



SCHENGEN AT RISK: CAN WE KEEP THE FREEDOM OF MOVEMENT?



MALTA - BLUE BORDERS

INSTITUTE FOR EUROPEAN STUDIES

Berta Fernandez – Alfaro
May 13, 2016

INTRODUCTION

THE STATE OF PLAY

Figure 1 – Migratory routes in Europe and irregular crossings of borders (map and data)

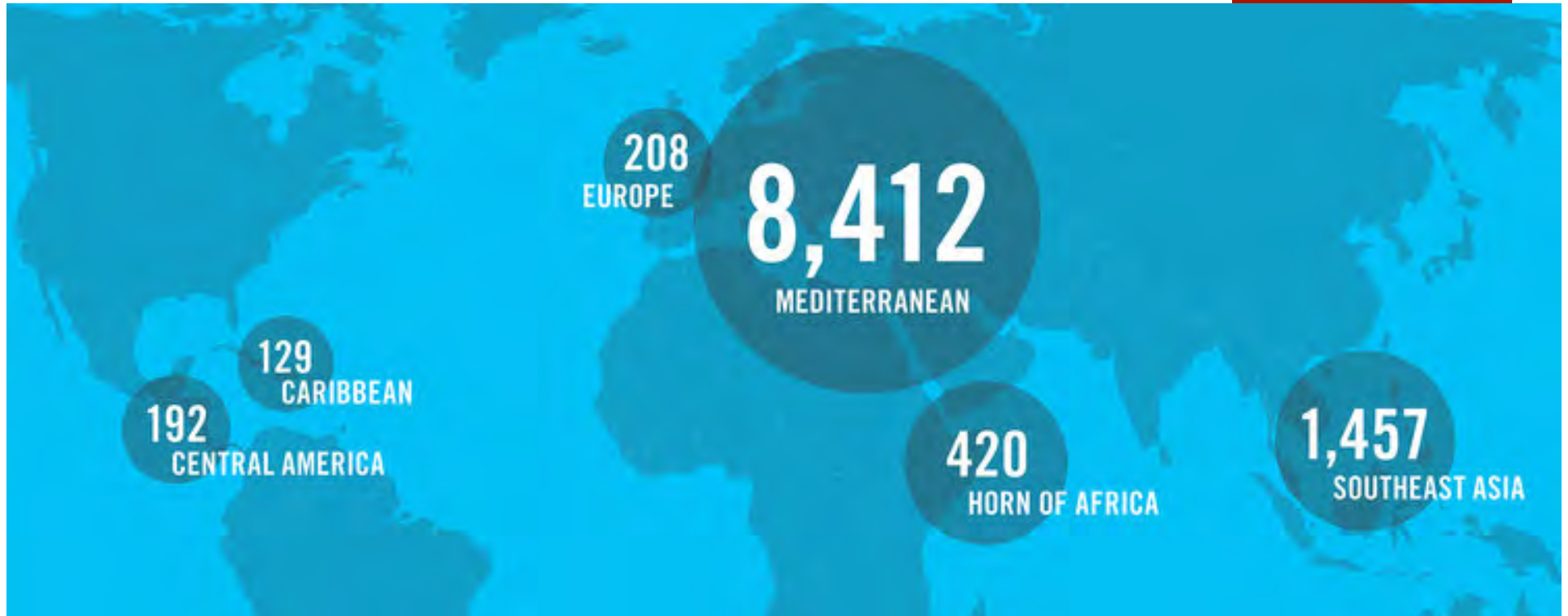


Migratory routes	2013	2014	2015
Central Mediterranean route	40 000	170 760	153 964
Western Mediterranean route	6 800	7 840	7 164
Eastern Mediterranean route	24 800	50 830	885 386
Western Balkan route	19 950	43 360	764 038
Eastern Borders route	1 316	1 270	1 920
Western African route	250	275	874
Circular route (Albania – Greece)	8 700	8 840	8 932

Source: Various Frontex publications and information on its [website](#) (accessed on 15 March 2016)¹⁵

DEATHS OF MIGRANTS since 2000 (46,000+)

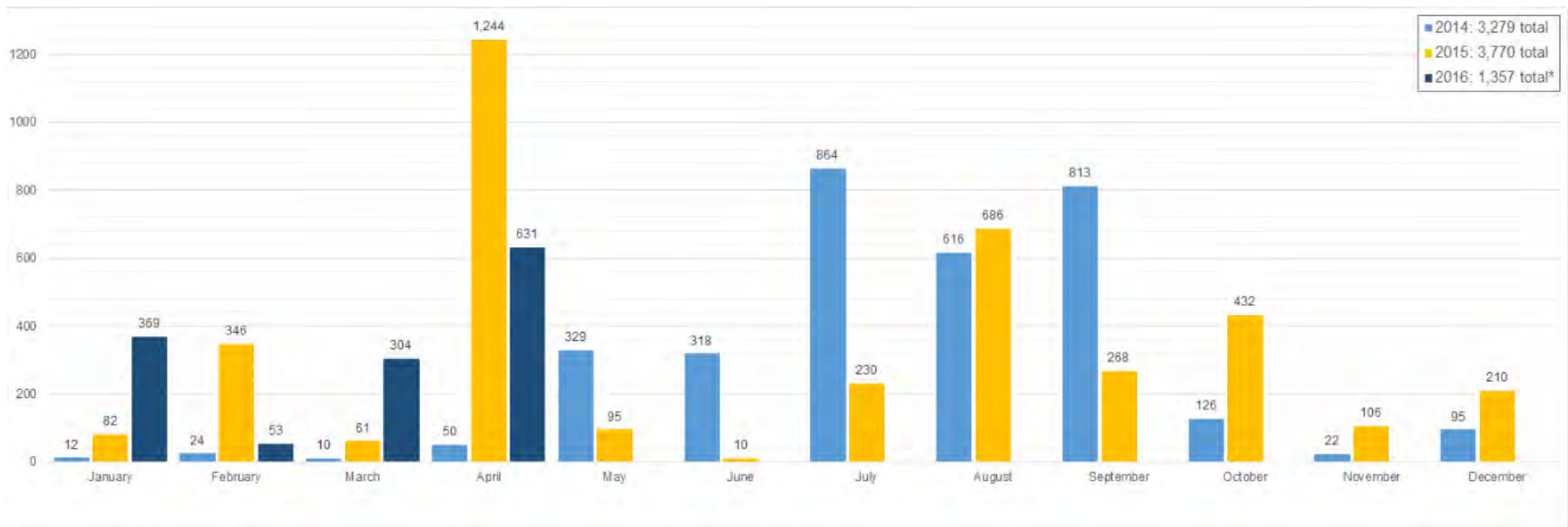
4



- 2014-2015 global count was 10,400 (3,770 in Mediterranean alone)
- 2016 close to 2,000

Source: refugeesmigrants.un.org

DEATHS BY MONTH IN MEDITERRANEAN 2014-2016



Source: missingmigrants.iom.int/mediterranean

BLEIBEL
DAILY STAR
Beirut
LEBANON



EUROPEAN PUBLIC OPINION

SCHOT
DE VOLKSKRANT
Amsterdam
NETHERLANDS



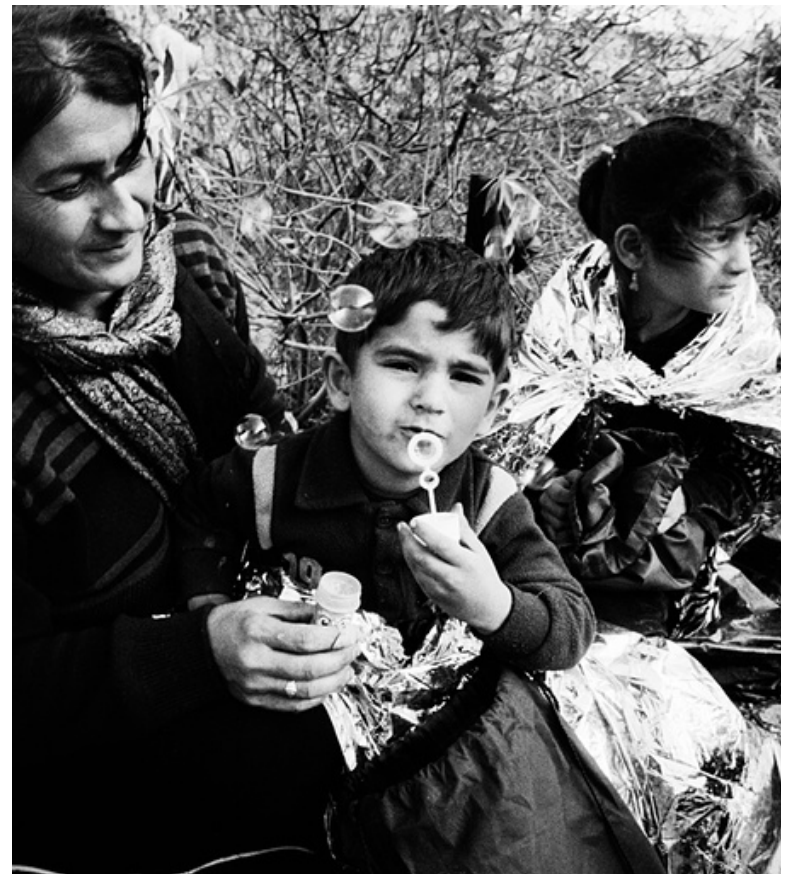
HUMAN TRAFFICKER

PARESH
THE KHALEEJ TIMES
Dubai
U.A.E.



2015 - KEY CHANGES in EUROPE

- 'Solidarity' crisis on several fronts: relocation failure; support to Italy & Greece
- Political costs of the crisis (extreme right-xenophobic parties)
- Terrorism-security
- Fracture of Schengen as a deeper symptom
- Europe in crisis?





**'LEFT BEHIND'
SYNDROME**

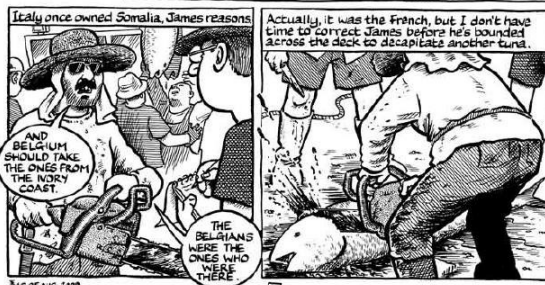
**NATIONAL IDENTITY
SECURITY**

**'DIVERSITY AS
SCAPEGOAT OF
ANXIETY IN EUROPE'**

FROM INDEPENDENCE TO EU MEMBERSHIP/ PRESIDENCY 1964-2015



But here, off the coast of Malta, the fishermen harpooning and gutting the day's quota bristle at the mention of a darker feather in globalization's cap: the 17,500 mostly Sub-Saharan Africans desperate to reach Europe who have washed up on the island's shore.



