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**Human Rights Council**  
**Working Group on the Universal Periodic Review**  
**Thirty-first session**  
5–16 November 2018

## **Compilation on Malta**

### **Report of the Office of the United Nations High Commissioner for Human Rights**

#### **I. Background**

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the periodicity of the universal periodic review. It is a compilation of information contained in reports of treaty bodies and special procedures and other relevant United Nations documents, presented in a summarized manner owing to word-limit constraints.

#### **II. Scope of international obligations and cooperation with international human rights mechanisms and bodies<sup>1, 2</sup>**

2. The Human Rights Committee welcomed the ratification in 2014 of the Convention on the Prevention and Punishment of the Crime of Genocide.<sup>3</sup> The Special Rapporteur on the human rights of migrants noted the ratification in 2015 of the International Convention for the Protection of All Persons from Enforced Disappearance.<sup>4</sup>

3. The Special Rapporteur on migrants recommended that Malta ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.<sup>5</sup>

4. The Office of the United Nations High Commissioner for Refugees (UNHCR) recommended that Malta accede to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.<sup>6</sup>

5. In 2015, under its follow-up procedure to its 2010 concluding observations, the Committee on the Elimination of Discrimination against Women acknowledged the willingness of Malta to remove its reservations to articles 11 and 15 of the Convention on the Elimination of All Forms of Discrimination against Women. It recommended that Malta provide information on further action taken to expedite its efforts towards the withdrawal of those reservations. The Committee noted that Malta had indicated that it was not in a position to withdraw its reservations to articles 13 and 16, as that called for legislative reform, which had not been carried out. The Committee reiterated its recommendation that Malta consider withdrawing its reservations to articles 13 and 16 (1) (e) of the Convention.<sup>7</sup>



6. The Human Rights Committee recommended that Malta consider withdrawing its reservations to articles 13, 14, 19, 20 and 22 of the International Covenant on Civil and Political Rights.<sup>8</sup>

7. Malta contributed financially to the Office of the United Nations High Commissioner for Human Rights (OHCHR) in 2017.<sup>9</sup>

### **III. National human rights framework<sup>10</sup>**

8. While welcoming the steps taken by Malta to extend the mandate of the National Commission for the Promotion of Equality, the Human Rights Committee was concerned that Malta had not yet established a consolidated national institution with broad competence in the field of human rights, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).<sup>11</sup>

9. The Special Rapporteur on migrants recommended that Malta implement the plans to establish a national human rights institution in line with the Paris Principles, and ensure that it was both functionally and financially independent of the Government and vested with the authority to investigate all issues relating to human rights, including those of migrants. The Human Rights Committee made a similar recommendation.<sup>12</sup>

## **IV. Implementation of international human rights obligations, taking into account applicable international humanitarian law**

### **A. Cross-cutting issues**

#### **Equality and non-discrimination<sup>13</sup>**

10. The Human Rights Committee welcomed the amendments to the anti-discrimination legal framework introducing religion, sexual orientation and gender identity as prohibited grounds for discrimination. It was concerned, however, that discrimination based on language was not prohibited by law. It recommended that Malta review its legal framework on anti-discrimination and equality with a view to ensuring that it included a comprehensive prohibition of discrimination on all the grounds set out in the International Covenant on Civil and Political Rights.<sup>14</sup>

11. The same Committee was concerned about reports of racism and xenophobia against migrants, including racially motivated violence and racial discrimination in access to employment, housing and services.<sup>15</sup> The Special Rapporteur on migrants noted that the anti-xenophobia and anti-discrimination laws were rarely enforced.<sup>16</sup>

12. The Human Rights Committee recommended that Malta strengthen its efforts to eradicate stereotypes and discrimination against migrants, inter alia, by conducting public awareness-raising campaigns to promote tolerance and respect for diversity.<sup>17</sup> The Special Rapporteur on migrants recommended that Malta fully implement its legislation to combat direct and indirect racial discrimination with regard to the enjoyment of economic, social and cultural rights by immigrants, particularly refugees and asylum seekers, including in terms of access to private rental housing and the labour market.<sup>18</sup> Furthermore, the Human Rights Committee recommended ensuring that cases of racially motivated violence were systematically investigated, that the perpetrators were prosecuted and punished, and that appropriate compensation was awarded to the victims.<sup>19</sup>

