

MALTA: HUMAN RIGHTS VIOLATIONS AGAINST REFUGEES AND MIGRANTS, IMPUNITY AND ABORTION BAN CONTINUE

AMNESTY INTERNATIONAL:
SUBMISSION TO THE 45TH SESSION OF THE UPR WORKING GROUP, JANUARY-FEBRUARY 2024

SUMMARY

This submission was prepared for the Universal Periodic Review (UPR) of Malta in January-February 2024. In it, Amnesty International evaluates the implementation of recommendations made to Malta in its previous UPR, including in relation to the search and rescue at sea of refugees and migrants and the unlawful killing of journalist Daphne Caruana Galizia.

It also assesses the national human rights framework with regard to the reforms to strengthen the rule of law and to the effectiveness of the existing mechanism of oversight to prevent human rights violations in immigration detention facilities.

With regard to the human rights situation on the ground, Amnesty International raises concern about the rights of refugees and migrants and about sexual and reproductive rights.

It ends with a set of recommendations to Malta which, if implemented, would contribute to improving the human rights situation in the country.

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FOLLOW UP TO THE PREVIOUS REVIEW

1. In 2018, Malta received 157 recommendations, many focusing on establishing a National Human Rights Institution (NHRI); fighting discrimination, racism and xenophobia; combatting gender inequality; and ensuring freedom of expression and the protection of journalists. Some recommendations addressed the need to strengthen the rule of law; to protect the rights of refugees and migrants, and to ensure sexual and reproductive rights. A few recommendations addressed other issues, including torture and cruel, inhuman and degrading treatment and prison conditions. Malta supported 122 recommendations, partially supported eight, and noted 27 recommendations.¹
2. In the period under review, systemic failures of the Maltese criminal justice system and constitutional set-up to ensure respect for the rule of law and guarantee accountability, that had long been contributing to human rights violations, came to a head when the country's institutions were forced to grapple with the investigation into the unlawful killing of journalist Daphne Caruana Galizia in 2017. International bodies, including the Council of Europe (CoE) and European Union (EU) institutions, urged Malta to reform its laws, policies and practices to bring them in line with international standards and ensure full accountability for the killing. Yet, Malta resisted the demands for reform for as long as tenable. At the previous review, it rejected the one recommendation requiring it to guarantee that an independent and effective public inquiry into the unlawful killing was carried out,² only to agree late and reluctantly to establish such an inquiry in September 2019. The inquiry concluded its work in July 2021.³
3. Malta supported numerous recommendations to strengthen media freedom and the protection of journalists,⁴ but progress in this area has been slow and inadequate. For example, the number of so-called 'Strategic Lawsuits Against Public Participation' (SLAPP) to target journalists remains high and journalists continue to face challenges when trying to access official information. International media freedom organizations and journalists in Malta also lament the lack of implementation of the recommendations of the independent public inquiry into the unlawful killing of Daphne Caruana Galizia.
4. Malta rejected the only recommendation, by Brazil, regarding the rights of people rescued at sea, and specifically to ensure their prompt disembarkation, not to subject them to arbitrary detention and to guarantee them a genuine opportunity to seek asylum.⁵ The silence from European states speaks volumes about their collective failure to address the needs of refugees and migrants in the central Mediterranean.
5. Two recommendations to respect the rights of refugees and migrants in detention and to seek alternatives to detention, both supported by Malta, were not implemented.⁶ Other recommendations regarding the protection of the rights of refugees and migrants, which Malta accepted, were too generic to allow for an assessment. However, the scale and gravity of the human rights violations against refugees and migrants documented in the period under review indicate that there was a marked regression in the level of respect for their rights.

