



[Home](#) » [Under Secretary for Democracy and Global Affairs](#) » [Bureau of Democracy, Human Rights, and Labor](#) » [Releases](#) » [Human Rights Reports](#) » [2009 Country Reports on Human Rights Practices](#) » [Europe and Eurasia](#) » [Malta](#)

## 2009 Human Rights Reports: Malta

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

### 2009 Country Reports on Human Rights Practices

March 11, 2010

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 (House of Representatives). The president appoints as prime minister the leader of the party that gains a majority of seats in parliamentary elections. General elections held in March 2008 were free and fair. Civilian authorities generally maintained effective control of the security forces.

There were reports that the government detained irregular migrants under harsh conditions; there were some restrictions on free speech. Societal problems included child abuse, trafficking in persons, and substandard work conditions for irregular migrants.

#### RESPECT FOR HUMAN RIGHTS

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; however, authorities detained irregular immigrants under poor conditions for up to 18 months during review for protected status.

In August 2008 authorities charged four prison wardens with assaulting and seriously injuring a prisoner following his attempt to escape from a government correctional facility. The case was ongoing at year's end.

During the year the Office of the UN High Commissioner for Refugees (UNHCR) continued to provide training for authorities in handling detainees.

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#### Prison and Detention Center Conditions

Conditions in most prisons and detention centers for domestic detainees generally met international standards; however, there continued to be reports of poor conditions in government-run detention centers for irregular migrants.

The government permitted monitoring visits by independent human rights observers, and such visits occurred during the year.

As of December the prison population of 556 inmates consisted of 489 men, 32 women, and 35 juveniles (30 boys and five girls). Male and female prisoners were held separately.

Several European and international organizations, including the Council of Europe's (COE's) Committee for the Prevention of Torture (CPT), the UNHCR, and the EU, criticized conditions in the country's detention centers for irregular migrants. Problems included overcrowded and unsanitary prison space, guards who were insensitive to the need for separating men and women in confined spaces, the absence of meaningful vocational or recreational activity within the centers, and lack of access to legal counsel.

There were no reports that the government took any specific action during the year in response to the CPT's criticism (in its 2007 report) that authorities detained some unsuccessful asylum seekers for up to 40 days in airport facilities appropriate only for 20-hour detention. However, during the year the problem was resolved as a result of a decline in the number of asylum seekers and faster processing of asylum applications by an enlarged staff in the Refugee Commissioner's Office.

The government permitted occasional visits to its detention centers by independent human rights observers, including foreign diplomats. In January a mission of the UN Working Group on Arbitrary Detention concluded a visit to the country undertaken at the government's request. Authorities granted the mission access to the Safi and Lyster Barracks, the Corradino Correctional Facility, the closed wards at Mount Carmel Hospital, and to detention facilities at the Police General Headquarters, the Valletta Police Station, and the Armed Forces of Malta. While noting a number of positive features of the institutions and laws in place to prevent arbitrary detention, the delegation observed that the detention regime imposed on irregular migrants arriving by sea was not in line with international human rights law. It noted that such detainees remained for long periods in substandard conditions which, in the case of the Safi and Lyster Barracks, it described as adversely affecting the health, including the mental health, of some of the detainees. It expressed particular concern over the detention of migrants deemed vulnerable, e.g., minors, pregnant women, and families with children.

In March Doctors without Borders (MSF) suspended activities at three detention centers for migrants on the grounds that it could not "offer adequate medical care" in what it referred to as "appalling" living conditions. In July the organization resumed its activities at the Ta'Kandja "closed center" after discussions with authorities. Following MSF's departure, authorities removed tent housing from the camps mentioned in its report and replaced them with trailer-type living facilities. They rehabilitated the facilities at Lyster Barracks to include upgraded toilet and kitchen facilities. The government was also receptive to donations of clothing and other materials, and to provision of educational assistance by outside groups, including nongovernmental organizations (NGOs) and a foreign embassy.

#### 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 Procedures and Treatment While in Detention

With the exception of irregular migrants, whom authorities almost always detained for six to 18 months pending adjudication of any asylum requests, 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. Police generally respected these requirements in practice. During the 48-hour detention period, which generally included initial interrogation by police, arrested persons have neither the right to legal counsel nor to meetings with family members. Once authorities file charges, they give pretrial detainees access to counsel and family. Authorities adjudicated applications for bail 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 judicial independence 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 enjoy a presumption of innocence. Trials are public and juries are used. 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. All citizens enjoy these rights.