OVERALL BALANCE

MEUSAC



INFORMATION • CONSULTATION • EU FUNDING

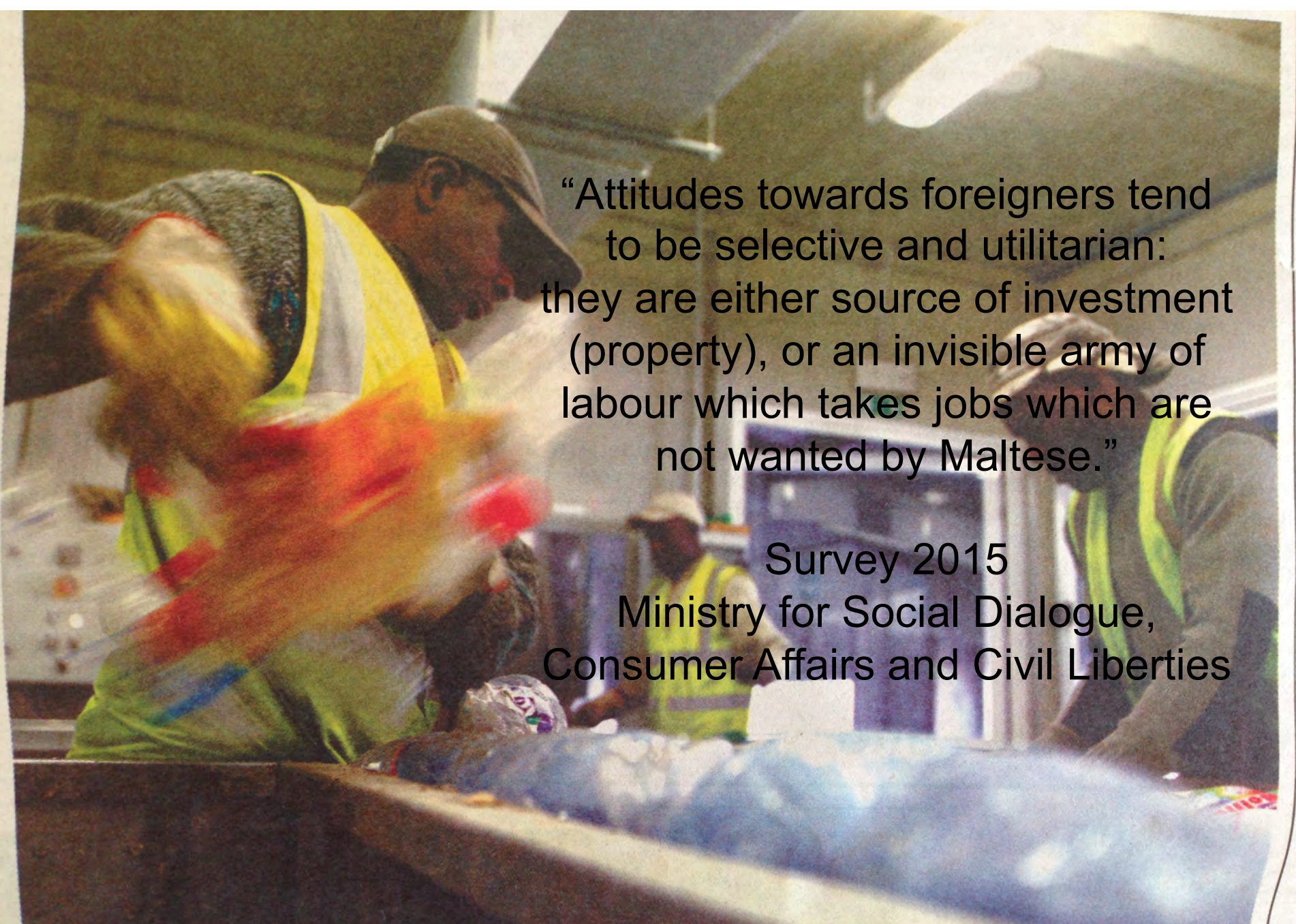
- LIST of COUNTRIES that NEEDED VISA affected relations (Libya)
- PASSPORT SECURITY FEATURES UPGRADES to meet SCHENGEN
- ACCESS to FUNDING in area of JHA
- ASYLUM STRUCTURES set up (Refugees Act 2000, Immigration Act 2009 Amended)
- POLICE FORCE strengthened to fight organized crime

MALTA KEY NEGOTIATION POINTS FOR ACCESSION

- MALTESE LANGUAGE
- POTENTIAL NEGATIVE IMPACTS OF INCREASED INFLUX OF FOREIGN WORKERS IN LABOR MARKET (FREE MOVEMENT OF WORKERS)

CHAPTER 2 – FREEDOM OF MOVEMENT (7 YEARS RESTRICTION)

CHAPTER 24 – JHA (MIGRATION AND ASYLUM)



“Attitudes towards foreigners tend to be selective and utilitarian: they are either source of investment (property), or an invisible army of labour which takes jobs which are not wanted by Maltese.”

Survey 2015
Ministry for Social Dialogue,
Consumer Affairs and Civil Liberties

‘Unemployed’ persons shun manual jobs deemed physically demanding and demeaning and even if they wish to work they often find themselves competing with regular and irregular immigrants. Photo: Darrin Zammit Lupi



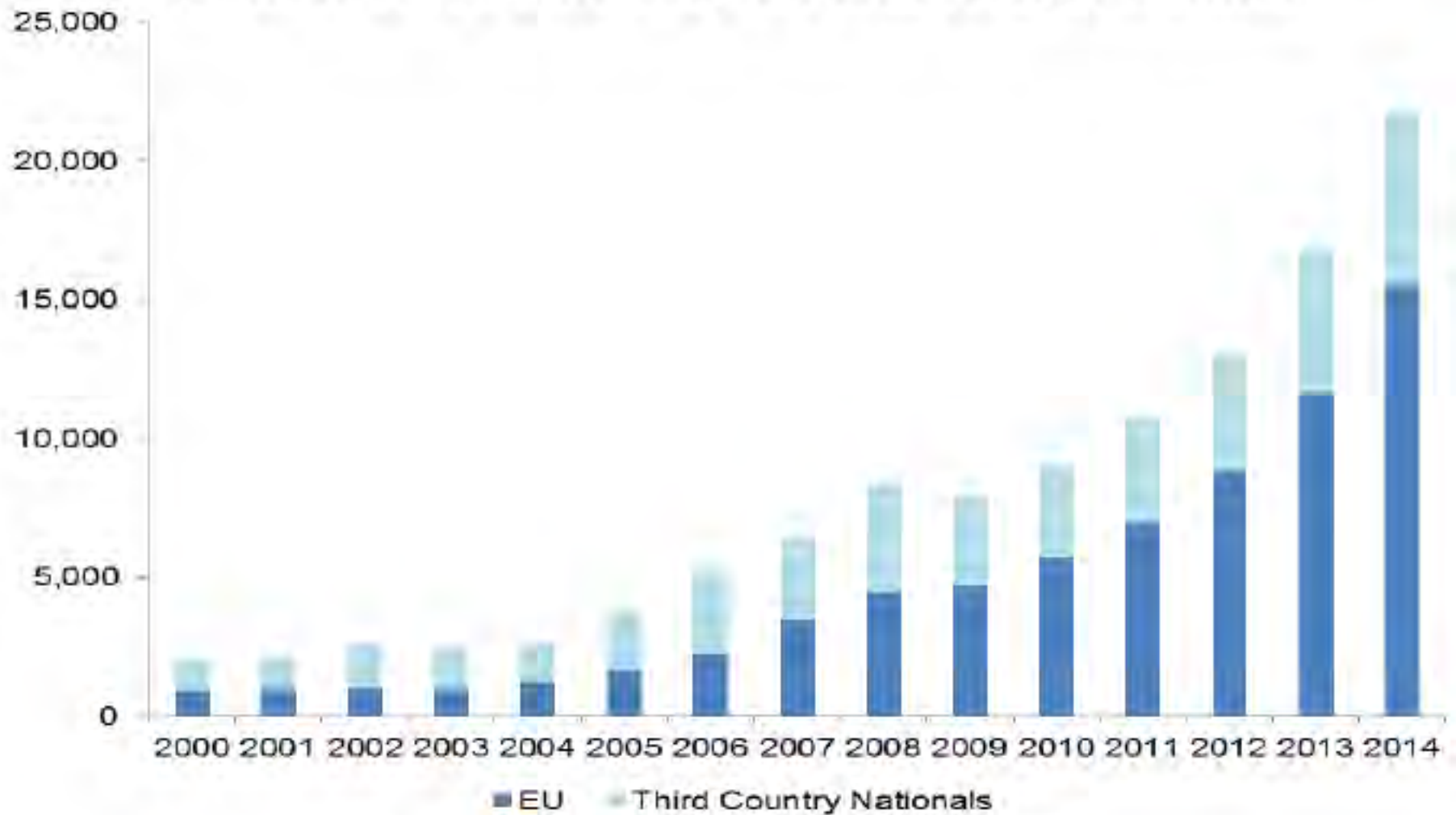
BANK ĊENTRALI TA' MALTA
EUROSISTEMA
CENTRAL BANK OF MALTA

'UNDERSTANDING MACROECONOMIC IMPACT OF MIGRATION IN MALTA'

A. GRECH, POLICY NOTE, DECEMBER 2015

Chart 2

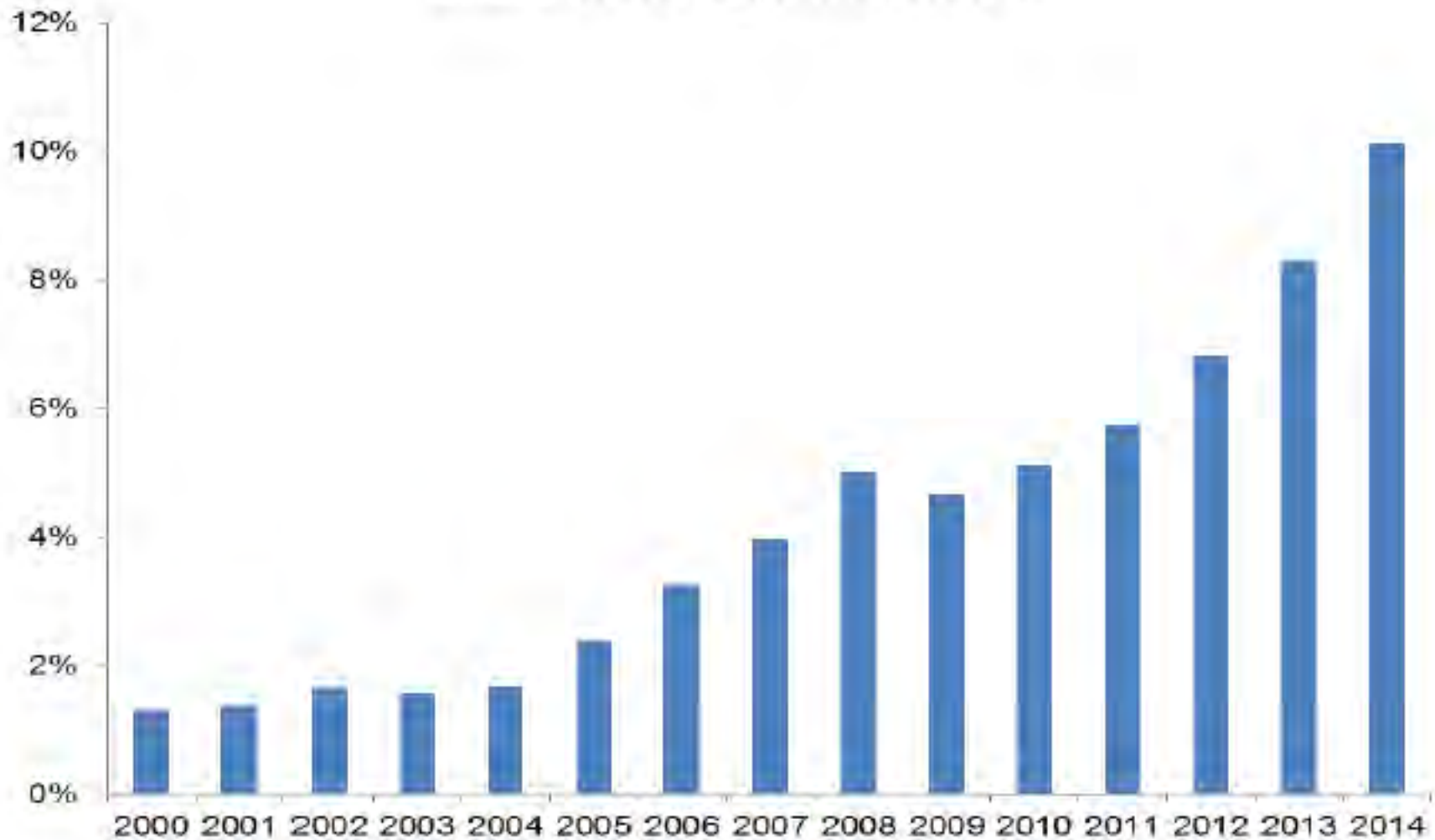
Number of full-time and part-time foreign workers