THE NATIONAL HUMAN RIGHTS FRAMEWORK

6. A vast programme of rule-of-law reforms, triggered by the unlawful killing of Daphne Caruana Galizia and overseen by the European Commission for Democracy through Law (Venice Commission) and the EU Commission, continued. It encompasses reforms of the justice system, the introduction of anti-corruption mechanisms, and the strengthening of media independence and of systemic checks and balances, including at constitutional level.⁷ However, the pace of change was slow and the meaningful consultation of civil society inadequate, raising concern that some of the changes could be insufficient or superficial.
7. Efforts to establish a National Human Rights Institution in line with the Paris Principles stalled.
8. Following a visit in 2020, the European Committee for the Prevention of Torture (CPT) exposed the inadequacy of the Monitoring Board for Detained Persons to act as an independent mechanism for preventive monitoring of immigration detention, or National Preventive Mechanism (NPM), in compliance with Malta's obligations under Article 3 of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).⁸

9. Regrettably, Malta merely noted recommendations expressed by several states to end the total ban on abortion during Malta's previous review in November 2018.⁹
10. However, in November 2022, the government proposed an amendment to the Criminal Code aimed at freeing doctors and pregnant women from the threat of criminal prosecution when the termination of a pregnancy is carried out to protect the life or health of a pregnant woman from grave jeopardy. Abortion in all other circumstances would remain illegal. However, in June 2023, further amendments were agreed which introduced significant restrictions to the original proposal. A law decriminalizing abortion in very narrow circumstances was passed on 28 June 2023, allowing a doctor to terminate a pregnancy if the person's life were at immediate risk and before 'foetal viability'. In addition, doctors can refer pregnant people, whose health is in grave jeopardy which may lead to death, to a three-specialist medical panel to seek access to an abortion. Cases of grave risk to health that are 'not life-threatening' are excluded from the decriminalization bill.¹⁰

THE HUMAN RIGHTS SITUATION ON THE GROUND

Violations of the right to life, the principle of non-refoulement, the right to asylum and the right to liberty and security of person against refugees and migrants

11. In the period under review, over 7,000 people arrived irregularly in Malta through the dangerous central Mediterranean route, from Libya towards Europe. Malta rescued hundreds of people at sea; however, concerned about the number of people arriving, it also responded with measures that gravely breached their human rights, and ignored the rescue and international protection needs of many others who were left stranded at sea or returned to Libya.
12. In April 2020, the government announced that no disembarkations would be allowed, and that Malta would be unable to service its search and rescue region (SAR). In addition, the authorities resorted to unlawful practices to prevent people arriving by sea, such as delaying their rescue and pushing them back to Libya, where they would be at grave risk to their life and safety. These practices were repeatedly criticized by the United Nations Human Rights Office (OHCHR) and the CoE Commissioner for Human Rights. In a case known as "the Easter Monday pushback", in April 2020, the government contracted a merchant vessel and instructed it to return to Libya a group of people who had been in danger at sea for several days. According to survivors, 12 people died, some before being rescued and others during the journey to Libya. The 51 survivors were detained on arrival in Libya. The survivors and the relatives of some of those who died filed a complaint before a Maltese court requesting the court to declare that Malta violated several of their human rights under the Maltese constitution and European and international law, including to claim asylum. At a hearing in May 2021, a former senior official confirmed organizing several forced returns, including the "Easter Monday" one. The case is ongoing.¹¹
13. In May 2020, the government signed a Memorandum of Understanding (MoU) with Libya to combat irregular migration,¹² leading to more interceptions at sea by Libyan authorities and returns to Libya. The CoE Commissioner for Human Rights criticized Malta's cooperation with Libya on migration.¹³
14. As of June 2023, Malta continued to pursue a deadly policy of deterrence, ignoring or responding slowly to distress calls from refugees and migrants at sea.
15. Malta repeatedly abused provisions that allow for the restriction of movement of refugees and migrants on medical grounds for up to four weeks, which can in exceptional circumstances be extended to 10 weeks. The OHCHR, the CoE Commissioner for Human Rights and the CPT criticized the practice and the sub-standard conditions of detention, which may amount to ill-treatment, and which, during the Covid-19 pandemic, did not allow for physical distancing. In its March 2021 report, following its September 2020 visit to various centres, including the Hermes Block and Safi Detention Centre, the CPT described a system of "institutional mass neglect", inhuman and degrading treatment, and reports of ill-treatment and excessive use of force.

