

USDOS – US Department of State

2022 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 on its anti-trafficking capacity; therefore Malta remained on Tier 2. These achievements included opening a new safe house for trafficking victims and establishing a vulnerability assessment team to help screen asylum-seekers. The government also increased victim protection funding and the number of potential trafficking victims it identified and assisted compared with the prior year. However, the government did not meet the minimum standards in several key areas. Investigations decreased compared with the prior year, and the government continued to lack coordination among ministries. The government did not report prosecuting or convicting any traffickers in 2021, a decrease compared with the prior year. The 17-year delay of a trial of a government official who was accused of and publicly admitted to the facilitation of sex trafficking concluded with an acquittal; and trafficking convictions continued to get overturned due to technicalities. The government did not effectively enforce labor recruitment regulations or monitor massage parlors where there was a higher incidence of trafficking indicators. Gaps in victim identification and protection continued and the government lacked legal safeguards to protect trafficking victims against potential prosecution for unlawful acts their traffickers compelled them to commit and has never awarded restitution or compensation to any trafficking victim.

PRIORITIZED RECOMMENDATIONS:

- Increase efforts to vigorously and expeditiously investigate and prosecute trafficking crimes.
- Increase efforts to convict traffickers, including complicit officials, and sentence convicted traffickers to significant prison terms.
- Ensure relevant staff and officials proactively identify trafficking victims, including Maltese nationals, among vulnerable populations, particularly 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 norms by sensitizing judges to the severity of trafficking crimes and the full range of penalties available. Allow formal victim identification without requiring law enforcement interaction.
- Allow formal victim identification by and referral from entities other than the police, including by labor inspectors, asylum case workers, health care professionals, social workers, and NGOs.
- Improve effective leadership and prioritization of human trafficking, as well as streamline anti-trafficking coordination and communication efforts among ministries.
- Enact a legal provision on the non-punishment of victims to ensure that trafficking victims are not inappropriately penalized for unlawful acts traffickers compelled them to commit.
- Increase migrant worker protections 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 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 residence 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 a specialized police unit and 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 decreased law enforcement efforts. 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. The government took preventative health measures to ensure law enforcement efforts continued unimpeded and courts remained opened and at standard capacity, despite the ongoing pandemic. In 2021, the police vice squad, responsible for investigating human trafficking and other crimes, initiated nine new investigations—seven for sex trafficking and two for labor trafficking. This was a decrease compared with 16 new investigations in 2020. The government reported that it did not identify any trafficking victims as a result of its investigations initiated in 2021. Seven investigations remained ongoing from prior years, including four for sex trafficking and three for labor trafficking. The government did not report initiating any new prosecutions of suspected sex traffickers in 2021, a decrease compared with two in 2020 and zero in 2019. The government did not report convicting any traffickers in 2021, a decrease compared with the convictions of three traffickers in both 2019 and 2020, which included significant prison sentences. 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. In February 2022, a judge annulled the prison sentence for a 2020 sex trafficking conviction based on a technicality in court formalities. The media reported on an alleged case of forced labor through the non-violent coercion of a victim with intellectual disabilities for nine years; however, the case was not prosecuted as human trafficking, and courts sentenced the perpetrator to a suspended sentence with the rationale that physical violence and injuries were not sustained by the victim. Experts urged the government to increase training for judges on psychological coercion as a means of trafficking. There were no new investigations, prosecutions, or convictions of government employees allegedly complicit in trafficking crimes. An investigation initiated in 2004 of a former police officer who had allegedly acted as an accomplice to a convicted sex trafficker through the falsification of visa documents and had admitted to the procurement of a victim, ultimately ended in an acquittal 17 years later in June 2021. Prosecutors applied for an appeal, but courts denied this petition. In its 2021 report, the Group of Experts on Action against Trafficking in Human Beings (GRETA) stressed that the government's failure to convict traffickers and the absence of effective, proportionate, and dissuasive sanctions undermined efforts to combat human trafficking and victims' access to justice. GRETA also expressed concern that the length of criminal proceedings negatively impacted victims who could experience re-victimization through repeated confrontations with their alleged trafficker. GRETA also noted the government lacked specialized prosecutors and judges for trafficking cases and did not pursue financial crime investigations in tandem with human trafficking cases; ultimately, GRETA recommended the government consider addressing both deficiencies.

