U.S. DEPARTMENT of STATE

Malta

Country Reports on Human Rights Practices - 2007
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Malta is a constitutional republic and parliamentary democracy with a population of approximately 400,000. The president is the chief of state and is appointed by the unicameral parliament. The president appoints as prime minister the leader of the party that gains a majority of seats in parliamentary elections. The most recent general elections in 2003 were free and fair. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, there were reports that the government detained illegal immigrants under poor conditions. Societal problems included child abuse and trafficking in persons.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The constitution and law prohibit such practices, and there were no reports that government officials employed them.

On September 10, the Council of Europe's Committee for the Prevention of Torture (CPT) reported on allegations that soldiers had used excessive force to break up a 2005 demonstration by 80 to 90 illegal immigrants detained at the Safi Barracks. A CPT delegation interviewed detainees, who claimed that soldiers had violently beaten demonstrators who were already under control and were sitting or lying on the ground. Twenty-six demonstrators were treated in hospitals, 12 of whom were kept for 24 hours or longer. The CPT noted that reports of other witnesses and films and photographs seen by the CPT delegation corroborated these allegations. An earlier independent judicial inquiry into the incident had found that the detainees refused to obey legitimate orders of the soldiers and that although the use of force was generally justified, some individual soldiers used excessive force. That domestic investigation's report recommended that the armed forces receive additional training on handling detainees.

Prison and Detention Center Conditions

While prison and detention center conditions generally met international standards, there were reports that the government detained illegal immigrants under poor conditions.

In the September 10 report on its 2005 visit, the CPT stated that it found that a very large majority of illegal immigrants detained by the government were housed in poor and sometimes unacceptable conditions. It noted, in particular, that since 2004 the government housed approximately 100 detainees at the Safi Barracks in tents or metal hangars, and recommended that the detainees be transferred and the hangars decommissioned. At year's end, however, the detainees were still housed at the Safi barracks. Although the government had renovated some of the buildings at the Safi complex, almost 700 migrants were still being held there.

The CPT also reported that illegal immigrants had been detained for up to 40 days in a room in the basement of Luqa International Airport that should not have been used for periods of detention longer than 24 hours.

The government generally permitted visits by independent human rights observers, although none were reported during the year.

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus

Civilian authorities maintained effective control over the police force and the armed forces, and the government has effective mechanisms to investigate and punish abuse and corruption. There were no reported problems related to impunity within the police force.

The 2006 case of a senior police official who was arraigned on bribery charges in connection with the organization of an illegal, clandestine lotto was ongoing at year's end. The individual who was charged with bribing the police official pled guilty to the charges and received a six-month sentence suspended for one year.

Arrest and Detention

A magistrate-issued arrest warrant is generally necessary to detain a person for questioning and may be issued on the basis of reasonable suspicion. According to the constitution, police must either file charges or release a suspect within 48 hours of detention; in all cases authorities must inform detainees of the grounds for their arrest. These requirements were generally respected in practice. During the 48-hour detention period, arrested persons have neither the right to legal counsel nor to meetings with family members. Pretrial detainees are granted access to counsel, and family members may visit detainees once charges are filed. Bail was normally granted on a case-by-case basis.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary, and the government generally respected this provision in practice.

Trial Procedures

The constitution provides for the right to a fair public jury trial, and an independent judiciary generally enforced this right. Defendants have the right to counsel of their choice or, if they cannot afford counsel, to court-appointed counsel at public expense. Defendants and their lawyers have access to government-held evidence relevant to their case. Defendants may confront witnesses and present evidence; defendants enjoy a presumption of innocence and have the right to appeal.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

The constitution provides for an independent and impartial court for the determination of civil rights or obligations, and access to a court to bring lawsuits seeking damages for, or cessation of, a human rights violation. Access in the case of a breach of human rights is also covered under the European Convention Act, which incorporates the European Convention of Human Rights and Fundamental Freedoms. The government generally respected these rights.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The constitution prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution provides for freedom of speech and of the press, and the government generally respected these rights in practice. The law prohibits foreign financial support, speakers, equipment, or printed materials in politics during the period leading up to elections, although this provision has rarely been enforced. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

During the year the Broadcasting Authority, an independent statutory body responsible for television and radio broadcasting, fined an independent television station for permitting the broadcast of material that could incite racial hatred. The station admitted the charge.

The independent media were active and expressed a wide variety of views without restriction. International media operated freely.

