



MALTA 2019

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ANNUAL REPORT

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The public inquiry into the killing of journalist Daphne Caruana Galizia continued. The government resorted to unlawful practices to prevent refugees and migrants from reaching the country by sea, and continued to arbitrarily detain asylum-seekers whose living conditions were aggravated by the COVID-19 pandemic. A total ban on abortion remained in place.

Background

On 7 March, the government declared a public health emergency to combat the spread of COVID-19 and adopted measures to restrict movement and limit public gatherings.

In June, the Council of Europe's European Commission for Democracy through Law (Venice Commission) delivered an opinion on the government's proposals to strengthen the rule of law. While some progress was noted, more remained to be done to increase the independence of the judiciary and the powers of Parliament and the Ombudsman and to involve civil society in the reform process.

Right to truth, justice and reparation

In January, former Prime Minister Joseph Muscat stepped down following widespread public protests at the end of 2019. Protests were sparked by revelations that members of his cabinet and close aides were involved in the killing of journalist Daphne Caruana Galizia in 2017. In August, he was formally questioned by police. In September, the Council of Europe urged Prime Minister Abela to refrain from undermining the inquiry's credibility and interfering with its timeframe. The public inquiry into the journalist's killing was ongoing at the end of the year.

Refugees, asylum-seekers and migrants

Approximately 2,300 people were rescued at sea and disembarked in Malta, a third fewer than in 2019 when 3,300 people arrived by sea. Nearly a quarter were unaccompanied children, while about 30% of the total were from Sudan.

In April, concerned about the number of people arriving and the additional pressure on resources due to the pandemic, the government announced that no disembarkations would be allowed and that the Maltese authorities would not be able to service their search and rescue region (SAR).

The government resorted to unlawful practices to prevent people arriving by sea. These practices exposed refugees and migrants to grave dangers, including by delaying their rescue, pushing them back to Libya and denying disembarkation.¹ In April, 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. A magisterial inquiry into the responsibilities of the Prime Minister and the head of the Armed Forces of Malta, which was initiated by the complaint of an NGO, concluded at the end of May that there had been no wrongdoing but failed to acquire key evidence. An appeal was pending at the end of the year.

In May, the government signed a Memorandum of Understanding with Libya to combat irregular migration, raising concern by NGOs that it would lead to more interceptions at sea and returns to Libya.

Between late April and early June, the government detained more than 425 asylum-seekers and migrants; they had been rescued at sea in the Maltese SAR region aboard ferry boats positioned outside territorial waters to circumvent human rights obligations. These boats were unequipped for long stays. No legal grounds were provided and access to lawyers and independent organizations was denied. On 6 June, they were all disembarked, some after nearly six weeks of arbitrary deprivation of liberty.

For nearly six weeks, the government refused to allow the oil tanker *Maersk Etienne* to disembark 27 people, including a pregnant woman and a child, rescued at sea upon request of the Maltese authorities on 4 August. The rescued asylum-seekers and migrants were eventually transferred aboard the NGO ship *Mare Jonio* and disembarked in Sicily, Italy, on 14 September.

In September, the Office of the UN High Commissioner for Human Rights raised concerns about reports of failures to rescue people at sea and the detention of asylum-seekers and migrants in conditions that may amount to ill-treatment, aggravated by COVID-19. In one detention centre, the UN experts received reports

of self-harm and attempted suicides. NGOs and lawyers were increasingly restricted from accessing migration detention centres. In some open centres, hundreds of asylum-seekers and migrants were subjected to quarantine measures for prolonged periods in conditions that did not allow for physical distancing due to overcrowding and with inadequate sanitary facilities.

In October, 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.

Three young asylum-seekers who refused to be returned to Libya after being rescued by the merchant vessel *El Hiblu 1* in March 2019, and who were subsequently arrested in Malta upon disembarkation, continued to await their indictment. They risked life imprisonment, including on charges under counter-terrorism legislation.

rights of Women and girls

Women continued to be denied access to abortion even when the life of the pregnant woman was at risk.

In November, the independent body to monitor compliance with the Istanbul Convention, *Grevio*, commended Malta for defining rape as sex in the absence of consent, in line with international standards, in 2018. However, it criticized the judiciary's tendency to put the burden of proving the lack of consent on the victim.

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1. [Waves of impunity: Malta's human rights violations and Europe's responsibilities in the central Mediterranean \(EUR 33/2967/2020\)](#)

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