16. Furthermore, between late April and early June 2020, following the announcement that no disembarkations would be allowed, Malta detained over 425 asylum seekers and migrants aboard ferry boats positioned outside territorial waters to circumvent human rights obligations; they had been rescued at sea in the Maltese SAR region. These boats were not equipped for long stays. The government did not provide legal grounds for the restriction of movement of the people on board and denied access to lawyers and independent organizations. On 6 June 2020, they were all disembarked, some after nearly six weeks of arbitrary deprivation of liberty. In October 2021, 32 men sued the government for their unlawful detention in ferry boats. The case is ongoing.¹⁴
17. There was no meaningful opportunity for review of detention decisions. In October 2020, a court ordered the release of an asylum seeker who had been detained without legal grounds for 144 days. The court stated it was concerned that other foreign nationals may be detained without legal basis and notified the Home Affairs Minister of its judgment. Yet, in 2022, Malta continued to arbitrarily detain asylum seekers, including unaccompanied children, beyond permissible legal periods and without adequate access to a remedy. Some unaccompanied children were detained with adults upon arrival for months.

The El Hiblu 3 case

18. In March 2019, the police arrested three teenage asylum seekers (aged 15, 16, and 19 at the time), one from the Ivory Coast and two from Guinea, upon arrival in Malta on suspicion of having hijacked the ship which had rescued them to prevent the captain returning them to Libya. They and some 100 others had left Libya in a rubber boat and been picked up by the merchant vessel *El Hiblu 1*. The three were charged with grave offences, some punishable with life imprisonment. In May 2019, OHCHR urged Malta to reconsider the severity of the charges and expressed concern about the asylum seekers' initial detention in a high-security section of an adult prison and the failure to appoint legal guardians for the two children before their interrogation. In June 2019, the Committee on the Rights of the Child (CRC) also expressed concern that the case of the two of them who were children at the time was being heard in an adult court rather than a juvenile one. Following a long magisterial inquiry which, however, failed to acquire key evidence in a timely manner, by June 2023 the three were still awaiting a decision on indictment by the Attorney General.

Sexual and reproductive rights

19. In June 2022, a US national in the process of a miscarriage was denied an abortion, despite the risk of infection and impact on her mental health. She was eventually airlifted to Spain where she was able to terminate the pregnancy. The case, which demonstrated the impact of the total ban on the procedure, triggered a limited decriminalization of abortion in June 2023.

RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

Amnesty International calls on the government of Malta to:

Violations of the right to life, the principle of non-refoulement, the right to asylum and the right to liberty and security of person against refugees, asylum seekers and migrants

20. Promptly assist people in distress in Malta's SAR region and ensure they are disembarked without delay in Malta or another place of safety, which Libya cannot be.
21. Ensure that people rescued at sea and disembarked in Malta are housed in open centres, in adequate conditions, and that they have access to asylum, in line with international standards.
22. Establish an independent, public inquiry into violations of the rights of refugees and migrants at sea in the Maltese SAR region, with terms of reference and members able to command the trust of civil society.
23. With regard to the documented forced returns of people to Libya, failure to rescue incidents, and the arbitrary detention at sea of over 425 people, ensure that thorough, independent and impartial criminal investigations are

conducted, that any perpetrators are brought to justice in a fair trial for charges that reflect the gravity of the human rights violations involved; and provide adequate reparations to survivors and the families of the victims.

