

*INPUT TO THE
CENSUS OF POPULATION
AND HOUSING 2021*

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INTRODUCTION & BACKGROUND

This input is being presented to the Census of Population and Housing 2021 Open Public Consultation¹, launched on 21 May 2020 by the Ministry for Finance and Financial Services. It is intended to influence the 2021 Census that will carry out a comprehensive survey to enumerate all permanent residents in Malta.

We thank the Ministry for the opportunity to present this feedback, as we are keen to ensure that the 2021 Census presents as accurate a picture as possible of the persons resident in Malta. In particular, we feel that the Census offers an excellent opportunity for Malta starting to comprehensively map the stateless population living here. We underline that only by identifying the size and dynamics of the stateless population will Malta be able to adopt policies that effectively seek to prevent statelessness and to protect stateless persons.

This is certainly a relevant consideration for the Ministry, in view of Malta's 2019 accession to the 1954 Convention relating to the Status of Stateless Persons². We applaud this major step and urge Malta to demonstrate best practices in fulfilling their obligations.

The accession has been reflected in the Stateless Index³, an online tool operated by the European Network on Statelessness. The Index not only provides an insight to State obligations and policies relating to statelessness, but is also a useful comparator tool for understanding how Malta may be addressing this issue. The Index offers very clear examples on how other States have implemented their obligations in national laws, policies and administrative practices.

The 1954 Convention facilitates the state's obligation to resolve statelessness. Frequently, however, stateless people are not registered as such and frequently have inadequate personal identity documentation or no documentation at all. This:

- 1) creates practical obstacles to the enjoyment of many human rights; and
- 2) poses challenges to identification of the nature and magnitude of statelessness⁴.

To address this, the UNHCR – the international organisation mandated to identify stateless people, prevent and reduce statelessness around the world and to protect the rights of stateless people – underlines the need to establish a more formal, systematic methodology for information gathering, updating, and sharing.⁵

¹ Available at https://meae.gov.mt/en/Public_Consultations/MFIN/Pages/Consultations/CensusofPopulationandHousing2021.aspx.

² Available at <https://www.unhcr.org/un-conventions-on-statelessness.html>.

³ Available at <https://index.statelessness.eu/>.

⁴ UN High Commissioner for Refugees (UNHCR), *Measuring Statelessness through Population Census. Note by the Secretariat of the United Nations High Commissioner for Refugees*, 13 May 2008, ECE/CES/AC.6/2008/SP/5, available at: <https://www.refworld.org/docid/4a705e4b2.html> [accessed 20 May 2020]

⁵ UNHCR Executive Committee Conclusion No. 106 on Identification, Prevention and Reduction of Statelessness and Protection of Stateless Persons, paragraphs (b) and (d), emphasis added.

The upcoming 2021 Census of Population and Housing presents an opportunity for Malta to not only meet its obligations under the 1954 Convention but also to innovatively lead in establishing best practice. By following the proceeding recommendations, which are both practical and reasonable, Malta will be able to reflect and act on the current situation of stateless persons residing here.

aditus foundation welcomes the opportunity to hold or attend a meeting to answer any questions regarding the inclusion of collecting data on stateless persons and to assess how best to fulfil Malta's obligations under the 1954 Convention.

MAIN OBSERVATIONS

It is recommended that Malta set up a statelessness determination procedure in order to ensure the identification of stateless persons in its territory.⁶ In line with this recommendation, reviewing current practice in Malta reveals that:

1. There is very limited disaggregated population data on statelessness;
2. Malta has no mechanism to identify and determine statelessness, and no stateless protection status;
3. There is no 'stateless' category in the census, although the question of whether someone has Maltese or 'any foreign citizenship' was asked in the last census in 2011. The *Annual Demographic Review* has a 'stateless' category in its data on acquisition of Maltese citizenship and the Office of the Refugee Commissioner reports on those with 'nationality not known' among refused asylum-seekers who cannot be returned;
4. The Government does not publish data on stateless people and statelessness is not systematically recorded across government agencies.

