

# U.S. Department of State Country Report on Human Rights Practices 2006 - Malta

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Author Bureau of Democracy, Human Rights and Labor

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Malta is a constitutional republic and parliamentary democracy with a population of approximately 400,000. President Edward Fenech Adami is the chief of state and is appointed by the unicameral parliament. The president appoints as prime minister the leader of the party that gains a majority of seats in the parliamentary elections. The most recent general elections in 2003 were free and fair, and the Nationalist Party remained in power. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens. The law and judiciary provide effective means of addressing individual instances of abuse. There were reports that persons were trafficked to the country.

During the year the government adopted a number of new laws to protect human rights; for example, following an increase in assault and harassment incidents thought to be racially motivated, the government amended the law to introduce heavier penalties for crimes related to racial or religious hatred. The government also approved a domestic violence law to expand the legal prohibition of domestic violence.

## RESPECT FOR HUMAN RIGHTS

### 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.

#### *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 conditions generally met international standards, and the government permitted visits by independent human rights observers. The Council of Europe's Committee for the Prevention of Torture also conducted regular visits. The most recent ad hoc visit was in 2005.

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

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

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

The country has a single police department that maintains internal security with backup support from the armed forces. The appointed commissioner who commands the police is under the supervision of the civilian minister of justice and home affairs. The police force includes a number of special squads and the Criminal Investigation Department. The unified armed forces are responsible for defense, with an emphasis on protecting the country's territorial waters and airspace. The commander of the armed forces is under the direct supervision of the prime minister. There was one reported case of a senior police official who was arraigned on bribery charges in connection with the organization of an illegal, clandestine lotto. The official resigned from the police corps. He was arraigned and placed under house arrest against a deposit of \$2,994 (1,000 lira) at the court registry and a personal guarantee of \$14,970 (5,000 lira). The case was ongoing at year's end.

There were no reported problems related to impunity within the police force. A Police Board made up of independent members from outside the police force and presided over by a former judge investigates any allegations of police abuse, and appropriate disciplinary action was taken when necessary. Training for members of the police force was ongoing. New recruits are trained at the police academy and current members regularly undergo refresher courses. There were no reported instances where police failed to prevent or to respond to societal violence.

#### *Arrest and Detention*

An arrest warrant, issued by a magistrate, is generally required before the police may detain a person for questioning on the basis of reasonable suspicion. The constitution provides that, within 48 hours of detention, police must either release a suspect or file charges and in all cases must inform detainees of the grounds of suspicion for their arrest. These requirements were respected in practice. During the 48-hour period after detention, arrested persons do not have the right to legal counsel or to meetings with family members. Pretrial detainees are granted access to counsel. Once charged, a person may select a lawyer; otherwise the court appoints a lawyer at its expense. Family members may visit detainees once charges are filed. There were no reports of problems or abuse of prisoners during the 48-hour detention period. Bail normally was granted on a case-by-case basis.

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

The constitution provides for an independent judiciary, and the government generally respected this provision in practice.

The country's highest court, the Constitutional Court, interprets the constitution and has original jurisdiction in cases involving appellate jurisdiction and in cases concerning human rights violations. The Civil Court of Appeal hears appeals from the civil court, court of magistrates, and special tribunals. The Court of Criminal Appeal hears appeals from the court of magistrates and the juvenile court.

#### *Trial Procedures*

The constitution provides for the right to a fair public jury trial, and an independent judiciary generally enforced this right. Defendants have the right to counsel of their choice or, if they cannot afford counsel, to court-appointed counsel at public expense. Defendants and their lawyers have access to government-held evidence relevant to their cases. Defendants may confront witnesses and present evidence; defendants enjoy a presumption of innocence and have the right to appeal.

#### *Political Prisoners and Detainees*

There were no reports of political prisoners.

#### *Civil Judicial Procedures and Remedies*

The constitution provides for an independent and impartial court for the determination of civil rights or obligations, and also provides for a remedy in the case of damages for, or cessation of, a human rights violation. Excess in the case of a breach of human rights is also covered under the European Convention Act, which incorporates the European Convention of Human Rights and Fundamental Freedoms. The government generally respected these rights.

The Code of Organization and Civil Procedure was amended during the year to ensure enhanced efficiency in the execution of judgments. The law was coming into force gradually, a mechanism that is permissible in the legal system.

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

The constitution prohibits such actions, and the government generally respected these prohibitions in practice; violations were subject to effective legal sanctions.

