

Office of the Regulator

Individual Investor Programme (ORiip)

Third Annual Report on the
Individual Investor Programme
of the Government of Malta
(1st July 2015 – 30th June 2016)

October 2016

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Foreword by the Regulator

This Report - which is being drawn up by the Office of the Regulator Individual Investor Programme (ORIip) in terms of subarticle 8 of Article 25 of the Maltese Citizenship Act, Cap. 188 – is the third in the series and it covers the period 1 July 2015 to 30 June 2016.

At this stage, it is pertinent to point out that I have been appointed Regulator of the Individual Investor Programme with effect from 2 February 2016 for a period of two years. Hence, in true fact, this is actually the first report that I am drawing up. Unfortunately I could not be given an orderly and proper hand-over since my predecessor (Dr. Godwin Grima) had retired a few days prior to my appointment and, to make matters worse, his right-and-left-hand assistant (Dr. Kevin Gatt) had also been transferred to another Ministry a few weeks prior to my predecessor's retirement in order to take up another engagement. I, therefore, had to face a totally new venture, initially purely on my own for practically the first 3 months with the unstinted help and administrative support of Ms Sandra Borg Agius since Dr. Gatt's replacement was only made available towards the end of April 2016.

In his introduction to the Second Report, my predecessor had tabled three personal suggestions that could, in his opinion, further enhance the Programme. These related to:

(a) the widening of the Regulator's remit to include the workings of the Citizenship Department, thereby eliminating the Committee of Inquiry as established by Article 14 of the Maltese Citizenship Act (Cap. 188);

(b) the doing away altogether with the publication of the names of those acquiring Maltese citizenship through naturalization and the Individual Investor Programme and substituting same with a list of such persons that is prepared by the Regulator from information obtained from Identity Malta Agency, which list would be passed on solely to the members of the Monitoring Committee for their scrutiny; and

(c) the setting up of a forum for all Regulatory bodies to come together on a regular basis with a view to exchanging views, sharing good practices, developing standards, codes of practice and related matters.

By the time that I have started compiling this report, particularly this Foreword, it appears that the above suggestions are still under consideration by the Government, although at one stage there was a notion that the Visa and Residence Programme which was launched early in May 2016 was going to be included in the Regulator (IIP)'s remit. In fact I did have a couple of cordial meetings with the CEO of this Programme during which we informally discussed his Office's set-up, operations and functions. However, since such an event never materialized, no further meetings were held.

In this third report, I am not putting forward any personal policy suggestions neither with reference to the ones already put forward by my predecessor at (a), (b) and (c) above nor with reference to any new ones which could come to mind following my few months' experience in this venture since I firmly believe that the Regulator should not meddle with policy decisions or put forward any new policy suggestions unless he is specifically asked for an advice with respect to such policies or for his personal views on new policies.

At this stage, it is pertinent to point out that recommendations put forward by my predecessor in his Second Annual Report concerning changes to the Individual Investor Programme Regulations which he had deemed necessary to include in his Report are still being considered by Government. These changes basically involve the updating of provisions in order to reflect practices and procedures adopted by IMA, which practices and procedures are, in effect, **quite valid, reasonable and called for**. It is further hoped that this year's recommendations will eventually be taken on board during the coming months.

In conclusion, I wish to acknowledge the input of my staff in drawing up this report, not least Mr. Jesmond Camilleri (Regulatory Officer) who is not only the focal point between this Office and the IMA but also my right-and-left-hand man who is fully dedicated to my cause. I would also like to show my gratitude to the Identity Malta top management, particularly the CEO (IIP), Mr Jonathan Cardona and Messrs Ray Cassar and Elaine Malia, as well as their immediate supporting staff, top amongst which is Ms Monica Farrugia. IMA's open door policy in regard to this Office is truly appreciated.

Carmel L. De Gabriele
Regulator

9 September 2016

Annual Report on the Individual Investor Programme

as on the 30 June 2016

In fulfillment 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
Identity Malta / IMA	Identity Malta Agency
IIP	Individual Investor Programme
MCC	Mediterranean Conference Centre
MJCL	Ministry for Justice, Culture and Local Government
MRVP	Malta Residence and Visa Programme
ORiip	Office of the Regulator (Individual Investor Programme)

1.0 Introduction

This report represents the third, 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 last year's report, the timeline of this year's annual review will consider the period between 1 July 2015 and 30 June 2016.

It is relevant to point out that the second meeting of the Monitoring Committee was held on Tuesday 6 October 2015 whilst the second Annual Report was tabled in Parliament on Monday 26 October 2015.

Throughout the period under review we have witnessed a regular inflow of applications, as well as a substantial increase in the applications which have been brought to fruition. As was the case during the previous review, great care was taken by this Office to keep under proper surveillance the processes involved in the adjudication of the applications that were tackled by Identity Malta during the period covered by this Report.

Identity Malta and this Office have continued to work closely together, meeting every month, with a view towards discussing issues arising as a result of the implementation of the Programme.

The findings contained in this Report are not only encouraging but are also a clear indication of the enormous success of this Programme in just inside 30 months of its official launching. They also reflect the experience that has accumulated over the past two and a half years as well as the diligence with which the process is carried out by all involved. Its basis is similar to that of previous reports but it is being presented in a slightly different format.

Initially the document presents an extensive scientific analysis of the statistics which were made available by Identity Malta. Such information aims to give a general picture of the IIP in figures (**vide Section 2**).

Subsequently there is a section which covers themes that were in the public domain, namely either raised in parliament (through the submission of parliamentary questions) or published in the Media (**vide Section 3**).

The report also contains ample coverage of comments by the main stakeholders, namely IMA and the Accredited Agents. In the case of the former, this was particularly asked to provide feedback on observations made in the previous two Reports whereas, in the case of the latter, comments and suggestions were recorded during one-to-one meetings held with a number of Accredited Agents selected at random (**vide Section 4**).

The main part of the document deals with action taken by ORIip in order to fulfil its 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 (**vide Section 5**).

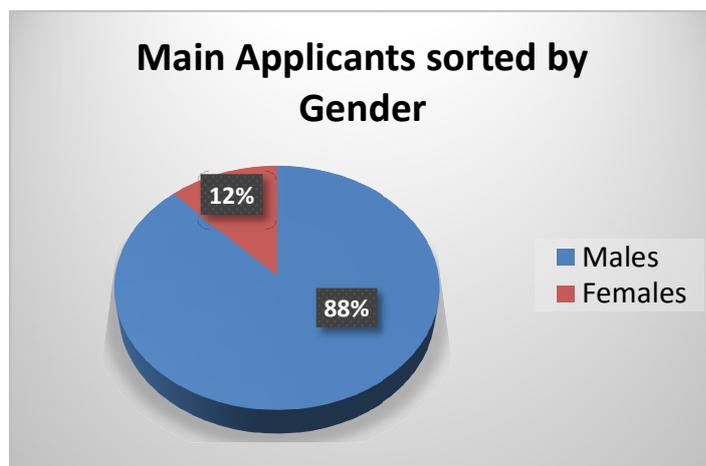
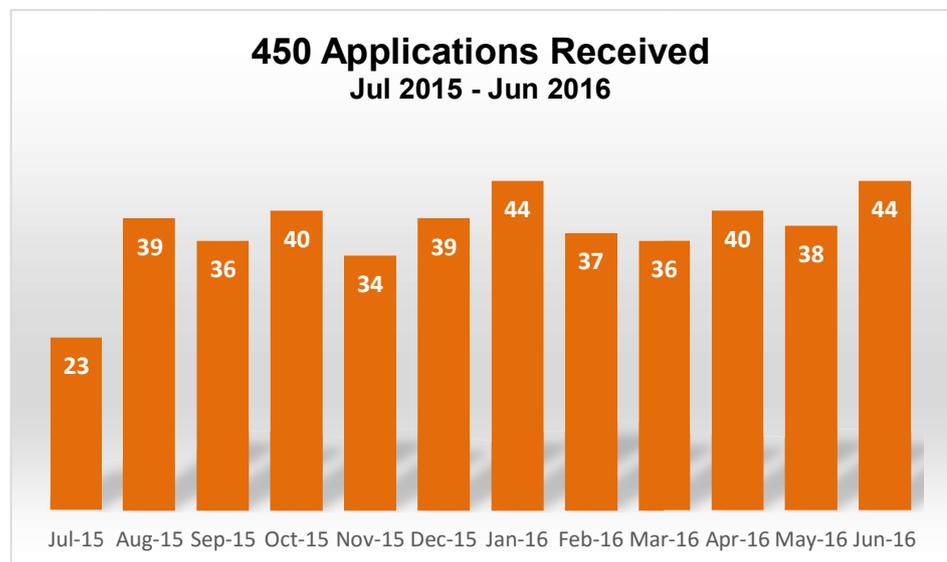
In conclusion the report lists a number of recommendations based on ORIip's observations of all the afore-mentioned themes (**vide Section 6**).

2.0 Statistical Information

Following the same trend observed in last year's report, there was a significant increase in registered figures, ranging from the number of applications received, the number of applications successfully passing from the due diligence process and the number of applications completing the naturalisation stage.

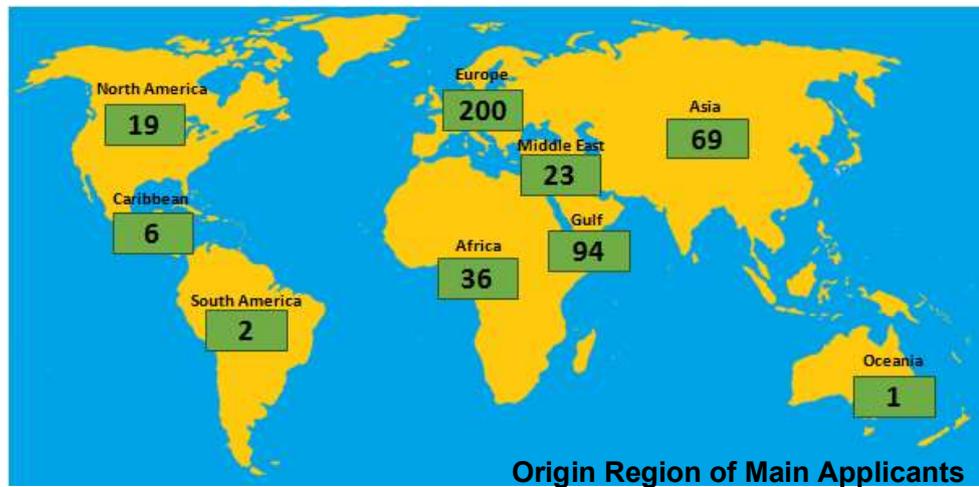
2.1 Applications submitted to IMA

The number of applications received during the period in question amounted to 450 which, when added to those received previously, now total 723. A glance at the figures reveals that the number of incoming applications was distributed fairly evenly and, except for July 2015 (when only 23 applications were received) the amount of applications received per month ranged between 34 and 44.



The main applicants were predominantly male - 398 male main applicants and 52 female main applicants translating into 88% males and 12% females respectively. Compared with the figures recorded during the previous year the percentage number of females has increased slightly (in the 2015 report the percentage of male main applicants was 92% whilst the percentage of female main applicants was 8%).

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.

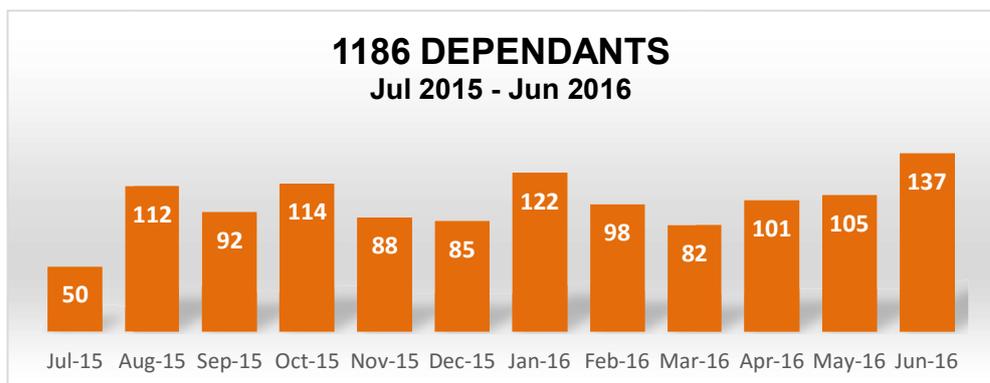


	2015 Report	2016 Report
Europe	61.6%	44.5%
North America	9.8%	4.2%
Asia	8.6%	15.3%
Middle East	8.6%	5.1%
Gulf Region	5.9%	20.9%
Africa	5.1%	8.0%
South America	0.4%	0.5%
Caribbean	0.0%	1.3%
Oceania	0.0%	0.2%

Compared with last year one notes the inclusion of two new regions (the Caribbean and Oceania) and a more fairly distribution of applications from around the globe. Indeed, whereas in the previous report, applications were predominantly (nearly two thirds) from Europe, this time the majority of applications come from outside such region.

