved and their respective responsibilities, the systems utilised, the procedures in place, the information retained and other aspects deemed central to the processing of applications.
- 4.2.2** According to the MFTP, the process followed in Algiers was predominantly similar to that in other missions. In the case of Algiers, applicants could submit their application either at the VFS or at the Consulate; nonetheless, submission at the VFS was encouraged. A somewhat different perspective was provided by the Consul in submissions made to the NAO, who asserted that applications were invariably lodged with the VFS. This was attributable to the fact that the Consulate lacked the equipment necessary to process applications, essential in capturing photographic and biometric data. Consequently, all applications were lodged through the VFS.

This understanding was confirmed by the NAO, with all applications reviewed in fact submitted through the VFS.

4.2.3 On its part, the VFS was to ensure that all required documentation was provided with the application. The VFS was also to obtain the applicant's biometrics, that is, a photograph and fingerprints, stamp the application form indicating the date when handed in, and collect the relevant service and visa fees. The application and relevant documents were then to be scanned and uploaded into the Malta Visa System.<sup>7</sup> The hard copy applications and the passports were to be delivered to the Consulate by 10.00 hrs of the next business day.

4.2.4 The Maltese Consulate in Algiers would ensure that the details inputted in the Malta Visa System tallied with the documentation provided, and would subsequently import the data into the National Visa System. This process was generally carried out by the LEP engaged by the Consulate. In its verifications, the Consulate would also ascertain that the proper visa fee was charged. At this stage, the Consul or the LEP would initiate the due diligence process, which occasionally involved interviews with applicants. Once processing by the Consulate was completed, the application would be referred for the consideration of the Malta Security Service and the Police. Should the application necessitate consultation with other EU Member States, an automated process within the system would send specific triggers, allowing a seven-day timeframe for the receipt of feedback. Having gone through these processes, the application would be ready for the final decision to be taken by the Consul. In case of a favourable decision, a sticker would be printed and affixed to the passport. In case of a rejection, a refusal letter would be issued. The passport, the official receipt and the visa decision were subsequently sent to the VFS in a sealed envelope for either collection by the applicant, or delivery thereto. According to the MFTP, once a visa was issued, it was not followed up unless specific information that warranted its cancellation was received at the Consulate.

### 4.3 Draft Evaluation Report by the European Commission on the Maltese Consulate in Algeria

4.3.1 Council Regulation (EU) No. 1053/2013 dated 7 October 2013 established an evaluation and monitoring mechanism for the verification of the application of the Schengen acquis through a multi-annual and a more detailed annual evaluation programme. In this respect, an evaluation of Malta's application of the common visa policy at the Maltese Consulate in Algiers was carried out by Commission and Member State experts between the 26 and 30 September 2016.

4.3.2 Stated in the report was that 10,455 short-stay visas were processed by the Maltese Consulate in Algeria in 2015. This represented an increase of 57 per cent when compared to the 2014 figure, reflecting the rising trend in applications for Schengen visas lodged at Member States' consulates in Algeria, up by 24 per cent between 2014 and 2015. However, the volume of applications declined significantly in the first nine months of 2016, with only 1,353 applications

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<sup>7</sup> The Malta Visa System formed part of the Visa Management System, the visa system then in use at all embassies. This has now been superseded by the VIS.

lodged. In 2015, the refusal rate by the Maltese authorities was 64.9 per cent, increasing from the 46.6 per cent registered in 2014. This was significant when compared with the average refusal rate for all Member States present in Algeria, which stood at 26.9 per cent. It was further reported that Malta's refusal rate increased to 80.6 per cent between January and September 2016, the highest rate registered among all Member States' consulates worldwide.

- 4.3.3 According to the report, on most essential aspects Malta's application of the common visa policy complied with the provisions of the Visa Code and related legislation. The review did not identify any violation of key principles or rules; however, certain practices adopted by the VFS, particularly relating to data protection, were deemed not in line with legal requirements, in particular the Visa Code and VIS Regulations. On the other hand, other aspects were considered good practice, while the scrutiny applied to first time applicants was deemed to be generally appropriate.
- 4.3.4 Notwithstanding this, the report highlighted several shortcomings related to the VFS. According to the report, despite several attempts, the experts could not reach the VFS. Telephone calls were automatically disconnected as soon as the desired language was selected, while emails were returned with an automatic message indicating that the mailbox was full and could not accept new messages. It was also reported that, while according to the Visa Code all applicants could lodge their application directly at the Consulate, a notice on the VFS notice board stated that only spouses of EU nationals could do so. Moreover, the list of supporting documents required posted on the notice board was only in French, while the data protection notice was only in English. Furthermore, inconsistencies were noted in terms of the required supporting documentation when comparing the French and English version of the VFS website, which further differed from the checklist posted on the notice board. It was also reported that the scheduling of appointments was only possible through the English language version of the VFS website, with the French language version delivering an error message. With regard to the premises, the experts noted that the counters at the visa application centre operated by the VFS were close to each other, impinging on the privacy of neighbouring applicants. It was also noted that when inputting the alphanumeric application data into the Visa Management System, not all the required fields were being filled in by the VFS or the Consulate, as the case may be. The experts concluded that the above matters necessitated improvement.
- 4.3.5 Also stated in the report was that a very rigid approach was adopted with respect to the examination of applications, evidenced by the exceptionally high refusal rate that, between January and September 2016, was the highest among all consular locations worldwide that regularly received applications for short-stay visas. Nonetheless, the Consulate focused more on the assessment of accommodation in Malta rather than the assessment of the applicants' will to return to Algeria. Attention was also drawn to the low proportion of long validity multiple entry visas issued.
- 4.3.6 The review revealed aspects that were deemed non-compliant with the provisions of the Visa Code and the VIS Regulations, namely:

- a. the retention of data by the VFS. Based on instructions by the Maltese authorities, the VFS was retaining data, including scanned passports and biometric data, for a period of 15 days following its transmission to the Consulate despite the fact that this should have been deleted immediately after transmission, in line with the provisions of the Visa Code;
- b. divergent lists of required supporting documentation. The checklist used internally by the VFS differed from that posted on the public notice board. The checklist also differed from the harmonised list of supporting documents applicable to Algeria;
- c. the collection of fingerprints. Notwithstanding the fact that according to the provisions of the Visa Code the collection of fingerprints was only required once every 59 months, applicants' fingerprints were being collected with every application;
- d. the non-linking of applications by the same applicant and persons travelling together. Despite the facility to easily link applications by the same applicants, the experts noted that, in breach of Article 8(3) of the VIS Regulations, this was not being carried out;
- e. delays in the creation of the application file in the VIS. The experts noted that applications in the VIS were only created once the application was validated in the Visa Management System, and this only took place once when the application was complete; therefore, missing documentation or interviews resulted in a delay of several days in the creation of the application in the VIS. This was in breach of Article 8(1) of the VIS Regulations;
- f. limitations of the Visa Management System. This System only allowed the issuance of visas to Malta, thereby not providing the possibility to issue visas to the territory of several Member States, which shortcoming was in breach of the Visa Code. It also transpired that staff were not aware that, in certain circumstances, visas with limited territorial validity were to be issued; and
- g. the data retention policy. It was noted that although Malta had a five-year storage policy for visa data in the national system, applications were not being automatically deleted on the five-year expiry but were instead purged twice a year with the consequence that applications were at times being retained beyond the established time limit.

#### 4.3.7 Other aspects deemed compliant but necessitating improvement related to:

- a. the website of the Consulate, which was only in English and did not provide any information on the setting of appointments directly with the Consulate;
- b. the Consulate's monitoring of the VFS; while announced and unannounced visits were carried out by the Consulate, no written records were retained of the outcome of inspections;

- c. cooperation with other Member States' consulates, where very limited day-to-day contact on visa issues with other Member States was noted, other than the regular meetings of the local Schengen cooperation;
- d. visa-shopping applicants, where, although instances of this practice were detected, no procedures were in place as to how applications were to be handled where Malta was not deemed to be the competent Member State; and
- e. the IT system, which did not allow information to be modified by the Consulate once it was validated by the Consul, and did not allow for data to be copied into a new application. It also transpired that from the date that the data was entered into the Visa Management System until it was imported by the Consulate, it was visible to all Maltese Consulates, and all had access to import it for further processing. Once imported, data remained visible to all, but was locked for changes. The report also referred to the lack of a link between the Visa Management System and the searches in the SIS and national databases, highlighting that searches were conducted by the Police manually. The printing of the visa stickers was also referred to since these were printed from a PDF file through the regular print functionality of the workstation rather than the Visa Management System. Reference was also made to the VISMail functionalities that, despite being embedded in the IT system, were only used in particular instances.

#### **4.4 Requirements in terms of the Agreements between the MFTP and the VFS**

- 4.4.1 According to the agreements dated 24 February 2014 and 17 March 2015 between the MFTP and the VFS, the latter was to, inter alia, provide the Consulate in Algiers with a daily manifest with details of all applications processed during the previous day. As part of its review, the NAO sought to establish the number of visas processed daily during the period under review. Following requests by this Office to the MFTP, only manifests for the period March 2014 to February 2015 were forwarded. The NAO was informed that records covering March 2015 to September 2015 were not available.
- 4.4.2 Furthermore, in reply to a request by the NAO for a copy of the Local Operations Procedures, a requisite that also emanated from the agreement between the MFTP and the VFS, the Ministry indicated that no such documents were traced at the Consulate in Algiers with respect to the period under review. The lack of such procedures was made evident through an email dated 11 December 2014, wherein the LEP enquired with the CVU whether there was any document outlining visa procedures and regulations that she could follow. The only documents provided by the MFTP outlining standing operating procedures were dated 16 June 2016 and 28 September 2017, and were both endorsed by the current Consul. In view of this lacuna, the NAO asserts that, in breach of contractual obligations, no Local Operations Procedures or manuals were drawn up.



- 4.4.3 The MFTP was also not in a position to confirm whether monthly meetings, referred to in the 24 February 2014 agreement, were held during the tenure of the first Consul to Algiers, as no minutes were traced. Minutes made available covered the period from October 2015 onwards, confirming that meetings were being held between the VFS and the current Consul. Similarly, it could not be confirmed whether any inspections were held by the Consulate in terms of the agreement as, according to the MFTP, “there was no indication of what was happening under the previous Consul”. The MFTP further indicated that, under the current Consul’s tenure, such inspections were held sporadically, with any issues identified noted and discussed during the monthly meetings.
- 4.4.4 The NAO noted other issues of concern in terms of adherence, by the VFS, to the obligations emanating from the contracts entered into with the MFTP. These included the lack of accessibility to the call centre and the appointment service, the submission of wrong biometrics and incomplete documentation. These shortcomings were highlighted in the evaluation of Malta’s application of the common visa policy undertaken by the Commission and Member State experts in September 2016, as well as in various emails submitted to the Consul in Algiers by third parties. Notwithstanding this, no serious concerns were raised by the Consulate in Algiers. Despite the provisions contemplated in the agreement between the MFTP and the VFS, no penalties were imposed on the VFS. These issues are addressed in further detail in Chapter 7.

# Chapter 5

## The Engagement of Staff at the Maltese Consulate in Algiers

### 5.1 The Recruitment of Commercial Representatives and Consuls to North Africa

5.1.1 An article published on 12 April 2012 on the ME website, titled 'ME delegations explores opportunities in North Africa', made reference to a visit by a Maltese delegation to Algeria, intended to strengthen relations between the two countries. The delegation was joined by representatives of companies operating in Malta, among others, companies in the travel and tourism industry. The delegation attended a business seminar in Algiers and visited Oran, in view of its importance as one of the country's major ports and its role as the main commercial, industrial and educational centre of western Algeria. Ties between Algeria and Malta were further strengthened with the subsequent appointment of commercial representatives for North Africa and the setting up of a Maltese Consulate in Algiers in late 2013.

5.1.2 On 21 October 2013, following consultation with the Ministry for Finance (MFIN), the Public Administration Human Resources Office within the Office of the Prime Minister (OPM) granted approval to the ME for the engagement of three commercial representatives for North Africa, that is, for Benghazi, Misurata and Algiers. This initiative was to be undertaken jointly with the MFTP. The engagement was to be for a definite period of 36 months and applicants were required to either:

- a. be in possession of a degree in one of the following: diplomatic studies, finance or business administration, engineering, marketing, economics, trade, investment or a recognised comparable qualification, have knowledge of investment promotion practices and methodologies, and have a minimum of five years experience in a business promotion or related environment; or
- b. have an adequate command of the Arabic language, extensive hands-on knowledge of local business practices and institutions, as well as familiarity with relevant industries and experience of working on the ground in the countries concerned. Basic knowledge of economics and finance, as well as a minimum of five years experience in a similar environment was also required.

5.1.3 The annual salary was to be in the region of €30,000 to €36,000. A performance bonus of up to a maximum of 10 per cent, subject to a performance rating, was also payable. In addition, the selected candidate was to benefit from a car allowance amounting to €2,795, a communication allowance of €1,375 and a health insurance of €152, annually.

5.1.4 On 22 October 2013, the ME issued an internal call for applications for the filling of these positions. The closing date for applications was extended from 25 October to 29 October 2013. According to documentation submitted by the ME, the overall purpose of commercial representatives was to promote Malta and develop enhanced business relationships between Malta and the region assigned by identifying and extending business development opportunities for companies seeking to invest in the Maltese market and for Maltese companies seeking to grow their business in the region. The appointed commercial representatives were also responsible for carrying out consular duties.

5.1.5 Although the call for applications stipulated that, besides the duties of a commercial representative, the selected applicants were to perform consular duties, the extensive functions listed made scant reference to the consular duties involved. The duties outlined in the call for applications included:

- a. strategic planning and oversight of the daily management of the work of investment promotion in the region;
- b. the achievement of growth and performance targets outlined in the ME business plan;
- c. the recommendation and implementation of new strategic initiatives with regard to participation in the region's markets;
- d. the identification of investment opportunities for Malta;
- e. the targeting of potential foreign investors with a view to attract the setting up of manufacturing and/or service operations in Malta;
- f. the development of project proposals for investment and trade initiatives and the follow through thereof;
- g. the design and dissemination of investment and promotion-related literature to relevant stakeholders;
- h. the development of strong networking relationships with key government and private stakeholders within the region's markets as well as locally; and
- i. the acquisition of knowledge and the development of contacts within a portfolio of sectors by way of online research, company visits, seminars and trade fairs.

5.1.6 While the NAO acknowledges that an element of overlap does exist in the responsibilities of a commercial representative and that of a consul, the Office is of the understanding that the latter's role encompasses a broader array of functions that extend beyond the promotion of business. This understanding was based on documentation provided by the MFTP following

queries raised by the NAO in this regard. The MFTP provided this Office with the 'Vienna Convention of Consular Relations (1963)' which, among others, defined consular functions as:

- a. protecting in the receiving state the interests of the sending state and of its nationals, both individuals and bodies corporate, within the limits permitted by international law;
- b. furthering the development of commercial, economic, cultural and scientific relations between the sending state and the receiving state, and otherwise promoting friendly relations between them;
- c. ascertaining, by all lawful means, conditions and developments in the commercial, economic, cultural and scientific life of the receiving state, reporting thereon to the government of the sending state and giving information to persons interested;
- d. issuing passports and travel documents to nationals of the sending state, and visas or appropriate documents to persons wishing to travel to the sending state;
- e. helping and assisting nationals, both individuals and bodies corporate, of the sending state;
- f. subject to the practices and procedures in the receiving state, representing or arranging appropriate representation for nationals of the sending state before the tribunals and other authorities of the receiving state, for the purpose of obtaining, in accordance with the laws and regulations of the receiving state, provisional measures for the preservation of the rights and interests of these nationals; and
- g. performing any other functions entrusted to a consular post by the sending state which are not prohibited by the laws and regulations of the receiving state or to which no objection is taken by the receiving state or which are referred to in the international agreements in force between the sending state and the receiving state.