The government, in partnership with a university and several international organizations, provided extensive anti-trafficking training to 40 new police recruits on victim identification, trafficker profiling, and an overview of the victim referral mechanism; immigration police and border control officers, as well as 300 police sergeants and majors, on anti-trafficking more broadly; and social workers on trafficking among asylum-seekers. The government specifically targeted training for police vice squad officials, who were provided approximately five anti-trafficking trainings throughout the reporting period. The government reported cooperating with United States law enforcement officials on an international trafficking investigation.

PROTECTION

The government slightly increased protection efforts. Agenzija Appogg, a government office within the Foundation for Social Welfare Services (FSWS) that provided national assistance to trafficking victims, identified 18 potential foreign trafficking victims. This compared with six in 2020 and 11 in 2019, though these identifications were still fewer than 24 in 2018, 30 in 2017, and 35 in 2016. Of the potential victims identified, 11 were victims of labor trafficking, (including four victims of domestic servitude and one victim of forced criminality), five were victims of sex trafficking, and two were victims of both sex and labor trafficking. Two potential victims were male, and 16 were female. Potential trafficking victims identified in 2021 were from approximately 13 countries, with the majority originating from the Philippines. While the government had a national victim identification and referral mechanism from 2014, gaps in victim identification remained, and the government did not report identifying any Maltese or child victims in 2021 and only one potential victim among asylum-seekers, despite the documented vulnerability of this population to trafficking. GRETA reported that many front-line officials remained unaware of the national victim identification and referral mechanism, and civil society highlighted a need to ensure wide dissemination of the mechanism to ensure uniform implementation. Trafficking victims could only be “officially” identified by the police vice squad, and the vice squad determination on whether someone was a victim of trafficking or not could not be challenged. In its 2021 report, GRETA noted that contrary to the national identification mechanism, civil society reported that official identification of victims was sometimes dependent on the possibility to institute criminal proceedings against the trafficker. The government funded an international organization to update its trafficking victim screening tool to improve victim identification. Victim identification among asylum-seekers was conducted by officials from the Ministry for Home Affairs and National Security and Law Enforcement (MHSE), in partnership with civil society. In partnership with the EU and an international organization, the government formed a vulnerability assessment team where asylum-seekers were screened for trafficking indicators and vulnerabilities; however, in its 2021 report, GRETA noted the preliminary assessment conducted was limited to the identification of cases where vulnerability was immediately obvious, such as with unaccompanied children. With consent, potential trafficking victims were referred to victim protection services with a new referral form for asylum-seekers, which was adopted in March 2021 for both government and civil society use. Separately, the government reported that trained officials systematically screened undocumented migrants for trafficking indicators with updated guidelines at detention centers; however, they did not report identifying any victims among this population. The need for sufficient resources to streamline all procedures, create a systematic workflow, and build capacity at migrant detention centers may have affected the quality of victim screening. During the reporting period, police continued to screen for sex trafficking indicators among individuals in commercial sex. In its 2021 report, GRETA noted the lack of a multi-disciplinary approach to the identification process of trafficking victims and the need for additional personnel resources and training for the police vice squad.