## **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 generally respected these rights in practice. The law prohibits foreign financial support, speakers, equipment, or other materials in politics during the period leading up to elections, although this provision rarely has been used. An independent press, an effective judiciary, and

a functioning democratic political system combined to ensure freedom of speech and of the press.

In 2004 the broadcasting authority, an independent statutory body that is responsible for television and radio broadcasting, fined a television station for broadcasting an interview with an independent candidate for the European Parliament on the grounds that his statements could have incited racial hatred. The station sought judicial review of the authority's decision, and the case was still ongoing at year's end.

The independent media were active and expressed a wide variety of views without restriction. The international media operated freely.

There were two cases of journalists' homes being targeted for arson after they had published articles advocating tolerance and human rights for migrants and refugees (see section 2.d.).

On May 3, the front door of the editor to the Malta Today was set on fire after he wrote an editorial on immigration and racism. A police investigation was ongoing at year's end.

On May 13, the home of a journalist with the Malta Independent was set on fire; gasoline and broken glass were spread across the road in front of the house. This attack followed the publication of the journalist's articles on immigration and racism. A police investigation was ongoing at year's end.

#### *Internet Freedom*

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail.

The use of the Internet grew significantly over the past few years with broadband connectivity gaining popularity over narrowband connections. The use of the Internet was widespread in all sectors of society. Approximately 50 percent of households and 90 percent of schools (state, church, and private) had Internet access. Some three dozen Internet cafes, as well as a handful of blogs operated freely and without restriction.

#### *Academic Freedom and Cultural Events*

There were no government restrictions on academic freedom or cultural events.

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

The constitution provides for freedom of assembly and association, and the government generally respected these rights in practice.

#### *Freedom of Religion*

The constitution provides for freedom of religion, and the government generally respected this right in practice. The constitution establishes Roman Catholicism as the state religion; however, numerous non-Catholic religious groups, including an Islamic community, various

Protestant denominations, and a small Jewish community, practiced their faiths freely and were not required to register with the government.

The government and the Catholic Church participated in a foundation that finances Catholic schools. While religious instruction in Catholicism was available in all public schools, the law provides that a student may opt out of this instruction if the student or a guardian objects. A Muslim cemetery that was started in 2005 was near to completion at year's end.

#### *Societal Abuses and Discrimination*

There was an arson attack against the cars of members of the Jesuit community. The attack was believed to be linked to the community's advocacy for migrants and refugees rather than religious beliefs (see section 2.d.).

There were no reports of anti-Semitic acts during the year. The Jewish community is composed of about 120 persons.

For a more detailed discussion, see the *2006 International Religious Freedom Report*.

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

The constitution provides for these rights, and the government generally respected them in practice.

The constitution prohibits forced exile, and the government did not employ it.

There were no reports of government restrictions on emigration or prohibition against the return of citizens who have left the country.

#### *Protection of Refugees*

The law provides for the granting of asylum or refugee status to persons in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against refoulement, the return of persons to a country where they feared persecution. The government granted refugee status or asylum.

From January to October, the government also provided temporary protection to approximately 416 persons who appeared not to qualify as refugees under the 1951 convention and the 1967 protocol.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers.

Authorities confined asylum seekers for up to 18 months while their cases including appeals were processed.

Authorities placed children, pregnant women, elderly immigrants, and parents with infants in so-called open centers where they were free to move about shortly after their arrival in the

country. The armed forces and police are responsible for persons in detention, while the Ministry for Family and Social Solidarity has responsibility for the welfare and accommodation of persons released from detention centers.

Illegal immigrants awaiting a decision on their cases occasionally protested their detention or attempted to escape from detention centers.

In March approximately 370 illegal immigrants broke out of a closed detention center before being captured and returned. The breakout resulted in the hospitalization of a number of immigrants and police officers. Fourteen immigrants attempted to leave for Sicily by boat; the boat capsized leaving one dead and nine missing. A Sudanese man residing in the country and a number of foreigners were detained by the police for organizing the escape. The case was ongoing at year's end.

On June 24, in a separate incident, Algerian national Khaled Masoud was jailed after being found guilty of transporting fifteen immigrants to the country en route to Sicily. During the court hearing, witnesses testified that they had paid almost \$1,000 for the trip.

There were also reports issued by the European Union and the UNHCR criticizing the length of time illegal immigrants were confined in closed detention centers and the conditions within the centers. Reported problems included crowded facilities, the lack of any meaningful activities within the centers, and the lack of access to legal resources.