13. The same Committee welcomed the amendment to article 45 (3) of the Constitution introducing sexual orientation and gender identity as prohibited grounds of discrimination.<sup>20</sup> However, it was concerned about the reportedly insufficient measures to prevent and combat bullying and harassment of lesbian, gay, bisexual and transgender students in educational settings.<sup>21</sup>

14. The same Committee recommended that Malta take specific steps to provide an educational environment free of discrimination and violence against lesbian, gay, bisexual and transgender students, particularly through awareness-raising campaigns, school curricula and training for education personnel, and to put an end to any form of social stigmatization of homosexuality, bisexuality or transsexuality.<sup>22</sup>

## **B. Civil and political rights**

### **1. Right to life, liberty and security of person<sup>23</sup>**

15. In 2018, the Committee on the Rights of Persons with Disabilities inquired whether Malta intended to repeal the provisions of the Mental Health Act that provided for the involuntary detention or hospitalization of persons with a “mental disorder” and for the use of restraint and seclusion of those persons.<sup>24</sup>

### **2. Administration of justice, including impunity, and the rule of law<sup>25</sup>**

16. The Working Group on Arbitrary Detention noted that the judicial system in Malta continued to be affected by lengthy delays in the administration of justice. The Working Group was of the opinion that efforts should be made by the judicial system to address those challenges, as well as the limited access individuals had to due process.<sup>26</sup>

17. In 2014, the Human Rights Committee expressed concern about restrictions on the right of persons deprived of liberty to have access to a lawyer, such as delays of up to 36 hours prior to such access and the prohibition of access to a lawyer during police interrogation.<sup>27</sup> In 2016, the Working Group on Arbitrary Detention noted with satisfaction that, according to the amendments to the Criminal Code, persons deprived of their liberty had been granted the right to access to a lawyer immediately after their arrest and during the first 48 hours of their detention, although that right did not apply to police interrogation.<sup>28</sup> The Human Rights Committee recommended that Malta adopt measures to ensure that all persons deprived of their liberty had proper access to a lawyer, including during police interrogation.<sup>29</sup>

18. In 2014, the same Committee expressed concern at reports of degrading living conditions in detention centres, including inadequate sanitary conditions and health-care services. It recommended that Malta improve the living conditions in detention centres on a sustainable basis.<sup>30</sup>

19. In 2016, the Working Group on Arbitrary Detention welcomed the measures adopted by the Government to improve the treatment of prisoners and detainees, such as by providing educational programmes, vocational training, mental health care and social services.<sup>31</sup>

20. In 2014, the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment noted that the Board of Visitors of the Prison and the Board of Visitors for Detained Persons exercised the functions of national preventive mechanisms for the prevention of torture, but that those mechanisms faced several obstacles that hindered the full and effective implementation of their tasks. The failure to set out in detail the tasks and powers of the two Boards in their respective regulations hindered the national preventive mechanisms from undertaking the full range of functions required.<sup>32</sup> The Subcommittee was concerned at the weakness of the legal framework providing for the independent and effective functioning of the national preventive mechanisms.<sup>33</sup>

21. The Subcommittee noted that a variety of bodies monitored places of deprivation of liberty in Malta, in addition to the two national preventive mechanisms. That overlap could create confusion and duplication of work.<sup>34</sup> Moreover, the mandate of the national preventive mechanisms did not cover all places of deprivation of liberty and there were significant monitoring gaps.<sup>35</sup>

22. The Subcommittee recommended that Malta ensure that all types of place where persons were deprived of their liberty fell within the mandate of the national preventive mechanisms,<sup>36</sup> and that those mechanisms had full and unlimited access to all relevant

information and to all places of deprivation of liberty.<sup>37</sup> It recommended that Malta incorporate the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment into domestic law, and amend and enhance the existing legal framework establishing the national preventive mechanisms in a way that fully reflected the Optional Protocol, the Subcommittee's guidelines on national preventive mechanisms (CAT/OP/12/5) and the Paris Principles.<sup>38</sup>