## **5.2 The Engagement of the Commercial Representative and Consul to Algiers**

**5.2.1** On 24 October 2013, an ME employee submitted his application for the vacancy of a Commercial Representative for North Africa, to be considered for the post in Algiers. According to the application, he had joined the ME in 2004. His work mainly related to trade promotion, where he was responsible for a number of overseas events organised by the ME, having led a number of trade delegations to countries in North Africa and the Middle East. The ME employee had also worked closely with Maltese embassies and consulates abroad, and with a number of foreign embassies in Malta. During his previous employment with the Institute for the Promotion of Small Enterprise, that is, from 1997 to 2003, he was mainly involved in relationship management.

- 5.2.2 According to the ME employee's curriculum vitae, he read for a masters degree in marketing at the Birmingham City University, United Kingdom. He had also obtained a postgraduate diploma in marketing from the Chartered Institute of Marketing, United Kingdom. According to the curriculum vitae, he had been a board member on the Malta Council for Science and Technology since 2013, having previously held the post of Relationship Manager for the agro-food industry between 2002 and 2008. The ME employee indicated that he was involved in the setting up of the Malta printing industry between 2002 and 2004. He had a knowledge of the English, Italian and French languages.
- 5.2.3 An interview was held on 12 December 2013 by a three-member interviewing board. The ME employee was awarded an average mark of 76.67 from a maximum of 100 marks and was considered suitable for the position of Commercial Representative for Algiers. No other applications were received for the post.
- 5.2.4 The ME entered into a contract of employment with the selected candidate on 16 December 2013. The contract, for the position of Commercial Representative for North Africa (Algeria), was for a definite term of three years from this date and was subject to a period of probation of one year.
- 5.2.5 The overall purpose of the position was defined as, 'The Commercial Representative for North Africa, acting jointly with the Ministry for Foreign Affairs, will be primarily responsible to promote Malta, promoting and developing enhanced business relationships between Malta and the region and for Maltese companies seeking to grow their business in the region. The Commercial Representative will also be responsible for carrying out consular duties.'
- 5.2.6 Also stipulated in the contract of employment was a list of general responsibilities relevant to the function and role of the Commercial Representative for North Africa (Algeria). These entailed:
- a. the provision of leadership and the development of a positive and team-oriented culture;
  - b. the drawing up of business plans relevant to the area of responsibility;
  - c. participation in the formulation, and contribution towards the achievement, of key performance indicators and targets;
  - d. the management and operation in line with corporate goals and objectives in support of the organisation's business and processes;
  - e. the evaluation of performance and the implementation of corrective measures for any lack thereof; and
  - f. consultation with senior management, particularly in the resolution of conflicts or

when dealing with issues and problems that are of a sensitive nature and/or of strategic importance.

5.2.7 For services rendered, the Commercial Representative for North Africa was to be remunerated as follows:

- a. an annual salary of €35,000, together with statutory bonuses and weekly allowances;
- b. a subscription by the ME to a Directors and Officers Liability Insurance Scheme covering the employer's liability in case of proved negligence, confirmed by a Court decision, on the part of the employer;
- c. a health insurance scheme subscribed to by the ME;
- d. up to €1,375 per annum as communication allowance in respect of the use of the employee's own mobile phone and home telephone number, as well as internet connectivity, so as to carry out official duties;
- e. an allowance of €2,795 per annum in respect of the use of the employee's personal car;
- f. a performance bonus ranging from one to ten per cent of the basic annual salary, depending on the achievement of the annual targets set by the ME;
- g. a foreign posting allowance of €25,000 per annum, payable pro rata on the last working day of each month, commencing on the employee's posting date and continuing to be so paid for the period during which the employee was posted in Algeria; and
- h. reimbursement of the cost of any flights, related accommodation in Algeria and communication expenses for services pre-approved by the ME, and which were to be claimed against receipts presented, in line with the ME Travel Policy and Communications Policy.

5.2.8 The contract stipulated that at least six months prior to the termination thereof, the employer and the employee were to notify each other in writing of their intention to enter into another term of contract of service or otherwise. If both parties agreed in principle to renew the contract, five months prior to the expiry of the term of the contract, the parties were to discuss the renewal thereof. In the event of renewal, the terms of contract could be revisited by mutual consent. If the contract was not renewed, the Commercial Representative could revert to the substantive grade of Manager, on an indefinite basis, at a salary commensurate to the highest salary scale of the Manager grade, and in accordance with the terms and conditions of employment applicable thereto.

5.2.9 Although the contract for the post of Commercial Representative was effective as from 16 December 2013, consular duties were assumed in March 2014, pending the requisite

authorisation from the state of Algeria. On 11 March 2014, a Note Verbale was issued from the Embassy of Algeria, requesting the Maltese authorities to transmit the Letters of Commission in order for his Exequatur<sup>8</sup> to be issued.

- 5.2.10** In clarifications provided to the NAO, the Consul indicated that his posting as Consul did not entail permanent relocation to Algiers and that he had accepted the appointment on this condition. This situation necessitated the weekly transit between Malta and Algeria.
- 5.2.11** A review of the payslips provided by the ME for the period December 2013 to December 2015 revealed that, of the annual amount of the €25,000 foreign allowance entitlement, in 2014 the Consul received €2,404 in November and €1,442 in December. In 2015, the Consul received the aggregate amount of €13,462 for the period January to October. Following queries raised by the NAO, the ME explained that this allowance, paid on a weekly basis, was contingent on the Consul's presence abroad.
- 5.2.12** By virtue of a verbal agreement with the ME, the Consul returned to Malta due to personal matters. However, the date of termination as Commercial Representative for North Africa (Algeria) remained unclear since the NAO was provided with two different dates. While the MFTP indicated this as 7 October 2015, the ME maintained that the Consul returned to Head Office on 5 November 2015. The Consul clarified the matter, indicating that his posting in Algiers was terminated on 7 October 2015, yet he reported to the ME in November 2015. In addition, the Consul further confirmed that the termination of his assignment in Algeria related to personal matters.
- 5.2.13** Following the Consul's termination, another ME official, who at the time was the Commercial Representative and Consul for Misurata, was assigned the post in Algiers. Again, the date of this posting provided by the MFTP and that indicated by the ME were inconsistent. While the latter claimed that the ME official moved to Algeria with effect from 1 October 2015, the MFTP indicated that he was posted to the Consulate in Algiers as from 8 October 2015.

### **5.3 The Posting of a New Commercial Representative and Consul to Algiers**

- 5.3.1** The ME official applied for the post of Commercial Representative for North Africa on 9 May 2014, in reply to an advertisement on the Employment and Training Corporation website. In total, eight applicants applied for the post.
- 5.3.2** Applicants were to be in possession of a degree in diplomatic studies, finance, business, engineering, marketing, economics, trade or investment, have an adequate command of the Arabic language and relevant experience of a minimum of five years.

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<sup>8</sup> The head of a consular post is admitted to the exercise of his functions by an authorisation from the receiving state, termed an Exequatur, whatever the form of this authorisation.

5.3.3 According to his curriculum vitae, the ME official had the necessary experience required in terms of post. Having worked and managed business units for the national carrier in two North African countries, Libya and Egypt, for a number of years, the ME official was involved in promoting Malta as a tourist and business destination. Simultaneously, he had assisted Maltese entrepreneurs and businesses in their efforts to gain access to these foreign markets. The ME official maintained that this phase in his career had provided him with insight into the corporate environment of these countries, and allowed the opportunity to practice the Arabic language.

5.3.4 On 23 May 2014, the interviewing board recommended the engagement of the ME official for the position of Commercial Representative in Libya. A three-year contract of employment was entered into on 3 June 2014 between the ME and this official for his appointment as Commercial Representative in Libya within the Investment Promotion Division. While in Libya, the ME official was also to perform consular duties as directed by the MFTP. For services rendered in terms of the employment contract, the following salary and benefits were to be paid:

- a. an annual salary of €30,000, to which the statutory bonuses and weekly allowances were to be added;
- b. a subscription to a Directors and Officers Liability Insurance Scheme covering employer's liability in case of proved negligence, confirmed by a Court decision, on the part of the employer;
- c. a health insurance scheme paid by the ME;
- d. up to €1,375 per annum as communication allowance in respect of the employee's use of own mobile phone, home telephone and internet connectivity required in the execution of official duties;
- e. an annual allowance of €2,795 for the use of the employee's personal car;
- f. a performance bonus not exceeding 10 per cent of the basic annual salary, depending on the achievement of the annual targets set by the ME;
- g. a foreign posting allowance of €25,000 per annum payable pro rata on the last working day of each month, commencing on the employee's posting date and continuing to be so paid for the period during which the employee was posted in Libya; and
- h. reimbursement of the cost of flights, related accommodation in Libya and communication expenses for services pre-approved by the ME, claimed against receipts presented. Such reimbursements were to be in line with the ME Travel Policy and Communications Policy.



5.3.5 The ME official assumed the responsibilities of Commercial Representative and Consul in Algiers following the previous Consul's termination in October 2015. It was noted that as from 1 October 2015, the ME official's basic salary increased to €35,000 per annum. This was in line with the basic salary paid to the Commercial Representative and Consul in Algiers.

## 5.4 The Recruitment of the Locally Engaged Person

5.4.1 Citing a significant increase in the workload, with visa applications averaging at 100 per week and with the peak season approaching, on 13 April 2014, the Consul<sup>9</sup> enquired with the MFTP and the ME on the possibility of recruiting an LEP. According to the request, through enquiries with the VFS, the Consul established that the salary of a competent, English-speaking LEP was approximately €900 per month, plus an additional 40 per cent in taxes and national insurance, resulting in a yearly outlay of €15,120. Further guidance from the British Embassy in Algiers indicated that high quality employees carrying out consular assistance as well as secretarial and administrative work were paid in the region of 55,000 to 70,000 Algerian Dinars per month (€500 to €640) after deducting the national insurance, tax and pension payments, which added up to a further 25 per cent of the basic cost.

5.4.2 Approval for the engagement of the LEP was sought from and subsequently granted by the MFTP and MFIN. The former confirmed that, as per agreement with the ME, the LEP in Algeria was to be paid in full by the MFTP. The latter approved annual remuneration of €15,120.

5.4.3 In an email to the MFTP, the Consul indicated that he had shortlisted three persons for the post, with interviews conducted in June 2014. According to that stated, the preferred candidate, as opposed to the other two applicants, possessed the necessary experience and knowledge for the job; moreover, she was fluent in English. The selected candidate was employed as an Executive Assistant for a period of one year, renewable for further annual periods, with effect from 1 August 2014. According to the contract, the selected candidate was to receive a monthly net salary equivalent to €630 in Algerian Dinars. It was noted that, although effective as from 1 August 2014, the contract of employment was signed on 15 October 2014. On 26 November 2015, the LEP tendered her resignation with effect from 10 December 2015.

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<sup>9</sup> Although the designation of the selected candidate in terms of recruitment was that of Commercial Representative for North Africa (Algeria), the NAO's analysis focuses on his role as Consul and therefore cites this designation in the report.

# Chapter 6

## Visa and Passenger Data Analysis

### 6.1 Visa Data

6.1.1 In accordance with the terms of reference set, the NAO analysed data related to visa applications received and processed during the period under review, that is, March 2014 to September 2015. Data sourced in this respect was retrieved from the VIS, the repository of all information relating to applications by third country nationals requiring a visa to enter the Schengen area (Figure 1 refers). This data tallied with that submitted by the MFTP for the period.

Figure 1: Visa applications | March 2014 - September 2015

Month	Applications Submitted	Issued	Refused	Closed	Discontinued	Revoked	Annulled	Work in Progress	
2014	March	164	127	28	9	0	0	0	
	April	603	491	94	11	0	7	0	
	May	832	347	458	13	0	13	1	
	June	481	161	287	23	1	0	9	
	July	786	482	286	15	0	0	3	
	August	793	446	342	3	1	1	0	
	September	849	377	442	4	0	1	25	
	October	568	243	308	4	0	1	12	
	November	648	289	349	6	0	0	3	
	December	956	444	508	3	0	0	1	
	<b>Sub-total</b>	<b>6,680</b>	<b>3,407</b>	<b>3,102</b>	<b>91</b>	<b>2</b>	<b>23</b>	<b>54</b>	<b>3</b>
	2015	January	660	325	327	2	0	3	3
February		775	356	405	1	0	8	5	
March		671	290	365	1	1	12	2	
April		1087	530	543	0	0	13	1	
May		764	254	499	5	0	6	0	
June		835	351	475	8	0	1	0	
July		788	335	441	4	0	8	0	
August		1285	581	689	5	0	10	0	
September		1095	350	743	1	0	0	1	
<b>Sub-total</b>		<b>7,960</b>	<b>3,372</b>	<b>4,487</b>	<b>27</b>	<b>1</b>	<b>61</b>	<b>12</b>	<b>0</b>
<b>Total</b>		<b>14,640</b>	<b>6,779</b>	<b>7,589</b>	<b>118</b>	<b>3</b>	<b>84</b>	<b>66</b>	<b>1</b>

6.1.2 The 7,960 visa applications processed by the Maltese Consulate in Algiers between January and September 2015 represented an increase of 19.2 per cent when compared to the 6,680 applications processed between March and December 2014. The refusal rate similarly increased

from 46.4 per cent in 2014, to 56.4 per cent as at September 2015. The 2015 rate was more than double the average refusal rate for all Member States with consular representations in Algeria, which stood at 26.9 per cent.

- 6.1.3 The NAO sought to compare visa application data for 2014 and 2015 with that in respect of 2008 to 2013. However, according to the MFTP, no data for visas issued from Algeria, through its representation agreement with France, was available for the period September 2009 to February 2014. This was deemed highly anomalous by the NAO when one considers that data for 2008 and 2009 was maintained. According to the MFTP, data for this period was purged. Visa application data for 2008 and 2009 is presented in Figure 2.

