

MALTA 2013 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Malta is a constitutional republic and parliamentary democracy. The president is the head of state, elected 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 on March 9 were judged free and fair. Authorities maintained effective control over the security forces. Security forces did not commit human rights abuses.

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. 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. Information concerning any specific body designated to examine or evaluate security force killings was unavailable; however, in the event of a death caused by security forces, the police would investigate, the attorney general would prosecute, and the courts would determine if the death occurred in the line of duty or was otherwise justifiable.

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.

On December 2, the media reported that the courts sentenced two former prison guards to five years and two others to five years and three months in prison after finding them guilty of beating an escaped prisoner in 2008.

Prison and Detention Center Conditions

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

In January 2012 the Restorative Justice Act entered into force. The act includes a provision for granting parole to prisoners. The law also provides for the establishment of an Offender Assessment Board, a Remission Board, a Victim Support Unit, and a Victim-Offender Mediation Committee. To date, two persons have benefitted from the parole system.

Physical Conditions: As of August, the prison population of 566 inmates consisted of 527 men and 39 women. This included six juveniles (four boys and two girls). Of the adult prisoners, 215 were foreigners, approximately 16 percent of whom were of African descent.

In November authorities relocated the Young Offenders Unit Rehabilitation Services to a rural area outside the prison facility. Prisons held pretrial detainees together with convicted prisoners, albeit with those incarcerated for lesser crimes and shorter sentences. Prisons held men and women separately and did not differentiate treatment based on gender. Prisoners had access to potable water.

In August the population in the closed detention centers for migrants was 1,200 persons, up from 1,156 in 2012. Officials housed migrants in two closed centers, Lyster Barracks in Hal Far and Safi. As of November 8, the total population in the open centers (where migrants resided following determination of their status) was 1,602, compared with approximately 1,870 in 2012. 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.

Administration: Recordkeeping on prisoners was accurate. Prison officials allowed detainees reasonable access to visitors and 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.

Independent 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 did not conform to 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. Allegations of mistreatment in the detention centers continued, however, during the year. Authorities allowed visits by the media to detention centers. They also allowed visits to the Hal Far and Marsa Open Centers, where there were no indications of mistreatment.

Improvements: Authorities renovated or built new toilets, showers, and kitchens in some of the closed centers where irregular migrants resided pending adjudication of their cases. Authorities renovated living facilities in open centers as well.

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

Both the national police and the army fall under the jurisdiction of the Ministry of Home Affairs and National Security. Police are responsible for maintaining internal security. The army is in charge of external security, but has some domestic security responsibilities as well. 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 police or security forces during the year.

Arrest Procedures and Treatment of Detainees

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 authorities inform them of their rights on their 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, but detainees lose their right to remain silent once they request a lawyer.

Authorities adjudicated applications for bail on a case-by-case basis and normally granted them in the case of Maltese citizens. Authorities rarely granted bail to foreigners because the courts considered them flight risks. Authorities occasionally confined foreign criminals for more than two years while awaiting arraignment and trial.

Amnesty: To commemorate the March 9 general election, on June 7, the new government granted a partial and conditional 100-day amnesty to a number of prisoners. As of November 14, 513 inmates benefitted from the amnesty, including 142 who were released immediately. The amnesty did not apply to prisoners sentenced for rape, human trafficking, or abuse of minors.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary, and the government generally respected judicial independence.

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 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. For example, in April the courts ordered the release of a man held in custody for four years because he could not afford to pay his bail deposit. The court stated that the required deposit violated his fundamental human rights.

Regional Human Rights Court Decisions

Through August the ECHR had issued eight judgments against the country involving violations regarding the prohibition of inhuman and degrading treatment; the effective remedy to challenge lawfulness of detention; unlawful detention; no punishment without law; protection of property; right to a fair trial within a reasonable time and access to court; and, right to liberty and security. The government took steps to comply with ECHR orders.

In July the ECHR fined the country 33,000 euros (\$44,550) and 27,000 euros (\$36,450) for violating the human rights of two irregular migrants with an excessive detention period.

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

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

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 July, there were no convictions for public blasphemy, compared with 99 convictions from January to September 2012.

The criminal code includes laws that criminalize speeches, articles, and 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 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.

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. 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 established a system for providing protection to refugees. Through October 29, a total of 2,008 migrants arrived in the country by sea compared with 1,890 arrivals between January and December 2012. Another 214 migrants arrived by plane, or sailboat.

