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## 2010 Human Rights Reports: Malta

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

### 2010 Country Reports on Human Rights Practices

April 8, 2011

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 2008 were judged free and fair. Security forces reported to civilian authorities.

The government reportedly detained irregular migrants under harsh conditions. Lengthy delays in the judicial system sometimes diminished individuals' due process guarantees, and 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 harsh conditions for up to 18 months during the review of their protected status. During the year only 27 new migrants were received in the country and the vast majority of irregular migrants previously held in detention centers were released as their cases "aged out." At year's end there were 78 persons held in detention. During the year the Office of the UN High Commissioner for Refugees (UNHCR) continued to provide training for authorities in handling detainees.

In 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 continued at year's end, with no change in status.

#### 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, there continued to be reports of poor conditions in government-run detention centers for irregular migrants.

As of July the prison population of 589 inmates consisted of 510 men, 39 women, and 40 juveniles (36 men and four women). Of the adult prison population, 234 were foreigners, representing nearly 40 percent of the total prison population. Approximately 61 percent of these foreigners were of African descent.

Men and women were held separately. Juveniles were separated from adults in most cases; however, first-time offenders were housed in the same building as juveniles. Pretrial detainees were held together with convicted prisoners, albeit with those incarcerated for lesser crimes and shorter sentences. Due to a decrease in the number of detainees, Lyster Barracks, one of the two migrant detention centers, was closed during the year, leaving Safi as the only functioning closed center. The reduced population also produced the result that issues associated with overcrowding, such as poor ventilation and insufficient sanitary facilities no longer represented significant problems.

Authorities permitted prisoners and detainees to submit uncensored complaints to judicial authorities and to request investigation of credible allegations of inhumane conditions. There are no political prisoners held in the country.

The situation improved in many of the "closed" detention centers as a result of the significant decrease in the number of migrants entering the country. Toilet and kitchen facilities were also renovated or built in some of the centers over the course of the year. As of December the population in the closed centers had been reduced to the point where only one remained open, housing approximately 75 migrants; the population in the open centers dropped to 2,000.

The government permitted occasional visits to its detention centers by independent human rights observers, including foreign diplomats. In January 2009 a mission of the UN Working Group on Arbitrary Detention visited the country at the government's request. Authorities granted the mission access to the Safi and Lyster Barracks closed centers, 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 (AFM). The UN report, released in January, noted a number of positive features of the institutions and laws in place to prevent arbitrary detention; however, the delegation also suggested that the detention regime imposed on irregular migrants arriving by sea was not in line with international human rights law. The report noted that such detainees remained for long periods in substandard conditions which, particularly in the cases of the Safi and Lyster Barracks, were described as adversely affecting the health, including the mental health, of some detainees. It expressed particular concern over the detention of migrants deemed vulnerable (e.g., minors, pregnant women, and families with children).

During the year the Refugee Commissioner's Office expanded the number of asylum determination officers to 10, which reduced to fewer than 60 days the time migrants were required to wait for a determination of status. Migrants who were found not eligible for asylum or subsidiary protected status, or who were not otherwise deemed to be vulnerable as a result of age, sex, health, or mental condition or otherwise, were still required to remain in detention for 18 months. The European Court of Human Rights (ECHR) has thus far declined to rule such detention improper. Vulnerable migrants were moved to other centers and provided with care appropriate to their conditions. Migrants determined to be minors were placed under "care orders" that resulted in their being moved to residential facilities and provided with needed services, including education or training.

In March 2009 the NGO 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 were referred to as "appalling" living conditions. Following MSF's departure, authorities removed tent housing from the camps mentioned in the MSF 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 the continued provision of educational assistance by outside groups, including NGOs and a foreign embassy. In July 2009 MSF resumed its activities at the Ta'Kandja closed center after discussions with authorities. By year's end, however, MSF did not appear to be working in country, and the Ta'Kandja closed center was no longer in operation.

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#### 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. As of February, procedures related to the right of access to counsel prior to interrogation changed. Accordingly during the 48-hour detention period, generally including initial interrogation by police, arrested persons were entitled to access to legal counsel prior to interrogation, but not to 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. The UN Working Group on Arbitrary Detention noted that "the rules of release on bail are not applied equally to Maltese citizens and foreigners alike." Foreign criminal defendants who insist on their right to a trial by jury have in some instances been confined for more than two years awaiting arraignment and trial.

#### 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 if requested by the defendant. 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.

##### Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

#### Regional Human Rights Court Decisions

During the year the ECHR issued a total of four judgments that found a violation by the state of obligations under the European Convention on Human Rights (the convention). The judgments found two violations for lawful arrest or detention and the right to a prompt trial, one violation for respect for family life/privacy, and one violation involving protection of property. The country complied only partially with ECHR decisions.

In one case, the ECHR ruled on July 20 that a wait of 28 months to register a marriage performed in Russia violated the convention.

On July 27, in a case involving a detained migrant, the ECHR ruled that the applicant had no effective remedy to challenge the legitimacy of his detention within the legal framework supplied by the government. The ECHR awarded the applicant 12,000 euros (\$16,080); the migrant was still slated to be deported despite the ECHR recommendation of an extension of his stay. By year's end the migrant had been deported to Tunisia, and the government had not yet made the payment ordered by the ECHR.

In a case involving the rights to bail and a speedy trial, the ECHR ruled that the government was in violation of Article 5 of the convention by failing to strike a balance between the administrative regulations regarding conditional release on bail and the importance of the right to liberty. Notwithstanding the ECHR ruling, the individual involved was not yet released from prison at the end of the year.

#### 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 ECHR. 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 utter publicly 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 newspaper *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 public blasphemy; 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, 90 percent of schools (state, church, and private) had Internet access, and another 90 percent of businesses had a broadband connection. Numerous Internet cafes and many blogs operated freely throughout the islands. According to International Telecommunication Union statistics for June, approximately 59 percent of the country's inhabitants used the Internet. A 2009 Eurostat study showed that 64 percent of households had Internet access, up from 54 percent in 2007. There were no government attempts to request, obtain or disclose the personally identifiable information of a person in connection with that person's peaceful expression of political, religious, or ideological opinion or belief.

## 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.

In February 2009 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 Theater Company, instituted legal proceedings against the prohibition. In June the Constitutional Court upheld the banning of the play as lawful and in accordance with Maltese and European law. The production company stated that it would appeal the verdict, but there was no change in status at year's end.

In March 2009 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 as Jesus Christ during February carnival festivities in the village of Nadur. In July exhibition organizers at the Gozo Arts Festival in Gozo, the second largest of the Maltese islands, prohibited the exhibition of some paintings by Macedonian painter Aleksandar Stankovski for being too lewd and disrespectful. The incident was followed by a peaceful march in the capital city by the Front Against Censorship later on in the month. There were no reported incidents.

In October 2009 the University of Malta authorities deemed an article in a student publication on campus, *Il-Realta*, "vulgar." In January the police filed criminal charges both against the publication's editor and the author. At year's end the case had not yet come to trial.

## 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

For a complete description of religious freedom, see the *2010 International Religious Freedom Report* at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

### 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 law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees.

In practice 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 from countries to which their return would be unsafe as a result of war or other conditions, were granted subsidiary protected status, which permitted their stay in the country on a year-to-year, renewable basis.

In July Maltese and Libyan patrol boats responded to a distress call from a vessel of Somali migrants; 28 of the rescued migrants were taken to the country and the remaining 27 were believed to be returned to Libya. This was reportedly the first time Libyans and Maltese vessels cooperated in a rescue operation. The government announced that the 27 migrants who returned to Libya did so voluntarily. Both the UNHCR and a local NGO, the Jesuit Refugee Service (JRS), questioned official government assertions that the migrants who returned to Libya did so voluntarily, and the case produced considerable controversy. The migrants who were brought to the country consisted of 22 men, five women and a baby. The baby and his mother were initially taken to a hospital before being transferred to an "open center" where they could come and go freely once medical clearance was granted. All other migrants were held at the Safi Barracks "closed center," where they could be held for up to 18 months, unless granted asylum or some other protected status earlier.

The issue of how the migrants were divided between Libya and Malta remained controversial, with one rescued migrant claiming his wife was one of those returned to Libya while the AFM denied the claim. Senior AFM officials maintained that all efforts were made to take potential humanitarian cases, claiming that in three instances when individuals indicated that family members were aboard the Libyan boat, these relatives were reportedly transferred to the AFM boat. Meanwhile, NGOs expressed their "grave concern" about the fate of the migrants who were returned to Libya and whether half the migrants had in fact volunteered to return.

The country, as an EU Member State and a member of the Schengen Zone, followed laws and policies established by those bodies related to safe country of origin and transit.

Authorities detained irregular migrants for up to 18 months after they arrived in the country, generally in closed detention centers. The length of the procedure was reportedly related to the need to establish the migrant's identity, country of origin, etc., since migrants nearly always arrived without identity documents. Such migrants could file asylum claims within two months of their detention; however, they remained in detention while their cases were processed.