Lengthy delays in both criminal and civil trials were frequently reported. During 2008 the European Court of Human Rights issued judgments that found one violation by the country of the right to a fair trial and one violation involving length of proceedings.

##### 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. Persons who have exhausted their right to appeal in the national court system could apply to bring an alleged breach of human rights covered by the European Convention on Human Rights before the European Court of Human Rights. Civil and judicial procedures for the exercise of this right exist, and citizens regularly made use of them.

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

The constitution prohibits such actions, and the government generally respected this prohibition in practice.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution and law generally provide for freedom of speech and of the press; however, there are restrictions on "vilification" of, or "giving offense" to, the Roman Catholic Apostolic Religion, the country's official church. Also illegal, but carrying a lesser punishment, is vilification of, or giving offense to, any "cult tolerated by law." It is an offense to publicly utter any obscene or indecent words or make obscene acts or gestures, or in any other way offend public "morality, propriety, or decency. According to the *Times of Malta*, the home affairs minister told parliament in October that in the first three months of the year, authorities initiated criminal proceedings against 162 persons for blaspheming in public; they began similar proceedings against 621 persons during 2008.

The independent media were active and expressed a wide variety of views without restriction. International media operated freely, and there was no indication of reprisals against individuals for either public or private criticism of the government.

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 59 percent of households and 90 percent of schools (state, church, and private) had Internet access. Numerous Internet cafes and many blogs operated freely throughout the islands. According to International Telecommunication Union statistics for 2008, approximately 49 percent of the country's inhabitants used the Internet; however, a November Eurostat study showed that 64 percent of households had Internet access (up from 53 percent in 2006).

### Academic Freedom and Cultural Events

There were no government restrictions on academic freedom.

The law restricts cultural activities that publicly vilify the Catholic Church. In March authorities arrested, tried, and gave a suspended one-month prison sentence to a man convicted of giving offense to the Roman Catholic Apostolic Religion by dressing up as Jesus Christ during February carnival festivities in the village of Nadur.

In February the Board of Film and Stage Classification prohibited production of the Anthony Neilson play, *Stitching*, on the

basis that it was blasphemous and obscene. The production company, Unifaun Theatre Company, instituted legal proceedings against the prohibition; at year's end the case was before the courts.

#### 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 and evangelical denominations, and a small Jewish community, practiced their faiths freely. Religious instruction in Catholicism is included as part of compulsory primary education in all state schools; however, both the constitution and law establish the right not to receive this instruction if the student, parent, or guardian objects.

#### Societal Abuses and Discrimination

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

There was some hostile speech toward Muslims in blogs, letters to the editor, and comments associated with Internet-based articles on migration problems; the focus was primarily on the irregular immigrant status of many Muslims rather than on their religion. There were no reports that the government instituted any steps to prevent or punish such hostile speech under this or other provisions of law.

For a more detailed discussion, see the *2009 International Religious Freedom Report* at [www.state.gov/g/drl/rls/irf/](http://www.state.gov/g/drl/rls/irf/).

#### 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. However, irregular migrants were subject to mandatory incarceration while their immigration status was under review.

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

#### Protection of Refugees

The country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 protocol. Its laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees.

In practice the government provided some protection against the expulsion or return of refugees to countries where their

lives or freedom would potentially be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

Authorities detained irregular migrants for up to 18 months after they arrived in the country, in most cases in closed detention centers. Such migrants could file asylum claims within two months of their detention and remained in detention while their cases were processed. Detainees also included persons who did not apply for asylum and those whose asylum applications and appeals were rejected or were under review. Individuals awaiting decisions on their cases occasionally protested their detention or attempted to escape from detention centers.

Shortly after their initial detention, authorities usually 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. The armed forces are responsible for the management of the closed detention centers and report directly to the Ministry of Justice and Home Affairs, while the Agency for the Welfare of Asylum Seekers (AWAS), a part of the Ministry of Justice and Home Affairs, has responsibility for the welfare and accommodation of persons transferred from detention centers to open centers.

Authorities released all detainees whose cases were not resolved within 18 months, whether or not police had arranged to repatriate them. They were permitted to remain in the country, allowed to stay in "open centers," and given work permits. EU law prohibited them from travelling to other EU countries, and they were not eligible to bring family members to the EU. They were eligible for voluntary repatriation programs, but most did not choose to participate.

