

# 2008 Country Reports on Human Rights Practices - Malta

Publisher [United States Department of State](#)

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Publication Date 25 February 2009

Cite as United States Department of State, *2008 Country Reports on Human Rights Practices - Malta*, 25 February 2009, available at: <http://www.refworld.org/docid/49a8f1719e.html> [accessed 5 May 2014]

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Bureau of Democracy, Human Rights, and Labor  
February 25, 2009

Malta is a constitutional republic and parliamentary democracy with a population of approximately 400,000. The president is the head 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 parliamentary elections. General elections held on March 8 were free and fair. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, there were reports that the government detained irregular migrants under poor conditions. Societal problems included child abuse and trafficking in persons.

## 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.

Following the death of an escaped detainee in April, two independent inquiries concluded that he had not been assaulted while in police custody and that his injuries were compatible with a fall from a substantial height which took place after his escape.

#### b. Disappearance

There were no reports of politically motivated or other disappearances.

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

The constitution and law prohibit such practices. However, authorities charged four prison wardens at the government correctional facility with assault in an August incident that left a prisoner seriously injured after he was returned to the facility following an escape attempt.

An investigation continued into allegations that police beat two migrants in June. Authorities suspended one officer, and four others were under investigation. The press reported that formal charges against the officers might be forthcoming, but none were filed by year's end.

During the year the Office of the UN High Commissioner for Refugees (UNHCR) worked with authorities to provide additional training on handling detainees. This was a follow-up to a September 2007 report by the Council of Europe's Committee for the Prevention of Torture (CPT), which cited evidence that soldiers used excessive force to break up a 2005 demonstration by 80 to 90 irregular migrants who were in detention.

#### *Prison and Detention Center Conditions*

While prison conditions generally met international standards, there continued to be reports that conditions in government-run detention centers for irregular migrants were in poor condition. Irregular migrants, in this case, were persons seeking to emigrate from Africa to the European Union (EU) who were intercepted and brought to the country by the Armed Forces of Malta.

Several European and international organizations, including the CPT, the UNHCR, and the EU, criticized the conditions in which irregular migrants were held. Problems reported included overcrowded and unsanitary prison space, guards insensitive to the lack of separation of men and women in confined spaces, the absence of meaningful vocational or recreational activity within the centers, and the lack of access to legal counsel. The UNHCR and the CPT made recommendations to rectify these problems, and the government took some action. It completed renovating two of the four warehouses at Safi Barracks, where approximately 1,000 of the irregular migrant detainees were being held as of August, and it provided all detainees with their own mattresses. UNHCR representatives regularly met with government officials concerning detention conditions and formed a working group to address the situation, although the group had not met as of year's end.

There was no reported follow-up on the assertion in the CPT's 2007 report that individuals who had sought and been denied asylum were detained for up to 40 days in the basement of Luqa International Airport in a room that should not have been used for periods of detention longer than 24 hours.

The government generally permitted visits to detention centers by independent human rights observers, although no visits were reported during the year. Press and foreign government officials were granted access to the Safi Barracks.

#### **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*

Civilian authorities maintained effective control over the police force, the Security Service, and the armed forces, and the government has effective mechanisms to investigate and punish abuse and corruption. There were no reported problems related to impunity within the police force or Security Service.

### *Arrest and Detention*

An arrest warrant issued by a magistrate is generally necessary to detain a person for questioning and may be issued on the basis of 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. These requirements were generally respected in practice. During the 48-hour detention period, arrested persons have neither the right to legal counsel nor to meetings with family members. Once charges are filed, pretrial detainees are granted access to counsel and family visits. Authorities adjudicated bail requests on a case-by-case basis but normally granted them.

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

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

### *Trial Procedures*

The constitution provides for the right to a fair and 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 case. 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 or detainees.

### *Civil Judicial Procedures and Remedies*

The constitution provides for an independent and impartial court in civil matters, including for the determination of civil rights or obligations, and for access to a court to bring lawsuits seeking damages for, or cessation of, a human rights violation. Access 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. The government generally respected these rights.

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

The constitution prohibits such actions, and the government generally respected these prohibitions in practice.