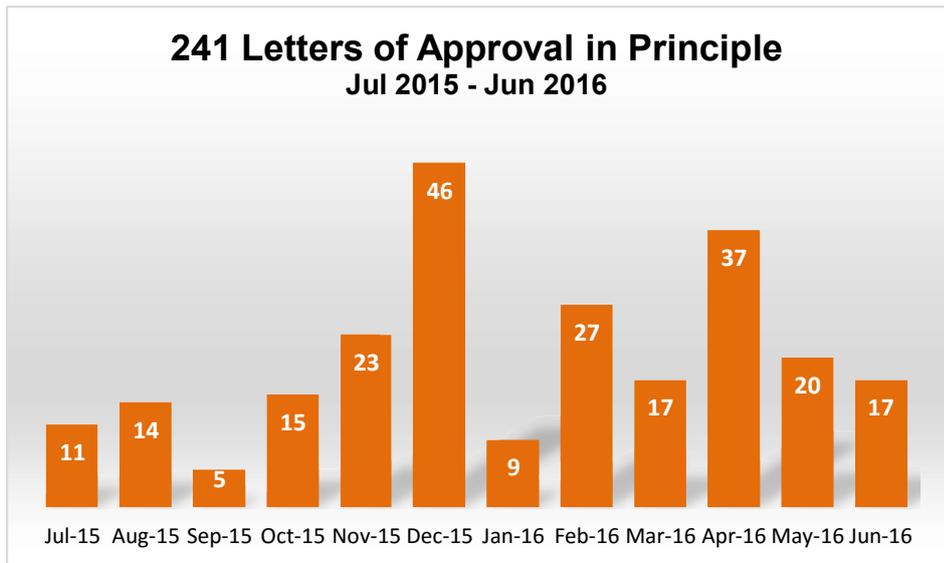
Statistical information was also recorded on the number of different citizenships of which the main applicants were already in possession. The majority of main applicants (391) only had one previous citizenship, meaning that if their IIP application were to be successful, the Maltese Citizenship would be their second. On the other hand, 55 main applicants had two previous different citizenships whereas only four had three.

The number of dependants included in the 450 applications amounted to 1186, meaning that on average each application contained one main applicant and three dependants.



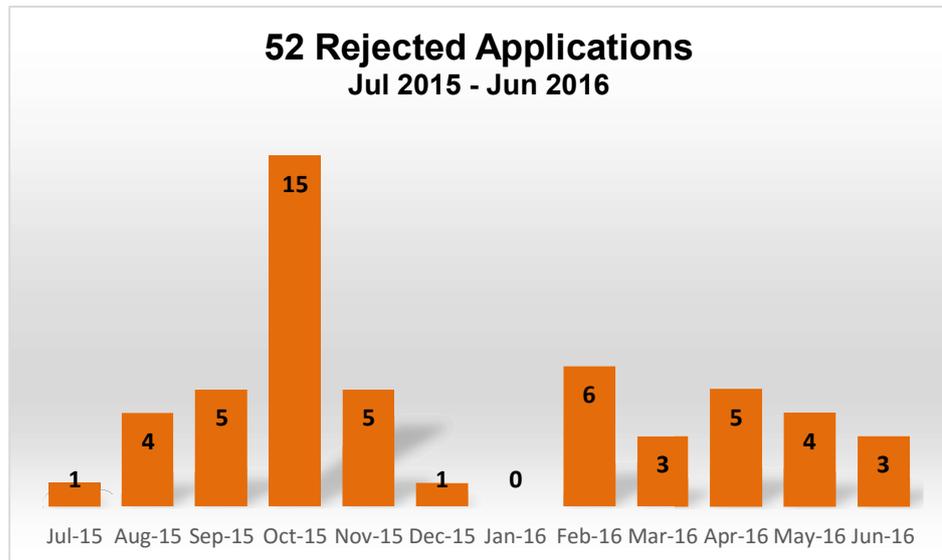
2.2 Outcome of Applications

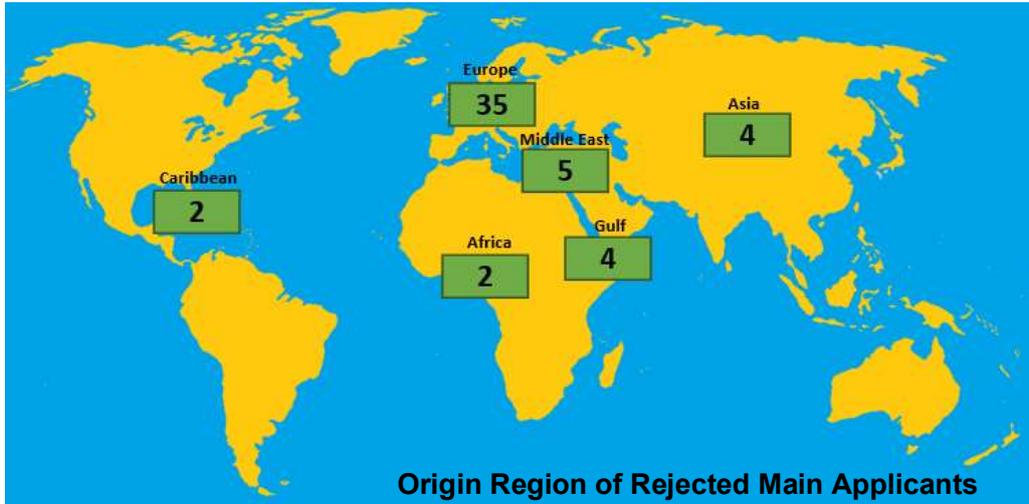
The figures quoted in this sub-section do not tally with those recorded in the previous one. The reason for this is that there is a time-lapse during which an application is processed and therefore a significant number of the 450 applications received up till June 2016 would still be in the initial or due diligence stage and thus their outcome would be recorded in next year's report.



The amount of approved applications (i.e. applications for which the due diligence process has been concluded positively and a letter of approval in principle has been issued) was 241, a significant increase from the amount registered during the previous year (75).

The number of rejected applications during the period in question was 52 (an average of 4 rejected applications per month). The amount was unevenly distributed with a maximum of 15 being rejected in October 2015 and none recorded in January 2016. During the previous year the amount of rejections totalled 8.





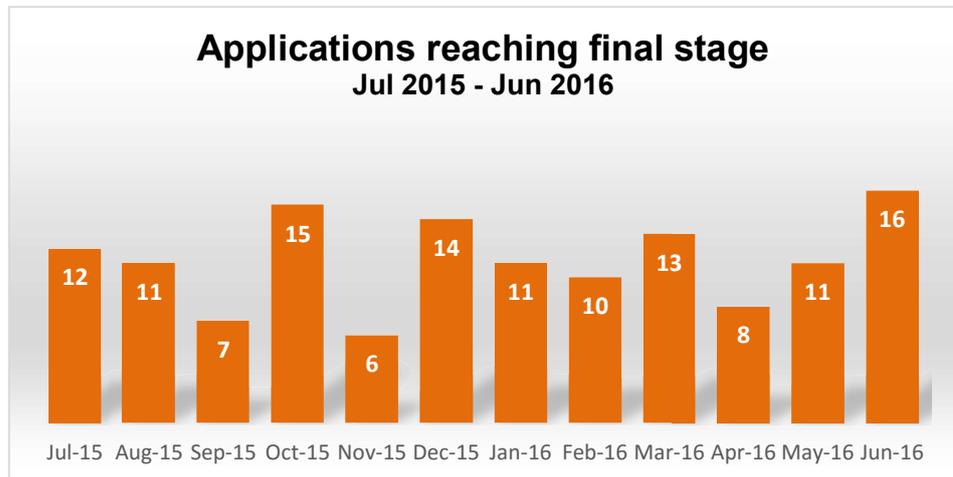
The majority of rejections originated from Europe (35) whilst the rest were (nearly) equally distributed amongst 5 other geographical regions.

Further to the above, during the period in question, 8 applications were withdrawn before the due diligence process was completed.

2.3 Naturalisations

The same rationale (as per above) (that the figures do not tally with those in the previous two sub-sections) applies. 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.

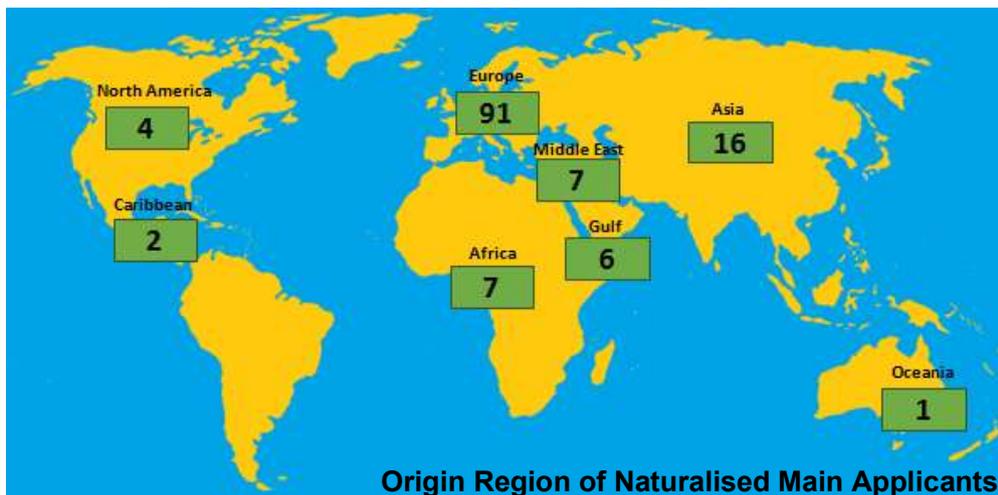
Between July 2015 and June 2016, 134 applications had reached the final stage (i.e. when naturalisations occurred). Adding this amount to that recorded in the previous year (43) brings the total to 177 which constitutes 9.8% of the pre-established target.



The 134 applications included a total of 477 persons. Apart from the 134 main applicants there were 101 spouses, 150 minor dependants and 92 adult dependants, meaning that each

application contained an average of 3 dependants (similar to the average of dependants in applications received).

Month	Main Applicants	Spouses	Minor Dependants	Adult Dependants	TOTAL
July 2015	12	8	10	6	36
August 2015	11	10	21	15	57
September 2015	7	5	13	0	25
October 2015	15	10	14	6	45
November 2015	6	5	8	5	24
December 2015	14	11	13	8	46
January 2016	11	10	13	9	43
February 2016	10	8	14	6	38
March 2016	13	10	14	7	44
April 2016	8	6	9	3	26
May 2016	11	8	7	14	40
June 2016	16	10	14	13	53
TOTAL	134	101	150	92	477



The region from which the naturalised main applicants originated was predominantly Europe (68%), with a substantial amount originating from Asia (12%) and the remainder distributed

amongst the other geographical regions.

The majority of naturalised main applicants - 126 - only had one citizenship (i.e. the Maltese Citizenship which they acquired was their second). The remaining 8 main applicants held two citizenships.

The ratio of the gender of the main applicants was exactly the same as that recorded at application stage (88% males and 12% females).

As regards the employment status of the naturalised main applicants, 51.5% came from the self-employed classes, 41.8% were employed with an Organisation, whilst the remaining 6.7% were non-economically active. The high percentage of self-employed augurs well since there is

a higher chance that any of these may opt to transfer some of their business locally thereby contributing to Malta's economic growth.

Type	Count	Percentage
Self-Employed	69	51.5%
Employed	56	41.8%
Non-economically Active	9	6.7%

The educational level of naturalised main applicants is extremely high with around 60% reaching a degree level, Masters level or PHD level.

Type	Count
PHD	14
Masters	28
Degree	39
Diploma	2
Higher Secondary	8
Secondary	3
Others	39
Not Specified	1

The main age bracket of naturalised main applicants was between 45 and 64 (63%), followed by those falling within the 25-44 age bracket (33%). The age of a minority of applicants (3%) was over 65 whereas only one applicant (1%) was between the ages of 18 and 24.

Age Bracket	Count
18 - 24	1
25 - 44	44
45 - 64	85
65+	4

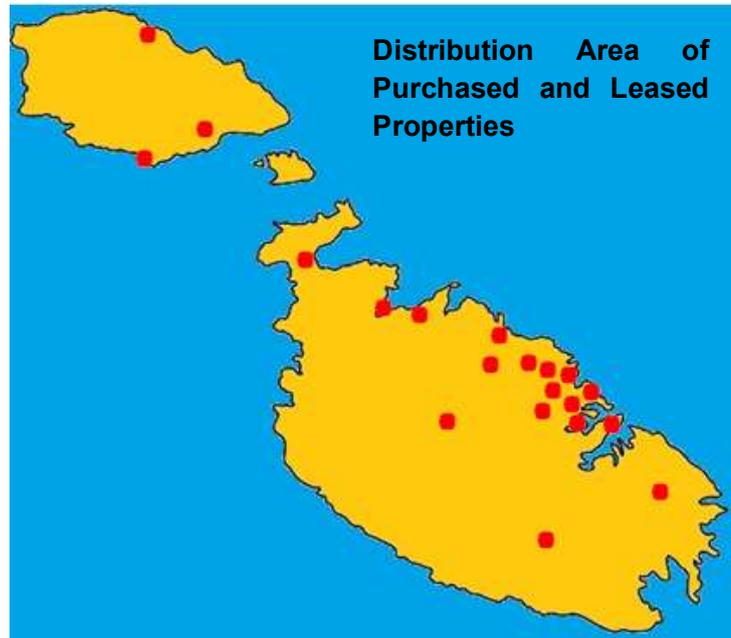
2.4 Properties

During the period in question 134 properties were either purchased or leased, with the absolute majority opting for the latter. Indeed 20% of applicants chose to purchase property whilst 80% opted to lease.

