

# 2023 Trafficking in Persons Report: Malta

## MALTA (Tier 2)

The Government of Malta does not fully meet the minimum standards for the elimination of trafficking but is making significant efforts to do so. The government demonstrated overall increasing efforts compared with the previous reporting period, considering the impact of the COVID-19 pandemic, if any, on its anti-trafficking capacity; therefore Malta remained on Tier 2. These achievements included investigating and prosecuting more suspected traffickers, updating its NAP, increasing funding for victim assistance, and continuing to provide an extensive week-long trafficking awareness campaign for the third consecutive year. The government also hosted a regional training and a series of seminars, which included trafficking survivor panelists. However, the government did not meet the minimum standards in several key areas. For the second consecutive year, the government did not report convicting any traffickers, which undermined efforts to combat human trafficking and victims' access to justice. Gaps in victim identification persisted and the government did not report identifying any Maltese, children, asylum-seekers, or undocumented migrants as trafficking victims. The government continued to lack coordination among ministries and has never awarded restitution or compensation to any trafficking victims. The government did not effectively enforce labor regulations to prevent recruitment fees charged to workers, which increase workers' vulnerability to trafficking, or make concrete efforts to increase oversight and regulation of massage parlors where there was a higher incidence of trafficking indicators.

## PRIORITIZED RECOMMENDATIONS:

- Increase efforts to vigorously and expeditiously investigate and prosecute trafficking crimes.
- Increase efforts to convict traffickers, including complicit officials, and seek adequate penalties for convicted traffickers, which should involve significant prison terms.
- Ensure relevant staff and officials proactively identify trafficking victims, including Maltese nationals, especially among vulnerable populations, like children, migrant workers, asylum-seekers, and individuals in commercial sex.
- Institutionalize victim-centered and trauma-informed anti-trafficking training for front-line officials, police officers, prosecutors, and judges with a focus on the use of psychological coercion and fraud as means of trafficking.
- Improve sentencing practices by sensitizing judges to the severity of trafficking crimes and the full range of penalties available.
- Allow formal victim identification by and referral from entities other than the police, including labor inspectors, asylum case workers, health care professionals, social workers, and NGOs.
- Ensure victims could be formally identified without the requirement to cooperate with law enforcement.
- Improve effective leadership and prioritization of human trafficking, as well as streamline anti-trafficking coordination and communication efforts among ministries.
- Enact a legal provision to ensure victims are not inappropriately penalized solely for unlawful acts committed as a direct result of being trafficked.
- Increase migrant worker protections against labor trafficking by implementing strong regulations and oversight of recruitment companies that are consistently enforced, including prosecuting for fraudulent labor recruitment.
- Implement license controls and oversight of massage parlors and increase screening for trafficking victims.

- Improve efforts to proactively inform foreign worker groups of worker rights and responsibilities and victim assistance resources in their native languages.
- Ensure trafficking victims have consistent early access to free legal aid.
- Enforce the law prohibiting recruitment fees charged to workers and ensure any recruitment fees are paid by employers.
- Increase collaboration between police and other stakeholders during investigations to decrease the length of investigations and prosecutions and enhance the likelihood of successful convictions.
- Increase awareness of and trafficking survivor access to damages and compensation, regardless of their nationality or residency status.
- Increase prosecutor awareness of and efforts to systematically request restitution for survivors in criminal trials.
- Consider removing the maximum limits for compensation and damages and allowing confiscated assets from traffickers to be awarded to victims.
- Consider establishing specialized prosecutors dedicated to human trafficking and consider prosecution-assisted investigations on trafficking cases.
- Increase training for and efforts to pursue financial crime investigations in tandem with human trafficking cases.

