

# MALTA 2015 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

Malta is a constitutional republic and parliamentary democracy. The president is the head of state, appointed by a resolution of the unicameral parliament (House of Representatives). Parliament appointed a new president in April 2014. The president names as prime minister the leader of the party winning a majority of seats in parliamentary elections. The 2013 general elections were deemed free and fair. Civilian authorities maintained effective control over security forces.

Lengthy delays in the judicial system and inadequate government programs for integrating migrants were the most significant human rights problem.

Other problems included violence against women, child abuse, trafficking in persons, societal racial discrimination, forced labor, and substandard work conditions for irregular migrants.

The government took steps to investigate, prosecute, and punish officials who committed abuses, whether in security services or elsewhere in the government.

### **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

#### **a. Arbitrary or Unlawful Deprivation of Life**

There were no reports that the government or its agents committed arbitrary or unlawful killings.

#### **b. Disappearance**

There were no reports of politically motivated disappearances.

#### **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

The constitution and law prohibit such practices, and there were no reports that government officials employed them.

### **Prison and Detention Center Conditions**

Prison and detention center conditions generally met international standards. Poor conditions in government-run detention centers for irregular migrants persisted.

Physical Conditions: In some open and closed centers for migrants and refugees, high temperatures in the summer months and inadequate ventilation in prefabricated housing units contributed to uncomfortable living conditions.

Administration: Authorities allowed prisoners and detainees to submit uncensored complaints to judicial officials and to request investigation of credible allegations of inhuman conditions. Authorities investigated such complaints.

Independent Monitoring: The government permitted visits to detention centers by independent human rights observers, foreign diplomats, and the media.

#### **d. Arbitrary Arrest or Detention**

The constitution and law prohibit arbitrary arrest and detention, and the government generally observed these prohibitions.

#### **Role of the Police and Security Apparatus**

The national police, the intelligence services, and the Armed Forces of Malta fall under the jurisdiction of the Ministry of Home Affairs and National Security. The police are responsible for maintaining internal security. The military is in charge of external security but has some domestic security responsibilities as well. Civilian authorities maintained effective control over the police force, the intelligence services, and the armed forces, and the government had effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving police or security forces during the year.

#### **Arrest Procedures and Treatment of Detainees**

A magistrate may issue an arrest warrant to detain a person for questioning based on reasonable suspicion. According to the constitution, police must either file charges or release a suspect within 48 hours. In all cases authorities must inform detainees of the grounds for their arrest. Police generally respected these requirements. During the 48-hour detention and prior to initial interrogation authorities allow arrested persons access to legal counsel but do not permit visits by family members. After filing charges authorities grant pretrial detainees access

to both counsel and family. Once detainees request a lawyer, however, they lose their right to remain silent.

The courts adjudicated applications for bail on a case-by-case basis and normally granted bail for citizens. The courts rarely granted bail to foreigners because they considered the foreigners flight risks.

Pretrial detention: Lengthy pretrial detention was a problem. Authorities occasionally confined foreign suspects for more than two years pending arraignment and trial. This is due to lengthy legal procedures. More than 30 percent of the prison population was in pretrial detention.

#### **e. Denial of Fair Public Trial**

The constitution and law provide for an independent judiciary, and the government generally respected judicial independence.

#### **Trial Procedures**

The constitution and law provide for the right to a fair and public trial, and an independent judiciary generally enforced this right. Defendants enjoy the right to presumption of innocence. Defendants have the right to prompt and detailed information of the charges with free interpretation if necessary. They can request a jury trial and are not compelled to testify or confess guilt during trial proceedings. They have the right to counsel of their choice or, if they cannot afford one, to court-appointed counsel at public expense. Defendants and their lawyers receive adequate time and facilities to prepare a defense and have access to government-held evidence relevant to their cases. Defendants may confront witnesses and present one's own witnesses and evidence. They have the right to appeal.

#### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

#### **Civil Judicial Procedures and Remedies**

The constitution provides for an independent and impartial court in civil matters, including human rights issues. After exhausting their right of appeal in the national court system, individuals may apply to bring cases covered by the

European Convention on Human Rights before the European Court of Human Rights.

#### **f. Arbitrary Interference with Privacy, Family, Home, or Correspondence**

The constitution and law prohibit such actions, and there were no reports that the government failed to respect these prohibitions.

### **Section 2. Respect for Civil Liberties, Including:**

#### **a. Freedom of Speech and Press**

The constitution and law provide for freedom of speech and press, and the government generally respected these rights. An independent press, an effective judiciary, and a functioning democratic political system combined to promote freedom of speech and press.