For some applicants not legally entitled to asylum, the government provides "subsidiary protection," and provided it to 1,030 persons from January through August. Beneficiaries of subsidiary protection, introduced in 2008 with the implementation into domestic law of an EU Council directive, were entitled to remain in the country; move freely; be granted personal identification documents, including a one-year renewable residence permit; and obtain travel documents, especially in emergency situations. They could be employed, subject to labor market considerations; receive core social welfare benefits; seek appropriate accommodations; and could benefit from integration programs, public education and training, and essential medical care, especially in the case of vulnerable persons. Their dependents, if in the country when the status is conferred, enjoy the same rights and benefits. However, this status does not provide family reunification, a path to citizenship, or other benefits of refugee status under the 1951 convention.

The government also provides "temporary humanitarian protection" as an administrative procedure granted in special and extraordinary cases in which applicants are found not to be eligible for asylum or subsidiary protection but are considered to be in need of protection for special humanitarian reasons. This protection was provided to six persons from January through August.

### Section 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 universal suffrage.

#### Elections and Political Participation

In March 2008 the country held parliamentary elections that observers considered to be free and fair. On June 6, the country held elections to the European Parliament that were considered 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 two female judges and six female magistrates. None of the country's five members of the European Parliament was a woman.

There were no members of minorities in the government.

#### Section 4 Official Corruption and Government 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.

In November a court found former chief justice Noel Arrigo guilty of accepting money to reduce the sentence of a drug trafficker, of trading in influence, and of revealing official secrets. On November 26, he received a sentence of two years and nine months in prison. One of his colleagues on the three-member Criminal Court of Appeals pleaded guilty to related charges in 2007, apologized, and served a two-year sentence. Arrigo indicated he would appeal the verdict and the sentence. In October the COE's Group of States against Corruption issued a report indicating their judgment that penalties for judicial corruption were too low.

Government officials are 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.

Laws relating to certain sectors of the economy give the press and public access to certain government-held information relating to those sectors. For government activities in areas not specified in these laws, there was no legal entitlement to government-held information; however, authorities generally provided access. A freedom of information law enacted in 2008 was scheduled to enter into full force in 2010. A newly established Information and Data Protections Commission, the regulatory agency responsible for implementing the act, began to issue initial directives establishing the scope of its jurisdiction.

#### Section 5 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 cases. Government officials were cooperative and generally responsive to their views. The government cooperated with UN and other international bodies. The Standing Committee on Foreign and European Affairs and the Standing Committee on Social Affairs of the parliament have responsibilities for human rights issues.

The president appoints an ombudsman with the consent of two thirds of the members of parliament. The ombudsman is empowered to investigate complaints about the activities of governmental bodies, including activities that affect human rights. The ombudsman only investigates complaints when administrative or judicial remedies are not available. When the ombudsman concludes that a complaint is wholly or partly justified, he submits recommendations to the public entity concerned with the aim of undoing the harm the complainant suffered. The ombudsman has no power to force acceptance of any recommended remedy; however, most of his recommendations were accepted.

## Section 6 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 these prohibitions effectively.

### 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 October, the police domestic violence unit received 467 reports of domestic violence. The law makes domestic violence a criminal offense, and the government effectively enforced the laws prohibiting it. Penalties ranged from three months to 20 years in prison. Some NGOs and victims' assistance advocates asserted that domestic violence was underreported, primarily because of concerns by women that they would not be believed or protected by law enforcement personnel.

A special police unit and several voluntary organizations provided support to victims of domestic violence. There was a hotline 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 and fines. From January through October, police recorded 71 separate cases of prostitution. There were a number of prosecutions during the year.

There were no reports that police or other security forces participated in or tolerated prostitution or targeted persons in prostitution for abuse.

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

The government recognized the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children. Health clinics and local health NGOs operated freely in disseminating information on family planning. There were no restrictions on access to contraceptives. There was a free and effective government health program which provides for prenatal and postnatal care and delivery, as well as other related medical services. Men and women received equal access to diagnosis and treatment for sexually transmitted infections, including HIV.

Women have the same legal rights as men, 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.

The constitution prohibits discrimination based on gender. This prohibition was generally enforced in practice.

Although women constituted a growing proportion of higher education graduates and of the workforce, they were

underrepresented in management and their earnings were generally less than those of their male counterparts. According to second quarter statistics, the unemployment rate for women was 6.9 percent compared with 7.0 percent for men. Figures on the wage disparity between women and men differed moderately; the National Statistical Office indicated that for 2008, men were paid 17 percent more than women in comparable jobs, and the European Foundation for the Improvement of Living and Working Conditions (Eurofound) reported in January that the pay gap was 23 percent. Between the end of 2007 and the end of 2008 (the latest period for which statistics are available), the female employment rate rose from 36.3 percent to 38.5 percent, while the male employment rate decreased from 73.5 percent to 71.6 percent.

