

Malta: New policy developments in the care of minors

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Over the past twelve months, a number of important social policy initiatives have been concluded in Malta in the childcare services sector. The two most important are: a) the promulgation of Act XXIII of 2019, specifically designed to provide protection of minors deprived of parental care; and b) the publication of a National Strategy for Adoption. The new initiatives provide for more autonomy, more professionalism and more checks and balances.

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Description

The Minor Protection (Alternative Care) Act, 2019

This Act, enacted by the Maltese Parliament, was promulgated by the President on 16 July 2019. It consolidates and develops further the measures that hitherto ensured that children who are deprived of parental care were well served. It seeks to “safeguard, protect and give priority to the best interest of minors and to ensure, in the least possible time, the permanence of the care given to minors”.

Among the most important measures provided for in this Act are:

1. It creates a new Directorship, to be headed by a Director (Protection of Minors) who is responsible for protecting minors at risk. This director is recruited through a public call, has the responsibility to act ex officio in cases where he/she sees the need, and enjoys extensive autonomy in the performance of his/her duties.
2. It involves the Courts more extensively than ever before to ensure that the best interest of the child requiring protection are legally enforced and monitored constantly.
3. It establishes a new Fostering Board to actively promote fostering and establish standards and procedures that facilitate fostering in preference to institutional care.
4. It assigns new responsibilities to the Social Care Standards Authority to

ensure that homes providing care for minors are licensed.

The new Act also regulates social work with minors, the Juvenile Court, the management of a new Therapeutic and Secure Centre. It consolidates the functions of the Minors Care Review Board and the procedures on the licensing of Fostering Agencies.

National Adoption Strategy for Children and their Families (2019–2022)

The National Adoption Strategy for Children and their Families (2019–2022) was adopted by government in April 2019. It is based on the following over-riding principles:

1. **The best interest of the Child**, as provided for in Articles 20 and 21 of the 1989 United Nations Convention on the Rights of the Child (UNCRC), which identifies adoption as one of a range of options for the alternative care of children who find themselves unable to live with their birth families.
2. **The respect for the opinion of the child**, provided for in Article 12 of the 1989 UNCRC, which stipulates that children and youths have the right to express their opinion in respect of issues affecting them.
3. **Respect for Privacy**: Children have the right to be safeguarded from physical and psychological harm, as well as having their private affairs respected and not interfered with or being in any way embarrassed.

4. **Permanency, Emotional Stability and Fulfillment of their Potential:**

Children have the right to grow up in a family that provides them with emotional stability and helps them develop their potential.

5. **Equality, Individuality and Diversity:**

Children have the right to live without discrimination of any kind irrespective of their race, colour, sex, language, religion, opinion, national, ethnic or social origin, disability, birth or other status. They should be respected and treated as individuals on an equal footing with others and have an adult to look after them in an environment free from bullying, harassment and discrimination.

The Social Care Standards Authority (SCSA) is the designated regulator for adoption agencies; it is responsible for the implementation, monitoring and evaluation of the Strategy.

The 2019 Minor Protection (Alternative Care) Act greatly facilitates adoption in cases where fostering has been a success story; provides support to adoptive parents, including financial support for parents seeking foreign adoptions from countries with which Malta has ad hoc agreements on adoption; establishes standards for Adoption Agencies; promotes the development of professional adoption services and encourages adoption-related scientific research.

In its implementation, the Strategy reduces waiting times during adoption proceedings and empowers social workers in the field of adoptions to better prepare prospective adoptive parents. In turn, adopted children are assured the availability of specialised support services as and when they require them, even in their adulthood.



Outlook and commentary

These two important initiatives consolidate previous policies. The new Minor Protection Act puts on a surer footing the standard of care to be provided to minors who need protection. The new setup provides for more autonomy, more professionalism and more checks and balances. It also ensures that children stay as little as possible, if at all, in institutional care. The fact that the law gives extensive autonomy to the Director in the performance of his/her duties removes processes from the political ambit. This positive development is re-inforced by the expanded role of the Courts.

It should be mentioned that the two initiatives recognise the continued need for residential care, but are a clear statement that bringing up a child in a family environment should take precedence in all cases.

The new National Adoption Strategy, in the context of related policies, legislation and standards, ensures that in the long term children who go through adoption proceedings are truly safeguarded. Their views are given weight in critical decisions, and their families are assured of support throughout their adventure to give a home environment to less fortunate children.

Both initiatives received a warm welcome from all interested parties and did not raise any major controversies.

Further reading

Calleja, L., "54 children adopted from overseas last year, Family Minister says. A national strategy on child adoption put up for public consultation will help ensure that during the process, the voice of the children is heard". MaltaToday, 26 March 2019.

Costa, M., "Foster children could be adopted after five years under proposed law". MaltaToday, 24 June 2019.

Magri, J., "The child's best interests are main priority - National Adoption Strategy Launched". Independent, 24 June 2019.

Malta Government, "Minor Protection (Alternative Care) Bill 2019 - ACT XXIII".

Malta Government, 2019. National Adoption Strategy for Children and their Families (2019 - 2022).

Xuereb, J., "The Child Protection (Alternative Care) Act: A First for Maltese Legal History". GhSL Online Law Journal, 7 November 2018.

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