

U.S. Department of State Country Report on Human Rights Practices 2000 - Malta

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Comments This report is submitted to the Congress by the Department of State in compliance with sections 116(d) and 502(b) of the Foreign Assistance Act of 1961 (FAA), as amended, and section 504 of the Trade Act of 1974, as amended. The law provides that the Secretary of State shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate, by February 25 "a full and complete report regarding the status of internationally recognized human rights, within the meaning of subsection (A) in countries that receive assistance under this part, and (B) in all other foreign countries which are members of the United Nations and which are not otherwise the subject of a human rights report under this Act." We have also included reports on several countries that do not fall into the categories established by these statutes and that thus are not covered by the congressional requirement.

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Malta is a constitutional republic and parliamentary democracy. The chief of state (President) appoints as the head of government (Prime Minister) the leader of the party that gains a plurality of seats in the quinquennial elections for the unicameral legislature. The judiciary is independent.

The appointed commissioner who commands the police is under the effective supervision of the Government and may be either a civilian or career member of the force.

The economy is a mixture of state-owned and private industry, with tourism and light manufacturing as the largest sectors, and it provides residents with a moderate to high standard of living.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means of dealing with instances of individual abuse. An independent judiciary upholds the Constitution's protections for individual rights and freedoms. Violence against women is a problem, and societal discrimination against women persists, but the Government has taken steps to address both issues.

RESPECT FOR HUMAN RIGHTS

1. Respect for the Integrity of the Person, Including Freedom From:

a. Political and Other Extrajudicial Killing

There were no reports of political or other extrajudicial killings.

b. Disappearance

There were no reports of politically motivated disappearances.

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

The Constitution prohibits such practices, and there were no reports that officials employed them. Prison conditions meet minimal international standards, and the Government permits visits by human rights monitors.

d. Arbitrary Arrest, Detention, or Exile

The Constitution and the law prohibit arbitrary arrest, detention, or exile, and the Government observes these prohibitions. The police may arrest a person for questioning on the basis of reasonable suspicion but within 48 hours must either release the suspect or lodge charges. Arrested persons have no right to legal counsel during this 48-hour period. Persons incarcerated pending trial are granted access to counsel. Bail normally is granted. In June the European Court of Human Rights ruled that the Government had violated articles 5/3 and 5/4 of the European Convention on Human Rights by holding a Tunisian citizen in custody for 2 years prior to trial, thereby denying the accused prompt due process.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government respects this provision in practice. The judiciary provides citizens with a fair and efficient judicial process.

The Chief Justice and 16 judges are appointed by the President on the advice of the Prime Minister; judges serve until the age of 65, and magistrates serve until the age of 60. The highest court, the Constitutional Court, interprets the Constitution and has original jurisdiction in cases involving human rights violations and allegations relating to electoral corruption charges. The two courts of appeal hear appeals from the civil court, court of magistrates, special tribunals, and from the criminal court, respectively. The criminal court, composed of a judge and nine jurors, hears criminal cases. The civil court first hall hears civil and commercial cases that exceed the magistrates' jurisdiction; the civil court's second hall offers voluntary jurisdiction in civil matters. The court of magistrates has jurisdiction for civil claims of less than \$2,207 (1,000 Maltese liri) and for lesser criminal offenses. The juvenile court hears cases involving persons under 16 years of age.

The Constitution requires a fair public trial before an impartial court. Defendants have the right to counsel of their choice or, if they cannot pay the cost, to court-appointed counsel at public expense. Defendants enjoy a presumption of innocence. They may confront witnesses, present evidence, and have the right of appeal.

There were no reports of political prisoners.

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

The Constitution prohibits such practices, government authorities generally respect these prohibitions, and violations are subject to effective legal sanctions. Police officers with the rank of inspector and above may issue search warrants based on perceived reasonable grounds for suspicion of wrongdoing. Reportedly only the Home Affairs Minister and the Prime Minister may issue warrants for telephone tapping, and then only in drug-related cases and matters relating to national security.

2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government respects these rights in practice. However, the 1987 Foreign Interference Act bans foreign participation in local politics during the period leading up to elections. An independent press, an effective judiciary, and a functioning democratic political system combine to ensure freedom of speech and of the press, including academic freedom.

