

# **Malta 2023 Human Rights Report**

## **Executive Summary**

There were no significant changes in the human rights situation in Malta during the year.

There were no credible reports of significant human rights abuses.

The government took credible steps to identify and punish officials who may have committed human rights abuses.

## **Section 1. Respect for the Integrity of the Person**

### **a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

There were no reports the government or its agents committed arbitrary or unlawful killings, including extrajudicial killings, during the year.

In May, the Public Interest Litigation Network filed a constitutional case claiming human rights violations on behalf of the relatives of Mamadou Kamara, who died in 2012 while in custody of the country's detention services and armed forces. The relatives' lawyers claimed a breach of Article 2 of the European Convention on Human Rights and Article 33 of the

Constitution of Malta, which protect the right to life. The case continued at year's end.

## **b. Disappearance**

There were no reports of disappearances by or on behalf of government authorities.

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

The constitution and law prohibited such practices. There were credible reports government officials subjected migrants to inhuman and degrading conditions in detention centers. Impunity was not a significant problem in the security forces.

### **Prison and Detention Center Conditions**

Prison and detention center conditions were poor. Reports persisted of poor sanitation in migration detention centers.

**Abusive Physical Conditions:** In May, the Monitoring Board for Detained Persons condemned the conditions at the Safi detention center, highlighting poor hygiene and management.

**Administration:** Authorities allowed prisoners and detainees to submit uncensored complaints to judicial officials and to request investigation of

credible allegations of inhuman conditions. Authorities investigated such complaints, and complainants sought redress in the courts.

**Independent Monitoring:** The government generally permitted visits to prisons and detention centers by independent domestic and international human rights observers and media. Nongovernmental organizations (NGOs) reported the government restricted visits to refugee and migrant detention centers and their ability to provide services was very limited.

## **d. Arbitrary Arrest or Detention**

The constitution and law prohibited arbitrary arrest and detention and provided for the right of any person to challenge the lawfulness of their arrest or detention in court. The government generally observed these requirements.

### **Arrest Procedures and Treatment of Detainees**

By law police were required to either file charges or release a suspect within 48 hours. In all cases authorities had to inform detainees of the grounds for their arrest. Police generally respected these requirements. During the 48-hour detention period and prior to the initial interrogation, authorities allowed arrested persons access to legal counsel but did not permit visits by family members. The state provided legal aid for arrested persons who could not afford a lawyer. The law allowed police to delay access to legal counsel for up to 36 hours after arrest in certain circumstances, such as

when exercising this right could lead to interference with evidence or harm to other persons. After filing charges, authorities granted pretrial detainees' access to both counsel and family. A functioning bail system was in place. The courts adjudicated applications for bail on a case-by-case basis and normally granted bail to citizens.

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

The constitution and law provided for an independent judiciary, and the government generally respected judicial independence and impartiality.

### **Trial Procedures**

The constitution and law provided for the right to a fair and public trial, and the judiciary generally enforced this right.

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

## **f. Transnational Repression**

Not applicable.

## **g. Property Seizure and Restitution**

Not applicable.

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

The constitution and law prohibited such actions, and there were no reports the government failed to respect these prohibitions.

## **Section 2. Respect for Civil Liberties**

### **a. Freedom of Expression, Including for Members of the Press and Other Media**

The constitution and law provided for freedom of expression, including for members of the press and other media, and the government generally respected this right. An independent media, an effective judiciary, and a functioning democratic political system combined to promote freedom of expression, including for media members.

**Violence and Harassment:** In 2017 police charged three persons with the murder of investigative journalist Daphne Caruana Galizia in a car bombing near her home that same year. In February 2021, one of the accused, Vince Muscat, pled guilty to all charges, including murder, and was sentenced to 15 years' imprisonment and ordered to pay court expenses. The other two charged, brothers Alfred and George Degiorgio, pled guilty to all charges on the day their trial began in October 14, 2022 and were sentenced to 40 years in prison. The brothers subsequently appealed the conviction and

sentence; the appeal was pending at year's end. In August 2021, prosecutors filed a bill of indictment charging business magnate Yorgen Fenech with the murder of Galizia. Fenech entered a not guilty plea. In 2019, police arrested Fenech as a "person of interest" in the killing, charging him with criminal conspiracy, being an accomplice in Galizia's murder, and conspiring to commit murder. Fenech denied the charges. The compilation of evidence continued at year's end.

**Censorship or Content Restrictions for Members of the Press and Other Media, Including Online Media:** Members of the press and civil society expressed concerns regarding the impact of defamation lawsuits on journalistic freedom and the editorial independence of media.