Figure 2: Visa applications | 2008 - 2009

Year	Applications Submitted	Issued	Refused	Closed	Discontinued	Revoked	Annulled	Work in Progress
2008	695	666	9	0	20	0	0	0
2009	1,330	943	371	0	16	0	0	0
<b>Total</b>	<b>2,025</b>	<b>1,609</b>	<b>380</b>	<b>0</b>	<b>36</b>	<b>0</b>	<b>0</b>	<b>0</b>

- 6.1.4 In response to queries raised by the NAO regarding the significant variance in the number of visas issued between 2008 and 2014, the MFTP stated that the Ministry did not have an explanation and could not compare this data since information corresponding to the interim period was purged. The only data made available for 2010 to 2013 related to visas issued to Algerian nationals in other locations aside from Algeria. In 2010, 2011, 2012 and 2013, 27, 15, 21 and 24 such visas were issued, respectively.
- 6.1.5 The NAO deemed the MFTP’s failure to retain statistical data for 2010 to 2013 as extremely anomalous, more so when, in this Office’s opinion, this data should have served as the basis for Government’s decision to establish a consular presence in Algeria. The ambiguity is accentuated when one considers that data for previous years was retained. Even if data retention for these years was not required in terms of regulatory compliance, the Office is of the understanding that such information was essential in terms of operational considerations.
- 6.1.6 As part of its review, the NAO sought to determine the time taken by the Consulate in Algiers to process visa applications. To this end, this Office analysed the processing period for the 14,368 visas that were either issued or refused between March 2014 and September 2015. Applications were categorised in terms of length of processing time based on parameters established in the Visa Code. The Visa Code sets a 15-day threshold for the conclusion of the decision-making process leading to the granting or otherwise of a visa. This threshold may be extended to 30 days when further consultation is required by the consulate’s own central authorities, and further extended to 60 days in exceptional circumstances where additional documentation is required. In this regard, processing time was understood by the NAO, through reference to the Visa Code, as the period commencing with the determination of an application

as admissible<sup>10</sup> to the date of the Consul’s final decision. Except for seven cases, the decision-making process ranged from zero days, meaning that the final decision was taken on the same day the application was recorded on the VIS, to 49 days (Figure 3 refers).

Figure 3: Visa application processing time | March 2014 - September 2015

Processing Days <sup>11</sup>	0	1 - 15	16 - 30	31 - 60	Over 60
Issued visas	34	6,695	47	2	1
Refused visas	669	6,893	16	5	6
<b>Total</b>	<b>703</b>	<b>13,588</b>	<b>63</b>	<b>7</b>	<b>7</b>

6.1.7 The NAO ascertained that 99.5 per cent of visa applications were decided within the 15-day period stipulated in the Visa Code. In this case, the 15-day period commenced with the inputting of application data by the VFS, which tallied with the date applications were imported by the Consulate. Notwithstanding this, the NAO was unable to determine when the visa or refusal letter, together with the passport, were handed over by the Consulate to the VFS, and when these were subsequently returned to the applicant by the VFS. For the period under review, no records were traced at the Consulate indicating the date such documents were passed on to the applicants by the VFS. This lacuna eliminates all visibility over the process from the point when a decision regarding the issuance or otherwise of a visa was taken, onwards. This situation was rectified in 2016, whereby applicants were required to sign on the collection of relevant documents.

6.1.8 Although the NAO had no visibility in terms of processing of interactions between the Consulate and the VFS, and the VFS and the applicant once the Consul had issued or refused a particular application, the Office sourced information through VIS regarding the date when the visa issuance or refusal letters were generated. This information was compiled in a bespoke report submitted by the MFTP. In essence, the NAO established that the lapse between the Consul’s decision and the date of issuance of the visa was zero in all approved applications. However, in the case of refused applications, this Office noted delays. Testing undertaken by the NAO identified concerns regarding the validity of dates cited with respect to the issuance of refusal letters. Further analysis revealed that the date captured in the bespoke report corresponded to the late instance of printing rather than the original date of issuance of the refusal letter. Notwithstanding this, additional testing undertaken by this Office established an element of delay in 2014, averaging at 23.8 days, which significantly decreased to 2.73 days in 2015. Testing was limited to a sample of five per cent of refusals with a delay exceeding 20 days, as reported in the bespoke report, equivalent to 87 applications. Of these, 24 related to 2014 and 63 related to 2015.

6.1.9 Also noted was that, in 284 instances of the 7,589 refused applications, only the Consul’s decision was recorded in the VIS, without a corresponding refusal letter being generated.

<sup>10</sup> The Visa Code defines admissibility as the point when, “... the basic elements for an application to be considered admissible have been submitted (filled in and signed application form, valid travel document and a photograph) and the visa fee has been paid and, if applicable, biometric data has been collected, the application shall be considered admissible.”

<sup>11</sup> The number of processing days include weekends and public holidays.

- 6.1.10 Of the seven cases not decided within the 60-day threshold (Figure 3 refers), five were refused and appealed. Of these, one visa was eventually issued after 282 days, while the other four applications were refused after several appeals and a lapse of 857, 265, 145 and 135 days, respectively. In the case of another two applications, continuous requests for more time were generated by the Police, with the final decision, a refusal, taken after 262 and 231 days respectively.
- 6.1.11 Referral to the Police is an integral part of the visa vetting process and, to this end, the NAO sought to establish the congruence between recommended action by the Police and the outcome of decisions taken by the Consul (Figure 4 refers).

Figure 4: Police recommendation and Consul’s decision

		Police recommendation		Total
		No adverse remarks	Not recommended	
Consul’s decision	Issued	6,295	484	6,779
	Refused	865	6,724	7,589
<b>Total</b>		<b>7,160</b>	<b>7,208</b>	<b>14,368</b>

- 6.1.12 Although the NAO acknowledges that the Consul’s decision is final and is not determined by the Police recommendation, the Office’s attention was drawn to the instances of incongruence between the two. The NAO’s analysis established that 484 of the 6,779 visas issued between March 2014 and September 2015 were not recommended by the Immigration Police yet the visa was subsequently approved by the Consul. This accounted for 7.1 per cent of all issued visas. The reasons cited by the Immigration Police on the VIS were that the applicants’ intentions to leave the territory of the Member States before the expiry of their visa could not be ascertained and justification for the purpose and conditions of the intended stay was not provided. Similarly incongruent were the 865 applications where the Police posted no adverse remarks yet the Consul refused the issuance of a visa.
- 6.1.13 When requested to comment, the Consul maintained that the decision was ultimately his responsibility yet acknowledged the instances of incongruence. The Consul indicated that initially, the Police did not recommend the issuance of visas, but provided only a generic statement substantiating their refusal. Subsequently, the Consul maintained that the frequency of divergence lessened, with instances of difference in recommended action addressed by the Consul through reference to the VIS. Moreover, the Consul highlighted the challenge of balancing at times competing and conflicting interests, such as national security, commercial considerations and bilateral relations when considering the granting or otherwise of visas.
- 6.1.14 This Office was requested to investigate whether the majority of applicants hailed from particular regions in Algeria. All the visa applications lodged within the period under review, totalling 14,640, were analysed. The data sourced through VIS did not specify the province in a separate variable but often included this information as part of the address, necessitating the coding of provinces by the NAO. In order to establish the province corresponding to each application, the Office ran a syntax that coded addresses according to the 48 provinces of

Algeria. In the case of Algiers, given the significant number of applications, another syntax was run based on the municipalities of this province. The process of automatic coding was an efficient and effective method of categorising applications according to province; however, 1,061 applications could not be coded in this manner and were therefore processed on a case-by-case basis utilising Internet searches. The NAO considered the method employed as rigorous and checks undertaken further minimised possible coding errors. As a result of this process, 14,547 were coded according to region (Figure 5 refers). The remaining 93, accounting for less than one per cent of applications, could not be coded due to the fact that the respective region could not be determined from the addresses inputted in the VIS.

Figure 5: Applications by province | March 2014 - September 2015

Province	Number of applications coded	Percentage of total applications coded	Visas issued	Visas refused	Percentage of visas issued
Algiers	5,668	38.9	3,027	2,641	53.4
Tizi Ouzou	2,747	18.8	995	1,752	36.2
Chlef	888	6.1	245	643	27.6
Béjaïa	785	5.4	285	500	36.3
Oran	571	3.9	291	280	51.0
Blida	458	3.1	250	208	54.6
Boumerdès	416	2.8	180	236	43.3
Tiaret	366	2.5	112	254	30.6
Tipaza	310	2.1	148	162	47.7
Bordj Bou Arréridj	254	1.7	139	115	54.7
Bouïra	252	1.7	125	127	49.6
M'Sila	208	1.4	82	126	39.4
Sétif	204	1.4	108	96	52.9
Constantine	202	1.4	123	79	60.9
Annaba	97	0.7	50	47	51.5
Sidi Bel Abbès	96	0.7	58	38	60.4
Jijel	95	0.7	31	64	32.6
Mostaganem	86	0.6	34	52	39.5
Batna	85	0.6	56	29	65.9
Relizane	79	0.5	23	56	29.1
Aïn Defla	74	0.5	31	43	41.9
Biskra	65	0.4	28	37	43.1
Mascara	60	0.4	35	25	58.3
Médéa	60	0.4	33	27	55.0
Tlemcen	52	0.4	29	23	55.8
Skikda	39	0.3	10	29	25.6
Mila	36	0.2	21	15	58.3
Tissemsilt	32	0.2	15	17	46.9
Khenchela	31	0.2	19	12	61.3
Ouargla	31	0.2	24	7	77.4

Tébessa	29	0.2	19	10	65.5
Aïn Témouchent	28	0.2	13	15	46.4
Ghardaïa	26	0.2	14	12	53.8
Saïda	21	0.1	13	8	61.9
Guelma	19	0.1	8	11	42.1
Oum el-Bouaghi	14	0.1	8	6	57.1
Djelfa	13	0.1	5	8	38.5
Oum el-Bouaghi	13	0.1	6	7	46.2
Naâma	12	0.1	8	4	66.7
Laghouat	9	0.1	8	1	88.9
Adrar	4	0	2	2	50.0
Béchar	3	0	3	0	100.0
El Oued	3	0	2	1	66.7
Tindouf	3	0	1	2	33.3
El Taref	2	0	0	2	0.0
Tamanghasset	1	0	0	1	0.0
El Bayadh	0	0	0	0	n/a
Illizi	0	0	0	0	n/a
<b>Total coded</b>	<b>14,547</b>	<b>99.5</b>	<b>6,717</b>	<b>7,830</b>	<b>46.2</b>
Uncoded	93	0.5	62	31	66.7
<b>Total</b>	<b>14,640</b>	<b>100.0</b>	<b>6,779</b>	<b>7,861</b>	<b>46.3</b>

6.1.15 Evident in Figure 5 is the broad range of number of applications per province, with two regions, El Bayadh and Illizi having no registered applications, and Algiers accounting for the largest number of applications, 5,668, which corresponded to 39.0 per cent of all applications coded. The provinces of Tizi Ouzou, Chlef and Béjaïa followed, with a total of 2,747, 888 and 785 applications, respectively. The four highest ranked provinces in terms of number of applications accounted for 69.3 per cent of all applications coded.

6.1.16 When one considers applications submitted against the population of each province, based on 2008 census data, the overall rate of application per million inhabitants was 427. This starkly contrasts with the rates of provinces such as Tizi Ouzou and Algiers, where the rate of application per million was 5.7 and 4.4 times the national average (Figure 6 refers).

Figure 6: Application rates | March 2014 - September 2015

Province	Population (2008)	Number of applications	Applications per million
Tizi Ouzou	1,127,608	2,747	2,436
Algiers	2,988,145	5,668	1,897
Chlef	1,002,088	888	886
Béjaïa	912,577	785	860
Tipaza	591,010	310	525
Boumerdès	802,083	416	519
Blida	1,002,937	458	457
Tiaret	846,823	366	432

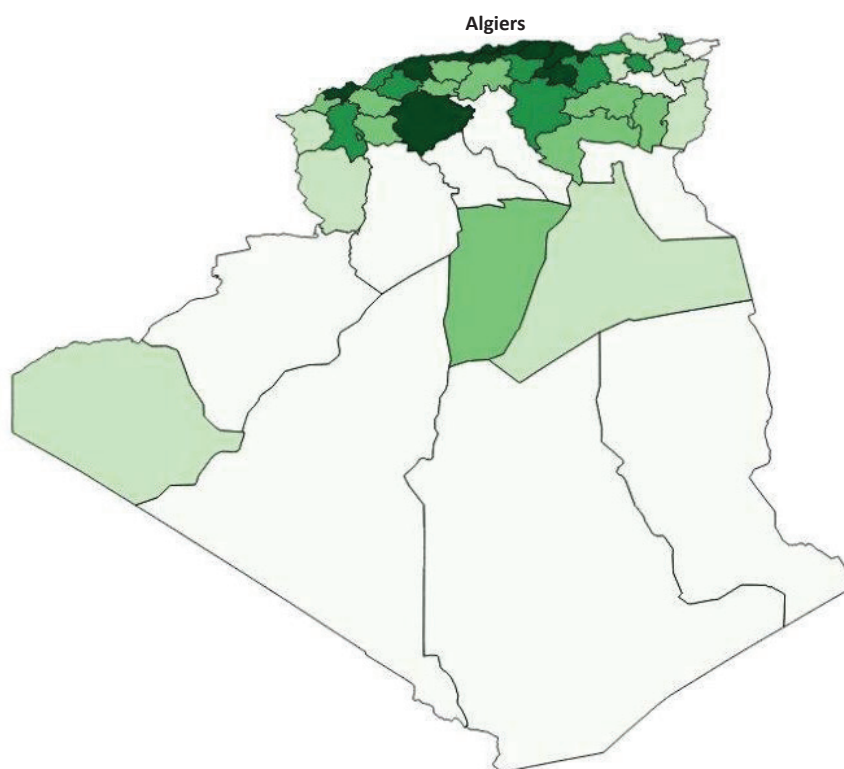
Bordj Bou Arréridj	628,475	254	404
Oran	1,454,078	571	393
Bouïra	695,583	252	362
Constantine	938,475	202	215
M'Sila	990,591	208	210
Annaba	609,499	97	159
Sidi Bel Abbès	604,744	96	159
Jijel	636,948	95	149
Sétif	1,489,979	204	137
Mostaganem	737,118	86	117
Relizane	726,180	79	109
Tissemsilt	294,476	32	109
Aïn Defla	766,013	74	97
Biskra	721,356	65	90
Khenchela	386,683	31	80
Mascara	784,073	60	77
Batna	1,119,791	85	76
Aïn Témouchent	371,239	28	75
Médéa	819,932	60	73
Ghardaïa	363,598	26	72
Saïda	330,641	21	64
Naâma	192,891	12	62
Tindouf	49,149	3	61
Ouargla	558,558	31	56
Tlemcen	949,135	52	55
Mila	766,886	36	47
Tébessa	648,703	29	45
Skikda	898,680	39	43
Guelma	482,430	19	39
Souk Ahras	438,127	13	30
Oum el-Bouaghi	621,612	14	23
Laghouat	455,602	9	20
Djelfa	1,092,184	13	12
Béchar	270,061	3	11
Adrar	399,714	4	10
Tamanghasset	176,637	1	6
El Taref	408,414	2	5
El Oued	647,548	3	5
El Bayadh	228,624	0	0
Illizi	52,333	0	0
<b>Total</b>	<b>34,080,031</b>	<b>14,547</b>	<b>427</b>

6.1.17 However, an element of explanation as to the nature of the variation in application rates emerges when one considers the geographical proximity of the provinces to Algiers, that is, the



