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Annual Report 2019 - Malta [EUR 01/2098/2020]

A prominent Maltese businessman was arrested on charges of complicity in the killing of journalist Daphne Caruana Galizia and implicated the Prime Minister's chief of staff, throwing the government into a deep political crisis. Following international criticism, the government agreed to a public inquiry into her death. Over 3,300 refugees and migrants arrived in Malta by sea. Many were rescued by the Maltese authorities, which also allowed the disembarkation of hundreds of people rescued by NGOs. However, refugees and migrants were routinely unlawfully detained in gravely inadequate conditions. Abortion remained prohibited in all circumstances.

Lack of accountability

On 20 November, the arrest of a prominent Maltese businessman on charges of complicity in the killing of journalist Daphne Caruana Galizia in a car bomb explosion on 16 October 2017, threw the government into a deep political crisis. The businessman implicated Prime Minister Joseph Muscat's chief of staff in the killing. The revelations sparked widespread public protests in the island. The Caruana Galizia family demanded that the Prime Minister stepped down immediately, concerned that key evidence about the killing could be destroyed. Joseph Muscat announced he would step down in January 2020. In December, following an urgent fact-finding visit to Malta to assess the inquiry into the journalist's killing, the European Parliament expressed deep concern that the delayed resignation of the Prime Minister could undermine the integrity of the inquiry and for the state of the rule of law in Malta. In September, following significant international pressure including during the UN Human Rights Council's examination of the country's human rights record under the Universal Periodic Review process, Malta agreed to carry out a public inquiry into the killing of the journalist.^[1] In June, the Council of Europe Parliamentary Assembly (PACE) gave Malta three months to agree to an independent public inquiry into the journalist's death, in line with obligations under the European Convention on Human Rights. The PACE decision was based on the findings of highly critical reports into systemic failures of the Maltese criminal justice system and constitutional set-up to ensure respect for the rule of law and guarantee accountability.

Three men charged in connection with the execution of the journalist's killing were awaiting trial at the end of the year.

Refugees and asylum-seekers

Over 3,300 refugees and migrants arrived in Malta through the central Mediterranean route, up from 1,445 in 2018. Nearly half were Sudanese, with Eritreans making up the next largest group. Nearly a third of people arriving were children, nearly half of whom were unaccompanied.

Malta rescued hundreds of refugees and migrants in its search and rescue region. In addition, Malta accepted the disembarkation of hundreds more, rescued by others, including NGOs, on condition that those rescued in circumstances for which Malta did not regard itself as legally

responsible would be transferred elsewhere in the EU.

In September, Malta, along with France, Germany and Italy, committed to establishing a “temporary solidarity mechanism”. The mechanism aimed to facilitate predictable and “dignified” disembarkation in a place of safety for refugees and migrants rescued at sea and a fair system to ensure their relocation among EU member states.

Asylum authorities struggled to cope with the number of claims and accepted assistance from the European Asylum Support Office. Very few successful claimants were granted refugee status; most received subsidiary protection status, which does not allow family reunification and significantly limits integration opportunities. Transfers of asylum-seekers towards France, Germany, Ireland, Italy, Luxembourg, Portugal, Romania and Slovenia, which had started in 2018, continued.

Hundreds of refugees and migrants were arbitrarily detained in overcrowded and sub-standard conditions, in some cases for over three months, in the Initial Reception Centre and in the Safi Barracks Detention Centre. There was no meaningful opportunity for review of their detention, which the authorities said was justifiable on medical grounds – Malta’s laws allow for the restriction of movement on medical grounds for up to four weeks, which can in exceptional circumstances be extended to 10 weeks. In October, the Court of Magistrates ruled the detention of six asylum-seekers on purported medical grounds for over 10 weeks to be unlawful and set them free, following habeas corpus proceedings filed by their lawyers. Lawyers and international and national non-governmental organizations indicated that the underlying reason preventing people from being released was the failure of the authorities to provide sufficient reception spaces in open centres. The authorities were planning to address the problem by removing asylum-seekers from open reception facilities after a certain amount of time to make space for those arrived more recently. However, there were no plans to provide adequate housing alternatives to those being removed, nor to expand the overall availability of places in open centres. In June, the Committee on the Rights of the Child (CRC) expressed concern about the detention and treatment of child asylum-seekers and migrants.

In March, three teenage asylum-seekers – a 15-year-old from the Ivory Coast and two teenagers aged 16 and 19 from Guinea – were arrested 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, including under counter-terrorism legislation. In May, the UN High Commissioner for Human Rights urged Malta to reconsider the severity of the charges and expressed concern about their 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, the CRC also expressed concern that the case of the two children was being heard in an adult court rather than a juvenile one. A magistrate’s inquiry into the case was ongoing at the end of the year.[2]

In May, the captain of the *Lifeline* rescue ship, operated by a German NGO, was fined 10,000 euros for registration irregularities, after rescuing hundreds of refugees and migrants. The *Lifeline*, which was flying a Dutch flag, remained impounded in Malta. The criminal proceedings and their outcome represented a breach of Malta’s obligation to protect the work of human rights defenders. An appeal was pending at the end of the year. .

Sexual and reproductive rights

Women continued to be denied access to abortion even when the life of the pregnant woman was at risk. Malta rejected recommendations to amend the total ban on abortion expressed by several states during Malta’s Universal Periodic Review in November 2018.

[1] Malta: Responsibility to rescue and protect people at sea scarcely addressed in review (EUR 33/0056/2019)

[2] Malta: The El Hiblu 1 case – Three teenagers in the dock for daring to oppose their return to suffering in Libya (EUR 33/1270/2019)

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