

Office of the Regulator

Individual Investor Programme (ORIip)

Fifth Annual Report on the Individual Investor Programme of the Government of Malta (1st July 2017 – 30th June 2018)

November 2018

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Foreword by the Regulator

This Report - which is my third report since my appointment as Regulator of the Individual Investor Programme in February 2016 and the fifth in its series – is being drawn up in terms of subarticle 8 of Article 25 of the Maltese Citizenship Act, Cap. 188. It covers the period from 1 July 2017 to 30 June 2018.

It needs to be noted from the outset that compared to the boom that the Programme has had during the previous reporting period (July 2016-June 2017), relevant statistics provided by the MIIPA show that there has been a drop in the number of applications it has received during the period covered by this Report. This notwithstanding, the number of applications received was substantially higher than the number of applications received during any of the 2 reporting periods before July 2016. Such high number of applications is definitely unique and worthy of praise especially when one considers all the totally undue and highly inconsiderate bad publicity that has been showered upon this Programme during the period under reference by the various quarters and institutions. In this connection I honestly feel that one cannot but note with great disconcertment and disbelief that such bad publicity was instigated without one going primarily into the intricate details with which this Programme has been governed since its launch and the extremely high importance and detailed attention that is given throughout the relative processes (in particular the due diligence exercise) by the MIIPA.

On a related matter, it is also with utter dismay that I put on record the fact that none of the fact-finding missions which came over to Malta from both the European Commission and the European Parliament as well as other institutions that have decided to criticize the running of this Programme have even bothered to request a meeting with the undersigned or any of the members of my Office or seem to have at least carefully studied any of this Office's past Annual Reports before expressing in one way or another their deep concerns over this Programme. It has already been spelt out that the income which the Government is and will be deriving from this Programme will in the coming months and years play an extremely important role in the country's infrastructural boom and social development. Consequently it is of the utmost importance that Malta's Programme continues to remain as highly dynamic as possible so that it will not only continue to remain in the forefront from all aspects but will also continue to attract the best applicants from around the world. However, in order to achieve all this, it is imperative that all local institutions, whether financial, (including banking) or administrative, work towards this aim in the smoothest way possible. In particular such institutions must not continuously put at undue risk the running of this Programme because in doing so they are directly or indirectly jeopardizing both Government's and the MIIPA's initiatives towards a more efficient and effective running of the programme including a speedier collection of all contributions that are legally due to be passed on to the Maltese coffers within a particular time-frame in terms of Cap 188 and Regulations made there-under. If our financial institutions cannot possibly work towards this aim because of a number of over-rigid and very often insensitive and insensible measures that they are required to implement because of their international obligations, then undoubtedly a totally different legal route needs to be devised **without further undue delay**. This would ensure that these dues get through to Malta's coffers in an orderly manner without obliging a successful applicant and the MIIPA to pass through the unwarranted and uncalled-for ordeal brought about by local banks following the **months-long internationally acclaimed** due diligence processes and procedures that are adhered to by the MIIPA **before** an applicant is finally accepted to become a citizen of Malta under this Programme. Otherwise, we are simply shooting at our own two feet!

As to the Public Consultation process concerning this Programme which was carried out and finalized during the period covered by this document, till the time when this Report was drawn up its results have not yet been made public. It is, however, expected that by the time this Report is ultimately published these results would have been made public as well. It is envisaged that the implementation of its results will not only serve to enhance this Programme but will also take it to the next higher level. Needless to say, the undersigned and his Office were among the very first to actively participate in this process in a concrete effort to bring together an updated and consolidated version of all their proposals and recommendations which had previously been presented to Government and were still in the process of being considered by the latter and others that were still in the pipeline or still on the burner. It is further hoped that this year's recommendations as put forward in Section 6 of this Report will eventually be also taken on board both by Government as well as by the MIIPA, as the case may be, in the short term.

On its part the MIIPA, as is now customary for it, has, for the umpteenth time, also been actively considering fresh ideas, changes and innovations to the Programme with a view to making it more dynamic, more efficient and more effective so as to withstand the challenges that it may have to face through the coming years from various sources and at the same time project Malta's Individual Investor Programme further up the front line.

In conclusion, I wish to once again acknowledge the input of my staff in drawing up this report. My very special thanks go first and foremost to Mr. Jesmond Camilleri (Regulatory Officer) and Ms Graziella Bartolo Pizzuto (Assistant Regulatory Officer) whose total dedication and unstinting support have repeatedly given a truly unique impetus to this Office's forward thrust and rendered my regulatory functions at law more meaningful and worthwhile in a concerted effort to achieve a better scrutiny of the work performed by the MIIPA. My heartfelt thanks insofar as this Office is concerned also go to Ms Sandra Borg Agius who as always and invariably has been a real inspiration in this Office's proper administration and office organization. I would also like to show my gratitude to the MIIPA's topmost personnel, particularly the Chief Executive Officer, Mr Jonathan Cardona, and his immediate supporting Officials, top amongst whom is Ms Monica Farrugia who, together with their entire team, have shown professionalism and utter dedication in their work. Finally, one cannot but positively remark that, as in previous years, day in day out, the MIIPA's open door policy in regard to this Office has been truly appreciated and cannot but be highly commended. This has, in turn, strengthened our relationship and proper understanding of our respective functions and innate responsibilities.

Carmel L. De Gabriele
Regulator

12 September 2018

Annual Report on the Individual Investor Programme

as on the 30 June 2018

In fulfilment of the provisions of Article 25(8) of the Maltese Citizenship Act (Cap. 188)

Glossary

CEO	Chief Executive Officer
EU	European Union
GDP	Gross Domestic Product
IMA	Identity Malta Agency
IIP	Individual Investor Programme
MCC	Mediterranean Conference Centre
MIIPA	Malta Individual Investor Programme Agency (including the former Unit within Identity Malta Agency responsible for the Individual Investor Programme)
ORiip	Office of the Regulator (Individual Investor Programme)

1.0 Introduction

This report constitutes the fifth, in a series of annual reports required at law, in order to regulate the Individual Investor Programme, in terms of Article 25(8) of the Maltese Citizenship Act (Cap 188). In line with previous reports, the timeline of this year's annual review will consider the period between 1 July 2017 and 30 June 2018.

Key milestones during the period in question were as follows:

Date	Milestone	Description
1 July 2017	2017 Report	The 2017 Report, covering the period between 1 July 2016 and 30 June 2017, starts being compiled.
27 November 2017	Monitoring Committee	The fourth Monitoring Committee convenes. The Committee is set up as per provisions of Article 25B of the Maltese Citizenship Act.
18 December 2017	Report Publication	The ORIip's fourth annual report is laid on the Table of the House of Representatives by the Hon. Julia Farrugia Portelli.
2 February 2018	Regulator Reappointment	Mr Carmel De Gabriele is confirmed in the post of IIP Regulator for an additional period of two years (up till 1 February 2020).
30 June 2018	2018 Report	The vetting period expires and the ORIip starts preparing for the 2018 Report which will be eventually presented to the Monitoring Committee and tabled in the House of Representatives.

It has to be pointed out that the ORIip and the MIIPA have continued to work closely together, meeting and communicating with each other on a regular basis in order to discuss issues arising as a result of the implementation of the Programme. From its part the ORIip took great care to keep under proper surveillance the processes involved in the evaluation, adjudication and/or rejection of the applications that were processed by the MIIPA during the period covered by this Report.

The basis of this report is similar to previous years' documents:

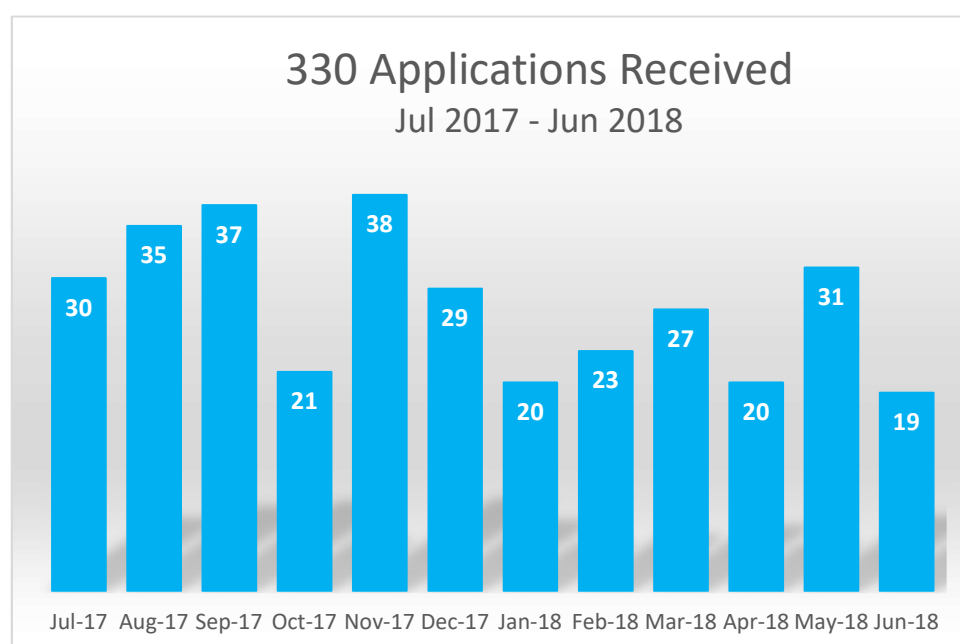
- Detailed analysis of statistics which were made available by the MIIPA is contained in **Section 2**.
- Themes that were in the public domain (namely either raised in parliament through the submission of parliamentary questions and/or published in the Media) are covered in **Section 3**.
- Feedback provided by the Agents and by the MIIPA (including on recommendations made in previous reports by this Office) is included in **Section 4**.
- **Section 5** contains an exhaustive report on activities carried out by this Office in the fulfilment of obligations emanating from the provisions of the IIP regulations, namely the regular vetting of a sample of the IIP applications (both those which were approved and those which were refused) and ad hoc initiatives undertaken to address any issues which might have cropped up during the period in question.
- In conclusion **Section 6** lists a number of recommendations based on the ORiip's observations of all afore-mentioned themes.

2.0 Statistical Information

The statistical information contained within this report is deemed to be correct as at 30 June 2018 and is based on data made available to the ORiip by 30 July 2018. Basing itself on previous experience the ORiip notes that IIP statistics are dynamic and therefore are continuously susceptible to variations. In particular, changes may be registered in locality details and/or property prices since IIP applicants/citizens might opt to terminate a lease and start a new one without informing the MIIPA accordingly in good time before the final annual statistics are passed on to the ORiip or at least before the final draft of the report is drawn. This proviso applies both in the case of current data (information listed in this report) and historical data (information pertaining to the period prior to July 2017).

2.1 Applications submitted to the MIIPA

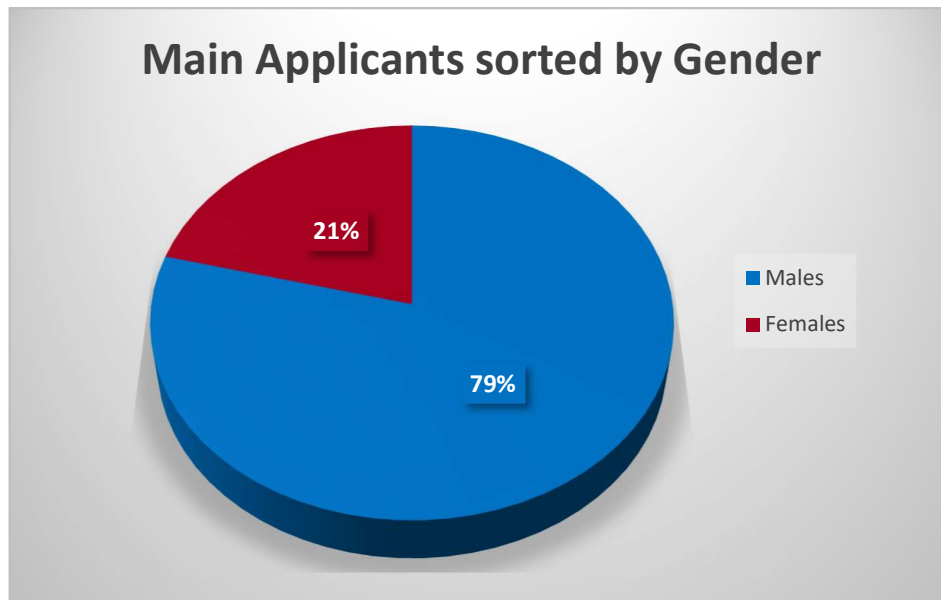
The number of applications received during the period in question amounted to 330, 47 applications less than the previous twelve months (377). The most prolific month was November 2017 when 38 applications were received by the MIIPA, closely followed by September 2017 (37). On the other hand the month with the least applications was June 2018 with only 19 submitted applications.



Taking into consideration the above figures one will note that the total number of applications received by the MIIPA (since the inception of the IIP) as on 30 June 2018 stood at **1431**.