23. Additionally, the Subcommittee recommended that Malta establish a transparent and competitive appointments procedure and consult with civil society organizations and other stakeholders prior to the selection of members of the national preventive mechanisms;<sup>39</sup> make membership a full-time and remunerated position;<sup>40</sup> and provide the mechanisms with appropriate resources and operational discretion regarding their use.<sup>41</sup>

### **3. Fundamental freedoms and the right to participate in public and political life**

24. The Human Rights Committee was concerned about the criminalization of defamation and the fact that the Press Act did not define libel or defamation. It also regretted that title IV of the Criminal Code provided for crimes against religious sentiment and criminalized the vilification of the Roman Catholic apostolic religion and of other cults tolerated by law, which might undermine the rights to freedom of expression and freedom of religion. The Committee recommended that Malta guarantee freedom of expression and the freedom of the press, as enshrined in article 19 of the International Covenant on Civil and Political Rights and explained at length in the Committee's general comment No. 34 (2011). It also recommended that Malta consider decriminalizing defamation, and in any case restrict the application of criminal law to the most serious cases, and consider repealing title IV of the Criminal Code.<sup>42</sup> The United Nations Educational, Scientific and Cultural Organization (UNESCO) made a similar recommendation.<sup>43</sup>

25. In October 2017, several special procedure mandate holders sent a joint communication to the Government regarding the killing of Daphne Caruana Galizia, a prominent investigative journalist. They expressed concern that her killing had taken place in the context of her high profile work as an investigative reporter and that she might have been murdered because of her role in exposing illicit financial flows, such as tax evasion, corruption and money laundering, which had adverse human rights impacts and undermined the rule of law. The mandate holders were concerned at the chilling effect that such a killing might have on the watchdog role of the press in democratic society, deterring individuals from exercising their right to freedom of expression.<sup>44</sup> The Government responded to the joint communication.<sup>45</sup>

26. The special procedure mandate holders urged the Government to pursue a prompt and independent investigation into Ms. Caruana Galizia's killing and to take all possible steps to hold the killers accountable. Furthermore, given the impact the killing might have on other reporters, they urged Malta to take all possible steps to protect and support journalists working to uncover corruption and cover other matters of the highest public interest.<sup>46</sup> UNESCO made similar recommendations.<sup>47</sup>

### **4. Prohibition of all forms of slavery<sup>48</sup>**

27. While welcoming the adoption of the Second National Action Plan on Combating Trafficking in Persons 2013–2014,<sup>49</sup> the Human Rights Committee was concerned about the low number of investigations and convictions relating to trafficking in human beings.<sup>50</sup> It recommended that Malta intensify its efforts to combat trafficking in persons, systematically investigate and prosecute perpetrators, and ensure that, when convicted, they were adequately sanctioned. It also recommended that Malta guarantee adequate protection, reparation and compensation to victims, including rehabilitation, and ensure that legal alternatives were available to victims who might face hardship and retribution upon removal.<sup>51</sup>

## C. Economic, social and cultural rights

### 1. Right to an adequate standard of living<sup>52</sup>

28. The International Labour Organization (ILO) Committee of Experts on the Application of Conventions and Recommendations noted the adoption of the National Strategic Policy for Poverty Reduction and Social Inclusion for 2014–2024, in which the Government affirmed its commitment to pursue social and economic policies and address the erosion of living standards by taking measures against poverty and social exclusion. The strategy focused on four groups: children, older persons, the unemployed, and the working poor, and on six key elements: income and social benefits, employment, education, health and environment, social services, and culture. The Committee requested the Government to provide information on the policy’s impact, particularly on children, older persons, the unemployed and those in precarious employment.<sup>53</sup>