24. Withdraw from the Malta-Libya MoU and ensure that any future cooperation with Libya on migration and border control is conditioned on the adoption of concrete and verifiable measures by Libya to protect the rights of refugees and migrants in the country. When requesting the assistance of Libya for the rescue of people in the Maltese SAR region, Malta must ensure that people are disembarked in a place of safety, i.e. not in Libya.
25. Ratify the 2004 Amendments to the SOLAS and SAR Conventions and immediately employ a broad definition of distress at sea to maximize the protection of life, including by applying to all search-and-rescue operations coordinated by Malta the provisions under Article 9.2.f of Regulation (EU) 656/20142 regarding the information and observations to be considered when determining a situation of distress.
26. End the practice of arbitrarily detaining refugees and migrants and ensure that no child is detained.
27. Reform the immigration detention system, provide for alternatives to detention, and fully implement all relevant recommendations by international mechanisms, especially those contained in the 2021 CPT report.
28. Ensure that an independent and effective monitoring body can access all places where refugees and migrants may be deprived of their liberty and be able to publish reports on its findings, in line with Malta's international obligations under OPCAT.
29. Ensure that persons rescued at sea seeking international protection have access to Maltese territory without discrimination, and their human rights, including to an accessible and adequate procedure, are fulfilled. In addition,
30. Investigate whether Black people are facing particular obstacles to accessing Maltese territory and a procedure to claim international protection.

The El Hiblu 3 case

31. Drop all charges against the El Hiblu 3.

Sexual and reproductive rights

32. Fully decriminalize abortion by removing abortion from criminal law and repealing any law, policy and practice that directly or indirectly punish people for seeking, obtaining, providing or assisting to obtaining an abortion. Drop criminal charges against, expunge the criminal records of and release anyone who has been imprisoned under laws criminalizing abortion. Ensure access to affordable, acceptable and good quality abortion and post-abortion care to all those who require it.

ANNEX 1

KEY AMNESTY INTERNATIONAL DOCUMENTS FOR FURTHER REFERENCE

“Malta: Lives put at risk as parliament waters down bill seeking to partially decriminalize abortion”, 28 June 2023, <https://www.amnesty.org/en/latest/news/2023/06/malta-lives-put-at-risk-as-parliament-waters-down-bill-seeking-to-partially-decriminalize-abortion/>

Malta: A textbook example of all that is wrong with EU institutions and member states’ migration policies in the Central Mediterranean, 14 March 2022, <https://www.amnesty.org/en/documents/eur33/5285/2022/en/>

Malta: The El Hiblu 3 case - Update. The Long Wait for Justice, 26 March 2021, <https://www.amnesty.org/en/documents/eur33/3884/2021/en/>

Europe: Pushback practices and their impact on the human rights of migrants and refugees – Amnesty International Submission to the United Nations (UN) Special Rapporteur on the Human Rights of Migrants, February 2021, 10 February 2021, <https://www.amnesty.org/en/documents/ior40/3669/2021/en/>

“Malta: Illegal tactics mar another year of suffering in central Mediterranean”, 8 September 2020, <https://www.amnesty.org/en/latest/press-release/2020/09/malta-illegal-tactics-mar-another-year-of-suffering-in-central-mediterranean/>

Malta: Waves of impunity. Malta’s human rights violations and Europe’s responsibilities in the central Mediterranean, 7 September 2020, <https://www.amnesty.org/en/documents/eur33/2967/2020/en/>

Malta: Further information: Asylum-seekers allowed to disembark, 9 June 2020, <https://www.amnesty.org/en/documents/eur33/2497/2020/en/>

Malta: Further information: Disembark asylum-seekers held on ferry boats, 28 May 2020, <https://www.amnesty.org/en/documents/eur33/2419/2020/en/>

Malta: Disembark 160 people held on ferry boats, 22 May 2020, <https://www.amnesty.org/en/documents/eur33/2394/2020/en/>

Malta: The El Hiblu 1 case: Three teenagers in the dock for daring to oppose their return to suffering in Libya, 23 October 2019, <https://www.amnesty.org/en/documents/eur33/1270/2019/en/>

“Malta: Asylum-seeker disembarkation deal shows a more humane approach is possible”, 23 September 2019, <https://www.amnesty.org/en/latest/press-release/2019/09/malta-asylum-seeker-disembarkation-deal-shows-a-more-humane-approach-is-possible/>

Italy/Malta/Spain: 121 people including babies and children stranded at sea in searing heat must be allowed to dock, 8 August 2019, <https://www.amnesty.org/en/latest/press-release/2019/08/italy-malta-spain-121-people-including-babies-and-children-stranded-at-sea-in-searing-heat-must-be-allowed-to-dock/>

