

MALTA 2012 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Malta is a constitutional republic and parliamentary democracy. The president is the head of state, appointed by the unicameral parliament (House of Representatives). The president names as prime minister the leader of the party winning a majority of seats in parliamentary elections. General elections held in 2008 were judged free and fair. Security forces reported to civilian authorities.

The government's harsh treatment of detained irregular migrants and asylum seekers from North Africa was the most serious human rights problem during the year, with strongest criticism directed at housing conditions and inadequate government programs for integrating migrants into Maltese society.

Other significant problems included lengthy delays in the judicial system, which sometimes diminished individuals' access to due process, as well as criminal prosecution of individuals for public blasphemy. Societal problems included child abuse, trafficking in persons, and substandard work conditions for irregular migrants.

The government took steps to prosecute and punish officials who committed abuses, whether in security services or elsewhere in government. There were no reports of impunity.

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, and there were no reports that government officials employed them.

Prison and Detention Center Conditions

Prison and detention center conditions generally met international standards, and the government permitted visits by independent human rights observers. However, reports of poor conditions in government-run detention centers for irregular migrants persisted.

On January 27, the Restorative Justice Act entered into force. The act included a provision for granting parole to prisoners. The law also provided for the establishment of an Offender Assessment Board, a Remission Board, a Victim Support Unit, and a Victim-Offender Mediation Committee.

Physical Conditions: As of November, the prison population of 622 inmates consisted of 582 men and 40 women. This included 68 juveniles (58 males and 10 females). Of the adult prisoners, 223 were foreigners, representing nearly 36 percent of the total prison population. Approximately 42 percent of foreign prisoners were of African descent.

Authorities separated juveniles from adults in most cases but housed first-time adult offenders in the same building as juveniles. Prisons held pretrial detainees together with convicted prisoners, albeit with those incarcerated for lesser crimes and shorter sentences. Prisoners had access to potable water.

In August the population in the closed detention centers for migrants was 1,156 persons, up from 884 in 2011. Officials housed migrants in two closed centers, Lyster Barracks in Hal Far, and Safi. As of September, the total population in the open centers (where migrants resided following determination of their status) was 1,870, compared with approximately 2,541 in 2011. The government relocated vulnerable migrant populations and provided care appropriate to their conditions. Authorities moved migrants deemed to be minors to residential facilities and provided them requisite services, such as education or training.

In September 2011 the UN Committee on the Elimination of Racial Discrimination expressed concern about occasional demonstrations in detention centers and reports of excessive force in countering them. A government investigation of an August 2011 incident remained ongoing at year's end. Moreover, there were other allegations of mistreatment during the year. In March police officers shot twice

Suleiman Samake from Mali, claiming Samake had brandished a knife. Samake faced charges of attempted murder. In July a second Malian, Mamadou Kamara died while in the custody of Detention Services and Armed Forces of Malta personnel shortly after his recapture following an attempted escape from Safi Detention Center. Officials charged three soldiers in connection with Kamara's death; the investigation was ongoing at year's end.

Administration: Recordkeeping on prisoners was accurate. Detainees had reasonable access to visitors and were permitted religious observance. Authorities allowed prisoners and detainees to submit uncensored complaints to judicial officials and to request investigation of credible allegations of inhumane conditions. Authorities investigated such complaints.

Monitoring: The government permitted visits to detention centers by independent human rights observers, including foreign diplomats. In response to a 2010 report by the UN Working Group on Arbitrary Detention indicating that the detention regime imposed on irregular migrants arriving by sea was not in line with international human rights law, the government undertook a number of improvements, such as providing mental health counseling and social services for such migrants immediately upon their arrival in country. However, there were further allegations of mistreatment in the detention centers during the year. Authorities refused nongovernmental organizations (NGOs) access to the Safi Detention Center (while requests for access by foreign diplomats remained unanswered), but allowed visits to the Hal Far and Marsa Detention Centers, where there were no indications of mistreatment.

Improvements: Improvements in detention conditions continued during the year. Authorities renovated or built new toilets, showers, and kitchens in some of the closed centers, designated as facilities where irregular migrants were detained pending adjudication of their cases. Authorities renovated living facilities in open centers as well.