**Libel/Slander Laws:** The law allowed injured parties to sue before the civil courts for damages. Print and broadcast journalists faced government lawsuits intended to harass and intimidate them.

**Actions to Expand Freedom of Expression, Including for Members of the Press and Other Media:** On July 12, parliament enacted the Artistic Expression (Enhancement) Bill. The purpose of the law was to provide for the enhanced protection of artistic expression and in particular to avoid the misuse of the criminal justice system in suppressing expression.

## **Internet Freedom**

The government did not restrict or disrupt access to the internet or censor online content.

## **b. Freedoms of Peaceful Assembly and Association**

The constitution and law provided for the freedoms of peaceful 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 <https://www.state.gov/religiousfreedomreport/>.

## **d. Freedom of Movement and the Right to Leave the Country**

The law provided for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these related rights.

## **e. Protection of Refugees**

The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection

and assistance to refugees, returning refugees, asylum seekers, or stateless persons, as well as other persons of concern.

**Access to Asylum:** The law provided for the granting of asylum or refugee status, and the government had a system for providing protection to refugees.

NGOs criticized the government's approach to the rescue of seaborne migrants onboard vessels, mostly originating from North Africa. NGOs accused the government of preventing these migrants from reaching the country's search and rescue area and of coordinating with the European Border and Coast Guard Agency, Italy, and Libya to return migrants to Libya and Libyan detention centers, where they faced security and human rights threats, including a heightened risk of human trafficking. Malta and Libya operated two centers - one in each country - to address irregular migration issues.

**Abuse of Refugees and Asylum Seekers:** In January, the European Court of Human Rights ruled the country should release seven children from a detention center. The court directed the country to, "ensure that the applicants' conditions are compatible with Article 3 of the [European Convention on Human Rights] and with their status as unaccompanied minors."

**Durable Solutions:** In 2022, 43 persons availed themselves of International Organization for Migration's Assisted Voluntary Return Restart Program in



collaboration with authorities. In collaboration with the EU, the Ministry for Home Affairs, Security, Reforms and Equality supported this program that provided the possibility of assisted voluntary return and reintegration in countries of origin available to third-country (non-EU) nationals.

**Temporary Protection:** The government provided temporary protection, known as “subsidiary” protection, to individuals who did not qualify as refugees. In 2022, 172 persons were given subsidiary protection status.

## **Section 3. Freedom to Participate in the Political Process**

The constitution and law provided citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

### **Elections and Political Participation**

**Abuses or Irregularities in Recent Elections:** National elections in March 2022 were widely reported to be fair and free of abuses and irregularities.

**Participation of Women and Members of Marginalized or Vulnerable Groups:** Cultural and traditional barriers were obstacles to increased participation by women. Women’s representation in the political sector was low. Women accounted for 11 percent of ministerial positions. In 2022, 10 women were elected to parliament during the general elections. This

triggered a gender-corrective mechanism through an amendment of the constitution to “ensure de facto equality between men and women in politics.” As a result, 12 more women were added to parliament.

The Office for Democratic Institutions and Human Rights (ODIHR) of the Organization for Security and Cooperation in Europe deployed an Election Expert Team to observe the March 26, 2022 general elections. In its final report, ODIHR noted restrictions of the voting rights of individuals with disabilities, highlighting provisions preventing citizens with psychosocial disabilities from voting and ensuring the right of persons with disabilities to vote by secret ballot in elections, and potential influence on the public broadcaster’s editorial independence.

## **Section 4. Corruption in Government**

The law provided criminal penalties for corruption by officials, and the government generally implemented the law effectively. There were isolated reports of government corruption.

**Corruption:** On February 24, the courts annulled a concession agreement the government had originally reached in 2015 with Vitals Global Healthcare, which was taken over by Steward Health Care in 2019, for the management of three government hospitals. The courts determined the process was fraudulent at the outset and ordered the return of the three hospitals to the state.

Before the killing of investigative journalist Daphne Caruana Galizia in 2017, she alleged in reporting that the then prime minister's spouse was the ultimate beneficial owner of a Panamanian offshore account connected to transactions involving Pilatus Bank. Caruana Galizia was also investigating separate government corruption allegations the prime minister's Chief of Staff, Keith Schembri, and former Energy Minister Konrad Mizzi took part in a €1.8 million (\$1.95 million) kickback scheme related to an energy deal with the consortium Electrogas. Both Schembri and Mizzi resigned in 2019. 2021, police charged Schembri with money laundering, fraud, and corruption. The charges remained pending.