Malta: Responsibility to rescue and protect people at sea scarcely addressed in review, 15 March 2019, <https://www.amnesty.org/en/documents/eur33/0056/2019/en/>

“Dangerous and unseemly spectacle” must spur action to save lives at sea”, 9 January 2019, <https://www.amnesty.org/en/latest/news/2019/01/dangerous-and-unseemly-spectacle-must-spur-action-to-save-lives-at-sea/>

“Stranded refugees and migrants must be immediately allowed to dock in Italy or Malta”, 28 November 2018, <https://www.amnesty.org/en/latest/news/2018/11/stranded-refugees-and-migrants-must-be-immediately-allowed-to-dock-in-italy-or-malta-2/>

ANNEX 2

MATRIX OF RECOMMENDATIONS FROM THE PREVIOUS CYCLE, WITH COMMENTS ON PROGRESS

Recommendation	Position	Full list of themes	Amnesty International's assessment/comments on level of implementation
Theme: D25 Prohibition of torture and cruel, inhuman or degrading treatment			
110.39 Improve the work of national preventive mechanisms on torture, including by extending the mandates of the relevant councils to enable access to places of deprivation of liberty (Belarus); Source of position: A/HRC/40/17 - Para. 110	Supported	D25 Prohibition of torture and cruel, inhuman or degrading treatment A42 Institutions & policies - General Affected persons: - general - persons deprived of their liberty	Not implemented See para. 8, 15, 27, 28 and 29
Theme: D43 Freedom of opinion and expression			
110.47 Take measures to strengthen the independence of the media, in particular by removing from the Media and Defamation Act the possibility of resorting to lawsuits as this constitutes a means of pressure and censorship on the freedom of the press (Belgium); Source of position: A/HRC/40/17 - Para. 110	Supported	D43 Freedom of opinion and expression Affected persons: - media	Partially implemented See para. 3 and 6
110.49 Create a conducive environment for media pluralism and independence in Malta, ensure the effective safety of journalists and guarantee proper and impartial investigations (Czechia); Source of position: A/HRC/40/17 - Para. 110	Supported	D43 Freedom of opinion and expression Affected persons: - general - media	Not implemented See para. 3 and 6
111.25 Take steps in order to further increase the protection of journalists (Greece); Source of position: A/HRC/40/17/Add.1 - Para. 49	Supported	D43 Freedom of opinion and expression Affected persons: - media	Partially implemented See para. 3 and 6
111.26. Adopt effective measures to guarantee the safety of journalists and the exercise of freedom of expression, such as the creation of a national mechanism for the protection of journalists (Mexico); Source of position: A/HRC/40/17/Add.1 - Para. 49	Supported	D43 Freedom of opinion and expression Affected persons: - media	Not implemented See para. 3 and 6
110.48 Take all steps necessary to guarantee the full exercise of freedom of expression and of the press, as stipulated in the Constitution of Malta and in accordance with its international commitments in the field (Switzerland); Source of position: A/HRC/40/17 - Para. 110	Supported	D43 Freedom of opinion and expression A41 Constitutional and legislative framework Affected persons: - general - media	Not implemented See para. 3 and 6