UNHCR's Executive Committee has recognised that census data may provide valuable information to supplement registration data and less formal survey data.⁷ It recommends that censuses be restricted to gathering information about *de jure* stateless populations, and populations with undetermined nationality.

The completeness and quality of information on the stateless population that may be derived from census data will depend in large measure on the accuracy of responses to questions on citizenship. Whether someone is stateless is generally determined on the basis of laws and practice of a State. Only to a lesser extent can it be directly determined on the basis of what someone says about his/ her situation in a survey questionnaire or interview. This means that data gathered through profiling exercises often needs to be carefully presented and analysed.⁸

Our recommendations reflect these needs and request the consideration of including statelessness in the upcoming census.

⁶ A/HRC/WG.6/31/MLT/2 para.68.

⁷ UNHCR Executive Committee Conclusion No. 106 on Identification, Prevention and Reduction of Statelessness and Protection of Stateless Persons, paragraphs (b) and (d), emphasis added.

⁸ UNHCR, *Guidance document on measuring stateless populations*, May 2011, available at <https://www.refworld.org/docid/4f6887672.html>.

RECOMMENDATIONS

Reviewing the current practice of a stateless determination procedure and the relevant recommendations, we submit the following recommendations to be considered ahead of the 2021 Census of Population and Housing.

1. Include a question on possession of national documentation (national ID, birth certificate, national passport), without requiring respondents to produce them.

Why is this important? A person reports not being in possession of a national ID, birth certificate and national passport could be flagged as being potentially stateless, since stateless persons are generally unable to secure such national documents;

2. Include 'unknown', 'no citizenship' and 'undetermined citizenship' in addition to 'stateless' as answer options to the citizenship question.

3. Include questions on duration of residency in Malta, nationality and place of birth of parents, for the respondents identifying themselves as stateless;

4. Include the issue of statelessness in the training manual and curricula of the census data collectors.

ADITUS FOUNDATION PROFILE

aditus foundation is a young, independent, voluntary, non-profit and non-governmental organization established in 2011 by a group of young lawyers dedicated to ensuring human rights access in Malta. aditus' Director is Dr. Neil Falzon, and the current board is composed of Dr. Nicola Mallia (Chairperson), Dr. Michael Camilleri and Dr. Michael Ellul Sullivan.

Named for the Latin word meaning 'access', aditus foundation's mission is the attentive analysis of access in Malta to human rights recognition and enjoyment. In practical terms, aditus was established to *monitor, report* and *act* on issues of fundamental human rights access for individuals and groups.

aditus foundation was founded on the principles of the universality, interdependence and indivisibility of all fundamental human rights, and we strive to promote their understanding and application. Being a generic human rights NGO, we work to adopt a broad perspective for human rights in Malta, identifying themes such as discrimination and access to effective remedies. Furthermore, while focused on Malta, we work towards highlighting the regional and international implications of local obstacles to human rights access.

Our main activities include the identification of priority areas, formulating advocacy strategies and working towards improvement in legal and administrative standards. This includes offering pro bono legal information and advice. We focus primarily on the government of Malta (through participation, for example, in a series of meetings with the Office of the Prime Minister on the subject of refugees). We do also address the EU institutions, the UN, the Council of Europe and other relevant agencies. We remain in constant communication and cooperation with governmental, intergovernmental and non-governmental entities to maintain a comprehensive approach in our activities.

aditus is committed to engaging the general public in a human rights discourse that is well informed, unbiased and effective, through press statements and television and radio appearances. Further, aditus makes full use of the Internet to disseminate information, raise public awareness, gather advocacy support and establish contact with individuals and networks.

Together with being registered with the Malta Commissioner for Voluntary Organisations, aditus has affiliations and memberships with the Platform of Human Rights Organisations in Malta, the International Detention Coalition (IDC), the Platform for International Cooperation on Undocumented Migrants (PICUM), the European Network on Statelessness, the European Council on Refugees and Exiles (ECRE) and the Anna Lindh Foundation.

We are also members of the Consultative Forum of the European Asylum Support Office, and of the Fundamental Rights Platform of the European Union Agency for Fundamental Rights.

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