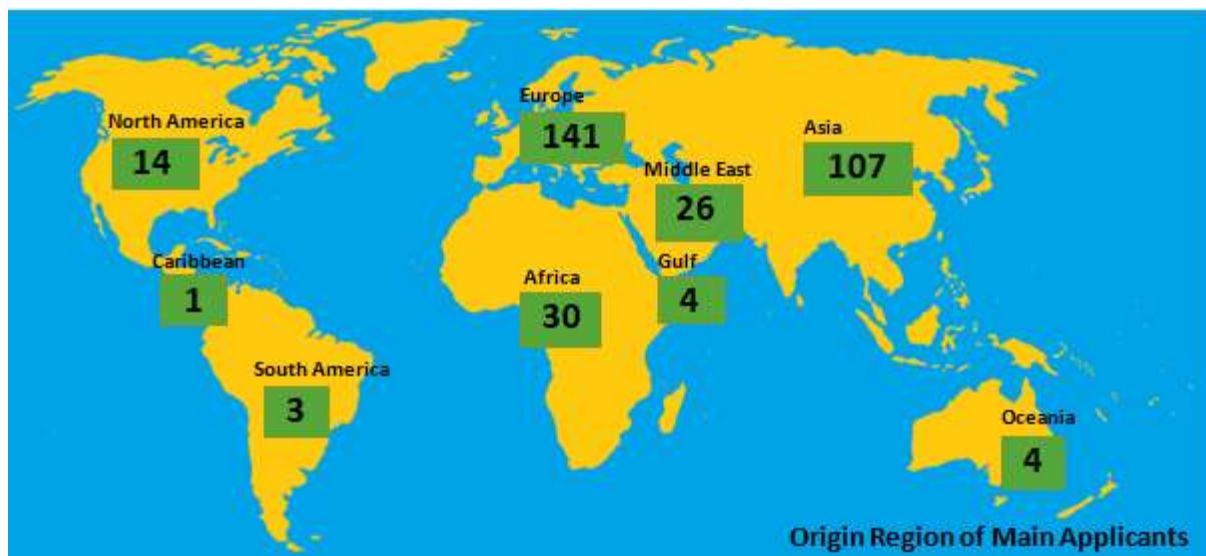
Gender

Similar to previous years the gender of the main applicants continues to be predominantly male. It is interesting to note that percentages in this respect have not changed since last year when 79% of the applicants were males and 21% were females.



Origin

Similar to last year the applications originated from nine different geographical regions (basing on the main applicants' principal nationality) – Europe, the Gulf Region, Asia, Africa, the Middle East, North America, South America, the Caribbean and Oceania.



Region	2015 Report	2016 Report	2017 Report	2018 Report
Europe	61.6%	44.5%	44.6%	42.7%
North America	9.8%	4.2%	4.8%	4.3%
Asia	8.6%	15.3%	21.5%	32.4%
Middle East	8.6%	5.1%	13.5%	7.9%
Gulf Region	5.9%	20.9%	8.2%	1.2%
Africa	5.1%	8.0%	5.6%	9.1%
South America	0.4%	0.5%	1.1%	0.9%
Caribbean	0.0%	1.3%	0.3%	0.3%
Oceania	0.0%	0.2%	0.5%	1.2%

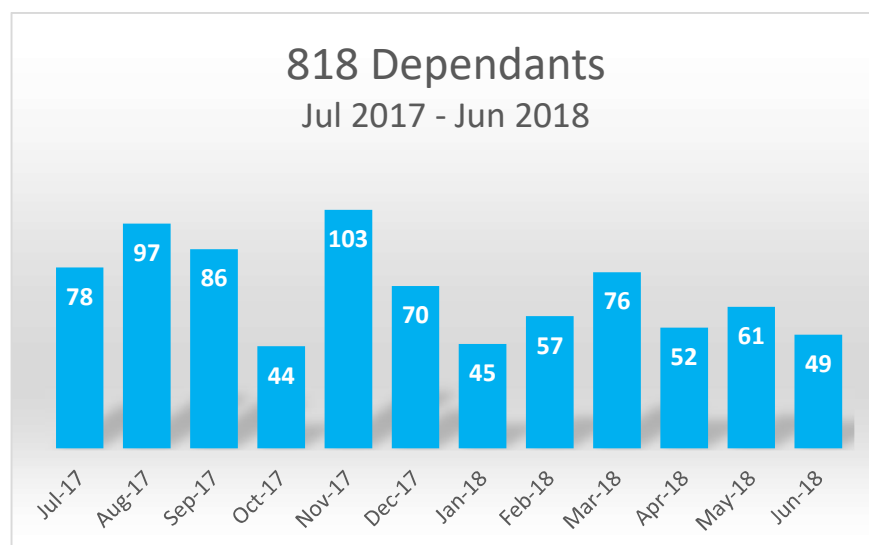
As in previous years, the largest number of main applicants originated from Europe, even though a slight decrease of 1.9% was noted when compared with last year's figures. The second most popular region was, once again, Asia which witnessed a significant increase (+10.9%) of applications from last year. Africa surpassed the Middle East in third place with the latter region experiencing a 5.6% drop during the past twelve months. One other interesting factor which has developed throughout the years since the launching of this Programme is that 2 particular Regions (Asia and Oceania), which geographically speaking are quite close to one another but then in effect are practically the farthest from the Maltese archipelago, have evinced a constant steady increase in applications from year to year.

Number of Different Citizenships

Statistical information was also recorded on the number of different citizenships of which the main applicants were already in possession (at the time of application). Similar to last year the absolute majority of main applicants (309 out of 330, i.e. 94%) only had one previous citizenship, meaning that if their IIP application were to be successful, the Maltese Citizenship would be their second. On the other hand, 21 main applicants had two previous different citizenships. During the period in question there were no applicants previously holding three citizenships or more.

Dependants

The number of dependants included in the 330 applications amounted to 818 of which 243 were spouses, 398 were minor dependants and 177 were adult dependants (either adult



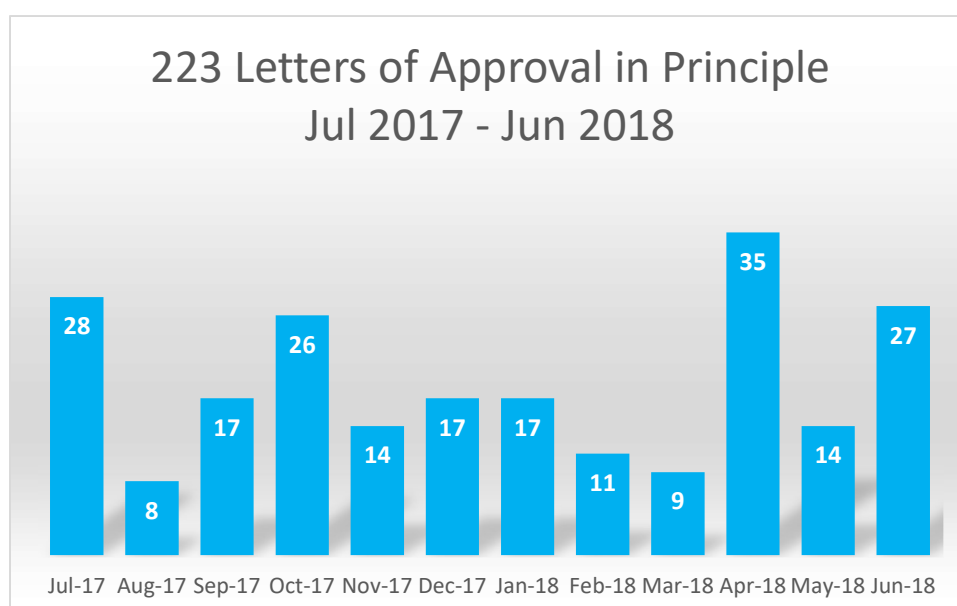
children or parents/grandparents). On average the number of dependants per application was 2.47 which is slightly less than the average recorded in previous years (where an average of 3 dependants used to be recorded per application).

2.2 Outcome of Applications

As also stated in previous years' reports, the figures quoted in this sub-section do not tally with those recorded in the previous one, the reason being that there is a time-lapse during which an application is processed and therefore a significant number of the 330 applications received between July 2017 and June 2018 would still be in the initial or due diligence stage (and thus their outcome would be recorded in next year's report).

Approved Applications

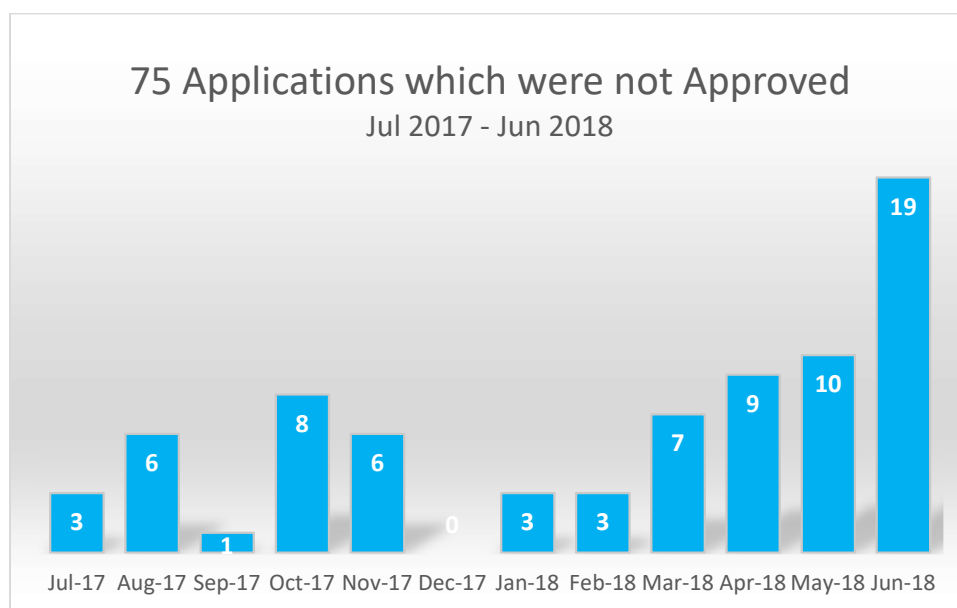
The amount of applications which were approved (i.e. applications for which the due diligence has been positively concluded and a letter of approval in principle has been issued) was 223. The highest number of approvals (35) was issued in April 2018 whilst, conversely, the lowest number (8) was registered in August 2017. When adding these figures to those included in previous reports one will note that the total number of letters of approval issued till 30th June 2018 amounts to **961**.



Applications which were Not Approved

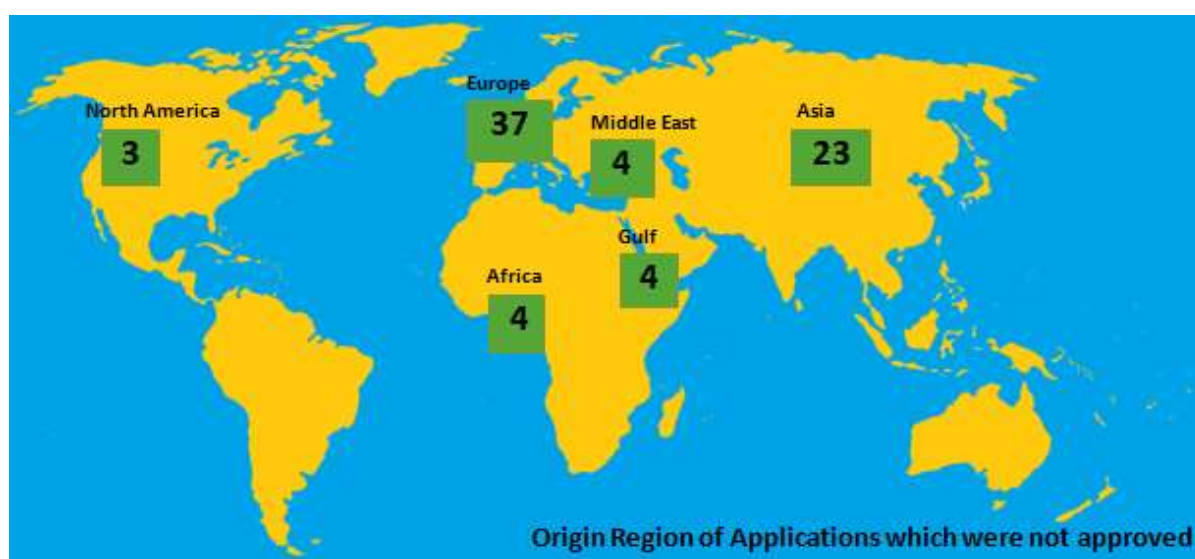
This category includes applications which were either rejected or withdrawn. The number of applications during the period in question was 75 (an average of 6 applications per month). The highest number registered in one month was 19 (in June 2018).