In 2011 the Office of the Refugee Commissioner expanded the number of asylum determination officers and reduced asylum processing to fewer than 60 days. However, those migrants found ineligible for asylum or subsidiary protection status, or not deemed vulnerable because of age, sex, health, mental or other conditions, remained in closed centers for up to 18 months, the period deemed necessary to process an asylum application in its entirety, including an appeal.

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

The national police, under the responsibility of the Ministry of Home Affairs, maintain internal security. The army falls under the direct responsibility of the Office of the Prime Minister and is responsible for external security but also has some domestic security responsibilities.

Civilian authorities maintained effective control over the police force, the security service, and the armed forces, and the government had effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the police force or security forces during the year.

Arrest Procedures and Treatment While in Detention

With the exception of irregular migrants, whom authorities usually detained for two to 18 months pending adjudication of any asylum requests, an arrest warrant issued by a magistrate is necessary to detain a person for questioning and may be issued based on reasonable suspicion. Migrants receive access to legal counsel and are informed of their rights on arrival at a closed center. 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. During the 48-hour detention period, which generally included initial interrogation by police, arrested persons were entitled to access to legal counsel prior to interrogation, but not to visits by family members. Once authorities filed charges, pretrial detainees were entitled to access to counsel and family.

Authorities adjudicated applications for bail on a case-by-case basis and normally granted them in the case of citizens. Bail rarely was granted to foreigners because the courts consider them flight risks. Foreign criminal defendants who insisted on their right to a trial by jury occasionally were confined for more than two years awaiting arraignment and trial.

On January 10, the Constitutional Court decreed that the human rights of an alleged drug trafficker were violated when he was denied access to a lawyer prior

to his interrogation by police. The government took steps to implement legislation requiring all prisoners to have access to legal counsel during questioning.

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. Trials are public, and defendants must specifically request jury trials. All defendants have the right to counsel of their choice or, if they cannot afford counsel, to court-appointed counsel at public expense. Defendants and their lawyers have access to government-held evidence relevant to their cases. Defendants may confront witnesses and present evidence; defendants enjoy a presumption of innocence and have the right to appeal.

Political Prisoners and Detainees

There were no reports of political prisoners 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. After exhausting their right to appeal in the national court system, individuals 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 (ECHR). Civil and judicial procedures for exercising this right exist, and citizens regularly made use of them.

Regional Human Rights Court Decisions

Through November the ECHR had issued one judgment against the country involving violations against a right to the protection of family life and one judgment involving a property dispute. The government took steps to comply with ECHR orders.

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 provide for freedom of speech and of the press, and the government generally respected these rights. An independent press and a functioning democratic political system combined to ensure freedom of speech and of the press.

The law prohibits “vilification” of or “giving offense” to the Roman Catholic Apostolic Church, the country’s official religion. Also illegal, but carrying a lesser punishment, is vilification of or giving offense to any “cult tolerated by law,” (essentially all religions other than Roman Catholicism). It is a criminal offense to utter publicly any obscene or indecent words, make obscene acts or gestures, or in any other way offend public morality, propriety, or decency. From January to September there were 99 convictions for public blasphemy, compared with 119 convictions from January to July 2011.

The criminal code includes laws that criminalize speeches/articles/books that promote hatred, defame races, ethnic or language groups, gender, gender identity or sexual orientation.

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 without appropriate legal authority. According to Eurostat statistics, approximately 75 percent of Maltese households had access to broadband and Internet connections.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom.

The law restricts cultural activities that publicly vilify the Catholic Church and other religions tolerated by law.

On November 2, parliament enacted a law to establish a classification system for cinema, drama and other stage productions, and to transfer the laws regulating such classification from Ministry of Justice to the Ministry of Culture. Accordingly, the government repealed the portion of the Code of the Police Laws that included the appointment and function of censors.

b. Freedom of Peaceful Assembly and Association

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

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/j/drl/irf/rpt.

