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## Malta

### Country Reports on Human Rights Practices - [2005](#)

Released by the Bureau of Democracy, Human Rights, and Labor  
March 8, 2006

Malta, with a population of approximately 400 thousand, is a constitutional republic and a parliamentary democracy. The chief of state (president) 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 last such elections, in 2003, were free and fair and retained the Nationalist Party in power. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens, and the law and the judiciary provide effective means of addressing individual instances of abuse. The following human rights problems were reported:

- child abuse
- trafficking in persons

#### 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 law prohibits 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 conducts visits on a biannual basis. There were no visits in during the year.

d. Arbitrary Arrest or Detention

The law prohibits 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 which 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, namely the drugs, economic crimes, cyber crimes, and vice 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 were no reported problems related to corruption or impunity within the 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 is taken when necessary. Training for members of the police force is 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. Within 48 hours of detention, police must either release the suspect or file charges, and must inform the detainee of the grounds of suspicion for his arrest. These requirements were respected in practice. During the 48-hour period after detention, arrested persons have no right to legal counsel or meetings with family members. Pretrial detainees were granted access to counsel. A person charged may select a lawyer, or the court appoints a lawyer at the court's expense. Family members could visit detainees once charges had been 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 law 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 human rights violations and allegations relating to electoral corruption charges. 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 law 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, enjoy a presumption of innocence, and have the right of appeal.

## Political Prisoners

There were no reports of political prisoners.

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

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

## Section 2 Respect for Civil Liberties, Including:

### a. Freedom of Speech and Press

The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. The law prohibits foreign participation 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 an independent television station for broadcasting an interview with an independent candidate for the European parliament on the grounds that his statements as broadcast could have incited racial hatred. The station sought judicial review of the authority's decision, and the case was 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 no government restrictions on the Internet or academic freedom.

### b. Freedom of Peaceful Assembly and Association

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

### c. Freedom of Religion

The law 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, a student may opt out of this instruction if the student or guardian objects.

### Societal Abuses and Discrimination

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

For a more detailed discussion, see the [2005 International Religious Freedom Report](#).

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

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

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

### 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.

The government also provided temporary protection to individuals who appeared not to qualify as refugees under the 1951 convention and the 1967 protocol and provided it to approximately 544 persons during the year.

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

The government reduced the period of detention for asylum seekers to one year. It placed children, pregnant women, and elderly immigrants, in so-called open centers, where they were free to move about, shortly after their arrival in the country. In addition, the cabinet assigned to the Ministry for Family and Social Solidarity responsibility for the welfare, accommodation, and general management of persons released from detention centers.

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

In January there was a riot by detainees at a detention center operated by the armed forces. The detainees were awaiting repatriation after their applications for refugee status were turned down. Some immigrants were hospitalized. Detainees and groups supporting them complained later that the armed forces used excessive force to restore control. The prime minister ordered an independent judicial inquiry to investigate the incident. The inquiry found that the detainees had refused to obey legitimate orders of the members of the armed forces and that the use of force was generally justified, but that some individual soldiers used excessive force. The inquiry recommended that the armed forces receive additional training on handling detainees but that the government's detention policy not be changed.

The government excluded refugees if it deemed them to nationals of a safe country of origin.

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

The law 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 2003 general elections were free and fair.

There were 6 women in the 65-seat parliament. There were 2 women in the 14-member cabinet of ministers. Approximately 13 percent of senior government officials were women, and 2 women held ambassadorial rank.

There were no members of minorities in the government.

### Government Corruption and Transparency

There were no reports of government corruption during the year.

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

#### Section 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 and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

After the January riot by detainees at a detention center, a UNHCR official who happened to be conducting a routine visit to the detention camps for illegal immigrants called on the government to change its detention policy. It was not clear if he was speaking for UNHCR. The government defended and retained its detainee policy.

#### Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, or social status, and the government generally effectively enforced it. However, child abuse and trafficking in persons were problems.

##### Women

Domestic violence was not common. Between January and November, the police domestic violence unit received 208 reports of domestic violence, compared with 233 reports during the same timeframe in 2004. The law prohibits violence against women, and the government generally effectively enforced it. Penalties ranged from 3 months' to 20 years' imprisonment.

