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Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 (b) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21

Malta*

The present report is a summary of 7 stakeholders' submissions¹ to the universal periodic review. It follows the general guidelines adopted by the Human Rights Council in its decision 17/119. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. As provided for in Resolution 16/21 of the Human Rights Council, where appropriate, a separate section is provided for contributions by the national human rights institution of the State under review that is accredited in full compliance with the Paris Principles. The full texts of all submissions received are available on the OHCHR website. The report has been prepared taking into consideration the periodicity of the review and developments during that period.

* The present document was not edited before being sent to United Nations translations services.

Information provided by other stakeholders

A. Background and framework

1. Scope of international obligations

1. The International Commission of Jurists (ICJ) called on the Human Rights Council to recommend Malta to become party to the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the Optional Protocol to the Convention on the Elimination of Discrimination Against Women, the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the International Convention for the Protection of All Persons from Enforced Disappearance.²

2. Institutional and human rights infrastructure and policy measures

2. The Joint Submission 1 (JS1) stated that Malta had no accredited national human rights institution. Existing institutions (e.g. the Office of the Ombudsman and the National Commission for the Promotion of Equality) were not very effective and their mandates differed significantly. This led to a fragmented approach with varying and inconsistent levels of protection for different human rights issues, with some groups of persons having no specific agency mandated to protect their human rights.³ The Commissioner for Human Rights of the Council of Europe (CoE-Commissioner) stated that strengthening the role of the National Commission for the Promotion of Equality would be beneficial.⁴

B. Cooperation with human rights mechanisms

3. ICJ stated that Malta adhered to most treaty body reporting requirements, although those were not all timely. Malta failed to submit its third, fourth, fifth and sixth periodic reports to the Committee against Torture, and its second periodic report to the Committee on Economic, Social and Cultural Rights. ICJ called on the Human Rights Council to recommend Malta to provide without delay its overdue periodic reports to the Committee against Torture and the Committee on Economic, Social and Cultural Rights.⁵

4. ICJ called on the Human Rights Council to recommend Malta to present to the Council, as soon as possible after the adoption of the outcome document for the universal periodic review of Malta, a national plan of action for the implementation of accepted recommendations and voluntary pledges and commitments; and present to the Council, two years after the adoption of the outcome document, a mid-term progress report on the status of implementation of recommendations and voluntary pledges and commitments.⁶

C. Implementation of international human rights obligations, taking into account applicable international humanitarian law

1. Equality and non-discrimination

5. The European Union Agency for Fundamental Rights (EU-FRA) stated that Malta was one of the countries where the readiness of legislators to extend definition of hate crimes to a wide range of categories was observed. Malta also opted to make racist and xenophobic motivation an aggravating circumstance.⁷

6. As noted by the CoE, the CoE-Commissioner was concerned at reported manifestations of racism and xenophobia. He stated that migrants were discriminated against when seeking employment. Racial discrimination in access to services was widely reported, with continuing reports of buses not stopping to pick up migrants or not allowing them to board. Discriminatory refusal of entry to places of entertainment such as bars and clubs was also reported to be a common occurrence.⁸

7. The EU-FRA stated that a high level of ‘racially motivated’ in-person crime was recorded among Africans in Malta.⁹ The CoE-Commissioner referred to reported instances of racial harassment, especially in the form of derogatory and abusive language, and racist violence. He urged Malta to intensify its efforts to stem the development of racism and xenophobia. The CoE-Commissioner stated that it is particularly important that political leaders contribute to the public debate on immigration in a manner that clarifies the importance of human rights and human dignity and that the media ensure that the materials they publish does not contribute to creating an atmosphere of hostility, intolerance and rejection towards migrants present in Malta.¹⁰

8. JS1 referred to reports indicating homophobic bullying in schools. It recommended that Malta broaden and enhance the national anti-bullying policy to ensure inclusion of a specific reference to homophobia and transphobia and alternatively, introduce specific anti-homophobic and anti-transphobic bullying policy. JS1 also recommended that diversity awareness and education in schools is specifically included in the national curriculum, to be coupled with specific activities promoting respect for lesbian, gay, bisexual, transgender and intersex students.¹¹