At year's end police continued to investigate, but had no suspects, in two 2006 incidents of suspected arson directed against a journalist and an editor. No connection had been proven, but circumstances indicated that the case could be connected to articles published by each of the targets concerning immigration, racism, and tolerance for migrants and refugees. In an October ruling, the appeals court dismissed the police commissioner's request that mobile telephone companies be required to divulge relevant information.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Use of the Internet was widespread; approximately 53 percent of households and 90 percent of schools (state, church, and private) had Internet access. Several Internet cafes and many blogs operated freely throughout the island.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

The constitution provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion

The constitution provides for freedom of religion, and the government generally respected this right in practice. The constitution establishes Roman Catholicism as the state religion; however, numerous non-Catholic religious groups, including an Islamic community, various Protestant denominations, and a small Jewish community, practiced their faiths freely and were not required to register with the government.

Societal Abuses and Discrimination

There were no reports of anti-Semitic acts during the year. The Jewish community numbered approximately 120 persons.

Police made no arrests and had no suspects in the 2006 arson attack on seven cars belonging to members of the Jesuit community; the case remained under investigation at year's end. The attack was believed to be linked to the community's advocacy for migrants and refugees, rather than to their religious beliefs.

For a more detailed discussion, see the *2007 International Religious Freedom Report*.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

The constitution prohibits forced exile, and the government did not employ it.

There were no reports of government restrictions on emigration or prohibition against the return of citizens who left the country.

Protection of Refugees

The law provides for the granting of asylum or refugee status to persons in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol; and the government has established a system for providing protection to refugees. The government provided a second tier status, granting some asylum seekers humanitarian protection against "refoulement," the return of persons to a country where there is reason to believe they feared persecution.

The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol; temporary protection was granted to approximately 399 persons from January to October.

The government generally cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. During the year the government established the Organization for the Integration and Welfare of Asylum Seekers.

The government generally excluded asylum requests by nationals of safe countries of origin. Such applicants may apply to the refugee commissioner for reconsideration within seven days of notification by authorities. In such cases, the Office of the Refugee Commissioner calls applicants for a full interview and examination of their claim before ruling on their application.

Authorities detained "irregular immigrants"--persons seeking to emigrate illegally from Africa to the EU who were intercepted and brought to Malta by the armed forces--for up to 12 months after they arrived in Malta. Individuals had two months to file a claim to asylum and were detained while their cases were processed. Irregular immigrants who never applied for asylum, as well as those whose asylum applications and appeals were rejected, were confined for a maximum of 18 months from their date of arrival; after 18 months they were released, regardless of whether the police had arranged to repatriate them to their country of origin.

In 2006 the European Union and UNHCR issued reports criticizing the length of time irregular immigrants were confined in closed detention centers and the conditions within the centers. The problems reported included overcrowded facilities, unsanitary facilities, insensitivity of guards relating to the separation of men and women in confined spaces, the lack of meaningful activities within the centers, and the lack of access to legal resources. The UNHCR made recommendations to rectify the matter, but it appeared that the government had not taken action to specifically address the concerns. UNHCR representatives have met with government officials on this matter and at year's end were forming a working group to address the situation.

Illegal immigrants awaiting decisions on their cases occasionally protested their detention or attempted to escape from detention centers. In March 2006 approximately 370 illegal immigrants broke out of a closed detention center; a number of them were injured, along with police officers, before being captured and returned. A Sudanese man residing in the country and a number of other foreigners were detained by the police for organizing the escape. The Sudanese man was later triedand sentenced to one month's imprisonment.

Authorities aimed to place detained children, pregnant women, elderly persons, and parents with infants in open centers where they were free to move about shortly after their arrival in the country. The armed forces and police are responsible for persons in detention, while the Ministry for Family and Social Solidarity has responsibility for the welfare and accommodation of persons released from detention centers.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation

The most recent general elections in 2003 were free and fair. Political parties operated without restriction or outside interference.

There were six women in the 65−seat parliament and two women in the 14−member Cabinet of Ministers. Approximately 13 percent of senior government officials were women, and two women held ambassadorial rank. There were six female magistrates.

There were no members of minorities in the government.

Government Corruption and Transparency

The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively.

During the year a number of officials at officially appointed bodies were arraigned on corruption charges or were dismissed after earlier being convicted of corruption. Government officials were subject to financial disclosure laws; the court has the right to order financial disclosure, depending on its judgment of the circumstances. The police and the Permanent Commission against Corruption are responsible for combating official corruption.

The country does not have laws providing general access to government information. There are laws which provide access for the press and the public to certain government−held information. The government retained discretion to release information that does not fall under these sector−specific laws, and generally provided access to such information.

Section 4 Governmental Attitudes Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits discrimination based on race, gender, disability, language, or social status, and the government generally enforced this prohibition effectively. There were incidents of child abuse and trafficking in persons.

Women

Rape, including spousal rape, is a criminal offense, and the government effectively prosecuted those accused of such crimes. Rape, spousal rape, and violent or indecent assault carry sentences of up to 10 years in prison.