The national Foundation for Social Welfare Services continued to coordinate effectively with the police, legal aid, and health services to provide quality care to victims and met virtually with stakeholders every two months. Government officials continued to work closely and collaboratively with NGOs. Agenzija Appogg conducted several trafficking identification training sessions to frontline officials in 2021. The government provided €172,166 (\$195,200) for victim care in 2021, including salaries for social workers and safe housing for victims; an increase compared with €102,229 (\$115,910) in 2020. The government also provided €16,399 (\$18,590) to an international organization to update its trafficking victim screening tool and provide victim assistance. To improve coordination of victim protection for children, in 2021, the Child Protection Agency was designated as the responsible agency for vulnerability assessment and interagency coordination for child victims. The national welfare agency continued to operate a 24-hour hotline for individuals in need of social services support and referral to care, including potential trafficking victims; operators had received training in trafficking victim identification. The government identified two potential adult trafficking victims through the hotline during the reporting period.

Police continued to utilize the national standard referral procedures to systematically refer victims to Agenzija Appogg. Fourteen potential victims were referred to Agenzija Appogg, where they received individual assistance plans and psychological assistance; at least six victims were provided with shelter, and social workers helped several victims with medical appointments and employment. Protection services to victims continued uninterrupted in 2021, and the government instituted several pandemic-related safety protocols, including requiring proof of a COVID-19 vaccine or a negative test result prior to shelter admittance; victims were provided short-term emergency shelter until they could provide the required proof. The government had dedicated services available to both foreign and domestic trafficking victims, and once victims were referred to care, specialized social workers at FSWS assessed the long-term needs of each trafficking victim; assistance reportedly included shelter, food, psychological counseling, interpreters, and medical and legal aid appointments, as well as assistance with obtaining legal status and job searches. In 2021, the government opened a new safehouse, which sheltered three trafficking victims in 2021, and was staffed by social service workers during the day and security at night. The government also launched a Victim Support Agency in April 2021 for all victims of crime who cooperated with law enforcement, including trafficking victims; services included confidential emotional support and legal advice. The

government did not report the number of trafficking victims that received services through this agency. GRETA's 2021 report, noted that per the government's 2014 Legal Aide law, legal assistance should have been available to all victims of crime; however, to date, all trafficking victims have been represented by NGO lawyers funded through projects instead of the established Legal Aid Agency. GRETA urged the government to increase their efforts to ensure that victims of trafficking received legal assistance and free legal aid at an early stage. The government reported that 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 shelter or safe housing could not exceed 180 days, with some exceptions. Victims had freedom of movement in government shelters, and both men and women had access to three shelters.

The government encouraged but did not require victims to assist in the investigation and prosecution of their alleged traffickers. Law enforcement endeavored to conduct discreet interviews with potential trafficking 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, accompaniment to court by a social worker, and victim support sessions before and after court hearings. The government had a witness protection program and reported providing services to one victim in 2021. The law provided victims a two-month reflection period to recover and contemplate cooperation with law enforcement. Foreign victims who decided to assist police in prosecuting trafficking cases were reportedly entitled to a renewable six-month temporary residence permit free of charge, police protection, legal assistance, and the right to obtain flexible work permits; the government did not report granting residence permits to any trafficking victim. The government could grant refugee status to victims as an alternative to removal to countries where they may face hardship or persecution, though the approval rate for all asylum applications was low at 8 percent, and the government did not report providing this status to any victims during the reporting period.

The government could grant a maximum of €23,300 (\$26,420) of compensation to some victims from state funding; however, the government has never reported issuing compensation to any victims of trafficking to date; the few requests brought by NGO lawyers were ultimately denied. 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 that 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 residence status. Additionally, 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 (\$11,340) in damages, but 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 reported awarding back-payment three times in the past but 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 on the non-punishment of victims to ensure that trafficking victims are not inappropriately penalized for unlawful crimes traffickers compelled them to commit, including immigration violations. GRETA recommended the enactment of such a provision and the dissemination of the non-punishment principal to not only judges, but all law enforcement to prevent victim penalization as early as possible.