### 2. Right to health<sup>54</sup>

29. In 2014, the Human Rights Committee expressed concern about the general criminalization of abortion, which forced pregnant women to seek clandestine abortion services, putting their lives and health at risk. It was concerned that no exception was made when a woman’s life was in danger or in the case of pregnancy resulting from rape or incest.<sup>55</sup>

30. The Committee recommended that Malta revise its legislation on abortion by making exceptions to the general ban on abortion for therapeutic purposes and when the pregnancy was the result of rape or incest. It recommended that Malta ensure that reproductive health services were accessible to all women and girls throughout the country, and that it increase the number and ensure the implementation of education and awareness-raising programmes at the formal level (in schools) and at the informal level (through the media and other means of communication) on the importance of using contraceptives and on sexual and reproductive health rights.<sup>56</sup>

31. In 2016, Malta informed the Human Rights Committee that, although abortion was considered illegal,<sup>57</sup> the authorities allowed for abortions when the mother’s life was at risk, as in reality doctors observed the “double effect” principle. According to that principle, if a mother needed to be given treatment and as a result, the embryo or fetus was harmed, it was morally right to provide the treatment.<sup>58</sup>

### 3. Right to education

32. UNESCO noted the high rate of children discontinuing schooling after the completion of compulsory education at the age of 16. It also noted that in 2014, Malta had adopted a strategic plan aimed at reducing the number of children who left school early by 10 per cent by 2020.<sup>59</sup>

33. UNESCO noted that, while one of the goals of the framework for the education strategy for 2014–2024 was to reduce the gaps in educational outcomes between boys and girls, women appeared to be underrepresented at the tertiary educational level, in engineering, manufacturing, construction and other areas of study that remained gender-bound.<sup>60</sup>

## D. Rights of specific persons or groups

### 1. Women<sup>61</sup>

34. While welcoming measures to prevent violence against women, including domestic violence, the Human Rights Committee was concerned about the low number of prosecutions of perpetrators of violence against women and children. It recommended that Malta intensify its efforts to eliminate violence against women and children, duly investigate cases of violence against them, establish a rehabilitation system for victims, provide access to justice for all women, increase the number of shelters with adequate

resources, and improve training on the matter for the staff of legal institutions and the police force.<sup>62</sup>

35. While welcoming measures to enhance the participation of women in the labour market and public life, the Human Rights Committee was concerned about their low representation in the political and public sectors, particularly in decision-making positions.<sup>63</sup> UNESCO noted that few women occupied high-level managerial positions, which suggested that there was a gap between high female achievement at university level and women's career opportunities and hierarchical position in the labour market.<sup>64</sup> The Human Rights Committee recommended that Malta increase women's participation in the public and private sectors, if necessary through appropriate temporary special measures.<sup>65</sup>

## **2. Children<sup>66</sup>**

36. The Human Rights Committee welcomed the amendments to the Criminal Code aimed at prohibiting corporal punishment in all settings.<sup>67</sup>

37. The same Committee welcomed the amendments to the Criminal Code, increasing the age of criminal responsibility from 9 to 14 years old.<sup>68</sup>

38. However, the Working Group on Arbitrary Detention remained concerned that the Juvenile Court could hear matters involving children who were in conflict with the law only if they were under the age of 16, and that children aged between 16 and 18 years old were still being tried as adults and subject to criminal law and criminal courts for adults, in violation of the Convention on the Rights of the Child.<sup>69</sup> The Human Rights Committee expressed similar concerns.<sup>70</sup>

39. The Working Group on Arbitrary Detention recommended that Malta incorporate the Convention on the Rights of the Child into domestic legislation with regard to the scope of its juvenile justice system, and that it separate persons below the age of 18 from adults in correctional facilities and detention centres.<sup>71</sup> The Human Rights Committee urged Malta to uphold the right of children in conflict with the law to be treated in a way that promoted their integration into society, and to uphold the principle that detention and incarceration should be used as a last resort only.<sup>72</sup>