Taking into consideration all the **decisions** (approvals or otherwise) taken during the period in question, it transpires that the overall rate of such unapproved applications stood at 25% of all applications. This constitutes a significant increase from last year's rate which stood at 16%. The average of **all** such unapproved applications for **all** the years since the inception of the Programme now stands at 19.5%.



Origin

Similar to the previous twelve months, the majority of rejected/withdrawn applications originated from Europe (37) followed by Asia (23). The other applications originated from the Gulf Region (4), Africa (4), the Middle East (4) and North America (3).



2.3 Naturalisations

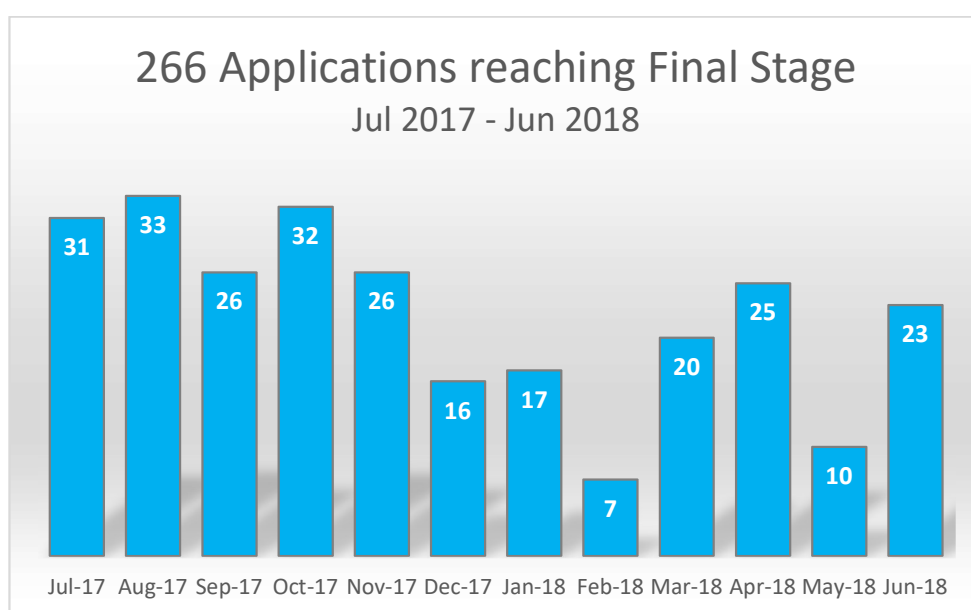
The same rationale (as per above) that the figures do not tally with those in the previous two sub-sections applies. Indeed, a substantial number of applications which reached the naturalisation stage during the period in question would have actually been initialised and possibly also approved during the previous reporting period.

Naturalised Persons

During the period in question 266 applications had reached the final stage (i.e. when the naturalisation process was completed). This constitutes a drop of 120 from the amount

recorded during the previous twelve months when the amount of naturalised persons reached 386. On the other hand the figure is higher than that registered in the 2015-2016 reporting period when only 137 applications reached such stage.

In total (since the launch of the Programme) up till the end of June 2018 there have been 833 successful main applicants. Considering that Regulation 12 of the current version of the IIP Regulations stipulates that the number of successful main applicants (excluding dependants) shall not exceed 1,800 for the whole duration of the Programme, the aforementioned figure constitutes 46.3% of the indicated pre-established target.



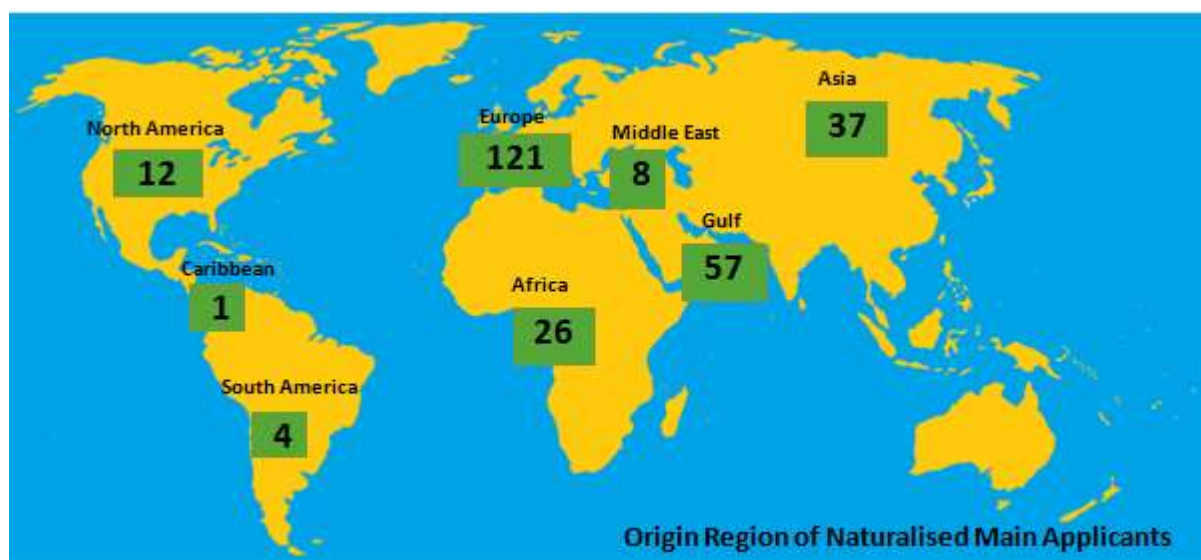
Dependants

The 266 applications included a total of 914 persons. Apart from the 266 main applicants there were 648 dependants distributed as follows: 184 spouses, 284 minor dependants and 180 adult dependants. This means that each application contained an average of 2.44 dependants – the figures for the previous two reporting periods stood at 3.

Month	Main Applicants	Spouses	Minor Dependants	Adult Dependants	Total
July 2017	31	23	37	29	120
August 2017	33	27	41	25	126
September 2017	26	16	25	20	87
October 2017	32	24	38	26	120
November 2017	26	15	23	16	80
December 2017	16	13	23	10	62
January 2018	17	10	16	4	47
February 2018	7	6	7	4	24
March 2018	20	12	12	10	54
April 2018	25	17	30	17	89
May 2018	10	9	14	4	37
June 2018	23	12	18	15	68
TOTAL	266	184	284	180	914

Origin

Similar to previous trends the region from which the naturalised main applicants mostly originated was Europe (121). The only regions to experience an increase (when compared with the previous reporting period) were Africa with 26 (in 2017 the reported figure was 25) and South America with 4 (in 2017 no one from this region was naturalised as an IIP Maltese citizen).



Number of Different Citizenships

The majority of naturalised main applicants – 245 – only had one citizenship (i.e. the Maltese Citizenship which they acquired was their second). Of the remaining applicants, 20 held two citizenships and 1 had three (meaning that the Maltese Citizenship would have been their third and fourth respectively).

Gender

The ratio of the gender of naturalised main applicants remained predominantly male-oriented, with 81% males and 19% females. Nonetheless, when compared with the previous reporting period, there was a slight increase of females (during the previous twelve months the ratio of naturalised persons was 86% males and 14% females).

Employment Status

Similar to the previous reporting period the absolute majority (56.4%) of naturalised main applicants declared that they were self-employed. When comparing the figures with those previously recorded in the 2017 report one will note that the figures have practically remained the same. Indeed in 2017 the percentage of self-employed reached 56.7%, the percentage of employed stood at 37.8% and the non-economically active was 5.5%.

Type	Count	Percentage
Self-Employed	150	56.4%
Employed	101	38.0%
Non-economically Active	15	5.6%

Educational Level

The educational level of naturalised main applicants was, similar to previous reporting periods, very high. Taking into consideration those reaching PHD, Masters and Degree levels one will note that this amounts to 78% of such persons. This constitutes a significant increase from last year's report when 69% of naturalised main applicants had reached the afore-mentioned levels.

Type	Count
PHD	16
Masters	69
Degree	123
Diploma	11
Higher Secondary	7
Secondary	1
Others	37
Not Specified	2

Age Bracket

Age Bracket	Count
18 – 24	0
25 – 44	93
45 – 64	153
65+	20

Similar to last year the main age bracket of naturalised main applicants was between 45 and 64 (58%), followed by those falling within the 25-44 age bracket (35%) and those whose age is 65 or more (7%). One may note that there were no naturalised main applicants below the age of 25.

2.4 Properties

As indicated on page 11 statistical information on IIP matters are dynamic and therefore continuously susceptible to variations. This is even more so in the case of properties since the IIP regulations allow IIP applicants / citizens to terminate a lease and start a new one (or purchase a property instead) and therefore rendering statistical information more susceptible to changes from year to year.

As indicated in the afore mentioned IIP Regulations, main applicants are obliged to invest in a residential immovable property in Malta, either by acquiring and holding one having a minimum value of three hundred and fifty thousand euro (€350,000) or by taking one on lease for a minimum annual rent of sixteen thousand euro (€16,000). In this regard, during the period in question there were 266 properties that were either purchased or leased. Similar to previous reporting periods the vast majority of property – 91% - was leased whereas the remaining 9% was purchased. When compared with the figures included in the 2017 report this constituted an increase of 3 percentage points in the number of applicants who preferred to lease rather than to purchase.

Type of Property	July 2017 – June 2018	July 2016 – June 2017	July 2015 – June 2016	Since Launching of the IIP till 30 June 2015	Grand Total since Launching of the IIP till 30 June 2018
Purchased	25	46	27	7	105
Leased	241	340	107	36	724

During the current reporting period Sliema topped the list of localities in which property was purchased, closely followed by St Julians (who, in turn, was the most popular during the previous twelve months). Both localities enjoy a dominant position with regards to purchased property. Indeed 72% of all purchased properties are situated in these two localities. The only exceptions to such exclusivity are single properties purchased in each of the following localities: Gżira, Ibraġġ, Mellieħa, Swieqi, Ta' Xbiex, Valletta and Xgħajra.



Property leasing was spread over 26 different localities. Once again the most popular localities were Sliema (35%) and St Julians (21%) totalling 56% of all leased property. Similar to the previous reporting period the third most popular locality was Swieqi (10%). It was also noted that 2.5% of the properties were leased in Gozo.

Location	Purchased	Leased
Attard	-	4
Balzan	-	1
Cospicua	-	2
Floriana	-	1
Gżira	1	13
Ibraġġ	1	5
Marsalforn	-	4
Marsaskala	-	2
Marsaxlokk	-	1
Mellieħa	1	2
Mosta	-	4
Msida	-	6
Pembroke	-	1
Pieta	-	2
Qawra	-	1
San Ġwann	-	1
Sliema	10	84
St Julians	8	51
St Paul's Bay	-	19
Swieqi	1	24
Ta' Xbiex	1	4
Valletta	1	4
Vittoriosa	-	2
Xemxija	-	1
Xgħajra	1	-
Xlendi	-	1
Żebbug (Gozo)	-	1

Between July 2017 and June 2018 the value of the 25 purchased properties amounted to €29,600,500, averaging €1,184,020 per property. Such average is significantly higher than the minimum threshold of €350,000 set in the IIP Regulations. Globally (taking into consideration all the properties purchased since the launch of the IIP) the value of all purchased property (115) totals €110,302,233.31 (averaging €959,149.85 per property).

In the case of leased properties the rental value for the duration of the 5-year contract is projected to be €23,062,687.64 averaging €95,695.80 per contract. On an annual basis this translates into an average of €19,139.16 per lease. Similar to the situation regarding purchased properties, the average is significantly higher than the minimum threshold of €16,000 per year as set in the IIP regulations. Globally (taking into consideration all the properties leased since the launch of the IIP) all 718 leased properties add up to €70,610,075.09, averaging €98,342.72 per leased property which, in turn, translates into an annual average rental value of €19,668.54.

2.5 Investments in Government Stocks

Regulation 7(6) of the IIP Regulations states that an IIP applicant shall make a minimum investment of €150,000 in Malta Government Stocks. In this regard, the amount invested in such Stocks between July 2017 and June 2018 totalled €39,991,242.79. Taking into consideration all investments made since the launch of the Programme the total amount adds up to €126,015,542.50.

Month	Total (€)
Prior to July 2017	86,024,299.71
July 2017	4,700,321.78
August 2017	4,994,619.91
September 2017	3,930,429.23
October 2017	4,702,901.25
November 2017	3,931,919.44
December 2017	2,273,600.18
January 2018	2,568,684.76
February 2018	1,045,675.00
March 2018	3,026,899.14
April 2018	3,780,631.11
May 2018	1,558,372.30
June 2018	3,477,188.69
TOTAL	126,015,542.50

2.6 Contributions and Fees Payable by Main Applicants and Dependants

2.6.1 Contributions

During the period under review by this Report (1st July, 2017 – 30th June, 2018), the contributions collected by the MIIPA amounted to €162,375,000. This equates to approximately 1.38% of the GDP **relative to the same period** (estimated at €11,755,000,000). The contributions so collected initially go into a Suspense Account and it is only after the Oath of Allegiance is taken that the distribution of funds is carried out in accordance with the provisions governing the IIP. Taking all inputs from the IIP related to property purchases and rent, investments and contributions during the period covered by

this Report, the sum total (€246,088,758) would equate to approximately 2.09% of the GDP **relative to the same period**.