Diverse views are expressed in four daily newspapers, seven weeklies, and five Sunday editions. A total of 6 television stations, a commercial cable network, and 19 radio stations function freely.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for these rights, and the Government respects them in practice.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government respects this right in practice. The state-supported

religion is Roman Catholicism. The Government and the Catholic Church participate in a foundation that finances Catholic schools. The church transferred nonpastoral land to this foundation as part of the 1991 Ecclesiastical Entities Act. Parts of the proceeds accruing from the dispersal of the land are transferred to the foundation to support free education of church school students. Students in government schools may decline instruction in Catholicism.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Government does not arbitrarily restrict movement within the country, foreign travel, or emigration. A court order may prohibit the departure from the country of anyone who is the subject of a formal complaint alleging nonfulfillment of a legal obligation, such as the nonpayment of a debt or nonsupport of an estranged spouse.

The Government cooperates with the office of the U.N. High Commissioner for Refugees (UNHCR). The passage of a new refugee law in February expanded due process and the protection available to refugee applicants and formalizes what had been a system of de facto

refugee status. However, enabling legislation and regulations had not been implemented by year's end. Under the law, the position of commissioner for refugees, as well as an appeals board will be established. In addition to the current humanitarian temporary protected status, the law provides for refugee status, access to free social services and education, residence permits, and travel documents. Work permits for refugees are issued on a case-by-case basis.

The UNHCR considers approximately 165 immigrants to be refugees and another 215 to be applicants. The authorities expel or repatriate those determined to be ineligible for refugee status. However, the Government did not force the return of any persons to a country where they feared persecution.

3. Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Women are underrepresented in government and politics. In the September 1998 elections, six women were elected to Parliament, three in each party, and one received a ministerial post. The Government has taken steps to include more women in civil service and other government positions.

4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. Government officials generally are cooperative and responsive to their views.

5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution and law prohibit discrimination based on race, place of origin, political opinion, color, creed, or sex. The Government respects this prohibition. Alleged victims of job discrimination may apply directly for relief to the Employment Commission of the first hall of the Civil Court in the appropriate jurisdiction.

Women

Domestic violence against women is a problem. During the first 6 months of the year, 235 cases of domestic violence were reported to the Police Domestic Violence Unit. A special police unit and several voluntary organizations provide support to victims of domestic violence. For women who are threatened or physically abused, the Government also maintains an emergency fund and subsidizes shelters. During the year, 53 women used the shelters.

The Government set up a hot line in 1996 to assist victims of abuse through counseling and through referrals to legal assistance and shelters.

A committee was set up during 1998 to review existing family legislation and propose amendments dealing with domestic violence. Its findings were under consideration by the Government.

Prostitution is a serious offense under the law, and stiff penalties are reserved for organizers. Rape and violent indecent assault carry sentences of up to 10 years imprisonment. The law treats spousal rape the same as other rape. Divorce and abortion are not legal.

The Constitution provides that all citizens have access, on a nondiscriminatory basis, to housing, employment, and education. While women constitute a growing portion of the work force, they are underrepresented in management. Cultural and traditional employment patterns often direct them either into traditional "women's jobs" (such as sales clerk, secretary, bank teller, teacher, or nurse) or into better paying jobs in family-owned businesses or select professions (e.g., academia or medicine). Therefore women generally earn less than their male counterparts.

Women's issues are handled by the Department of Women's Rights under the Minister of Social Policy. The Minister is a prominent member of the Government who is also Deputy Prime Minister and the Nationalist Party's deputy leader. Legislation enacted in 1993 granted women equality in matters of family law, and a 1991 constitutional amendment committed the Government to promote equal rights for all persons regardless of sex. The Government has taken steps to ensure that legislation is gender neutral to the degree possible. Redress in the courts for sexual discrimination is available. The Government's policy on gender abandoned the concept of introducing gender-based quotas in the civil service. The Government is sponsoring a report to study the prevalence of sexual harassment.

Children

The Government demonstrates its strong commitment to children's rights and welfare through its well-funded systems of public education and health care. It provides compulsory, free, and universal education and free health care for children through age 16. The Government voices concern for children's rights and welfare but addresses those concerns within family law. In September the Government signed the Protocol to the UN Convention on the Rights of the Child and the Nairobi Protocol.