The length of the adjudication procedure for asylum seekers was related to the authorities' need to establish the migrant's identity, country of origin, and other vital information, since migrants nearly always arrived without identity documents. Such migrants were detained but could file asylum claims within two months of detention; however, they remained in detention while their cases were processed.

Migrants spend an average of two months in detention. Authorities, however, detained some irregular migrants, generally in closed detention centers, for up to 18 months after they arrived in the country in instances where authorities rejected

both their application for asylum and appeal. Since 2011 the country has normally granted temporary humanitarian protection in such cases. There were 870 persons in closed centers as of October.

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 authorities rejected their application. Nongovernmental organizations (NGOs), or the migrants themselves, paid for legal aid outside the appeal stage. 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, authorities 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. Migrant children were eligible for all government social services and assigned a caseworker.

The Detention Service, consisting 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. The Agency for the Welfare of Asylum Seekers (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. Migrants living in open centers and who were eligible for benefits had to sign for the benefits received as proof they were present in the open centers.

Authorities released all detainees whose cases were not resolved within 18 months, regardless of whether the 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 November 8, there were 1,602 migrants living in three open centers.

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 risk of serious harm. From January to October, the country granted subsidiary protection to 1,126 persons. In accordance with EU guidelines, 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 8,898 persons granted subsidiary protection status or other humanitarian protected status between 2002 and 2013 were from Somalia.

Safe Country of Origin/Transit: As an EU member state and a member of 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 had the option of voluntary return to their country of origin. As of October 8, there were 46 assisted voluntary returns.

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 authorities did not return irregular migrants to North African countries during periods of conflict. Authorities did not return any migrants to countries in conflict during the year.

Refugee Abuse: Overcrowding persisted at the country's largest migrant open housing center in Marsa. Friable asbestos was present in one of the common areas; however, a process was underway to remove all the asbestos by March 2014. In other centers high temperatures in the summer months and inadequate ventilation in prefabricated housing units contributed to uncomfortable living conditions.

In 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. In March 2012 police officers shot Suleiman Samake from Mali twice, claiming Samake had brandished a knife. Samake faced charges of attempted murder. In June 2012 a second Malian, Mamadou Kamara,

died while in the custody of Detention Services and Armed Forces personnel following an attempted escape from Safi Detention Center. Officials charged three soldiers in connection with Kamara's death; the investigation continued at year's end. Authorities reportedly suspended a Detention Service officer after he made derogatory remarks against migrants held in detention.

Temporary Protection: From January through October, the government provided "temporary humanitarian protection" to 235 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 through periodic, free, and fair elections based on universal suffrage.

Elections and Political Participation

Recent Elections: On March 9, the country held parliamentary elections that observers considered free and fair.

Participation of Women and Minorities: There were 10 women in the 69-seat parliament and two in the 23-member Cabinet of Ministers. Approximately 13 percent of senior government officials were women. There were four female judges and 11 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.

Corruption: On June 14, authorities amended the Criminal Code to remove the statute of limitations on corruption charges for elected officials and to increase penalties for those found guilty. The amendment also includes provisions from the Criminal Law Convention on Corruption of the Council of Europe.

Whistleblower Protection: On July 19, the government enacted the Protection of the Whistleblower Act. The law provides protection to public and private employees for making internal disclosures of evidence of illegality, such as the solicitation of bribes or other corrupt acts, gross waste or fraud, mismanagement, abuse of power, or other betrayals of public trust that employees learn of or witness on the job.

Financial Disclosure: 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.

Public Access to Information: According to the Press Act, the government established procedures to provide members of the press information to help them “fulfill their public tasks.” The government has not, however, defined the scope of this mandate. Access to government information in certain specified areas--those 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, although authorities generally provided access.

In September 2012 a freedom of information law enacted in 2008 came into full force. 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 was 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 generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views.

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 parliament. The ombudsman only investigates complaints when administrative or judicial remedies are not available.

In responding to wholly or partly justified complaints, the ombudsman submitted recommendations to the public entity responsible for addressing the harm suffered by the complainant. The ombudsman has no power to impose or compel a remedy, but relevant public bodies accepted most of the ombudsman's recommendations.

The government set up internal review boards in the armed forces and the state energy company to address alleged injustices. In August the ombudsman said he would hear grievances from the armed forces and the state energy company after the boards concluded their reviews.

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 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.

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 July there were five officially reported cases of rape; however, newspaper reports stated that the numbers averaged 20 a year.