Type of Property	July 2015-June 2016	Launching of the IIP till 30 June 2016
Purchased	27	34
Leased	107	143

In the case of purchased properties the most popular areas were Sliema and its immediate vicinities. Indeed, in Sliema there were 12 purchased properties whilst in the surrounding areas of Swieqi, St Julians, Valletta and Ta' Xbiex there were 13. The only exceptions were one property purchased in Mellieha and one property purchased in Ta' Sannat, Gozo.

In the case of leased properties, there was a wider variety of locations where these were chosen. Similar to purchased properties, the most popular areas were Sliema (46) and St Julians (28) which, together, constituted 69% of the total number of leased properties. The remaining 33 properties were selected from 16 other different localities.



Location	Purchased	Leased
Attard	-	1
Bahar ic-Caghaq	-	1
Ghajnsielem (Gozo)	-	2
Gzira	-	1
Ibragg	-	2
Madliena	-	1
Marsalforn (Gozo)	-	4
Mellieha	1	4
Mqabba	-	1
Naxxar	-	1
San Gwann	-	2
Sliema	12	46
St Julians	9	28
St Paul's Bay	-	4
Swieqi	1	5
Ta' Sannat (Gozo)	1	-
Ta' Xbiex	1	1
Valletta	2	-
Xemxija	-	2
Zabbar	-	1

Between July 2015 and June 2016 the value of the 27 purchased properties amounted to €28,322,519.93, averaging €1,048,982.22. Such average is significantly above the minimum threshold of €350,000 set in the IIP Regulations. Globally (taking into consideration the

properties purchased during the previous reporting period) the value of purchased property totals €35,139,764.34 and averaging €1,033,522.48.

In the case of leased property the rental value for the duration of the 5-year contract is projected to be €13,412,036.95, averaging €125,346.14 per contract. On an annual basis this boils down to an average of €25,069.23 per lease. Similar to the situation regarding purchased property, the average is significantly higher than the minimum threshold of €16,000 per year set in the IIP regulations. Globally (i.e. taking into consideration the properties leased during the previous reporting period) all leased property would add up to €17,485,169.45, averaging €122,273.91 per leased property, thereby slightly decreasing the average per lease over the 2-year period to €24,454.78.

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 this regard, the amount invested in Stocks between July 2015 and June 2016 totalled €20,303,426.58 which, when added to the €6,430,338.15 generated prior to the period in question, gives a total of €26,733,764.73.

Month	Total (€)
Prior to July 2015	6,430,338.15
July 2015	1,806,807.45
August 2015	1,710,092.48
September 2015	1,057,670.00
October 2015	2,265,913.51
November 2015	905,807.14
December 2015	2,165,379.86
January 2016	1,663,956.60
February 2016	1,375,191.81
March 2016	1,812,473.51
April 2016	1,557,935.00
May 2016	1,662,083.23
June 2016	2,320,115.99
TOTAL	26,733,764.73

2.6. Contributions and Fees Payable by Main Applicants, Spouses and Dependants

2.6.1 Contributions

Paragraph 1 of the Schedule to LN 47 of 2014 establishes the contributions that need to be paid by the main applicant in his or her respect and in respect of his or her dependants, if any, in order to qualify for citizenship under the Individual Investor Programme, 6% and 4% of which go to Identity Malta Agency and Henley & Partners, respectively. In terms of the Agreement signed with Henley & Partners, in addition to the above, Henley & Partners also receive 4% of the investment made under the Investment Requirement (at the minimum value prescribed by the Regulations, even if the actual investment in a particular case is higher than this minimum

value) – i.e. 4% of €150,000 - which is equivalent to €6,000 per main application. The remaining amount is distributed in the ratio of 70% National Development and Social Fund as to 30% Consolidated Fund.

The contributions that need to be made are as follows:

- (a) main applicant: €650,000 of which a non-refundable deposit payment of €10,000 shall be remitted prior to submission of the application;
- (b) spouse: €25,000;
- (c) for each and every child below 18 years of age: €25,000;
- (d) for each and every unmarried dependant son or daughter between 18 years of age and 26 years of age: €50,000;
- (e) for each and every dependant parent above 55 years of age: €50,000.

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 as per above is carried out.

The following table gives a clear indication of how and when the contribution is collected and how it is distributed in real terms:

INDIVIDUAL INVESTOR PROGRAMME CONTRIBUTION TO THE MALTA GOVERNMENT				
COLLECTION OF CONTRIBUTION BY IDENTITY MALTA AGENCY (SUSPENCE A/C)				
Collection			Distribution	
Residency Stage	Full Application Stage	Letter of Acceptance in Principle Stage	Oath of Allegiance Stage	
€5,000	€5,000	€640,000 ¹	Identity Malta Agency	6% (€39,000 ²)
			Henley & Partners	4% (€26,000 ²) ³
			Consolidated Fund	27% (€175,500 ²) ⁴
			National Development and Social Fund	63% (€409,500 ²) ⁵

During the period under review by this Report, the contributions collected by IMA amounted to €166,550,000. This equates to approximately 1.81% of the GDP relative to the same period (estimated at €9,196,500,000). 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 (€218,672,980) would equate to approximately 2.38% 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 IMA since the launching of this Programme this would result in a grand total of €218,900,000 contributions collected by IMA in respect of this Programme.

During the period 1 July 2015 - 30 June 2016 the funds distributed were as follows:

¹ Plus spouse's and dependents' contribution
² Plus percentage of spouse's and dependents' contribution
³ Plus €6,000 per main application
⁴ Minus €1,800 per main application
⁵ Minus €4,200 per main application

- €46,604,100, the National Development and Social Fund;
- €19,971,900, the Consolidated Fund;
- €5,818,500, Identity Malta Agency;
- €4,676,000, Henley & Partners.

This means that since the launching of the IIP till the 30 June 2016, the total amount of funds distributed were as follows:

- €54,947,550, the National Development and Social Fund;
- €23,548,950, the Consolidated Fund;
- €7,261,500, Identity Malta Agency;
- €5,842,000, Henley Partners.

The balance in the Suspense Account as on 30 June 2016 was €133,946,599 of which €127,300,000 were still awaiting distribution as per above, whilst the remaining €6,646,599 refer to refunds which were still due to third parties by way of due diligence fees, passport fees and bank charges fees.

2.6.2 Fees

Paragraph 2 of the Schedule to LN 47 of 2014 establishes the fees that need to be paid by the main applicant in his or her respect and in respect of his or her dependants. These fees are as follows:

- (1) Due diligence fees: (a) main applicant: €7,500;
 (b) spouse: €5,000;
 (c) for each and every child aged between 13 years of age and 18 years of age: €3,000;
 (d) for each and every dependant unmarried son or daughter between 18 years of age and 26 years of age: €5,000;
 (e) for each and every dependant parent above 55 years of age: €5,000.
- (2) Passport fees: €500 per person.
- (3) Bank Charges fees: €200 per application.

During the period covered by this report, the amounts collected by way of such fees were as follows:

Due diligence fees	€7,287,500
Passport fees	€856,000
Bank Charges fees	€92,200

2.7 Agents

The total number of Accredited Agents as at the end of June 2016 now stands at 132. Of these, 6 were upgraded to the status of Approved Agents. The figure denotes a significant increase from the 115 which were reported in the previous report. 7 Agents were reported as deregistered during the same period. The 132 Accredited Agents were subdivided into four main categories, as follows:

Type of Firm	Count	%
Legal	41	31.1
Financial Fiduciary and Trusts	54	40.9
Management and Consultancy	35	26.5
Property Consultancy	2	1.5

3.0 **T**he IIP in the Public Domain

3.1 **Parliamentary Questions**

Between July 2015 and June 2016 there was a total of 22 parliamentary questions, all of which tabled by MPs of the Opposition Party. A number of these questions were reminders or redirection of the same questions to other Ministers and therefore the actual number of questions was less.

The recurring theme for these questions was the request for related statistical information, ranging from the number of received applications (split by citizenship and/or according to their present processing status), the funds deposited by Applicants in the IIP account, the total IIP generated income (including that projected for the years 2016, 2017 and 2018), the number of properties which have been purchased or leased by IIP applicants, the number of companies which these have set up and the list of contributions to philanthropic organisations, NGOs, etc.

Questions were also raised in order to receive updates on the report to be drawn up by the Regulator IIP.

3.2 **Media Articles**

In last year's report the IIP Scheme was indicated to have featured prominently in the media – this year was no exception and, indeed, quite a number of articles was published either to report an event, to voice an opinion or to reveal the outcome of any investigative endeavour. Such news items were monitored closely by this Office so that it could investigate whenever required. In doing so, due attention was given to ensure that the Office steered away from intervening in controversial issues which were either due to inherent differences of opinions or which fell outside the remit of the Regulator. With regards to the latter a case in point was the revelation that successful IIP applicants had allegedly acquired voting rights irregularly – such matter definitely does not fall within the remit of the Regulator and, consequently, was not investigated by the Office. On the other hand, the allegation that IIP citizens were living in modest residences prompted an investigation by this Office of such phenomenon, as described in Section 5.2. Other allegations which were promptly investigated (and with no issues identified by ORiip) included two instances of persons deemed to be IIP applicants (which was not the case) and one instance of a successful IIP client who was allegedly facing fraud.

The two main events of the past 12 months, namely the transfer of the IIP from the Ministry of Home Affairs and National Security and the appointment of a new Regulator following the retirement of the previous incumbent, were reported faithfully in January and February 2016 respectively.

Another milestone which was reported was the convening of the Monitoring Committee (set up as per provisions of the IIP Regulation) and the subsequent publication of the Regulator's second report, both of which took place in October 2015. The salient point reported by the media in this case was the controversy surrounding the publication of names of persons given

Maltese Nationality through the scheme, revealing opposing views by Government and Opposition and quoting the Regulator's concerns about the matter (incidentally such issue came to the fore again - albeit briefly - in June 2016 when it was reported that the 2015 Citizens' list had not yet been published). Other excerpts from the second report were also duly published, including details of the research carried out by the Regulator which determined that physical presence was not required in order to prove residency.

In October 2015 the media reported that the national development fund, financed by the IIP scheme, would be headed by David Curmi, the former president of the Chamber of Commerce. In a subsequent interview (in June 2016) Mr Curmi informed that the Fund was "a work in progress" and that the board of governors was putting in place the necessary infrastructure to get the fund going.

Apart from reporting events, the media also published, from time to time, statistical data that was obtained either through information tabled in parliament (following requests made through parliamentary questions) or through specific requests made by local media sources themselves. Data deemed interesting enough to be published included the amount of funds generated through the scheme, the number of IIP applicants who had been awarded Maltese Citizenship, the number of companies opened locally by successful applicants, the donations which they had made and details of property which was leased or purchased by such persons. In one instance it was reported that a freedom of information request for details of countries of origin was refused since – it was stated by Identity Malta – this may prejudice relations with some of these countries of origin.

Media also reported that the IIP scheme had noticeably impacted the real estate market and had fuelled both sale and rental prices of property. This was stated by a professional services firm and, subsequently, confirmed by the Central Bank of Malta in its index of advertised prices for residential property.

ORIIP Observations

The ORIip has observed that IMA has rarely communicated with the Media on particular IIP themes which, at any point, would be in the limelight. Whilst ORIip respects such position it needs to point out that this may have a negative effect on the scheme in general, especially in cases where Media content would include inaccurate data which, in turn, would lead to wrong interpretations, opinions, decisions and impressions. Such inaction therefore might lead to undermining the credibility of the Agency, the Accredited Agents and applicants and pushing away potential clients. Consequently the ORIip suggests that IMA is more responsive whenever its operations particularly those in relation to the Individual Investor Programme are mentioned in the Media, issuing clarifications whenever required. This recommendation was also made by a number of Accredited Agents (vide Section 4.2.11). Although ORIip is well aware that some of the criticism levied at IMA and towards the Programme itself originates from political or politically instigated sources, any incorrect apolitical information embodied in such criticism whether technical, administrative or legal needs to be corrected, whatever the source it comes from, because the public has a right to know what the correct information or position is and needs to get this information from the horse's mouth.