Freedom of Speech and Expression: The law prohibits “vilification” of or “giving offense” to the Roman Catholic Church, the country’s official religion. Also illegal, but carrying a lesser punishment, is vilification of or giving offense to any “cult tolerated by law,” (essentially all religions other than Roman Catholicism). Contempt of the president is punishable by one to three months’ imprisonment or a fine. It is also a criminal offense to offend public morality, propriety, or decency. On September 7, the courts sentenced a man to a three-month jail term suspended for two years after he admitted in court to insulting the President of Malta.

The law criminalizes speech that promotes hatred; or defames races, ethnic or language groups, gender, gender identity or sexual orientation.

#### **Internet Freedom**

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports that the government monitored private online communications without appropriate legal authority. According to Eurostat statistics, in 2014 approximately 80 percent of households had access to broadband and internet connections.

#### **Academic Freedom and Cultural Events**

There were no government restrictions on academic freedom.

The law restricts cultural activities that publicly vilify the Roman Catholic Church and other religions tolerated by law.

### **b. Freedom of Peaceful Assembly and Association**

The constitution and law provide for the freedoms of assembly and association, and the government generally respected these rights.

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/religiousfreedomreport/](http://www.state.gov/religiousfreedomreport/).

### **d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons**

The constitution provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to refugees, returning refugees, asylum seekers, stateless persons, or other persons of concern.

#### **Protection of Refugees**

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees.

Authorities detained asylum seekers arriving without identity documents. Detainees could file asylum claims within two months of detention, and they remained in detention while their cases were processed.

Authorities reported that undocumented migrants and asylum-seekers spent an average of two months in detention. As of September, two persons were in closed centers.

Usually within less than two weeks after their detention, authorities moved “vulnerable individuals,” such as children, pregnant women, elderly persons, and parents with infants, to open centers, where they were free to come and go.

Migrant children were eligible for all government social services and were assigned a caseworker.

The government provided asylum applicants with free legal aid at the appeal stage of the application process. Prior to the appeal stage, nongovernmental organizations (NGOs), or the migrants themselves, paid for legal assistance. The country normally granted humanitarian protection to those with rejected applications and appeals.

Authorities released all detainees whose cases were not resolved within 18 months, regardless of whether the police had initiated procedures to repatriate them. Authorities permitted such individuals to remain in the country in open centers or in the community at large and issued them work permits. They were eligible for voluntary repatriation programs, but only a few chose to participate. As of September, 687 migrants lived in three open centers.

Safe Country of Origin/Transit: The country denied asylum to applicants who arrived from an EU country.

Refugee Abuse: On February 6, media reported that the police charged three detention service officials with the involuntary murder of a Nigerian migrant in 2011. The case continued at year's end.

Durable Solutions: The government rarely repatriated asylum applicants, although the option of voluntary return to their country of origin was available. As of August there were 12 assisted voluntary returns.

The government, in collaboration with the International Organization for Migration, operated a program funded in part by the EU called Restart through which irregular migrants who agreed to leave the country voluntarily could receive transportation to their country of origin, plus financial assistance. The recent phase of the program (Restart V), begun in July 2014 and ended in June 2015, assisted 33 returnees.

Temporary Protection: The country provides “subsidiary protection” to individuals who do not satisfy the legal criteria for refugee status but cannot return to their country of origin due to risk of serious harm. From January to September, the country granted subsidiary protection to 807 persons. In accordance with EU guidelines, beneficiaries of subsidiary protection were entitled to remain in the country, move freely, receive personal identification documents including one-year

renewable residence permits, and obtain travel documents in emergencies. They could be employed; receive core social welfare benefits; seek appropriate accommodations; and benefit from integration programs, public education and training, and essential medical care. Their dependents enjoyed the same rights and benefits. This status did not provide for family reunification, a path to citizenship, or other benefits of refugee status.

### **Section 3. Freedom to Participate in the Political Process**

The constitution and law provide citizens the ability to choose their government in free and fair periodic elections based on universal and equal suffrage, and citizens exercised this right.

#### **Elections and Political Participation**

Recent Elections: On April 11, the country held local council elections that observers considered free and fair. Observers considered the most recent parliamentary elections in 2013 as free and fair, and the government transition was smooth.

### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for corruption by officials, and the government generally implemented these laws effectively. There were isolated reports of government corruption during the year.