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

The constitution provides for freedom of internal movement, foreign travel, emigration, and repatriation and the government generally respected these rights. The government generally cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons, and other persons of concern.

Protection of Refugees

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. Through November, 1,890 migrants arrived in the country by sea compared with 1,574 arrivals between January and December 2011.

Safe Country of Origin/Transit: As an EU member state and a member of the Schengen Zone, the country followed laws and policies established in those bodies related to safe country of origin and transit. The country denied asylum to applicants who arrived from a country deemed a safe country of origin. The government rarely repatriated asylum applicants, although they always had the option of voluntary return to their country of origin.

Refoulement: The government consistently provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. In addition, migrants not qualifying for refugee status, but coming from countries considered unsafe to return due to war or other conditions, were granted subsidiary protected status, permitting them to stay in the country on a year-to-year, renewable basis. This effectively meant that irregular migrants were not returned to North African countries during periods of conflict. Authorities did not return any migrants to countries in conflict during the year.

Refugee Abuse: Authorities detained some irregular migrants, generally in closed detention centers, for up to 18 months after they arrived in the country, in instances where both their application for asylum and appeal were rejected. Since 2011 the country normally granted temporary humanitarian protection in such cases. There were 1,156 persons in closed centers as of August. The length of the adjudication procedure for any individual asylum seeker was reportedly related to the need to establish the migrant's identity, country of origin, and other vital information, since migrants nearly always arrived without identity documents. Such migrants could file asylum claims within two months of detention; however, they remained in detention while their cases were processed.

In a July 18 report, Human Rights Watch (HRW) asserted that the government's detention policy operated "in an automated, indiscriminate, and blanket manner in violation of international law." The HRW noted the government routinely detained unaccompanied migrant minors whose ages were in question as well as the "most vulnerable migrants" – such as families with children, elderly persons, and persons with mental or physical disabilities – although the Agency for the Welfare of Asylum Seekers (AWAS) reported the average detention period for minors undergoing age assessment was 18 days. The average detention period reported for vulnerable groups, such as pregnant women or single women with children, was three days.

According to the UNHCR, migrants spent an average of six months in detention in 2009. Due to a decrease in arrivals, the average detention period dropped to two months during 2010. Despite increased arrivals during the year, the Refugee Commission maintained the lower processing time with few exceptions.

Detainees also included persons who had not applied for asylum or those whose asylum applications and appeals were rejected or were under review. The government provided asylum applicants with free legal aid, with the same provisions as those for citizens, at the appeal stage of the application process if their application was rejected. Any legal aid outside the appeal stage was provided by NGOs or by the migrants themselves. Individuals awaiting decisions on their cases occasionally protested their detention or attempted to escape from detention centers. Within a matter of days (usually less than two weeks) after their initial detention, “vulnerable individuals,” such as children, pregnant women, elderly persons, and parents with infants, were usually moved to “open centers,” where they were free to come and go. Migrant children were eligible for all government social services and were assigned a caseworker to ensure that their needs were met.

The Detention Service, made up of seconded armed forces personnel and civilians, was responsible for the management of the closed detention centers and reported directly to the Ministry of Home Affairs. AWAS, part of the Ministry of Home Affairs, has responsibility for the welfare and accommodation of persons transferred from detention centers to open centers. Individuals were not required to stay in open centers if they could find other accommodations. However, authorities monitored individuals to whom they provided a subsidiary protection stipend.

Authorities released all detainees whose cases were not resolved within 18 months, whether or not police had arranged to repatriate them. Authorities permitted them to remain in the country in “open centers” or in the community at large and issued them 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 only a few chose to participate. There were no significant changes to this general pattern. As of September there were approximately 1,870 migrants living in three open centers.

Overcrowding persisted at the country’s largest migrant open-housing center in Marsa. Friable asbestos was present in one of the common areas. In other centers high temperatures in the summer months and inadequate ventilation in prefabricated housing units contributed to uncomfortable living conditions.