4.0 Consultations with Stakeholders

During the past months ORIip continued to meet up with the main IIP stakeholders, namely the Identity Malta Agency, 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 the Concessionaire and the Agents, since it was impossible for the Regulator to meet up with all of them (over 130) a list was drawn up and provided by the Agency, containing the names of Agents together with the number of applications which each had submitted. One-to-one meetings were then organised with the most active ones (i.e. with the Agents having submitted the highest number of applications). A total of 23 such meetings were held.

4.1 Feedback by IMA on observations made in previous reports

Previous ORIip reports included Regulatory Observations made by the incumbent Regulator. In this regard IMA were invited to provide their 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 IMA is provided hereunder:

Observation	Carry out a number of changes to existing provisions of the Regulations.
Comments by IMA	The Legal Notice amendments are in process and being considered.

Observation	Identity Malta staff deployed within the vicinity of the Office of the Regulator should ideally be transferred in order to ensure complete separation.
Comments by IMA	Tenders are in place and the procurement procedures to enable the move are in progress.

Observation	IIP operational matters should be governed by a professional business plan
Comments by IMA	Business plans are being drawn up. The plan for the next financial year will be finalised in the short term.

Observation	The Identity Malta Agency Order should be amended to reflect the present structure which includes a CEO IIP.
Comments by IMA	Such matter is still pending.

Observation	IMA is invited to adopt ORiip's checklist as a means for facilitating applicant compliance and for screening all applications.
Comments by IMA	This forms part of the proposed new Checklist and Guidelines which will be distributed to all agents in the near future.

Observation	IMA is encouraged to amend the current application form in order to distinguish how information is filled in by Corporate Applicants and by Individual Applicants.
Comments by IMA	The matter is still pending as experience has shown that the proposed changes would complicate rather than simplify matters.

Observation	IMA should ensure that persons applying for accredited person status have the capacity to properly deal with the process the IIP demands of each application. Moreover, existing accredited persons should be made aware of the importance of dedicating sufficient capacity for IIP applications as well as to emphasise the obligation they have to train their staff to be able to work on the IIP process. IMA is also invited to consider designing a mechanism which identifies poor applications and applies sanctions to accredited persons who persist in submitting poor quality applications.
Comments by IMA	All agents have to be Authorised Registered Mandatories with the MFSA and have to abide by MFSA policies and practices. IMA also organises seminars to update agents on matters of importance, and issues circulars to ensure that agents are updated with the latest and most important information. IMA also meets Agents on a need-to basis to explain what is required from them on an individual basis.

Observation	In view of the funds being generated by the IIP scheme, IMA should develop a set of performance indicators for the IIP that will enable the contribution to the Maltese economy to be estimated.
Comments by IMA	A National Social and Development Fund has been established specifically to manage the contributions received from the IIP. This Fund falls under the responsibility of the Deputy Prime Minister. It is difficult, with the very limited human resources available to IMA, to undertake such research beyond the key performance parameters which it already monitors.

Observation	The concept of the points system being adopted to evaluate the establishment of genuine links could be outlined to stakeholders in order to demonstrate system robustness.
Comments by IMA	The concept of the points system is used by IMA to have a rational and an objective approach to the residency element. It is not desirable that the points system is leaked to competing Programmes.

Observation	IMA should continue and possibly formalise its current practice of assisting applicants who wish to invest in Malta by facilitating meetings with Government Officials.
Comments by IMA	From experience IMA is re-evaluating this position, as it cannot be brought into a position where, after great efforts to assist in the promotion of investments of an applicant, it has to reject the applicant following a due diligence process. IMA is still assisting as much as possible applicants and their agents through its network of contacts.

Observation	Preliminary due diligence is an area which may need to be approved as Identity Malta had cases where this due diligence was not deemed to have been done in a sufficiently robust manner. It is proposed that IMA includes a proviso in the revised regulations that will allow it to develop a 'penalty point' mechanism that sanctions poor quality applications, the consequences of which may lead to the temporary or permanent suspension of an agent.
Comments by IMA	IMA continues to emphasise with Agents that the element of initial due diligence is well conducted. Moreover IMA is asking for a copy of the Due Diligence when submitting the initial documents to ensure that it has been done. IMA is considering to introduce administrative fees for badly filled applications, but is looking at this as a tool of last resort.

Observation	IMA should undertake a review of the operations of those functions which fall under its remit (example the Public Registry in regards to apostilles) with a view to dovetailing and harmonising procedures, establishing common platforms and securing a seamless in-house operation to counter any delays being manifested.
Comments by IMA	This is an on-going exercise and a full internal review of the whole process is planned for September 2016.

Observation	IMA should undertake an exercise to determine the appropriate level and quality of resources required to service the Programme in order to avoid slippages in timelines which are established by law.
Comments by IMA	This is a complex matter which IMA is trying to deal with. Due Diligence and Compliance Officers are not available in high numbers and often require higher salaries than a government agency can afford. Having said that, IMA is increasing its compliment to cope with the increasing work forecast. IMA has also faced a situation where a new residence Programme was introduced and had to sacrifice some of its IIP workforce to assist in the take-off of the new Programme.

Observation	It is important for Identity Malta to be able to realise when to absorb a certain cost in order not to detract from the Programme's professional outlook.
Comments by IMA	IMA continuously tries to take a practical and reasonable approach within legal parameters.

Observation	It is important, where fees are concerned, for a clear explanation to be available.
Comments by IMA	This issue is believed to have been better understood by all stakeholders, now that the Programme has been running for over two years.

Observation	As far as possible circulars amending existing procedures should be introduced infrequently and when absolutely necessary. There should also be an appropriate timeline for adjustment to be factored into new applications.
Comments by IMA	IMA understand this point and is doing its utmost to adhere with the recommendation. Having said that, certain circumstances require rather immediate action, such as the latest requirement to have an architect's declaration on the fair value of property leased or bought by the applicants for the purpose of the IIP.

Observation	IMA should explore the possibility of automating part of the process to enable electronic submission of documents whilst favouring typed rather than hand-written applications.
Comments by IMA	Where possible IMA has already provided editable PDF files. IMA is seeking to have a more computerised system throughout, and is in the process of designing the requirements. The project is being combined with other units within IMA and should be finalised in 2017.

Observation	It is recommended that, as far as possible, changes to the guidelines are introduced through a transition period which does not interfere with the timelines of those applications which are in assessment stage.
Comments by IMA	This point is taken and agreed. As mentioned earlier, certain requirements have to be implemented rather quickly.

Observation	IMA needs to be sensitive to certain cultures and practices originating in different geographical regions. Senior management has, so far, shouldered certain decisions. However, the guidelines could be a vehicle that gives direction on specific cases thereby relieving senior management of ad hoc decision making.
Comments by IMA	These are currently being taken into consideration in the new policies and guidelines being prepared.

Observation	IMA could consider piloting a more enhanced due diligence process by forming strategic alliances with reputable due diligence firms in the former Soviet Republics' region (since a high volume of applications originate from there).
Comments by IMA	IMA engages a number of due diligence companies and uses two service providers on most applicants to ensure a comprehensive background check. The service providers all have a global reach, and have a very good foothold in the Former Soviet Republics amongst others.

Observation	Since the quality of applications is deteriorating, IMA should develop a training Programme aimed at the employees of accredited agents.
Comments by IMA	IMA has taken the approach of identifying weak performers and gave specific training. At the moment IMA does not have the capacity to hold training seminars due to the time involved for preparation and execution. The current priority is to meet the deadlines of the processes involved.

Observation	In view of knowledge gaps that exist amongst agents (on issues such as the importance of apostilles) IMA needs to address its communications and knowledge plan with a view to dealing with such matters.
Comments by IMA	This matter has been explained and resolved and today many understand the <i>raison d'être</i> of such requirements.

Observation	Technological solutions to the problem regarding the validity of biometrics are recommended to lengthen their validity period.
Comments by IMA	This is being handled by the IT Departments together with a number of other related IT issues.

Observation	Due consideration should be given to the creation of a framework that encourages certain procedures to be done locally in order to avoid complications related to translation and the need for apostille and legalization. Moreover this would contribute to the multiplier effects of the Programme.
Comments by IMA	Agents today understand this - many translations are being done locally and many issues are being resolved.

Observation	Fee structures should be explained in a clear and unambiguous manner. Moreover, Identity Malta should limit itself to charging supplementary fees when these are negligible when compared to the contribution and investment levels being made.
Comments by IMA	The fee structure is explained in Legal Notice 47 of 2014. Today the agents have better understood what such fees are, following 2 years in operation.

Observation	Although it seems that legal amendments in the pipeline aim to clarify the role of the Concessionaire with respect to Identity Malta, it is also important that such a distinction is also visible in practice.
Comments by IMA	IMA treats all agents and the concessionaire in an equal and similar manner.

Observation	IMA should, in consultation with the Commissioner for Voluntary Organisations, prepare a list of registered charities which should be made available on its website for applicants to have the widest possible choice of where to direct their donations. Similarly, if possible, a list of social clubs could be drawn up to give applicants the widest possible choice. IMA should discourage any practice whereby membership fees are two-tiered for Maltese and IIP applicants as it will give the impression that these applicants are being taken advantage of.
Comments by IMA	With regards to Voluntary Organisations, IMA does not make a distinction between them and does not promote particular NGOs. IMA accepts charities and NGOs as long as they are registered with the relevant authorities. With regards to practices in membership fees, IMA discourages any unethical practices.

Observation	IMA is encouraged to enter into a more profound dialogue with the Police authorities so as to define processes common to both entities that may be strengthened with a view to easing the load on each entity.
Comments by IMA	The process with the Police Authorities is today very much straightforward. The Police Authorities might require more resources to cope with the increasing work, especially since a new Programme is now in place.

Observation	IMA should dialogue with MCC management as well as with other authorities including MIA with a view to ensuring that areas related to IIP clients are made more welcoming and enshrining the VIP culture.
Comments by IMA	IMA continuously communicates with MCC administration to ensure a proper upkeep of the environment. It is an issue of co-living with each other. The VIP area at the airport has been upgraded and the service provided is highly satisfactory.

Observation	It would be very positive if IMA were to update the market on a regular basis on the number of successful applicants, rejections, as well as the number of applications received and being processed.
Comments by IMA	These updates are being given occasionally by the Minister.

Observation	As far as possible templates for standard commitments should be developed in order to provide a convenient and straightforward way of not only ensuring that they are included as part of the application form but that they are also complete in content as required by the Regulations.
Comments by IMA	Since IMA requires actual documentation, receipts, agreements and proofs, it is difficult to have a template.

Observation	IMA may wish to adjust its Guidelines to take into account those rare situations where it is established, beyond doubt, that an applicant has been resident in Malta before the Residency Card was issued, meaning that he would be eligible for citizenship even though twelve months have not elapsed between the Residency Card date of issue and the date of the Oath of Allegiance. The Agency should however ensure that the twelve month residency benchmark is not compromised when it adjusts the Guidelines to cater for those one-off situations mentioned herein.
Comments by IMA	This is considered on a case by case basis, where IMA has encountered a technological glitch and a residence card could not be issued or printed on time, and is unfairly and unduly delayed to the detriment of the applicant.

4.2 Comments by Accredited Agents

It has to be made clear that the comments included in this section do not necessarily reflect the views of - or indeed are endorsed by ORIip. Nonetheless, where it is felt that ORIip should support any of the recommendations, these have been included in Section 6.

4.2.1 General Comments

The vast majority of Agents commented positively on the IIP, describing it as strong, appealing and successful and claiming that it was one of the best marketing tools. They remarked that the value which it added at a local level was significant pointing out that, apart from their mandatory contributions (as specified in the IIP Regulations) some of the clients were actually even relocating (together with their businesses) to Malta and that all this was creating a positive ripple effect on the economy.

Agents were not overly worried about similar citizenship schemes that are offered by other countries. Many did not feel that such other schemes posed any significant threat claiming that although these might be faster, cheaper and less stringent, Malta's IIP has a more competitive edge since it enjoys a better reputation and was significantly boosted by the fact that it is the only scheme which is endorsed by the EU. Another plus point mentioned by the Agents was that Malta has a more competitive and attractive property market.

Few agents recommended that Malta should adapt in order to offer a more attractive scheme, claiming that the timing is just right in order to ensure a proper due diligence exercise and pointing out that making it cheaper and faster might mean that it starts attracting the wrong type of applicants to the scheme. Agents admitted however that other countries' schemes might be more attractive to potential applicants who would compare different schemes only at a face value.

A few Agents were concerned that the 1800 threshold⁶ might soon be reached and that therefore this placed a degree of uncertainty on the scheme. There were mixed feelings about recent international developments (namely the UK's decision to exit from the EU) with some claiming that this had no effect on applications and others claiming that – at least in their case – interest was dwindling. There were also mixed feelings about the recent introduction in Malta of the MRVP. Some claimed that potential IIP applicants might have opted instead to apply for the MRVP whereas other agents claimed that both schemes were different and that therefore one had absolutely no bearing over the other.