Corruption: The police and the Permanent Commission against Corruption were responsible for combating official corruption and had pending cases at year's end. They do not publish information about cases or findings.

In July a judicial inquiry concluded three police officers belonging to the same family, including the former acting commissioner of police, were involved in dubious business deals and had breached the police code of ethics and the public service management code. As a result, the commissioner of police ordered all police officers to declare any commercial interests.

Financial Disclosure: Government officials are subject to financial disclosure laws, and declarations are available to the public. Courts can compel disclosure from officials not complying with this regulation.

Public Access to Information: The law establishes the right to request information held by public authorities with a few exceptions, such as national security or internal court working documents. When access to documents is refused, the law provides a complaint and appeal mechanism that can ultimately lead to the courts of appeal for resolution. The government has also established separate procedures to provide members of the press information to help them “fulfill their public tasks.”

### **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights**

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views.

Government Human Rights Bodies: The ombudsman is empowered to investigate complaints about the activities of governmental bodies, including activities affecting human rights and problems involving prisoners and detainees. The president appoints the ombudsman with the consent of two-thirds of parliament. The ombudsman investigates complaints only when administrative or judicial remedies are not available. The ombudsman has adequate resources, operates independently, and is effective.

In responding to complaints, the ombudsman submits recommendations to the public entity responsible for addressing the complainant’s grievance. The ombudsman has no power to impose or compel a remedy, but relevant public bodies accepted most of the ombudsman’s recommendations. The government set up internal review boards in the armed forces and the state energy company to address complaints of injustice in those two institutions. In October, after a two-year dispute, the courts confirmed the ombudsman’s right to investigate complaints by military officers. The ombudsman’s role vis-a-vis the state energy company remained under dispute at year’s end.

Parliament’s bipartisan Standing Committees on Foreign and European Affairs and on Social Affairs were responsible for human rights issues. The committees met regularly and normally held open hearings, except when they closed a hearing for security reasons. For the most part, the committees had a reputation for independence, integrity, credibility, and effectiveness, with legislation enacted in the areas under their purview enjoying widespread public support.

The National Commission for the Promotion of Equality (NCPE) and the National Commission for Persons with Disability operated effectively and independently with adequate resources and oversaw human rights issues related to gender equality and disabilities.

## **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

The constitution and law prohibit discrimination based on age, race, sex, religion, political opinion, national origin or citizenship, social origin or social status, disability, sexual orientation or gender identity, or language, and the government generally enforced these prohibitions.

### **Women**

Rape and Domestic Violence: Rape, including spousal rape, is a criminal offense, and the government effectively prosecuted such crimes. The crime of rape carries a sentence of up to nine years in prison with increased penalties in aggravated circumstances. Through September there were 12 officially reported cases of rape compared with eight in 2014.

The law treats domestic violence as an aggravated circumstance of other crimes such as bodily harm, rape, and harassment, and the government generally enforced the laws prohibiting it. Penalties ranged from three months to 20 years in prison. Through September the police received 794 reports of domestic violence. Some NGOs and victims' advocates asserted that domestic violence remained underreported, primarily because of women's concerns that law enforcement personnel would not believe or protect them. According to the NGO Victim Support Malta, however, more victims were taking action and reporting abuse. The government conducted training for police officers to increase awareness about domestic violence and to identify potential cases.

A special police unit and several voluntary organizations provided support to victims of domestic violence and all forms of gender-based violence. A hotline assisted victims of abuse through counseling and shelter referrals. The Ministry for the Family and Social Solidarity was responsible for a government-supported shelter for women and children. The government also provided financial support to other shelters, including those operated by the Roman Catholic Church.

Sexual Harassment: Sexual harassment is unlawful and punishable by a 2,329-euro (\$2,562) fine, six months' imprisonment, or both. As of September the NCPE received three complaints alleging sexual harassment. The police and the Industrial Tribunal were investigating two of the complaints, and the NCPE was reviewing the third.

Reproductive Rights: The government recognizes the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children; manage their reproductive health; and have access to the information and means to do so, free from discrimination, coercion, and violence.

Discrimination: The law provides for the same legal status and rights for women as for men including under family, labor, property, nationality, and inheritance laws. Redress in the courts is available for sexual discrimination. Gender discrimination in employment existed (see section 7.d.).

## **Children**

Birth Registration: Citizenship is derived by birth within the country's territory and from one's parents. Parents may pass citizenship to their children, although the law allows transmission of citizenship by a grandparent or other relative in certain circumstances. Births were registered immediately.