When the amount of contributions collected during the period covered by this Report is added to the contributions previously collected by the MIIPA since the launching of this Programme this would result in a grand total of €672,025,000 contributions collected by the MIIPA in respect of this Programme.

During the period 1st July, 2017 – 30th June, 2018 the funds distributed were as follows:

- €159,075,550 the National Development and Social Fund;
- €68,000,445 the Consolidated Fund;
- €11,827,500 Identity Malta Agency/Malta Individual Investor Programme Agency;
- €9,746,000 Henley & Partners.

This means that since the launching of the IIP till the 30th June 2017, the total amount of funds distributed were as follows:

- €408,404,349 the National Development and Social Fund;
- €174,855,645 the Consolidated Fund;
- €35,529,000 Identity Malta Agency/Malta Individual Investor Programme Agency;
- €28,800,000 Henley & Partners.

The balance in the Suspense Account, which was still awaiting distribution, as on 30 June 2018 stood at €24,436,006.

2.6.2 Fees

Paragraph 2 of the Schedule to LN 47 of 2014 establishes the amounts that need to be paid by way of (a) due diligence fees, (b) passport fees and (c) bank charges by the main applicant in his or her respect and in respect of his or her dependants.

During the period covered by this report (1st July, 2017 – 30th June, 2018), the amounts collected by way of such fees were as follows:

Due diligence fees	€4,906,000
Passport fees	€574,000
Bank Charges fees	€66,000

2.7 Agents

The total number of Accredited Agents as at the end of June 2018 now stands at 159, an increase of 18 when compared with the amount registered a year before. Of these 22 were upgraded to the status of Approved Agents. These 159 Accredited Agents were subdivided into four main categories, namely:

Type of Firm	Count	Percentage
Concessionaire	1	0.6%
Legal	51	32.1%
Financial Fiduciary and Trust	67	42.1%
Management and Consultancy	27	17%
Property Consultancy	13	8.2%

3.0 The IIP in the Public Domain

3.1 Parliamentary Questions

Between 1 July 2017 and 30 June 2018 the ORiip took note of a total of 47 Parliamentary Questions (laid on the table of the House of Representatives) which were directly or indirectly related to the IIP. All of these were tabled by Opposition Members of Parliament.

One of the main topics which featured regularly throughout the year was the list of persons granted Maltese Citizenship during the previous twelve calendar months and published annually in the Government Gazette, as per Regulation 14(2) of the IIP Regulations. The majority of the requests revolved around when and where would such list be published (with the latest recorded Parliamentary Question – tabled on 20 June 2018 – asking for the date when the 2017 list will appear during 2018). On such matter there was also a number of requests for additional information, namely for Government to provide a breakdown (for each person) of which citizenship stream (registration, naturalisation or IIP) applied, the different nationalities held, information on age, details of sex and an indication of whether they were main applicants, applicants or dependants. The bulk of these requests was refused mainly in view of data protection issues, the fact that distinctions could not be made between different categories of Maltese citizens and the assertion that much of what was being requested was not in line with the provisions of the afore-mentioned Regulation 14(2) which defined exactly what type of information must be published. On the other hand the total number of nationalities (of all persons appearing in the list) were duly provided, broken down into each nationality.

Another featured topic concerned Article 6 of the IIP Regulations which states that ineligible applicants shall not be approved for citizenship under the programme unless the MIIPA is satisfied that these are still worthy of being considered for approval due to special circumstances. In such cases the MIIPA is required to issue a reasoned opinion as to why such applicants should still be considered for approval and to refer such applications to the Minister who will have the sole authority to grant approval. In a number of tabled Parliamentary Questions Government was asked to divulge the amount of such type of applicants (by year), their nationality, how many were approved and the reason for approval. In this regard the Prime Minister (in his capacity as Minister responsible for Citizenship) confirmed that there were no such cases.

There were also no cases (since 2013) of persons deprived of Maltese Citizenship (confirming therefore that no IIP applicant suffered from such fate). This request for information was tabled in Parliament separately from the above.

Other Parliamentary Questions targeted IIP Agents, with requests for information varying on their details, how many applications had each submitted and on whether the MIIPA had carried out investigations on them. Information in these cases was not given due to privacy and data protection.

The National Development and Social Fund was mentioned in a number of Parliamentary Questions whereby information was requested on its aims, the amount of money it contained and the investments made through this Fund. Exhaustive information was given accordingly.

Other questions focused on donations (Government confirmed that related information – which was previously not recorded – was now being collated by MIIPA), whether bitcoins will be used in IIP transactions (this allegation was refuted), whether Identity Cards of IIP citizens were being issued with the letter ‘A’ as a suffix (this allegation was also refuted), the involvement of specific third-parties in the programme (this allegation was refuted as well) and IIP-related activities in general.

The IIP Regulator also featured in a number of Parliamentary Questions. In essence these involved requests for information on complaints received since 2013 and details on when would the annual report be published. The Regulator also featured in replies given to specific Parliamentary Questions. In one case Government was asked to indicate the amount of commissions being issued in relation to the IIP and, in reply, it was recommended that one refers to the Regulator’s report for the answer. Similarly, in another request for information on how many applications had been received, the Member of Parliament in question was invited to find the details within the afore-mentioned Regulator’s report.

3.2 Media Articles

Key IIP events taking place throughout the period in question were duly reported in the Media. These included reportage on some of the IIP funds being allocated for the purchase of bank shares, donated to a philanthropic organization and used for the creation of housing units. Prominence was also given to the organization of events taking place in order to promote the programme abroad.

Considering that by the end of June 2017 (deadline for the ORIIP’s 2017 report) the total number of applications received by the MIIPA amounted to 1101 (61% of the established threshold) there were speculations in the Media as to whether the programme would be continued and – if yes – whether the format would be changed. Such conundrum was resolved in November 2017 when, as reported by the Media, the Prime Minister indicated that the programme would indeed be extended and that it would be more exclusive. This announcement was followed by MIIPA’s launch of a public consultation exercise (reported in January 2018) on IIP, indicating that Government had an electoral mandate to extend the programme. In this regard a number of recommendations also found their way in the Media during such time. These recommendations included:

- Making the programme more transparent;
- Increasing minimum rent threshold for IIP applicants;
- Scrapping capping;
- Increasing the contribution of dependants; and
- Abolishing requirements to purchase €150,000 in Government Bonds or stocks.

A theme which was regularly brought up by the Media, in particular during the latter part of 2017, was the publication (in the Malta Government Gazette) of the names of all persons who, during the previous twelve calendar months, were granted Maltese Citizenship – as per Regulation 14(2) of the IIP Regulations. The list was eventually published in December 2017. Prior to the publication of the list Media focus was on the delay (since in 2016 the list was published during the month of August). Subsequently, following the publication of the list Media focus shifted towards attempting to identify the names of IIP citizens which **(according to the same Media)** “were hidden” amongst names of other persons who had attained Maltese citizenship through different legal provisions. Some of these Articles mentioned names and alleged unlawful activity whereas others simply listed names just for the sake of publishing them.

Another key event which was reported in the Media (on 29 March 2018) was the splitting of the Identity Malta Agency into three distinct entities (each with its own Chairman and Board of Directors), namely the Identity Malta Agency, the Malta Residency and Visa Agency and the Malta Individual Investor Programme Agency.

Similar to previous years Media platforms also served to allow various sources to voice their own pros and cons and recommendations.

At one end of the spectrum, those in favour of the programme commented on its positive effect (including the reported surplus) on how it was considered to be of the highest level (defined as transparent and rigorous) and on how the related due diligence scrutiny was one of the best. Conversely, its detractors referred to it as a controversial and shameful programme which could open doors to organized crime and corruption and which therefore should be scrapped.

At a political level it was reported that Government considered the IIP to be a fall back position if EU funding could no longer be obtained at the current levels or if at all. On the other hand, local political parties adopted a different approach with one Party stating that it would look to attract people who will invest rather than simply purchase a passport whilst another Party stated that it was in favour of a programme akin to the IIP as long as its modus operandi follows best practice protocols which include thorough due diligence and monitored safeguards. Another recommendation mooted the immediate removal of restrictions in information regarding the IIP and the people granted citizenship in virtue of such programme.

The programme was also discussed at a European level where media sources reported the adverse comments by the PANA Committee Chairman (who claimed that the IIP should be stopped). Other reports focused on the European Parliament which (in November 2017) issued a Resolution that included calls for Malta to clearly identify the persons who had obtained Maltese Citizenship through the IIP and to enforce physical residence requirements. The European Commission also featured in Media reports when – in April 2018 – it was reported stating that passport buyers must have a clear link to selling countries. Similarly, in June 2018, whilst acknowledging that Member States have sovereignty over citizenship programmes, the EU Justice Commissioner Věra Jourová stated that “the European Commission must ensure that Malta only gives citizenship to people with a real link to the country and who reside in it for at least a year”. Conversely other international sources praised the Maltese programme, claiming its due diligence to be the gold standard. On a similar note, in November 2017 the General Counsel for Thomson Reuters promoted Malta’s programme as a textbook example of how to conduct effective and reliable due diligence.

Throughout the year a number of requests for information (some of which through the freedom of information channels) were submitted regarding the IIP and these were duly reported in the media. These ranged from details of the identity and origin of passport buyers, data on agencies securing the most successful applicants and concrete figures related to findings during IIP residence spot-checks. In all cases the requests for information were refused for various reasons, in line with the provisions of the Freedom of Information Act. In the case of freedom of information requests the IDPC was reported to have upheld MIIPA’s decisions.

Even the ORIIP featured in media reports during the past twelve months in particular regarding the contents of its 2017 report. In January 2018 an Article in MaltaToday Online (titled “IIP Regulator says citizen lists should be published more frequently”) inferred that within his Annual Report the Regulator had taken a stand (and had put forward recommendations) on the annual publication, within the Government Gazette, of the list of

naturalised citizens or in the manner/format that such lists were being published. Since this was nothing but a total distortion of what the Regulator (IIP) had written down in his Annual Report, the Regulator (IIP) immediately corresponded with the Executive Editor at MaltaToday stating that he was clearly and unequivocally emphasising that, in the said report he had not entered into any merits of such lists and, instead, had limited himself to reporting items of news value which made the headlines in the 12 months which said report had covered. The Regulator also pointed out that the title of the Article and its contents in this respect were incorrect and misleading since his recommendation (in Section 6 of the Report) was for the MIIPA to consider issuing **statistical information** (rather than citizen lists) on a regular and more frequent basis, similar to what had been published in the ORIIP's Annual report. In conclusion the Regulator asked for a correction / clarification to be issued accordingly. MaltaToday subsequently opted to remove the Article altogether from its website.

4.0 Consultations with Stakeholders

During the past months the ORIip continued to meet up with the main IIP stakeholders, namely the MIIPA, the Concessionaire and the Agents in order to keep abreast with developments and also to intervene if and when required. Planned monthly meetings were held regularly with the Agency and these were complemented with ad hoc meetings held whenever any urgent issues cropped up.

In the case of Agents, during the period in question the ORIip held individual meetings with a number of those who had been identified as being particularly active during the previous two years (it was deemed to be impossible for the Regulator to meet up with the circa 159 Agents). In this regard invitations were sent to such Agents informing them that their feedback would be paramount (in view of their experiences on the IIP) and inviting them for a meeting if they felt that they could contribute. Not all contacted Agents took up the offer to meet however those that did provided the ORIip with valuable information (including latest developments, issues and recommendations) and these are being reproduced hereunder.

4.1 Feedback by the MIIPA on Observations made in Previous Reports

Previous ORIip reports included Regulatory Observations made by the Regulator. In this regard the MIIPA was invited to provide related comments on those observations which are relevant to the Agency and – where applicable – to indicate any action which would have been taken. An overview of comments on observations which concern the MIIPA is provided hereunder:

Observation	<u>Statistical Information</u> The MIIPA should consider issuing basic statistical information on a regular and more frequent basis rather than opting to divulge information only when it is requested in Parliament (through requests contained within parliamentary questions) or when it is published annually in the IIP Regulator's report.
Comments by the MIIPA	The MIIPA will consider doing this in a structured manner in the foreseeable future.

Observation	<u>ICT System</u> This recommendation was put forward in previous reports and since (as per the MIIPA's feedback) this was still (at the time) works in progress, the ORIip feels that it should continue emphasizing the importance of having a proper ICT system which facilitates the carrying out of its functions.
Comments by the MIIPA	Following the setting up of the MIIPA, this project is being given due priority.