Source: Administrative data provided by ETC.

Chart 5

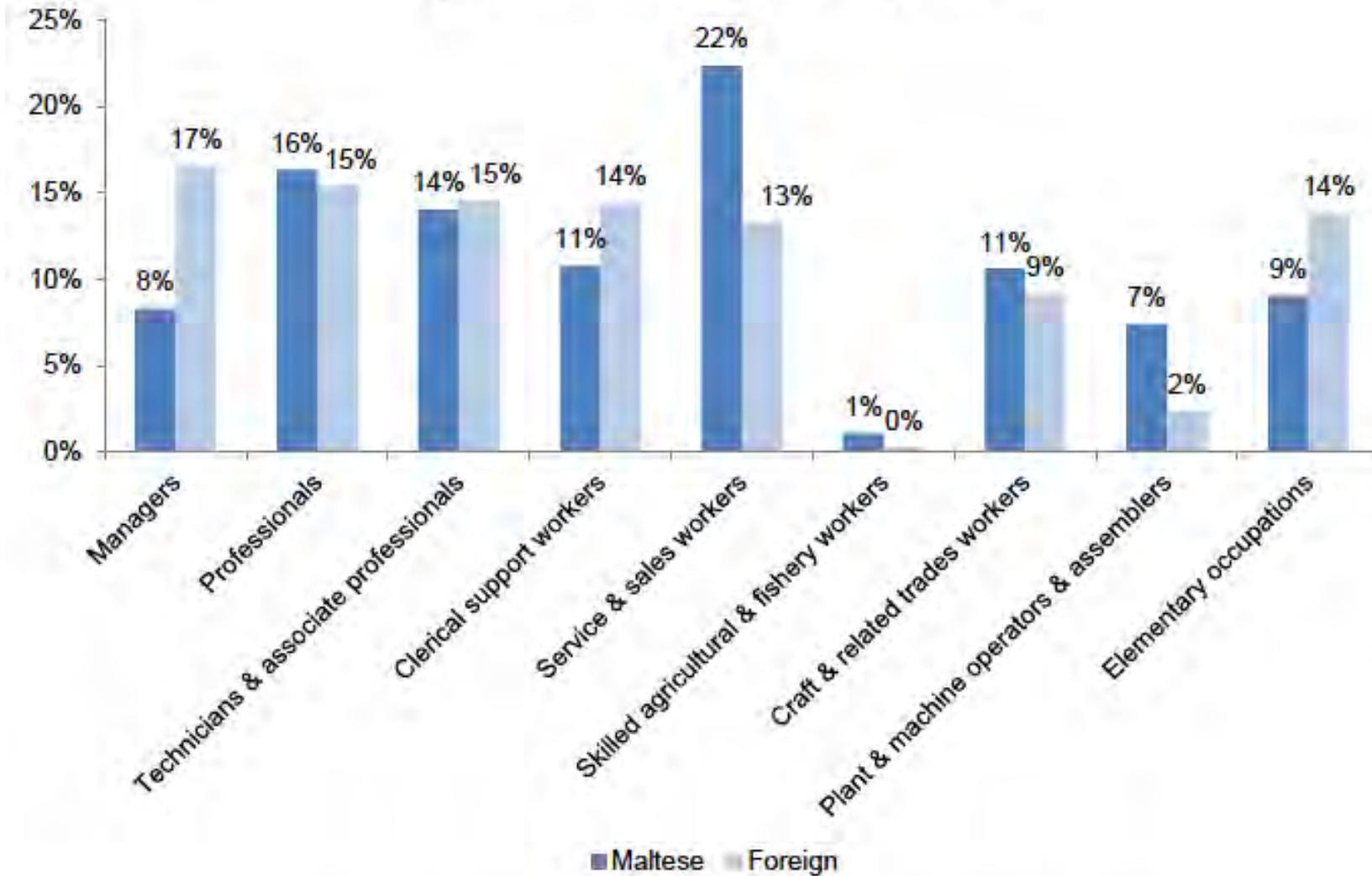
Share of foreign workforce



Source: Author's calculations using ETC administrative data.

Chart 6

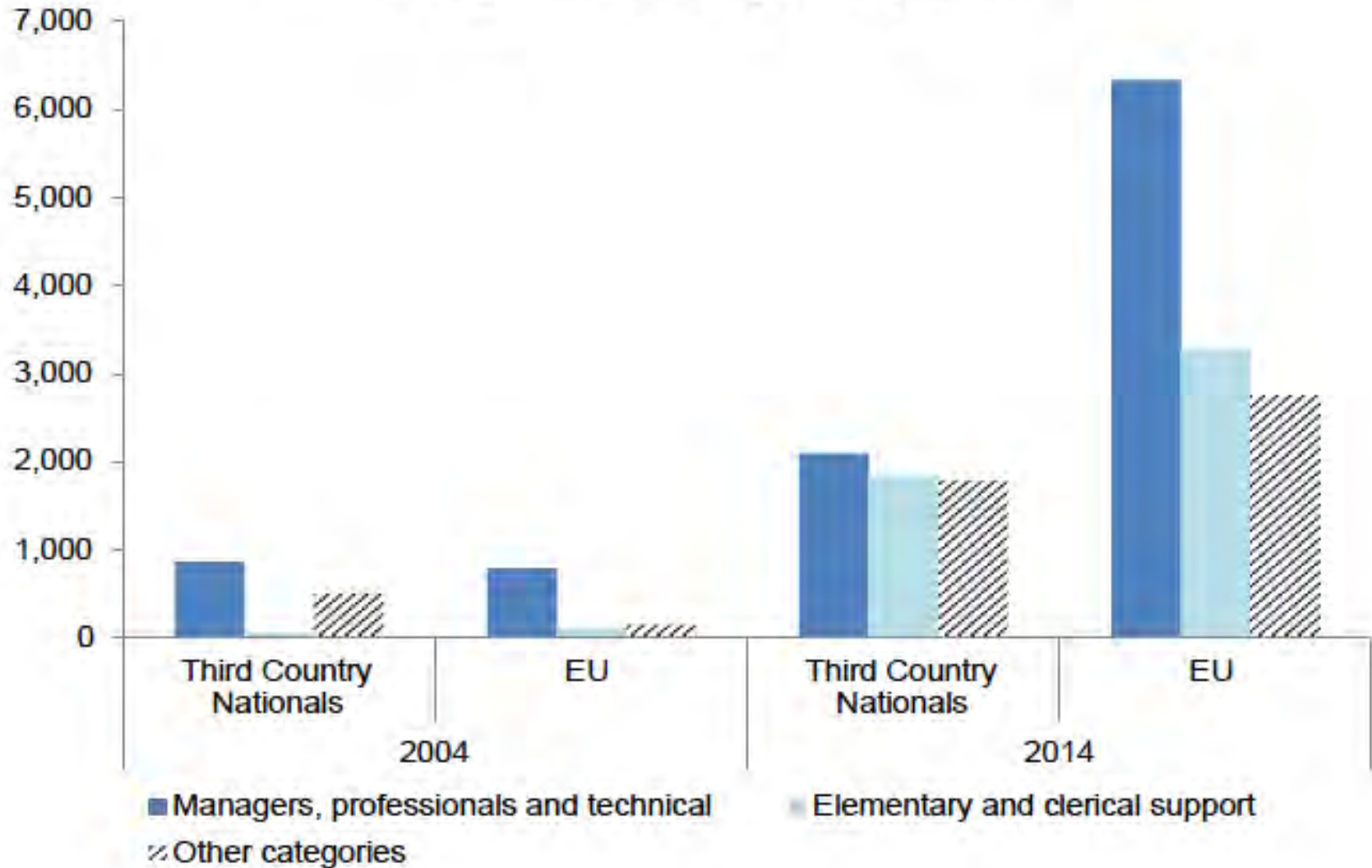
Share of workforce by nationality and occupation



Source: Author's calculations using ETC and LFS data.