#### Children

Citizenship is generally derived from one's parents, although some specific applications of the law can be complex.

In 2008 the Child Protection Service of Appogg, the social welfare services arm of the Ministry for Social Policy, received 854 referrals of possibly abused children, down from 1,060 in 2007. The case turnover total was 1,256, down from 1,512 the prior year. There were 464 new cases, down from 716 in 2007. Courts convicted a number of persons for the sexual abuse of minors during the year. Some observers speculated that part of the decline was due to an increase in the legal drinking age from 16 to 17, resulting in significantly fewer minors in potentially predatory situations.

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. Once a complaint was filed, however, authorities followed the same police investigative and judicial processes as for other such complaints.

Statutory rape is punishable by three to six years in prison. The minimum age of consent is 18. Rape committed by violence carries a penalty of imprisonment for three to nine years, with or without solitary confinement. Creation of child pornography is prohibited and punishable by imprisonment from one to five years (up to eight years in special circumstances). Possession of child pornography is also prohibited and punishable by imprisonment not exceeding two years.

#### Trafficking in Persons

The law prohibits trafficking in persons for all purposes; however, there were rare reports that persons were trafficked to the country for sexual exploitation.

The number of cases was too small to constitute a pattern, but the country has been a destination for women trafficked from Russia, Ukraine, Romania, Sweden, and other European countries. In addition irregular migrants from African countries who arrived en route to Italy and elsewhere may be vulnerable to human trafficking.

Most traffickers appeared to be Maltese nationals acting independently. In some earlier cases, traffickers appear to have identified vulnerable targets for sexual exploitation after the potential victims arrived in the country. In other cases traffickers recruited their victims abroad, telling them they would be performing legitimate work in Malta, and later forcing them into prostitution.

The law makes trafficking an offense punishable by two to nine years in prison. Punishment is more severe for offenses which are accompanied by grievous bodily harm, generate proceeds of more than 11,646 euros (\$16,654), or are

organized by a criminal network. Authorities may prosecute alleged traffickers regardless of citizenship if the suspected offense took place within the country.

The law states that a person who uses violence, deceit, or threats to force a person to depart, or come to, the country for the purpose of prostitution is subject to imprisonment for up to two years with or without solitary confinement. The maximum sentence increases to five years if victims are less than 21 years of age and may be as high as 10 years if there are aggravating circumstances.

There were no reports of new prosecutions for trafficking during the year. A case in which four persons were apprehended in 2006 for trafficking a Romanian woman for commercial sexual exploitation was not concluded; the judge heard the case in March 2007 but delayed further proceedings pending resolution of a related case that was on appeal.

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.

No domestic NGOs specialized in assisting human trafficking victims; the government assisted foreign victims through government-funded shelters used primarily for victims of domestic violence. Authorities also offered assistance through the social welfare system.

Authorities developed a formal system for referring all women in prostitution apprehended by police to government social workers and began proactively seeking to identify trafficking victims among asylum seekers. However, authorities did not identify any trafficking victims during the first 11 months of the year. There were no reports that authorities punished trafficking victims for unlawful acts committed as a direct result of their being trafficked.

Authorities arrested suspected traffickers and offered protection to victims. They also 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, authorities returned them to the care of social services, at which time they typically requested repatriation to their countries of origin.

In March 2008 police and the Ministry for Social Policy signed a memorandum of understanding to formalize a screening process for all persons arrested for engaging in prostitution to determine whether they were victims of trafficking or other abuses. NGOs interviewed all migrants in an effort to determine whether they might be potential victims of trafficking.

Authorities may issue residence permits to nonnationals who have been trafficking victims or were implicated in facilitating trafficking, provided that they cooperate with the competent authorities.

The government cooperated with other governments in the investigation of trafficking. In 2008 police cooperated with the International Criminal Police Organization-INTERPOL and Russian authorities to arrest individuals in Moscow based on information gathered through local trafficking investigations.

Authorities also improved efforts to protect victims of trafficking. In February Appogg conducted a training session on victim assistance for government social workers, including those who work with the irregular migrant population. Also in February more than 80 police personnel and social workers participated in training to prevent trafficking and identify and protect trafficking victims.