2. Right to life, liberty and security of the person

9. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CoE- CPT) recommended that staff at the Corradino Correctional Facility be given the clear message that the physical ill-treatment of inmates is entirely unacceptable and will be the subject to severe sanctions.¹²

10. In 2011, during its visit to detention centres for undocumented migrants, located within the military compounds of Safi Barracks and Lyster Barracks, and several reception centres for asylum seekers, ICJ found that the situation in Safi Barracks amounted to degrading treatment to those detained in the facility. This resulted from the accumulation of poor conditions of detention, including sanitary conditions with the lack of leisure facilities.¹³ JS1 also referred to the poor conditions of Safi Barracks and that the detention centres were cold during winter months, with no systematic provision of warm clothing. It recommended that Malta improve material living conditions in administrative detention centres.¹⁴

11. Furthermore, the CoE-Commissioner stated that material conditions in the open centres (where migrants, including refugees, beneficiaries of subsidiary protection, asylum seekers and persons whose asylum claims were rejected, were accommodated) that he visited were clearly substandard, with the Hal-Far tent village offering totally inadequate conditions of accommodation even for short periods of time.¹⁵ Similarly, ICJ found that in several of the centres for asylum seekers visited, the conditions raised concern with regards to the residents’ rights to adequate housing, health and to an adequate standard of living. In one of them - the Hal-Far Hangar centre, made up of tents underneath an abandoned hangar-, ICJ considered that, at the time of the visit, the cumulative conditions were sufficient to establish degrading treatment, in particular given the vulnerability of some of the residents, in particular children. Aspects of these conditions were also found to be in breach of the right to health, adequate accommodation, and to an adequate standard of living. While this centre was empty and not used, the authorities never publicly dismissed its use.¹⁶

12. In this respect, the CoE-Commissioner called on the authorities to ensure that material conditions in detention and open centres meet adequate standards of living at all times. The conditions in open centres must be addressed as a matter of urgency. He recommended that the authorities close the tent village in Hal Far and ensure that residents are relocated to facilities that meet adequate standards of housing and living.¹⁷ ICJ made similar recommendations.¹⁸ Furthermore, CoE-CPT called upon the authorities to increase the presence, in all the detention centres, of medical and nursing staff. As regards Lyster and Safi Barracks detention centres, it stated that they should each have the equivalent of at least one full-time doctor as well as an adequate team of nurses. The health-care team as a whole should be in a position to deal in a timely and effective manner with all health problems affecting the detainees.¹⁹ Concerning administrative detention of migrants, ICJ recommended that Malta reduce dependence on detention through an effective plan of alternatives to detention, with detention being only the last recourse.²⁰

13. JS1 stated that although instances of violence and ill-treatment in detention and open centres were reduced over the last five years, there were still occasional incidents where excessive force was used, at times with tragic results and mostly during protests or an attempt to escape from detention, when force was used to assert control over detainees. In this respect, JS1 highlighted two incidents of deaths that occurred in 2011 and 2012.²¹

14. The CoE-CPT recommended that the authorities draft and implement a comprehensive policy concerning inter-prisoner violence at the Corradino Correctional Facility tackling, in particular, the issues of early detection of possible cases of inter-prisoner violence, secure custody and care, classification and distribution of prisoners, and staff training.²²

15. The EU-FRA stated that despite reported occurrences of domestic violence, court protection orders were rarely implemented, nor did police have the power to remove suspected offenders from their homes.²³

16. The Global Initiatives to End All Corporal Punishment of Children (GIEACPC) stated that corporal punishment of children was lawful. It expressed hope that during the universal periodic review, Malta would be recommended to explicitly prohibit corporal punishment of children in all settings, including in the home.²⁴