Observation	<p><u>Filing</u></p> <p>As highlighted in the 2017 Report, until all processes are fully computerized, all related documentation (including exchanges of communication approving requests or otherwise) should be filed in an appropriate manner along with the original applications and other relative documents made available in physical format together with printed versions of online documents of relative importance so that the conventional physical file will contain all the relevant information; thus allowing for a proper physical audit trail.</p>
Comments by the MIIPA	The MIIPA is in discussion with the administration of the MCC to be provided with the appropriate on-site storage space which is expected to be made available by October 2018.

Observation	<p><u>Staffing</u></p> <p>This recommendation was also put forward in previous reports. In this regard the ORIIP considers that this issue has yet to be adequately addressed especially in view of the constant staff turn-over which takes place at the MIIPA.</p>
Comments by the MIIPA	Following the setting up of the MIIPA and submissions of requested HR plans, calls are now being issued.

Observation	<p><u>Communications with the Minister</u></p> <p>As indicated in the 2017 Report, recommendation letters to the Minister should contain exhaustive reasons (where warranted) as to why an application should be approved or refused.</p>
Comments by the MIIPA	The details of the rationale for the recommendations taken by the agency, which were previously annexed within the files sent to the minister, are now being summarily reproduced with the covering letter.

Observation	<p><u>Media Clarifications</u></p> <p>Start issuing clarifications in cases where Media reports contain inaccuracies.</p> <p><i>In the 2017 report the MIIPA had indicated that a Media and Communications Chief Officer was in the process of being engaged. The Agency is asked to indicate whether there is an update on this matter.</i></p>
Comments by the MIIPA	The Communications Chief Officer has been engaged and, where necessary, clarifications are also being addressed.

Observation	<p><u>One-Stop Shop</u></p> <p>Create a one-stop shop within select areas of the Mediterranean Conference Centre relocating all related services from the Evans Building in Valletta and Gattard House in Blata I-Bajda.</p> <p><i>In the 2017 report the MIIPA had indicated that this was works in progress and that it was the MIIPA's aim to have all services up to the passport stage stationed at the Mediterranean Conference Centre. The Agency is asked to indicate whether there is an update on this matter.</i></p>
Comments by the MIIPA	This is still a plan as currently there are construction works at the MCC which are prohibiting the MIIPA from fulfilling such one-stop shop duties.

Observation	<p><u>Guidelines</u></p> <p>Review Guidelines and start updating them regularly.</p> <p><i>In the 2017 report the MIIPA had indicated that new guidelines would be distributed to all Agents also as part of the consultation process. The Agency is asked to indicate whether there is an update on this matter.</i></p>
Comments by the MIIPA	Guidelines are to be issued by September 2018

4.2 Comments by Accredited Agents and Feedback on Same by the MIIPA

4.2.1 The MIIPA Staff

Similar to previous meetings Agents were unanimous in praising the staff at the MIIPA, especially the Senior Management which – they opined – are performing miracles given the challenges that they are facing. In general they commented that staff was very helpful and always went out of its way in order to find solutions to problems which often cropped up. In particular they commended the CEO who, they stated, was very receptive.

It was acknowledged that the transition period (at the time the meetings were held) following the setting up of the new Agency (after its separation from the Identity Malta Agency) was having its toll on the output of the staff. Nonetheless Agents also mentioned that the Agency is understaffed and that the employees were working under a lot of pressure. One Agent suggested that the Agency should address remuneration issues of its staff since this was leading to frequent turnovers that created delays and affected the reputation of the Programme. They felt that this situation was having an overall negative impact on the performance of the Agency as a whole. The ORIip was informed that, on quite a number of occasions, the Agency was not respecting the deadlines and – in one case – an Agent alleged that there was a significant number of applications which were pending for more than a year. The meetings also revealed that the Agents as well are having difficulties to cope with established timelines. Some stated that the 20 days (for effecting the final contribution)

and the subsequent four months (for satisfying the post-approval requirements) were quite stringent.

4.2.2 Direction by the MIIPA

Agents commented that guidelines need to be updated, indicating that the situation sometimes becomes very difficult especially when goalposts are changed. One Agent informed that it was not the first time that a client of his would have nearly concluded the application process and then he would be asked, out of the blues, to fill in and/or provide a new type of document. Agents also commented that communication from the MIIPA (collectively to all Agents) is scarce and therefore any decision which they would take on any particular case would not be effectively circulated amongst the other Agents leaving the latter to regulate themselves with what they perceive to be hearsay. Agents also claimed that it was sometimes impossible to get through by phone or to receive exhaustive feedback by email. In this regard Agents stressed that the MIIPA should avoid erroneously giving different advice to different Agents. One Agent suggested that, in order to address such lack of communication, the MIIPA should set up regular meetings (possibly once every month) with Agents in order to provide them with the opportunity to discuss issues in a collective manner.

There was a general consensus amongst Agents that the manner how and the location where Applicants are greeted on site (at the Mediterranean Conference Centre) need to be significantly improved. They claimed that, in the past, clients used to be given a very warm welcome which they alleged was now no longer the case. With regards to the location they commented that the reception area was too small and uninviting.

Comments similar to those on the guidelines were made vis-a-vis the application forms. Accordingly Agents suggested that these should be reviewed in order to make more sense and possibly become less bureaucratic.

One Agent went a step further and suggested that the MIIPA should open a one-stop-shop in order to assist IIP citizens in non-purely IIP matters, such as resolving income tax related issues.

4.2.3 The Due Diligence Process

A number of Agents commented on the due diligence process which is undertaken by the MIIPA, claiming that its seriousness and rigorousness were contributing positively to the success of the programme. Some informed that from their part they carry out meticulous due diligence beforehand (separately from the one carried out by the MIIPA) as well, explaining that they felt it was their duty to do so, not least in order to safeguard their own Company's integrity. Many Agents believed that, with such due diligence mechanisms in place, persons of a shady character would definitely think twice or three times before even considering applying for the MIIP.

4.2.4 Complaints

Agents also stressed that there should be a formal mechanism allowing one to request a review of cases, pointing out that there is no proper appropriate operational review process in place. One Agent remarked that complaints are not always solely linked to due diligence, explaining that in one of his cases a dependant was refused due to health issues. In many cases – claimed the Agents – they would be oblivious as to why an application was rejected and would end up in an unenviable situation of having to give an explanation to their clients without knowing the details. Notwithstanding, Agents admitted that it was quite difficult and probably inappropriate to divulge any sensitive information obtained through the due

diligence process to persons whose application would have been refused. Many Agents agreed that the Regulator should have more say in the matter and that, ideally, he should be allowed to evaluate (and possibly give his own recommendations on) the outcome of the due diligence process before the Minister finally decides to reject or accept an application. Indeed, they considered that the Regulator should also be consulted by the MIIPA **before** any final positive recommendation is sent to the Minister for his approval in terms of the current legislative provisions in this respect.

4.2.5 Publication of Names

One area of major concern for the Agents is the publication of names in the Government Gazette including the immediate aftermath when names are splashed in the Media and given bad publicity. One Agent even claimed that the vast majority of applicants (in such Agent's case) had withdrawn their application due to the negativity created when names are published. According to those interviewed, the main reasons why applicants would be adverse to the publication of their names had nothing to do with allegedly having something to hide but was due to their wish to have their privacy respected and due to their fear of retaliation if their names were spotted by their detractors. Some Agents suggested that alternative means should be identified for issuing the names. In this regard one Agent suggested that instead of publishing the names in the Government Gazette the list should be subjected to parliamentary scrutiny whereby the Members of Parliament having access to the data would be bound by an Oath of secrecy. Another Agent made reference to the entry into force of the General Data Protection Regulation and opined that, if, notwithstanding the fact that the publication of such names was ultimately not working to Malta's advantage insofar as the economy is concerned, Government still wished to retain this provision at law, then he felt that in order to truly conform to the requirements of the GDPR, the MIIPA should ask Applicants to give their consent *a priori* to such a publication in the Government Gazette **at the application stage** with the applicant being warned **at that stage** that if such consent is not given the Application would be immediately turned down or refused to be accepted **the minute it is officially received by the MIIPA** and that he will have no right to have the initial payment of €10,000 refunded. Some Agents noted that some applicants still go on to apply, notwithstanding the fact that they would not want to have their names published, in the hope that by the time that they are asked to make the second and final contribution (between 12 and 24 months after) such will not be the case any longer; and once this matter would not have been solved by then, they would simply not make their final contribution when asked to, meaning that all the time, money and efforts spent in trying to obtain this hefty individual investment would all go down the drain and the investment itself totally lost. In order to avoid all this, it is strongly suggested by the ORIIP that **immediately an application is accepted for processing by the MIIPA** the applicant should **formally be advised in writing** that once he is **officially** served with the Letter of Acceptance in Principle, **insofar as the payment of the second and final contribution is concerned**, there would be no turning back for him/her and his/her dependents (including his/her spouse) and he/she would be legally bound to pay his/her second and final contribution in any case even if for any reason **(other than proven and appropriately documented (a) medical reasons, or (b) serious family reasons, or (c) sudden lack of adequate financial resources to cope with the required outlay)** he/she decides to pull back.

4.2.6 Reaction to Negative Publicity

Linked with the issue of negative publicity generated by the publication of names and, indeed, the barrage of criticism which is being directed towards the programme by its detractors is the Agents' frustration at the lack of reaction by the Authorities in order to counterbalance what they consider to be unfair criticism. In this regard the interviewed Agents commented that the MIIPA is very weak in the area of public relations and seldom (if ever) do they react in order to rectify any misinformation which is erroneously or deliberately

issued regularly by those who oppose the programme. They fear that positivity is not being highlighted enough (if at all). On the other hand they feel that it has become common occurrence that one finds accusations in the media which are never rebutted by an official counter-statement, leading the casual reader to wrongly believe that the accusations are correct and to a surreal situation where such wrong perceptions are taking over reality. In order to address such imbalance Agents have stressed that every effort should be made so as to issue information to the public about the IIP, not only when they have to counteract any accusation which regularly finds its way in the Media but also by launching an educational campaign and proactively issuing regular published features on how the IIP is operated. They also suggested that impartial publications which are issued, such as the Regulator's Annual report, should be given due publicity and importance.

4.2.7 Issues with Third Parties

One issue which seems to have now been resolved (since the last round of meetings with the Agents in 2016) concerns the Public Registry. Indeed, whereas two years ago Agents complained that it was quite difficult for them to adhere to the stringent requirements which were in place at the Public Registry, this time they informed that the situation had improved significantly (one Agent even stated that he was receiving first class service). It would seem that whereas, in the past, Public Registry Officials used to vehemently insist that they would require (in order to retain) original certificates, now they were accepting to keep certified copies as long as they would have checked the originals. On another matter related to the Public Registry, an Agent put forward a suggestion whereby anyone wishing to carry out formal changes to the names listed on the Birth Certificates (such as including additional names) need not resort to a Court (through recourse). It was noted however that this was a matter which affected anyone registered at the Public Registry and was not an issue exclusively affecting IIP Citizens.

On the other hand an issue which has been carried forward from the 2016 meetings with Agents is the interaction with local banks and, indeed, a number of Agents complained that they still encounter difficulties when their clients start the process of opening a local Bank account.

4.2.8 The MIIPA's Feedback on Agents' Comments

The main issues raised by the Agents were subsequently discussed with the MIIPA's senior management in order to seek its comments, views and any clarifications deemed to be necessary.

In response the MIIPA remarked that, during this reporting period, it had experienced several changes – both in terms of the administration of the Programme and also in terms of changes related to the current international trends in the investment migration industry. Being part of an industry which is continuously changing the Agency made sure that it was always up-to-date with the latest conformities and, in this regard, had now (following the afore-mentioned meetings held by the ORIIP with the Agents) distributed updated checklist and guidelines to all Agents. The MIIPA stated that, with such guidelines in hand, all Agents could now have a better understanding of what was required when submitting an IIP application. In particular, greater focus was now being made on the applicant's source of wealth and funds, supporting documentation, as well as becoming more stringent on the source from where funds for the IIP were originating. The Agency had also experienced a split from the IMA which resulted in several infrastructural challenges that lasted a number of months. Such matters resulted in telephone lines not being accessible for some weeks. Furthermore, refurbishment works being carried out by the administration of the MCC (consisting of an EU funded project involving refurbishment, upgrading and construction

works in the building) also left a negative impact on the day-to-day running of the office since this interfered with meetings and daily routine.

The MIIPA also touched upon the Agents, commenting that – unfortunately – during the past year it had experienced a decline in the quality of the performance of some of them to the point where some of the accredited Agents did not even appear to be very knowledgeable about the requirements of the programme. Following an internal evaluation the MIIPA deemed that this was due to either because the Agents in question did not submit applications frequently or because the employees working for the accredited Agents were not trained to compile an IIP application. As a result the Agency was suffering from an increased level of time wastage in handholding some of these Agents in even the simplest of processes. Accordingly the MIIPA wished to urge its Agents to make sure that anyone compiling an application on its behalf was actually trained to do so and that he/she had a good understanding of the requirements of the industry, offering to provide training (if necessary) as it had already done in the past.