## **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 printed materials for political groups during election campaigns, although this provision was rarely enforced. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

On March 27 Norman Lowell, who represented a far-right political party, was given a suspended jail sentence and fined 500 euros (approximately \$700) on three charges of inciting racial hatred. A similar charge against Paul Salomone, arising from allegedly racist comments he made at a 2006 protest against immigration, was pending in the courts at year's end.

George Tabone, information secretary for the far-right Azzjoni Nazzjonli (AN), accepted responsibility and paid a fine of 870 euros (approximately \$1200) for comments made by AN's international secretary, Keith Caruana, on a television program that Tabone was hosting. The subject of the program was "Is Multiculturalism a Threat?" Caruana described asylum seekers as "a bunch of criminals."

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

The *Times of Malta* reported on December 31 that police warned participants in a December 30 demonstration against the Israeli bombing of Gaza, that if they did not cease chanting such slogans as "Down with the USA" and "Down with Israel," the demonstration would be terminated.

#### *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 e-mail. Internet use was widespread; an estimated 53 percent of households and 90 percent of schools (state, church, and private) had Internet access. Several Internet cafes and many blogs operated freely throughout the island.

#### *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.

### **c. 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.

### *Societal Abuses and Discrimination*

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

For a more detailed discussion, see the [2008 International Religious Freedom Report](#).

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

The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government generally cooperated with the UNHCR and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons and other persons of concern.

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

#### *Protection of Refugees*

The law provides for granting 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. The government provided a second-tier status, granting some asylum seekers humanitarian protection but not family reunification, a path to citizenship, or other benefits of refugee status under the 1951 Convention.

The government generally excluded asylum requests by nationals of countries of origin it considered safe. Such applicants may apply to the refugee commissioner for reconsideration within seven days of notification by authorities. In such cases, the Office of the Refugee Commissioner calls applicants for a full interview and examination of their claims before ruling on their application.

In practice, the government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be potentially threatened.

The government also provided temporary humanitarian protection to individuals who may not qualify as refugees under the 1951 convention or the 1967 protocol; temporary humanitarian protection was granted to 1,257 persons from January through October.

Authorities detained irregular migrants for up to 12 months after they arrived in the country. Such migrants had two months to file asylum claims and were detained while their cases were processed. Authorities could detain irregular migrants who had not applied for asylum and those whose asylum applications and appeals had been rejected, only during the first 18 months following their arrival in the country; after 18 months they were released, whether or not police had arranged to repatriate them.

Individuals awaiting decisions on their cases occasionally protested their detention or attempted to escape from detention centers. In February a group of irregular migrants staged a

protest at the Ta'Kandja detention center. They were protesting the country's lengthy detention practices. There were no reported injuries and police made no arrests.

Authorities usually moved children, pregnant women, elderly persons, and parents with infants to "open centers" where they were free to move about shortly after their arrival in the country. The armed forces are responsible for the management of the closed detention centers and report directly to the Ministry for Justice and Home Affairs, while the Organization for the Integration and Welfare of Asylum Seekers (OIWAS), a part of the Ministry for Social Policy, has responsibility for the welfare and accommodation of persons transferred from detention centers to the open centers.

### **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 based on the basis of universal suffrage.

#### *Elections and Political Participation*

Parliamentary elections on March 8 were free and fair. Political parties operated without restriction or outside interference.

There were six women in the 65-seat parliament and two in the 14-member Cabinet of Ministers. Approximately 13 percent of senior government officials were women, and two women held ambassadorial rank. There were six female magistrates.

There were no members of minorities in the government.

#### *Government Corruption and Transparency*

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

During the year two public officials of the Malta Environmental and Planning Authority, Philip Azzopardi and Anthony Mifsud, and a Malta Tourism Authority consultant, George Micallef, were charged with irregularities in the case of a discotheque development project. The officials resigned their positions.

Government officials were subject to financial disclosure laws; the court has the right to order financial disclosure, depending on its judgment of the circumstances. The police and the Permanent Commission against Corruption were responsible for combating official corruption.

There were no laws providing general access to government information. The law provides access for the press and the public to certain government-held information. The government retained discretion to release information that does not fall under these sector-specific laws and generally provided access to such information.

#### **4. Governmental Attitudes 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 human rights abuses. Government officials were cooperative and generally 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 enforced the law effectively. There were incidents of child abuse and trafficking in persons.