Beneficiaries of subsidiary protection were entitled to remain in the country; move freely; receive personal identification documents, including one-year renewable residence permits; and obtain travel documents in emergencies. They could be employed; receive core social welfare benefits; seek appropriate accommodations; and benefit from integration programs, public education and training, and essential medical care. Their dependents enjoyed the same rights and benefits. However, this status did not provide for family reunification, a path to citizenship, or other benefits of refugee status. Most of the 3,998 persons granted subsidiary protection status or other humanitarian protected status were from Somalia.

In July authorities charged two members of the armed forces with the murder of a migrant while he was in custody of the Detention Services and accused a third of tampering with the evidence related to the case. The case was pending before the courts at year's end. A Detention Services Officer reportedly was suspended after making derogatory remarks against migrants in detention while giving evidence in court in the case against the accused.

Temporary Protection: The country provides “subsidiary protection” to individuals who do not satisfy the legal criteria for refugee status but who cannot return to their country of origin due to a real risk of serious harm. In accordance with EU guidelines, individuals granted subsidiary protection are entitled to temporary residence permits, travel documents, access to employment, and equal access to health care and housing. From January to July, the country granted subsidiary protection to 288 persons.

From January through July, the government provided “temporary humanitarian protection” to 14 individuals, as part of an administrative procedure for special and extraordinary cases in which the government deemed applicants ineligible for asylum or subsidiary protection.

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

The constitution provides citizens 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

Recent Elections: In 2008 the country held parliamentary elections that observers considered free and fair.

Participation of Women and Minorities: 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 three women held ambassadorial rank. There were four female judges and 10 female magistrates. There were no members of minority groups in the government.

Section 4. Corruption and Lack of Transparency in Government

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

Government officials are subject to financial disclosure laws; courts have the authority to compel disclosure, depending on the circumstances. Police and the Permanent Commission against Corruption were responsible for combating official corruption.

According to the Press Act, the government is to establish procedures to give representatives of the press information to help them “fulfill their public tasks.” However, the government neither defined the scope of this mandate nor enacted implementing legislation. Access to government information in certain specified areas, generally dealing with matters of public interest, security, or ongoing court proceedings, was excluded from this requirement. For government activities not subject to disclosure under the Press Act, there is no legal entitlement to government-held information; nevertheless, authorities generally provided access.

A freedom of information law enacted in 2008 came into full force on September 1. The Act established the right to request information held by public authorities but also enumerated several exceptions such as documents held by the Electoral Commission, the Employment Commission, the Public Service Commission, the Office of the Attorney General, the National Audit Office, the Security Service, the Ombudsman, and the Broadcasting Authority when the latter authority is exercising its constitutional function.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups, which investigated human rights cases, generally operated without government restriction.

Government Human Rights Bodies: The country has an ombudsman empowered to investigate complaints about the activities of governmental bodies, including activities affecting human rights and problems involving prisoners and detainees. The president appoints the ombudsman with the consent of two-thirds of the members of parliament. 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 responsible for undoing the harm the complainant suffered. The ombudsman has no power to impose or compel a remedy, but relevant public bodies accepted most of the ombudsman's recommendations. The most recent ombudsman's annual report indicated that of the 437 cases investigated and concluded in 2011, it found a total of 137 cases to be justified (124 cases were resolved by informal action and 13 were sustained); 100 were deemed outside the ombudsman's jurisdiction; 105 cases were not sustained; 45 cases were declined; and in 50 cases advice and assistance was given.

The House of Representatives' bipartisan Standing Committees on Foreign and European Affairs and on Social Affairs were responsible for human rights issues and met regularly. The committees normally held open hearings and their deliberations were usually a matter of public record unless a hearing was closed for security reasons. There was generally full debate on issues before the committees. The committees generally had a reputation for integrity and credibility, with legislation enacted in the areas under their purview enjoying widespread public support.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits discrimination based on race, gender, disability, language, sexual orientation or gender identity, or social status, and the government generally enforced these prohibitions in practice.

Women

Rape and Domestic Violence: 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. Through September, there were seven reported cases of rape.

The law treats domestic violence as a criminal offense, and the government generally enforced the laws prohibiting it. Penalties ranged from three months to 20 years in prison. Through June the police had received 486 reports of domestic violence. Some NGOs and victims' assistance advocates asserted that domestic violence remained underreported, primarily because of concerns by women that law enforcement personnel would not believe or protect them.