According to the UNHCR, migrants spent an average of six months in detention in 2009. Due to a decrease in traffic, this dropped to two months during the year. 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. Within days to weeks of 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. Individuals were not required to stay in open centers if they could find other accommodations.

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. There were no significant changes to this general pattern, although there was a drastic drop in migrant arrivals during the year. As of year's end, there were approximately 2,000 migrants living in three open centers.

Overcrowding continued to persist at the country's largest migrant 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 tent housing and prefabricated housing units contributed to uncomfortable living conditions. In the winter months, tent housing had limited heating and rain could penetrate the not fully waterproof fabric.

Detainees had reasonable access to visitors and were permitted religious observance. The government prevented Muslim detainees at the Hal-Far migrant center from using a megaphone to gather the faithful for the call to prayer, indicating that community religious facilities were available and the establishment of a de facto religious facility inside the center was inconsistent with its policy. While the call to prayer was not prohibited, use of a megaphone at a particular location in order to assemble individuals for prayers was.

The government improved the "open center" facilities, where the majority of migrants found themselves at year's end. With EU funding, the government built new kitchen and hygienic facilities at the Hal-Far center. All migrants have moved out of the hangars and into portable homes.

The government provided asylum to 41 applicants as of October. In addition 157 individuals were granted subsidiary protection; 321 were granted temporary humanitarian protection, 314 of whom had had their applications rejected earlier, had exhausted all asylum request possibilities, but had been in the country for a number of years because they could not be returned to their countries of origin. From 2004 onward, most asylum seekers were from Ethiopia (28); in 2009, most were from Syria (7). In every year most of those granted subsidiary protected status or other humanitarian protected status have been from Somalia--3,743 overall and 1,445 in 2009. From January through June, the government provided "subsidiary protection" to 128 persons not legally entitled to asylum.

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 in emergency situations. They could be employed, subject to labor market considerations; receive core social welfare benefits; seek appropriate accommodations; and 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 was conferred, enjoyed 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 relating to the Status of Refugees.

The government also provides "temporary humanitarian protection" as an administrative procedure 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 seven persons from January through June.

Protected persons can access the labor market, free state health care, and public schooling. If they reside in an open center, they are also entitled to free accommodation, the services offered by staff within the centers and, if unemployed, an allowance of 130.48 euros (\$174.84) every four weeks to cover daily expenses.

### 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 2008 the country held parliamentary elections that observers considered to be free and fair. In June 2009 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 three women held ambassadorial rank. There were two female judges and six female magistrates. None of the country's six 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 June a woman was sentenced to one year's imprisonment suspended for two years (whereby the sentence would not be imposed if the individual did not violate the law during the following two years). Charges included corrupting a public official in a case related to social benefits recipients.

In August there were reports that police officers of the Administrative Law Enforcement Division accepted bribes to tip off hunters of impending police action to enforce hunting laws. This report was under investigation by the Police Commissioner, and one police officer was charged officially with accepting a bribe. The case continued at year's end.

There were regular allegations in the press that the contract for the extension of the Delimara power plant was awarded to one of the competitors in a manner contrary to normal competitive bidding processes. The European Commission (EC) engaged the government on the allegation and requested an explanation of the bidding process. The government provided its explanation to the EC in July, and the outcome of the EC's review was pending at year's end.

In November 2009 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. He received a prison sentence of two years and nine months. Arrigo indicated he would appeal the verdict and the sentence.

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.

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 scope of this mandate has not been defined and no implementing legislation (regulation) has been enacted. 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 in areas not subject to disclosure under the Press Act, there was no legal entitlement to government-held information; however, authorities generally provided access. A freedom of information law enacted in 2008 is gradually entering into force. A newly established Information and Data Protections Commission, the regulatory agency responsible for implementing the act, began issuing 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 country has an ombudsman who is empowered to investigate complaints about the activities of governmental bodies, including activities that affect human rights and issues that concern prisoners/detainees. 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 force acceptance of any recommended remedy; however, most of his recommendations were accepted. The president appoints the ombudsman with the consent of two-thirds of the members of parliament.

The House of Representatives' Standing Committee on Foreign and European Affairs and Standing Committee on Social Affairs have responsibilities for human rights issues. Both committees are made up of members from both sides of the House of Representatives who collaborate closely on issues related to the committees' respective responsibilities. The committees generally held open hearings and their deliberations were normally 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 of 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, 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 June 2009 the police domestic violence unit received 208 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.