For additional information concerning corruption in the country, please see the Department of State's *Investment Climate Statement* for the country, and the Department of State's *International Narcotics Control Strategy Report*, which includes information on financial crimes.

## **Section 5. Governmental Posture Towards International and Nongovernmental Monitoring and Investigation of Alleged Abuses of Human Rights**

A variety of domestic and international human rights groups generally operated without government restriction to monitor or investigate human rights conditions or cases and publish their findings. Government officials were often cooperative and responsive to the views of these groups.

**Government Human Rights Bodies:** The ombudsman was empowered to investigate complaints regarding the activities of governmental bodies, including activities affecting human rights and problems involving prisoners and detainees. The president appointed the ombudsman with the consent of two-thirds of the House of Representatives. The ombudsman investigated complaints only when administrative or judicial remedies were not available. The ombudsman had adequate resources, operated independently, and was effective. In responding to complaints, the ombudsman submitted recommendations to the public entity responsible for addressing the complainant's grievance. The ombudsman had no power to impose or compel a remedy, but relevant public bodies accepted most of the ombudsman's recommendations.

The House of Representatives' Standing Committees on Foreign and European Affairs and on Social Affairs had responsibility for human rights matters. The committees met regularly and normally held open hearings, except during closed hearings for national security reasons. For the most part, the committees had a reputation for independence, integrity, credibility, and effectiveness, with legislation enacted in the areas under their purview enjoying widespread public support.

The National Commission for the Promotion of Equality and the Commission for the Rights of Persons with Disabilities operated effectively and independently with adequate resources and oversaw human rights matters related to gender equality and disabilities. The prime minister, on the

advice of or in consultation with the minister responsible for each entity, appointed members to these commissions, who served for terms of two and three years, respectively. They could be reappointed at the end of their term.

## **Section 6. Discrimination and Societal Abuses**

### **Women**

**Rape and Domestic Violence:** Rape of a person, regardless of gender, including spousal rape, was a criminal offense, and the government effectively prosecuted such crimes. Through June, eight persons faced rape charges in court. The law criminalized domestic violence and treated the offense as an aggravating circumstance of other crimes such as bodily harm, rape, and harassment, and the government generally enforced the laws prohibiting it. Sentences for conviction ranged from three months to 20 years in prison.

A government-commissioned report by a retired judge published in January showed administrative failures by the state in the case of the death of a woman, Bernice Cachia. The estranged husband was charged with her death under the femicide law.

A Gender-Based Domestic Violence Unit under the Vice Squad was based at police general headquarters. The unit, which included three police inspectors and 18 staff members, was solely dedicated to addressing

domestic violence problems and was open 24 hours a day, seven days a week. On May 31, parliament enacted the Domestic Violence Prevention Bill permitting persons to inquire if their partner had previous reports of domestic violence filed with police.

**Discrimination:** The law provided for the same legal status and rights for women as for men, including in matters related to family, religious, personal status, labor, property, nationality, and inheritance laws. Redress in the courts was available for gender discrimination, and the government enforced the law effectively.

Women were unable to work in the same industrial jobs in the construction sector as men. While women constituted a growing proportion of graduates of higher education and of the workforce, they were underrepresented in management and generally earned less than men for equal or similar work. Eurostat reports showed the gender pay gap in 2021, the most recent period for which data were available, was 10.5 percent. In 2021, the employment rate for women was 69 percent, compared with 83 percent for men.

**Reproductive Rights:** There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

The country's ban on abortions allowed no exceptions for pregnancies resulting from rape or incest; however, the law permitted interventions that could result in the cessation of a pregnancy, in limited circumstances, without doctors being criminally liable. In June, parliament unanimously

amended the criminal code to exempt doctors from criminal responsibility in cases of medical interventions that could result in the cessation of a pregnancy, if such interventions served to save the life of a mother or to protect her health, or if she were suffering from a complication that could put her life at immediate risk or her health in grave jeopardy. In the latter case, three consultants would need to agree the treatment was necessary. In both cases the fetus could not be viable. The government provided limited access to sexual and reproductive health services for survivors of sexual violence. Emergency contraception and postexposure prophylaxis were available as part of clinical management of rape. By year's end, the government had not implemented a plan, announced in 2022, to provide free contraception.

## **Systemic Racial or Ethnic Violence and Discrimination**

The constitution, criminal code, and labor laws protected members of racial or ethnic minority groups from violence and discrimination, and the government enforced them effectively. The Human Rights Directorate within the Ministry of Justice, Equality, and Governance had a mandate to promote equality and nondiscrimination and included an antiracism unit.

The National Commission for the Promotion of Equality received discrimination complaints, which it investigated and referred to police as appropriate. The commission received six claims of alleged workplace discrimination through September.