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 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 operated during the year and the government provided financial support to a shelter operated by the Catholic Church. The government also maintained an emergency fund and subsidized other shelters.

Rape, including spousal rape, is a criminal offense, and the government effectively prosecuted those accused of such crimes. For the period January through November there were five reported cases of rape. The cases were pending trial at year's end. 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 November, there were 43 cases of prostitution and a number of prosecutions during the year.

Sexual harassment was unlawful and carried the penalties of a \$2,800 (1 thousand Maltese lira) fine or six months' imprisonment, or both. The government effectively enforced the law.

Under the law, women enjoy the same rights as men, including rights under family law, property law, and in the judicial system. The government took steps to provide gender-neutral legislation, and 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.

##### Children

The government was strongly committed to children's rights and welfare. It provided free, compulsory, and universal education through age 16. 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 treatment of girls and boys in education.

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

Child abuse was a problem. In 2004 there were 892 cases of child abuse. Prison sentences were handed down in a number of cases involving sexual abuse of minors.

##### Trafficking in Persons

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

In 2004 the authorities prosecuted thirteen persons for trafficking; the longest sentence was three years in prison and a fine of \$600 (200 Maltese lira) for an ex-police constable. The average sentence was two years in prison. The cases resulted in fines, dismissed cases, continuing investigations and prison sentences up to four years. The government sometimes cooperates with other governments in the investigation of trafficking. The police, special branch, vice and economic crime squads coordinated the enforcement of the antitrafficking law.

The country is a destination for persons, primarily from the Ukraine and Russia, trafficked for prostitution.

Reliable law enforcement sources reported that women were recruited for prostitution from eastern European countries and essentially "purchased" by Maltese 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 continue the cycle; it is typical for a woman to be "sold" every three months under these schemes. The victims of this type of sexual exploitation will typically arrive in the country legally on a tourist visa and often with understanding that they will be employed in the sex trade. The degree of the cooperation of these victims with the "purchasing schemes" once they arrive in the country, or whether any coercion or force was used to ensure that they remained in this trade, was unknown.

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

In general authorities did not condone or facilitate trafficking in persons. However, there was one documented case of an ex-constable and a police officer arrested and convicted of trafficking in human beings, living off the earnings of prostitution, and keeping a brothel. The victims of these pimps were an undisclosed number of Russian women.

The victims of trafficking are treated as a culpable part of the criminal enterprise. The government encouraged victims to assist in the investigation and prosecution of traffickers, and the government provided protection of witnesses. However, victims who have 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 funding specifically for victims of trafficking. There was no formal screening or referral process in place for victims of trafficking; however, they could be, and sometimes were, referred to the array of social and housing services available to victims of domestic violence.

#### 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 National Commission for Persons with Disability worked on 58 complaints of discrimination against persons with disabilities, and began investigating 85 new cases. A total of 75 cases were satisfactorily concluded. The law mandates access to buildings for persons with disabilities, and the government generally enforced these provisions in practice.

#### National/Racial/Ethnic Minorities

A few thousand persons of Arab, African, and Eastern European origin lived in the country; they made up a small percentage of the country's population. There were 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, and during the year two persons were charged with three separate cases of inciting racial hatred. Their trials were ongoing at year's end.

#### Section 6 Worker Rights

##### a. The Right of Association

The law allows 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 63 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.

##### b. 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 noncivilian 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.

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

The government prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

#### 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 Department of Labor 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.

#### e. Acceptable Conditions of Work

The national weekly minimum wage of \$160 (56 Maltese lira) for adults combined with an annual mandatory bonus of approximately \$620 (214 Maltese lira) and a \$110 (38 Maltese lira) annual cost of living increase allowance 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 Department of Labor generally enforced these requirements effectively.

The occupational health and safety authority, a body made up of the government, unions, and employers, conducted regular inspections at work sites, and cited a number of offenders. However, enforcement of the health and safety standards was uneven, 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 the Department of Labor generally enforced this right.

Allegations of physical and sexual abuse of workers existed, but they were rarely made public, and even more rarely were they the subject of court proceedings.

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