Sexual harassment is unlawful and punishable by a 2,329-euro (\$3,121) 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 that provided for prenatal and postnatal care and delivery, as well as other related medical services. The maternal mortality rate was low; a UN interagency group estimated the 2008 maternal mortality rate to be eight deaths per 100,000 women. 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.

Women constituted a growing proportion of graduates of higher education and of the workforce. However, they were underrepresented in management and generally earned less than their male counterparts. According to second quarter statistics for the year, the unemployment rate for women was 8.1 percent compared with 6.2 percent for men. Figures on the wage disparity between women and men differed moderately: the National Commission for the Promotion of Equality indicated that for 2008, men were paid 17 percent more than women in comparable jobs. The European Foundation for the Improvement of Living and Working Conditions (Eurofound) reported in March that the hourly pay gap was 2.4 percent. According to Eurostat, between the end of 2008 and the end of 2009, the latest period for which statistics were available, the female employment rate rose from 36.3 percent to 37.2 percent, while the male employment rate decreased from 73.5 percent to 71.5 percent.

#### Children

Citizenship generally is derived from one's parents, although some specific applications of the law can be complex. While specific data on access to health care and education for stateless children was not available, according to the local UNHCR representative, there were no reports that education and healthcare were denied to children.

In 2009 the Child Protection Service of Appogg, the social welfare services arm of the Ministry for Social Policy, received 1,053 referrals of possibly abused children, up from 854 in 2008. The service's total case turnover for 2009 was 1,194, down from 1,256 the previous year. There were 697 new and reopened cases, up from 464 in 2008. In 2009 courts convicted a number of persons for the sexual abuse of minors. During the year 60 persons were charged, and 20 were convicted for such offenses. Some observers speculated that an increase in the legal drinking age from 16 to 17 resulted in significantly fewer minors' being in potentially predatory situations.

Several individuals claiming to have been abused by clerics 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. They alleged authorities instead allowed the church to handle the matter internally. Once a complaint was filed, however, authorities followed the same police investigative and judicial procedures 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 three years.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at [http://travel.state.gov/abduction/resources/congressreport/congressreport\\_4308.html](http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.html).

#### Anti-Semitism

There were isolated reports of anti-Semitic acts during the year. The Jewish community numbered approximately 120 persons. No specific incidents were observed or reported, apart from unspecified insults yelled at the Israeli Foreign Minister during a June visit. Police protected the Foreign Minister, but no demonstrators were arrested.

#### Trafficking in Persons

For information on trafficking in persons, please see the Department of State's annual *Trafficking in Persons Report* 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 2009, 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 East European origin. There continued to be 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. The government took no specific action to discourage these problems.

In June 2009 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

In June the Malta Gay Rights Movement staged a weeklong series of events during Gay Pride Week with no reported interference or harassment. The events culminated in a gay pride march supporting the adoption of antidiscrimination

measures, including better access to goods and services and extending to lesbian, gay, bisexual and transgender (LGBT) couples the same rights as other family units. The country's antidiscrimination laws regarding sexual orientation only extend to the area of employment. Same sex couples do not have legal recognition or parenting or adoption rights.

In October 2009 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 labor law provides for 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. 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. According to the European Industrial Relations Observatory (EIRO) online, as of 2008, all 40,600 public sector employees were covered by collective bargaining agreements together with 26.7 percent of the 103,055 private sector employees.

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.

For information on trafficking in persons, please see the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/g/tip](http://www.state.gov/g/tip).

##### 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 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. Such exemptions were granted in practice. No legal work was specifically restricted; however, any work to be performed could not 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 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 152.59 euros (\$204), combined with an annual mandatory bonus of 270 euros (\$362) and the latest cost-of-living increase of 242 euros (\$324) (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 revises 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 2008 the General Workers' Union (GWU) issued a report documenting what it termed 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 occupations, such as road construction and highway refuse cleanup, where traffic and environmental conditions posed a danger, and in the building construction trades, where accidents such as collapses might occur. In many cases migrants received less than the minimum wage. In 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.

In 2009 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 (\$6,700). The program 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 (IOM). Restart provided 200 euros (\$268) cash, and up to 2,000 euros (\$2,680) toward education or business start-up costs, as well as additional educational preparation toward a migrant's return. Restart I repatriated 29 migrants to their countries of origin. "Restart II" was launched at the beginning of the year and was scheduled to last until June 2011. As of year's end, 19 returnees had benefited from the program. The IOM set a goal of 100 returnees by the middle of 2011.

The standard workweek was 40 hours, but in certain occupations, such as health care providers, airport workers, and civil protection services, 43 or 45 hours was the norm. 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.

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