Apart from the IIP and the MRVP, one Agent remarked that presently Malta has quite a number of other similar and concurrent schemes and that these should be reduced because they might give the impression that Malta will try to sell anything. Focus – such agent said – should be placed on quality, not on quantity and specified that the IIP should be one of the schemes to be retained. With regards to one of these similar schemes – the Global Residence Programme – one Agent commented that it made no sense to him that its beneficiaries could apply for the IIP and then become ineligible if the applicant successfully becomes a Maltese citizen.

A few Agents had negative comments on the scheme, claiming that the problems which they were encountering (at every level of the process) were becoming progressively worse up to the point of questioning the feasibility of continuing to participate.

As part of the interview Agents were also asked to comment as to whether other Agents were receiving any preferential treatment. This was an issue that was raised in the previous Report with some Agents claiming that the Concessionaire was being placed in a more favourable position. In general Agents commented that the situation had improved and that such perception had diluted significantly during the past year. Nonetheless some Agents did express some reservations, claiming that the Concessionaire would always be at an advantage because top Government Officials always seemed to participate in their related activities. One Agent commented that the present provisions of the Regulations give the impression that the Concessionaire is way above the Agents and that, therefore, as long as such provisions are not amended, the idea of preferential treatment will remain.

Some Agents also commented negatively on other Agents, questioning their professionalism and alleging that some go as far as poaching their potential clients, exhorting them to switch because their service was better.

4.2.2 IMA Staff

All agents shared a common view that they enjoyed an excellent working relationship with IMA staff responsible for the IIP process, both at senior and junior levels. During the meetings Agents only had words of praise using terms such as excellent, courteous, very pragmatic, practical, always available (even at a very short notice), extremely receptive and responsive, willingness to assist, provides excellent support, having a positive proactive attitude, adaptable to circumstances, very helpful and professional. Comparison was also made with the type of service offered by other Departments and Agents claimed that the officers were certainly not typical bureaucrats and that the service provided was significantly better than that offered by

⁶ Article 12 of L.N. 47 of 2014 (Individual Investor Programme of the Republic of Malta Regulations, 2014) states that the number of successful main applicants, excluding dependants, shall not exceed one thousand and eight hundred for the whole duration of the Programme.

other normal Government Departments. Nonetheless a number of Agents criticised what they consider to be a certain degree of bureaucracy, complaining that usually IMA's reactions to any external criticism was to swamp the processes with even more paperwork.

Senior management was particularly praised for always trying to make themselves available (even though their availability would be limited in view of other commitments). Senior officers' presence during high-level meetings with clients was an indication that the Programme was being taken seriously. Agents also stated that clients appreciated that IMA goes out of its way to facilitate meetings with third-parties with whom they might be interested to meet in view of their line of business.

Nearly all Agents commented that, as a downside to the matter, IMA is struggling to cope with frequent staff turn-over and with a lack of human resources. Staff turn-over is leading to a situation where Agents find it hard to connect and build a solid working relationship since, every so often, they end up dealing with new and inexperienced desk officers. Some Agents have noted, possibly due to such inexperience, that sometimes it takes junior staff longer (around two days) to answer their queries. They also claim that the lack of manpower has obviously precipitated matters, increasing delays and creating a negative effect on efficiency. Many Agents stressed that staff is overworked and underpaid and that therefore were prone to leave. Reference was also made to the recent launch of the MRVP and Agents claimed that the situation was made even worse by the fact that some officers from the IIP Office were transferred in order to cover the MRVP.

One Agent commented that the lack of resources had led IMA to request Agents to make contact only through email and that at times it would be preferable if contact could also be made via telephone.

4.2.3 The Process

There were mixed reactions from the Agents regarding the actual registration process which is carried out by IMA.

The majority praised the decision to use the Mediterranean Conference Centre, describing it as a grand and appropriate venue where to greet and meet such high-quality clients. Some did criticise such venue however, claiming that although it has plenty of appeal, it also has many limitations, quoting as examples, a limited reception area, the use of passages adjoining unsightly staircases, meeting rooms which offer no privacy (persons in one cubicle can see and hear persons in other rooms) and instances of rusty connection points and dangling wires. The suggestions put forward in this regard by Agents include the identification of a better reception area, better maintenance of some rooms and boosting privacy within meeting rooms by concealing Perspex through use of blinds or curtains.

Part of the process is carried out within the adjacent Evans Building and, in this regard, the Agents were unanimous in criticising the environment which such premises offer. One Agent claimed that the Evans Building was less representative of the Programme for clients of a particularly high level. All Agents suggested that IMA should review its decision to make use of the Evans Building and instead create a one-stop shop (covering all processes) within an appropriate area at the MCC.

With regards to the actual process some Agents recalled that, at times, the equipment broke down. This happened in the case of the computers, the biometric cameras and the fingerprint scanners. In one instance the clients had to be transferred to the Evans Building because the equipment at the MCC was out of order. Notwithstanding such technical issues however all Agents made it clear that the registration process never had to be postponed to another date and this was mainly due to the dedication and professionalism of IMA staff who went out of their way to resolve such issues.

4.2.4 The Due Diligence Process

The majority of the Agents agreed that, although the due diligence process was very tough and extensive, they willingly accepted the outcome in the case of their clients, commenting that they fully understood that national interests were at stake and therefore they could not really object to any negative outcome.

A number of agents commented that, prior to submitting an application to IMA, they also carried out their own due diligence process, suggesting that it should become compulsory for Agents to carry out a proper preliminary exercise and that these should be qualified and prepared to do so before being granted a licence to operate as such. They remarked that, if any issues were identified during such process they would discuss these beforehand to verify whether these could be showstoppers.

Some pointed out that on some occasions IMA seem to prefer to err on the side of caution by not taking calculated risks, refusing applications in order to protect the reputation of the country. The problem with due diligence in Malta, it was said, was not the level of collated information but rather its subjective interpretation. On the same subject, one Agent alleged that IMA does not have the expertise or analytical capacity to carry out a proper evaluation.

A small number of agents requested that the due diligence timeline was reduced and that clarifications are sent throughout the process, not at the very end.

Some agents mentioned that IMA should provide them with reasons whenever an application was refused, suggesting that if it was not possible to provide any revealing information at the end, at least it should issue specific guidelines beforehand allowing potential applicants to determine whether they would have any chance if they applied. Others commented that clients whose applications had been refused should have some form of redress except in cases where there is a threat to national security and/or there are clear links with criminality.

4.2.5 Use of Information and Communications Technology (ICT)

Agents had mixed views as to whether IMA should invest in a proper ICT system in order to replace at least some of the manual processes.

Some felt that the present manual system worked fine and should be retained, arguing that this was the best way to safeguard the vetting process in order to determine the authenticity of documentation. Such Agents also commented that, at present, they prefer to submit handwritten forms.

Others were favourable to the development of an ICT system suggesting that this could do away with photocopying a substantial amount of documentation (some documents can be uploaded online and sent electronically) and avoid having to insert the same information in different documents more than once.

A number of Agents remarked that IMA had promised to introduce a system through which a tracking number would be provided, allowing them to note the status of their applications. They pointed out that such feature never materialised and argued that it should be developed as soon as possible.

4.2.6 Guidelines

There were divergent views on the IIP guidelines issued by IMA. A few of the Agents commended them, describing them to be very accurate. Others also praised the fact that these were complemented by circulars which are issued regularly, stating that these reflect IMA's practical approach to respond and adapt to new issues which might crop up.

Nonetheless quite a number of Agents had substantial reservations about the situation. Many remarked that it was not acceptable that the guidelines were not being updated regularly and that circulars were not a good substitute (agents end up having to cross-reference continuously between both sets of documents and, at times, having to contact IMA in order to seek clarifications). Ideally, claimed some Agents, guidelines should be updated regularly and not later than once every 6 months. With regards to the text, some Agents commented that this was of a poor quality – the documentation was often misleading because it was not laid out in a consolidated format, instead being scattered, unclear and vague.

Agents also remarked that the number of changes (since the launch of the Programme) was substantial and hoped that these would become less frequent as time passes by. They pointed out that each time a change is introduced this wreaks havoc on their applications (since they would need to revise an otherwise completed application). They commented that – adding insult to injury – IMA would usually introduce changes having an immediate or retroactive date of application and strongly recommended that, instead, these should be introduced gradually (allocating at least between 2 and 4 weeks advance notice). Many Agents stated that, at times, changes would not make much sense and (in their opinion) these were being introduced as a knee-jerk reaction to an issue which would have just cropped up.

One Agent did not agree with the interpretation that property should be retained for a period of five years starting from the date when the letter of approval in principle is issued, claiming that in this respect the IIP Regulations were being wrongly interpreted and construed by IMA.

With regards to guidelines on providing proof of established links with Malta, Agents felt that it was understandable that no formal document had ever been drawn up (in order not to draw any negative criticism and/or repercussions). One Agent remarked that no such guidelines should ever be formalised because it accentuated the genuineness of establishing links rather than simply attempting to satisfying pre-set guidelines. Agents commented that they addressed the issue by informing IMA beforehand (at the start of the process) about how they intended to satisfy such requirement and therefore – depending on IMA's response – would know beforehand whether such intended way forward would be acceptable or not.

4.2.7 Delays

Basing one's self on the comments put forward by all the Agents, the most damning issue which needs to be resolved as soon as possible would seem to be the delay in concluding the due diligence process. The provisions of the IIP Regulations state that the letter of approval in principle (or letter of rejection) has to be issued within 120 days from the date of application. In reality – as stated by all Agents – such timeline is rarely being respected and it is taking IMA a significantly additional number of days to conclude such part of the process.

Agents have – understandably – commented negatively about such delay, claiming that it is totally unacceptable since it is undermining the credibility of the IMA, the Agents and Malta as a whole. The general feeling among agents is that the situation is deteriorating with no improvement in sight. They pointed out that they were aware that such delay was due to a shortage of staff which, in turn, resulted in an ever-increasing backlog. If need be, stated one Agent, IMA should resort to working overtime in order to clear the backlog.

Agents made it clear that these problems did not interest or, indeed, impress their clients in any way, stating that these only expected to be given a better service rather than coming up with excuses. They recounted how clients would contact them as soon as the 120 days are exceeded, demanding to know the status of their application and accusing them of being inept since IMA would have not provided them with any information - apart from a generic email stating that delays were expected. With reference to such generic notification, Agents suggested that, at least, IMA should provide them with a revised deadline by when their application would be concluded and refrain from telling them only that there is no clear date set for when a definite response will be given. In view of such delays, claimed the Agents, some clients would even start to think that there was something wrong with their application. This, said some Agents, was clearly unacceptable, stating that it was the Agent who was putting his reputation on the line, even though it was IMA which was not delivering.

Some remarked that IMA is effectively operating outside the established legal parameters and suggested that if they cannot guarantee that they would respect the 120 days then, at least, they should revise the regulations and increase the timeline accordingly (suggesting that the timeline should be changed to 180 days).

Agents also pointed out that the delays are creating quite a number of negative repercussions, mentioning (as examples) that these would mean that property rental periods would expire (and would need to be renewed, or alternative premises located) and that Residence Documents would have to be renewed. In view of such delays the Agents felt that they had been compelled to inform their clients to expect delays of up to 180 days or more.

Apart from the above delay Agents have commented that otherwise there are no other notable delays in the process – with the exception of a few cases in which police clearance is requested, a delay in the residence document process, delays in checking documentation (at the initial stage when an application is submitted) and the occasional bottleneck which is created when any person (on whom any part of the process is solely dependent) would be unavailable.

One Agent commented that, in his case, his Company organises itself around a wider timeline – 12 to 13 months – between the date when the application is submitted and the date when the Oath of Allegiance is taken. In such manner, any slippages to the 120 days would be absorbed by the wider timeline.

4.2.8 Related Services provided by IMA

As per provisions of Legal Notice 269 of 2013 of the Public Administration Act (Cap 497), the Identity Malta Agency is also responsible for a number of ancillary services which IIP clients would require after their application would have been approved (namely passports, identity cards and acts of civil status). In this regard ORIip asked the Agents on whether there were any issues when they reached such stage of the process. In essence their comments were similar, namely that they had no particular issues with regards to applying for a Passport or Identity Card but that they experienced a lot of problems when dealing with the Public Registry whereby a seemingly more straightforward stage which should not take more than 2 weeks is ending up taking more than 2 months.

The only notable comment made with regards to the Passports Office was that it sometimes was problematic to find a recommender who could attest that he/she knew the client for (at least) a period of two years (as required by Passport Office rules). In this regard some Agents suggested that such requirement could be waived (at least in part) in the case of IIP clients.

With regards to the Public Registry, Agents commented that these applied stringent (and, in their opinion, somewhat outdated) rules and that very often, the documentation which would have been originally provided to IMA (with regards to the IIP) would not be subsequently accepted by the Public Registry. Often, they claimed, the documentation which would be requested would either be extremely difficult, or indeed impossible, to procure. Some Agents have stated that the Public Registry is often inconsistent in the application of its own rules requesting different types of documents from applicants originating from similar countries, adding that no exhaustive or clear guidelines exist. They also claim that decisions effecting single applications are not even being communicated amongst all Agents and therefore no one would be aware of the direction being given on individual cases.

