

63. Il-Ministru tal-Ġustizzja u l-Intern jipproponi illi:-

II-Kamra tad-Deputati

Wara li ikkunsidrat li Malta kienet inġhatat stat ta' osservatur fl-*International Organization for Migration (IOM)* fit-tmienja u għoxrin (28) ta' Novembru 1995 u li din l-organizzazzjoni internazzjonali hija mpenjata dwar proġetti ta' movimenti ta' persuni bl-iskop fost oħrajn li:

- tiffaċilita ir-ripatriju volontarju ta' immigranti u tipprovdi servizzi simili kif rikjesti mill-Istati membri, b'ko-operazzjoni ma organizzazzjonijiet oħra;
- tipprovdi forum lill-Istati membri u lill-organizzazzjonijiet intemazzjonali għal skambju ta' veduti u esperjenzi, u għall-promozzjoni ta' ko-operazzjoni u ko-ordinazzjoni tal-ħidmiet rispettivi dwar kwestjonijiet relatati ma' immigrazzjoni intemazzjonali;
- tipprovdi, fuq talba ta' stat membru, u bi ftehim ma' l-istess, servizzi marbuta ma' l-immigrazzjoni bħal reklutaġġ, proċessar, tagħlim ta' lingwi, attivitajiet ta' orjentament, eżamijiet mediċi, u servizz ta' pariri f'materji konnessi ma' l-immigrazzjoni,

u dan skond il-Kostituzzjoni ta' l-istess Organizzazzjoni hawn annessa (Dok A)

Wara li rat li jekk l-applikazzjoni ta' Malta tiġi aċċettata mill-*International Organization for Migration (IOM)* biex issir membru fi hdan din l-organizzazzjoni, pajjiżna jissieheb ma' tmienja u disghin (98) pajjiżi oħra li għarfu li l-moviment ta' persuni hu ta' interess għall-kommunita' intemazzjonali;

Wara li eżaminat l-artiklu 3(1)(C) u 3(2)(b) ta' l-Att dwar ir-Ratifika tat-Trattati (Kap 304);

Tirrizolvi li tawtorizza lill-Gvern Malti sabiex jieħu l-passi meħtieġa sabiex Malta issir membru sħiħ fl-*International Organization for Migration (IOM)*.

26.08.03

Constitution of the International Organization for Migration *

Preamble

Chapter I:	Purposes and Functions
Chapter II:	Membership
Chapter III:	Organs
Chapter IV:	Council
Chapter V:	Executive Committee
Chapter VI:	Administration
Chapter VII:	Headquarters
Chapter VIII:	Finance
Chapter IX:	Legal Status
Chapter X:	Miscellaneous Provisions

Preamble

THE HIGH CONTRACTING PARTIES

RECALLING

the Resolution adopted on 5 December 1951 by the Migration Conference in Brussels,

RECOGNIZING

that the provision of migration services at an international level is often required to ensure the orderly flow of migration movements throughout the world and to facilitate, under the most favourable conditions, the settlement and integration of the migrants into the economic and social structure of the country of reception,

that similar migration services may also be required for temporary migration, return migration and intra-regional migration,

that international migration also includes that of refugees, displaced persons and other individuals compelled to leave their homelands, and who are in need of international migration services,

that there is a need to promote the co-operation of States and international organizations with a view to facilitating the emigration of persons who desire to migrate to countries where they may achieve self-dependence through their employment and live with their families in dignity and self-respect,

that migration may stimulate the creation of new economic opportunities in receiving countries and that a relationship exists between migration and the economic, social and cultural conditions in developing countries,

that in the co-operation and other international activities for migration the needs of developing countries should be taken into account,

that there is a need to promote the co-operation of States and international organizations, governmental and non-governmental, for research and consultation on migration issues, not only in regard to the migration process but also the specific situation and needs of the migrant as an individual human being,

that the movement of migrants should, to the extent possible, be carried out with normal transport services but that, on occasion, there is a need for additional or other facilities,

that there should be close co-operation and co-ordination among States, international organizations, governmental and non-governmental, on migration and refugee matters,

that there is a need for the international financing of activities related to international migration,

DO HEREBY ESTABLISH

the INTERNATIONAL ORGANIZATION FOR MIGRATION, hereinafter called the Organization, and

ACCEPT THIS CONSTITUTION.