Recommendation	Position	Full list of themes	Amnesty International's assessment/comments on level of implementation
110.45 Eliminate Title IV of the Criminal Code with a view to decriminalizing defamation and guaranteeing the full exercise of freedom of expression and freedom of the press, in addition to ensuring the physical and legal protection of journalists and human rights defenders (Spain); Source of position: A/HRC/40/17 - Para. 110	Supported	D43 Freedom of opinion and expression A41 Constitutional and legislative framework H1 Human rights defenders Affected persons: - general - media - human rights defenders	Partially implemented See para. 3 and 6
110.46 Enhance the safeguards of the exercise of freedom of speech, especially in cases in which the accountability of public officials and institutions is concerned (Holy See); Source of position: A/HRC/40/17 - Para. 110	Supported	D43 Freedom of opinion and expression B51 Right to an effective remedy Affected persons: - general - media	Partially implemented See para. 3 and 6
111.27 Conduct a transparent investigation into the murder of Daphne Caruana Galizia and exercise all due diligence to ensure that justice is done (Switzerland); Source of position: A/HRC/40/17/Add.1 - Para. 49	Supported	D43 Freedom of opinion and expression B51 Right to an effective remedy Affected persons: - media	Partially implemented See para. 2, 3 and 6
110.54 In the light of the killing of the journalist Daphne Caruana Galizia, take all measures to protect and support journalists working to uncover corruption and other matters of the highest public interest (Iceland); Source of position: A/HRC/40/17 - Para. 110	Supported	D43 Freedom of opinion and expression D31 Liberty and security - general B51 Right to an effective remedy A47 Good governance Affected persons: - media	Not implemented See para. 3 and 6
110.53 Spare no efforts in fully investigating Daphne Caruana Galizia's assassination with a view to identifying all those involved and ensuring that there is no impunity for this crime (Slovenia); Source of position: A/HRC/40/17 - Para. 110	Supported	D43 Freedom of opinion and expression D31 Liberty and security - general B51 Right to an effective remedy B52 Impunity Affected persons: - media	Partially implemented See para. 2, 3 and 6
Theme: G4 Migrants			
110.105 Provide effective protection of migrants (Cameroon); Source of position: A/HRC/40/17 - Para. 110	Supported	G4 Migrants Affected persons: - migrants	Not implemented The recommendation is generic, but the scale of violations documented against refugees and migrants allows for the conclusion that no effective protection was guaranteed to them.

Recommendation	Position	Full list of themes	Amnesty International's assessment/comments on level of implementation
110.111 Ensure respect for the rights of migrants in irregular situations in detention camps (Senegal); Source of position: A/HRC/40/17 - Para. 110	Supported	G4 Migrants Affected persons: - migrants	Not implemented See para. 4, 5, 11 to 17 and 20 to 29
110.98 Strengthen its mechanisms to protect and promote the human rights of migrants in the country (Uganda); Source of position: A/HRC/40/17 - Para. 110	Supported	G4 Migrants A42 Institutions & policies - General Affected persons: - migrants	Not implemented See para. 4, 5, 11 to 17 and 20 to 29
110.106 Continue effectively to protect and guarantee the safety and fundamental human rights of migrants and refugees, especially minors (Holy See); Source of position: A/HRC/40/17 - Para. 110	Supported	G4 Migrants G5 Refugees & asylum seekers Affected persons: - children - migrants - refugees & asylum seekers	Not implemented See para. 4, 5, 11 to 18 and 20 to 30
Theme: G5 Refugees & asylum seekers			
111.21 Improve conditions in detention centres, including seeking alternatives to detention in accordance with international law, including human rights and refugee law, as well as existing European legislation (Sweden); Source of position: A/HRC/40/17/Add.1 - Para. 16	Supported	G5 Refugees & asylum seekers Affected persons: - refugees & asylum seekers	Not implemented See para. 5, 15 to 17, 21 and 26 to 29
Theme: A12 Acceptance of international norms			
111.13 Withdraw reservations to the Convention on the Elimination of All Forms of Discrimination against Women, which are incompatible with the principle of equality between men and women, and ratify the Optional Protocol to the Convention (France); Source of position: A/HRC/40/17/Add.1 - Para. 5	Supported/Noted	A12 Acceptance of international norms A13 Reservations F12 Discrimination against women Affected persons: - women	Not implemented https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-8&chapter=4&clang=en#EndDec
111.2 Ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women and withdraw its reservations to the Convention (Albania); Source of position: A/HRC/40/17/Add.1 - Para. 5	Supported/Noted	A12 Acceptance of international norms A13 Reservations F12 Discrimination against women S05 SDG 5 - gender equality and women's empowerment Affected persons: - women	Not implemented https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-8&chapter=4&clang=en#EndDec