## PROSECUTION

The government minimally increased law enforcement efforts but did not convict any traffickers for the second consecutive year. Article 248A-G of the criminal code criminalized sex trafficking and labor trafficking, and it prescribed penalties of six to 12 years' imprisonment. These penalties were sufficiently stringent and, with respect to sex trafficking, commensurate with those prescribed for other serious crimes, such as rape. In 2022, the police vice squad, consisting of four teams and responsible for investigating human trafficking and other crimes, initiated 12 new investigations – seven for sex trafficking and five for labor trafficking. This was a slight increase compared with nine investigations initiated in 2021, but less than the 16 new investigations initiated in 2020. Five investigations remained ongoing from prior years, including two for sex trafficking and three for labor trafficking. In 2022, the Attorney General's office began taking a more direct role in trafficking cases and became the main prosecutor for such cases. Prosecutors initiated criminal proceedings against six suspects for sex trafficking but none for labor trafficking; this was an increase compared with zero prosecutions in 2021, two in 2020, and zero in 2019. Ten prosecutions remained ongoing from prior years, including six for sex trafficking and four for labor trafficking. For the second consecutive year, the government did not report convicting any traffickers; this compared with the convictions of three traffickers in both 2019 and 2020, which included significant prison sentences. Following an earlier appeal by the Attorney General in January 2023, the Court of Criminal Appeal reversed the suspended sentence of one convicted trafficker and the acquittal of the second, sentenced them to six years' imprisonment, imposed a fine, and ordered the forfeiture of all the property appertaining to them. Perennial issues with rule of law, corruption, slow court proceedings, and an understaffed police force continued to hamper prosecutions and convictions. Trafficking convictions were often overturned on appeal for administrative technicalities. Experts continued to urge the government to increase training for judges on psychological coercion as a means of trafficking, as cases could sometimes be dismissed or pursued as lesser crimes if physical violence and injuries were not sustained by trafficking victims. There were no new investigations, prosecutions, or convictions of government employees allegedly complicit in trafficking crimes; however, official complicity in trafficking crimes remained a significant concern. In its 2021 report, GRETA stressed the government's failure to convict traffickers and the absence of effective, proportionate, and dissuasive penalties undermined efforts to combat human trafficking and victims' access to justice. GRETA also expressed concern the length of criminal proceedings negatively impacted victims, who could experience re-victimization through repeated confrontations with alleged traffickers. GRETA noted the government lacked specialized judges for trafficking cases and did not pursue financial crime investigations in tandem with human trafficking cases and recommended the government consider addressing both deficiencies.

The government provided training to the police vice squad and officials working with asylum-seekers – including welfare officers, social workers, and psychologists – on victim identification, communication approaches, ethics while working with survivors, and mental health issues. In October 2022, with funding from the EU and the Council of Europe, the government hosted and co-organized a regional training for 15 countries, which included representatives of foreign governments, judges, prosecutors, law enforcement, social and medical services, labor inspectors, civil society, and the media. In October 2022, in partnership with the UN Finance Against Slavery and Trafficking Initiative, the government held a series of seminars focused on financial structures underlying and facilitating human trafficking and links between trafficking and money laundering; panelists included trafficking survivors.

## PROTECTION

The government maintained protection efforts. Police and *Agenzija Appogg*, a government office within the Foundation for Social Welfare Services (FSWS) that provided national assistance to trafficking victims, identified 14 foreign trafficking victims in 2022 (including 12 sex trafficking victims and two forced labor victims). This was a slight decrease compared with 18 victims identified in 2021. In 2022, *Agenzija Appogg* initially identified nine potential victims, while the police initially identified five victims as a result of investigations and formally confirmed their victim status. All identified victims were foreign national adults. The government had a 2014 NRM, and *Agenzija Appogg* continued to utilize its own identification screening tool for trafficking victims who were self-identified or referred by an entity other than the police. However, gaps in victim identification remained, and, in 2022, the government did not report identifying any trafficking victims that were Maltese or among vulnerable populations, including children, migrant workers, or asylum-seekers. GRETA reported many front-line officials remained unaware of the NRM, and civil society highlighted a need to ensure wide dissemination of the mechanism to ensure uniform implementation. Trafficking victims could only be “formally” identified by the police vice squad, a decision that could not be challenged. However, staff from *Agenzija Appogg* could be present during police interviews. In its 2021 report, GRETA noted that contrary to the NRM, civil society reported official identification of victims was sometimes dependent on the possibility of criminal proceedings against the trafficker. Immigration police reported systematically screening undocumented migrants upon their arrival using updated guidelines at detention centers. The Agency for the Welfare of Asylum Seekers, together with its vulnerability assessment team, screened asylum-seekers for trafficking indicators with a new identification protocol tool and a previously existing referral protocol form; however, the government did not report identifying any victims among this population. Officials from the Ministry for Home Affairs and National Security and Law Enforcement, in partnership with civil society, also conducted victim identification among asylum-seekers when they submitted requests for international protection. In its 2021 report, GRETA noted the preliminary assessment was limited to the identification of cases where vulnerability was immediately obvious, such as with unaccompanied children. The lack of sufficient resources to streamline procedures and build capacity at migrant detention centers may have affected the quality of victim screening. Police continued to screen for sex trafficking indicators among individuals in commercial sex. In its 2021 report, GRETA noted the lack of a multidisciplinary approach to trafficking victim identification and the need for additional personnel resources.