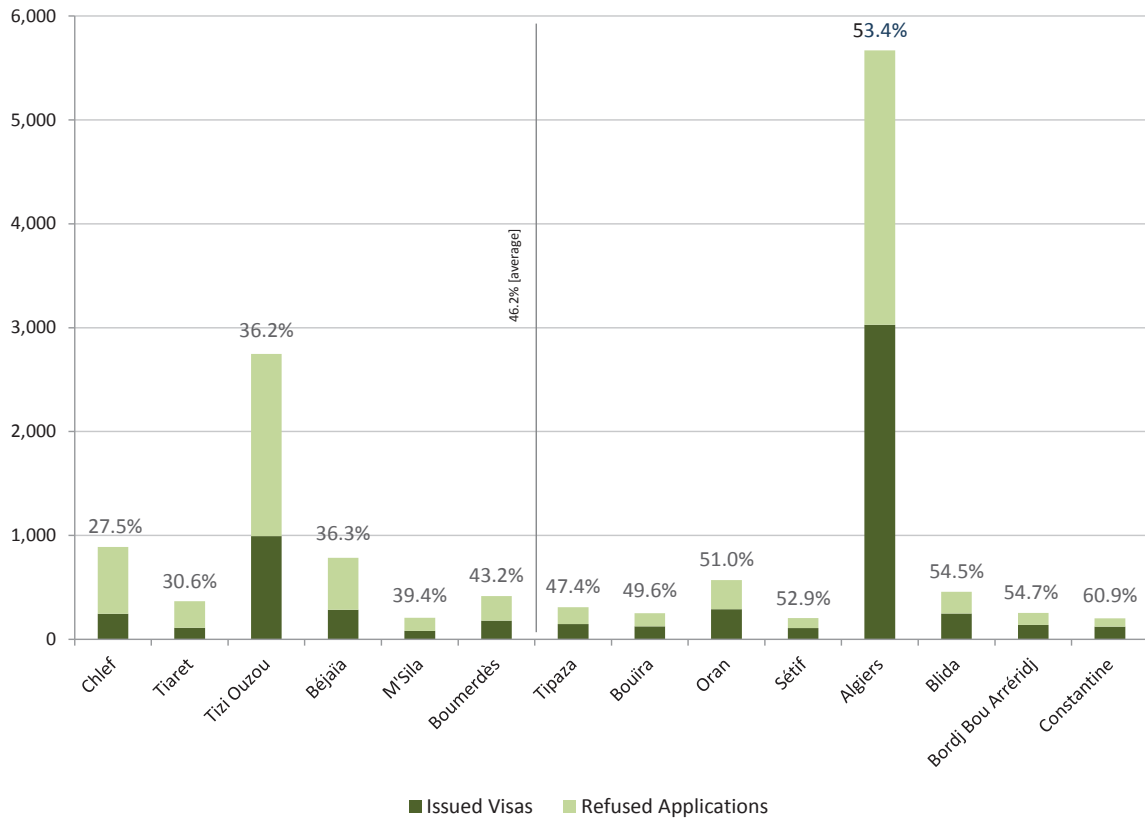
location of the Consulate. The data presented in Figure 6 is reproduced in graphical format in Figure 7, which illustrates the application rate for the period under review across the various provinces in Algeria. All provinces were subdivided into quintiles illustrating their ranking in terms of the rate. The extent of applications registered is reflected in the shading applied, with the darkest colour representing the top 20 per cent of the provinces with the highest application rates (381-2,436 per million), and the lightest colour representing the bottom 20 per cent (0-25 per million). Figure 7 renders evident the relevance of proximity since generally, the provinces closest to Algiers are shaded in dark green while those furthest away are lightly shaded.

Figure 7: Application rate by province based on quintile classification | March 2014 - September 2015



**6.1.18** Analysis of the percentage of visas issued (Figure 5 refers) reveals considerable variation across the provinces, particularly when compared to the overall average acceptance rate of 46.2 per cent. When considering the two provinces with the highest number of applications, Algiers registered a 7.2 per cent higher issuance rate than the average, while Tizi Ouzou recorded an issuance rate that was 10.0 per cent lower than the average. Limiting analysis to provinces that had more than 100 applications, as fewer numbers could result in anomalies that would skew the review, provides a range of issuance rates between 27.6 per cent (Chlef) and 60.9 per cent (Constantine). Figure 8 provides a graphical representation of the relation of the 14 provinces analysed in this respect to the average. While the NAO acknowledges the variation evident in issuance rates across the provinces, the Office is unable to determine whether this difference is the result of random variation, real differences in the profile of applicants across regions, or an element of bias in the processing of applications.

Figure 8: Proportion of accepted/refused visas by region in relation to the average



## 6.2 Passenger Data Analysis

6.2.1 Aside from the analysis of visa applications, the NAO was requested to verify whether many of the Algerian nationals who arrived in Malta with a visa travelled to another country within Europe, particularly France, on the day of arrival in Malta. This verification was not possible as intra-Schengen movement information required in this regard is retained by individual airlines operating flights from and to Malta and besides concerns regarding the Office’s mandate to request such information, its analysis was not deemed feasible. Notwithstanding this, the NAO obtained information regarding the movement of passengers between Algeria and Malta from the Immigration Police.

6.2.2 Based on the information sourced, during the period under review, arrivals from Algeria to Malta and departures from Malta to Algeria amounted to 5,083 and 2,664, respectively. Figures 9 and 10 illustrate these movements on a monthly basis. Immediately evident is the discrepancy between arrivals and departures, with arrivals exceeding departures by 47.6 per cent between March 2014 and September 2015.

Figure 9: Passenger movement between Algeria and Malta [tabular] | March 2014 - September 2015

	Period	Arrivals	Departures	
2014	March	81	19	
	April	115	129	
	May	630	417	
	June	249	157	
	July	80	38	
	August	749	481	
	September	411	272	
	October	201	133	
	November	125	66	
	December	200	41	
	2015	January	113	80
		February	172	52
March		263	94	
April		271	85	
May		241	64	
June		161	67	
July		228	73	
August		521	277	
September		272	119	
	<b>Total</b>	<b>5,083</b>	<b>2,664</b>	

Figure 10: Passenger movement between Algeria and Malta [chart] | March 2014 - September 2015



6.2.3 Of the 5,083 arrivals and 2,664 departures, 3,696 and 882, respectively, travelled on the basis of a visa issued by the Maltese Consulate in Algiers. The NAO noted that others travelled through use of other documents, mainly, a national identity card or passport pertaining to Malta or other EU member states, residence permits or visas issued by other representations (Figure 11 refers). It must be noted that data presented in Figure 11 corresponds to the documents presented by passengers, with the possibility of multiple documents presented in a single journey. By implication, the presentation of multiple documents results in totals that do not tally with the number of passengers presented in Figure 9. Based on this analysis, the NAO established that for every four arrivals presenting a visa issued by the Maltese Consulate, there was one departure presenting a visa by the Consulate. The ratio of 4.19:1 under Visa (Malta) contrasts sharply with that of other document types. In the case of Visa (Schengen), which captures visas issued by Schengen countries other than Malta, the ratio was of 1.72:1. This variation is also noted when one considers the overall actual passenger movement data presented in Figure 9, which yields a ratio of 1.91:1.

Figure 11: Document type presented on arrival/departure

Document Type	Presented on arrival [A]	Presented at departure [D]	A:D
ID (Malta)	60	64	0.94:1
Passport (Malta)	12	11	1.09:1
Residence Permit (Malta)	23	29	0.79:1
<b>Visa (Malta)</b>	<b>3,696</b>	<b>882</b>	<b>4.19:1</b>
Visa Non-VIS (Malta)	38	12	3.17:1
ID (Schengen)	87	53	1.64:1
Passport (Schengen)	5	3	1.67:1
Residence Permit (Schengen)	67	34	1.97:1
Visa (Schengen)	873	507	1.72:1
ID (Non-Schengen)	4	2	2.00:1
Passport (Non-Schengen)	4,970	2,050	2.42:1
Residence Permit (Non-Schengen)	13	7	1.86:1
Visa (Non-Schengen)	79	27	2.93:1
Visa Non-VIS (Schengen)	11	5	2.20:1
Other	12	15	0.80:1

6.2.4 The NAO attempted to reconcile movement data with respect to passengers utilising a visa issued by the Maltese Consulate. As indicated in Figure 11, a total of 4,578 journeys were recorded utilising this type of document, of which 3,696 were arrivals and 882 were departures. Of the 882 departures, the NAO noted that in 32 instances, no corresponding arrival was identified within the audit period, that is, from March 2014 to September 2015.<sup>12</sup> Furthermore, this Office established that at least 2,846 of the 3,696 arrivals, equivalent to 77 per cent, did not have a corresponding departure. In submissions made to this Office, the Consul indicated that this

<sup>12</sup> It must be noted that the instances with no corresponding arrival could be higher than the 32 cases cited, since multiple departures and arrivals utilising the same visa could not be reconciled by the NAO.

could have been related to the fact that Air Malta only operated one flight per week to Algeria, resulting in the possibility of passengers returning to Algeria through another Schengen Area country.

**6.2.5** The discrepancies between arrivals and departures highlighted in the preceding paragraphs must be considered in the context of the regulatory framework that allows for free movement within the Schengen Area. With the appropriate visa obtained from a Schengen Area country, individuals are allowed to enter and exit the Schengen Area from other Schengen Area countries. In effect, individuals with a visa issued by the Maltese Consulate in Algiers could have entered Malta yet returned to Algeria from another Schengen Area country. Although this applies to passengers who hold a 'C' type visa, which represented the vast majority of visas issued during the period under review, the NAO identified 96 'D' type visas that limit movement to the Member State issuing the visa, in this case, Malta. Of these, 45 utilised the 'D' type visa issued, with 14 effecting a return journey to Algeria within the period reviewed. The remaining 31 'D' type visa holders could not be accounted for by the NAO.

**6.2.6** While the NAO acknowledges that intra-Schengen movement is permissible through visas issued by the Maltese Consulate, nonetheless, discrepancies noted assume an element of relevance when one considers aggregate arrival and departure statistics from and to African countries in the period under review, as reported by the Malta International Airport (Figure 12 refers).

**Figure 12: Passenger movement between Africa and Malta | March 2014 - September 2015**

Month	Total Arrivals	Total Departures	Arrivals:Departures
Mar-14	7,344	6,351	1.16:1
Apr-14	6,275	5,970	1.05:1
May-14	7,493	5,935	1.26:1
Jun-14	5,298	6,545	0.81:1
Jul-14	1,837	2,147	0.86:1
Aug-14	3,380	1,911	1.77:1
Sep-14	1,956	1,560	1.25:1
Oct-14	1,621	1,551	1.05:1
Nov-14	1,657	1,393	1.19:1
Dec-14	1,230	1,144	1.08:1
Jan-15	1,237	1,261	0.98:1
Feb-15	1,156	1,039	1.11:1
Mar-15	1,767	1,582	1.12:1
Apr-15	1,313	1,049	1.25:1
May-15	1,197	1,080	1.11:1
Jun-15	931	1,171	0.80:1
Jul-15	1,277	1,509	0.85:1
Aug-15	1,977	1,665	1.19:1
Sep-15	1,288	1,117	1.15:1
<b>Total</b>	<b>50,234</b>	<b>45,980</b>	<b>1.09:1</b>

Source: Malta International Airport

6.2.7 Evident is that the scale of the discrepancy between arrivals and departures is much less in the case of movements between Africa and Malta, with a ratio of 1.09:1. In the case of movements between Algeria and Malta in the same period, where arrivals and departures amounted to 5,083 and 2,664, respectively, this ratio was of 1.91:1.

# Chapter 7

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## Issues of Concern

**7.0.1** Following a review of documentation, the electronic mailboxes of personnel deployed at the Maltese Consulate in Algiers were analysed by the NAO. The review of the mailboxes was undertaken in order to ascertain whether allegations of shortcomings could be substantiated through correspondence exchanged therein. To this end, the mailboxes of the two Consuls engaged, that of an OPM official who was tasked with consular duties for a month during the period under review, the mailbox of the LEP, as well as the Consulate's generic mailbox, were obtained. The mailboxes covered the period from 1 February 2014 to 22 November 2015. Entries in the relative mailboxes were retrieved and a review of correspondence exchanged therein was undertaken. Nonetheless, this Office could not determine that complete data was available as it was unable to get details of emails that had been deleted or exchanged via other mailboxes. Emails reviewed were varied in nature and various themes were identified by the NAO. The analysis of this Office is organised according to theme, that is, VFS-related operations and the VFS-Consulate relationship, procedural issues, internal verification by the Consulate, lack of experience and resources, administrative and operational issues, communication exchanged with the Police, as well as allegations of wrongdoing.

## **7.1 VFS-related Operations and the VFS-Consulate Relationship**

**7.1.1** From queries raised by the NAO it transpired that, during the period under review, the Consulate had no means to process visa applications in terms of camera equipment and biometrics required. Consequently, given these limitations, the Consulate directed prospective applicants to contact the VFS in order to set an appointment for the submission of their visa application. In view of the considerable number of applications that were being submitted on a daily basis, the then Consul instructed the VFS to maintain an appointment system for the submission of such applications. As from October 2014, on the request of the Consul, the VFS was to increase the number of daily appointments from 40 to 50. The VFS was also to accept all walk-ins without necessitating the Consulate's prior approval. Correspondence in mailboxes reviewed revealed complaints relating to accessibility and the scheduling of appointments at the VFS, as well as procedural shortcomings related to the processing of applications.

**7.1.2** The 50 applications per day that the VFS was to process was further revised to 55 with effect from May 2015. This excluded walk-ins, which were to be processed regardless. Subsequently, as from September 2015, the VFS was instructed not to accept more than 60 applications per day until further notice. From emails reviewed it also transpired that it was the policy of the VFS not to allow group applications, necessitating each member of a group to set an individual

appointment through the VFS call centre. Email correspondence seen by the NAO showed that complaints were regularly lodged with the Consulate by agents and applicants, claiming that they could not reach the VFS, neither by telephone nor through email. Applicants attempting to book an appointment through the VFS' website received a message indicating that no dates were available for an appointment at the Visa Application Centre Algiers. This was also confirmed by an Air Malta representative in correspondence submitted to the Consul in April 2015, in a thread of emails where an agent complained that the VFS appointment system was not operational. A number of agents further claimed that their telephone number was blocked by the VFS and that the latter was not letting in their clients at the VFS premises, despite having an appointment. Other applicants were finding the VFS' premises closed despite the fact that an appointment was given to them by the VFS. Complaints regarding accessibility were received throughout the period from October 2014 to September 2015. Consequently, applicants were resorting to the Consulate in order to obtain an appointment. All requests for an appointment were acceded to by the Consul, who in turn forwarded a list of appointments to the VFS, at times requesting an appointment on the same day. On its part, the VFS noted that a better system to manage the process was required. From the mailboxes reviewed, the NAO could not ascertain whether corrective action, if any, was taken in this regard.

**7.1.3** In submissions made to this Office, the Consul provided the NAO with correspondence submitted on 27 April 2015 to the ME and the MFTP, wherein the implications of the logistical arrangements whereby the Consulate operated from the VFS' premises were highlighted. The Consul maintained that this was creating considerable difficulties as applicants were unable to distinguish between the Consulate and the VFS. According to the Consul, this was the reason why the Consulate regularly received accusations regarding bias and the selling of visas.