17. The CoE Group of Experts on Action against Trafficking in Human Beings (CoE-GRETA) stated that Malta was a country of destination for victims of trafficking in human beings. As CoE-GRETA noted, while the number of victims of trafficking identified were relatively low, however, the figures might not reveal the scale of the problem as there was no formalised procedure for identifying victims of trafficking. The CoE-GRETA stated that the authorities were in the process of defining a victim referral system with standard procedures.²⁵

18. The CoE-GRETA was concerned by reports that victims of trafficking were punished for acts committed when they were under the control of their traffickers and/or deported without being identified as victims of trafficking. It stressed that the lack of identification has increased the risk for victims of trafficking to be punished for their irregular migration status or other unlawful acts that they were compelled to commit.²⁶

19. In this respect, the CoE-GRETA underlined the need to apply a victim-centred approach and to provide for the possibility of not imposing penalties on victims of trafficking for their involvement in unlawful activities to the extent that they were compelled to do so.²⁷ The CoE-GRETA urged Malta to improve the identification of victims of trafficking by ensuring inter alia multi-agency involvement in victim detection and identification and improved identification of victims of trafficking among irregular migrants in detention and asylum seekers.²⁸

20. Further, the CoE-GRETA urged Malta to step up its efforts to provide assistance to victims of trafficking and in particular to: i) ensure that safe and suitable temporary accommodation is provided to all victims of trafficking and that victims of trafficking are provided with information on the services and assistance available, including the provision of legal advice or assistance and ii) facilitate the reintegration into society of victims of trafficking who are lawfully resident in the country and help them avoid re-trafficking by giving them access to education, vocational training and the labour market.²⁹

21. The CoE-GRETA was concerned that there was no minimum length of the recovery and reflection period, which should be set at 30 days, during which time the victim or potential victim of trafficking could not be removed from Malta's territory.³⁰ It urged Malta to ensure that all victims of trafficking are systematically informed of the possibility to use a recovery and reflection period and its implications, and are effectively granted such a period; remove the need to co-operate with the authorities as a pre-condition for being granted a recovery and reflection period; and establish the minimum duration of the recovery and reflection period at 30 days, during which time it is not possible to remove the victim or potential victim of trafficking from the country's territory.³¹ Furthermore, CoE-GRETA urged Malta to ensure that victims of trafficking can take full advantage of the right to be granted a temporary residence permit and to consider granting a temporary residence permit not only to victims of trafficking who co-operate with the authorities but also on the basis of the vulnerable situation of victims of trafficking.³²

22. The CoE-GRETA urged Malta to introduce as an aggravating circumstance the offence of trafficking of human beings committed against a child, for any type of exploitation³³ and to include: a) the action of "abuse of a position of vulnerability" and b) forced labour or services amongst the forms of exploitation in the legal definition of trafficking in human beings.³⁴ Furthermore, noting the adoption of the first Action Plan on Combating Trafficking in Persons, CoE-GRETA invited Malta to introduce an independent evaluation of the Action Plan as a tool for assessing the impact of its activities.³⁵

3. Administration of justice, including impunity and the rule of law

23. As noted by CoE, the report of the CoE-GRETA highlighted that most human trafficking cases prosecuted since 2006 were still pending. The CoE-GRETA stressed the negative implications of lengthy legal proceedings on the redress of victims of trafficking and urged the authorities to ensure that human trafficking-related crimes are investigated and prosecuted promptly. Further, it considered that the knowledge and sensitivity of judges, prosecutors, police investigators and lawyers regarding human trafficking and the rights of victims of trafficking should be improved.³⁶

24. The CoE-GRETA noted that despite the existence of different avenues for victims of trafficking to claim compensation, no victim of trafficking was awarded compensation.³⁷ It urged Malta to provide information to victims of trafficking about their right to compensation and ways to access it, and to ensure that victims have effective access to legal aid in this respect. Further, it considered that the authorities should amend the Criminal Injuries Compensation Regulations so that all victims of trafficking have access to State compensation.³⁸

