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Republic of Malta

Head of state : **Marie-Louise Coleiro Preca**

Head of government: **Joseph Muscat**

Implementation of a new reception regime for asylum-seekers and migrants started, which moved away from automatic and mandatory detention of people entering Malta irregularly. However, there were concerns that safeguards against arbitrary and unlawful detention remained insufficient. Abortion remained prohibited in all circumstances.

REFUGEES' AND MIGRANTS' RIGHTS

In January and February, UNHCR, the UN refugee agency, and national NGOs welcomed elements of the new legal and policy framework relating to the reception of asylum-seekers and migrants in Malta. It had been approved at the end of 2015 and introduced through amendments to the Immigration and the Refugee Acts, regulations and a new policy document of the Ministry for Home Affairs and National Security.

The new framework ended the problematic regime of long-term automatic and mandatory detention of asylum-seekers and migrants irregularly entering Malta. However, a period of detention upon arrival was maintained at the newly created Initial Reception Centres of around 70 hours, where asylum-seekers and migrants are medically screened, identified and assessed for release or further detention. While such initial detention should ordinarily be for no more than seven days, it could be longer for health-related concerns. The new framework also introduced legal grounds for detention, free legal assistance, the possibility to challenge detention orders and an automatic review of detention orders.

Concerns remained as to the interpretation of the legal grounds for detention, a lack of clarity on when alternatives to detention might apply, and the lack of safeguards to ensure the proportionate use of detention. In particular, UNHCR noted that some of the new guidelines for immigration

authorities were not fully consistent with international law and standards, and could lead to arbitrary detention.

There were no irregular boat arrivals of refugees and migrants directly from North Africa, as most people were rescued at sea and disembarked in Italy. However, 29 people in need of urgent medical assistance during their rescue on the high seas were taken to Malta. The Armed Forces of Malta continued to participate in the rescue of refugees and migrants crossing the central Mediterranean on overcrowded and unseaworthy vessels, as part of Frontex Operation Triton and of EUNAVFOR MED Operation Sophia. By the end of November over 1,600 people had reached Malta by plane or ferry to seek asylum. Over a third were Libyans.

Those accepted under the EU relocation programme (80 people by the end of November) were held for medical screening for around 70 hours in the newly created Initial Reception Centres, although this was criticized by UNHCR.

In January, the European Court of Human Rights (ECtHR) found Malta in breach of Article 5, paragraph 4 of the European Convention on Human Rights, on the right to have lawfulness of detention assessed speedily by a court. The applicants were two Somali women who had been detained from August 2012 to August 2013, because of their irregular entry into Malta under the previous reception regime, and who had no adequate remedy to challenge the lawfulness of their detention.

In June, the UN Working Group on Arbitrary Detention released a report on Malta, following a visit to the country the previous year. The Working Group acknowledged the legislative reform to the automatic nature of detention. It also noted that programmes for the integration of migrants, asylum-seekers and refugees into Maltese society remained inadequate.

In November, the Ministry for Home Affairs and National Security announced a review of Temporary Humanitarian Protection – New (THPN) certificates, which are held by people whose asylum requests have failed. NGOs expressed concern that the decision could hamper the ability of those concerned to access basic services, including health and education. UNHCR recommended caution in implementing repatriations as a result of the review, as it was aware of cases of people who should have been granted international protection but were instead granted THPN.

SEXUAL AND REPRODUCTIVE RIGHTS

Abortion remained prohibited in all circumstances, with women being denied access to it even when their life was at risk.

LEGAL, CONSTITUTIONAL OR INSTITUTIONAL DEVELOPMENTS

In January, the ECtHR found Malta in breach of Article 6 of the European Convention on Human Rights, which among other things, guarantees access to a lawyer at the initial stages of police interrogation. A convicted offender had complained that he had been denied legal assistance during questioning in police custody at the pre-trial stage.

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