The MIIPA also commented that it was experiencing situations in which some Agents (who were, by now, supposedly proficient on what the requirements and risk appetite of the IIP entail) still proceed with presenting applicants who – even with basic due diligence – should not have made it to the application stage. The MIIPA remarked that all applications submitted to the Agency were given the same priority and therefore all applications were vetted in the same manner and given the same importance. The MIIPA stressed that it was highly important that all Agents performed their initial background checks on their applicants adding that, in order to avoid unnecessary burdens and also to safeguard both the Agency's, the Agents' and the country's integrity, only reputable applicants should be presented.

The MIIPA also made reference to an additional challenge with applicants trying to open a local bank account or transfer funds to the MIIPA, indicating that these were causing delays in the process and which therefore were putting applications at risk.

With reference to negative publicity the MIIPA stated that the Media, international organizations and institutions had kept the Agency very busy throughout the year. It had faced challenges which helped it improve internal structures and processes. The MIIPA had met with various media houses, both local and international organisations, to explain better what the programme entailed and how it operated behind the scenes. The Agency remarked that, unfortunately, sometimes there was the misconception that Citizenship by Investment Programmes are some sort of underground garage operations. It noted that, in this regard, its Agents rested solely on the Agency (the MIIPA) to fight the battle against negative publicity. The MIIPA claimed that the Agents too had a duty, as representatives of the industry, to rebut incorrect information which makes it to the public sphere.

With regards to the alleged obligation (due also to the entry into force of the General Data Protection Regulation) to seek applicants' consent prior to publishing their names in the Government Gazette, the MIIPA commented that this was incorrect, explaining that since it was stipulated by law that the names will be published on a yearly basis, such matters were adequately covered. The Agency remarked that it was up to the Agents to properly inform the applicants of the requirements set out by law.

5.0 Initiatives carried out by the ORiip

5.1 Vetting of Applications

From the outset it has to be pointed out that the quality of MIIPA's physical filing system (whereby applications, supporting documentation and exchanges of related communications are retained) has improved significantly during the years and the past 12 months have not been an exception. Indeed, fewer instances were recorded in which key documentation was missing and, consequently, requests by the ORiip for clarification on such instances were kept to a bare minimum.

As indicated in last year's report the ORiip has now reviewed its internal procedures with regards to approved applications and has started vetting them after they have been all successfully concluded (i.e. after the Oath of Allegiance would have been taken). Prior to such change applications used to be vetted as soon as the letter of approval was issued. Since, at such stage, quite a number of applications would not as yet be concluded this often led to some applications having to be vetted more than once. On the other hand, the procedure for vetting rejected applications remained unchanged since these were already being vetted after the application would have been deemed to be concluded. This change in procedure effectively meant that a greater number of applications could be vetted, as indicated in the following table:

Report Year	2015	2016	2017	2018
Vetted Applications (Approved)	20%	34%	60%	87%
Vetted Applications (Rejected/Withdrawn)	0%	38%	45%	75%

Since the ORiip is now vetting all applications the remaining 13% (of approved applications) and 25% (of rejected/withdrawn applications) are earmarked to be checked between July and December 2018.

One other change which the ORiip implemented in the past year was the classification of incidents into different categories:

- Category 2 incidents included findings which were deemed to require corrective action (and/or explanatory feedback) by the MIIPA since these might have had a potentially unordinary impact on the outcome of the application in question.
- Category 1 incidents included findings which did not have any impact on the outcome of the application in question but which were referred to the MIIPA nonetheless for the latter to take note and to consider taking corrective action. In such cases the MIIPA was not required to provide any feedback.
- Category 0 incidents included points of observation (recorded during the vetting sessions) and minor (i.e. having no impact on the outcome) cases which might have already been listed as incidents in the past but which could not be addressed for the time being. Such instances were recorded for internal purposes and were not referred to the MIIPA.

The newly-introduced classification system complemented the ORiip's drive to focus on the most critical part of the application, namely the verification as to whether the applicant (and/or the dependants) were eligible and whether these had satisfied all prerequisites prior

to being granted Maltese Citizenship, but without diminishing any of the Office's attention on the other somewhat less important parts.

Observations noted during the year are as follows:

Total Number of Vetted Applications

The total number of applications vetted by ORiip during the period in question amounted to 281: 227 of these had been approved by the MIIPA, 44 had been rejected whereas the remaining 10 had been withdrawn by the applicants themselves. 44 different Agents were engaged by the respective applicants in order to present these vetted applications. Notwithstanding the large number of involved Agents it was noted that only 5 of these had 10 or more applications to their credit.

These applications were vetted between October 2017 and June 2018.

Power of Attorney

The power of attorney is not an obligation emanating directly from the IIP Regulations and is used in order for the applicant to formally empower his/her agent of choice to process the application on his/her behalf. Such document consequently serves to give the MIIPA peace of mind that any action being taken by agents on behalf of their clients is formally covered. Generally the validity of a power of attorney remains critical up till the point when the MIIPA issues the letter of approval in principle.

The ORiip has noted that no uniform format applies in the case of the power of attorney, neither with regards to what is being covered and nor regarding timeframes by when these would expire. In the majority of cases the power of attorney does not include an expiry date or makes it clear that it would only expire once the process is completed. However some instances were noted where an expiry date was included. The ORiip has no opinion on whether the format, contents and eligibility of the power of attorney should be regularized but limits itself to emphasizing that the MIIPA should ensure that, in the case of documents having an expiry date, this does not lapse before the letter of approval is issued. In such cases Agents should be obliged to renew the power of attorney so as to ensure that they would be formally covered. Nonetheless in cases where the agent is required to carry out any action on behalf of the main applicant and the power of attorney is expired, the ORiip has established that no action is taken by MIIPA unless a renewed power of attorney is provided by the main applicant and the agent. Furthermore ORiip has been informed by the MIIPA that in the guidelines that are earmarked to be issued in September 2018 they have made it clear that the power of attorney has to be valid for the entire duration of the MIIP process.

Issuance of Residence Document

Regulation 7 (12) of the IIP Regulations states that no certificate of naturalisation shall be issued unless the main applicant provides proof that he has been a resident of Malta for a period of at least twelve months preceding the day of the issuing of the certificate of naturalisation. Since the MIIPA considers the Maltese Residence Document as the point when an applicant has started honouring residency requirements, the ORiip checks the date of issuance in order to confirm that, when compared with the eventual date when the Oath of Allegiance is taken, at least one year has elapsed.

Basing itself solely on the available documentation the ORiip noted that it was difficult to establish exactly the date when an application for a Residence document would have been made. Indeed the MIIPA informed that the system (hardware and software) used by the

relative Division within the MIIPA for issuing residence documents was not entirely reliable and that there were instances in which an applicant's information would need to be captured more than once since glitches in the system resulted in loss of data. Considering that such applicants would need to be physically present in Malta (in order for his/her data to be captured) this meant that there could be a significant lapse of time between the first date of application and the date when his/her residence document is eventually issued. Consequently the date printed on the residence document would not – in such cases – necessarily reflect the actual date when such person applied. Such an issue left its unduly negative indelible mark on a number of cases since the ORiip noted that, **based on the printed date of such document**, 2% of the Main Applicants took the Oath of Allegiance within 1 year of such printed date when in true fact more than a year would have elapsed.

Residency Proposals Letter, Approval by the MIIPA and Proof after Approval of Citizenship

In order to fulfil their residency obligation, applicants are required by the MIIPA to initially put forward proposals on how they intended to do so and, subsequently, provide proof that they had done so. Such subject was also discussed in last year's report when it was revealed that the most common proof of links provided by the various main applicants was documentation ascertaining their physical presence in Malta. Similar to 2017 the most common type of documentation provided by the Applicants as proof were flight tickets (found in 95% of the applications), donations to local institutions (found in 55% of the applications) and invoices/receipts from local hotels (found in 48% of the applications).

The ORiip has noted that, at times, the number of proposed links varies from the actual activities for which proof is provided (in such cases the activities carried out would be less than those proposed). Nonetheless, the ORiip does not feel that this constitutes any issue since there are no clear and formal guidelines to which applicants have to abide and, in any case, applicants would have nonetheless provided some sort of link.

Duly Filled Applications

At the initial stage the Main Applicant and his/her dependants are required to fill in a number of applications part of which included in the First Schedule to the Citizenship Regulations (Subsidiary Legislation 188.01):

- Form N (to be filled by the Main Applicant – this is included in the afore-mentioned First Schedule);
- Form O (to be filled by the Spouse and Adult Dependants – this is also included in the afore-mentioned First Schedule);
- Form P (to be filled on behalf of Minor Dependants – this is included in the afore-mentioned First Schedule as well);
- Form PDFEE (Personal details, Family Information, Education and Employment – applies to all types of applicants);
- Form SSFW (Statement of Source of Funds and Wealth – to be filled by the Main Applicant, any other Dependant claiming to have a source of funds and/or wealth and – where applicable – the Benefactor);
- Form MRQ (Medical Report and Questionnaire – applies to all types of applicants);
- Form PSC (Photograph and Signature Certification – applies to all types of applicants).

Whereas there are no significant issues to report on these applications (there was only one case in which the forms were not inserted in the file) it has to be stressed that there is an urgent need of reviewing them. Unfortunately the inclusion of the main ones (Forms N, O and P) as part of the Citizenship Regulations makes it more difficult to do so. To make

matters worse the MIIPA might seem to be under the wrong impression that this difficulty applies in the case of all Forms (including those which are administrative in nature and are not included in the Regulations) and therefore there have been practically no changes to the format and content of any of these. At this stage one hopes that the recent consultation process (not yet concluded at the time of writing this report) would be the perfect catalyst to kickstart the process whereby the format and contents of all forms are reviewed. Ideally Forms should not form part of a legislative framework so as to allow the MIIPA more leeway to amend them if and when required on a more frequent basis. In this regard the following have been identified as (non-exhaustive) examples of how application forms could be revised:

- Forms N, O, P and PDFEE could easily be amalgamated into one;
- Form PSC could be eliminated;
- An applicant need not have to endorse Forms N or O in two different sections;
- Certain sections within Form P make no sense in the case of very young dependants;
- In Form P one is asked to choose between “has been” and “have never been” (instead of between “has been” and “has never been”);
- In Form SSFW the main applicant can only choose between declaring to be employed or, alternatively, self-employed;
- Instances where the same information has to be inserted in different forms should be reduced. Presently a person is required to fill in his/her address and his/her place of birth on four different forms. Furthermore he/she is required to fill in his/her date of birth and his/her gender on three different forms. An applicant has to endorse Forms N or O in two different places. Also, the Data Protection Clauses need to be updated.

Payments

As pointed out in previous reports, payments have always been made in three different tranches: the first one at residence document application stage, the second one at IIP application stage and the third (and final) one just after the letter of approval in principle is issued.

No particular points of concern which could have a direct bearing on the eligibility of an applicant were noted. The main issues include a few instances in which the preliminary payment receipt was not filed in the application pack and another few instances in which the copy retained in the file was not endorsed by a MIIPA officer. In some occasions newly born children were added after the letter of approval in principle was issued but before the Oath of Allegiance would have been taken. In such cases, since the relevant fees of such dependant had to be paid separately (at a later stage) there was a number of logistical issues which prompted the ORiip to ask the MIIPA to investigate (vide sub-section titled “Inclusion of additional applicants at a second stage” below).

One recurring issue was that the second payment was not effected within the established timeframes. Indeed, although Article 7(8) of the IIP Regulations state that payment is to be received within 20 days, it was noted that this was not always the case. Basing itself on the number of applications vetted during the period in question the ORiip has noted that 14% of the payments were not made on time.

There were also 2 instances in which an incorrect payment was made. The MIIPA, however, took the necessary measures to rectify the error.

Inclusion of Additional Applicants at a Second Stage

Similar to previous years there have been instances where additional applicants were added after the original application would have been submitted by the Agent to the MIIPA. The absolute majority of these were cases of children born after the application date and therefore could not be included in the first instance. In all cases the MIIPA accepts applications only if the Oath of Allegiance has not yet been taken.

The ORiip has noted that this late addition often creates logistical problems since staff would need to ensure that the necessary obligations vis-à-vis these newly-added applicants have been fulfilled. These include the availability of documentation as proof of the necessary payments (IIP contribution and passport fees), medical clearance from a local source and a proper insurance coverage. This has not always been the case and the ORiip has found a number of instances in which documentation inserted in the application packs did not indicate that all these requirements had been fulfilled in the case of these newly born additions.

Another related issue which was brought up by the ORiip concerns the Minister's approval for such newly-added children. Although it was logical to assume that this type of applicants is implicitly approved by the Minister, technically the fact that such name was never formally presented for approval might have led one to question whether this is an acceptable way forward. Consequently the ORiip discussed the matter with the MIIPA so that, in such cases, the names are always referred to the Minister in order to have in hand an explicit approval accordingly. The ORiip was subsequently informed that the recommendation had been taken on board.