Article 1

1. The purposes and functions of the Organization shall be:

- (a) to make arrangements for the organized transfer of migrants, for whom existing facilities are inadequate or who would not otherwise be able to move without special assistance, to countries offering opportunities for orderly migration;
- (b) to concern itself with the organized transfer of refugees, displaced persons and other individuals in need of international migration services for whom arrangements may be made between the Organization and the States concerned, including those States undertaking to receive them;
- (c) to provide, at the request of and in agreement with the States concerned, migration services such as recruitment, selection, processing, language training, orientation activities, medical examination, placement, activities facilitating reception and integration, advisory services on migration questions, and other assistance as is in accord with the aims of the Organization;
- (d) to provide similar services as requested by States, or in co-operation with other interested international organizations, for voluntary return migration, including voluntary repatriation;
- (e) to provide a forum to States as well as international and other organizations for the exchange of views and experiences, and the promotion of co-operation and co-ordination of efforts on international migration issues, including studies on such issues in order to develop practical solutions.

2. In carrying out its functions, the Organization shall co-operate closely with international organizations, governmental and non-governmental, concerned with migration, refugees and human resources in order, inter alia, to facilitate the co-ordination of international activities in these fields. Such co-operation shall be carried out in the mutual respect of the competences of the organizations concerned.

3. The Organization shall recognize the fact that control of standards of admission and the number of immigrants to be admitted are matters within the domestic jurisdiction of States, and, in carrying out its functions, shall conform to the laws, regulations and policies of the States concerned.

Article 2

The Members of the Organization shall be:

- (a) the States being Members of the Organization which have accepted this Constitution according to Article 34, or to which the terms of Article 35 apply;
- (b) other States with a demonstrated interest in the principle of free movement of persons which undertake to make a financial contribution at least to the administrative requirements of the Organization, the rate of which will be agreed to by the Council and by the State concerned, subject to a two-thirds majority vote of the Council and upon acceptance by the State of this Constitution.

Article 3

Any Member State may give notice of withdrawal from the Organization effective at the end of a financial year. Such notice must be in writing and must reach the Director General of the Organization at least four months before the end of the financial year. The financial obligations to the Organization of a Member State which has given notice of withdrawal shall include the entire financial year in which notice is given.

Article 4

1. If a Member State fails to meet its financial obligations to the Organization for two consecutive financial years, the Council may by a two-thirds majority vote suspend the voting rights and all or part of the services to which this Member State is entitled. The Council shall have the authority to restore such voting rights and services by a simple majority vote.

2. Any Member State may be suspended from membership by a two-thirds majority vote of the Council if it persistently violates the principles of this Constitution. The Council shall have the authority to restore such membership by a simple majority vote.

Chapter III ORGANS

Article 5

There are established as the organs of the Organization:

- (a) the Council;
- (b) the Executive Committee;
- (c) the Administration.

Chapter IV COUNCIL

Article 6

The functions of the Council, in addition to those mentioned in other provisions of this Constitution, shall be:

- (a) to determine the policies of the Organization;
- (b) to review the reports and to approve and direct the activities of the Executive Committee;
- (c) to review the reports and to approve and direct the activities of the Director General;
- (d) to review and approve the programme, the Budget, the expenditure and the accounts of the Organization;
- (e) to take any other appropriate action to further the purposes of the Organization.

Article 7

1. The Council shall be composed of representatives of the Member States.
2. Each Member State shall have one representative and such alternates and advisers as it may deem necessary.
3. Each Member State shall have one vote in the Council.

Article 8

The Council may admit, upon their application, non-member States and international organizations, governmental or non-governmental, concerned with migration, refugees or human resources as observers at its meetings under conditions which may be prescribed in its rules of procedure. No such observers shall have the right to vote.

Article 9

1. The Council shall meet in regular session once a year.
2. The Council shall meet in special session at the request of:
 - (a) one third of its members;
 - (b) the Executive Committee;
 - (c) the Director General or the Chairman of the Council in urgent circumstances.
3. The Council shall elect, at the beginning of each regular session, a Chairman and other officers for a one-year term.

Article 10

The Council may set up such sub-committees as may be required for the proper discharge of its functions.

Article 11

The Council shall adopt its own rules of procedure.