The government excluded asylum seekers from the refugee status determination process if it deemed them to be nationals of a safe country of origin. Asylum seekers who claim to be nationals or citizens of a country of origin which is listed as safe in the country's laws are informed by the immigration police that their application for refugee status is inadmissible. However, such asylum seekers are also informed by the immigration police that they may apply to the refugee commissioner for a reconsideration of their request for refugee status. In all such cases, the Office of the Refugee Commissioner calls the applicants for a full interview and examination of their claims before proceeding to the determination of their application.

There were arson attacks against property of advocates, an attorney for migrants, refugees, asylum seekers, and a journalist and an editor who published articles on the immigration situation. These incidents received widespread condemnation and were believed to be carried out by a small group for the purpose of intimidation, not to cause actual harm.

On March 13, unknown persons burned seven cars belonging to members of the Jesuit community during the night. These attacks were carried out a few days before the release of the National Report on Racism and Xenophobia, which was drawn up by the Jesuit Center for Faith and Justice in Malta, and the European Monitoring Center on Racism and Xenophobia by the European Racism and Xenophobia Information Network. The case was ongoing at year's end. Following this incident, prominence was also given to an incident in November 2005, when two cars belonging to members of the community were burned.

On April 11, unknown persons destroyed the car of a lawyer with the Jesuit Refugee Service, a major nongovernmental organization (NGO) for migrants. No charges were filed, and the case was ongoing at year's end.

### **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 exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

#### *Elections and Political Participation*

The most recent general elections in 2003 were free and fair.

There were six women in the 65-seat parliament. There were two women in the 14-member cabinet of ministers. Approximately 13 percent of senior government officials were women, and two women held ambassadorial rank; one was a judge at the Court of the First Instance of the European Communities, while the other held the rank of a permanent secretary, the most senior civil servant position within a ministry. Two women were appointed judges, one was appointed magistrate, two were appointed to superintendent positions within the police force, and one was appointed to head the Office of the Prime Minister's defense section.

There were no members of minorities in the government.

#### *Government Corruption and Transparency*

There were no reports of government corruption during the year. There was a report of a senior police officer who was charged with receiving protection money in the organization of a clandestine lotto (see section 1.d.).

The country does not have laws providing general access to government law. There are laws which provide access for the press and the public to certain government-held information. The government retained discretion to release information that does not fall under any of these sector-specific laws. The government generally provided access to such information.

### **4. 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 were cooperative and responsive to their views.

### **5. Discrimination, Societal Abuses, and Trafficking in Persons**

The constitution prohibits discrimination based on race, gender, disability, language, or social status, and the government generally effectively enforced this prohibition. There were incidents of child abuse and trafficking in persons.

#### *Women*

Between January and August the police domestic violence unit received 194 reports of domestic violence, compared with 162 reports during the same time period in 2005. The law

prohibits domestic violence, including against women, and the government effectively enforced it. Penalties ranged from three months to 20 years imprisonment.

A special police unit and several voluntary organizations provided support to victims of domestic violence. There is a hotline to assist victims of abuse through counseling and referrals to shelters. The government provided support to victims of domestic violence through the department of welfare. A government-supported shelter for women and children was in operation throughout the year; and the government also provided financial support to a shelter operated by the Catholic Church. In addition, the government maintained an emergency fund and subsidized other shelters. Some NGOs and victims' assistance advocates asserted that domestic violence is underreported, primarily because of societal attitudes and the attitude of law enforcement and medical service providers. The NGOs reported that women were afraid to report the crime because they feared that they would not be believed or protected.

Rape, including spousal rape, is a criminal offense, and the government effectively prosecuted those accused of such crimes. Rape; spousal rape; and violent, indecent assault carry sentences of up to 10 years' imprisonment.

The law prohibits prostitution, and the government effectively enforced it. The law provides for sentences of between several months and two years' imprisonment. From January to August, 203 persons were arraigned and there were a number of prosecutions during the year. Trafficking in women was a problem (see section 5, Trafficking).

Sexual harassment was unlawful and is punishable by a \$2,800 (1,000 lira) fine, six months' imprisonment, or both. The government effectively enforced the law.