25. The CoE-CPT recommended that Malta take steps aimed at abandoning the practice of placing, even temporarily, persons under 16 in a prison for adults. It also recommended that legislation providing for the compulsory education of children and juveniles be respected at the Corradino Correctional Facility.³⁹ The CoE-CPT also recommended that the Commissioner for Children be invited to carry out regular inspections in all establishments where children/juveniles can be deprived of their liberty. The results of these inspections should be reflected in the Commissioner's Annual Report.⁴⁰

4. Right to privacy, marriage and family life

26. JS1 stated that Malta offered no form of legal recognition of same-sex relationships. This legal vacuum has been also problematic in the context of non-Maltese couples within a form of legally recognised relationship and travelling to Malta, where their relationship and acquired rights and obligations were effectively nullified.⁴¹

27. Likewise, ICJ stated that under Maltese law, transgender individuals were not permitted to marry their opposite-sex partners.⁴² It called on the Human Rights Council to recommend that Malta take steps to legally recognize a person's chosen gender identity in all aspects, including the right to marry, and to ensure that individuals are not discriminated against on the basis of gender identity.⁴³ JS1 recommended that Malta revise current legislation to ensure that transgender persons are treated by the law as members of their affirmed gender without the requirement to undergo sex reassignment surgery, which is equal to forced and permanent sterilisation.⁴⁴

28. JS1 stated that, with regard to children having same-sex parents, the law only recognised the biological parent as the legal parent of the child, with consequences on the exercise of parental authority as well as on possible eventual termination of the parental relationship. One of the persons in a same-sex couple moving to Malta with children would be effectively stripped of all parental rights and obligations. JS1 stated that it was not possible for same-sex couples to adopt.⁴⁵

5. Right to work and to just and favourable conditions of work

29. The EU-FRA stated that the uninterrupted period of maternity leave was extended from 14 to 16 weeks in 2012 and further extended to 18 weeks in January 2013. However, the extension did not come along with an entitlement to full pay during those additional weeks.⁴⁶

6. Right to health

30. ICJ stated that the Criminal Code prohibited the termination of pregnancy, specifying that both women who procure miscarriages and medical professionals and who perform or assist them might be held criminally responsible. The terms of the law did not envisage any exception and as a result even abortion for therapeutic purposes, such as to save the life of a pregnant woman, were subject to this prohibition.⁴⁷ ICJ called on the Human Rights Council to recommend that Malta decriminalize abortion and ensure that women have access to safe and legal abortions in situations where their life or health may be at risk or where respect for the right to freedom from torture or cruel, inhuman or degrading treatment or punishment so requires.⁴⁸

7. Persons with disabilities

31. Federation of Organisations for Persons with Disabilities (FOPD) stated that the state policy encouraged the inclusion of people with disability into the community rather than placing them in institutions. At the same time, the provision of support services to enable people with disabilities to live independently in their own homes barely existed. Such services remained underfunded and were available against payment and thus, were not of use for low income disabled persons. The social service received by people with disabilities was less than the minimum national wage.⁴⁹

32. FOPD stated that significant barriers existed in relation to support for people with disabilities who wanted to live in their own homes but could not afford to buy or rent a property. While in theory they had the same entitlements to social housing as other members of the community, in practice the limited supply of accessible and adaptable social housing hindered people with disabilities from living independently in their own homes. Furthermore,

additional disability related costs meant that the cost of living for people with disabilities was higher than for other members of the community. For many persons with disabilities, the lack of practical and financial support for independent living options was a significant barrier to social inclusion and independence.⁵⁰

33. FOPD stated that most disabled children were attending mainstream education and that they were assisted with various forms of support and aids on request. These were also been extended to higher education. The Department of Education provided various supports, including Learning Support Assistants (LSAs). However, the system and main teaching method remained the same.⁵¹ JS1 stated that the existing education model highlighted the exclusion of children with disabilities from the class setting, focusing on differences and the child's particular needs, rather than promoting empowerment through inclusion. It referred to reports indicating that children with disability were sent home whenever the LSAs was not present or when exams were taking place, further highlighting a non-inclusive approach.⁵² FOPD concluded that the main barrier for children with intellectual disabilities and specific learning difficulties was that the mainstream education system was not designed to include them as it remained a traditional system and was not changed in spite of a policy of inclusion and mainstreaming.⁵³