The government boosted prevention activities during the last year. To raise awareness, Appogg produced detailed brochures that included information to help identify possible and potential victims and described sources of assistance. They were distributed at health clinics, community centers, churches, and, to target potential clients of the sex trade, at entertainment centers. In January police provided training in identifying and assisting trafficking victims to 60 officers. The government publishes brochures and supports a Web site with links to a hotline to educate the public on prevention of trafficking.

The State Department's annual *Trafficking in Persons Report* can be found at [www.state.gov/g/tip](http://www.state.gov/g/tip).

#### 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 113 discrimination complaints pending from previous years. During the year ending in September, the NCPD opened investigations into 130 new cases and satisfactorily concluded 137.

#### National/Racial/Ethnic Minorities

The population included more than 10,000 persons of Arab, African, and eastern European origin. 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.

In June authorities charged a bouncer at a popular entertainment area with causing a serious injury followed by death after a Sudanese migrant, whom he allegedly hit in the face, died of head trauma. The case was ongoing at year's end.

#### Societal Abuses, Discrimination, and Acts of Violence based on Sexual Orientation and Gender Identity

From October 29 to November 1, the Malta Gay Rights Movement hosted the International Lesbian and Gay Association-Europe Conference with an estimated 300 participants from 48 countries. It also freely carried out other public activities.

#### Other Societal Violence or Discrimination

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

#### Section 7 Worker Rights

##### a. The Right of Association

The constitution allows workers to form and 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 55 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 during the year they exercised this right by conducting legal strikes. The

government did not respond to urging by the International Labor Organization that it amend the labor law to eliminate compulsory arbitration; however, this provision was not employed 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.

The law protects collective bargaining. During the year there were no reports 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 reports that women were trafficked, primarily from abroad, for purposes of forced commercial sexual exploitation (see section 6, Trafficking in Persons).

#### 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 underage children worked as domestic laborers, restaurant kitchen help, or vendors, and during the summer in family-owned businesses.

The law prohibits the employment of children younger than 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.

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 formal sectors of the economy but allowed summer employment of underage youth in businesses operated by their families.

No assessment was available of the effectiveness with which the ETC monitored the often unregistered employment of children as domestic employees, restaurant workers, and street vendors.

#### e. Acceptable Conditions of Work

The national weekly minimum wage of 146.47 euros (\$209), combined with an annual mandatory bonus of 270 euros (\$386) and a cost-of-living increase of 242 euros (\$346) (automatically adjusted annually), provided a decent standard of living for a worker and family. Following consultations with workers and employers, the government established the minimum wage, which it revised annually based on changes in the cost of living.

Irregular migrant workers from Somalia, Eritrea, Sudan, and other sub-Saharan African countries, who comprised a small but unquantifiable percentage of the workforce, sometimes worked under conditions that did not meet the government's

minimum standards for employment. In September 2008, according to press accounts, the General Workers' Union (GWU) issued a report documenting what it called the "exploitation" of migrant workers. The general secretary of the GWU told a press conference that such workers were often employed in the most hazardous of occupations, such as road construction and highway refuse cleanup, where traffic and environmental conditions pose a danger, and in the building trades, where accidents such as collapses may occur. In many cases, migrants received less than the minimum wage. In November 2008 AWAS (then called the Organization for the Integration and Welfare of Asylum Seekers), in coordination with the ETC, established informational programs to help individuals understand how to pursue employment and obtain work permits. The GWU and AWAS believed that the programs were beneficial, but there was no data to validate this assessment.

During the year the government ended an assisted voluntary return program called "Dar" (Maltese and Arabic for "Home"), through which irregular migrants who volunteered to leave the country could receive free rail or air fare to their country of origin, plus 5,000 euros (\$7,350). At year's end the program had successfully repatriated 112 immigrants, the majority from Ghana, Nigeria, and Sudan. The Dar program was replaced by an 80-percent EU-funded program called "Restart I," administered for the government by the International Office of Migration. Restart provided 200 euros (\$288) cash, and up to 2,000 euros (\$2,880) toward education or business start-up costs, as well as additional educational preparation toward a migrant's return. By year's end Restart I had repatriated 29 migrants to their countries of origin. This program was scheduled to continue under the name "Restart II" in 2010.

The standard workweek was 40 hours, but in some occupations, such as health care providers, airport workers, and civil protection services, 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. The Ministry of Social Policy generally enforced these 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 work sites and cited a number of offenders. Enforcement of health and safety standards continued to be uneven; industrial accidents remained frequent, particularly 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.