Due Diligence Process and Recommendation Letter to the Minister

In the ORiip's 2017 report an issue was brought to the fore relating to the communication sent to the Minister at the stage when the MIIPA would be recommending approval or refusal of an IIP application. Indeed, with regards to the covering letter it was noted that this often consisted mainly of a sweeping statement without actually delving into whether there were any findings that had to be taken into consideration. In such report it was recommended that related information should be included in the covering letter so that the Minister evaluating the request would have a more meaningful and precise picture embodying the MIIPA's reasoned opinion as to why an applicant should be considered for approval.

In this regard the ORiip has noted that, not only was this recommendation taken on board but that the MIIPA had also reviewed its due diligence documentation whereby it started recording its evaluations in a more structured manner by systematically addressing different areas and evaluating whether there were red flags which could potentially preclude the applicant from being granted Maltese Citizenship through the IIP.

A more detailed analysis of the Due Diligence Process can be found in Section 5.2.

Issuance of the Letter of Approval in Principle

In previous reports the ORiip has often commented that one of the areas with which the MIIPA is struggling to cope is its obligation to issue a decision within 120 days from the date of application. Whilst in the past this was mainly attributed to the shortage of staff this is now no longer the case and, instead, delays for issuing letters of approval are attributable to instances where applications are put on hold in order for the Applicant (through his/her Agent) to provide additional information and/or supporting documentation. Ideally the MIIPA should keep track of such instances, not least so that one does not get the wrong impression that the Agency is to blame for the delays. Indeed, the collected figures for the

period in question reveal the extent by which the MIIPA are constrained to put applications on hold and the delays incurred by the Agents to procure the required information/documentation:

Letters of approval issued within 120 days from the date of application	3%
Letters of approval issued between 120 and 180 days from the date of application	45%
Letters of approval issued after the lapse of 180 days from the date of application	52%

Issuance of a Letter of Extension

Sub-regulation 7(5)(c) within the IIP Regulations obliges the MIIPA to issue – within 120 days from the presentation of an application – a communication to the Agent informing that such application has been delayed for the cause that it is still being processed.

In this regard it was noted that, on quite a number of occasions (43%), the MIIPA failed to issue a communication of extension even though the application was still being reviewed at the lapse of the afore-mentioned 120 days. Another issue of concern (but to a lesser extent) is that, in the case of 21% of applications, a communication of extension was issued after the lapse of 120 days. On the other hand the MIIPA managed, on 24% of cases, to issue the communication of extension within the 120 day period. It has to be pointed out that in the case of an additional 7% of the applications an extension was issued but these were not dated – consequently the ORIip could not determine whether these were sent before or after the lapse of 120 days. The remaining 5% were applications which were processed within the 120 day period and therefore required no extension.

Post-Approval Requirements (Property Purchase / Lease; Insurance, Bonds)

The IIP regulations stipulate that documentation proving that post-approval requirements have been fulfilled have to be provided within four months from the date of issuance of the letter of approval in principle. Nonetheless it was noted that it is proving difficult for Applicants and their Agents to adhere to such timeframe. Indeed in the case of 27% of vetted applications the required documentation was submitted after the lapse of four months. The ORIip feels that in view of this Government should consider amending the IIP Regulations in this respect in order to extend this deadline to a more realistic timeframe.

On the other hand no particular issues of concern were noted on the documentation which was submitted and, indeed, in the majority of cases all required documentation was duly provided. There were some instances where an applicant added at a second stage (usually a new born child) was not covered by global health insurance.

A further analysis on property purchases/leases can be found in Section 5.3.

Declarations by Main Applicant re. Property, Insurance and Bonds

One of the post-approval requirements which applicants have to fulfil is that they have to provide declarations related to the retention of property and stocks/bonds/etc for a minimum period of 5 years and of a global health insurance (indefinitely). In the case of properties applicants also have to declare that they would not sublet them and that they would purchase/lease another one should they opt to dispose (or terminate the lease) of the original one.

In this regard the ORIip is aware that in the past the incidence of missing declarations has always been high. During the year in question however it has been noted that there has been a significant reduction of such occurrences. Indeed only 4% of property declarations, 6% of insurance declarations and 14% of stocks/bonds/etc declarations were missing and, globally, 85% of applications contained all three types of declarations.

On such matter the ORIip feels that the onus on the Applicants to provide the three declarations is an added and unnecessary burden and that this could easily be covered by a general declaration (within any of the initial application forms) binding the Applicant to adhere to these requirements should his/her application be successful. The ORIip is informed that the MIIPA is in agreement with such way forward and is presently considering removing these added declarations altogether.

Issuance of the Oath of Allegiance

The ORIip considers the Oaths of Allegiance to be the definite proof that a successful applicant has completed the IIP process and has become a Maltese Citizen. In view of this it considers that it is imperative that such document (filled in by all applicants who are at least 18 years of age) is filed in the application pack. The ORIip noted that, in the case of 4% of the vetted applications the Oath of Allegiance was missing and therefore they were referred to the MIIPA so that these documents would be traced and inserted in the packs accordingly. The ORIip also noted that in the case of 5% of the vetted applications not all of the dependants had taken the Oath of Allegiance. In such cases the MIIPA was asked to keep track of these pending dependants in order to make sure that the process is completed within two years from the date of application.

5.2 An Evaluation of the Due Diligence Process

In view of the criticism which was levelled throughout the year under review by various quarters, both nationally and internationally, particularly with reference to the due diligence process adopted by the MIIPA, a few paragraphs of this Report have been dedicated to this highly important element of the whole Programme. This is being done since it clearly appears that all the critics of this Programme are either truthfully totally unaware of the intricacies involved in this process or are so much dead set against the Programme as such that they have never really bothered to get to the true details encompassing this process. Indeed it would seem that these detractors have simply decided to wage war against it head on trying to convince all and sundry that it is flat open to all the wealthy criminals of the international community! The explanations contained within the following few paragraphs of the Report are not meant to try and make anyone who is either politically or in principle dead set against such Programmes change course. They are included simply to make all those with an open mind who really want to know how this process is being truly handled by the MIIPA understand how, in reality, the Agency is operating this delicate and important process in order to obviate the possibility of granting Maltese citizenship – and, by direct inference, an EU one as well - to any type of criminal or the likes. All those who oppose all forms of CBI (**Citizenship by Investment**) Programmes have a right to cherish and retain such an opinion for whatever reason and ought to be respected in any case. No one should, however, act irresponsibly and resort to misleading the public or creating any fabricated outcries against such Programmes by disseminating ill or malignant information to the public at large in order to achieve support and adherence to any such opposing views.

As clearly shown in Section 3.2 (Media Articles), one of the main arguments put forward in the Media by the detractors of the programme was that it was allegedly attracting persons

with a shady character and that these were being wholeheartedly approved as long as they provided “cash for a Maltese passport”.

In order to obtain a more realistic view on the quality of checks being carried out by the MIIPA in order to determine the eligibility and suitability of applicants, the ORIip has, throughout the past 12 months, focused its attention on the type of due diligence carried out and has tried to establish whether decisions taken (to recommend approval or rejection) reflected the outcome of the checks.

In essence, according to the IIP Regulations (LN 47 of 2014), applicants would be deemed eligible if they satisfy a number of criteria, including having a clean criminal record, not being the subject of a criminal investigation, not being – in any way – involved in activities likely to cause disrepute to Malta and not being a potential national security threat to Malta. Another determining factor is when an applicant is denied a Visa to a country with which Malta has Visa-free travel arrangements and has not subsequently obtained a Visa to such country. In addition applicants are considered negatively in cases where they could be a potential threat to public health and if they are found to have included false information on their applications. Information (allowing the MIIPA to carry out the necessary checks through a four-tier verification system) is originally collected through filled-in forms and supporting documentation provided by each applicant at application stage. Subsequently the MIIPA commissions two separate external due diligence reports from reputed international firms which carry out the task independently from each other and from the MIIPA. Furthermore it obtains open-source data and information from an international risk management database. It also carries out standard checks through law enforcement agencies (it has to be pointed out that, at application stage, applicants are also obliged to provide original police conduct certificates from countries in which they have resided for an established minimum period of time).

All the above checks allow the MIIPA to draw up a clear picture on the applicant's identity, business and corporate affiliations, source of funds and wealth, media vulnerability and existence of charges, crimes or financial sanctions.

Taking into consideration the approved applications vetted during the 2017-2018 period the ORIip has noted that 63% of the applications contained due diligence reports which found absolutely no issues and which were therefore immediately recommended for approval.

On the other hand the remaining 37% of applications contained a number of revelations requiring further evaluation by the MIIPA either through already available material or following checks on additional information / supporting documentation provided by the applicants upon request. In particular such revelations would have solicited further clarity on one's links with particular individuals, one's source of funds and/or wealth, one's business affiliations, one's unclear participation in potentially illicit activities, contents of adverse media articles and court cases in which one might have been involved. The ORIip noted that there were various factors which eventually led to the MIIPA recommending these 37% of applications. Primarily, in cases where clarity was required, the provision of additional information and/or supporting documentation proved to be enough for the MIIPA to ascertain that there were no issues. In other cases the Applicant would have provided exhaustive information to dispel the notion of ineligibility and would have therefore swayed the MIIPA into recommending approval. With regards to Court cases, for example, Applicants would confirm that they were not directly involved or that the outcome would have proven their innocence. In the case of adverse media articles the MIIPA would have taken into consideration the reliability of the source and whether the allegations were substantiated / corroborated by other sources.

Of these applications, 3 were discussed further between the ORIip and the MIIPA since - basing solely on the information contained in the application pack - it was not outright clear why such decision to approve had been taken. This notwithstanding, it has to be stressed that there is absolutely no reason for the ORIip to doubt that, in recommending approval to the Minister, the MIIPA had diligently and conscientiously weighed all the pros and cons of all the information that had been made available to it and that its final respective recommendations for approval in all of these 3 applications were taken quite responsibly and well within its innate responsibilities as laid down in the IIP Regulations themselves.

5.3 An Evaluation of the Obligation to Purchase / Lease Properties

Another element of the IIP which has often featured in an aggressive manner in the local media is the obligation on the part of all the Main Applicants to purchase or lease property in Malta or Gozo with constant allegations that IIP citizens were purchasing or leasing property that hardly satisfied the requirements listed in the IIP regulations.

The ORIip's evaluation (within this sub-section) on this matter is an attempt to obtain a clearer picture and whether there are effectively any red flags which need to be addressed. It is based on a meticulous review of the related provisions within the IIP Regulations and on an exhaustive analysis of a number of reports commissioned by the MIIPA featuring inspections carried out by an appointed third-party on properties indicated to have been purchased or leased by the various successful IIP applicants.

With regards to the provisions of the IIP Regulations it has to be pointed out that much of the allegations (that the requirements were not being adhered to) are incorrect. In essence these Regulations stipulate that successful IIP applicants are obliged to either acquire or take on lease a residential immovable property in Malta and to retain it for at least five years from the date of purchase/lease without the possibility of subletting it. They would be entitled to dispose of the property or terminate the leasehold before the lapse of such five years provided that they purchase/take on lease another one which satisfies the above requisites. There are no other ancillary obligations (either implicit or explicit) by which stakeholders (the MIIPA, the Agents and/or the Applicants) are legally bound to abide. Basing themselves on such information the Media and the public in general often assume that IIP Citizens are required to physically reside in their purchased / leased property for a considerable period of time. However this assumption would be incorrect. Indeed the ORIip is aware of potential grey areas (and has often detailed them in the past); however, since there are no legal provisions which address them, it is felt that these do not constitute any issues. These include whether a property should be large enough to contain all applicants forming part of an application, whether the thresholds (€350,000 and €16,000 respectively for purchased and leased properties) are inclusive or exclusive of VAT, whether these amounts can include more than one premises or additional buildings (car spaces, garages, etc) and whether the properties in question are actually worth the quoted amounts. With regards to the assumed obligation that IIP Citizens are required to stay in such properties the ORIip is aware that there are cases where IIP Citizens have purchased/leased additional properties and that, when visiting Malta, would prefer to either stay in such secondary residence or in another location (such as in a hotel or on a personal yacht).

Notwithstanding the above the MIIPA has, throughout the years, imposed more stringent requirements on what is permissible or not. It has obliged the landlord (in the case of leased properties) to provide a declaration that the property in question is being leased solely to the would-be IIP citizen. It has also obliged the would-be IIP citizen to provide an architect's declaration that the value of the property is in line with commercial rates applicable to other similar properties within the same area. The ORIip agrees with this stance.

With regards to property inspections' reports it has been noted by the ORiip that 346 inspections were carried out during 2016, 2017 and 2018. None of the site inspections revealed that the properties linked with IIP citizens were being used by third parties however there were a few instances in which a property was changed without the MIIPA being informed. On this latter point the MIIPA should ensure that Agents provide regular updates whenever required. In the majority of cases the inspected properties were classified as being in a very good condition. There were a few cases in which the properties were being refurbished or under construction however the inspection reports made no distinction between purchased and leased properties (it would be totally acceptable – in the case of purchased properties – for IIP citizens, as owners, to carry out construction / refurbishment works on their own sites).