Chart 8

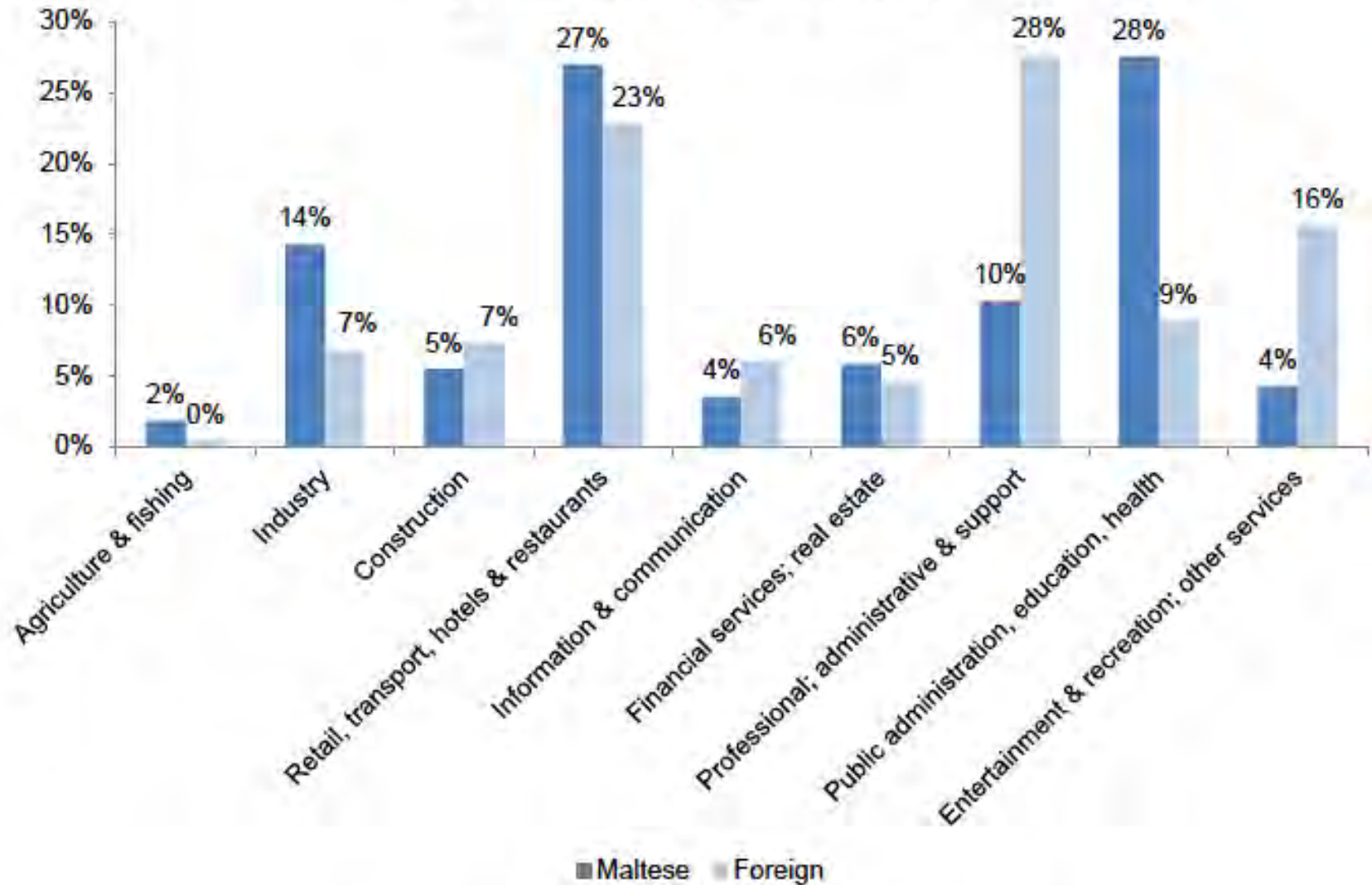
Foreign workers by occupation



Source: Author's calculations using ETC data.

Chart 9

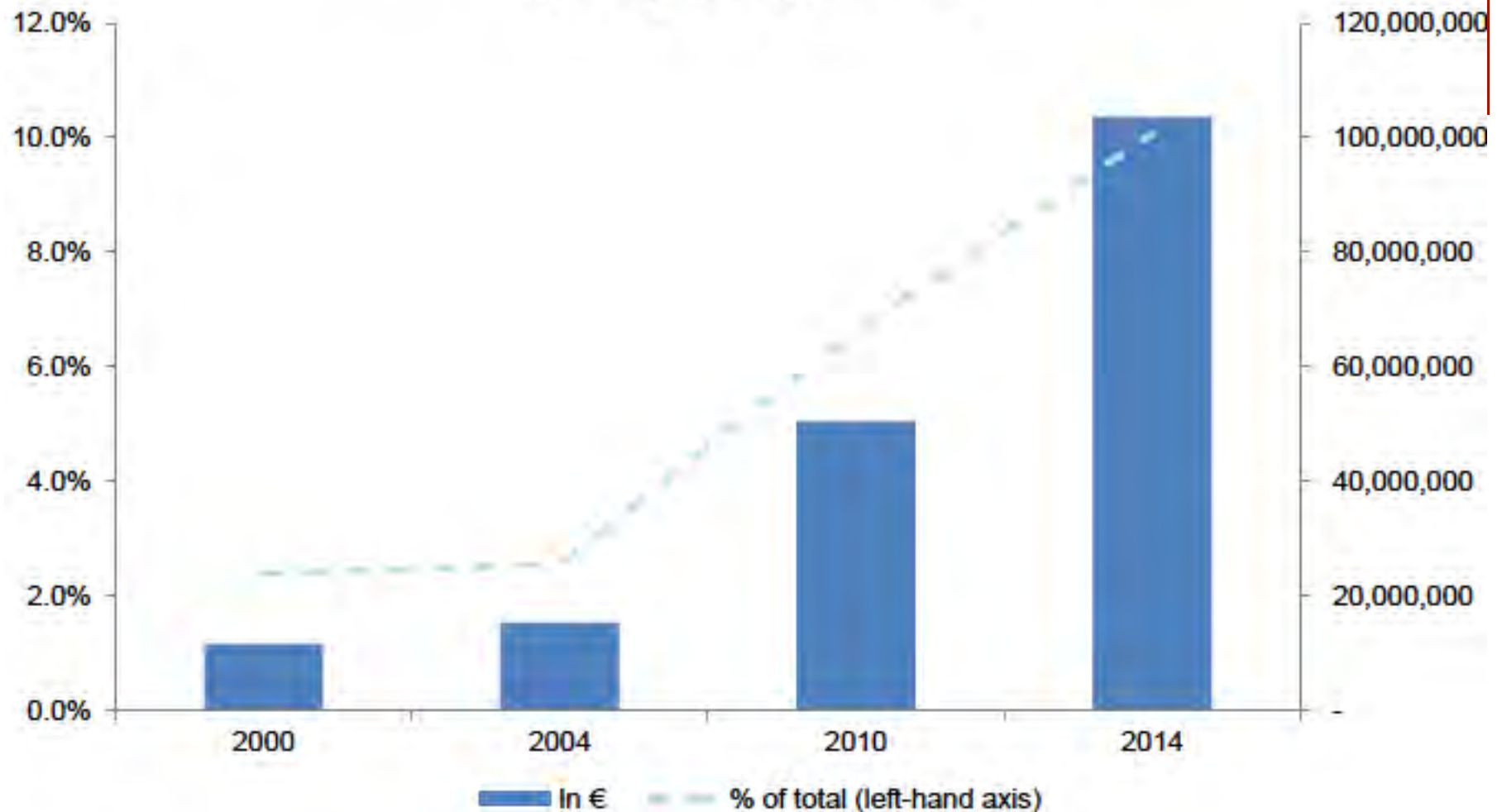
Distribution of workforce by nationality and sector



Source: Author's calculations using ETC data.

Chart 13

Income tax and national insurance contributions paid by foreign workers



Source: Author's calculations using Inland Revenue administrative data.

EU FUNDS ACCESSED BY MALTA (2007-2011)

External Borders Fund (2007-2011)	Return Fund (2008-2011)	European Refugee Fund (2008-2011)	European Integration Fund (2007-2011)	Solidarity Programme (2007-2011)
€34,414,837 3,97% of total	€2,847,680 0,92% of total	€4,200,776 1,23%	€2,669,576 0,60%	€44,132,870 2,25%



2004 – EASO to be established
A crucial role in ensuring practical cooperation between MS on asylum matters

18/02/2009 -
Proposal for
EASO
Regulation

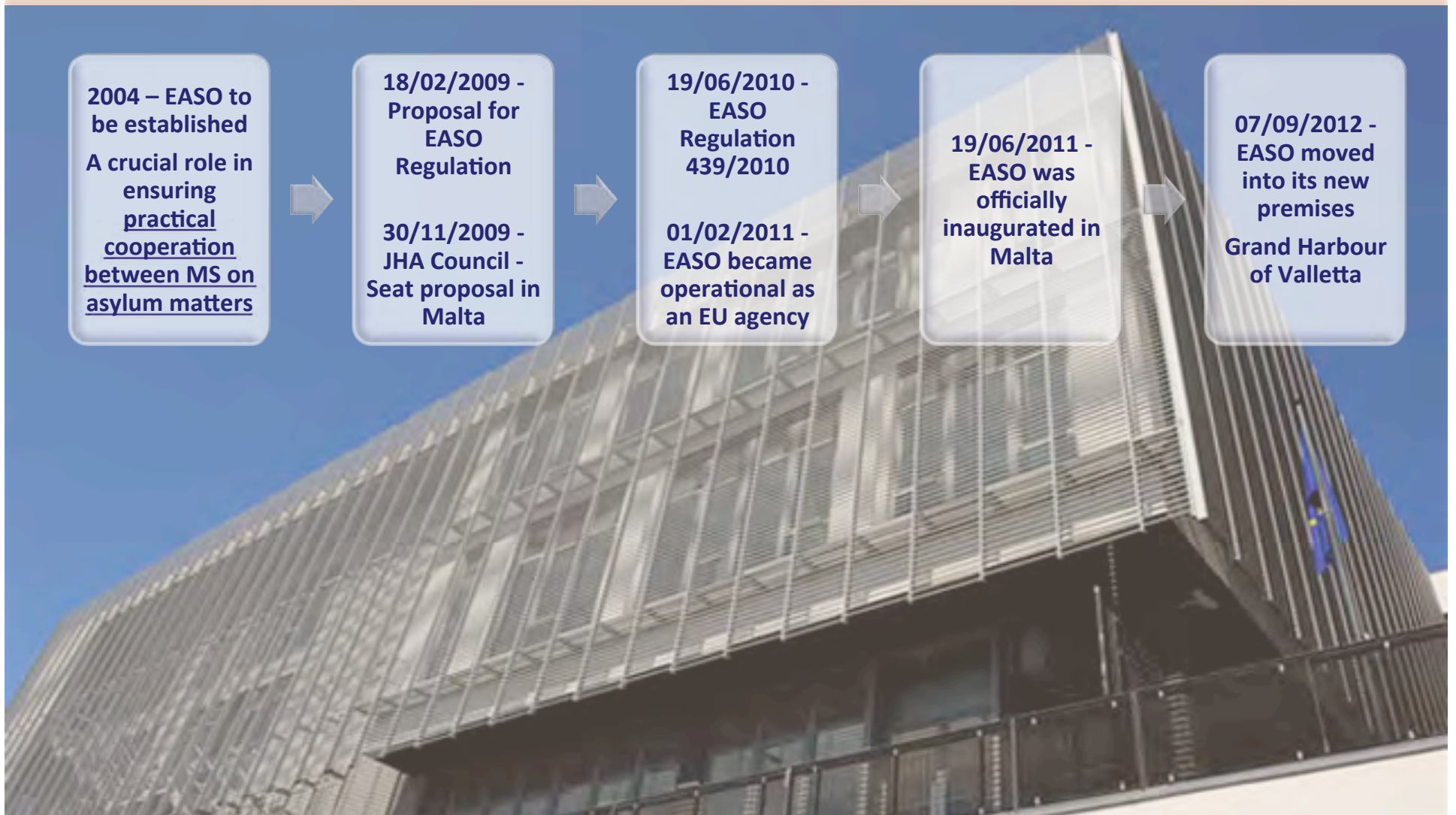
30/11/2009 -
JHA Council -
Seat proposal in
Malta