## **3. Persons with disabilities<sup>73</sup>**

40. In 2014, the Human Rights Committee expressed concern at reports that persons who were blind or visually impaired were in some cases obliged to vote verbally in front of a group of people representing political parties and the electoral commissions.<sup>74</sup> In 2018, the Committee on the Rights of Persons with Disabilities inquired when Malta intended to withdraw its reservation to article 29 (i) and (iii) of the Convention on the Rights of Persons with Disabilities and to guarantee the rights of persons with disabilities, particularly persons with visual impairment and persons with intellectual impairment, to vote by secret ballot.<sup>75</sup>

41. The Human Rights Committee recommended that Malta ensure that it did not discriminate against persons with disabilities, particularly blind persons and persons with visual impairments, by denying or preventing them from exercising their right to vote by secret ballot.<sup>76</sup>

42. The ILO Committee of Experts noted the establishment of a 2 per cent employment quota for persons with disabilities in enterprises employing more than 20 workers. Employers that did not attain that statutory employment quota were requested to make an annual contribution calculated on the basis of the shortfalls. Employers who employed persons with disabilities were exempt from social security contributions for those workers. Nevertheless, the Committee of Experts noted that employers had reportedly resisted the employment quota for persons with disabilities and that the fines and penalties imposed on those that had not complied with the statutory quota were not high enough to deter violations.<sup>77</sup>

43. UNESCO noted information indicating that a high proportion of learners with disabilities and/or special educational needs attended mainstream schools. It encouraged Malta to continue its efforts to promote inclusive education for children with disabilities.<sup>78</sup>

#### 4. Migrants, refugees and asylum seekers<sup>79</sup>

44. In 2014, the Human Rights Committee expressed concern that irregular migrants, including asylum seekers, were systematically detained upon arrival in Malta. It was also concerned at reports that migrants in a vulnerable situation were automatically detained and that they were not provided with free legal representation. It was further concerned that the length of detention could rise to 18 months for migrants in an irregular situation and to 12 months for asylum seekers. The Committee noted that the time limit for administrative detention for immigration purposes was not defined by law, and was concerned about the absence of an effective judicial remedy to review the lawfulness of detention.<sup>80</sup> In 2015, the Special Rapporteur on migrants expressed similar concerns.<sup>81</sup>

45. The Special Rapporteur on migrants noted that Hal Safi barrack, a detention centre that held irregular migrants, was located on a military base and subject to military jurisdiction. He was concerned that migrants were accommodated in military barracks.<sup>82</sup> The Working Group on Arbitrary Detention expressed similar concerns.<sup>83</sup>

46. Furthermore, in 2016 the Working Group on Arbitrary Detention had found migrants in an irregular situation and asylum seekers in the Corradino Correctional Facility, the main prison of the country. The Working Group observed that people in pretrial detention continued to be held together with convicts, in contravention of international norms.<sup>84</sup>

47. In 2014, the Human Rights Committee expressed concern about allegations of ill-treatment and excessive use of force by soldiers and police officers at detention centres for migrants, which in some cases included the use of tear gas and rubber bullets.<sup>85</sup>

48. In 2016, the Working Group on Arbitrary Detention took note of the legislative changes that had been introduced to reform the automatic nature of detention for migrants in an irregular situation, refugees and asylum seekers.<sup>86</sup> In 2018, UNHCR reported that legislative and policy amendments introduced in 2015 had prescribed ending automatic and mandatory detention, and provided for the creation of initial reception centres, thus putting an end to the policy of mandatory, blanket detention for all arrivals.<sup>87</sup> In 2016, Malta informed the Human Rights Committee about the reforms it had introduced to the migration detention system.<sup>88</sup>

49. UNHCR explained that the 2015 legislative changes had provided for alternatives to detention, detention order reviews and free legal aid to challenge one's detention. The initial reception centres applied measures of deprivation of liberty, usually for a maximum duration of seven days for the purpose of medical screening and other assessments. UNHCR reported that, in 2017, the initial reception centres had been converted from places of detention to open facilities, with the removal of detention features such as locked gates. Furthermore, detention on medical grounds was no longer being implemented arbitrarily.<sup>89</sup>