##### *Women*

Rape, including spousal rape, is a criminal offense, and the government effectively prosecuted such crimes. The crimes of rape, spousal rape, and indecent assault carry sentences of up to 10 years in prison. Rape was not perceived to be a widespread problem. However, there were convictions for rape during the year.

From January through July, the police domestic violence unit received 224 reports of domestic violence, up from 183 during the same period in 2007. The law prohibits domestic violence, and the government effectively enforced it. Penalties ranged from three months to 20 years in prison. Some nongovernmental organizations (NGOs) and victims' assistance advocates asserted that domestic violence was underreported, primarily because of societal attitudes and the attitudes of law enforcement and medical service personnel. According to the NGOs, women were afraid to report the crime because they feared that they would not be believed or protected.

A special police unit and several voluntary organizations provided support to victims of domestic violence. There was a hot line to assist victims of abuse through counseling and shelter referrals. The government also supported victims through the Ministry for Social Policy. A government-supported shelter for women and children was in operation throughout the year; the government also provided financial support to other shelters, including one operated by the Catholic Church.

The law prohibits prostitution, and the government effectively enforced it. The law provides for sentences of several months to two years in prison. From January through June, the police arraigned 27 persons on 49 charges (counting repeat arrests) for offences related to prostitution. There were a number of prosecutions during the year.

Sexual harassment is unlawful and is punishable by a 2,329 euro fine (approximately \$3,260), six months' imprisonment, or both.

Women enjoy the same legal rights as men in the judicial system, including, but not limited to, family and property law. Redress in the courts for sexual discrimination was available. The Ministry for Social Policy and the National Commission for the Promotion of Equality were responsible for gender equality and focused on broader integration of women into society and advising the government on the implementation of policies promoting equality of women and men.

Although women constituted a growing proportion of higher education graduates and of the workforce, they were underrepresented in management and generally earned less than their male counterparts. According to second-quarter statistics, the unemployment rate for women was 6.1 percent compared with a rate of 6.0 percent for men.

### *Children*

The government was strongly committed to children's rights and welfare.

Between January and mid-June, Appogg, the Ministry for Social Policy's agency responsible for social welfare services, received 394 reports of child abuse. Individuals were convicted 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 instead allowed the church to handle the matter internally. If a formal complaint was filed, however, authorities followed the same police investigations and judicial process as for other such complaints.

### *Trafficking in Persons*

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

The country is a destination for women trafficked for commercial sexual exploitation. On July 6 authorities charged three men with forcing a Swedish woman into prostitution. According to police, two separate investigations in 2007 led to the arrest of seven persons for the trafficking of eight Russian and Ukrainian women for the purpose of sexual exploitation. There was also anecdotal evidence that women from Serbia, Romania, and other eastern European countries may have been trafficked to the country for forced prostitution.

Most traffickers appeared to be Maltese nationals acting independently.

The criminal code prohibits trafficking. It makes the offense punishable by two to nine years in prison. Punishment is more severe if the offense is accompanied by grievous bodily harm, generates proceeds of more than 11,646 euros (approximately \$16,300), or is organized by a criminal network. Persons can be charged if the offense took place within the country regardless of the citizenship status of the suspect. The law states that a person who forces another person over the age of 21 to leave the country by violence, threat, or deceit for the purpose of prostitution can be imprisoned for up to two years; the maximum sentence increases to four years for trafficking persons under 21.

Authorities made five arrests for trafficking or related offenses during the year.

In January a court of appeals confirmed a suspended sentence for a convicted trafficker for trafficking two women into prostitution. A 2006 case in which four persons were tried for trafficking a Romanian woman for commercial sexual exploitation remained pending; the judge heard the case in March 2007.

There were no reports that authorities condoned or facilitated trafficking in persons during the year; however, a police officer convicted of complicity in trafficking in 2005 remained free on appeal.

Authorities arrested suspected traffickers and offered protection to trafficking victims. They provided protection to witnesses and encouraged victims to assist in the investigation and prosecution of traffickers; victims were willing to testify only in closed hearings. Once victims provided evidence, they were typically returned to the care of social services, at which time they asked to be repatriated to their countries of origin.

The government offered shelter for trafficking victims in homes used primarily for victims of domestic violence. Authorities also offered assistance through the social welfare system.