## Children

**Child Abuse:** There were laws against child abuse that authorities enforced. The government reported no convictions for sexual abuse of children.

**Child, Early, and Forced Marriage:** The legal minimum age of marriage was 18, although persons ages 16-17 could marry with the consent of parents, legal guardians, or courts.

Child marriage was not specifically listed as a crime but was punishable under various provisions of the law. In January, reports emerged of an underage girl promised for marriage by her parents in exchange for €5,000 (\$5,405).

**Sexual Exploitation of Children:** The law prohibited the commercial sexual exploitation of children, including child sex trafficking and child pornography, and authorities generally enforced the law. The production of child pornography was prohibited; conviction was punishable by imprisonment for five to 12 years. Conviction of possession of child pornography was punishable by three to four years' imprisonment. The minimum age for consensual sex was 16. Child trafficking was a criminal offense.

Conviction of rape of an underage person was punishable by six to 20 years' imprisonment.



## Antisemitism

The Jewish community numbered approximately 400 persons. There were no known reports of antisemitic incidents.

## Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

## Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation, Gender Identity or Expression, or Sex Characteristics

**Criminalization:** The law did not criminalize consensual same-sex conduct between adults, cross-dressing, or other sexual or gender characteristic-related behaviors.

**Violence and Harassment:** There were no known reports police or other government agents incited, perpetrated, condoned, or tolerated violence against lesbian, gay, bisexual, transgender, queer, or intersex (LGBTQI+) individuals, and there were no known instances of nonstate actor violence targeting LGBTQI+ persons.

**Discrimination:** The constitution and law prohibited discrimination by state and nonstate actors based on sexual orientation, gender identity or

expression, or sex characteristics, including discrimination against LGBTQI+ persons in housing, employment, nationality laws, and access to government services, including health care. The law recognized LGBTQI+ couples and their families and granted them rights equal to rights of other persons. The government enforced these laws.

**Availability of Legal Gender Recognition:** Adults and children older than 16 could update their gender markers on identity documents through simple filing of an affidavit with a notary. An “X” gender identification was available on government-issued identification documents.

**Involuntary or Coercive Medical or Psychological Practices:** Unnecessary medical interventions performed without consent on intersex individuals were illegal, with penalties of up to five years in prison or a fine, a prison term of one to five months, or both. In January, a man was charged with breaching the so-called conversion therapy ban due to comments he made during an online discussion.

In March, parliament amended the Affirmation of Sexual Orientation, Gender Identity and Gender Expression Act with a clarification of what constituted advertising of conversion practices, which was considered a criminal offense.

**Restrictions of Freedom of Expression, Association, or Peaceful Assembly:**

There were no laws or other known restrictions on individuals speaking or media reporting on LGBTQI+ matters. There were no laws or other known

restrictions on the ability of LGBTQI+ individuals or organizations to assemble in public or private or to form associations, or to legally register or convene events. The country hosted EuroPride September 7 to September 17.

## **Persons with Disabilities**

By law persons with disabilities had equal access to education, employment, health services, public buildings, and transportation, and the government effectively enforced legal provisions regarding discrimination in the public and private sectors against persons with physical, sensory, intellectual, and mental disabilities. The law required accessibility to buildings, information, and communication. While the government made efforts to provide accessibility, many historical buildings were inaccessible due to limited structural adaptability. Authorities investigated cases of violence or abuse against persons with disabilities. The Commission for the Rights of Persons with Disability and the government provided information and communication on disability concerns in accessible formats.

From January to August, the Commission for the Rights of Persons with Disability opened 265 cases of alleged discrimination related to employment, education, housing, access, provision of goods and services, health, and other areas.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law provided for the rights of most workers to form and join independent unions, bargain collectively, and conduct legal strikes. A trade union could register an industrial dispute with an employer, at which point the trade union and employer entered into negotiations. In the absence of an agreement, both parties were free to resort to industrial action. The trade union could take industrial actions, which included slowdowns, wildcat strikes, work-to-rule action, strike action for a defined period, or any other industrial action the union might deem necessary. The employer could use a “lockout” to protect its interests.

The law prohibited antiunion discrimination and provided for the reinstatement of unfairly dismissed workers, including for legal, nonviolent union activity. Workers had a right to seek redress for antiunion dismissals, although procedures to seek such redress were unclear for certain categories of public sector workers. There were no reports workers were dismissed for union activities.