## **7.2 Procedural Issues**

**7.2.1** Other concerns related to the VFS were of a procedural nature. Email correspondence revealed several instances where the wrong biometrics were appended to an application. This would necessitate that applicants returned to the VFS despite the, at times, long distances involved. In other cases, applications were not supported by full documentation when submitted to the Consulate by the VFS.

**7.2.2** Emails were exchanged between the MFTP and the Consul during June 2015 regarding concerns raised by the Immigration Police. In fact, the Immigration Police requested the MFTP to draw the attention of the Consul to the Visa Code Handbook. In his reply, the Consul referred to the set-up in Algiers, which made it difficult to strictly adhere to the provisions of the handbook; however, following exchanges between the Immigration Police and the Consul, more rigorous checking was being undertaken by the Consulate. In his reference to the set-up, the Consul alluded to the fact that, at the time, the Consulate and the VFS were housed in the same building and that this blurred the distinction between the two from the perspective of the applicants. The Consul also noted that more resources were necessary, particularly in view of the summer months that were anticipated to result in increased visa applications.



- 7.2.3** Another procedural issue noted during the NAO's review was that, initially, the processing of visas was being undertaken in Algeria while printing was carried out in Malta. In this regard, this Office noted correspondence from the Consul to a CVU official dated 10 July 2015, wherein the Consul submitted a list of granted visas to be printed in Malta. The NAO is of the opinion that this inevitably resulted in delays from the outcome of the Consul's decision to the actual generation of a visa or a letter of refusal, a matter captured in greater detail in Chapter 6. According to the email, the covering letter would then be printed in Algeria. This was confirmed in other correspondence dated 13 July 2015, whereby it was indicated that visas printed in Malta could only be delivered to Algeria when an ME or MFTP official was travelling to Algiers. In the NAO's opinion, this situation rendered the visa process cumbersome and prone to errors. Nonetheless, in a separate email dated 27 July 2015 the Consul indicated that, in view of time constraints at the CVU, he had made arrangements to print visas in Algiers.
- 7.2.4** The NAO noted that the Consul had received several complaints from agents who were encountering problems in scheduling appointments for their clients. To accommodate these requests, the Consul indicated that appointments were to be given to agents whose clients were shortly travelling to Malta and could not wait. In such cases, appointments were to be set for the following day or the same week. In later correspondence dated 6 August 2018 submitted to the ME and the MFTP, the Consul stated that the Maltese Consulate was the only consulate accommodating agents in this manner and that this was resulting in abuse by agents. He added that during a meeting with other consulates, he was advised to keep a distance from such agents. From the review of the relative emails, this Office inferred that the abuse alluded to related to the securing of immediate appointments for visa applicants; however, its prevalence could not be ascertained.
- 7.2.5** With respect to the appeal of visa decisions, dossiers were being regularly requested by the CVU officials. In respect of two appeals received, the Board of Appeal noted that it did not receive the complete documentation mentioned and that what documentation was received was unauthenticated. In view of this, the appeals were rejected by the Board. With regard to another appeal, this was rejected by the Board due to the fact that the documentation that was allegedly presented to the CVU was not filed before the Board.
- 7.2.6** Despite the above, deficiencies in the performance of the VFS were not brought to the attention of the MFTP by the Consulate. Moreover, no fines were imposed on the VFS despite the fact that these were contemplated in the agreements between the Ministry and the VFS.

### **7.3 Internal Verification of Applications by the Consulate**

- 7.3.1** The Consulate was tasked with verifying the intentions of applicants prior to issuing a visa. During the NAO's mailbox review, correspondence was noted whereby the Consulate made enquiries with the language schools, hotels and other companies regarding the purpose of the visa, flights booked by applicants, accommodation reservations and the authenticity of invitation letters issued by Maltese companies. Emails from third parties were traced by the

NAO in response to the Consulate's requests. In an email dated 30 August 2015, it was noted that two Algerians had applied for a visa using an invitation from a school and then, following the granting of their visa, claimed that the visa was not issued and cancelled the course booked. In this case, the Consul revoked these two visas.

**7.3.2** In other correspondence reviewed, dated 10 May 2015, the Consul stated that face-to-face interviews were rarely conducted due to the Consulate's limited resources. He noted that, on average, 50 applications were received daily and conducting such interviews would be time-consuming. The Permanent Secretary MFTP had informed the Consul that face-to-face interviews were necessary to curb possible abuse by applicants. However, the Consul had informed her that the consular set-up was not geared for this and that, due to personal reasons, he was not able to reside permanently to Algiers.

**7.3.3** Following the appointment of the new Consul to Algiers, revisions to visa procedures in force were introduced to address issues concerning the Consulate, as noted in email correspondence dated 24 October 2015. The new procedures required Algerian nationals who apply for student visas to attend an interview. The Consul noted that this measure would curb abuse in this regard. This was endorsed by the Immigration Police, who made reference to the Visa Code and the Visa Code Handbook in respect of what the interviews and assessments should look into. The Consul also referred to the introduction of another initiative whereby travel agents would be contacted whenever passengers intended to travel to Malta. Every applicant sent through a particular agency was to be registered under the agency's name. Subsequently, details of any applicant who defaulted on visa conditions would be included in the agency's file. The Consulate would then inform Air Malta and other relevant authorities of this, resulting in the blacklisting of the agency if such anomalies were substantial.

**7.3.4** In other cases identified by the NAO, the Consul tasked the LEP to carry out checks on particular applications. In one such email exchange, the LEP claimed that, following her review of documentation, the majority of the documents were deemed fake. The NAO noted that the LEP had brought similar instances of applications that had been granted visas to the attention of the Consul; however, following further checking, it transpired that falsified documentation had been utilised in these applications, in particular fraudulent work and bank statements. In such cases, the visas were revoked by the Consul. Correspondence was also traced indicating the LEP's request to a particular language school for a list of applicants and details of students who had cancelled course bookings following visa issuance. Another indication of internal verification by the LEP was noted in an email dated 10 November 2015, whereby the LEP provided feedback to the Consul regarding applications received from a particular travel agency. The LEP indicated that these applications lacked the necessary documentation, seemed to be filled in by the same person and the companies referred to in the applications could not be reached.

**7.3.5** The NAO also noted particular instances whereby officials within the CVU drew the attention of the Consul to certain applications. In one such case, the CVU official requested the Consul to cancel the applicant's visa. The CVU official stated that the person's intentions were unclear

in that he had declared to be following a four-month course in Malta when he had booked accommodation for only one month. Despite concerns raised, the visa was issued regardless.

## **7.4 Lack of Experience and Resources**

- 7.4.1** From email correspondence submitted in August and September 2014 the NAO noted that, the Consul initially lacked the necessary experience required for the running of the Consulate. A case in point was rendered evident in correspondence dated 27 August 2014 wherein, in a reply to an email from an MFTP official, the Consul indicated that he was not informed that he had to seek MFIN approval in respect of the opening of bank accounts. Other evidence indicative of a lack of experience related to the costs involved in the running of the Consulate. In an email submitted by the Consul to the MFTP on 27 August 2014, the Consul stated that he was informed by the Ministry that 10 per cent of the visa-generated revenue would be allocated to the running of the Consulate; a fact that the Consul had, till then, not been aware of. Moreover, from internal correspondence dated 8 July 2015, the NAO noted that the Consul was not aware that visa fees were subject to a tax of three per cent. However, in an email dated a few days later, submitted by the Consul to the MFTP, the Consul clarified that this tax was to be charged on funds being transferred out of Algeria.
- 7.4.2** Similar deficiencies in terms of experience were noted with respect to the LEP. This Office noted an email dated 15 July 2015 wherein the LEP made enquiries with a CVU official with regard to the procedure to be followed for applicants whose passports had a validity of less than six months. In reply, the CVU made reference to the Visa Code, which stipulated that a travel document was to be valid for at least three months following the intended date of departure from the Member State.
- 7.4.3** Another limitation noted by the NAO related to the difficulties experienced by the Consul in view of his limited knowledge of languages spoken in Algeria. In this regard, this Office traced correspondence wherein the Consul requested the LEP to translate emails from French to English.
- 7.4.4** The NAO's attention was drawn to deficiencies in terms of human resources required for the processing of applications. To mitigate this, the Consul would request the assistance of the CVU, particularly on days when the number of applications was considerable. However, in correspondence reviewed by the NAO dated 1 June 2015, the Consul informed Identity Malta that the CVU was no longer providing assistance. The Consul enquired whether the arrangement with the CVU had changed without his knowledge. No reply to this correspondence was noted.
- 7.4.5** The NAO also noted correspondence dated 22 September 2015 wherein the Consul informed a VFS official that the Consulate had repeatedly requested the VFS to rectify errors in respect of the deposit of visa fees collected. The Consul indicated that some of the errors dated back almost a year and that this was unacceptable. A reply was noted from VFS the following day, informing the Consul that the necessary action would be taken.

7.4.6 Hand over to the new Consul was given on 6 October 2015, as evidenced in email correspondence reviewed. A document was signed by the incoming and outgoing Consuls, providing a summary of the operations at the Consulate. Following this, correspondence was found by the NAO from the new Consul to ME officials, dated 12 October 2015, indicating difficulties with accreditation. The Consul stated that he was not a signatory to the bank accounts and that he was unsure whether he should be processing visas. No further correspondence in this respect was traced by this Office.

7.4.7 In response to queries raised by the NAO, the Consul indicated that he had received formal training by the MFTP and the CVU regarding the processing of visas. Particular reference was also made to the training provided by the Immigration Police, where emphasis was placed on passport-related verifications.

## 7.5 Administrative and Operational Issues

7.5.1 Issues of concern relating to the visa system were identified by the NAO through email correspondence reviewed. In an email dated 21 April 2015, a CVU official noted that the visa system allowed more than one user to access the same visa application at any given time. The CVU official made reference to a case that was still being processed by the CVU yet had already been referred to the Immigration Police for their recommendation. In another email dated 14 October 2015, the LEP informed the Consul that the visa system was very slow and was leading to problems when importing biometric data and the rejection of applications.

7.5.2 During the period under review, precautionary measures had been taken due to security reasons with respect to the Consulate in Algeria, which resulted in the temporary suspension of the visa issuance process. These measures were lifted on 14 July 2015, as noted in an email exchange traced by the NAO. Questioned on the matter, the Consul indicated that this closure related to a security threat in Egypt and consequently resulted in the closure of embassies and consulates in the region as a precautionary measure.

7.5.3 The NAO's attention was also drawn to the fact that the Consulate had, around May 2015, received a shipment of IT equipment necessary for the functioning of the Consulate in Algiers. In an email dated 14 October 2015, the MFTP informed the incoming Consul that the previous incumbent had not managed to release this diplomatic cargo and the shipment remained in the custody of Algerian customs for approximately five months as certain information was required for this shipment to be released. Queried on this matter, the Consul indicated that this equipment was required for the new Consulate and that delays of this sort were typical in Algeria.

7.5.4 Based on correspondence reviewed, the NAO established that the Consulate regularly exchanged correspondence relating to visa applications with various schools and colleges in Malta, in particular those providing tuition of English as a foreign language. Most of the correspondence reviewed comprised requests from schools regarding the status of visa applications submitted

by prospective students. The Consulate also received emails from schools regarding reasons for refusal of visa applications. In one such case, the Consul advised the LEP not to provide any information and to inform the school that the granting of visas was at the discretion of the Police and the Consulate.

- 7.5.5 On the other hand, the Consulate frequently requested schools to verify the authenticity of letters of invitation presented by applicants with their visa application. The NAO traced an email exchange dated 22 September 2015 concerning prospective students of a particular school whose applications had missing documentation that would result in the visas not being issued. Moreover, the Consul expressed an element of reservation regarding certain applications submitted by persons who stated that the reason for their visit was study when in previous applications, that had been refused, they had indicated that they were in employment.
- 7.5.6 Occasionally, the Consulate would be notified by a school or a college that prospective students had failed to turn up for a course. The NAO noted an email whereby a school of English informed the Consul that it would be forwarding a copy of invitation letters issued to prospective students to the Consulate. The Consul was also informed that students would not be able to apply with the school through an agency unless the agency had a contractual agreement with the school.
- 7.5.7 The NAO also noted two emails, dated 27 July 2015, when CVU officials requested the Consul to accept and process the visa applications of the individuals indicated therein. In one of the emails, the individuals in question were five Libyan nationals who were soon to come to Malta for business purposes; no information, aside from the person's name, was provided with regard to the second email. This Office ascertained that four visas were duly issued, yet could not trace the other two applicants on the VIS.
- 7.5.8 At times, the Consulate was requested to provide copies of documentation relating to specific applicants by other European authorities. This Office noted three occasions when the French authorities requested copies of the visa applications of Algerian nationals. Several other instances were noted whereby foreign authorities requested documentation relating to visas issued by the Maltese Consulate. In one such case, a visa was cancelled by the Spanish Immigration Police on the basis that the visa holder did not have appropriate documentation justifying the purpose of his stay given that the return air ticket presented had been cancelled and that he had no hotel reservation. A similar case was noted with respect to two Algerian women when, after the completion of a four-week course in Malta undertaken following the award of a short-term visa, they travelled to France where they were allegedly involved in prostitution and theft. It was also noted that Malta was mentioned in two alerts issued by Frontex about the possible illegal immigration of Algerian nationals and Maltese visas obtained fraudulently in Algiers. The two alerts, dated 2 and 6 July 2015, highlighted the misuse of 'C' type visas issued by the Maltese Consulate, allowing one-entry Schengen visas. According to the Frontex alerts, Algerian women and children were departing from Algiers with a transit through Marseille in France to the final destination in Malta. However, their intention was to

stay in the EU territory, possibly France, given that at times they only had tickets for Marseille and had no money to justify their stay as tourists in Malta. The first refusals of Maltese visa holders in Marseille took place in April 2015; however, such refusals persisted through to June 2015, that is, the period of reporting covered by the Frontex alerts.

- 7.5.9 The NAO traced the minutes of an EU consular meeting held on 11 November 2015, referred to the Consul by the LEP. According to the minutes, the members took note of allegations that appeared in 'Le Quotidien d'Oran' in November 2015. The significant number of visa applications received at the Malta Consulate in Algiers was discussed, as was the high refusal rate, the highest among all EU Member States. Another item discussed involved the exchange of information on the services provided by the external service providers. Two Member States considered that there was a general problem related to the selection, work stability and salaries of employees of the VFS. This situation bore impact on the processing of visas, evident in terms of the lack of competence, the substantial number of human errors, long waiting times and, sometimes, corruption.
- 7.5.10 Communication between Air Malta personnel and the Consul indicated that, on 23 April 2015, fourteen passengers on flight KM 825, later revised to eleven, were refused entry to Malta. The reasons for refusal of entry included false hotel bookings, insufficient funds, or inappropriate documentation justifying the purpose and conditions of stay. Furthermore, one of the passengers had an alert for refusal of entry. However, according to the Consul, applicants were submitting valid supporting documentation with the visa application but altering this once the visa was issued.
- 7.5.11 The Consul also corresponded with Air Malta representatives from time to time regarding the scheduling of flights between Malta and Algeria. In one email exchange submitted to ME and dated 22 March 2015, the Consul commented that Air Malta should not have committed to five weekly flights in summer. In correspondence dated 23 April 2015, an Air Malta representative stated that in view of the fact that no visa facilities were being offered in Oran, the national airline was considering the cancellation of the summer service. The strain between the granting of visas and the capacity of Air Malta flights to and from Algeria was the subject of other correspondence submitted by the Consul to the ME and the MFTP. In sum, the Consul maintained that interest in travelling to Malta was seasonal, while Air Malta contended that the crux of the problem was the high visa refusal rate. Substantiating his views, the Consul made reference to the number of persons held by the Immigration Police in Malta found in possession of air tickets to France or with unconfirmed hotel accommodation, and the number of return passengers who did not show up.
- 7.5.12 Consulate officials also received correspondence from Algerian nationals enquiring about their visa. This Office noted that requests made to the Consulate ranged from applicants asking for appointments, to others requesting the intervention of the Consul for the issuance of visas. Occasionally, the Consulate also received requests for the expediting of the visa issuance process in respect of persons seeking medical interventions.