Women enjoy the same legal rights as men, including rights under family law, property law, and in the judicial system. Redress in the courts for sexual discrimination was available. The Ministry for the Family and Social Solidarity and the National Commission for the Promotion of Equality for Men and Women were responsible for gender equality issues. The commission's program focused on broader integration of women into society. It advised the government on the implementation of policies in favor of equality of the sexes.

Although women constituted a growing portion of the higher education graduates and the work force, they were underrepresented in management and generally earned less than their male counterparts. The National Council of Women of Malta reported "extremely low" female representation in the labor force. In the second quarter of the year, 34.5 percent of women between 15 and 65 years of age were employed, and the female unemployment rate was 10.3 percent, compared with an unemployment rate for males of 6.5 percent.

### *Children*

The government was strongly committed to children's rights and welfare. It provided free, compulsory, and universal education through age 16. During the year approximately 95 percent of school-age children attended school and 70 percent went on to post-secondary education. There were no apparent differences in the access of girls and boys to education.

The government provided universal free health care to all citizens, and boys and girls had equal access to health care.

In 2005 the Child Protection Services Section of the National Social Welfare Service agency dealt with 995 cases of child abuse. Prison sentences were handed down in a number of cases involving sexual abuse of minors. A number of sources consistently claimed that authorities did not pursue cases of alleged sexual abuse of children by Catholic clerics unless a parent or adult filed a formal complaint, but rather allowed the church to handle the matter internally. The same sources reported that if a parent or victim filed a complaint against a cleric, the police investigated it thoroughly and followed the same judicial process as with other such complaints. There was at least one case involving a cleric pending at year's end.

### *Trafficking in Persons*

The law prohibits trafficking in persons; however, there were reports that persons were trafficked to the country.

The country was a destination for persons, primarily from Ukraine, Russia, the Czech Republic, and Romania, trafficked for prostitution.

In 2004 reliable law enforcement sources reported that women were recruited for prostitution from Eastern European countries and essentially "purchased" by men, sometimes pimps intent on exploiting them for commercial sex or by individuals for exploitative sex only with the purchaser. These women were often "sold" to other pimps or individuals, who then continued the cycle; it was typical for a woman to be "sold" every three months under these schemes. The victims of this type of sexual exploitation typically arrived in the country legally on a tourist visa and often with the understanding that they would be employed in the sex trade. Once they arrived in the country, it was not known whether these victims cooperated with the "purchasing schemes" or were subjected to coercion or force to ensure that they remained in this trade.

Concerted efforts in 2004 to disrupt these trafficking rings prompted traffickers to devise new schemes for trafficking women to the country for prostitution. Women were generally recruited in their country of origin by contacts from their respective country who resided in Malta. Jobs were offered and assistance was given in visa and travel arrangements. Once recruited, women arrived in the country legally either without a visa, if they were EU nationals, or on a tourist visa, student visa, or special "dancer's visa" if they were from another country. Police sources reported that brothel managers confiscated passports and intimidated foreign national women to keep them engaged in prostitution. Since the women involved had arrived and departed legally, police found it difficult to detect and interdict this new trafficking scheme.

Additional sources claimed that immigration authorities were aware of the possibility of trafficking from certain countries and screened suspicious persons who attempted to enter the country. Local law enforcement authorities generally believed that women who traveled to the country to provide sexual services were willing participants; that they willingly provided these services for the clients recruited by pimps; that they profited from these activities; and that they were not coerced, forced, or compelled to continue.

The criminal code prohibits trafficking and states that the punishment for trafficking of a person of age for the purpose of exploitation is from two to nine years. The punishment increases if any of the offenses are accompanied by grievous bodily harm, generate over \$15,000 (5,000 lira), or are organized with a criminal network. Persons can be charged if the

offence took place within the country, or if the person is a national or permanent resident. The law states that a person who forces by violence, threat, or deceit, another person over the age of 21 to leave the country for the purpose of prostitution can be imprisoned for up to two years. Forcing a person under 21 under the same scenario is punishable by up to four years. During the year the act was amended to prohibit the procurement of persons from abroad for the purpose of prostitution.

Authorities made no arrests during the year for trafficking or trafficking-related offenses; however, an investigation was ongoing at year's end in the case of a police officer involved with trafficking-related corruption in 2004.

The government sometimes cooperated with other governments in the investigation of trafficking. A police constable coordinated the enforcement of the antitrafficking law.