34. Furthermore, JS1 recommended that Malta implement a class model approach in public and private education system whereby the classroom's entire educational needs are taken into account, moving away from dealing with inclusion matters on an individual basis to a truly mainstreamed and comprehensive approach. It also stated that LSAs should receive on-going professional education, and the required qualifications to become LSAs should be raised as these requirements were very low and did not reflect the highly technical and challenged tasks performed.⁵⁴

35. FOPD concluded that people with disabilities were seriously discriminated against in all aspects of Maltese life and prevented or not given a proper basic education which hindered them from gaining qualifications, getting jobs, having families and leading fulfilling lives.⁵⁵

36. FOPD highlighted a need to review the inclusion of children with disabilities in mainstream education and to design an education system that includes all children and ensures that they all have the opportunity to learn the core. Specialised Instructors are needed in some fields.⁵⁶

37. JS1 stated that despite legal and institutional developments, physical access to several buildings, including public buildings and schools remained problematic for persons with disabilities. It referred to reports indicating that children with disabilities were not able to pursue their studies due to classes being located on higher and inaccessible levels.⁵⁷ Likewise, FOPD stated that there was a limited subsidised transport for students with mobility issues to and from the education establishments.⁵⁸ JS1 stated that access of persons with disabilities to public transport services should be ensured.⁵⁹

38. FOPD stated that people who were blind and visually impaired were obliged to vote verbally in front of a group of people representing political parties and the electoral commissions. For many years those persons insisted on their right to privacy during voting but the law was not changed.⁶⁰

39. JS1 stated that persons with disabilities should be actively included within policy and legal discussions on issues affecting them directly or indirectly.⁶¹

8. Migrants, refugees and asylum-seekers

40. ICJ stated that legislation and policy on migration and asylum was not substantially changed since the first cycle of the universal periodic review held in 2008, in line with the

refusal of the Government to accept recommendations at that time on asylum and migration.⁶² The CoE-Commissioner stated that Malta applied a policy of mandatory administrative detention in respect of all arriving migrants, including asylum seekers. He considered the policy irreconcilable with the requirements of the European Convention on Human Rights.⁶³ Human Rights Watch (HRW) made a similar observation.⁶⁴

41. The CoE-Commissioner stated that the Immigration Act did not establish a maximum duration for administrative detention; therefore, by law, detention was potentially of an unlimited duration. Since 2005, however, the authorities were implementing a policy whereby migrants were detained for a maximum duration of 12 months (if they applied for asylum but had not yet received a final decision on their claims) or 18 months (if they did not apply for asylum or if their asylum claims had been finally rejected).⁶⁵ HRW further explained that during detention migrants had no meaningful opportunity for judicial review in order to require the state to show justification for detention. Therefore, such detention might constitute arbitrary detention prohibited by international law.⁶⁶ ICJ made similar observations and noted that by stipulating a maximum length of detention only in policy documents, rather than in legislation, Malta has acted contrary to the principle of legality under international law, since in law there was no defined limit to the period for which a migrant may be detained.⁶⁷ The EU-FRA stated that Malta had yet to introduce alternatives to immigration detention in the national legislation.⁶⁸

42. HRW recommended that Malta revise laws and policies pertaining to immigration detention so that migrants are not detained simply because they have entered without permission. In particular, Malta was recommended to allow for detention of asylum seekers only exceptionally; give migrants access to a remedy whereby they can effectively challenge their detention, in line with international standards, and ensure that these mechanisms are accessible for children.⁶⁹ ICJ, JS1 and the CoE-Commissioner made similar recommendations.⁷⁰

43. The CoE-Commissioner stated that members of vulnerable groups (families with children, unaccompanied minors, pregnant women, lactating mothers, persons with disabilities, elderly persons, or people with serious and/or chronic physical or mental health problems) were also subjected to mandatory detention when arriving in Malta. However, there were procedures for their early release, one central aspect of which was the actual assessment of their vulnerability.⁷¹