## **7.6 Consulate's Communication with the Police**

- 7.6.1 The NAO noted that the Consulate was in regular communication with the Police. Most exchanges related to pending Police recommendations. Also noted was correspondence exchanged between the Consul and a representative of a school in Malta regarding the consistent recommendation to refuse visas to Algerian nationals by a particular Police officer. The Office traced further related correspondence wherein the Consul reported this matter to an Assistant Commissioner, commenting that the indicated Police officer would invariably recommend a refusal irrespective of the remarks made by the Consul.
- 7.6.2 Other correspondence exchanged between the Consul and the Police related to dubious applicants arriving in Malta. In one such email exchange, dated 14 February 2015, the Police noted that applicants were arriving in Malta with confirmations from hotels and schools; however, as soon as the requisite arrival stamps were given, they would try to depart on other flights, mostly to France. In reply, the Consul informed the Police that similar situations were being encountered by other consuls based in Algeria. He added that it was difficult to detect such applicants when the required booking confirmations were in hand.
- 7.6.3 The NAO noted correspondence wherein the Immigration Police informed the Consul that certain Algerians arriving in Malta on 23 August 2015 were refused entry. The Immigration Police had noted that these three persons had same-day travel tickets to Paris, as well as corresponding hotel reservations. In another instance, the Immigration Police informed the Consul that an applicant had been erroneously recommended for approval; however, a SIS alert had been issued by the Greek Immigration Police and therefore a revised refusal recommendation was submitted by the Malta Immigration Police.
- 7.6.4 The Consul had also informed the Police of allegations made and threats received in respect of visa processing undertaken by the Maltese Consulate in Algiers; however, these matters are addressed in further detail in the ensuing Section.

## **7.7 Allegations of Wrongdoing**

- 7.7.1 During the period June 2014 to August 2015, email correspondence submitted by a number of persons alleging improper or preferential treatment towards certain businesses, particularly XL Travel (a travel agency based in Algiers) and an education centre operating in Malta, was traced in the mailboxes reviewed.
- 7.7.2 The Consul received the first of several allegations by a particular individual on 26 June 2014. The sender claimed that the issuance of his visa was being delayed and therefore he was being forced to make reservations and buy telex air tickets from XL Travel at a much higher price than that of other agencies. This individual again contacted the MFA and the Malta Police on 20 August 2014, accusing the Consul of corruption. It was further alleged that the owner of XL Travel, a Maltese-Algerian national, was acting as an intermediary. He alleged that the Consul

granted a visa to a third party who had not presented any supporting documentation but only a passport and the equivalent of €4,000 in Algerian Dinars, that is, the alleged sum necessary to pay for the issuance of a visa. Also alleged was that the third party ultimately intended to travel to France. The NAO verified that alleged against the VIS and the arrivals-departures database provided by the Immigration Police. The Office ascertained that the third party had travelled to Malta on 14 August 2014; however, no record of his departure from Malta to Algeria could be traced.

- 7.7.3** The individual cited in the above paragraph further alleged that persons who did not make arrangements through XL Travel and paid a sum of money were ‘blocked’, understood by the NAO as being refused a visa. Three other third parties were cited as having secured a visa in this manner and were now residing in France, alleging that Malta was being used as a transit for immigrants on their way to France. The NAO sought to verify that alleged by reference to the VIS and the arrivals-departures database provided by the Immigration Police. One of the third parties arrived in Malta on 15 May 2014; however, no record of departure back to Algeria was traced. Moreover, this Office noted that a visa was issued despite the fact that a recommendation to refuse had been made by the Police. The Office also ascertained that another visa had been issued by the Consul for an earlier period, while an application through the Spanish Consulate in 2012 had been refused. The NAO could not trace the movements of the other two third parties.
- 7.7.4** Other allegations of corruption by the same individual focused on the discriminatory treatment of applicants from particular regions, the length of processing time and other inefficiencies in the visa application system, specifically citing instances when visas were being granted yet passports held back until the expiry of the visa. The analysis of application outcome by region and the processing time of visas do not support these allegations; however, this Office could not verify whether passports were being intentionally withheld as no visibility over this step of the process was in place.
- 7.7.5** These allegations were referred to the Police and the Permanent Secretary MFA, with the latter seeking the Consul’s views. The Consul explained that the individual alleging wrongdoing had applied for a visa that had been duly processed by the Consulate; however, this application had been delayed by the Police. With regard to XL Travel, the Consul indicated that the agency was Air Malta’s general service agent in Algeria, which implied that all persons intending to travel through Air Malta were to go through this agency.
- 7.7.6** An element of confirmation of the preferential treatment of XL Travel was corroborated in correspondence dated 22 July 2014, submitted by a Maltese travel agency to Air Malta. The Maltese travel agency claimed that an Algerian individual was told to purchase a letter of invitation and vouchers from XL Travel, as recommended by the VFS. In this context, the Maltese travel agency enquired whether VFS Global and XL Travel were one and the same, and whether their agency was at a disadvantage because of a bias in favour of XL Travel.



- 7.7.7 The NAO's attention was also drawn to emails submitted to the Consul in September 2014 by another individual regarding various allegations. Specific reference was made to the role of the VFS and the preferential treatment afforded to agents with whom the VFS had a relationship. Also alleged was that visa applications submitted in connection with the aforementioned Maltese educational centre and XL Travel were accepted despite incomplete documentation. Similar allegations were made in October 2014 by another individual in correspondence submitted to the Consulate, wherein it was claimed that visas could be secured against the payment of a sum of money if one had a contact within the Consulate.
- 7.7.8 In another case noted by the NAO, captured in correspondence exchanged on 2 October 2014 and submitted by the Consul to the MFA, the Police, the CVU and the ME, reference was made to suspected fraud involving the sale of visas. According to that stated by the Consul, a Maltese travel agent and his Algerian counterpart organised a short course with a local school of English for 63 Algerian students. Following verifications undertaken by the Consul, it was established that most of the applications were incomplete, the applicants' profiles were suspicious, and most had previously been refused a visa. The refusal resulted in harassment of the Consul by the Algerian counterpart. According to the Consul, following reports to the Algerian Police and investigations undertaken, it became evident that this person was selling visas. In the Consul's opinion, the Maltese travel agent and the local school of English were unaware of this; however, the Consul recommended referral to the Police regardless.
- 7.7.9 Other allegations involving the granting of visas for purposes of study were made in November and December 2014. In one case, it was alleged that applicants were falsely applying for a visa, claiming to be students. In the other case, allegations again centred on a student visa traffic network; however, reference was also made to the complicity of the Consul. According to that alleged, an Algerian agent for a Maltese education centre submitted group applications to the VFS for students when applicants in fact intended to leave Malta for Europe. A payment of €2,500 for each visa was alleged, of which €800 to €950 were school fees.
- 7.7.10 Similar claims were made by another individual, whose visa application had been refused, in January 2015, whereby it was alleged that the Consul and the LEP were each receiving €500 for every visa granted. Reference was also made to payments of €4,000 for student visas, as well as the involvement of the Maltese education centre and its Algerian agents, the VFS and XL Travel, in the alleged fraudulent issuance of visas against payment. Of note was that the Consul instructed the LEP to inform the individual levelling these accusations that the Consulate was taking such matters seriously and invited him to the Consulate in the presence of the Algerian Police.
- 7.7.11 Multiple other allegations were made by other individuals in June and July 2015, essentially reiterating the sale of visas under the pretence of students or tourists, the involvement of the Maltese education centre and its Algerian agents, as well as the Consulate, and another Algerian travel agency. Also alleged was that the true purpose of the visa was not for study but for onward movement to Europe. This was a common theme that emerged in various

other emails alleging wrongdoing. By way of example, correspondence dated February 2015 made reference to the alleged involvement of XL Travel in assisting two women to obtain visas under false pretences, applying as students when their true destination was Europe. This correspondence was also copied to the French Consulate in Algeria.

- 7.7.12 Other allegations noted by the NAO included correspondence transmitted by the Maltese Embassy in Tunis to the MFA. In this case, in his reply to the MFA, the Consul noted that similar allegations were a common occurrence in other representations, citing the French and Spanish representations as examples. The Consul also made reference to the criticism levelled at the Consulate owing to its high refusal rate when compared to other representations.
- 7.7.13 From late 2014 to August 2015, various allegations were made by XL Travel regarding irregularities in the issuance of visas by the Consulate. It is pertinent to note that in the period immediately preceding this, XL Travel was at the centre of multiple accusations, alleging preferential treatment, levelled at the Consulate. Of central relevance in this regard is the fact that up to late 2014, XL Travel was Air Malta's general service agent; however, the agency was replaced by another agency introduced to Air Malta by the Consul in mid 2014.
- 7.7.14 The relationship between XL Travel and the Consulate appears to have become strained in October 2014, following a number of refused visa applications channelled through XL Travel. Compounding matters were visas issued that had expired by the time the Consulate released the relevant passports. This resulted in requests for refunds being made by the applicants to XL Travel, which in turn triggered a negative reaction from the agency. At this point, XL Travel raised this concern with Air Malta, maintaining that the Consulate was refusing multiple applications without grounds. The Consul rebutted these allegations in correspondence submitted to Air Malta.
- 7.7.15 Other correspondence from Air Malta to the Consul, also dated October 2014, provided an element of corroboration to that stated by XL Travel that requests for refunds of tickets were being made, attributable to the fact that visas were handed over when they had already expired. Reference was also made to an internal Air Malta report, wherein concern over no-shows from and to Algiers was expressed. In response, the Consul acknowledged that stated, indicating that efforts were being made to improve the visa screening process.
- 7.7.16 The NAO's attention was also drawn to correspondence submitted by the Consul to Air Malta on 27 October 2014, wherein reference was made to the fact XL Travel was promoting a Malta-Paris stay on social media, emphasising that assistance would be provided in acquiring a Schengen visa. The Consul advised Air Malta to stop XL Travel from mentioning the facilitation of Schengen visa, as this was attracting visa shoppers. The Consul asserted that a visa for such a travel itinerary could not be issued.
- 7.7.17 The relationship between the Consul and XL Travel deteriorated further by December 2014. In fact, on 3 December 2014, XL Travel submitted several emails to the Consul on his personal

Gmail account. Allegations cited largely reflected those already presented in the preceding paragraphs; however, the Consul referred this correspondence to the Police. The Consul made particular reference to the replacement of XL Travel as the Air Malta general service agent by an agency that he had introduced to the Airline, and the recent refusal of visas to XL Travel clients.

- 7.7.18 Further allegations were referred to the CVU, which in turn sought the views of the Consul in February 2015. In sum, the allegations alluded to the sale of Maltese visas from commercial outlets for amounts ranging from €3,000 to €8,000, passengers not returning to Algeria, and some passengers being sent back by the Maltese Police. Also alleged was that one had to pay €50 at a particular commercial outlet to be given an appointment by the VFS, that persons were travelling to Malta instead of Spain due to more stringent controls in the case of the latter, and the dubious profile of applicants in terms of their intention to study English. In response, the Consul informed the CVU that he suspected XL Travel as the source of these allegations and reiterated that stated to the Police.
- 7.7.19 These allegations persisted throughout the tenure of the Consul, with emails submitted to the MFA, the Police, the ME, Air Malta and the Consulate essentially a reiteration of the irregularities already highlighted in the preceding paragraphs. In view of submissions made to the Police, the Permanent Secretary MFA sought feedback from the Consul and the ME official that would later replace the Consul, who at the time was deployed at the Consulate.
- 7.7.20 The ME official indicated that, based on his assessment, matters appeared to be in good order, with applicants awaiting their turn. Therefore, with regard to the alleged 'dealings' outside the Consulate, the ME official indicated no concern. With particular reference to the risk of fraudulently issued visas in relation to Maltese language schools, the ME official maintained that the Consulate verified each application through enquiries with the schools. With specific reference to the Maltese education centre, the ME official noted that there were a few instances where applicants were not recommended by the Consulate following checks of documentation submitted, despite confirmation of enrolment with the education centre. However, the ME official stated that the education centre was always compliant with the Consulate's decisions.
- 7.7.21 Elaborating on that stated by the ME official, the Consul explained that when the Consulate started operating in Algiers, persons intending to submit an application would walk in and apply there and then. However, this system was only efficient initially, when the number of applications was low. When the number of applications increased, the situation became chaotic, resulting in the adoption of an appointment system. The Consul indicated that the average waiting time for an appointment was of 15 days, which favourably compared to the three-month wait of other consulates. In the case of travel agents whose clients were travelling to Malta shortly and could not afford to wait, the Consulate set appointments for the following day or the same week, sending the relevant instructions to the VFS. The Consul indicated that XL Travel systematically resorted to this accelerated application process even when the regular appointment system could have been availed of. According to the Consul, this was done to assist Air Malta in rendering the route viable; however, during EU meetings for Consuls based in Algiers, he was advised to maintain distance from agents.

# Chapter 8

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## Conclusions

**8.0.1** Having reviewed matters relating to the setting up and operations of the Maltese Consulate in Algiers, the NAO refers to the terms of reference set for this audit. In essence, the Office was requested to review processes employed in the issuance of visas, systems applied by Government for ensuring the adherence to visa conditions and its awareness of possible irregularities, the appointment of consular staff and the acquisition of the Consulate's premises. Hereunder are the Office's conclusions in this regard.

### **8.1 The Process of Visa Issuance**

**8.1.1** The NAO was requested to review the process employed in the issuance of visas by the Maltese Consulate in Algeria between March 2014 and September 2015. In its review, the NAO addressed concerns raised by the PAC regarding visas issued, bearing in mind the allegations of corruption cited in the press, delays in the processing thereof, the role of travel agents, compliance with international obligations, and the profile of applicants.

**8.1.2** During the period reviewed, the Maltese Consulate in Algiers received 14,640 applications, of which 6,779 were issued a visa while 7,589 were refused. The remaining 272 applications were either closed, discontinued, revoked or annulled. Comparison to previous years was not possible as, according to the MFTP, this data was purged. This precluded the NAO from understanding the grounds on which Government's decision to establish a consular presence in Algeria was based. Nevertheless, an element of explanation was provided by the Consul, who stated that the decision was linked to Air Malta's intention to operate flights to and from Algeria.