Authorities generally did not condone or facilitate trafficking in persons. In 2005 authorities arrested and convicted a former constable and a police officer for trafficking in human beings, living off the earnings of prostitution, and keeping a brothel. The victims were an undisclosed number of Russian women. At year's end, one of the two men was reportedly free on bail pending appeal of his conviction. Further information on the case was not available.

Authorities treated victims of trafficking as a culpable part of the criminal enterprise. The government encouraged victims to assist in the investigation and prosecution of traffickers and provided protection of witnesses; however, victims who had been arrested generally refused to provide testimony or would testify only in closed hearings. Once the victims provided evidence, they were typically deported to their country of origin.

The government did not provide for social services to victims of trafficking. Law enforcement authorities did not have a screening or referral process in place for victims of trafficking; however, they occasionally referred victims to the array of social and housing services available to victims of domestic violence.

The government did not offer programs or education for the prevention of trafficking.

#### *Persons with Disabilities*

The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services, and the government effectively enforced these provisions. The law mandates access to buildings for persons with disabilities, and the government generally enforced these provisions in practice. Through June the National Commission for Persons with Disability (NCPD), the agency responsible for enforcement of this law, continued work on 113 complaints of discrimination against persons with disabilities that were pending from previous years. Since October 2005 the NCPD opened investigations on 38 new cases. A total of 48 cases were satisfactorily concluded.

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

A few thousand persons of Arab, African, and Eastern European origin live in the country. There continued to be isolated reports that owners of some bars and discos periodically discouraged or prohibited darker-skinned persons, particularly of African or Arab origin, from

entering their establishments. There were no reports of charges being pressed by the alleged victims.

The law criminalizes racial hatred. The government amended the Criminal Code to introduce harsher penalties for racial or religiously motivated offenses. During the year two persons were charged with two new separate cases of inciting racial hatred. Their trials as well as three cases from 2005 were ongoing at year's end.

## **6. Worker Rights**

### **a. The Right of Association**

The constitution provides for workers to form and to join unions of their choice without previous authorization or excessive requirements, and workers did so in practice. Noncivilian military and police personnel are not allowed to join a union. Approximately 65 percent of the work force was unionized. Although all unions were nominally independent of political parties, the largest, the General Workers' Union, generally was regarded as having close informal ties with the Labor Party.

#### *The Right to Organize and Bargain Collectively*

The law allows unions to conduct their activities without interference, and the government protected this right in practice. The law provides for collective bargaining, and it was freely practiced. Workers, except non-civilian military and police personnel, have the right to strike, and they exercised this right by conducting legal strikes. There are no special laws or exemptions from regular labor laws in the country's one export processing zone.

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

The constitution prohibits forced labor or compulsory labor and the government generally enforced it; however, there were reports that such practices occurred (see sections 5 and 6.d.).

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

There are laws and policies to protect children from exploitation in the workplace, and the government effectively implemented them in practice. The law prohibits the employment of children younger than age 16. The Employment Training Corporation, a government entity under the Ministry of Education, Youth, and Employment, which is responsible for labor and employment issues generally enforced the law effectively but allowed summer employment of underage youth in businesses operated by their families; some underage children were employed as domestics, restaurant kitchen help, or vendors.

#### *Acceptable Conditions of Work*

The national weekly minimum wage of approximately \$172 (57.88 lira) for adults combined with an annual mandatory bonus of approximately \$620 (214 lira) and a \$350 (117 lira) annual cost of living increase to all employees to reflect inflation provided a decent standard of living for a worker and family. Citizens were also entitled to additional government subsidies for housing, health care, and education.

The standard workweek was 40 hours, but in some trades it was 43 or 45 hours. Government regulations provide for a daily rest period, which is normally one hour, and one day of rest per week. Premium pay was required for overtime. Excessive compulsory overtime is prohibited, and workers cannot be obligated to work more than 48 hours, inclusive of overtime. The Ministry of Education, Youth, and Employment's Department of Industrial and Employment Relations generally enforced these requirements effectively.

The Occupational Health and Safety Authority (OHSA), a government entity under the Ministry of Education, Youth, and Employment made up of the government, unions, and employers, conducted regular inspections at work sites and cited a number of offenders. Enforcement of the health and safety standards continued to be uneven; however, and industrial accidents remained frequent, mostly in the building and construction sector. Workers had the right to remove themselves from situations that endangered health or safety without jeopardy to their employment, and OHSA generally enforced this right. Allegations of physical and sexual abuse of workers existed, but they were rarely made public; even more rarely were they the subject of court proceedings.