In many cases the situation would degenerate into an impasse (with the Public Registry insisting that it requires a specific type of document and with the client insisting that such a document cannot be provided) and the matter would have to be referred to the IMA's senior management who would then resolve the issue by identifying an acceptable solution. Agents commented that intervention by IMA's senior management was usually done as a last resort and only after significant time would have been wasted with exchanges between parts.

Some Agents remarked that the biggest problem would not be Public Registry's stringent rules (indeed, they claim that their clients would, if possible, willingly strive to obtain the documentation in the format requested by the Public Registry) but that such documentation would be requested at the very end of the process when the letter of approval in principle would have been issued and the client would have satisfied all pending obligations (as listed in the IIP Regulations). Agents stress that when asked for additional documentation at such a late stage of the process their clients would think that they were being taken for a ride. The fact that the Public Registry would then keep reverting back with additional requirements (and therefore delaying the process even further) would completely disrupt any plans which such clients would have made in order to travel to Malta to take the Oath of Allegiance. Agents have recommended that the Public Registry is involved in the process from the very start (so that they would have a clear indication of what type of documentation would be required in their case). They have noted that, on such matter, IMA (the IIP Unit) acts only as a go-between (indeed, no direct communication takes place between the Agents and Public Registry Officials) and therefore have recommended that they should have a direct contact point at Public Registry with

whom they should be allowed to communicate directly, meeting up (if required) in order to expedite the process as much as possible.

One particular Agent complained that it was not fair on clients that the award of their citizenship is put on hold until the requirements of the Public Registry and the Passports Office have been addressed. He claimed that the main aim of the IIP applicants was to be granted Maltese Citizenship and not to either register their details within the Public Registry or to be provided with a passport.

4.2.9 Publication of personal information

Agents were asked for their views on the manner how the names of their clients are being published, either systematically (through the annual publication of names of naturalised persons or through the publication of the Electoral Register) or sporadically (through Articles published in the media).

Some agents have commented that such publicity might be driving prospective candidates away since they would feel that they are dealing with a very hostile environment. Clients (they claim) already find it hard to reveal their intentions to fellow countrymen when requesting particular documents, let alone having their names published – often in negative terms – within the media. In this regard mention was made of the recent issue about being given the right to vote and Agents claimed that, at least in their case, their clients had neither the intention to apply for voting rights or, indeed, to exercise them.

Comments on the obligation to publish the list of naturalised persons were generally negative and Agents emphasised that such obligation should be removed. They claimed that there was apprehension about clients whose name was easily recognisable (even if included in a list).

There were mixed views as to why clients might be adverse to having their names published. Some stated that this was mainly due to the fear of retaliation or repercussions in the case of clients originating from countries where dual citizenship was not allowed. Others stated that some clients were afraid that criminal gangs might single them out and threaten them or their family. In all cases the Agents pointed out that they would have informed their clients about such publication at the start of the process and therefore the fact that they had opted to proceed nonetheless, at least meant that they were willing to bear any consequences. One agent suggested that if the list had to be published, at least it should not be made easily available over the internet.

4.2.10 Issues regarding services provided by third parties

Agents were also asked to comment about any negative experiences when clients applied for services which were outside the IMA's remit. Similar to the previous year, Agents commented that their clients face issues when trying to open local Bank accounts. They stressed that this was an issue affecting all foreigners and not targeting only IIP clients. They remarked that it was understandable that such a stand was being taken by Banking institutions since they might need to evaluate the integrity of such persons.

Nonetheless they commented that the difficulty in opening bank accounts was having a negative effect on clients' efforts to buy Bonds. A suggestion was made that Bonds could be procured by Agents on behalf of their clients.

One agent did comment that his impression was that a number of local banks seem to be adapting by creating processes which are specific to IIP clients. Nonetheless some Agents have recommended that ideally such clients are provided with some form of certification letter by IMA attesting that the persons in question are IIP clients so that these would be given a better service.

4.2.11 Recommendations by the Agents

During the one-to-one meetings the following suggestions were put forward by a number of Agents. As already stated, this Office does not necessarily agree with or endorse such recommendations.

- a) Remove the 2 year deadline for completing the process or, if this is not possible, at least review the provisions so that the timeline would be applicable as from the date of approval, not the date of application.
- b) Empower the Regulator to deal with particular issues (such as suspension of agents, considering complaints on the different interpretation of policies, etc). Agents would have a right of review for such operational matters. Such internal administrative review mechanism would correspond with the principle of natural justice and would:
 - i. Reduce the possibility of recourse to a judicial review of decisions by the courts of justice;
 - ii. Strengthen IMA's position in defending any such judicial review cases in the courts (the administrative review having established whether there is sufficient grounds for complaint or not, and – in the latter case – enabling IMA to better defend itself in the judicial case;
 - iii. Ensure that the review would be as much as possible an administrative (and discreet) process rather than a judicial (and public) one.
- c) Create an annual compliance review process in order to confirm that the IIP citizens would still be respecting related obligations (in particular property retention, financial investments and health insurance).
- d) IIP clients should be allowed to invest in Corporate Bonds and not be specifically obliged to invest in Malta Government Stocks⁷.
- e) Eliminate some bureaucracy by making use of legal opinion in cases where a specific format of document could not be provided – a lawyer (in Malta or even in the client's country of origin) provides an explanatory note clarifying the rationale behind why such a decision had been taken to present a substitute document.
- f) Provide more visibility on the manner how contributions (deposited in the National Social Development Fund) are/will be utilised.
- g) Improve public relations by issuing explanatory press statements – each time misinformation on the IIP is published in the media – in order to set the records straight.

⁷ As per Government Notice 651 of the 8th of July 2014

5.0 Initiatives carried out by the ORiip

5.1 Vetting of Applications

ORiip's vetting was focused on a sample of applications which had been approved or rejected during the present review period (1st July 2015 – 30th June 2016). In comparison with the previous review period there was an increase in the number of applications which was vetted – 34% of approved applications and 38% of rejected applications were selected whereas during the previous 12 months the selected sample was of around 20% of approved applications alone. Such samples (selected at random) were checked thoroughly, where possible, throughout the whole process starting from the moment when the IIP applications were received by IMA up till when it was concluded (i.e. up till when the naturalisation certificates were issued in the case of successful applicants and up to the submission of the letter of refusal in the case of unsuccessful applicants). Since it was noted that there will always be a time lapse between the date when an application is approved and the date when the process is concluded (i.e. when the Oath of Allegiance is administered) this Office took note of approved applications which were still in progress so that these would be checked again at a later stage. In the case of applications concluded after the 30th of June 2016 (i.e. after the deadline for the present review period) any issues emanating from such subsequent checks would be included in next year's report.

5.1.1 *The Methodology that was used*

In order to vet applications in a uniform manner, this Office drew up an internal checklist – based on a similar form drawn up by the previous Regulator – which took into consideration the various stages of the application process.

For the scope of this exercise the process was split into three distinct (but nonetheless intertwined) parts – the initial application stage, the due diligence process and the final stage (covering the period between the issuance of the letter of approval in principle and the actual granting of Citizenship).

In the case of the initial application stage the focus of this Office was to ensure that:

- a) all applicants and their dependants qualified as such;
- b) all forms were duly filled in correctly by the applicant or by a legal representative;
- c) all supporting documentation was provided and, where applicable, apostilled or certified as a true copy;
- d) forms were either in English or accompanied by an authenticated translation;
- e) the initial payment (as indicated in the Schedule to the IIP Regulations) had been effected.

In the case of the Due Diligence Process this Office verified whether:

- a) the process was carried out effectively and that sufficient information was collated in order to allow the Agency to formulate a reliable opinion on whether the applicant (and/or dependants) were suitable;

- b) the Minister (who ultimately approves or rejects applications for Maltese Citizenship) was effectively informed about the suitability or otherwise of applicants and whether his decision was in line with the Agency's recommendations;
- c) the timelines listed in the Regulation (to notify the applicant about the outcome of his/her application) were respected;
- d) in the case of successful applicants, the applicant was duly informed about his/her remaining obligations (namely to pay the outstanding balance, acquire/lease a residential immovable property, invest in a scheme identified by the Agency, provide proof of global health insurance and to provide proof of honouring the 12-month residency requirement).

In the case of the final stage of the Process this Office checked whether:

- a) the exchanges of correspondence (leading to the granting of Maltese Citizenship) were properly filled in and filed in the applicant's file;
- b) the outstanding balance was paid;
- c) property had been acquired/leased (including a declaration that this would be maintained for at least a period of 5 years);
- d) the applicant had invested in an indicated scheme (stocks, bonds, debentures, etc);
- e) the applicant has provided proof of global health insurance;
- f) the applicant has provided proof of honouring the 12-month residency requirement;
- g) all necessary police checks have been carried out;
- h) all related documentation was properly filed in the applicant's package.

5.1.2 Results of Findings

In general it was noted that there was an overall improvement in the quality of applications. Unfortunately an overlap between the time when the previous report was still being drawn up and the first period of review of the current one means that such improvement only became significantly noticeable after the findings of the previous report were communicated. Indeed it is felt that it would not be fair to criticise a number of shortcomings which originated at a time when last year's recommendations had not yet been drawn up (as an example, applications approved in the third quarter of 2015 were initiated during the first quarter of the same year, at a time when the second report had not even started being compiled).

In a meeting held in June 2016 with IMA, ORiip was informed that much of their processes had been given an overhaul and therefore a number of findings may have already been resolved.

As a general remark, this Office can state that no particularly serious issues were identified which place any doubt as to whether an application should have been approved or rejected. Nonetheless there are a few administrative and procedural issues which need to be highlighted and recommended upon for a better consolidation of the Programme.

The Initial Application Stage

It was noted that the Initial phase is a constant struggle (in quite a number of cases) by IMA to acquire all the necessary information and/or documentation from the applicant (through the Agent). Unfortunately it has been noted that some of the applications submitted by a number of Agents are of a very poor quality, and as a repercussion is resulting in a significant waste of

time for IMA in view of the fact that such applications would need to be checked more than once. ORiip is of the opinion that defaulting Agents should be taken to task and potentially penalised in order to incentivise them to start conforming with requirements.

The following issues were noted:

- The Individual Investor Programme of the Republic of Malta Regulations (LN 47 of 2014) stipulates that as part of the initial contribution, the Main Applicant is bound to deposit a payment of €10,000. IMA has opted to split such payment into two tranches with an initial €5,000 being requested at the very start and the remaining balance being requested once all documentation has been successfully provided. Whereas ORiip has no issues with such method of payment - which clearly evolves from the necessitated change in the procedural process as originally planned - it cannot but be pointed out that this practice strictly speaking deviates from what is actually laid down in the Regulations and, therefore, every effort should be made to align the legal provisions accordingly. In the meantime, and until such changes to current Regulations are effected, a photocopy of the fiscal receipt issued in respect of the first tranche of €5,000 collected at the Residency Stage should at least be attached to the original fiscal receipt relating to the second tranche of €5,000 which is collected at the Full Application Stage. A recommendation to this effect was sent to IMA.
- It is not clear which is the official date established by IMA as that when an application is deemed to have been received. At present IMA sometimes deems the start date to be the day when the application is physically received whereas in other instances it considers such date to be when the first payment is effected. Ideally IMA should identify and stick to only one official date when an application is deemed to have been received.
- The afore-mentioned Regulations (LN 47 of 2014) clearly specify – in Regulation 4(7) – that, in the case of Minor Dependants, all forms are to be signed by both parents. Although the main application (which deals with all the dependants of the main applicant in respect of whom the application for Maltese citizenship is being lodged, including the minors), is in fact being signed by both parents, this condition is seldom applied in the case of the accompanying forms (with only one parent being requested to sign in the majority of cases). IMA should review its processes and amend these forms accordingly so that these forms will also be required to be signed by both parents as is the case with the main application form. A recommendation to this effect was sent to IMA.

The Due Diligence Process

Basing itself on the sample of applications which were vetted, ORiip considers the level of checks that is being carried out to be extremely satisfactory. Not only is the information (collated during the first phase) thoroughly scrutinised but it also acts as a springboard through which IMA extends its related searches extensively.

An overall comment (which is applicable to all refused applications) is that the police conduct certificates provided by the applicants (both from foreign and local sources) were clean. It is therefore clear that such documents can only be of relative importance (to be used only to whittle out ineligible applicants at the opening stages of the process) and that much hinges on the due diligence process in order for one to determine the suitability of applicants.

For security reasons there is not much which can be divulged in this report on matters related to this process. However it is safe to point out that factors which have a negative impact on one's application include (but are not limited to):

- lack of transparency about source of wealth;
- possible close connections with persons of questionable integrity;
- multiple negative references in the media and from reliable sources;
- investigations (allegations or real) which are concluded (leading to disciplinary action) or on-going;
- incorrect information provided; and
- reports of suspicious activities.