50. However, UNHCR remained concerned about the detention review process, particularly the ways in which assessments were conducted by Immigration Police, who often used grounds such as "risk of absconding" as a catch-all ground for detention.<sup>90</sup>

51. The Working Group on Arbitrary Detention recommended that Malta ensure that detention was applied when necessary, was reasonable in all circumstances, proportionate to a legitimate purpose, non-discriminatory and subject to judicial review, and that less restrictive measures were applied, such as bail, home curfew, deposit of documents, reporting conditions, community release or supervision-designated residence.<sup>91</sup> The Special Rapporteur on migrants<sup>92</sup> and the Human Rights Committee<sup>93</sup> made similar recommendations.

52. UNHCR recommended establishing without delay procedures to ensure the effective review of measures of deprivation of liberty.<sup>94</sup> Likewise, the Special Rapporteur on migrants recommended that Malta establish a fairer and simpler system for migrant detainees to be able to challenge expulsion and detention orders, and that it guarantee fully the right to free legal assistance in expulsion, detention and asylum procedures to all migrants and asylum seekers in primary legislation and secure it in practice in all situations of detention of migrants and asylum seekers.<sup>95</sup> The Human Rights Committee recommended that Malta scrupulously respect the principle of non-refoulement.<sup>96</sup>

53. Furthermore, the Working Group on Arbitrary Detention recommended that Malta extend free legal aid to migrants in an irregular situation, refugees and asylum seekers before the appeal stage of the review process. Such aid should not be limited to recourse before the Immigration Appeals Board, but rather extended to appeals before the civil, Constitutional and European Courts, as well as international human rights bodies.<sup>97</sup>

54. The Working Group highlighted the positive measures taken in relation to children and to migrants with psychosocial and intellectual disabilities. Children would no longer be detained. After registering their identity, their state of health and age were registered by the corresponding governmental agency and they would be transferred to special houses or placed in the care of foster families.<sup>98</sup> UNHCR made a similar observation.<sup>99</sup>

55. The Special Rapporteur on migrants recommended that Malta provide unaccompanied children with free, competent and effective guardianship to ensure proper decision-making in all proceedings concerning such children, as well as free legal representation, to assist in all immigration and asylum proceedings.<sup>100</sup>

56. UNHCR noted that material conditions in closed and open centres for asylum seekers, as well as the provision of psychosocial care, remained poor at all stages of the asylum process.<sup>101</sup> It recommended that Malta take immediate measures to improve material conditions in those centres, improve the infrastructure, organizational capacity and coordination of the government agencies involved in the reception system, and develop recreational activities for detainees at the reception centres.<sup>102</sup>

57. Furthermore, the Working Group on Arbitrary Detention stated that the authorities should facilitate the integration of migrants into society, mainly through labour and education programmes, but also through alternative housing. It recommended that Malta design long-term planning for people living in open centres and explore alternative placement options. It recommended that the Government work together with civil society organizations and religious bodies, which had ample experience in providing community-based placement, to create more opportunities for migrants, asylum seekers and refugees to reside in the community.<sup>103</sup>

58. UNHCR stated that Malta relied heavily on granting subsidiary protection as a form of international protection, with full refugee status being granted in very few cases. Beneficiaries of subsidiary protection lacked access to long-term integration paths, family reunification, other rights and full social benefits. They were entitled to “core welfare benefits” only, which was interpreted as being limited to social assistance. The Refugee Appeals Board was ineffective and often failed to identify persons who were in need of protection. UNHCR recommended that Malta improve asylum procedures so that refugees were properly recognized.<sup>104</sup>

59. UNHCR stated that although asylum seekers, refugees and beneficiaries of subsidiary protection enjoyed the right to free public education and training, they often lacked the financial means to pursue full-time education.<sup>105</sup> UNESCO encouraged Malta to continue its efforts to provide asylum seekers, refugees and migrants with effective access to education and to ensure that no child was denied his or her right to education.<sup>106</sup>

