

Amnesty International Report 2015/16 - The State of the World's Human Rights - Malta

There was a further reduction in the number of refugees and migrants entering Malta irregularly by boat or disembarked there after search and rescue operations. Authorities continued to automatically detain them, but introduced a review process to assess the reasons for detention in each case, leading to a shortening of detention periods. New legislation was approved to advance transgender and intersex people's rights. Abortion remained prohibited in all circumstances.

Refugees and asylum-seekers

Malta participated under the Frontex Triton operation in the rescue of refugees and migrants crossing the central Mediterranean irregularly on overcrowded and unseaworthy vessels. However, authorities maintained a restrictive interpretation of search and rescue obligations at sea. By the end of the year, 104 people had arrived on Malta irregularly by boat. This was a reduction over previous numbers as most people rescued at sea were disembarked in Italy.

In January, a boat carrying about 122 people from sub-Saharan Africa drifted in the central Mediterranean for about eight days. When it eventually reached Maltese territorial waters, about 35 people had either died or disappeared at sea. Maltese authorities rescued the 87 men found alive on board and disembarked them in Malta, where they were placed in precautionary quarantine due to fears they could carry diseases. The asylum-seekers remained held there even after the quarantine was lifted.

The authorities continued to automatically detain asylum-seekers and migrants arriving irregularly, in breach of international law obligations. However, a review process to assess the grounds for detention in each individual case was introduced in practice, and then codified through subsidiary legislation adopted in December. The introduction of such a review process, combined with the reduced number of arrivals, led to most people being released within three months, a significant reduction in the length of detention. In December, the government adopted a new policy aiming at the abolition of automatic detention, to align with EU legislation and previous judgments of the European Court of Human Rights.

In January, the Minister of Interior told Parliament that no records had been kept between 2004 and 2012 of allegations of excessive use of force by officers of the detention services against refugees and migrants in detention, nor of any related investigation or disciplinary proceedings. Serious abuses against detainees had been described within the findings of the inquiry, published in December 2014, on the death in custody of Malian national Mamadou Kamara in 2012.

In May, the UN Special Rapporteur on the human rights of migrants published his report on his December 2014 visit to Malta. His recommendations included that detention of migrants should not be automatic but decided on a case-by-case basis, and that all detainees should have full access to justice, including a more accountable system for lodging complaints within detention and reception centres.

As of the end of November, Malta had received 1,561 asylum applications. The vast majority were submitted by individuals who had been able to travel regularly to Malta or who had been living in

the country already before the reason for their asylum application materialized, particularly Libyan nationals.

In June, the government initiated consultations aimed at the adoption of a National Migrant Integration Strategy to facilitate non-EU nationals' integration within Maltese society.

At the end of the year, the government was still refusing to disclose detailed information about the search and rescue operation of a trawler carrying over 400 people which sank in October 2013, resulting in about 200 deaths. According to testimonies from survivors and other evidence, failures by Italian and Maltese authorities delayed the rescue operation.

Rights of lesbian, gay, bisexual, transgender and intersex people

In April, Parliament approved unanimously the Gender Identity, Gender Expression and Sex Characteristics (GIGESC) Act. Welcomed by LGBTI organizations internationally, the Act includes ground-breaking provisions for the advancement of transgender and intersex people's rights. It prohibits discrimination on grounds of gender identity and provides for a simplified procedure allowing transgender individuals to obtain legal recognition of their gender without the requirement to undergo any medical treatment or psychological assessment. The Act also outlaws any sex assignment treatment or surgical intervention on the sex characteristics of an intersex minor, if these can be deferred until the person can provide informed consent. At the end of the year, over 40 people were reported as having obtained legal recognition of their gender on the basis of the new legislation, doubling the total number recorded in the previous 15 years.

In January, for the first time the Maltese Refugee Commissioner granted international protection to a transgender person on grounds of gender identity. The parliament had amended the Constitution in 2014 to protect individuals against discrimination on grounds of sexual orientation or gender identity.

Sexual and reproductive rights

Women continued to be denied access to abortion, which remained prohibited in all circumstances, including when the woman's life is at risk.