19/06/2010 -
EASO
Regulation
439/2010

01/02/2011 -
EASO became
operational as
an EU agency

19/06/2011 -
EASO was
officially
inaugurated in
Malta

07/09/2012 -
EASO moved
into its new
premises
Grand Harbour
of Valletta



PRACTICAL TOOLS



“HOTSPOTS”



AIP, AST



CRATE



RABIT, JO, EBG

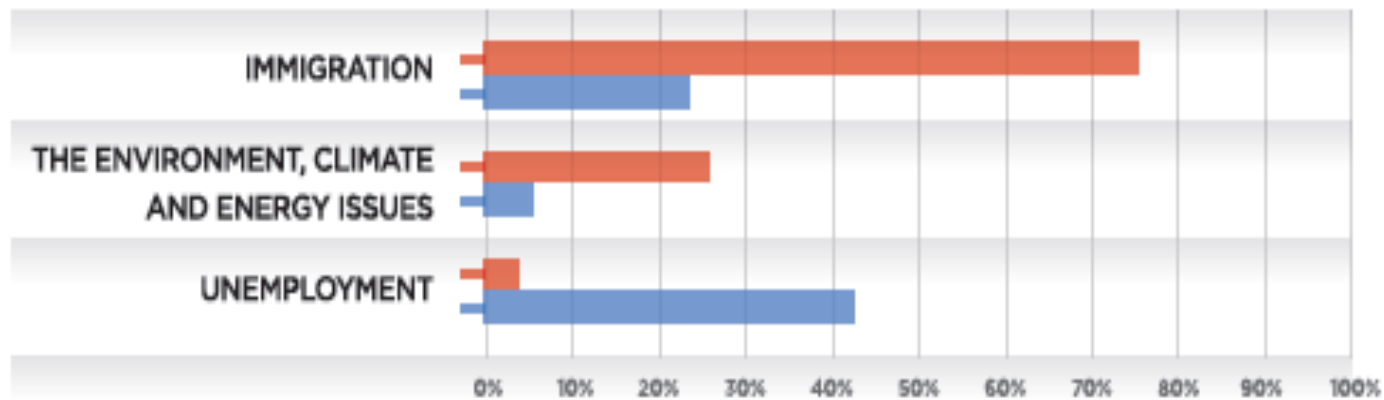
FUNDS ALLOCATIONS (2014-2020)

AMIF, ISF (Borders & Visa), ISF (Police)

MALTA	17 178 877	53 098 597	8 979 107
NETHERLANDS	94 419 077	30 609 543	31 540 510
POLAND	63 410 477	49 113 133	39 294 220
PORTUGAL	32 776 377	18 900 023	18 693 124
ROMANIA	21 915 877	61 151 568	37 150 105
SLOVAKIA	10 980 477	10 092 525	13 891 478
SLOVENIA	14 725 477	30 669 103	9 882 037
SPAIN	257 101 877	195 366 875	54 227 207
SWEDEN	118 536 877	11 518 706	21 057 201

MEUSAC - September 2015

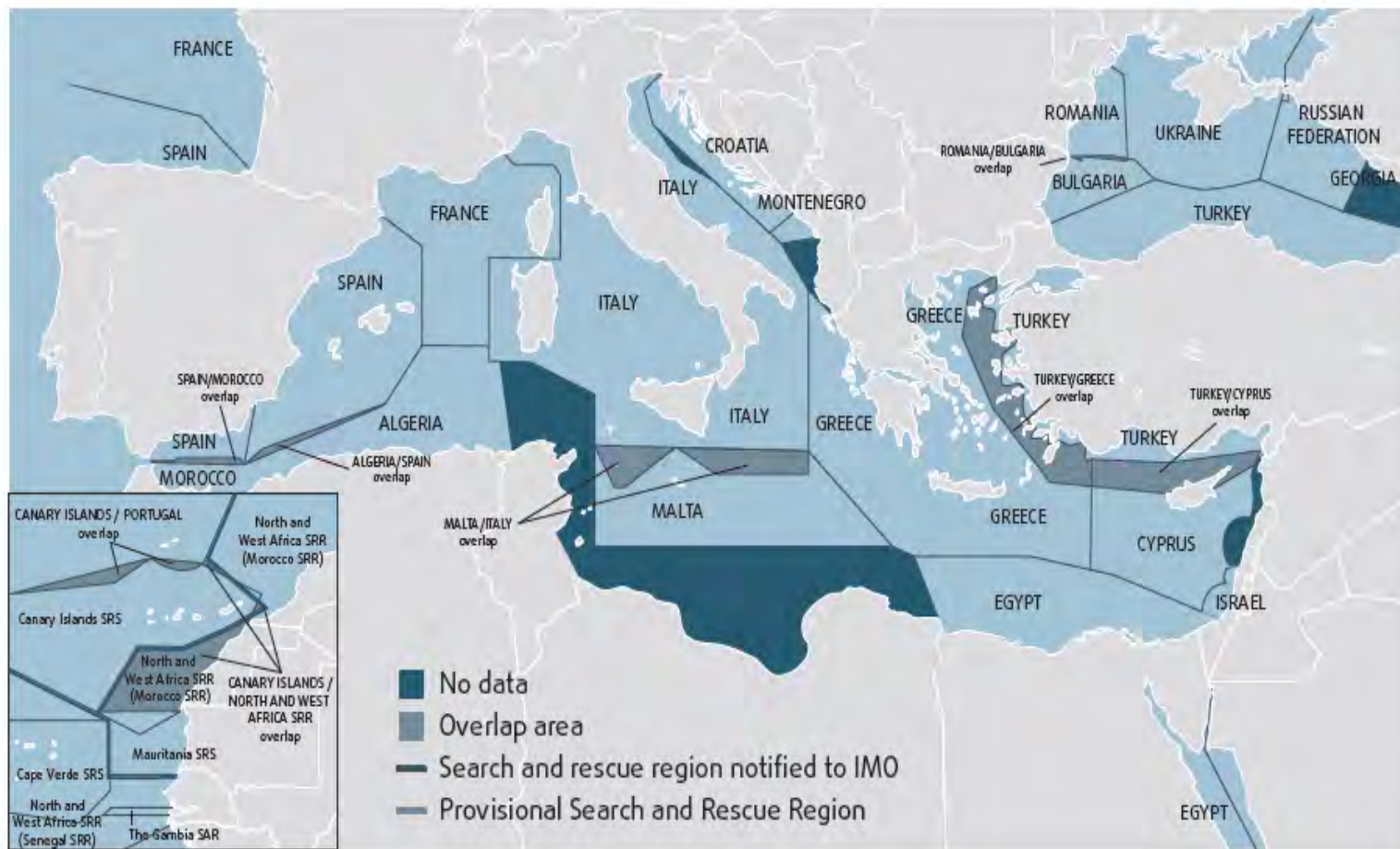
Most pressing challenges faced by EU Member States



	IMMIGRATION	THE ENVIRONMENT, CLIMATE AND ENERGY ISSUES	UNEMPLOYMENT
MT	76%	26%	5%
EU 28	23%	6%	42%

SEARCH AND
RESCUE
OPERATIONS
HUMAN RIGHTS ISSUES

Search and Rescue Area Malta



Source: International Maritime Organisation, 2011

Law of the Sea

- **UNCLOS** (UN Convention on Law of the Sea), 1982
- **SAR** (Intl Convention on Maritime Search and Rescue), 1979
- **SOLAS** (Intl Convention for Safety of Life at Sea), 1974



SCHENGEN

- 2007 - Malta joined at seaports; 2008 at airports.

“Joining Schengen makes us more European. Maltese citizens are now on the same playing field as our European counterparts”, Minister T. Borg

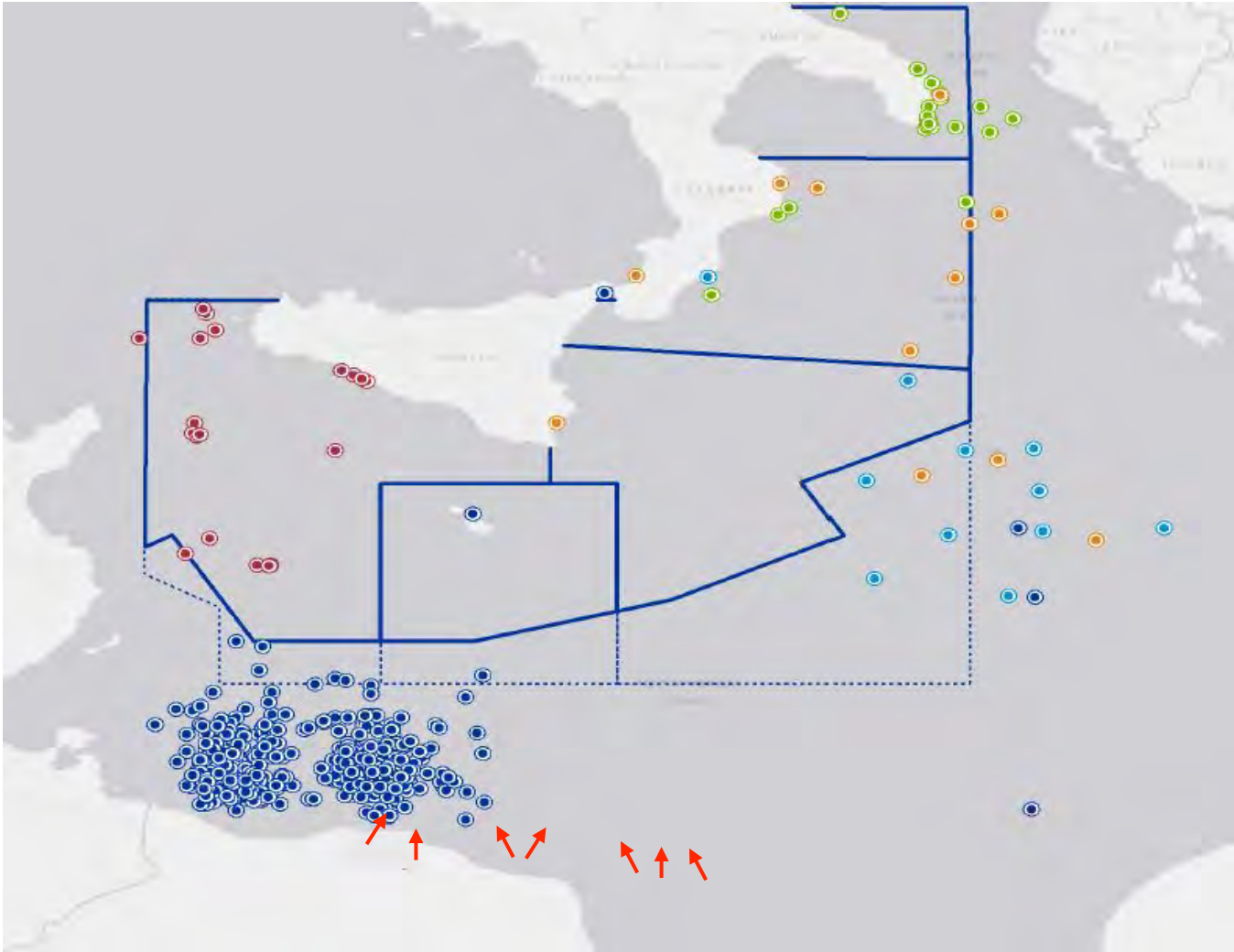
- 2008-2009 (peak years) joint Frontex-Malta SAR operations (host)
- **Guidelines for Frontex rescue at sea missions** (disembarkation in host country vs. closer safe port) were challenged by EP at ECJ. ‘Major new development in Schengen Borders Code system’.