In March police and the Ministry for Social Policy signed a memorandum of understanding to formalize a screening process for all arrested persons engaged in prostitution to determine whether they were victims of trafficking or other abuses.

All migrants are interviewed by NGOs, who seek to determine whether they might be potential victims of trafficking. Jesuit Refugee Services (JRS) identified four cases of Nigerian women who might have been at risk of trafficking if they had reached Italy; however, JRS did not consider these individuals to be vulnerable to trafficking while in Malta.

The government cooperated with other governments in the investigation of trafficking. Police cooperated with INTERPOL and Russian authorities to arrest individuals in Moscow based on information gathered through local trafficking investigations.

The government published brochures and supported a Web site with links to a hot line to educate the public on prevention of trafficking. In 2007 law enforcement officials participated in training on the identification and processing of trafficking victims.

See also the State Department's [\*2008 Trafficking in Persons Report\*](#).

### *Persons with Disabilities*

The law prohibits both the public and private sectors from discriminating against persons with disabilities in employment, education, health care, access to goods and services, housing, and insurance; and the government effectively enforced these provisions. As of the end of September, the National Commission for Persons with Disabilities (NCPD), the agency responsible for enforcement of this law, was working on 85 discrimination complaints pending from previous years. From October 2007 through September 2008, the NCPD opened investigations into 98 new cases; 70 cases were satisfactorily concluded.

### *National/Racial/Ethnic Minorities*

A few thousand persons of Arab, African, and eastern European origin lived 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.

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#### *Other Societal Abuses and Discrimination*

There were no reports of discrimination based on sexual orientation.

There were no reports of discrimination against persons with HIV/AIDS.

## **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. The law does not allow uniformed military and police personnel to join unions. Approximately 65 percent of the workforce was unionized. The law allows unions to conduct their activities without interference, and the government protected this right in practice. Workers, with the exception of uniformed military and police personnel, have the right to strike, and they exercised this right by conducting legal strikes during the year.

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

The law provides for collective bargaining, and it was freely practiced. Many employees without the right to strike or join unions participated in associations, such as the police association, through which they sought to protect their interests.

Trade unions are governed by the Industrial and Employment Relations acts. Collective bargaining is protected under the law. There were no reported cases of antiunion discrimination or other forms of employer interference in union activities.

There are no special laws or exemptions from regular labor laws in the country's one export processing zone.

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

The constitution prohibits forced or compulsory labor, including by children; however there were some reports that women were trafficked, primarily from abroad, for purposes of prostitution.

### **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 generally implemented them effectively; however, there were reports that some underage children were employed as domestic labor, restaurant kitchen help, or vendors and, during the summer, in family-owned businesses.

The law prohibits the employment of children younger than age 16. The Employment Training Corporation (ETC), a government entity under the Ministry for Social Policy, is responsible for labor and employment issues. It generally enforced the law effectively in most sectors of the economy, but allowed summer employment of underage youth in businesses operated by their families. No assessment was available of the effectiveness of monitoring by the ETC of the (often unregistered) employment of children as domestics, restaurant workers, and street vendors.

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

The national weekly minimum wage of 142.39 euros (approximately \$200), combined with an annual mandatory bonus of 270.28 euros (approximately \$375), and an annual cost of living increase, automatically adjusted for inflation (242 euros – approximately \$340 – for the year), provided a decent standard of living for a worker and family.

Irregular migrant workers did not always benefit from these conditions. The press reported that in September the General Workers' Union issued a report documenting what it called the "exploitation" of migrant workers. The General Secretary of the General Workers' Union told a press conference that such workers were often employed in the most hazardous of occupations and at less than the minimum wage. He called on the authorities to address the problem. The prime minister reportedly noted that this was a problem that the government needed to address. In November OIWAS, in coordination with the ETC, established informational programs to help individuals understand how to pursue employment and obtain work permits.

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

The Occupational Health and Safety Authority, a government entity composed of representatives of the government, unions, and employers, conducted regular inspections at work sites and cited a number of offenders. Enforcement of health and safety standards continued to be uneven; industrial accidents remained frequent, mostly in the manufacturing and building and construction sectors. Workers have the right to remove themselves from situations that endangered health or safety without jeopardizing their employment, and OHSa generally enforced this right.