As part of this phase IMA draws up – for each application – a report (for the Minister’s attention) recommending its approval or refusal. The report would include a concise dossier (based on all due diligence checks which would have been carried out) outlining the reasons for IMA’s recommendation to approve or otherwise. As part of the vetting process ORIip has verified the veracity of such report and corresponding dossier in order to ensure that these reflected the gist of the outcome of the more exhaustive due diligence documents. On such matter ORIip can confirm that there were no particular issues.

Subsequent to receiving the formal decision by the Minister, IMA proceeds with informing the Concessionaire / Agent with the outcome. At such stage, in the case of refused applications, IMA has often been criticised by the Agents and/or their clients that no reasons are ever given for refusals (as also indicated in Section 4.2). Given the sensitivity of the matter, whereby – especially in view of security issues *et simile* - the least information which is revealed (as a result of due diligence checks) the better, ORIip is not of the opinion that any detailed reasons should be given. Such opinion is also in line with the position taken by the Court of Justice of the European Union in a number of similar cases, in particular Case T-86/11 (Bamba vs Council [2011] ECR II-2749, paragraph 53) – which it refers to as a case-law – in which it states, *inter alia*, that the detailed publication of reasons might not only conflict with the overriding considerations of public interest related to the security of the European Union and its Member States, or the conduct of their international relations, but also jeopardise the legitimate interests of the persons and entities in question, in that it would be capable of causing serious damage to their reputation.

The following issues were identified:

- As per provisions of the afore-mentioned Regulations, the time elapsing between the date of receipt of the application and the date when the letter of approval in principle is issued should not exceed 120 days. Unfortunately it has been noted that such deadline is being constantly exceeded. Indeed, basing itself on the sample applications selected for vetting, ORIip noted that only 5% of the applications were successfully processed within 120 days, with 40% being processed within 2 months of the deadline and the remaining 55% being processed after 180 days. Such issue was also raised in last year’s report and also amply mentioned by the Agents in their observations (vide Section 4.2). ORIip cannot but reiterate that for the effectiveness of the whole process Government must – as soon as possible – consider increasing IMA’s staff complement in order to be in a better position to cope with the workload.
- Regulation 7(5) of the afore-mentioned Regulations clearly specifies that IMA should notify the Concessionaire / Agent about the outcome of the application and should issue a letter to the main applicant informing him/her to satisfy additional conditions. Presently IMA are sending out only one consolidated letter addressed only to the Concessionaire / Agent. ORIip has definitely no issues with such adopted way forward, especially since the reason why this is being done is so that IMA staff does not make direct contact with the main applicant, thereby eliminating the risk of collusion (perceived or otherwise). Nonetheless, no matter how much commendable such a practice is, it is not in line with

the provisions of the Regulations and, therefore, every effort should be made to align the provisions with such accepted method of communication accordingly.

The Final Stage of the Process

When vetting the concluding phase (whereby successful applicants honour their pending obligations) ORIip noted the following issues:

- The client should, within four months, provide the IMA with details of acquired/leased residential immovable property and with evidence that he/she (including dependants) are covered by a global health insurance policy. Although this is a rare occurrence, in some instances the information is being provided after the lapse of such time.
- A number of related documents (such as exchanges of correspondence) were not properly filed in the application pack. Ideally such information should be contained together both for ease of reference and also to give a clear picture of the status of the application should anyone wish to inspect such forms.
- The Oaths of Allegiance are handwritten, contain limited information and are not properly endorsed. Considering the importance of this document, it should be drawn up more professionally – typed, containing additional information relevant to the applicant and containing the name (not only the signature) of the signatories.

5.2 Investigation on the value of leased / purchased property

As briefly referenced in Section 3.2 of this Report, one of the Articles published in the 26th June 2016 edition of the MaltaToday on Sunday was titled “Letterbox millionaires – Not all Malta’s golden passport buyers are buying €350,000 property”. The article made reference to a number of persons who had allegedly obtained Maltese Citizenship through the IIP scheme and stated that the property which they had purchased / leased in Malta hardly satisfied the requirements listed in the IIP regulations. It was noted that the manner in which the article had been written implied that only purchasing was allowed and that leasing was not an option. This was noted through the use of terms such as “requirements to buy a €350,000 property appear to be willfully ignored”, “that property requirement should have cost her €350,000”, “backed by a €350,000 property acquisition”, “this is hardly a property zone for €350,000 apartments” and “but these properties are far from high-end luxury addresses that can hit the €350,000 mark”. To be fair, the article did contain one indication about the rental of property however the overwhelming references to purchases certainly gave the impression that the former was not an option.

Notwithstanding the above, in line with the Regulator’s role (as delineated in the Maltese Citizenship Act – Cap 188) to ensure the correct implementation and monitoring of the Individual Investor Programme, this Office carried out an analysis of such allegations in order to attempt and determine whether there have been any irregularities.

As a starting point, in line with provisions of Article 25(6) of the Maltese Citizenship Act (Cap 188) – which states that “it shall be the duty of any person involved in the administration of the Individual Investor Programme or of any other matter in relation to which the Regulator is assigned functions under sub-article (4) to disclose or give to the Regulator such documents or information as he may require for the purpose of enabling him to discharge his functions” – the Regulator requested and obtained from Identity Malta Agency copies of the contracts signed by

each applicant mentioned in the article. At such stage ORiip was informed that one of the mentioned persons was not an IIP applicant (and in such case no further investigation was carried out) and that in another case the IIP applicant was different from the name provided in the Article.

Consequently the contracts were each vetted in order to determine whether:

- a) the addresses listed in the article were the same as those listed in the respective contracts;
- b) the premises (in each case) was purchased or leased;
- c) the prices were in line with the provisions of the IIP Regulations; and
- d) there were any suspicious patterns linking any/all of the contracts in question.

With regards to (c) this Office carried out market research in order to verify allegations made that the value of premises in question was lower than the thresholds set within the Regulations.

5.2.1 Result of Analysis

a) Matching Addresses

The addresses listed in the article matched those listed in the respective contract (albeit, understandably, the former containing lesser information). Therefore one can rule out the possibility that the information made available to the MaltaToday journalists (presumably reflecting the addresses in which these persons are recorded in the Electoral Register) was different from that of the premises which such persons had leased / purchased.

b) Purchased vs Leased Premises

According to statistical information made available to the Regulator by Identity Malta Agency, the percentage of applicants who lease premises in Malta is 81% whereas only 19% opt to purchase. This ratio is roughly reflected in the sample selected in the article. Indeed, from the 13 cases which are being analysed, 11 (85%) leased their premises whereas only 2 (15%) purchased property.

c) Prices

The IIP regulations state that successful applicants will be bound to either acquire and hold a residential immovable property in Malta having a minimum value of €350,000 or to take on lease a residential immovable property in Malta for a minimum annual rent of €16,000. In this regard the prices quoted in the contracts (as verified by ORiip) clearly confirm that the thresholds have been respected.

Nonetheless, to be precise, one would initially feel that there was a sort of a grey area regarding a Sliema premises which was declared as having been rented at €1,500 per month “inclusive of VAT”. Considering, however, that the IIP Regulations do not make any references to exclusions of VAT, for the purposes of these Regulations, one cannot assume outright that the amounts laid down in these Regulations are exclusive of VAT. It would, therefore, be legally safer to

assume otherwise; and in this context the acceptance by IMA of this contract as conforming to the requirements at law cannot be challenged.

d) Anomalous Patterns

Going through the details contained within the various contracts there would not seem to be any suspicious patterns with regards to the involved parties. There are a few cases where the lessor is the same, however these instances would seem to be either coincidental or (especially in the case of Chambray Complex in Gozo) due to the fact that the premises pertained to the same owner.

With reference to the price it was noted that in the case of 6 of the 11 rented premises (which constitutes 55% of the rented premises) the figure was nearly equal to the threshold (there is a difference of €200). On the one hand this statistic might imply that the figure was rounded (probably upwards) so that the rental would be in line with the provisions of the Regulations. On the other hand the reason why the figure is so close could simply be that the applicants carried out a market research and selected only those premises whose price bracket did not significantly exceed the minimum €16,000 threshold.

e) Market Research

A market research exercise was carried out in order to have a general idea as to whether the quoted figures are in line with market prices. In this regard searches were made on a number of prominent estate agents' sites, taking into account details of properties on the market (for sale or rent) at the time of the research and comparing them with the minimum threshold (for purchasing or leasing properties) set within the IIP Regulations:

Leased Property (Minimum monthly rent of €1,333, as set by the IIP Regulations)

Naxxar	Research shows that there is a small number of apartments which are being advertised for rental purposes and which are in the range of €1,350 - €1,500 per month.
Qawra	Research shows that there is at least one instance where the rent is equal or more than €1,350 (the actual figure is €3,250 for a fully-furnished flat).
St Julians	Research shows that the quoted prices are well within the market price range. Indeed, over 50 instances have been found of apartments whose rent is €1,700 or more, the highest of which being noted as €4,600 per month).
Chambray (Gozo)	Limited information was found on related prices. One maisonette was advertised at €1,300 per month whereas one penthouse duplex was advertised at €2,500 per month. Considering that (most probably) prices vary according to the exact location of the rented Units it might be safe to say that the figures within the contract are within the market price range.
Mensija (San Gwann)	Research revealed no apartment for rent in the Mensija part of San Gwann however, extending the research to the whole of San Gwann revealed at least 4 instances of apartments whose rental cost amounted to €1,500 per month or more (the highest being €2,700 per month).
Sliema	Research shows that the quoted prices are well within the market price range. Indeed research has revealed that there are at least around 500 instances where the price equals or exceeds the indicated €1,500 per month figure (the highest of which being €7,500 per month).
Zejtun	Research has revealed that the quoted prices are well above advertised market prices. Indeed apartments in Zejtun were found to be advertised at between €550 and €800 per month. Prices which exceeded €1,350 per month referred to Houses of Character (between €1,500 and €2,900 per month), fully equipped 5 bedroom houses (€1,800 per month) and Villas (€2,000-€2,100 per month).

	Basing on the above, one might be led to understand that the rental price of this apartment might have been lower than that which was eventually agreed with the lessee.
Birzebbuga	Similar to the Zejtun Apartment, research has revealed that the quoted price is well above advertised market prices. Indeed, apartments in Birzebbuga were found to be advertised at between €466 and €750 per month. Prices which exceeded €1,350 per month referred to Villas (€1,500 - € 4,300 per month), Townhouses (€2,000 per month) and Bungalows (€1,500 per month). Basing on the above, one might be led to understand that the rental price of this apartment might have been lower than that which was eventually agreed with the lessee. Coincidentally the lessor in both the Zejtun and Birzebbuga cases was the same person.

Purchased Property (Minimum value of €350,000 as set by the IIP Regulations)

Sta Marija Estate (Mellieha)	Research has revealed that the quoted price is well within the market price range. Indeed, within such area, prices for villas are (at least) €565,000, prices for bungalows are (at least) €1,200,000 and prices for plots are (at least) €650,000.
Ta' Xbiex	Research has revealed that there are a few apartments (within the area) whose price range (for a single apartment) is between €1,300,000 and €1,500,000. Since the quoted figure includes two apartments and three garages it might be safe to assume that the price is in line with market prices.

5.2.2 Corrective Measures taken by IMA

ORiip is informed that, subsequent to the publication of the Article, a series of corrective measures have been introduced by IMA in order to address this phenomenon, foremost amongst which:

- a) requesting Accredited Agents to provide, in the case of all rental and purchase agreements, a qualified architect's declaration confirming the values of the said properties attestations;
- b) setting up a Compliance Unit tasked with monitoring and investigating potential abuses.

5.2.3 Comments by Agents

The ORiip has also sought the views of a number of Agents on their involvement (if any) on such process.

Quite a number of Agents confirmed that they do assist their clients by facilitating contact with their preferred Estate Agents, forwarding the types of properties that they would wish to purchase / lease and advising them on whether the purchase / lease value of premises put on offer was set at market prices. Some Agents also carry out regular inspections (after the deal is signed) in order to ensure that the premises in question was being kept clean and that it was not being used by unauthorised third parties. In one instance an Agent realised that the premises which was about to be leased was actually still in shell form and therefore advised his client not to proceed with the contract.

On the other hand, some Agents stated that they never intervened on the value, claiming that they were not experts on property prices and that any comments they would make would be purely based on personal opinions or perceptions and was not tantamount to any professional advice.

In the majority of cases the clients personally carried out physical inspections of the proposed premises and the final decision to purchase / lease would be theirs. In some cases the clients leave it up to the Agents to find a suitable premises for them.

A significant number of Agents claimed that the premises purchased / leased by their clients were actually taken at market prices. Some however claimed that this was not the case and that some of the properties might actually cost less. They allege that, at present, properties which could be leased at around €1,350 per month are scarce⁸ because they have nearly all been taken and that, as an alternative solution, lessors (with the concurrence of the clients themselves) are opting to push up the prices of places which would normally cost less so that the provisions of the IIP Regulations could be respected. In this regard they remarked that if a client was willing to pay more for a property whose value is less, why were they (the Agents) obliged to intervene?