Relevant Cases

- **Hirsi Jamaa and others v. Italy (ECtHR, 2012)**: push backs are in violation of ECHR. Italy had effective control of Somali and Eritrean migrants rescued, hence jurisdiction...non-refoulement.
- **MV Salamis** (ship, **2013**) ignored instructions of Maritime Rescue Coordination Centre (MRCC) Rome to disembark 102 rescued people in Libya, instead of Malta.

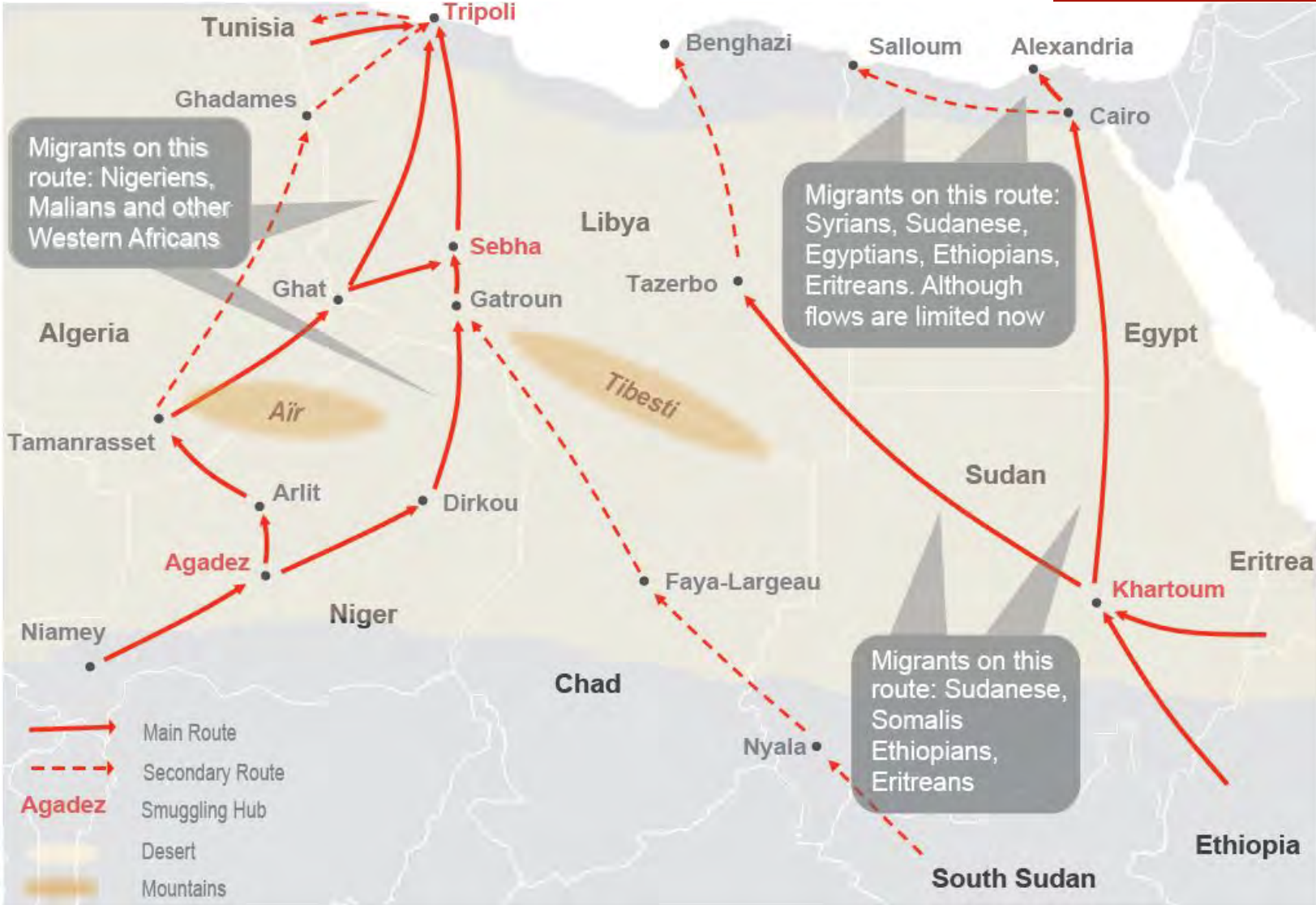
Disembarkation at '**place of safety**', and '**people in distress**': not defined in Intl. Maritime Law

Blue Borders: complex surveillance



Source: Frontex

Route to North Africa

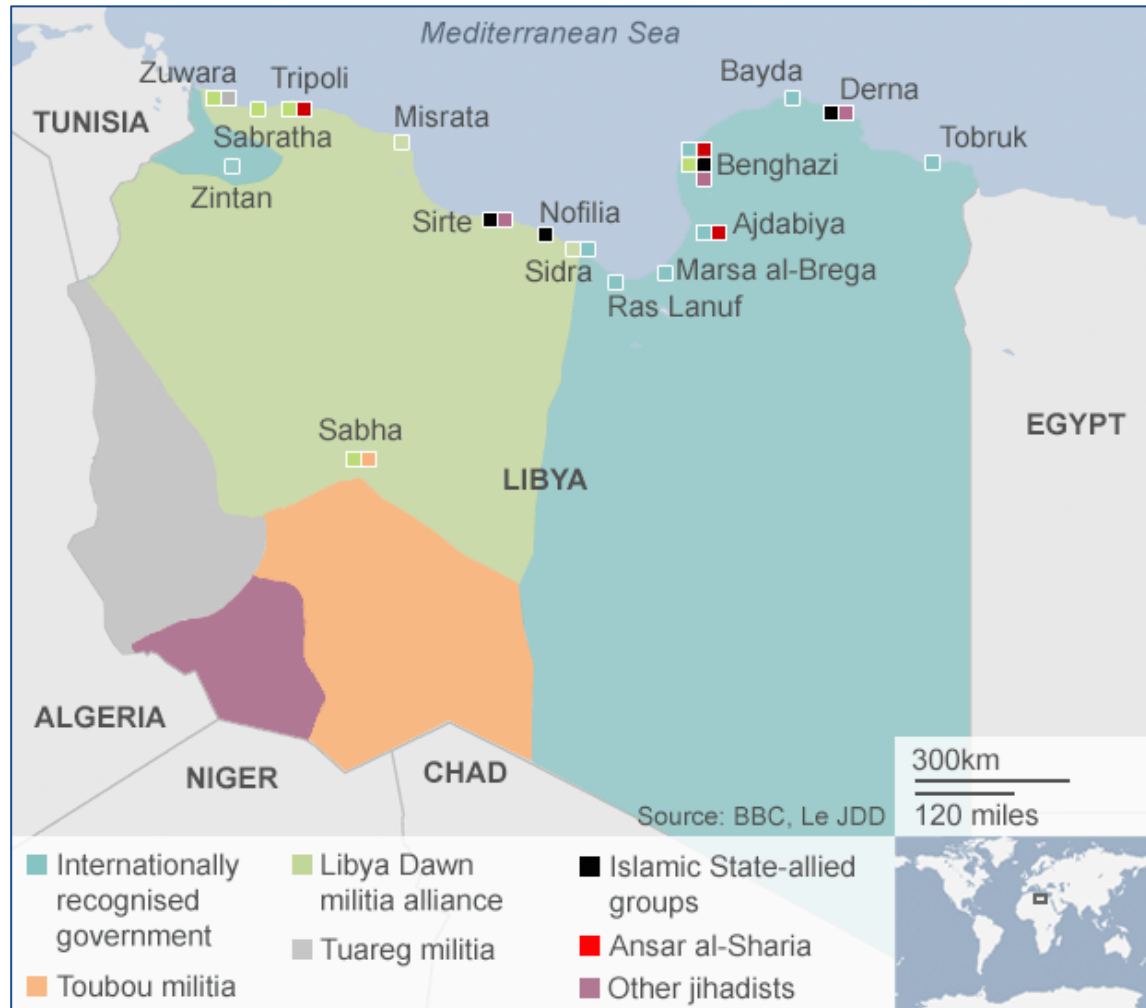


Source: IOM

LIBYA

NO RULE OF LAW

HUMAN RIGHTS VIOLATIONS



Private SAR initiatives

- MSF search and rescue ship Dignity 1, set sail from Valletta, Malta on 21 April with a team of 16, including experienced medical staff.
- MOAS began operating in Central Mediterranean in 2014 from Malta. Rescued and assisted in the rescue of nearly 12,000 people.
- Watch the Med Hotline for Shelterseekers in danger at sea
- Sea-Watch provides first aid to refugee boats and escorts into safety
- German Youth organization (Berlin), inspired by MOAS, want to be based in Malta.