The FSWS continued to coordinate with the police, legal aid, and health services to provide quality care to victims. Government officials continued to work collaboratively with NGOs. The government provided €157,755 (\$168,542) for victim care in 2022, including salaries for social workers; an increase compared with €129,188 (\$136,953) in 2021. Police continued to utilize the national standard referral procedures to systematically refer victims to *Agenzija Appogg*. Front-line officials referred all victims to *Agenzija Appogg* in 2022 and all accepted some form of assistance. At least 10 victims received accommodation at a government-run shelter, funded by the EU, and some also utilized cultural mediators, interpreters, accompaniment to medical appointments, and other services; this was similar to the 14 victims assisted at the shelter in 2021. The government had dedicated services available to both foreign national and Maltese victims, and once victims

were referred to care, specialized social workers at FSWS assessed the long-term needs of each victim; assistance reportedly included shelter at a safehouse, food, psychological counseling, interpreters, cultural mediators, and medical and legal aid appointments, as well as assistance with obtaining legal status and job searches. To facilitate labor market access for applicants of international protection and foreign nationals, the government continued to fund free online English- and Maltese-language courses.

The law provided victims a two-month reflection period to recover and contemplate cooperation with law enforcement. The safehouse operated by FSWS, but funded by the EU, could accommodate up to nine adult or accompanied child trafficking victims and was used for men and women. While rooms were separated by gender, the safehouse accommodated both men and women, which may have made female or child sex trafficking victims feel unsafe, could cause re-traumatization, and could undermine victim recovery. The government also had a Victim Support Agency (VSA) that assisted all crime victims who cooperated with law enforcement; services could include confidential emotional support and accompaniment to court, information about the release of an offender from custody, and legal advice; however, the VSA did not assist any trafficking victims in 2022. The Legal Aid Agency could legally represent low-income crime victims in a broad spectrum of litigations, defense, and advocacy, but no trafficking victims received this service in 2022. GRETA's 2021 report noted, per the government's 2014 Legal Aid law, legal assistance should have been available to all crime victims; however, as of its publication, all trafficking victims had been represented by NGO lawyers instead of the established Legal Aid Agency. GRETA urged the government to increase efforts to ensure victims received legal assistance and free legal aid at an early stage. The government stated victims could receive protection services regardless of their agreement to cooperate with law enforcement. While there was no time limit for victims to access some services, such as services from social workers, their stay in a general shelter or a trafficking-specific safehouse could not exceed 180 days, with some exceptions. Victims had freedom of movement in government shelters and the safehouse. The Child Protection Agency was designated as the responsible agency for vulnerability assessment and interagency coordination for child victims, including formal written procedures for police interaction and coordination requirements. Although the government had not identified any, unaccompanied child trafficking victims could stay in foster homes.

Law enforcement endeavored to conduct discreet interviews with potential victims to protect their identities and ensure their safety. To avoid re-traumatization, the government provided victims with protective support, including the option to testify via video, the absence of the suspected trafficker in court, accompaniment to court by a social worker, and victim support sessions before and after court hearings. Foreign victims who decided to assist police in prosecuting trafficking cases were entitled to a renewable six-month temporary residence permit free of charge, police protection, legal assistance, and the right to obtain flexible work permits; however, the government did not report whether it provided these protections to any victim during the reporting period. The government could grant refugee status to victims as an alternative to removal to countries where they may face hardship or persecution; however, the government did not report providing this status to any victims.