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

Sexual Harassment: Sexual harassment is unlawful and punishable by a 2,329 euro (\$2,982) fine, six months' imprisonment, or both. During the year, the National Commission for the Promotion of Equality received two complaints; both were under investigation at the end of the year.

Reproductive Rights: 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. A free and effective government health program provided 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.

Discrimination: Women have the same legal rights as men, including, but not limited to, family and property law. Redress in the courts was available for sexual discrimination. The Ministry for Social Policy and the National Commission for the Promotion of Equality were responsible for gender equality. They focused on the broader integration of women into society and advising the government on the implementation of policies to promote equality of women and men. Divorce has been legal in the country since October 2011. On June 26, parliament amended the Equality for Men and Women Act whereby the definition for discrimination was

extended to include “sexual orientation, age, religion or belief, racial or ethnic origin, or gender identity.”

Women constituted a growing proportion of graduates of higher education and of the workforce. Nonetheless, they remained underrepresented in management and generally earned less than their male counterparts. There were reports that some online job advertisements specified the desired gender of the applicants. Figures on the wage disparity between women and men differed moderately. Eurostat reports showed the gender pay gap for 2010 was 6.1 percent. According to Eurostat, in 2011 the female employment rate rose from 39.3 percent to 41 percent. The male employment rate also increased from 72.4 percent to 73.6 percent.

On November 16, a court awarded a woman 799,168 euros (\$1,025,232) as compensation when it determined the woman was discriminated against because of her gender when she was not allowed to take over her father’s job as a port worker.

Children

Birth Registration: Citizenship generally is derived from one’s parents, although certain rather complex applications of the law allow for transmission of citizenship by a grandparent or other relative. According to the local UNHCR representative, there were no reports that education and healthcare were denied to children due to their lack of citizenship, although specific data was not available.

Child Abuse: In 2011 the Child Protection Service of Appogg, the social welfare services arm of the Ministry for Social Policy, received 728 referrals of possibly abused children, compared with 1,004 in 2010. The service’s total caseload for 2011 was 1,654, up from 1,069 the previous year, and included 357 new and reopened cases. Authorities arrested and charged 20 individuals with child abuse between January and September; the cases remained pending at year’s end.

Sexual Exploitation of Children: Several individuals claiming to be victims of abuse by Catholic clerics maintained that authorities did not pursue cases of alleged sexual abuse of children by clerics unless a parent or adult filed a formal complaint and that authorities allowed the church to handle the cases internally. Once complaints were filed, however, authorities followed the same police investigative and judicial procedures as for other such complaints. On November 13, the courts confirmed the August 2011 five and six year prison sentences, respectively, for two former priests tried and found guilty of multiple instances of sexually abusing boys entrusted to their care several years earlier. However, the

courts dismissed one of the multiple rape charges against one of the priests because the charge sheet incorrectly noted the location of the alleged crime, although the judge indicated he found the victim's evidence credible.

On January 20, the government enacted the Protection of Minors (Registration) Act to, "provide for the registration of sexual offenders and other offenders who commit offences of serious violence." There were a number of entries in the offenders' register throughout the year.

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 of one to five years and up to eight years in special circumstances. Possession of child pornography is also prohibited and punishable by imprisonment not exceeding three years.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information, see the Department of State's report on compliance at http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.html.

Anti-Semitism

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

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

Persons with Disabilities

The law prohibits both the public and private sectors from discriminating against persons with physical, sensory, intellectual, and mental disabilities in employment, education, air travel and other transportation, health care, physical access, 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 examining 175 pending discrimination complaints from previous years; opened investigations into 164 new cases; and satisfactorily concluded 146. Children with disabilities attended both mainstream schools and Education Resource Centers from primary school through university.

The government previously implemented legislation to ensure access to buildings, information, and communication. In November the government launched a Maltese language voice recognition software for use by persons with speech and hearing disabilities.