60. Furthermore, UNHCR stated that asylum seekers and refugees encountered difficulties in accessing the labour market in practical terms. Access to employment was conditional upon employers’ applications for work permits, which were issued in the employer’s name, meaning that the asylum seekers were then tied to that particular employer.<sup>107</sup>

61. UNHCR referred to recent reports of cases of exploitation of beneficiaries of international protection by their employers.<sup>108</sup> Likewise, the Special Rapporteur on migrants noted that information had been received about the exploitation by employers in Malta of irregular migrants, asylum seekers and refugees, who refrained from protesting and mobilizing due to their fear of being detected, detained and deported. Migrant workers in an irregular situation were made to work long hours and paid less than the minimum wage. He noted that sanctions against those employers were rare.<sup>109</sup>

62. The Special Rapporteur on migrants recommended that Malta fully implement the European Employer Sanctions Directive, including by developing comprehensive measures



to penalize Maltese employers who abused the vulnerability of migrants by paying them low or exploitative wages.<sup>110</sup>

63. Furthermore, the Special Rapporteur on migrants recommended that Malta provide access to basic services, such as health care, to everyone living in Malta, regardless of their immigration status, in accordance with international human rights standards, and that it expedite the establishment of an integration unit that would focus on equality and non-discrimination for all, including for migrants and asylum seekers.<sup>111</sup>

64. UNHCR stated that institutional gaps persisted in relation to access to naturalization and citizenship, family reunification programmes and education, employment and social benefits, with a general impediment in accessing mainstream services. While recognized refugees became eligible for citizenship after 10 years of continued residency in Malta, persons granted local subsidiary protection status had to demonstrate 18 or 20 years of continued residency.<sup>112</sup>

65. Furthermore, UNHCR reported that, unlike recognized refugees, beneficiaries of subsidiary protection did not have access to family reunification.<sup>113</sup>

66. UNHCR recommended that Malta ensure that procedures regarding citizenship were more predictably accessible to all beneficiaries of international protection residing in Malta, with proper information and procedures put in place for remedy.<sup>114</sup> It also recommended that Malta facilitate the right to family unity and ensure access to family reunification programmes for all beneficiaries of international protection.<sup>115</sup>

## 5. Stateless persons

67. UNHCR stated that the Maltese Citizenship Act contained some provisions that were not in line with international standards on preventing or reducing statelessness. Children born in Malta to stateless parents or foreigners, who were unable to confer their nationality to children born abroad, enjoyed no definite safeguard to prevent their statelessness. Similarly, children born before 31 July 1989 to a Maltese mother and a foreign father were at risk of statelessness, as prior to that date only children born to male nationals automatically acquired nationality. The Citizenship Act provided that a stateless person could apply for a certificate of naturalization as a citizen of Malta under certain conditions.<sup>116</sup>

68. UNHCR recommended that Malta set up a statelessness determination procedure in order to ensure the identification of stateless persons in its territory, that it amend its national legislation and policies in order to prevent statelessness, and that it pay particular attention to the documentation and citizenship issues affecting children residing in Malta.<sup>117</sup>

## Notes

- <sup>1</sup> Tables containing information on the scope of international obligations and cooperation with international human rights mechanisms and bodies for Malta will be available at [www.ohchr.org/EN/Countries/ENACARegion/Pages/MTIndex.aspx](http://www.ohchr.org/EN/Countries/ENACARegion/Pages/MTIndex.aspx).
- <sup>2</sup> For relevant recommendations, see A/HRC/25/17, paras. 102.1–102.13, 102.20–102.21 and 102.25.
- <sup>3</sup> See CCPR/C/MLT/CO/2, para. 4.
- <sup>4</sup> See A/HRC/29/36/Add.3, para. 11.
- <sup>5</sup> *Ibid.*, para. 108.
- <sup>6</sup> UNHCR submission for the universal periodic review of Malta, p. 5.
- <sup>7</sup> See letter dated 22 September 2015 from the Committee on the Elimination of Discrimination against Women addressed to the Permanent Mission of Malta to the United Nations Office and other international organizations in Geneva, p. 1. Available from [http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/MLT/INT\\_CEDAW\\_FUL\\_MLT\\_21735\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/MLT/INT_CEDAW_FUL_MLT_21735_E.pdf). See also CEDAW/C/MLT/CO/4/Add.1, pp. 1–2.
- <sup>8</sup> See CCPR/C/MLT/CO/2, para. 6.
- <sup>9</sup> OHCHR, “Funding” and “Donor profiles” in *2017 Report*, pp. 79 and 131.
- <sup>10</sup> For relevant recommendations, see A/HRC/25/17, paras. 102.2, 102.28–102.32 and 102.38.
- <sup>11</sup> See CCPR/C/MLT/CO/2, para. 7.
- <sup>12</sup> See A/HRC/29/36/Add.3, para. 108, and CCPR/C/MLT/CO/2, para. 7.
- <sup>13</sup> For relevant recommendations, see A/HRC/25/17, paras. 102.26, 102.47, 102.50 and 102.57–102.66.