The government could grant a maximum of €23,300 (\$24,893) of compensation to victims from state funding. However, the government had not reported issuing compensation to any victims of trafficking to date. Legal aid was not available for victims seeking compensation from the government, and government compensation was not available for foreign trafficking victims without residency. Furthermore, GRETA reported the law did not allow assets confiscated from traffickers to be used as compensation or restitution for victims. In its 2021 report, GRETA urged the government to adjust or remove the maximum limits for compensation and restitution; allow confiscated assets from traffickers to be awarded to victims; and ensure state compensation was available to all trafficking victims, regardless of their nationality or residency status. In addition, prosecutors could file for restitution from traffickers in criminal cases; however, courts have never reported awarding restitution to any victims to date, and GRETA noted limited awareness of the possibility of restitution by lawyers and judicial authorities. Victims could also file a civil suit to receive a maximum of €10,000 (\$10,684) in damages; the government did not report whether any victims filed suits during the reporting period, and the government has never reported awarding

damages to any trafficking victims to date. Victims could also receive back-payment of wages earned by filing a complaint through the Department for Industrial and Employment Relations; the government did not report doing so during the reporting period. GRETA urged the government to review the eligibility criteria for state compensation and add the concept of trafficking survivor restitution to training programs for judges and prosecutors. The government did not have a legal provision to ensure victims were not inappropriately penalized solely for unlawful acts committed as a direct result of being trafficked. GRETA recommended the enactment of such a provision and the dissemination of the non-punishment principle to not only judges but all law enforcement to prevent victim penalization as early as possible.

## PREVENTION

The government maintained uneven prevention efforts. In 2020, the Human Rights Directorate (HRD) became responsible for coordinating national anti-trafficking and commercial sex efforts, as well as implementing the NAP, coordinating data collection, and reviewing policy and practice. The HRD did not meet during the reporting period. In 2021, the HRD dissolved the inter-ministerial anti-trafficking committee and assumed most of its responsibilities. Meanwhile, a previously non-operational anti-trafficking stakeholder task force was renewed in August 2021 and was responsible for operational coordination of trafficking efforts; however, this taskforce was later dissolved as well. In July 2022, the government established another new coordinating body, the Anti-Human Trafficking Inter-Ministerial Committee (IMC), which was responsible for functioning as the national rapporteur, strengthening national cooperation, and monitoring trafficking efforts. The IMC met for the first time in October 2022 and once more in January 2023. In its 2021 report, GRETA again recommended the government consider establishing an independent national rapporteur to ensure an impartial review of government anti-trafficking efforts. Coordination efforts within Malta were unstable over the past few years, with the establishment and dissolution of several coordinating bodies within a short period of time. Authorities and NGOs continued to report a lack of effective leadership, corruption allegations, and insufficient prioritization of human trafficking, as well as a need to streamline anti-trafficking coordination and communication efforts among ministries, which hindered progress.

Similar to prior allocations in 2020 and 2021, in 2022, the government allotted HRD another €300,000 (\$320,513) to draft a new anti-trafficking NAP, which began in September 2022, and continue to raise public awareness. The government updated and continued to implement its 2020-2023 anti-trafficking NAP; however, it continued to focus primarily on coordination and prevention efforts and did not address key gaps in prosecution or victim identification and assistance. The HRD also developed a monitoring plan for the implementation of the NAP and circulated this plan to relevant government stakeholders and various international bodies throughout the reporting period. As in prior years, the government distributed €25,409 (\$27,146) for trafficking-specific awareness raising during the reporting period. However, the government did not allocate funding specifically for training in 2022, compared with €16,000 (\$17,094) in 2020 and 2021. In July 2022, the government, predominantly coordinated by HRD, launched an extensive week-long awareness campaign, which included a video broadcasted on national TV, radio stations, social media portals, and all local media platforms. The awareness campaign also included posters displayed on social media accounts in six languages and moving ads on public transportation; outreach to asylum-seekers at community and detention centers; two events for the general public on human trafficking; and several networking and awareness events with high-level speakers for government, diplomatic, and law enforcement officials. In October 2022, in partnership with the OSCE, the government held a seminar focused on preventing trafficking and labor exploitation in supply chains.