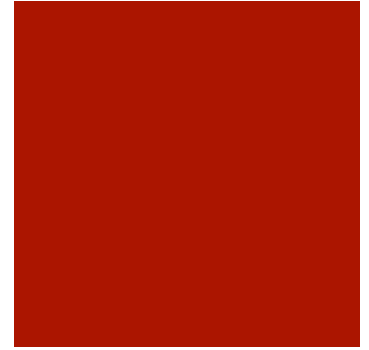


JUGEND **RETTET**

Evacuation of the boat
First women and children
Shuttle service



Children and babies

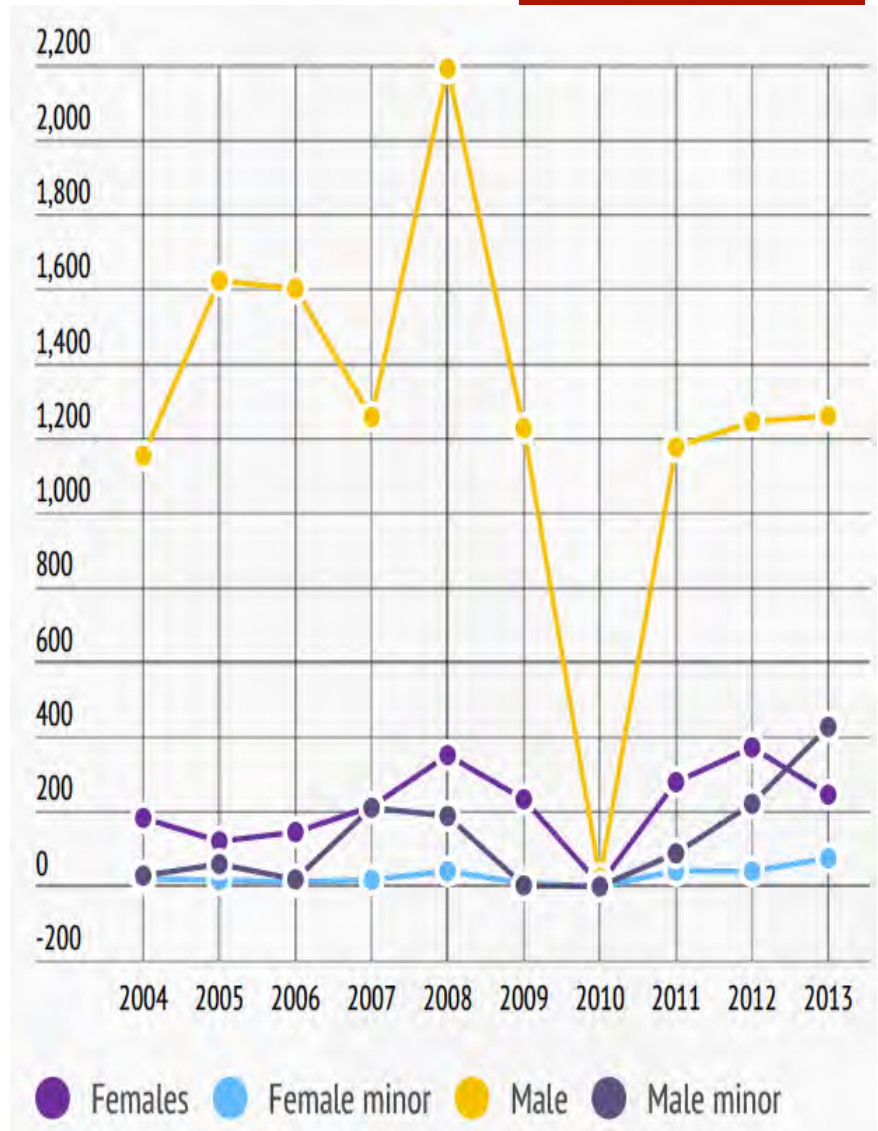


Number of asylum applications from 1998 to 2014

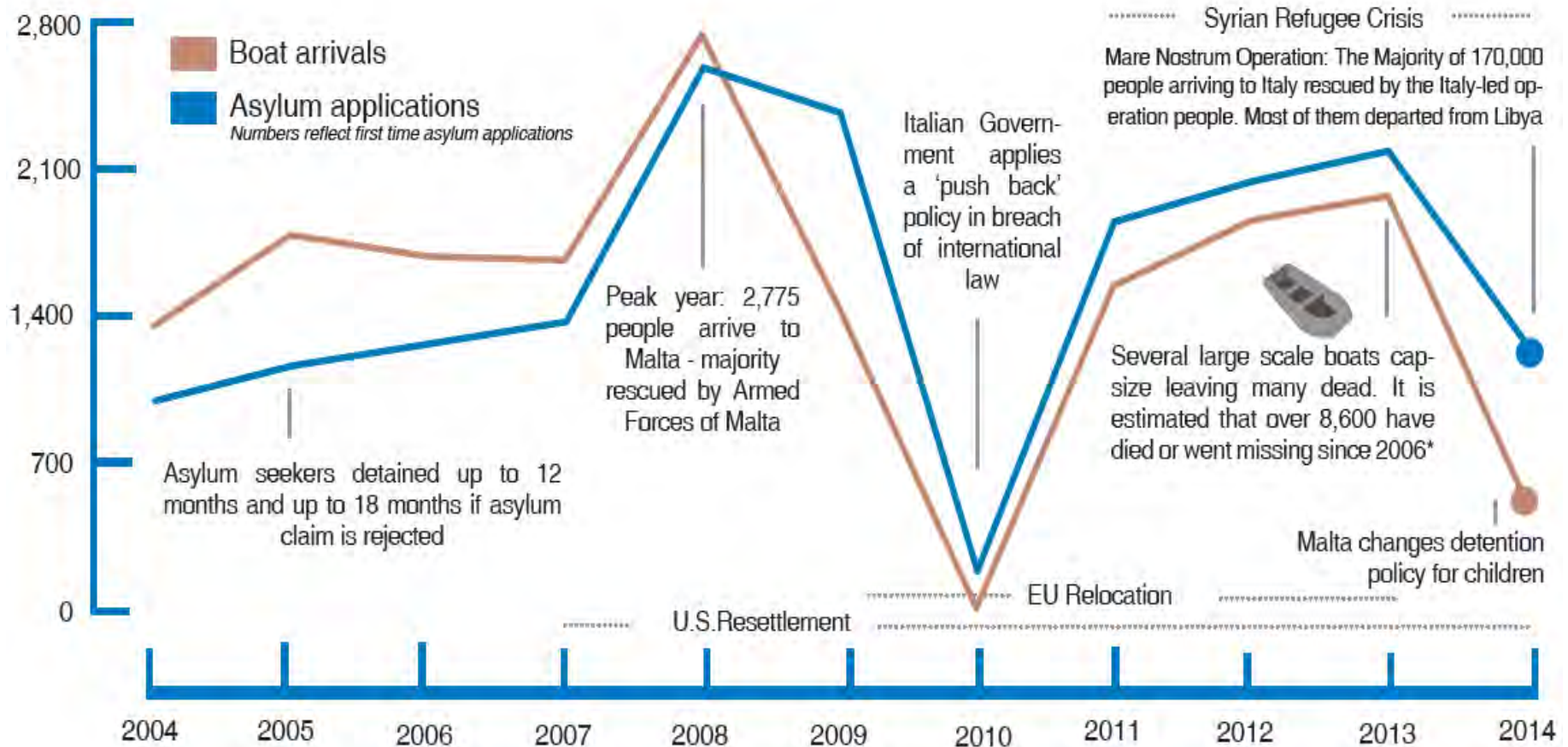
1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
160	255	160	155	350	455	995	1165	1270	1380

2008	2009	2010	2011	2012	2013	2014
2,605	2,385	175	1,890	2,080	2,245	1,350

Asylum seekers in Malta (2004-2013), by gender and age



Boat arrivals and asylum applications in Malta



Non-boat arrivals: A smaller number of individuals who apply for asylum do not come irregularly by boat. In the last two years 1,171 who applied for asylum were non-boat arrivals.

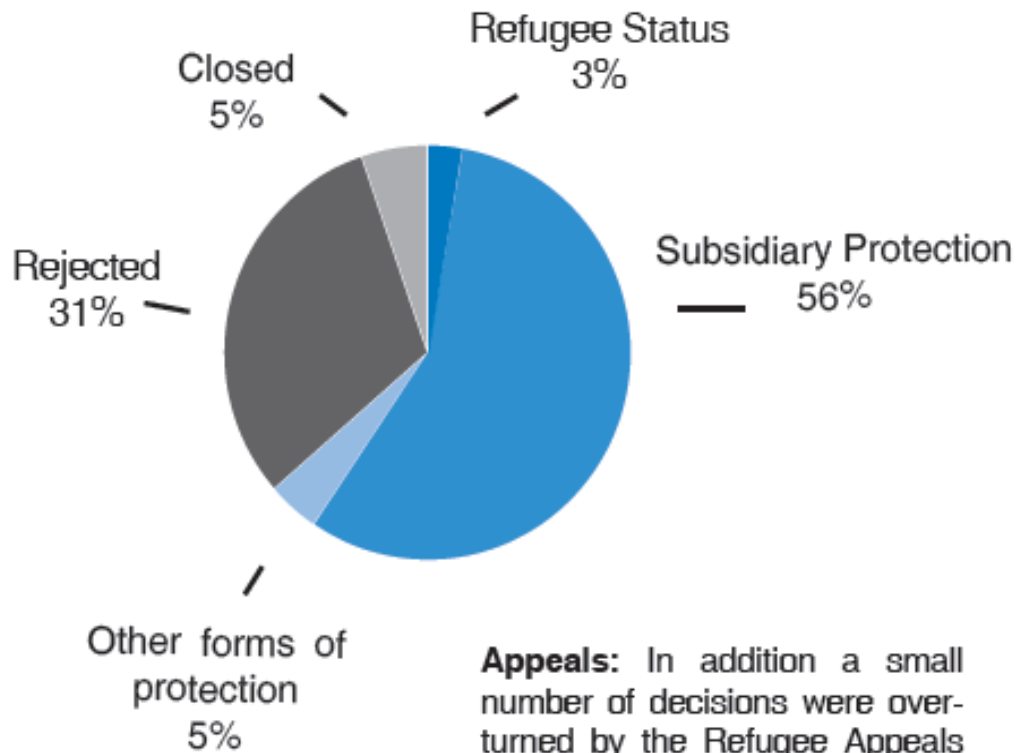
*Conservative estimates based on reports on dead and missing persons

Malta Asylum Trends 2004-2014

UNHCR Malta (2015)