5.4 Updating the ORiip's Data Retention Policy

The General Data Protection Regulation (EU) 2016/679 puts forward the principle that personal data and sensitive personal data should not be retained for periods that are longer than necessary. It came into force on the 25th of May 2018. In view of this the ORiip has reviewed its data retention policy in order to be in line with its provisions. With regards to IIP-related documentation the retention period has been set as follows:

Type of document	Retention period
Reports and other personal records in connection with vetted IIP Applications	Within one week from the date when any related issues are satisfactorily clarified and/or addressed (normally no personal data is recorded during vetting sessions. However, in exceptional circumstances – i.e. in extremely rare occasions – such details might need to be recorded in order to verify the eligibility or otherwise of the applicant in question).
Complaints et simile including ad hoc correspondence	Within five years from the date of last action taken or correspondence exchanged (whichever is latest) on the complaint in question. This does not apply in the case of pending complaints which shall be retained until a formal decision is taken in their regard by the IIP Regulator. After the lapse of the said five years, a copy of the conclusions and decisions reached by the Regulator (IIP), shorn of any personal data that may lead to the identification of the complainant and/or of any third parties that might have been involved, will, however, be kept on record for posterity's sake.
General IIP Correspondence	Within two years from the date of last action taken or correspondence exchanged (whichever is latest) on the subject being addressed.

5.5 Verifying the Publication of Names in the Government Gazette

In 2017 the names of all persons who were granted Maltese Citizenship during 2016 (either by registration or naturalisation, including under the IIP) were published in Government Gazette No. 19,925 dated 22nd December 2017.

Similar to the previous year the ORIip carried out an internal exercise in order to ensure that the details of IIP applicants and dependants (who were granted Maltese Citizenship during the previous twelve months) were duly published in the Government Gazette. This was done by obtaining the list from the MIIPA and comparing the names with those printed in the Gazette accordingly. It is relevant to point out that such list is only available for the ORIip officers during the period of vetting and is not retained once the vetting exercise is completed.

5.6 Monitoring of Court Cases

The two court cases mentioned in previous ORIip reports continued to be monitored during the past year. Both cases were instituted against the MIIPA (formerly the IMA) in 2016 and refer to refused applicants who felt aggrieved by the communicated decision without being given any explanatory details.

Case No. 144/2016 (Mifsud Cedric L-Avukat Dr Noe Vs L-Agenzija Identity Malta Et) was registered on 23 February 2016. To date (up till 30 June 2018) there have been 18 sittings, with 8 of these taking place during the past year. The main thrust in this Case was the compilation of proof. In view of their significant workload, it proved to be quite challenging to find a suitable date for two Ministers to take the stand in order to give testimony (hence the elevated number of sittings). In May 2018 a request was made to release one Minister from the obligation to give testimony since IIP now was assigned to a separate Agency. The request was refused. The Case is earmarked to continue in October 2018.

On the other hand Case No. 834/2016 (Schembri Alexander L-Avukat Dottor Noe Vs L-Agenzija Identity Malta Et) was registered on 23 September 2016. To date (up till 30 June 2018) there have been 11 sittings, with 7 of these taking place during the past year. The main thrust in this Case was for witnesses to take the stand in order to give their testimony and similar to the other Case it was very difficult to find a suitable date for the Minister to take the stand. On 12 December 2017 the Court issued a judgement on three preliminary exceptions made by the defendants, rejecting two and abstaining from taking the third one in consideration at that stage. Furthermore, on 8 March 2018, the defence lawyer objected to the request for information on the internal process leading to the Minister's decision regarding Citizenship. Such objection was also rejected. The Case is also earmarked to continue in October 2018.

5.7 Participation in Organised Events

On 22 May 2018 the Regulator and other members of staff from within the ORIip participated in the First Citizenship by Investment Due Diligence Conference which was organised by the MIIPA. The Conference served as a means for the participants to share related experiences and knowledge. As the title itself implies the Conference covered various aspects of due diligence, in particular the use of technology (including online checks), potential red flags and risks, expectations from the Banking Sector, best practices and the image problem currently having an effect on the industry.

One of the topics which were covered during the Conference was on the Risk Matrix which had been (at the time) recently drawn up and implemented by the MIIPA as part of the process leading to the evaluation of whether an application should be recommended for approval or rejection. It has to be pointed out that such topic has a direct relevance to the duties of the ORIIP (which carries out its own evaluation on information contained within the due diligence reports). As explained by the speaker the aim of such Matrix was to allow the MIIPA to develop a structured systematic risk assessment based on the evaluation of different themes.

During their respective deliveries a number of speakers also made reference to the due diligence process adopted by the MIIPA and some went as far as claiming that in their view it was the gold standard of such processes among the various CBI programmes around the globe. They further opined that the criticism that was being levelled towards the Malta programme, particularly its due diligence process, by those that in principle are averse to any CBI programme was most unfair and highly uncalled for.

5.8 Requests for Review by the Regulator in respect of Rejected Applications

During the year under review (1 July, 2017-30 June, 2018), the Regulator received a total of 9 requests for a review of the Minister's decision in rejecting their respective applications for Maltese citizenship in terms of the relative IIP Regulation bringing the grand total since the launching of the Programme to 20. As had been the case with the previous 11 cases, the Minister's refusal came about following the finalization of the due diligence exercise carried out by the MIIPA. As had been pointed out in the last Report, these requests could not be acknowledged and entertained as "complaints" in the manner laid down in Section 25A of Cap 188 since to-date the pertinent *ad hoc* Regulations as contemplated by the said Cap 188 have not yet been published as required therein. Nonetheless, in the absence of such Regulations, and following the advice of the Attorney General, the Regulator has still taken stock of all these requests in line with his other functions as laid down in Section 25 of Cap 188 in order to establish whether or not that particular case had been correctly, justly and equitably dealt with by the MIIPA in conformity with the provisions of the IIP Regulations in line with other similar cases. Where such was the case – and in fact all the requests dealt with by the Regulator showed this – the complainant was informed accordingly, making it clear in the process that once the Regulations governing their complaint had not yet been published and **at law** the Minister's decision is final and cannot be appealed against, at that stage of events that is as far as the Regulator can go with the complaint. Complainants were also advised that if they were not satisfied with the results of the Regulator's findings in response to their request, in terms of the current provisions of Cap 188 concerning such complaints, no time frame was imposed on the eventual presentation of such 'formal' complaints to the Regulator, and hence, **unless the then published Regulations would provide otherwise**, they still had the possibility of lodging a formal and official complaint in terms of and in accordance with such Regulations (if such would be the case) and their case would then be dealt with afresh in terms of and in accordance with such Regulations. All the 9 requests referred to above were dealt with by the Regulator immediately they were received and were ultimately finalized and replied to within a relatively short time frame, leaving no pending cases as of 30 June, 2018.

6.0 Recommendations based on Observations made by the ORiip in this Report

The recommendations made within this Section are primarily based on observations made within other Sections of this Report.

6.1 Staffing

The Agency has always had to deal with an acute shortage of staff and various recommendations in this regard have been made in these past years by the ORiip (in particular within its 2016 and 2017 Reports). The issue has been further compounded by its recent separation from Identity Malta. This has left the Agency bereft of key administrative personnel and has led to a situation whereby an already over-burdened nucleus of officers has had to take up additional duties in order to cope. The ORiip is informed that, notwithstanding all the MIIPA's attempts to address such imbalance, its recruitment drive is presently not gaining momentum and new officers are not expected to be engaged in the immediate short term.

The ORiip cannot stress enough the importance of completing the recruitment process as soon as possible. Unfortunately the lack of personnel is having quite a negative effect on the Agency's output and is leading to lack of monitoring, limited guidance and an overall deterioration in the quality of customer care.

6.2 Revision of Timelines

Experience has shown that applicants are finding it difficult to adhere to the two timelines related to post-approval requirements, namely payment of the final contribution (within 20 days from the issuance of the letter of approval) and provision of proof related to the purchase/lease of properties, stocks/bonds and a global health insurance (within 4 months from the issuance of the letter of approval). In view of this the ORiip is recommending that the timeframes are extended (as long as the 2 years deadline for taking the Oath of Allegiance from the date of application are not exceeded) so that they will become more achievable.

6.3 The Participation of the Regulator in the Process as an Alternative to the To-date Inoperative 'Complaints' Provision

In previous reports the ORiip had pressed for the introduction of a complaints procedure (as was originally foreseen when the role of Regulator was created within the Maltese Citizenship Act). At the time of writing of this report this matter is still pending since it is a legally moot point whether the Regulator can in fact intervene and review rejections once, at law, the Minister's decision in this respect is final and cannot be appealed against. Coupled with this issue is the sensitivity of information (collated during the due diligence process) which invariably would form the basis of the decision taken to refuse an application.

In view of this the ORiip is recommending that the Regulator participates directly in the final process (i.e. before the MIIPA's recommendation is sent for the Minister's consideration) by evaluating the decisions taken by the MIIPA in order to determine whether the Regulator agrees with the Agency's recommendations or whether the Regulator feels that these need to be looked at once again by the MIIPA, putting to the fore the reasons for his failure to agree with such recommendations. Accordingly an internal mechanism would be set up in order to handle such process. Following receipt of the Regulator's feedback the MIIPA would need to determine whether to stick to its original recommendation or review it in the light of the Regulator's remarks or observations. Subsequently the case would be referred to the Minister and would include the remarks or observations of both the MIIPA and the Regulator. On the one hand this revised procedure would ensure that the Minister has an additional reliable source on whom to rely prior to taking a final decision and, on the other hand, would provide an additional degree of comfort to Applicants / Agents in that, prior to being submitted to the Minister for a final decision, both the case papers as well as MIIPA's recommendations thereon had been scrutinized and commented upon by the Regulator himself. Consequently this eliminates the need for a Complaints procedure as currently contemplated in the Maltese Citizenship Act.

6.4 Publication of Names in the Government Gazette

Article 14(2) of the IIP Regulations provides for the publication (within the Maltese Government Gazette) of the names of all persons who during the previous twelve calendar months were granted Maltese Citizenship by registration or naturalization. Such provision was introduced in order to ensure a degree of transparency within the programme. It has been noted that, on the one side (vide also comments by Agents in Section 4.2) there is concern by stakeholders about placing the names in the public domain and that, on the other side (vide also comments within Media Articles in Section 3.2) there are allegations that the publication of the list is not enough. It is therefore clear that any aims behind the publication of the names is not being reached. Furthermore, as explained earlier in this Report, some tend to believe and argue that the official publication of such names by the Government goes against the General Data Protection Regulation unless the unconditional consent of the Main Applicant is obtained **in writing a priori**.

On such matter the ORiip will not be drawn into the controversy as to whether the names should be published or not. Instead it is recommending that Government should consider researching alternative means that would ensure a better degree of confidentiality whilst ensuring some peace of mind to the programme's detractors that the potential IIP citizens are being adequately scrutinised. In this regard reference is made to the recommendation made by one of the Agents (vide Section 4.2) and which the ORiip deems to be worth considering, who suggested that, instead of being published in the Government Gazette, the list should be subjected to parliamentary scrutiny whereby the Members of Parliament having access to the data would be bound by an Oath of secrecy.

6.5 Regulations and Existing Forms

Recommendations for the amendment of existing Regulations and/or existing forms was made in previous ORiip reports (vide also Section 5.1). It is hoped that action will be taken following the conclusion of the consultation process.

6.6 Letter of Extension

As indicated in Section 5.1, in the case of 66% of vetted applications it was noted that extensions (when applicable) were either issued late (i.e. after the lapse of 120 days) or not issued at all. The ORiip considers that the provisions of Article 7 (5) (c) within the IIP Regulations (informing that an application is delayed for the cause that it is still being processed) covers the MIIPA in all cases where a decision is not communicated within the established 120 days and therefore recommends that the Agency ensures that – whenever required – the communication of extension is issued **prior** to the lapse of such timeframe.

6.7 Declarations by Main Applicant re. Property, Insurance and Bonds

This issue is addressed in Section 5.1. The ORiip is aware that the obligation for applicants to provide declarations is an added and unnecessary burden and recommends that these are covered by a general declaration (within any of the initial application forms) binding the applicant to adhere to these requirements should his/her application be successful.

6.8 Payment of Final Contribution

The MIIPA should consider other means how to ensure that successful applications are positively concluded (and all applicable contributions are duly paid) such as the ORiip's suggestion in Section 4.2 that applicants are formally advised in writing that once they are officially served with the 'Letter of Acceptance in Principle', insofar as the payment of the second and final contribution is concerned, there would be no turning back **for any reason whatsoever other than proven and appropriately documented (a) medical reasons, or (b) serious family reasons, or (c) sudden lack of adequate financial resources to cope with the required outlay.**