Recommendation	Position	Full list of themes	Amnesty International's assessment/comments on level of implementation
111.3 Ratify the Optional Protocols to the Convention on the Elimination of All Forms of Discrimination against Women and to the Convention on the Rights of the Child and submit, as a matter of priority, all outstanding reports to the relevant treaty bodies (Czechia); Source of position: A/HRC/40/17/Add.1 - Para. 5	Supported/Noted	A12 Acceptance of international norms A22 Cooperation with treaty bodies F12 Discrimination against women F31 Children: definition; general principles; protection S05 SDG 5 - gender equality and women's empowerment Affected persons: - general - women - children	Not implemented https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-8&chapter=4&clang=en#EndDec
Theme: A45 National Human Rights Institution (NHRI)			
111.15 Strengthen further the independence and mandates of the National Commission for the Promotion of Equality and the Parliamentary Ombudsman, with a view to making them compatible with the Paris Principles (Georgia); Source of position: A/HRC/40/17/Add.1 - Para. 5	Supported/Noted	A45 National Human Rights Institution (NHRI) Affected persons: - general	Not implemented See para. 7
Theme: A41 Constitutional and legislative framework			
111.38 Ensure that migrants and refugees rescued at sea are promptly disembarked with full respect for their human rights, without arbitrary detention, and are given a genuine opportunity to seek asylum, and refrain from criminalizing persons involved in rescue activities at sea (Brazil); Source of position: A/HRC/40/17/Add.1 - Para. 18	Noted	A41 Constitutional and legislative framework D26 Conditions of detention D32 Enforced disappearances D33 Arbitrary arrest and detention G4 Migrants G5 Refugees & asylum seekers Affected persons: - migrants	Not implemented There were, repeated documented violations of the obligations to rescue, ensure prompt disembarkation in a place of safety and to not arbitrarily detain people. See para. 4, 5, 11 to 17 and 20 to 29
Theme: D25 Prohibition of torture and cruel, inhuman or degrading treatment			
111.19 Ensure that the national preventive mechanism under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment has the necessary powers and tools for its proper functioning, including human, financial and logistical resources, and that its mandate covers all places of deprivation of liberty and access to the corresponding documentation concerning allegations of ill-treatment (Czechia); Source of position: A/HRC/40/17/Add.1 - Para. 6	Noted	D25 Prohibition of torture and cruel, inhuman or degrading treatment A42 Institutions & policies - General Affected persons: - general	Not implemented See para. 8, 15, 27, 28 and 29
Theme: D43 Freedom of opinion and expression			

Recommendation	Position	Full list of themes	Amnesty International's assessment/comments on level of implementation
111.24 Continue to reform legislation on media in order to better protect journalists (France); Source of position: A/HRC/40/17/Add.1 - Para. 50	Noted	D43 Freedom of opinion and expression A41 Constitutional and legislative framework Affected persons: - media	Not implemented See para. 3 an 6
111.28 Guarantee that an independent and effective public inquiry into the killing of the journalist Daphne Caruana Galizia is carried out, and enhance policies aimed at ensuring the safety of journalists (Brazil); Source of position: A/HRC/40/17/Add.1 - Para. 50	Noted	D43 Freedom of opinion and expression B51 Right to an effective remedy Affected persons: - media	Partially implemented See para. 2, 3 and 6
Theme: E41 Right to health – General			
112.3 Decriminalize abortion, preferably completely, but at least when the life or health of the mother is in danger, by bringing the law into line with obligations deriving from several human rights conventions (Netherlands); Source of position: A/HRC/40/17 - Para. 112	Noted	E41 Right to health - General A41 Constitutional and legislative framework Affected persons: - women	Partially implemented See para. 9, 10, 19 and 31
Theme: E43 Access to sexual and reproductive health and services			
112.4 Reform laws on abortion with a view to legalizing it and improving the provision of sexual and reproductive health services, in particular family planning (France); Source of position: A/HRC/40/17 - Para. 112	Noted	E43 Access to sexual and reproductive health and services E41 Right to health - General A41 Constitutional and legislative framework Affected persons: - women	Not implemented See para. 9, 10, 19 and 31
112.5 Amend the Criminal Code to decriminalize the termination of pregnancy in cases of rape, incest and severe foetal impairment, and eliminate all punitive measures (Denmark); Source of position: A/HRC/40/17 - Para. 112	Noted	E43 Access to sexual and reproductive health and services E41 Right to health - General A41 Constitutional and legislative framework Affected persons: - women	Not implemented See para. 9, 10, 19 and 31
Theme: F12 Discrimination against women			
112.6 Take steps to increase the promotion and protection of women's full enjoyment of their human rights, especially the ability to make decisions concerning their own bodies and reproduction, including the legalization of abortion (Sweden). Source of position: A/HRC/40/17 - Para. 112	Noted	F12 Discrimination against women E43 Access to sexual and reproductive health and services Affected persons: - women	Not implemented See para. 9, 10, 19 and 31
Theme: F34 Children: Juvenile justice			