Members of the military and law enforcement personnel could join a registered trade union, but the law prohibited strikes by this category of workers. In April 2022, the Police Union filed a constitutional case that

would give the police force the right to strike. The case remained underway at year's end. The law did not explicitly prohibit acts of interference by worker or employer organizations in one another's activities. According to the International Labor Organization, compulsory arbitration limited collective bargaining rights. Arbitration did not take place during the year.

The government effectively enforced laws protecting freedom of association, collective bargaining, and the right to strike for workers. Penalties were commensurate with those for other laws involving denials of civil rights, such as discrimination. The courts regularly handed down prescribed fines to perpetrators. Administrative and judicial procedures were subject to lengthy delays and appeals.

Both the government and employers generally respected these rights, and workers freely exercised them during the year. There were no reports of antiunion discrimination or other forms of employer interference in union activities. Trade unions and employers' organizations could both refer a dispute to the Industrial Tribunal, but until the tribunal decided on an award, both parties generally refrained from taking further action.

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

See the Department of State's annual *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

## **c. Prohibition of Child Labor and Minimum Age for Employment**

The law prohibited all of the worst forms of child labor as well as employment of children younger than 16 in all sectors. There were no confirmed reports during the year of the worst forms of child labor. The director general for educational services in the Ministry of Education and Employment could grant an exemption for employment only after determining it would not harm the health or normal development of the child. Children granted an exemption could work up to 40 hours per week. Children granted an exemption were not allowed, however, to carry out any night duties or perform work that could be regarded as harmful, damaging, or dangerous to a young person. Children granted an exemption to work in certain areas such as manufacturing, heavy plant machinery, and construction were required to work under supervision.

The government generally enforced the law in most formal sectors of the economy. Penalties were commensurate with those for other analogous serious crimes, such as kidnapping. Penalties were regularly applied against violators. Jobs Plus, a government entity under the Ministry for Education and Employment, was responsible for labor and employment matters and summer employment of underage youth allowed in businesses operated by their families. No assessment was available on the effectiveness with which

Jobs Plus monitored the unregistered employment of children as domestic employees and restaurant workers.

#### **d. Discrimination (see section 6)**

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

**Wages and Hour Laws:** The country had a national weekly minimum wage above the poverty income level. The law mandated a standard workweek of 40 hours, but the norm was 43 or 45 hours in certain occupations such as in health care, airport services, and civil protective services. The law prohibited excessive compulsory overtime, and employers could not oblige employees to work more than 48 hours per week, including overtime.

**Occupational Safety and Health:** The government set occupational safety and health (OSH) standards, and such standards were up to date and appropriate for the main industries in the country. Workers could remove themselves from situations dangerous to health or safety without jeopardizing their employment. The employer was responsible for ensuring and implementing safety measures at the workplace. The government proactively identified unsafe conditions and responded to workers' OSH complaints.

The law also required contractors to engage and remunerate project supervisors at construction sites who were responsible for issuing health and safety reports and setting safety measures. Project supervisors

exercised limited authority, however, and had no power to enforce health and safety measures.

Industrial accidents occurred mostly in the construction, manufacturing, transportation, and storage sectors. Authorities conceded there were unsafe working conditions in some sectors. Workers in the informal economy were more likely to face hazardous or exploitive working conditions. In July, the government launched a public inquiry into health and safety standards in the construction industry following the death of a young worker at a construction site. Authorities criminally charged five persons in connection with the death; the case was pending at year's end.

**Wage, Hour, and OSH Enforcement:** The government generally enforced minimum wage and hours of work requirements effectively in the formal economy, and penalties for violations were commensurate with those for crimes such as negligence. Penalties were regularly applied against violators.

The Department of Industrial and Employment Relations was responsible for enforcement of wage and hour laws. Inspectors had the authority to make unannounced inspections at places of work and initiate sanctions. The number of inspectors was deemed to be insufficient to enforce compliance.

The Occupational Health and Safety Authority, a government entity composed of representatives of the government, unions, and employers, conducted regular inspections at worksites and cited several offenders.



Inspectors had the authority to make unannounced inspections and to initiate sanctions, including stopping work they deemed to be unsafe. Nevertheless, enforcement of health and safety standards was inconsistent, particularly in the construction industry. The number of OSH inspectors was not sufficient to enforce compliance. Penalties for violations were commensurate with those for similar crimes, such as fraud or negligence. Penalties were regularly applied against violators.

Authorities did not stringently enforce standards in the informal economy, which made up approximately 5 percent of the workforce and encompassed various sectors of working society, including day laborers and self-employed individuals. Workers in the informal economy were not legally covered by wage, hour, OSH, or other labor laws and labor inspections, but they could file complaints against companies that failed to provide a safe work environment.