Many Agents claim that, irrespective of the market value of property, clients who come over to Malta on short visits rarely (if ever) stay in such properties, opting instead to stay in luxurious hotels or their private yachts. They state that the IIP regulations simply require clients to purchase or lease properties at set prices and does not oblige them to select a particular type (it does not matter if a family of five leases a one-bedroom apartment, as long as the rental value is according to the set threshold) or, indeed, to even set foot in them.

The majority of Agents referred to the recent requirement introduced by IMA (whereby they are now obliged to provide an Architect's evaluation of the market price of purchased / leased properties) and have commented that it is not feasible. They claim that Architects are not qualified to give an evaluation of leased properties and that a more qualified authenticator should be found. Some suggested that the evaluation could be provided – in the form of a declaration – by themselves or by the Estate Agents submitting also photographic evidence in the process.

5.2.4 ORiip Observations

ORiip's research in the market value of purchased / leased property can only be considered to give a general idea since, as this Office can only base itself on the indicated addresses, it is certainly not in a position to compare like with like. Indeed, it has to be stressed that the ORiip does not have the required qualified investigative resources capable of formulating a definite opinion as to whether any criminal activity had taken place. Furthermore, it is evident that prices vary according to the location, age of the property and the furnishings provided and therefore, unless one carries out an on-the-spot inspection, one would never be able to formulate a close-to-correct idea of the real / fair worth of the property concerned.

Notwithstanding the above analysis, this Office feels that it should voice its concern as to whether any of the present provisions (related to purchase / lease of property) within the IIP Regulations actually needs to be safeguarded. Indeed, and also quoting comments made by various Accredited Agents, the IIP Regulations only stipulate that a property has to be purchased or leased at established minimum prices and should be retained for a minimum period of five years. Consequently it is fair to question whether any corrective measures

⁸ The ORiip researched this assertion by accessing the online database of one of the main Estate Agents and taking note of the number of premises whose leasing range is between €1,000 and €1,500. The number found amounted to 2,152 and consequently ORiip deems such assertion to be incorrect.

actually need to be introduced if the client is well aware that he/she is purchasing / leasing a property whose market value is less than the minimum threshold set in the IIP Regulations. In this regard ORIip feels that a signed declaration by the Client that he/she is aware of such possibility would be more effective than a qualified Architect's declaration, especially in case where property is being leased.

Nonetheless ORIip considers the setting up of a Compliance Unit within IMA to be a step in the right direction especially since it could monitor whether IIP clients remain compliant (not only in the case of the obligation to retain purchased / leased property for five years) throughout the whole period.

5.3 An overview of other Citizenship by Investment schemes around the world

Since it has frequently been reported in the media that Malta's Citizenship by investment scheme is one of the easiest to satisfy, this Office has carried out a brief analysis of similar schemes across the world in order to carry out a comparison and possibly put such claims in a clearer perspective.

Research shows that there are schemes some of which invite the applicant to carry out some sort of investment in a country, in exchange for which he/she is given the possibility of attaining citizenship of such country. Within the EU territory alone there are 12 such countries – Austria, Belgium, Bulgaria, Cyprus, Greece, Hungary, Ireland, Latvia, Malta, Portugal, Spain and United Kingdom. The USA too offers US citizenship through investment by means of an apposite scheme. However, the number of countries that provide direct access to such additional citizenship is limited. In the majority of cases the scheme starts as a lengthy residence Programme, still obliging applicants to carry out some sort of investment. Then, subject to all requirements being satisfied, after a number of years (ranging from 2 to 10 years), the applicant would be eligible to apply for citizenship. In some cases additional stringent rules would apply such as, in the case of Spain and Greece, having to pass a language test.

On the other hand, apart from Malta, the countries that prominently offer direct access to their citizenship (and on whom the comparative analysis has been carried out) include Austria, Antigua & Barbuda, Cyprus, Dominica, Bulgaria, Grenada and St Kitts & Nevis. A brief overview of what each scheme offers is as follows:

Austria's scheme is offered to foreign nationals who engage and invest in the Austrian economy. Applicants would invest between €3,000,000 and €10,000,000 and citizenship is awarded, at the sole discretion (and by exception) of the Austrian Government and the process can take between 1 and 3 years.

Antigua and Barbuda's scheme offers three options to potential applicants – either a non-refundable contribution, an investment into an approved real estate project or an investment directly into an eligible business as a sole or joint investor. Depending on the choice, the cost to the applicant could be between a minimum of US\$200,000 (non-refundable) and US\$4,600,000 (excluding processing fees). Citizenship is usually granted after 3 to 4 months.

Bulgaria's Investor Programme for Residence and Citizenship Programme offers a citizenship fast track option by allowing applicants to deposit around €1,022,000 (refundable) in a

Governmental Bond Portfolio for an established investment period (half the amount for a five-year period whereas the other half for a two-year period). Applicants are examined under express procedure and – as long as these would have had at least one year of permanent residency status – they would obtain citizenship in between 3 to 6 years.

The scheme offered by **Cyprus** provides a number of options – the acquisition of government bonds, real estate or financial assets of Cypriot companies / organisations (all of which to be not less than €2.5 million), a fixed local bank deposit (of at least €5 million) to be held for at least three years or an investment (of at least €2.5 million) in Cypriot businesses / companies. If a client applies as a single applicant, the investment amount would have to be €5 million or higher. In such case citizenship is usually given after 3-4 months.

In the case of **Dominica** the citizenship programme entails an economic non-refundable contribution (ranging from US\$100,000 for a single applicant to more than US\$200,000 depending on additional family members) or an investment of (minimum) US\$200,000 in a government approved real estate project. Additional processing fees would also apply. Citizenship is usually given after 3 to 6 months.

Grenada's citizenship by investment programme requires the applicant to either make a non-refundable donation or purchase real estate worth at least US\$350,000. In the case of a family of four, typical costs (including processing fees) for a donation would be around US\$235,000 whereas in the case of real estate the cost would be roughly doubled. Citizenship is usually given within a year.

The longest running citizenship by investment scheme (since 1984) is that offered by **St Kitts & Nevis**. Applicants would have to choose between either a non-refundable donation of US\$250,000 (for a single applicant, increasing in case of additional family members) or a minimum investment of at least US\$400,000 in real estate within the country. Citizenship is typically given after 3-6 months.

ORIIP Observations

Going through what all these countries offer in terms of awarding citizenship it is clear that there cannot be any single scheme deemed to be perfect. Each one has to strive to maintain the delicate balance between making the scheme attractive to potential applicants, keeping it secure and, at the same time, be able to reap some benefits in return:

- Taking a long time to process applications might deter potential applicants who would prefer applying elsewhere rather than wait. On the other hand, if the process is fast the Administration might be accused that the background checks are not being carried out thoroughly.
- Reducing the financial obligations which applicants have to incur would make the scheme more attractive (this would be even more so if the amount invested can be recouped in its entirety at a later stage). The downside to this would be that little (if any) tangible financial gains would be reaped through this scheme.

In the case of Malta, the timeline set for an application to be processed from start to finish (circa 2 years) is deemed as acceptable and, at the same time, sufficient to allow an effective due diligence exercise to be carried out.

5.4 Progress on entry into force of the Complaints Procedure

Notwithstanding the optimism of the previous Regulator (in last year's report) that the Complaints Procedure would be finalised and launched in the short term, it has to be pointed out that at the time of compilation of this Report, the provisions of the Complaints Procedure are still under review. It is, however, expected that by the time that this Report will be published, this matter would be brought to conclusion.

The reason why the draft Regulations were sent back to the drawing board is that the dynamics of the complaints procedure were still not clear. In particular it was not clear who should be allowed to submit a complaint, the reason(s) why a complaint could be submitted and the timeframe during which a complaint could be lodged. The main challenge which has to be resolved is to ensure that the complaints procedure can be an effective tool, bearing in mind that, as stipulated in Article 19 of the Maltese Citizenship Act, the Minister's decision to approve or refuse an application for citizenship cannot be contested, and that therefore, strictly speaking, there could be no form of redress on such Ministerial decision through the complaints procedure.

In the absence of an official complaints procedure, a number of Applicants (whose applications were, in the meantime, refused) have communicated with the ORiip in order to seek some form of redress. These have all been informed that since the Complaints Procedure has not yet been published, the ORiip is precluded from taking any action. Indeed, Article 25A of the Maltese Citizenship Act makes it clear that complaints shall be investigated in the manner prescribed under the Act. ORiip is also aware that there is a pending Court Case on a related matter and the eventual judgement will definitely have a bearing on the decisions which the Regulator will take when he receives similar complaints.

5.5 Determining the need for a comprehensive ICT system

This is an area in which IMA urgently needs to invest. At present nearly all the related processes are carried out manually or through the use of basic software (namely a word processor in order to develop a standard template and a spreadsheet for recording statistical information).

It is neither within the remit nor within the competence of this Office to draw up an exact list of ICT requirements. Nonetheless, basing also on discussions held with stakeholders (who are favourable of implementing some form of automated system) a provisional (and certainly not exhaustive) list of potential concepts is being forwarded for consideration:

- a. Creating an online system whereby consolidated data is inserted by the applicant / agent eliminating the need of inserting the same information more than once in different forms;
- b. The same information inserted in (a) could form the basis of data which can be easily processed in order to come up with all possible sorts of statistical information (presently it usually takes IMA weeks to compile statistical information whereas in such manner the information could be drawn up in minutes);

- c. The ICT system could keep track of the status of each application, providing agents with a tracking option (as originally guaranteed by IMA) and providing IMA with up-to-date information;
- d. The ICT system would improve security and accountability since any insertion / amendment by any user would be duly recorded;
- e. The ICT system could automatically notify users once a milestone is reached or once a deadline is due (eg. When the status of an application is changed to “Approved by the Minister” the system could automatically print the letter of approval in principle;
- f. The ICT system could keep track of all deadlines, prompting IMA to take necessary action if / when required (eg. Contacting the agent if no response is received 4 months after the Letter of Approval in Principle is issued).

6.0 Summary of recommendations listed in this Report

No.	Recommendation	References in the Report	Action to be taken by
01.	Start issuing clarifications in cases where Media reports contain inaccuracies.	Section 3.2 Section 4.2.11	IMA and/or MJCL
02.	Every effort should be made to align the provisions of the Regulations in line with the valid, reasonable and called for procedures and practices adopted by IMA.	Section 4.1 Section 5.1.2	MJCL
03.	Sanction Agents who provide poor quality applications ⁹ .	Section 4.1 Section 5.1.2	IMA
04.	Review IIP and other IMA departments' processes in order to harmonise the application procedure ¹⁰ .	Section 4.1 Section 4.2.2 Section 4.2.8	IMA
05.	Increase staff complement in order to: <ul style="list-style-type: none"> • address slippages in timelines which are established by law; • carry out compliance tasks; • train accredited agents performing weakly. 	Section 4.1 Section 4.2.7	MJCL
06.	Train staff in order to increase the level of internal expertise on due diligence and compliance matters.	Section 4.1	IMA

⁹ This observation was also made in last year's report, to which IMA has responded (in Section 4.1), that this will be taken into consideration. Nonetheless, given the poor quality of some of the applications (as noted by ORIip during its vetting of a sample of applications) ORIip reiterates that it should be introduced.

¹⁰ In Section 4.1 IMA have indicated that it intends to carry out a full internal review as from September 2016. In view of the negative comments made by the Accredited Agents with regards to their experiences with the Public Registry ORIip strongly recommends that the processes linking the IIP Unit with the Public Registry are given due attention.

07.	Automate parts of the process ¹¹ .	Section 4.1	IMA
08.	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 l-Bajda.	Section 4.2.3	IMA
09.	With regards to the Mediterranean Conference Centre, increase privacy in cubicles where meetings are held by covering Perspex with blinds or curtains.	Section 4.2.3	IMA
10.	Review Guidelines and start updating them regularly.	Section 4.2.6	IMA
11.	Set up a Compliance Unit ¹² .	Section 4.2.11 Section 5.2.4	IMA
12.	The Oath of Allegiance document should be drawn up more professionally: it should include more details, typed (not handwritten) and the name of the officer giving the oath should be clearly visible.	Section 5.1.2	IMA
13.	Introduce a Declaration Form to be signed by clients to confirm that they are well aware of the real market value of the purchased / leased property.	Section 5.2.4	IMA
14.	Bring the complaints procedure into force.	Section 5.4	MJCL
15.	Develop a modern fully fledged ICT System as early as possible.	Section 5.5	IMA

¹¹ In Section 4.1 IMA has indicated that it has set a target date for completion as 2017.

¹² In response to the Media article regarding the market value of purchased / leased property IMA have indicated (vide Section 5.2.2) that they intend to set up a Compliance Unit. ORiip feels that such Unit should have clearly set terms of reference which include the verification (on an annual basis) as to whether clients still satisfy the requirements set by the IIP regulations.