PREVENTION

The government maintained prevention efforts. In 2020, the Human Rights Directorate (HRD) assumed responsibilities for coordinating national anti-trafficking and commercial sex efforts and reforms. In September 2021, the HRD dissolved the inter-ministerial anti-trafficking committee and assumed most of its responsibilities, which included implementing the national action plan (NAP), coordinating data collection, and reviewing policy and practice. However, by the end of the reporting period, the government did not report which entity took on the role of the national rapporteur. The term for the previously non-operational anti-trafficking stakeholder task force was renewed under a new chairperson in August 2021, but the task force, responsible for operational coordination of trafficking efforts, still had not met with stakeholders or taken any concrete actions by the end of the reporting period. The government reported that the HRD did not meet during the reporting period. 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. In 2020, the government allotted €300,000 (\$340,140) to improve coordination among relevant ministries, and in 2019, it launched a reform on human trafficking and prostitution to

enhance multi-agency cooperation, improve the coordination of existing processes, and take an active approach in combating all forms of trafficking, though no results were reported to date. The government continued to implement their 2020-2023 anti-trafficking NAP, which focused primarily on coordination and prevention efforts, but it did not address key gaps in prosecution or victim identification and assistance. 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 hinder progress. The government maintained its anti-trafficking training budget at €16,000 (\$18,140) in 2021, the same as 2020. The government conducted anti-trafficking awareness campaigns by publishing an article in the newspaper, sharing information on social media, and multiple appearances by various government officials on national television targeting the general population as well as vulnerable groups like individuals in commercial sex. One anti-trafficking awareness campaign the government organized in Valletta used anonymous statements from trafficking survivors in a visual display. The government funded two research projects in 2021, including a project that analyzed root causes of trafficking in supply chains and available legal instruments, as well as a project on human trafficking legislation and strategies; however, neither project had yet been published.

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 risk of trafficking for the more than 12,000 undocumented migrants forced to remain in the detention centers. Despite government efforts to the contrary, approximately 830 undocumented migrants arrived in Malta in 2021, a significant decrease compared with 2,300 in 2020 and 3,100 in 2019, and they were placed in one of four government-run detention centers. GRETA urged the Maltese authorities to ensure asylum-seekers were provided with information materials on the rights of trafficking victims, as well as the services and assistance measures available and how to access them. Civil society reported a new government policy prevented asylum-seekers from Bangladesh from obtaining a work permit for nine months and may have increased their vulnerability to trafficking.

In 2021, the national employment authority reported conducting 1,400 routine inspections of employers, which focused on employment contracts and basic employment conditions. However, the government did not report whether labor inspectors received specialized training to identify trafficking victims, identified any trafficking victims, or referred any cases for investigation. Fraudulent labor recruitment remained a significant concern. 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 to occur, and the government did not report effective law enforcement measures taken to deter agencies from continuing the practice. 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 indicators of sex trafficking. In its 2021 report, GRETA relayed the concerns expressed by civil society that police did not proactively identify trafficking victims in massage parlors. The government did not make efforts to reduce the demand for commercial sex acts. The government did not report providing anti-trafficking training to its diplomatic personnel or to its troops prior to their deployment as peacekeepers during the reporting period.

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 within 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. Fraudulent labor recruitment continues to occur; traffickers replace the originally signed contract with a less favorable one upon arrival in Malta or

force victims to perform a completely different job than what was agreed upon. Though illegal, traffickers often confiscate the passports of victims upon arrival. Co-nationals of trafficking victims and Maltese citizens frequently work together to exploit victims.

ecoi.net summary:



Annual report on
trafficking in persons (covering
April 2021 to March 2022)

Country:

Malta

Source:

[USDOS – US Department of
State](#)

Original link:

[https://www.state.gov/reports/
2022-trafficking-in-persons-
report/malta/](https://www.state.gov/reports/2022-trafficking-in-persons-report/malta/)

Document type:

Periodical Report

Language:

English

Published:

29 July 2022

Document ID:

2077783

Austrian Red Cross
Austrian Centre for Country of Origin and
Asylum Research and Documentation (ACCORD)

Wiedner Hauptstraße 32, 1041 Wien
T (Telefon) +43 1 589 00 583
F (Fax) +43 1 589 00 589
info@ecoi.net

Contact
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