During the year the police domestic violence unit received 341 reports of domestic violence, a significant increase from 2006. The law prohibits domestic violence, and the government effectively enforced it. Penalties ranged from three months to 20 years in prison.

A special police unit and several voluntary organizations provided support to victims of domestic violence. There is a hotline to assist victims of abuse through counseling and shelter referrals. The government provided support to victims of domestic violence through the Department of Welfare. A government-supported shelter for women and children was in operation throughout the year; the government also provided financial support to a shelter operated by the Catholic Church, among others.

Some nongovernmental organizations (NGOs) and victims' assistance advocates asserted that domestic violence was underreported, primarily because of societal attitudes and the attitude of law enforcement and medical service providers. The NGOs reported that women were afraid to report the crime because they feared that they would not be believed or protected.

The law prohibits prostitution, and the government effectively enforced it. The law provides for sentences of several months to two years in prison. From January to August, the police arraigned 79 persons for offences related to prostitution. There were a number of prosecutions during the year.

Sexual harassment is unlawful and is punishable by a $3,100 (1,000 lira) fine, six months' imprisonment, or both. The government effectively enforced the law. In August the *Times of Malta* reported that a woman was awarded financial compensation of approximately $6,100 (1,800 lira) after the Industrial Tribunal found she was forced to leave her employment due to sexual harassment.

Women enjoy the same legal rights as men, including under family law, property law, and in the judicial system. Redress in the courts for sexual discrimination was available. The Ministry for the Family and Social Solidarity and the National Commission for the Promotion of Equality for Men and Women were responsible for gender equality issues. The commission's program focused on broader integration of women into society. It advised the government on the implementation of policies promoting equality of women and men.

Although women constituted a growing portion of the higher education graduates and the work force, they were underrepresented in management and generally earned less than their male counterparts. The National Council of Women of Malta reported "extremely low" female representation in the labor force. In the first quarter of the year, 35.5 percent of women between age 15 and 65 were employed, and the female unemployment rate was 7.3 percent, compared with an unemployment rate for males of 6.6 percent.

Children

The government was strongly committed to children's rights and welfare. It provided free, compulsory, and universal education through age 16. During the year approximately 95 percent of school-age children attended school, and 70 percent went on to post-secondary education. There were no apparent differences in the access of girls and boys to education.

The government provided universal free health care to all citizens, with equal access for boys and girls.

A review conducted by officials at the state hospital's Department of Pediatrics indicated that the agency received 1,200 reports of child abuse in 2006. Prison sentences were handed down in a number of cases involving sexual abuse of minors. A number of sources consistently claimed that authorities did not pursue cases of alleged sexual abuse of children by Catholic clerics unless a parent or adult filed a formal complaint, but rather allowed the church to handle the matter internally. If a formal complaint was filed, the same police investigations and judicial process as for other such

complaints were followed. One such case was pending at year's end, with no new developments since 2006.

Trafficking in Persons

The law prohibits all forms of trafficking in persons; the authorities arrested suspected traffickers and offered protection services to trafficking victims. There were no reports that persons were trafficked to, from, or within the country; however, there was anecdotal evidence that women from Serbia, Russia, Ukraine, Romania and other Eastern European countries may have been trafficked to Malta for forced prostitution.

The most recent confirmed case of trafficking occurred in December 2006, when police arrested four Maltese nationals and a foreign national for procuring a Romanian woman for prostitution in Malta. However, in previous years there were credible and specific reports that the country was a destination for persons, primarily from Ukraine, Russia, the Czech Republic, and Romania, trafficked for prostitution.

The criminal code prohibits trafficking and makes the offense punishable by two to nine years in prison. The punishment is more severe if the offense is accompanied by grievous bodily harm, generates over $15,000 (5,000 lira), or is organized by a criminal network. Persons can be charged if the offense took place within the country or if the person is a national or permanent resident. The law states that a person who forces by violence, threat, or deceit, another person over the age of 21 to leave the country for the purpose of prostitution can be imprisoned for up to two years; the maximum sentence increases to four years for trafficking persons under 21.

Authorities made five arrests for trafficking or trafficking-related offenses during the year. In January the Court of Appeals confirmed a suspended sentence for a convicted trafficker for trafficking two women into prostitution. Algerian national Khaled Masoud was convicted and jailed for trafficking fifteen immigrants. A police officer convicted for complicity in trafficking in 2005 remained out of jail pending appeal. Another police officer was convicted and sentenced to three years imprisonment.

The government sometimes cooperated with other governments in the investigation of trafficking. The court ordered the extradition of two citizens to Italy where they were wanted for helping with the travel of Italy-bound Chinese illegal immigrants. There were no reports that authorities condoned or facilitated trafficking in persons during the year.