**8.1.3** In its review of the processing of applications, the NAO established that 99.5 per cent of visa applications were decided within the 15-day period stipulated in the Visa Code and therefore no concerns emerge in respect of the role of the Consulate in this regard. Notwithstanding this, there was no visibility over the process beyond the point at which the Consul decides to issue or refuse a visa. In other words, the NAO was unable to determine when the visa or refusal letter, together with the passport, were handed over by the Consulate to the VFS, and when these were subsequently returned to the applicant by the VFS as no records of such interactions were retained. In the NAO's opinion, the lack of visibility over the latter stages of the process heightened the risk of wrongdoing and precluded this Office from establishing whether the delivery of visas was intentionally prolonged so as to elicit payments for the hastening thereof. According to the Permanent Secretary MFTP, this situation was rectified in 2016, whereby applicants were required to sign on the collection of relevant documents.

- 8.1.4 An element of corroboration that no major shortcomings persisted in the processing of visa applications by the Consulate was afforded in the evaluation of Malta's application of the common visa policy at the Maltese Consulate in Algiers by the Commission and Member States experts, undertaken in September 2016. Although instances of non-compliance with the Visa Code were identified, these mostly related to the operations undertaken by the VFS; nonetheless, oversight of these operations rested with the Consulate.
- 8.1.5 While the NAO's review was consonant with that undertaken by the Commission, in that no serious shortcomings were noted in the processing of visa applications by the Consulate, albeit different periods were reviewed, this Office's attention was drawn to the incongruence between the Police recommendation and the Consul's final decision. The NAO established that 484 of the 6,779 visas issued were not recommended by the Immigration Police yet subsequently endorsed by the Consul regardless. Similarly, in 865 applications, while the Police posted no adverse remarks, the Consul refused issuance. Notwithstanding this, the NAO acknowledges that the Consul's decision is final and is not determined by the Police recommendation. In addition, this Office is cognisant of the competing interests that the Consul was to consider in attempting to balance national security, commercial considerations and bilateral relations when considering the granting or otherwise of visas.
- 8.1.6 The NAO was requested to investigate whether the majority of applicants hailed from particular regions in Algeria. This Office established that the greatest proportion of applications corresponded to Algiers; however, a significant number of applications originated from other provinces. Factoring in the population of each province, the highest number of applications per million inhabitants was noted in Tizi Ouzou. Also evident was the bearing of the geographical proximity of provinces to Algiers, with provinces closer to Algiers generally registering more applications per million inhabitants than those further away. While the NAO acknowledges the variation evident in issuance rates across the provinces, the Office is unable to determine whether this difference was the result of random variation, real differences in the profile of applicants across regions, or an element of bias in the processing of applications.
- 8.1.7 Another aspect that the NAO was requested to review related to whether any pattern could be established between persons whose visa had been issued and the travel agency from where airline tickets had been acquired. This Office was unable to source information in this respect, as travel agency-related data was not maintained on the VIS. While this information was retained in the hard copy file of applicants, the review of a substantial number of such files would have been necessary to determine the presence, or otherwise, of a pattern, which course of action was deemed not feasible by this Office.
- 8.1.8 This review must be considered in light of the numerous allegations of wrongdoing cited in relation to the process of the issuance of visas. From the analysis of Consular mailboxes, the NAO noted the various allegations levelled at the Consulate's staff and employees of the VFS, indicating the payment of bribes for the issuance of visas. The allegations originated from different sources and, while some made broad claims of irregularity, others provided specific

details of wrongdoing, citing persons involved and amounts exchanged, among others. Generally, correspondence regarding allegations made was addressed to the Consul; however, in other instances, the Police and the MFTP were informed. It must be noted that the investigation of alleged wrongdoing, in this case the payment of bribes by citizens of another state to a Government official or third parties, does not fall within the remit of the NAO, with this Office's attention focused on the institutional response to such allegations. Details regarding action taken are presented in Chapter 7 and Section 8.3.

**8.1.9** The NAO is of the opinion that the setting within which the Consulate operated somehow facilitated the incidence of allegations. The fact that the Consulate operated from the same premises as the VFS blurred the distinction between the two from the perspective of applicants. Aggravating matters were the difficulties encountered by prospective applicants when seeking to schedule appointments with the VFS, with accessibility to services provided significantly hindered. Other factors relating to the occurrence of allegations emanated from the modus operandi of the Consulate. For example, in this Office's understanding, the preferential treatment of agents in terms of the scheduling of appointments readily contributed to allegations by others. Gaps in the screening process, attributed by the Consul to a lack of resources, also resulted in a less than optimal system of vetting applicants, with particular reference made to the fact that interviews were not being held. Another factor was the poor contract management of the VFS by the Consulate, with various contractual obligations not adhered to with no consequence. The extent to which this and other shortcomings could be attributed to the lack of experience of the Consul is debatable, with the language-related issues identified in correspondence reviewed by this Office compounding matters. The NAO also acknowledges the possible effect that the high refusal rate may have had on agents and other third parties, which rate was deemed significant when compared to that of other Member States represented in Algeria. Ultimately, the Office is of the opinion that better controls in the visa vetting process could have been implemented; however, it must be acknowledged that it was not always possible to detect persons who intended to abusively travel to Malta.

## **8.2 The Assurance of Visa Conditions**

**8.2.1** Another facet of the review undertaken by the NAO entailed the examination of what systems and information were available to Government in order to ensure that the visa conditions were being honoured. More specifically, cited in the PAC request to this Office was that, between March 2014 and September 2015, flights from Algeria to Malta by Air Malta were at close to capacity, while those from Malta to Algeria were practically empty. In addition, reference was made to the issue of Algerian nationals who arrived in Malta with a visa and travelled to another country within Europe, particularly France, on the day of arrival in Malta.

**8.2.2** The NAO acknowledges a number of inherent limitations in its review of visas issued during the period under consideration. While movement into and out of the Schengen area was monitored and recorded by the Immigration Police, movement within the Schengen area was not. The only information that captures intra-Schengen movement is retained by individual

airlines operating flights from and to Malta, which could not be sourced due to limitations imposed by this Office's mandate.

- 8.2.3 Nevertheless, the NAO obtained information regarding the movement of passengers between Algeria and Malta from the Immigration Police. Based on this information, during the period under review, arrivals from Algeria to Malta and departures from Malta to Algeria amounted to 5,083 and 2,664, respectively. Evident is the difference between arrivals and departures, with arrivals exceeding departures by 47.6 per cent between March 2014 and September 2015.
- 8.2.4 Of the 5,083 arrivals and 2,664 departures, 3,696 and 882, respectively, travelled on the basis of a visa issued by the Maltese Consulate in Algiers. The NAO noted that others travelled through use of other documents such as a national identity card or passport pertaining to Malta or other EU Member States. This Office established that for every four arrivals presenting a visa issued by the Consulate, there was one departure presenting a visa by the Consulate. The ratio of 4.19:1 for arrivals to departures utilising a visa issued by the Maltese Consulate in Algiers contrasts sharply with that of other document types. In the case of visas issued by other Schengen Area countries, the ratio was of 1.72:1. The significance of the 4.19:1 ratio is also noted when one considers the overall actual passenger movement data, which yields a ratio of 1.91:1.
- 8.2.5 At a more detailed level of analysis, the NAO reconciled movement data with respect to passengers utilising a visa issued by the Maltese Consulate. This Office established that at least 2,846 of the 3,696 arrivals, equivalent to 77 per cent, did not have a corresponding departure. Of the 882 departures, the NAO noted that in 32 instances, no corresponding arrival was identified within the audit period, that is, from March 2014 to September 2015.
- 8.2.6 The discrepancies between arrivals and departures must be considered in the context of the regulatory framework that allows for free movement within the Schengen Area. Although this freedom of movement applies to passengers who hold a 'C' type visa, which represented the vast majority of visas issued during the period under review, the NAO identified 96 'D' type visas that limit movement to the Member State issuing the visa, in this case, Malta. Of these, 45 utilised the 'D' type visa issued, with 14 effecting a return journey to Algeria within the period reviewed. For the remaining 31 'D' type visa holders, a corresponding departure was not identified by the NAO.

### **8.3 Government's Awareness of Irregularities**

- 8.3.1 The NAO was tasked with establishing whether the Government was informed of any irregularities and what action, if any, was taken in this regard. In the context of the request made by the PAC, this Office specifically sought to determine whether the Prime Minister, the Minister MFA and the Police were aware of any wrongdoing at the Maltese Consulate in Algiers.

- 8.3.2 Through enquiries made with the Permanent Secretary MFTP, it was established that the Ministry was first aware of possible irregularities through correspondence received on 20 August 2014. The Consul's views were sought in this respect. In reply, the Consul copied the Chief of Staff of the Minister MFA and his Private Secretary. The Permanent Secretary MFTP indicated that, at the time, no further action was deemed necessary. The review of mailboxes undertaken by the NAO corroborated that stated by the Permanent Secretary MFTP, confirming that the Ministry was aware of the allegations as early as August 2014.
- 8.3.3 Referral to the Minister MFA was made in December 2015, at which stage the Consul in Algiers had been replaced; however, the same allegations persisted. Correspondence reviewed indicated allegations levelled by XL Travel, in essence a reiteration of matters already delved into in the preceding Chapter, addressed to the new Consul. In turn, the Consul copied replies submitted to the Permanent Secretary MFA and the ME. On 9 December 2015, the Permanent Secretary MFA referred the matter to the Minister MFA, who instructed onward referral to the Police.
- 8.3.4 Based on the analysis of the Consulate's mailboxes, the NAO established that the Police were first informed of possible irregularities on 20 August 2014, through the aforementioned correspondence. More definite was other correspondence submitted to the Police by the Consul on 2 October 2014, wherein a case of possible wrongdoing was referred for any action deemed necessary.
- 8.3.5 Following queries raised by the NAO, the Police forwarded a report dated 30 March 2015, which outlined action taken in relation to allegations involving the Consulate in Algiers. According to the report, the owner of XL Travel alleged that irregular payments were being made by applicants to employees of the VFS and to the LEP for preferential treatment. No evidence was provided in support of these claims. XL Travel also indicated that he had reported this matter to the Algerian Police; however, nothing illegal was established. Recorded in the Police report was that the alleged wrongdoing did not include the Consul and that should any specific information be acquired, then this was to be referred to the Police.
- 8.3.6 Also cited in the Police report was that the views of the Consul were sought. According to the Police report, the Consul maintained that he was not aware of such facts and attributed what was stated by XL Travel to the termination of his status as Air Malta's general service agent. The Police drew the Consul's attention to the need for vigilance in the issuance of visas, citing cases of persons who were refused entry due to their inadmissibility and other instances of persons travelling to Malta to then settle in other Schengen countries. Other interactions between the Police, the MFA and the Consul are captured in Chapter 7.
- 8.3.7 In terms of whether the Prime Minister was aware of any irregularities, according to the Permanent Secretary MFA, the matter was not referred to the Prime Minister. Instead, the Permanent Secretary MFA asserted that allegations of irregularity were always channelled to the Minister MFA and/or his Chief of Staff, as per standard procedures.



8.3.8 In consideration of the above, the NAO established that Government was in fact aware of the allegations made in relation to the Maltese Consulate in Algiers. This Office deemed action taken by Government as appropriate, as the Consul and the Permanent Secretary MFA duly informed the Police of alleged irregularities, while the Permanent Secretary MFA also drew the attention of the Minister MFA. On their part, the Police took action by seeking the views of persons of interest, in particular the Consul and XL Travel, that is, the Algerian travel agency from where most allegations originated. Whether any other action could have been taken by Government remains subject to debate, largely conditioned by the context within which the Consulate was operating, as well as its operational set up. Moreover, the NAO acknowledges that there were aspects of the allegations beyond the direct control of the Consulate, and therefore of the Government, particularly the inevitable involvement of the VFS and other agents in the visa process.

## 8.4 The Appointment of Consular Staff

8.4.1 Another aspect that the NAO was tasked to review was the manner by which the officials of the Maltese Consulate in Algeria were appointed, as well as their conditions of employment. In respect of the Consul, the NAO ascertained that recruitment relating to his eventual appointment was duly approved by the Public Administration Human Resources Office within the OPM, following consultation with MFIN. In effect, the Consul was engaged following an internal call for applications for commercial representatives issued by the ME, with consular duties forming part of this role. The selected candidate possessed the stipulated requirements set out in the call, in terms of business promotion-related experience and qualifications cited. However, while the NAO acknowledges an element of convergence in the responsibilities of a commercial representative and that of a consul, this Office is of the understanding that the latter's role encompasses a broader array of functions that extend beyond the promotion of business. It is in this respect that the NAO contends that, irrespective of the appointed official, requirements deemed satisfactory for the appointment of a commercial representative may have been inadequate in the selection of a consul.

8.4.2 A review of financial remuneration paid indicated adherence to that stipulated in the call for applications, details corresponding to which are presented in Section 5.2 of this report. Payments effected with respect to the foreign posting allowance were commensurate with periods within which the Consul was present in Algeria. The Consul's appointment in Algiers was terminated in October 2015. Submissions made by the ME and the Consul indicated that this was related to personal matters.

8.4.3 As regards the engagement of staff at the Maltese Consulate in Algeria, the NAO established that an LEP was recruited by the Consul following the approval granted by the MFTP and MFIN. The only requirement identified in the process of selection of the LEP was fluency in English. The salary payable, details corresponding to which are presented in Section 5.4 of this report, was paid by the MFTP. The LEP's employment at the Maltese Consulate in Algiers commenced in August 2014 and ended in December 2015.

## 8.5 The Consulate's Premises

- 8.5.1 The NAO established that, when initially set up, the Maltese Consulate in Algiers operated from the premises of the VFS, which arrangement was in place up to August 2014. In early 2015, Government initiated proceedings to identify permanent housing for its consulate, with the MFTP appointing an Evaluation Committee to undertake this assignment. The allocated budget was between €800,000 and €950,000, and the selected property was to satisfy a number of criteria that would indicate suitability as a consulate. Four properties were considered by the Evaluation Committee; however, the Committee concluded that only one satisfied most of the requirements and could be easily adapted to suit consular needs. This property was located in the El Biar area, which housed a considerable number of embassies and consulates, and was valued at 83,200,000 Algerian Dinars, approximately equivalent to €800,000.
- 8.5.2 The bill of sale for the property at 27, Rue des du Père et Fils Boufatit, El Biar town, Algiers, was signed on 2 June 2015. The sale price of the property was 77,000,000 Algerian Dinars, which corresponded to approximately €710,000. The Government paid 2,695,000 Algerian Dinars in taxes in respect of this property, equivalent to approximately €25,000, resulting in an approximate total cost of €735,000. Financing for this disbursement was secured by the MFTP through EU funds sourced under the External Borders Fund for the period 2007-2013, part of the General Programme 'Solidarity and Management of Migration Flows'.