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 July the police had received four 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 the Family and Social Solidarity, 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 (\$3,144) fine and/or six months' imprisonment. 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 Dialogue, Consumer Affairs, and Civil Liberties, and the National Commission for the Promotion of Equality were responsible for gender equality. These entities focused on broader integration of women into society and provided advice to the government on the implementation of policies to promote equality of women and men. Divorce has been legal in the country since 2011. In June 2012 parliament amended the Equality for Men and Women Act extending the definition of discrimination 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. Figures on the wage disparity

between women and men differed moderately. Eurostat reports showed the gender pay gap for 2011 was 12.9 percent. According to Eurostat, in 2012 the female employment rate was 44 percent compared with 73 percent for men.

In November 2012 a court awarded a woman 799,170 euros (\$1,078,880) as compensation due to gender discrimination because she was not allowed to take her father's job as a port worker.

Children

Birth Registration: Parents are able to pass citizenship to their children, although the law can allow transmission of citizenship by a grandparent or other relative in certain circumstances. According to the local UNHCR representative, there were no reports that officials denied education or healthcare to children due to their lack of citizenship, although specific data was not available.

Child Abuse: In 2012 the Child Protection Service of Appogg, the social welfare services arm of the Ministry for Social Policy, received 786 referrals of possibly abused children, compared with 728 in 2011. The service's caseload for 2012 was 1,377, up from 1,654 the previous year, and included 758 new and reopened cases. Authorities arrested and charged nine individuals with child abuse between January and July; the cases remained pending at year's end.

Forced and Early Marriage: The legal minimum age of marriage in Malta is 16, although between the ages of 16 and 18 parental, legal guardian, or court consent is required. Of the 2,823 marriages registered in 2012, three brides were under the age of 18. There were no grooms under the age of 18.

Sexual Exploitation of Children: In January 2012 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." As of November, there were 16 registered offenders.

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 three to nine years' imprisonment, 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. There were no reports of harmful practices or forced marriages of children.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's report on country-specific information at: http://travel.state.gov/abduction/country/country_6193.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, the agency responsible for enforcement of this law, was examining 193 pending discrimination complaints from previous years; opened investigations into 207 new cases; and satisfactorily concluded 120. Fifty-seven new cases and 59 concluded cases were related to accessibility issues. During the summer the University of Malta conducted an accessibility study of the campus and noted the lack of ramps and the narrow sidewalks common in the country's towns and villages.

The government previously implemented legislation to ensure access to buildings, information, and communication. In November 2012 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. There were a few media reports of alleged discrimination based on skin color, including one involving a Maltese bus driver and a passenger. The government took no specific action to address these problems.

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

On July 12, authorities amended the Civil Code to allow transgender persons to identify with their chosen gender, including the wearing of appropriate dress or changing gender markers on government-issued documents to match their outward appearance or chosen gender expression.

In June 2012 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, along with 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. Employees lacking the right to strike or join unions, nevertheless, participated in associations, such as the Malta Police Association, through which they sought to protect their interests. The law does not explicitly prohibit acts of interference by worker or employer organizations in one another’s activities. Workers, with the exception of uniformed military and police personnel, have the right to strike, and they exercised this right during the year. The labor law provides for compulsory arbitration; however, arbitration did not take place during the year.

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

Workers have a right to seek redress for alleged anti-union dismissals. Procedures for certain categories of public sector workers to seek such redress, however, were unclear.

b. Prohibition of Forced or Compulsory Labor

The constitution prohibits all forms of forced or compulsory labor; nevertheless, there were reports of women subjected to forced labor in establishments such as massage parlors and restaurants. The government took steps to prevent and eliminate forced labor and acted quickly to investigate and address complaints. In one instance, this resulted in a domestic employee being removed from her employment and the employer fined.

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

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 162.19 euros (\$219); in addition, there was an annual mandatory bonus of 270 euros (\$365) and an annually adjusted cost-of-living increase of 242 euros (\$327). In 2012 the country's independent National Statistical Office estimated that approximately 15 percent of the population lived at or below the poverty income level of 5,961 euros (\$8,047). Following consultations with workers and employers, the government established the minimum wage, which it revised 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 agreed to leave the country voluntarily could receive free rail or airfare to their country of origin, plus financial assistance. As of October, Restart II 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, defined by law as time-and-a-half for straight overtime and double pay for work on public holidays or Sundays, 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 dangerous to 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. Authorities did not stringently enforce standards in the informal economy, which encompassed various sectors of the working society, including the day labor and self-employed categories, and consisted of approximately 10,000 individuals. OHSA imposed fines on companies that did not comply with minimum safety standards in the formal economy and, to a lesser extent, the informal economy.