The government provided protection of witnesses and encouraged victims to assist in the investigation and prosecution of traffickers; however, victims who had been arrested generally refused to provide testimony or would testify only in closed hearings. Once victims provided evidence, they were typically returned to the care of social services and deported to their country of origin.

The government provides for social services to victims of trafficking through contracts with local NGOs, which also provided social and housing services to victims of domestic violence. Law enforcement authorities screened suspected victims of trafficking at border entry points and referred victims to local NGOs.

The government did not offer programs or education for the prevention of trafficking, but law enforcement officials participated in a course sponsored by a foreign embassy to identify and process victims of trafficking.

Persons with Disabilities

The law prohibits both the public and private sectors from discriminating against persons with disabilities in employment, education, health care, access to goods and services, housing, and insurance, and the government effectively enforced these provisions. Through September the National Commission for Persons with Disability (NCPD), the agency responsible for enforcement of this law, continued work on 76 complaints of discrimination against persons with disabilities that were pending from previous years. From October 2006 through September 2007, the NCPD opened investigations on 105 new cases. A total of 98 cases were satisfactorily concluded.

National/Racial/Ethnic Minorities

A few thousand persons of Arab, African, and Eastern European origin lived in the country. There continued to be isolated reports that owners of some bars and discos periodically discouraged or prohibited darker-skinned persons, particularly of African or Arab origin, from entering their establishments. There were no reports of charges being pressed by the alleged victims.

Five cases involving incitement to racial hatred were pending in the courts. In four of the cases, the charges were brought in regard to allegedly racist comments made in speeches on immigration. During the year three cases were filed against Norman Lowell, who represented a far right political party; in October Lowell filed a countersuit claiming violation of freedom of expression and opinion. The case was ongoing at year's end. The fourth case was brought against an individual who represented a far right NGO. The fifth case was brought against a professor by an employee; in October the professor was cleared of all charges, and the employee who brought the charges was found guilty of threatening the professor and fined.

Other Societal Abuses and Discrimination

There were no reports of discrimination based on sexual orientation or against persons with HIV/AIDS.

Section 6 Worker Rights

a. The Right of Association

The constitution provides for workers to form and to join unions of their choice without previous authorization or excessive requirements, and workers did so in practice. Noncivilian military and police personnel are not allowed to join unions. Approximately 65 percent of the work force was unionized. Although all unions were nominally independent of political parties, the largest, the General Workers' Union, was regarded as having close informal ties with the Labor Party.

b. The Right to Organize and Bargain Collectively

The law allows unions to conduct their activities without interference, and the government protected this right in practice. The law provides for collective bargaining, and it was freely practiced. Workers, except noncivilian military and police personnel, have the right to strike, and they exercised this right by conducting legal strikes.

There are no special laws or exemptions from regular labor laws in the country's one export processing zone.

c. Prohibition of Forced or Compulsory Labor

The constitution prohibits forced or compulsory labor and the government generally enforced it.

d. Prohibition of Child Labor and Minimum Age for Employment

There are laws and policies to protect children from exploitation in the workplace, and the government generally implemented them effectively; however, some underage children were employed as domestic labor, restaurant kitchen help, or vendors and, during the summer, in businesses owned by their parents.

The law prohibits the employment of children younger than age 16. The Employment Training Corporation, a government entity under the Ministry of Education, Youth, and Employment, is responsible for labor and employment issues. It generally enforced the law effectively but allowed summer employment of underage youth in businesses operated by their families.

e. Acceptable Conditions of Work

The national weekly minimum wage of approximately $186 (59.63 lira, combined with an annual mandatory bonus of approximately $688 (220 lira) and a $284 (91 lira) annual cost of living increase to all employees to reflect inflation, provided a decent standard of living for a worker and family. In addition, citizens were entitled to government subsidies for housing, health care, and education.

The standard workweek was 40 hours, but in some trades it was 43 or 45 hours. Government regulations provided for a daily rest period, which is normally one hour, and one day of rest per week. Premium pay is required for overtime. Excessive compulsory overtime is prohibited, and workers cannot be obligated to work more than 48 hours, inclusive of overtime. The Ministry of Education, Youth, and Employment's Department of Industrial and Employment Relations generally enforced these requirements effectively.

The Occupational Health and Safety Authority (OHSA), a government entity composed of representatives of the government, unions, and employers, conducted regular inspections at work sites and cited a number of offenders. Enforcement of health and safety standards continued to be uneven; industrial accidents remained frequent, mostly in the manufacturing and building and construction sectors. Workers have the right to remove themselves from situations that endangered health or safety without jeopardy to their employment, and OHSA generally enforced this right. Allegations of physical and sexual abuse of workers were rarely made public and even more rarely prosecuted in court.

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