Chapter V EXECUTIVE COMMITTEE

Article 12

The functions of the Executive Committee shall be:

- (a) to examine and review the policies, programmes and activities of the Organization, the annual reports of the Director General and any special reports;
- (b) to examine any financial or budgetary questions falling within the competence of the Council;
- (c) to consider any matter specifically referred to it by the Council, including the revision of the Budget, and to take such action as may be deemed necessary thereon;
- (d) to advise the Director General on any matters which he may refer to it;
- (e) to make, between sessions of the Council, any urgent decisions on matters falling within the competence of the Council, which shall be submitted for approval by that body at its next session;
- (f) to present advice or proposals to the Council or the Director General on its own initiative;
- (g) to transmit reports and/or recommendations to the Council on the matters dealt with.

Article 13

1. The Executive Committee shall be composed of the representatives of nine Member States. This number may be increased by a two-thirds majority vote of the Council, provided it shall not exceed one third of the total membership of the Organization.

2. These Member States shall be elected by the Council for two years and shall be eligible for re-election.

3. Each member of the Executive Committee shall have one representative and such alternates and advisers as it may deem necessary.

4. Each member of the Executive Committee shall have one vote.

Article 14

1. The Executive Committee shall meet at least once a year. It shall meet, as necessary, in order to perform its functions, at the request of:

- (a) its Chairman;
- (b) the Council;
- (c) the Director General after consultation with the Chairman of the Council;
- (d) a majority of its members.

2. The Executive Committee shall elect a Chairman and a Vice-Chairman from among its members for a one-year term.

Article 15

The Executive Committee may, subject to review by the Council, set up such sub-committees as may be required for the proper discharge of its functions.

Article 16

The Executive Committee shall adopt its own rules of procedure.

Chapter VI ADMINISTRATION

Article 17

The Administration shall comprise a Director General, a Deputy Director General and such staff as the Council may determine.

Article 18

1. The Director General and the Deputy Director General shall be elected by a two-thirds majority vote of the Council and may be re-elected. Their term of office shall normally be five years but may, in exceptional cases, be less if a two-thirds majority of the Council so decides. They shall serve under contracts approved by the Council, which shall be signed on behalf of the Organization by the Chairman of the Council.

2. The Director General shall be responsible to the Council and the Executive Committee. The Director General shall discharge the administrative and executive functions of the Organization in accordance with this Constitution and the policies and decisions of the Council and the Executive Committee and the rules and regulations established by them. The Director General shall formulate proposals for appropriate action by the Council.

Article 19

The Director General shall appoint the staff of the Administration in accordance with the staff

regulations adopted by the Council.

Article 20

1. In the performance of their duties, the Director General, the Deputy Director General and the staff shall neither seek nor receive instructions from any State or from any authority external to the Organization. They shall refrain from any action which might reflect adversely on their position as international officials.
2. Each Member State undertakes to respect the exclusively international character of the responsibilities of the Director General, the Deputy Director General and the staff and not to seek to influence them in the discharge of their responsibilities.
3. Efficiency, competence and integrity shall be the necessary considerations in the recruitment and employment of the staff which, except in special circumstances, shall be recruited among the nationals of the Member States of the Organization, taking into account the principle of equitable geographical distribution.

Article 21

The Director General shall be present, or be represented by the Deputy Director General or another designated official, at all sessions of the Council, the Executive Committee and any sub-committees. The Director General or the designated representative may participate in the discussions but shall have no vote.

Article 22

At the regular session of the Council following the end of each financial year, the Director General shall make to the Council, through the Executive Committee, a report on the work of the Organization, giving a full account of its activities during that year.

Chapter VII HEADQUARTERS

Article 23

1. The Organization shall have its Headquarters in Geneva. The Council may, by a two-thirds majority vote, change its location.
2. The meetings of the Council and the Executive Committee shall be held in Geneva, unless two-thirds of the members of the Council or the Executive Committee respectively have agreed to meet elsewhere.

Chapter VIII FINANCE

Article 24

The Director General shall submit to the Council, through the Executive Committee, an annual budget covering the administrative and operational requirements and the anticipated resources of the Organization, such supplementary estimates as may be required and the annual or special accounting statements of the Organization.

Article 25

1. The requirements of the Organization shall be financed:

- (a) as to the Administrative part of the Budget, by cash contributions from Member States, which shall be due at the beginning of the financial year to which they relate and shall be paid promptly;
- (b) as to the Operational part of the Budget, by contributions in cash, in kind or in services from Member States, other States, international organizations, governmental or non-governmental, other legal entities or individuals, which shall be paid as early as possible and in full prior to the expiration of the financial year to which they relate.