Child Abuse: In 2014 the Child Protection Service of Appogg, the social welfare services arm of the Ministry for the Family and Social Solidarity, received 821 referrals of possibly abused children, compared with 784 in 2013. The service's caseload for 2014 was 1,374, up from 1,135 the previous year, and included 755 new and reopened cases. Between January and September, the police received 35 reports of child abuse.

Early and Forced Marriage: The legal minimum age of marriage is 18, although persons between the ages of 16 and 18 may marry with the consent of parents, legal guardians, or courts.

Sexual Exploitation of Children: The law prohibits the commercial sexual exploitation of children and child pornography and authorities generally enforced the law. The production of child pornography is prohibited and punishable by imprisonment of one to five years and up to eight years in special circumstances. Possession of child pornography is also prohibited and punishable by

imprisonment not exceeding three years. The minimum age of consensual sex is 18. Statutory rape is punishable by three to six years in prison.

In July authorities charged a man with corrupting a minor. The courts convicted him of similar charges in 2010 and 2013. In September authorities imprisoned a man for having sex with a minor.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's report on country-specific information at [travel.state.gov/content/childabduction/en/country/Malta.html](http://travel.state.gov/content/childabduction/en/country/Malta.html).

### **Anti-Semitism**

The Jewish community numbered approximately 120 persons. There were no reports of anti-Semitic acts.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

### **Persons with Disabilities**

The law prohibits both the public and private sectors from discriminating against persons with physical, sensory, intellectual, and mental disabilities in employment, education, air travel and other transportation, access to health care, and state services, and the government effectively enforced these provisions. The law requires accessibility to buildings, information, and communication. While the government made efforts to ensure accessibility, many historical buildings remained inaccessible due to limited structural adaptability.

### **National/Racial/Ethnic Minorities**

The population included more than 10,000 persons of Arab, African, and East European origin. There were periodic reports in the media that owners of some bars and discos discouraged or prohibited darker-skinned persons, particularly of African or Arab origin, from entering their establishments. There were a few media reports of alleged discrimination based on skin color, including one

involving a woman who assaulted and spat on a man. Police briefly detained the assailant.

In June the Ministry of Social Dialogue, Consumer Affairs, and Civil Liberties introduced a national framework for the integration of migrants.

### **Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity**

The constitution and law prohibit discrimination on grounds of sexual orientation, gender identity, gender expression, and sex characteristics.

On April 1, parliament enacted the Gender Identity, Gender Expression, and Sex Characteristics Act, which provides for legal recognition and registration of a person's gender according to the person's gender identity.

### **Section 7. Worker Rights**

#### **a. Freedom of Association and the Right to Collective Bargaining**

The law provides for the rights of most workers to form and join independent unions of their choice without previous authorization or excessive requirements, engage in collective bargaining, and conduct legal strikes.

On February 20, authorities enacted a law to allow members of the military and law enforcement personnel to join a registered trade union. The law prohibits strikes by this category of workers.

The law does not explicitly prohibit acts of interference by worker or employer organizations in one another's activities. The law prohibits antiunion discrimination and provides for reinstatement of workers who have been "unfairly dismissed," including for legal, nonviolent union activity. Workers have a right to seek redress for alleged antiunion dismissals, although procedures for certain categories of public sector workers to seek such redress were unclear.

The government effectively enforced applicable laws. Penalties were considered sufficient to deter violations. The labor law provides for compulsory arbitration, but arbitration did not take place during the year.

During the year workers freely exercised these rights. There were no reports of antiunion discrimination or other forms of employer interference in union activities.

### **b. Prohibition of Forced or Compulsory Labor**

The constitution prohibits all forms of forced or compulsory labor; nevertheless, there were reports of adult men and women in bonded labor and domestic servitude. Foreign domestic workers, as well as African migrant workers, were vulnerable to forced labor. The government took some steps to prevent and eliminate forced labor and acted quickly to investigate and address complaints. The law prescribes penalties of between four and 12 years' imprisonment for forced labor violations; such penalties were considered sufficient to deter violations.

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The law prohibits the employment of children younger than age 16. The director general of the directorate for educational services may grant an exemption for employment only after determining that it would not harm the health or normal development of the minor. While no legal work is specifically restricted, children granted an exemption are not allowed to perform work that could be regarded as harmful, damaging, or dangerous to a young person.