44. The CoE-Commissioner stated that procedures for the release of pregnant women and families with children were reported to be prompt. However, when the vulnerability of the persons in question was more difficult to determine, procedures took longer and detention was accordingly prolonged. In some cases prolonged for as long as several months, of unaccompanied minors and persons with mental disabilities in detention centres that were not equipped to deal with their situations was of particular concern to the Commissioner.⁷² The EU-FRA made similar observations.⁷³

45. HRW stated that Malta routinely detained unaccompanied migrant children until they were through a formal age determination procedure. Children could be detained for months and they were held with unrelated adults. HRW stated that detaining unaccompanied migrant children with adults was in clear violation of the Convention on the Rights of the Child. HRW further noted that unaccompanied migrant children received little or no legal representation, either in challenging their detention or in requesting asylum.⁷⁴

46. The CoE-Commissioner stated that the initial mandatory detention of persons belonging to vulnerable groups was not compatible with applicable European standards, which prescribe that detention of these persons should be a measure of last resort and not be ordered as a rule. He urged the authorities to ensure that persons belonging to vulnerable groups are in all cases placed in accommodation where they have access to adequate care.

The placement of persons belonging to vulnerable groups in big open centres that are inadequate for this purpose, including those in Hal-Far and Marsa, must be avoided.⁷⁵

47. HRW recommended that Malta end the unnecessary detention of unaccompanied migrant children and amend legislation to prohibit the detention of migrant children for the sole reason that they arrived irregularly in Malta. It also recommended that Malta: use separate detention facilities; in the interim period while detention continued, for those with pending age determination requests; reform the age determination procedure to treat applicants as children until proven otherwise; release those with pending cases to alternate open facilities until age determination is completed; and ensure adequate free legal representation for unaccompanied migrant children.⁷⁶

48. The CoE-Commissioner welcomed the authorities' invaluable efforts aimed at rescuing migrants on boats in the Mediterranean, which have saved thousands of lives over the past years. He strongly encouraged the authorities to maintain their long-standing tradition of rescue.⁷⁷

49. The CoE-Commissioner noted that the possibilities for establishing a new life in Malta were limited for most migrants. In particular, the system in place to support the migrants, including the beneficiaries of subsidiary protection, appeared not to be conducive to integration and effectively marginalised and perpetuated the social exclusion of migrants. He noted that in order to receive monthly allowance migrants must reside in one of the open centres. However, in a context where jobs available to migrants were seasonal and/or very precarious, migrants who wanted to leave the open centres and to integrate into the Maltese community needed a safety net on which they could rely for a while in the likely case that they become unemployed.⁷⁸

50. Furthermore, the CoE-Commissioner stressed that the lack of effective procedures to facilitate family reunification, and the limited prospects of obtaining Maltese citizenship, presented serious obstacles to local integration.⁷⁹ JS1 stated that Malta had no policy on integration for all categories of migrants and that there was no one single authority charged to deal with issues relating to integration.⁸⁰

51. The CoE-Commissioner welcomed the progress made in several aspects of the asylum system in recent years, notably as concerns the reduction of the time needed to process asylum applications, improved provision of information on the asylum system to asylum seekers, and the increased rate of recognition of full refugee status. He strongly encouraged the authorities to ensure that these advances are maintained should the numbers of asylum applications rise again.⁸¹

52. However, the CoE-Commissioner stated that progress was necessary in law and practice concerning a number of issues. In first instance proceedings before the Office of the Refugee Commissioner, these included the need to provide access to legal aid, and to improve access to case files for asylum seekers and their representatives and the motivation of decisions. Second instance proceedings must be an effective tool for review, notably by improving legal assistance and access of asylum seekers and lawyers to the case files and through the holding of hearings at which asylum seekers may be present.⁸²

Notes

- ¹ The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: www.ohchr.org.