Recommendation	Position	Full list of themes	Amnesty International's assessment/comments on level of implementation
111.22 Ensure that children between 16 and 18 years of age are tried by special juvenile courts, not ordinary courts (Spain); Source of position: A/HRC/40/17/Add.1 - Para. 50	Noted	F34 Children: Juvenile justice Affected persons: - children	Not implemented See case of the El Hiblu 3, para. 18 and 30

¹ UN Human Rights Council, Report of the Human Rights Council on its fortieth session, UN Doc. A/HRC/40/2

² UN Human Rights Council, Report of the Working Group on the Universal Periodic Review: Malta, UN Doc. A/HRC/40/17, recommendation 111.28 [Brazil]

³ See the Courtesy translation of public inquiry report published by the Daphne Caruana Galizia Foundation, <https://www.daphne.foundation/en/2021/11/20/public-inquiry-translation>

⁴ For example, A/HRC/40/17, recommendation 110.46 [Holy See], 110.50 [Denmark], and 110.54 [Iceland]

⁵ A/HRC/40/17, recommendation 111.38 [Brazil]

⁶ A/HRC/40/17, recommendation 110.111 [Senegal], and 111.21 [Sweden]

⁷ European Commission for Democracy through Law (Venice Commission), Malta, Opinion on ten acts and bills implementing legislative proposals subject of opinion CDL-AD(2020)006, Adopted by the Venice Commission at its 124th Plenary Session (Online, 8-9 October 2020); and European Commission, Commission staff working document, 2022 Rule of Law Report, Country Chapter on the rule of law situation in Malta, Accompanying the document Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2022 Rule of Law Report, The rule of law situation in the European Union

⁸ Report to the Maltese Government on the visit to Malta carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 17 to 22 September 2020 <https://rm.coe.int/1680a1b877>

⁹ A/HRC/40/17, recommendation 112.3 [Netherlands]; 112.4 [France]; 112.5 [Denmark] and 112.6 [Sweden]

¹⁰ "Malta: Lives put at risk as parliament waters down bill seeking to partially decriminalize abortion", 28 June 2023, <https://www.amnesty.org/en/latest/news/2023/06/malta-lives-put-at-risk-as-parliament-waters-down-bill-seeking-to-partially-decriminalize-abortion/>

¹¹ See *Malta: Waves of impunity. Malta's human rights violations and Europe's responsibilities in the central Mediterranean*, 7 September 2020, <https://www.amnesty.org/en/documents/eur33/2967/2020/en/>, p.7

¹² See *Malta: Waves of impunity. Malta's human rights violations and Europe's responsibilities in the central Mediterranean*, 7 September 2020, <https://www.amnesty.org/en/documents/eur33/2967/2020/en/>, p.21

¹³ Commissioner for Human Rights of the Council of Europe, Dunja Mijatović, Report following her visit to Malta from 11 to 16 October 2021, <https://rm.coe.int/report-of-the-council-of-europe-commissioner-for-human-rights-dunja-mi/1680a5498d>

¹⁴ See *Malta: Waves of impunity. Malta's human rights violations and Europe's responsibilities in the central Mediterranean*, 7 September 2020, <https://www.amnesty.org/en/documents/eur33/2967/2020/en/>, p.11