There is no societal pattern of abuse of children. The number of reported cases of child abuse has grown as public awareness has increased. For the first 6 months of the year, 434 cases of child abuse were reported. The introduction of a "helpline" telephone number to report suspected cases of child abuse has been effective.

People With Disabilities

The law provides for rights for the disabled. The Persons with Disabilities Act built on provisions in the 1969 (public employment) and 1992 (accessibility) laws. The new law requires the private sector to apply equal employment guarantees already in place in the public sector. During the year for the first time, private development project plans must include access for the disabled. Government and private sector efforts to advance the status of the disabled are improving.

National/Racial/Ethnic Minorities

Approximately 2,000 men of North African origin are married to Maltese women. This community has a mosque and a separate school.

Owners of some bars and discos reportedly discourage or prohibit darker-skinned persons from entering. In a February report, the leisure industry acknowledged that such incidents do occur and recommended corrective steps to both the Government and industry. In September the Government announced that it plans include criminalization of "racial hatred" in proposed amendments to the Criminal Code.

6. Worker Rights

a. The Right of Association

Workers have the right to associate freely and to strike, and the Government respects these rights in practice. Only noncivilian personnel of the armed forces and police are prohibited from striking. There are 36 registered trade unions, representing about 50 percent of the work force. Although all unions are independent of political parties, the largest, the General Workers' Union, generally is regarded as having close informal ties with the Labor Party.

Under the Industrial Relations Act of 1976, the responsible minister may refer labor disputes either to the Industrial Tribunal (a government-appointed body consisting of representatives of government, employers, and employee groups) or to binding arbitration. The International Labor Organization Committee of Experts objects to a provision of the act that permits compulsory arbitration to be held at the request of only one of the parties, but neither unions nor employers appear to object to this provision. In practice a striking union can ignore an unfavorable decision of the Tribunal by continuing the strike on other grounds. During the first 6 months of the year, one strike was referred to the Industrial Tribunal.

There is no prohibition on unions affiliating internationally.

b. The Right to Organize and Bargain Collectively

Workers are free, in law and practice, to organize and bargain collectively. Unions and employers meet annually with government representatives to work out a comprehensive agreement regulating industrial relations and income policy.

Under the Industrial Relations Act, an employer may not take action against any employee for participation or membership in a trade union. Complaints may be pursued through a court of law, through the Industrial Tribunal, or through the Tribunal for the Investigation of Injustices (presided over by a judge of the Superior Court); however, most disputes are resolved directly between the parties. Workers fired solely for union activities must be reinstated.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The Constitution prohibits forced or compulsory labor, and it is not known to occur.

The Government prohibits forced and bonded labor by children and enforces this prohibition effectively.

d. Status of Child Labor Practices and Minimum Age for Employment

The law prohibits the employment of children younger than age 16. This injunction generally is respected, but some underage children were employed during summer months, especially as domestics, restaurant kitchen help, or vendors. The Department of Labor enforces the law effectively, but it is lenient in cases of summer employment of underage youths in businesses run by their families. The Government prohibits forced and bonded child labor and enforces this prohibition effectively (see Section 6.c.).

e. Acceptable Conditions of Work

The weekly legal minimum wage is \$96 (44 Maltese liri) for persons under age 17; \$99 (45 Maltese liri) for 17-year-olds; and \$105 (48 Maltese liri) for persons age 18 and over. Additionally a mandatory bonus of \$10 (4 Maltese liri) per week is paid. This minimum wage structure provides a decent standard of living for a worker and family with the addition of government subsidies for housing, health care, and free education. Wage Councils, composed of representatives of government, business, and unions, regulate work hours; for most sectors the standard is 40 hours per week, but in some trades it is 43 or 45 hours per week.

Government regulations prescribe a daily rest period, which is normally 1 hour. The law mandates an annual paid vacation of 4 workweeks plus 4 workdays. The Department of Labor effectively enforces these requirements.

Enforcement of the 1994 Occupational Health and Safety (Promotion) Act is uneven, and industrial accidents remain frequent. Workers may remove themselves from unsafe working conditions without jeopardy to their continued employment.

f. Trafficking in Persons

No law specifically prohibits trafficking in persons, although traffickers may be prosecuted under the Immigration Act for unlawful entry or unregulated status.

There were no reports that persons were trafficked to, from, through, or within the country.