Civil society

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| FOPD | Joint Submission by the Federation of Organisations for Persons with Disabilities (the Federation is made up by the following organisations: ADHD, Down Syndrome Association, Malta Society for the Blind, Movement in Favour of Rights for Persons with Disability, Dar il-Wens (Residential Homes for Persons with Intellectual Disability), Fondazzjoni Arka (Respite Care for Persons with Disability), Equal Partners Foundation (Training for Persons with Intellectual Disability), Inspire (Training for Persons with Intellectual Disability), Ghaqda Zghazagh b'Dizabilita' (Organisation for Young People with Disability), National Parents Society of Persons with Disability, Multiple Sclerosis, Ghaqda Sptar Monte Carmeli (Organisation that works with Mentally Ill People) Kummissjoni Morda u Persuni b'Dizabilita' (Commission for People with Disability and the Sick))(Malta) |
| GIEACPC | Global Initiative to End All Corporal Punishment of Children, London (UK); |
| HRW | Human Rights Watch, New York (USA); |
| ICJ | International Commission of Jurists, Geneva (Switzerland); |
| JS1 | Joint submission no. 1 submitted by 5 organizations: ADITUS Foundation; Integra Foundation; Jesuit Refugee Service Malta; KOPIN and Equal Partners Foundation (Malta); |

Regional intergovernmental organizations

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| EU-FRA | European Union Agency for Fundamental Rights, Vienna (Austria); |
| CoE | The Council of Europe, Strasbourg (France); |
| Attachments | (<i>CoE-Commissioner</i>) Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visit to Malta from 23 to 25 March 2011, published on 9 June 2011, CommDH (2011)17; (<i>CoE-CPT</i>) Report to the Maltese Government on the visit to Malta carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from 19 to 26 May 2008, which was published on 17 February 2011, CPT/Inf (2011)5; (<i>CoE-GRETA</i>) – Group of Experts on Action against Trafficking in Human Beings, Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Malta, published on 24 January 2013; GRETA (2012) 14. |

² ICJ, para. 20, p. 5.

³ JS1, para. 11, p. 3.

⁴ CoE-Commissioner, para. 70.

⁵ ICJ, paras. 18 and 20 (XVI).

⁶ ICJ, para. 20 (XVII) and (XVIII), p. 5.

⁷ EU-FRA, p. 3, Section 2 and Report 'Making Hate Crime Visible in the European Union: acknowledging victims' rights, pp. 25 and 27.

⁸ CoE, p. 3 and CoE-Commissioner, paras. 64- 68.