## Appendix A: Request for Investigation by the Opposition Members on the Public Accounts Committee

KAMRA TAD-DEPUTATI



HOUSE OF REPRESENTATIVES

Lil Awditur Ġenerali  
National Audit Office  
Notre Dame Ravelin  
Floriana FRN 1600

Illum, 18 ta' Novembru 2015

Sur Awditur Ġenerali,

B'risposta għal mistoqsija parlamentari numru 19,903, ġie żvelat li f'Marzu tas-sena 2014, għall-ewwel darba bdew jiġu pproċessati applikazzjonijiet għal hrug ta' Visas fil-Konsolat ta' Malta fl-Alġerija.

Mill-istess mistoqsija parlamentari jirrizulta wkoll:

- Illi fil-perjodu bejn Marzu 2014 sal-aħħar ta' Settembru 2015 nħarġu xejn inqas minn 6,781 Visa mill-Konsolat Malti fl-Alġerija.
- Illi minn dan it-total ta' 6,781 jirrizulta li 6,748 mill-applikanti huma Alġerini.
- Illi l-hrug tal-Visa lil dawn l-applikanti kollha effettivament fisser li dawn il-persuni kollha kellhom dritt ta' aċċess mhux biss għal Malta iżda għal kull pajjiż ieħor fiż-żona Schengen.
- Illi f'diversi stejjer ippubblikati f'diversi gazzetti lokali fosthom f'Il-Mument' u f'The Malta Independent' jingħad li fil-hrug ta' dawn il-Visas mill-Konsolat fl-Alġerija, hemm 'racket' shiha fejn persuna, sabiex tassigura li tinħarġilha Visa, kellha thallas u xxahham lil terzi.
- Illi fi storja ppublikata nhar il-Hadd 8 ta' Novembru 2015 fuq 'The Malta Independent on Sunday' bit-titlu '*Algeria Consulate Scam - multi layered, applicants asked to pay extra fees to speed process*' jingħad li f'din ir 'racket' hemm: '*involved at least three staff members at the Consulate who would request additional payments for the processing of Visas for Malta after stringing applicants along with supposed delays in their Visa applications*'. Jingħad ukoll li: '*Applicants would be asked for additional fees so as to speed up the process which was not in reality delayed but which was being intentionally protracted*'.
- Illi f'diversi artikli oħra ppublikati jissema li l-persuni li lilhom tkun inħarġet Visa, qegħdin effettivament jużaw din l-istess Visa sabiex jaħarbu għal pajjiżi oħra fiż-żona Schengen, b'mod partikolari lejn Franza, bil-konsegwenza li titjiriet tal-Airmalta mill-Alġerija lejn Malta jkunu sostanzjalment mimlijin pero t-titjiriet minn Malta lejn l-Alġerija huma prattikament vojta.

- Illi jekk dan huwa minnu, allura hemm sitwazzjoni manifesta għal min għandu għajnejn f'wiċċu, li dawn it-titjiriet tal-Airmalta ma huma xejn hlief titjiriet li qed iservu sabiex jissahħa 'racket' ta' abbuż u korruzzjoni.

Fi stejjer ohra ppubblikati jingħad li kemm il-Prim Ministru, il-Ministeru tal-Affarjiet Barranin kif ukoll il-Pulizja kienu mgħarrfa b'dan l-abbuż li kien għaddej fix-xhur li għaddeu.

Inoltre, gie ppubblikat ukoll li l-persuna mahtura bhala Konslu fil-Konsolat Malti fl-Algerija huwa persuna li għandha parantela mal-Prim Ministru, u tali persuna giet appuntata għal dan il-post minkejja li ma għandha ebda esperjenza ta' hidma diplomatika.

Jingħad ukoll li f'it gimghat qabel giet imwiegħba l-Mistoqsija Parlamentari fuq riferita, din il-persuna intemmilha l-inkarigu tagħha fil-Konsolat, u nġiebet lura Malta.

L-Oppożizzjoni ilha gimghat shaħ tishaq mal-Gvern sabiex jagħti spjegazzjoni u reazzjoni għall-allegazzjonijiet serji ta' abbuż u korruzzjoni fil-hidma tal-Konsolat Malti fl-Algerija.

Minkejja dan, il-Gvern baqa' sieket bit-tama li l-istorja tmut.

## TALBIET

Fid-dawl ta' dak kollu fuq espost u l-iskiet itarrax tal-Gvern, qieghed tigi formalment mitlub tinvestiga :

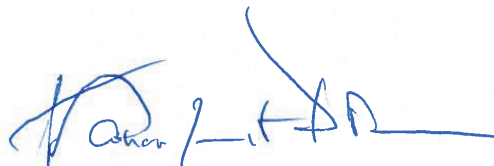
1. Il-mod kif inħargu 6,781 Visa mill-Konsolat Malta fl-Algerija fuq perjodu ta' sena u nofs bejn Marzu 2014 sa Settembru 2015, tenut kont tal-allegazzjonijiet serji ta' korruzzjoni li saru fil-media fil-gimghat li għaddeu;
2. Jekk huwiex minnu li l-Prim Ministru kien mgħarraf bl-abbużi li kienu qegħdin isehħu fil-konsolat Malti fl-Algerija;
3. Jekk huwiex minnu li l-Ministeru tal-Affarjiet Barranin kien mgħarraf bl-abbużi li kienu qegħdin isehħu fil-konsolat Malti fl-Algerija;
4. Jekk huwiex minnu li l-Pulizja Maltija kienet mgħarrfa bl-abbużi li kienu qegħdin isehħu fil-Konsolat Malti fl-Algerija;
5. Jekk huwiex minnu li fl-istess perjodu, t-titjiriet mill-Algerija lejn Malta mill-Airmalta kienux sostanzjalment mimlija, pero' t-titjiriet minn Malta lejn l-Algerija kienu prattikament vojta;
6. Jekk jirrizultax li hafna mill-Algerini li jkunu waslu Malta b'Visa, effettivament taru lejn pajjiz ieħor fl-Ewropa , partikolarment lejn Franza, dakinhar stess li jkunu waslu Malta;
7. Jekk huwiex minnu li l-proċess għal fruġ ta' Visa għall-hafna mill-applikanti kienx jittawwal apposta sabiex imbagħad jithallas hlas illeċitu sabiex jithaffef il-proċess;

8. Kif inħatar il-Konslu Malti fl-Alġerija għall-perjodu fuq imsemmi, jekk kellux il-kwalifici u l-esperjenza għal tali pożizzjoni, jekk saritx sejha pubblika għal tali pożizzjoni, x'kien il-pakkett finanzjarju tal-imsemmi Konslu, u għaliex tnehhiet min tali pożizzjoni;
9. Kif intgħażlu l-persuni li jiffurmaw l-istaff fil-Konsolat Malti fl-Alġerija, x'esperjenza u kwalifici kellhom u x'pakkett finanzjarju kellhom;
10. Kif intgħażel l-uffiċju fl-Alġerija minn fejn jopera l-Konsolat Malti, b'liema titolu qed jiġi okkupat, u min huwa s-sid tal-imsemmi fond u kemm qed jithallas għal tali fond;
11. Minn liema aġenzija tal-ivjaġġar kienu jinxtraw il-biljetti tal-ajru sabiex jiġu Malta persuni li lilhom inhargitilhom Visa u jekk jirrizultax li hemm pattern li persuni illi jkunu ħadu Visa xtraw il-biljett tal-ajru mill-istess aġenzija;
12. Jekk jirrizultax li l-magġor parti tal-applikanti għal Visa fil-Konsolat Malti fl-Alġerija humiex gejjin min reġjun partikolari fl-Alġerija;
13. Jekk Malta osservatx l-obbligazzjonijiet internazzjonali tagħha kollha fil-ħruġ tal-Visas mill-Konsolat Malti fl-Alġerija;
14. Kienx hemm nuqqasijiet serji ohra fil-mod kif jiġu aċċettati, proċessati u mahruġa Visas mill-Konsolat Malti fl-Alġerija.

Insellu għalik,



Onor. Beppe Fenech Adami



Onor. Francis Zammit Dimech



Onor. Roberta Metsola



Onor. Tonio Fenech



Onor. Claudio Grech

## Appendix B: Correspondence submitted by the Government Members on the Public Accounts Committee



MINISTERU GHALL-GUSTIZZJA, KULTURA  
U GVERN LOKALI  
TRIQ IT-TEZORERJA, VALLETTA, MALTA

Illum l-20 ta' Novembru 2015

MJCL 200/15/ob

Lill-Onor. Tonio Fenech  
Chairperson tal-Kumitat għall-Kontijiet Pubbliċi  
Il-Parlament  
Valletta

Onorevoli Fenech,

Qegħdin niktbulek b'referenza għar-rapporti li deheru fl-istampa mit-18 ta' Novembru 2015 dwar talba tal-Oppożizzjoni biex l-Awditur Ġenerali jinvestiga l-ħruġ ta' viżi lil persuni Algerini bejn Marzu 2014 u Settembru 2015.

F'dan il-kuntest qegħdin ngharrfuk illi l-Gvern jilqa' t-talba li ssir din l-investigazzjoni fit-termini tal-qafas legali tal-Artikolu 108 tal-Kostituzzjoni ta' Malta u tal-Kap 396 tal-Liġijiet ta' Malta dwar l-Awditur Ġenerali u l-Uffiċċju Nazzjonali tal-Verifika.

Għalhekk nissottomettu li t-termini ta' referenza tal-investigazzjoni mill-Awditur Ġenerali jkunu s-segwenti:

“Biex fil-qafas legali tal-Artikolu 108 tal-Kostituzzjoni ta' Malta u tal-Kap 396 tal-Liġijiet ta' Malta dwar l-Awditur Ġenerali u l-Uffiċċju Nazzjonali tal-Verifika tinvestiga jekk il-ħruġ ta' viżi lil persuni Algerini bejn Marzu 2014 u Settembru 2015 kienx jinvolvi nuqqasijiet li huma ċensurabbli skont l-imsemmija liġijiet.”

Insellu għalik,

Owen Bonnici

Edward Zammit Lewis

Chris Agius

Ilkoll membri tal-Kumitat għall-Kontijiet Pubbliċi

## Appendix C: Terms of Reference set by the National Audit Office



National Audit Office  
Notre Dame Ravelin  
Floriana FRN 1600  
Malta

Phone: (+356) 22055555  
Fax: (+356) 21220708  
E-mail: nao.malta@gov.mt  
Website: www.nao.gov.mt

*Awditur Ġenerali*

Rif Tagħna: NAO 147/2015

30 ta' Novembru 2015

Onor. Antonio Fenech, M.P.  
*Chairman*  
Kumitat tal-Kontijiet Pubbliċi  
Parlament ta' Malta  
Valletta

Onorevoli *Chairman*,

Nagħmel referenza għall-ittra datata 18 ta' Novembru 2015, mibgħuta lill-Uffiċċju Nazzjonali tal-Verifika mill-Onorevoli Membri tal-Oppożizzjoni fuq il-Kumitat dwar il-Kontijiet Pubbliċi, kif ukoll l-Onor. Francis Zammit Dimech u l-Onor. Roberta Metsola. F'din l-ittra, dan l-Uffiċċju ntablab jinvestiga kwistjonijiet varji relatati mal-ħruġ ta' visas mill-Konsolat Malti fl-Alġerija bejn Marzu 2014 u Settembru 2015.

Filwaqt li l-Uffiċċju Nazzjonali tal-Verifika ser jindirizza t-talbiet li tressqu mill-Oppożizzjoni, qiegħed jistabilixxi t-termini sussegwenti:

- jirrevedi l-proċess tal-ħruġ tal-*visas* mill-Konsolat Malti fl-Alġerija fil-perjodu fuq imsemmi;
- jeżamina s-sistemi u l-informazzjoni għad-dispożizzjoni tal-Gvern sabiex jassigura li l-kundizzjonijiet tal-*visa* qegħdin jiġu onorati;
- jistabilixxi jekk il-Gvern kienx mgħarraf b'xi irregolaritajiet li seta' kien hemm u jekk itteħditx azzjoni f'dan ir-rigward;
- jara l-mod ta' kif ġew mahtura l-uffiċjali tal-Konsolat Malti fl-Alġerija u l-kundizzjonijiet tal-impjeg tagħhom; u
- jeżamina l-għażla tal-uffiċċju minn fejn jopera l-Konsolat Malti u l-ftehim li sar f'dan ir-rigward.

Traduzzjoni bl-Ingliż ta' dawn it-termini tinsab mehmuża ma' din l-ittra.

Nagħmel referenza wkoll għall-ittra datata 20 ta' Novembru 2015 mibgħuta mill-Onorevoli Membri tal-Gvern fuq il-Kumitat dwar il-Kontijiet Pubbliċi liċ-*Chairman* tal-Kumitat u kkupjata lil dan l-Uffiċċju. It-talba għall-investigazzjoni li saret f'din l-ittra hi indirizzata permezz tat-termini mfassla hawn fuq.

B'hekk, sabiex jiġu indirizzati t-talbiet dwar il-ħruġ ta' *visas*, l-Uffiċċju Nazzjonali tal-Verifika se jimxi b'dawn it-termini bħala gwida.

Anthony C. Mifsud

Ink.

Kopja lil: Onorevoli Francis Zammit Dimech, MP  
Onorevoli Roberta Metsola, MEP  
Sinjura Anna Brincat, Segretarja tal-Kumitat

#### Terms of Reference

- a. To review the process employed in the issuance of visas by the Maltese Consulate in Algeria between March 2014 and September 2015;
- b. To examine the systems and information available to the Government in order to ensure that the visa conditions were being honoured;
- c. To establish whether the Government was informed of any irregularities and what action, if any, was taken in this regard;
- d. To review the manner in which the officials of the Maltese Consulate in Algeria were appointed and their conditions of employment; and
- e. To examine the selection of the premises from where the Maltese Consulate operates and the contractual arrangements entered into in this regard.

  
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## 2018 - 2019 (to date) Reports issued by NAO

### NAO Work and Activities Report

April 2018 Work and Activities of the National Audit Office 2017

### NAO Audit Reports

January 2018 The use of IT systems to identify skills and professional development needs within the Public Service

February 2018 Performance Audit: The designation and effective management of protected areas with Maltese waters

March 2018 Performance Audit: Evaluation of Feed-In Tariff Schemes for Photovoltaics

May 2018 An Investigation of anonymous allegation on a Home Ownership Scheme property in Santa Luċija

May 2018 An Investigation of the Mater Dei Hospital Project

June 2018 An Investigation of allegations on Dingli Interpretation Centre

June 2018 An Investigation into the Findings of the Local Governance Board

June 2018 A Review of the Pension due to a former Member of Parliament

July 2018 Performance Audit: A Strategic Overview of Mount Carmel Hospital

October 2018 Performance Audit: An evaluation of Government's deal to design, build and operate the Malta National Aquarium

October 2018 Follow-up Reports by the National Audit Office 2018

November 2018 Performance Audit: A Strategic Overview on the Department of Fisheries and Aquaculture's Inspectorate Function

November 2018 Report by the Auditor General on the Workings of Local Government

December 2018 An investigation of matters relating to the contracts awarded to ElectroGas Malta Ltd by Enemalta Corporation

December 2018 An investigation of matters relating to the contracts awarded to ElectroGas Malta Ltd by Enemalta Corporation (Abridged)

December 2018 Report by the Auditor General on the Public Accounts 2017

December 2018 Performance Audit: An evaluation of the regulatory function of the Office of the Commissioner for Voluntary Organisations