The government continued to cooperate with Frontex, the European Border and Coast Guard Agency, and the Government of Libya to reduce the number of undocumented migrants entering Malta from Libya. NGOs criticized this coordinated effort, however, because it often resulted in the occupants of vessels rescued in the Libyan search-and-rescue area being returned to Libyan shores; NGOs cited severe security and human rights conditions inside Libya and Libyan detention centers

and a heightened trafficking risk for the more than 12,000 undocumented migrants held in detention centers. Despite government efforts to the contrary, approximately 444 undocumented migrants arrived in Malta in 2022, a significant decrease compared with 830 in 2021; 2,300 in 2020; and 3,100 in 2019, and the government placed them in one of four of its detention centers. GRETA urged Maltese authorities to provide asylum-seekers with informational materials on the rights of trafficking victims, as well as the services and assistance measures available and how to access them.

Fraudulent labor recruitment remained a significant concern. Through a government initiative to increase economic growth, the presence of foreign national workers, most of whom were employed in low-earning vocations, increased significantly to approximately 78,000; however, the government did not correspondingly report efforts to proactively inform foreign workers of their rights and responsibilities and victim assistance resources, aside from information available online or potentially from a labor inspector. The Employment Agencies Act (EIRA) regulated labor recruiters and required recruiters to have a license. The EIRA did not allow workers to be charged recruitment fees by employment or recruitment agencies. However, this practice continued, and the government did not enact effective law enforcement measures to deter agencies from continuing the practice. In October 2022, in response to job strikes and claims foreign national workers often paid 50 percent of their earnings to recruitment companies, the government enacted regulations for digital platform work; however, NGOs criticized the efficacy of this effort, claiming it was fraught with loopholes. Experts urged the government to enforce the law prohibiting recruitment fees charged to workers and ensure employers paid any recruitment fees. Foreign workers and asylum-seekers could not leave their employers without prior government permission, as work permits were tied to a specific employer, which may have increased their vulnerability to trafficking. GRETA and NGOs continued to report a lack of oversight and regulation on the licensing of massage parlors, which had a higher likelihood of sex trafficking occurring. In its 2021 report, GRETA relayed concerns expressed by civil society that police did not proactively identify trafficking victims in massage parlors. The national welfare agency continued to operate a 24-hour hotline for individuals in need of social services and referral to care, including potential trafficking victims; operators received training in trafficking victim identification. The government identified one potential trafficking victim through the hotline during the reporting period. The government did not make efforts to reduce the demand for commercial sex acts.

## **TRAFFICKING PROFILE:**

As reported over the past five years, human traffickers exploit domestic and foreign victims in Malta. Sex traffickers exploit foreign national and Maltese women and children, and labor traffickers exploit foreign men and women. Labor trafficking victims originate from the People's Republic of China, Eastern Europe, Central America, and Southeast Asia, with increasing numbers from the Philippines. Women from Southeast Asia working as domestic workers, foreign women working in massage parlors, and women from Central and Eastern Europe, Russia, and Ukraine working in nightclubs represent populations vulnerable to trafficking. The approximately 9,000 refugees and 4,000 asylum-seekers residing in Malta are vulnerable to trafficking in the country's informal labor market, including in the construction, hospitality, and domestic work sectors. Cooperation with the Government of Libya prevents thousands of undocumented migrants and refugees from arriving at Maltese ports; however, occupants of vessels rescued in the Libyan search-and-rescue area are returned to Libya, where NGOs cite severe security and human rights conditions and a heightened risk of trafficking for undocumented migrants. Conationals of trafficking victims and Maltese citizens frequently work together to exploit victims.