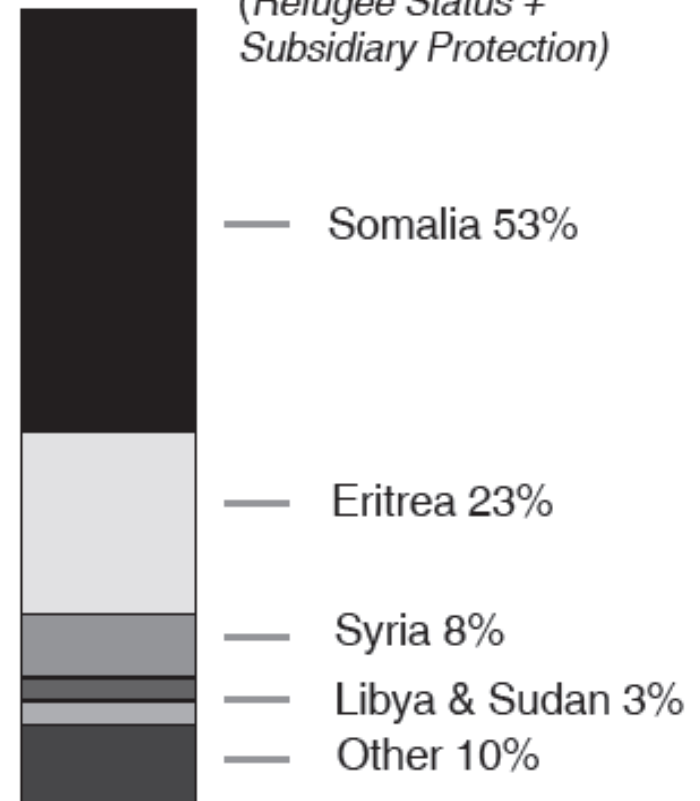
39

Asylum decisions



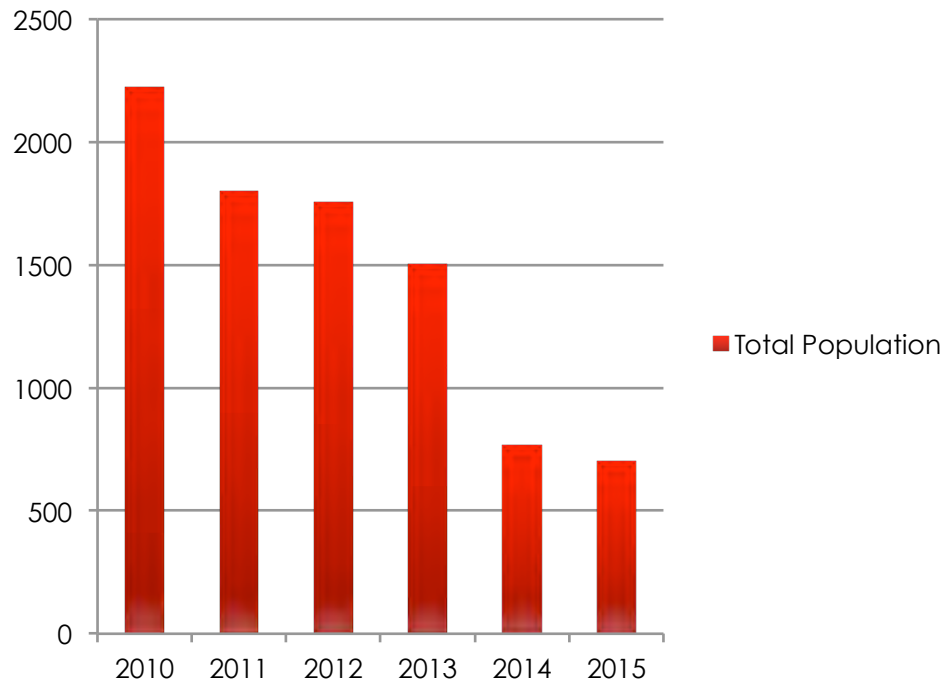
Appeals: In addition a small number of decisions were overturned by the Refugee Appeals Board.

Top nationalities granted international protection (Refugee Status + Subsidiary Protection)

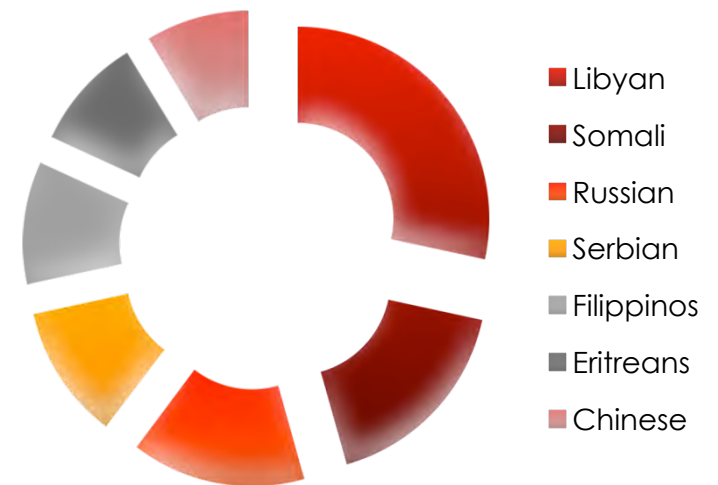


Open Centres TCNs in Malta

Individuals living in open centres

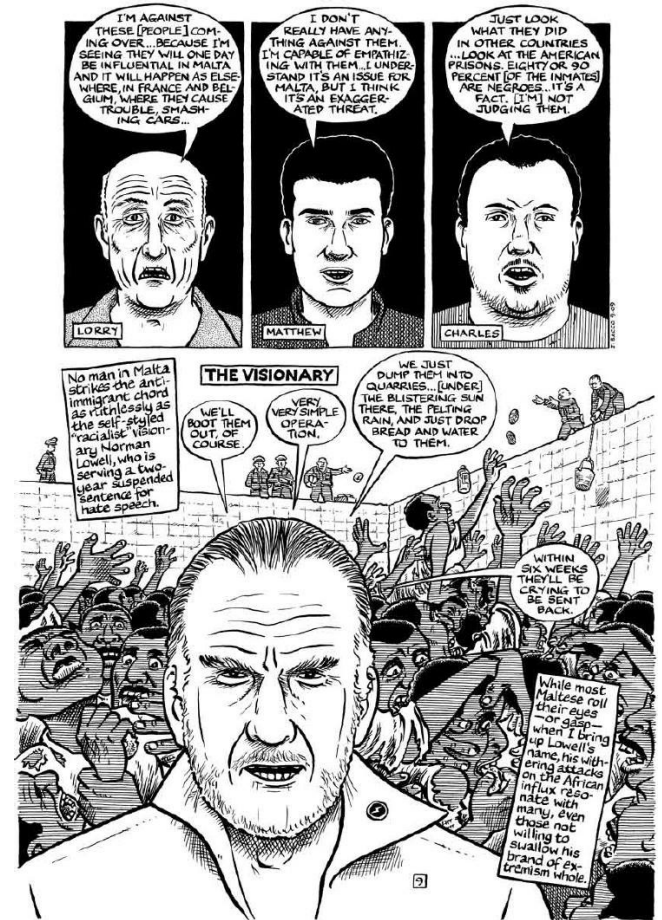


TCNs in Malta



Detention as deterrent...

- **Criminal Code** allowed for automatic detention of 'prohibited migrants' arriving without visa/valid passport (12-18 months).
- **LIBE Committee** (EP) visit to Malta (2006): 'hardship in detention centres and de facto denial of right of asylum'. Call for help for Malta: EU southern border.
 - UNHCR and NGOs criticized the policy and practice. ECtHR cases (2010-2013) against this practice.
 - **2015 New Strategy** for Reception of asylum seekers and irregular migrants (Home Affairs & National Security): inform of reasons, remedies, alternatives to detention, legal aid.



Annex I: Relocations from Greece by 15 March 2016

Member State	Formally pledged ¹	Effectively Relocated	Commitment legally foreseen in the Council Decisions
Austria ²			1491
Belgium			2415
Bulgaria	160	2	831
Croatia			594
Cyprus	65	6	181
Czech Republic	20		1655
Estonia	23		204
Finland	170	77	1299
France	570	242	12599
Germany	40	37	17209
Hungary			988
Iceland			
Ireland	40	10	240
Latvia	26	6	295
Liechtenstein			
Lithuania	80	6	420
Luxembourg	70	30	309
Malta	6	6	78
Netherlands	150	48	3797
Norway			
Poland	65		4321
Portugal	330	84	1778
Romania	255	15	2572
Slovakia			652
Slovenia	30		349
Spain	150		6647
Sweden ³			2378
Switzerland			
TOTAL	2,250	569	63,302


**FIRST REPORT ON
 RELOCATION AND
 RESETTLEMENT COM(2016)
 165 FINAL**



Annex VI: Resettlement State of Play as of 15 March 2016, under 20 July 2015 Conclusions

Member State/ Associated State	Pledges made under the 20 July scheme	Total resettled under the 20 July scheme by 15 March	Third country from which resettlement has taken place
Austria	1 900	1 395 ¹	Lebanon: 779; Jordan: 442; Turkey: 173; Iraq: 1
Belgium	1 100	212	Lebanon: 204; Jordan: 4; Turkey: 4
Bulgaria	50	0	
Croatia	150	0	
Cyprus	69	0	
Czech Republic	400	52	Lebanon: 32; Jordan: 20
Denmark	1 000	n/a	
Estonia	20	0	
Finland	293	0 ²	
France	2 375 ³	15 ⁴	Jordan
Germany	1 600	0	
Greece	354	0	
Hungary	0	0	
Iceland	50	n/a	
Ireland	520	251	Jordan, Lebanon
Italy	1 989	96	Lebanon
Latvia	50	0	
Liechtenstein	20	20	Turkey
Lithuania	70	0	
Luxembourg	30	0	
Malta	14	0	
Netherlands	1 000	231	Lebanon: 215; Jordan: 2; Turkey: 5; Morocco: 1; Ethiopia: 8
Norway	3 500	0 ⁵	Jordan, Lebanon, Turkey
Poland	900	0	
Portugal	191	0	
Romania	80	0	
Slovakia	100 ⁶	0	
Slovenia	20	0	
Spain	1 449	0	
Sweden	491	0 ⁷	
Switzerland	519	413	Lebanon: 349 Syria (Iraqi and Palestinian nationals): 64
United Kingdom	2 200	1 864 ⁸	Jordan, Lebanon, Turkey, Egypt, Iraq and other countries based on humanitarian need.
TOTAL	22 504	4 555	



FIRST REPORT ON
RELOCATION AND
RESETTLEMENT
COM(2016) 165 FINAL



FUTURE RESETTLEMENT

Latvia	50	Turkey
<i>Liechtenstein</i>	Pledges fulfilled	n/a
Lithuania	70	Turkey
Luxembourg	30	Turkey
Malta	14	Turkey: 7 in 2016 7 in 2017
Netherlands	769	Lebanon: 140 (2016; April resettlement mission) Turkey: 140 (2016; June resettlement mission) 2 nd half 2016 resettlement missions: 280 (destination not yet decided)
<i>Norway</i>	3494	<i>Lebanon: 1500 (already accepted but not yet transferred) 1950 to be selected in 2nd half of 2016: Lebanon 1 140, Jordan 250, Turkey 600</i>
Poland	900	n/a
Portugal	191	Turkey: 100 in 2016
Member State/Dublin Associated State	Plans for Resettlement from third countries between 15 March until the end of the 20 July scheme	
		91 in 2017
Romania	80	40 in 2016 40 in 2017
Slovakia	100	n/a
Slovenia	20 ²	Lebanon, Jordan Turkey
Spain	1449	854 in 2016 (of which 285 from Turkey) 595 in 2017
Sweden	491 ³	Lebanon: 400 Jordan: 50 Turkey: 41
<i>Switzerland</i>	106	<i>Primarily from Lebanon but also from Syria.</i>
United Kingdom	336	20 000 and at least 750 per year. ⁴





- **Agenda focused on European interests:** forced return and readmission of African irregular migrants, instead of voluntary returns.
- **African countries complained about lack of legal migration channels:** more resettlement places, humanitarian visas, extended family reunifications, sponsorship programmes
- **Temporary reintroduction of air border controls (9/11/15-31/12/15) for Summit and Commonwealth Heads of Government Meeting** – terrorist threat/smuggling of illegal migrants... **HIGH COSTS FOR TOURISM**

....EU PRESIDENCY 2017

- Review of Blue Card Directive and new approach to Legal Migration
- Evaluation of & amendments to **Dublin Regulation**
- Work on EU **relocation** mechanism
- Further efforts to enhance **resettlement** opportunities
- Proposals for strengthening role of **EASO - EUAA**
- Work emanating from Action Plan on migrant smuggling
- **Effectiveness of Schengen area**
- Proposal to amend **Asylum Procedure Directive** (Directive 2013/32/EU) to strengthen 'Safe Country of Origin' provisions
- Work related to irregular immigration, including return and readmission
- Proposals for **enhanced protection schemes in proximity of EU**
- Migration Action Plan with Turkey

THANK YOU

berta.fernandez@um.edu.mt