- ⁹ EU-FRA, p. 3, Section 3 and EU.MIDIS Data in Focus Report 6 : Minorities as Victims of Crime, p. 12.
- ¹⁰ CoE-Commissioner, paras. 64- 68.
- ¹¹ JS1, paras. 62,63 and 64, p. 9.
- ¹² CoE-CPT, p. 35, para. 100.
- ¹³ ICJ, para. 12.
- ¹⁴ JS1, paras. 46-49, pp. 7-8.
- ¹⁵ CoE-Commissioner, paras. 19 and 21.
- ¹⁶ ICJ, para. 13.
- ¹⁷ CoE-Commissioner, paras. 24, 26 and 27.
- ¹⁸ ICJ, para. 20, p. 4.
- ¹⁹ CoE-CPT, p. 26, para. 66.
- ²⁰ ICJ, para. 20, p. 4.
- ²¹ JS1, para. 46 (f), p. 7.
- ²² CoE-CPT, p. 33, para. 93.
- ²³ EU-FRA, p. 5, Section 4, and the report ‘Fundamental Rights :Challenges and Achievements in 2011’, p. 224.
- ²⁴ GIEACPC, p. 1.
- ²⁵ CoE-GRETA, p. 7 and p.10, paras. 10-11.
- ²⁶ CoE-GRETA, p. 7.
- ²⁷ CoE-GRETA, p. 7.
- ²⁸ CoE-GRETA,p. 29, para. 116.
- ²⁹ CoE-GRETA, p. 31, para. 128.
- ³⁰ CoE-GRETA, p. 7.
- ³¹ CoE-GRETA, p. 33, para. 137.
- ³² CoE-GRETA, p. 34, paras. 146-147.
- ³³ CoE-GRETA, p. 39, para. 171.
- ³⁴ CoE-GRETA, p. 17, paras. 43-44.
- ³⁵ CoE-GRETA, p.11, para. 18 and p. 20, para. 66.
- ³⁶ CoE, p. 8 and CoE-GRETA, p. 7.
- ³⁷ CoE-GRETA, p. 7.
- ³⁸ CoE-GRETA, p. 35, paras. 154-155.
- ³⁹ CoE-CPT, p. 40, paras. 117-118.
- ⁴⁰ CoE-CPT, p. 53, para. 157.
- ⁴¹ JS1, para. 74, p. 11.
- ⁴² ICJ, para. 16. See also EU-FRA, p. 5, section 4 and the report ‘Fundamental Rights :Challenges and Achievements in 2011’, p. 136.
- ⁴³ ICJ, para. 20, p. 4.
- ⁴⁴ JS1, para. 72, p. 11.
- ⁴⁵ JS1, paras. 75-76, p. 11.
- ⁴⁶ EU-FRA, p. 5, section 4 and the report ‘Fundamental Rights :Challenges and Achievements in 2011’, p. 130.
- ⁴⁷ ICJ, para. 15.
- ⁴⁸ ICJ, para. 20 (XIII), p. 4.
- ⁴⁹ FOPD, pp. 5-6.
- ⁵⁰ FOPD, pp. 6-7.
- ⁵¹ FOPD, p. 8.
- ⁵² JS1, para. 20, p. 4.
- ⁵³ FOPD, p. 9.
- ⁵⁴ JS1, paras. 32 -33, p. 5.
- ⁵⁵ FOPD, p. 9.
- ⁵⁶ FOPD, p. 10.
- ⁵⁷ JS1, para. 23, p. 4.
- ⁵⁸ FOPD, p. 8.
- ⁵⁹ JS1, para. 23, p. 4.
- ⁶⁰ FOPD, p. 13.

- ⁶¹ JS1, para. 28, p. 5.
- ⁶² ICJ, para. 2, p. 1.
- ⁶³ CoE-Commissioner, paras. 11 and 12. See also CoE, p. 2.
- ⁶⁴ HRW, p. 1. See also JS1, para. 45 and EU-FRA, p. 1, section 1.1 on mandatory detention and p. 2, section 1.3 on Detention on children and vulnerable persons
- ⁶⁵ CoE-Commissioner, para. 11.
- ⁶⁶ HRW, p. 1. See also JS1, para. 45. See also FRA, p. 1, section 2 on judicial review.
- ⁶⁷ ICJ, paras. 8-9, p. 2.
- ⁶⁸ EU-FRA, p. 4, section 4 and the report 'Fundamental Rights :Challenges and Achievements in 2011', p. 48.
- ⁶⁹ HRW, p. 4.
- ⁷⁰ ICJ, para. 20, p. 4, JS1, paras. 50, 51 and 51 and CoE-Commissioner, paras. 14, 16 and 18.
- ⁷¹ CoE-Commissioner, para.28.
- ⁷² CoE-Commissioner, para. 29.
- ⁷³ FRA, p. 2, para. 3 on detention of children and vulnerable persons.
- ⁷⁴ HRW, pp. 2-3. See also JS1, para. 46.
- ⁷⁵ CoE-Commissioner, paras. 33-34.
- ⁷⁶ HRW, p. 4.
- ⁷⁷ CoE-Commissioner, para. 40.
- ⁷⁸ CoE-Commissioner, paras. 56-57. See also FRA, p. 8 and the report Fundamental rights of migrants in an irregular situation in the European Union, p. 69 and JS1, para. 42, p. 6.
- ⁷⁹ CoE-Commissioner, para. 59.
- ⁸⁰ JS1, para. 48, p. 7.
- ⁸¹ CoE-Commissioner, para. 49.
- ⁸² CoE-Commissioner, para. 51.
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