National/Racial/Ethnic Minorities

The population included more than 10,000 persons of Arab, African, and East European origin. There were periodic reports in the media that owners of some bars and discos discouraged or prohibited darker-skinned persons, particularly of African or Arab origin, from entering their establishments. Some online advertisements for rental housing reportedly specified, “Africans or Arabs need not apply.” The government took no specific action to discourage these problems.

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

The country’s antidiscrimination laws regarding sexual orientation and gender identity only extend to the area of employment. In May 2011 an individual who underwent gender reassignment surgery was initially granted the right to marry her partner. Subsequently, after the attorney general obtained an injunction against the marriage license on the basis that the surgery did not change gender reality, the individual appealed the decision. The appeals court found for the attorney general. The individual subsequently took her case to the ECHR, where the case was pending.

On June 26, the parliament amended the criminal code to widen the scope of hate crimes to include, “gender, gender identity, sexual orientation, race, color, language, ethnic origin, religion or belief or political or other opinion...”

Other Societal Violence or Discrimination

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

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The constitution, including related regulations and statutory instruments, protects the rights of workers to form and join independent unions of their choice without previous authorization or excessive requirements, as well as to engage in collective bargaining; workers freely did so. The law does not allow uniformed military and police personnel to join unions. However, employees lacking the right to strike or join unions participated in associations, such as the Malta Police Association, through which they sought to protect their interests. The law allows unions to conduct their activities without interference, and the government protected this right. 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 labor law provides for compulsory arbitration; however, arbitration did not take place during the year.

During the year there were no reports of antiunion discrimination or other forms of employer interference in union activities. The Employment and Industrial Relations Act prohibits antiunion discrimination and provides for reinstatement of workers “unfairly dismissed,” including for legal, nonviolent union activity.

b. Prohibition of Forced or Compulsory Labor

The constitution prohibits all forms of forced or compulsory labor; nevertheless, there were reports that women were subjected to forced labor, including in restaurants and private households. The government took steps to prevent and eliminate forced labor and acted quickly to investigate and address complaints; in one case this resulted in a domestic being removed from her employment and the employer fined.

Also see the Department of State’s *Trafficking in Persons Report* at www.state.gov/j/tip.

c. 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 these laws effectively; however, there were unverified 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 director general granted such exemptions. While no legal work was specifically restricted, children granted an exemption were not allowed to perform work that could be regarded as harmful, damaging, or dangerous to a young person.

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 in most formal sectors of the economy but allowed summer employment of underage youth in businesses operated by their families. No assessment was available on the effectiveness with which the ETC monitored the unregistered employment of children as domestic employees, restaurant workers, and street vendors. There were no reported cases of child labor during the year.

d. Acceptable Conditions of Work

The national weekly minimum wage was 158.11 euros (\$209); in addition, there was an annual mandatory bonus of 270 euros (\$356) and an annually adjusted cost-of-living increase of 242 euros (\$319). The country's independent National Statistical Office estimated that approximately 15 percent of the population lives at or below the poverty income level of 5,961 euros (\$7869). Following consultations with workers and employers, the government established the minimum wage, which it revises annually based on changes in the cost of living.

The law requires equal pay for equal work. Irregular migrant workers from Somalia, Eritrea, Sudan, and other sub-Saharan African countries, who comprised a small percentage of the workforce, sometimes worked under conditions that did not meet the government's minimum standards for employment. AWAS, in coordination with the ETC, organized informational programs to help individuals pursue employment and obtain work permits. The government operated a program, funded in part by the EU, called Restart II, through which irregular migrants who volunteered to leave the country could receive free rail or airfare to their country of origin, plus financial assistance. As of October it had provided benefits to 34 returnees.

The standard workweek was 40 hours, but in certain occupations, such as health care providers, airport workers, and civil protection services, the norm was 43 or 45 hours. Government regulations provided for a daily rest period, normally one hour, and one day of rest per week. Premium pay is required for overtime, excessive compulsory overtime 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. Workers in the informal economy did not have the same protection, but were able to file complaints against companies that failed to provide a safe work environment. OHSA imposed fines on companies that did not comply with minimum safety standards.