2. Member States shall contribute to the Administrative part of the Budget of the Organization at a rate agreed to by the Council and by the Member State concerned.

3. Contributions to the operational expenditure of the Organization shall be voluntary and any contributor to the Operational part of the Budget may stipulate with the Organization terms and conditions, consistent with the purposes and functions of the Organization, under which its contributions may be used.

4. (a) All Headquarters administrative expenditure and all other administrative expenditure except that incurred in pursuance of the functions outlined in paragraph 1 (c) and (d) of Article 1 shall be attributed to the Administrative part of the Budget;
- (b) all operational expenditure and such administrative expenditure as is incurred in pursuance of the functions outlined in paragraph 1 (c) and (d) of Article 1 shall be attributed to the Operational part of the Budget .

5. The Council shall ensure that the management is conducted in an efficient and economical manner.

Article 26

The financial regulations shall be established by the Council.

Chapter IX LEGAL STATUS

Article 27

The Organization shall possess full juridical personality. It shall enjoy such legal capacity, as may be necessary for the exercise of its functions and the fulfilment of its purposes, and in particular the capacity, in accordance with the laws of the State:

- (a) to contract;
- (b) to acquire and dispose of immovable and movable property;
- (c) to receive and disburse private and public funds;
- (d) to institute legal proceedings.

Article 28

1. The Organization shall enjoy such privileges and immunities as are necessary for the exercise of its functions and the fulfilment of its purposes.

2. Representatives of Member States, the Director General, the Deputy Director General and the staff of the Administration shall likewise enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization.

3. These privileges and immunities shall be defined in agreements between the Organization and the States concerned or through other measures taken by these States.

Chapter X MISCELLANEOUS PROVISIONS

Article 29

1. Except as otherwise expressly provided in this Constitution or rules made by the Council or the Executive Committee, all decisions of the Council, the Executive Committee and all sub-committees shall be taken by a simple majority vote.

2. Majorities provided for in this Constitution or rules made by the Council or the Executive Committee shall refer to members present and voting.

3. No vote shall be valid unless a majority of the members of the Council, the Executive Committee or the sub-committee concerned are present.

Article 30

1. Texts of proposed amendments to this Constitution shall be communicated by the Director General to Governments of Member States at least three months in advance of their consideration by the Council.

2. Amendments shall come into force when adopted by two-thirds of the members of the Council and accepted by two-thirds of the Member States in accordance with their respective constitutional processes, provided, however, that amendments involving new obligations for Members shall come into force in respect of a particular Member only when that Member accepts such amendments.

Article 31

Any dispute concerning the interpretation or application of this Constitution which is not settled by negotiation or by a two-thirds majority vote of the Council shall be referred to the International Court of Justice in conformity with the Statute of the Court, unless the Member States concerned agree on another mode of settlement within a reasonable period of time.

Article 32

Subject to approval by two-thirds of the members of the Council, the Organization may take over from any other international organization or agency the purposes and activities of which lie within the purposes of the Organization such activities, resources and obligations as may be determined by international agreement or by mutually acceptable arrangements entered into between the competent authorities of the respective organizations.

Article 33

The Council may, by a three-quarters majority vote of its members, decide to dissolve the Organization.

Article 34 **

This Constitution shall come into force, for those Governments Members of the Intergovernmental Committee for European Migration which have accepted it in accordance with their respective constitutional processes, on the day of the first meeting of that Committee after:

- (a) at least two-thirds of the Members of the Committee,
- (b) a number of Members whose contributions represent at least 75 per cent of the Administrative part of the Budget,

shall have communicated to the Director their acceptance of this Constitution.

Article 35 **

Those Governments Members of the Intergovernmental Committee for European Migration which have not by the date of coming into force of this Constitution communicated to the Director their acceptance of this Constitution may remain Members of the Committee for a period of one year from that date if they contribute to the administrative requirements of the Committee in accordance with paragraph 2 of Article 25, and they shall retain during that period the right to accept the Constitution.

Article 36

The English, French and Spanish texts of this Constitution shall be regarded as equally authentic.

* The present text incorporates into the Constitution of 19 October 1953 of the Intergovernmental Committee for European Migration (former designation of the Organization) the amendments adopted on 20 May 1987 and which entered into force on 14 November 1989.

** Articles 34 and 35 were implemented at the time of the entry into force of the Constitution on 30 November 1954.