The Employment Training Corporation (ETC), a government entity under the Ministry for Education and Employment, is responsible for labor and employment issues. Penalties for violations of the child labor law range from four to 12 years' imprisonment, with increased penalties in cases of violence or threats, deceit or fraud, misuse of authority, influence or pressure, giving or receiving payments or benefits to achieve consent of the person having control over another person, abuse of power or of a position of vulnerability. Penalties were sufficient to deter violations. The ETC generally enforced the law in most formal sectors of the economy but allowed summer employment of underage youth in businesses operated by their families. No assessment was available on the effectiveness with which the ETC monitored the unregistered employment of children as domestic employees and restaurant workers.

Although there were no official cases of child labor reported to ETC during the year, underage children reportedly worked as domestic laborers, restaurant kitchen help, or vendors and in family-owned businesses during the summer.

#### **d. Discrimination with Respect to Employment or Occupation**

Labor laws and regulations prohibit employment discrimination regarding race, color, sex, religion, political opinion, national origin or citizenship, social origin, disability, sexual orientation and/or gender identity, age, and language. The government effectively enforced these laws and regulations. The law does not explicitly prohibit employment discrimination based on social status, HIV-positive status, or other communicable diseases.

From January to November, the NCPE received 55 claims of alleged discrimination at workplaces. The NCPE's commissioner is empowered to investigate such complaints. Following an investigation, the commissioner may either dismiss the complaint or find the complaint warranted; in the latter case, if the complaint constitutes an offense, the commissioner must submit a report to the police commissioner for action. In instances where the complaint does not constitute an actionable offense, the NCPE commissioner may urge the individual against whom the complaint was lodged to redress the situation and then mediate between the parties to settle the matter. There were no reports of employment discrimination during the year.

Women constituted a growing proportion of graduates of higher education and of the workforce. Nonetheless, they remained underrepresented in management and generally earned less than their male counterparts. Eurostat reports showed the gender pay gap for 2013 (most recent data available) was 5.1 percent. According to Eurostat, in 2014 the female employment rate was 49.3 percent, compared with 74.9 percent for men.

In 2014 the government introduced free child-care centers.

#### **e. Acceptable Conditions of Work**

The national weekly minimum wage was 166.26 euros (\$183); in addition, there was an annual mandatory bonus of 270 euros (\$297) and an annually adjusted cost-of-living increase of 242 euros (\$266). In September the country's independent National Statistical Office estimated that in 2014 approximately 15.9 percent of the

population lived at or below the poverty income level of 7,672 euros (\$8,439) per year, or 148 euros (\$163) per week.

The standard workweek is 40 hours, but in certain occupations, such as health-care, airport services, and civil protection services, the norm was 43 or 45 hours. Government regulations provide for a daily rest period (normally one hour) and one day of rest per week. The law provides for paid annual holidays, (i.e., government holidays) and paid annual leave. Premium pay, defined by law as time-and-a-half for straight overtime and double pay for work on public holidays or Sundays, is required. The law prohibits excessive compulsory overtime, and employers cannot oblige employees to work more than 48 hours per week, inclusive of overtime.

The government set occupational safety and health standards, and such standards were current and appropriate for the main industries in the country. Workers have the right to remove themselves from situations dangerous to health or safety without jeopardizing their employment.

The Ministry of Education and Employment generally enforced minimum wage and hours of work requirements effectively in the formal economy. The Occupational Health and Safety Authority (OHSA), a government entity composed of representatives of the government, unions, and employers, conducted regular inspections at worksites and cited a number of offenders. Nevertheless, enforcement of health and safety standards continued to be uneven. Workers in the informal economy did not have the same protection but were able to file complaints against companies that failed to provide a safe work environment. Authorities did not stringently enforce standards in the informal economy, which consisted of approximately 10,000 individuals and encompassed various sectors of the working society, including day laborers and self-employed individuals. OHSA imposed fines on companies that did not comply with minimum safety standards in the formal economy and, to a lesser extent, the informal economy.

Penalties for violations of the minimum wage, hours of work, and recognized conditions of employment range from approximately 233 to 2,329 euros (\$256 to \$2,562).

Irregular migrant workers from Somalia, Eritrea, Sudan, and other sub-Saharan African countries, who comprised a small percentage of the workforce, sometimes worked under conditions that did not meet the government's minimum standards for employment. The Agency for the Welfare of Asylum Seekers, in coordination

with the ETC, organized informational programs to help individuals pursue employment and obtain work permits.

Industrial accidents remained frequent, particularly in the manufacturing, and building and construction sectors.