- <sup>14</sup> See CCPR/C/MLT/CO/2, para. 8. See also para. 3 and [www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100\\_COMMENT\\_ID:3297876:NO](http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3297876:NO).
- <sup>15</sup> See CCPR/C/MLT/CO/2, para. 9.
- <sup>16</sup> See A/HRC/29/36/Add.3, para. 100.
- <sup>17</sup> See CCPR/C/MLT/CO/2, para. 9. See also A/HRC/29/36/Add.3, para. 112 (b) and (c).
- <sup>18</sup> See A/HRC/29/36/Add.3, para. 112 (d).
- <sup>19</sup> See CCPR/C/MLT/CO/2, para. 9. See also A/HRC/29/36/Add.3, para. 112 (d).
- <sup>20</sup> CCPR/C/MLT/CO/2, para. 3.
- <sup>21</sup> *Ibid.*, para. 10.
- <sup>22</sup> *Ibid.*, para. 10.
- <sup>23</sup> For relevant recommendations, see A/HRC/25/17, paras. 102.88–102.90.
- <sup>24</sup> See CRDP/C/MLT/Q/1, paras. 20 and 24.
- <sup>25</sup> For the relevant recommendation, see A/HRC/25/17, para. 102.87.
- <sup>26</sup> A/HRC/33/50/Add.1, p. 1 and para. 74.
- <sup>27</sup> See CCPR/C/MLT/CO/2, para. 19.
- <sup>28</sup> See A/HRC/33/50/Add.1, para. 75.
- <sup>29</sup> See CCPR/C/MLT/CO/2, para. 19.
- <sup>30</sup> *Ibid.*, para. 18.
- <sup>31</sup> See A/HRC/33/50/Add.1, para. 79.
- <sup>32</sup> See CAT/OP/MLT/1, paras. 10 and 16.
- <sup>33</sup> *Ibid.*, para. 25.
- <sup>34</sup> *Ibid.*, para. 21.
- <sup>35</sup> *Ibid.*, paras. 13 and 21.
- <sup>36</sup> *Ibid.*, para. 23.
- <sup>37</sup> *Ibid.*, para. 34.
- <sup>38</sup> *Ibid.*, para. 26. See also A/HRC/29/36/Add.3, para. 108.
- <sup>39</sup> *Ibid.*, para. 28.
- <sup>40</sup> *Ibid.*, para. 30.
- <sup>41</sup> *Ibid.*, para. 32.
- <sup>42</sup> See CCPR/C/MLT/CO/2, para. 22.
- <sup>43</sup> See UNESCO submission for the universal periodic review of Malta, para. 19.
- <sup>44</sup> See <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=23395>.
- <sup>45</sup> See <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=81881>.
- <sup>46</sup> See <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=23395>.
- <sup>47</sup> See UNESCO submission, para. 21.
- <sup>48</sup> For relevant recommendations, see A/HRC/25/17, paras. 102.27 and 102.81–102.86.
- <sup>49</sup> See CCPR/C/MLT/CO/2, paras. 3 and 15.
- <sup>50</sup> *Ibid.*, para. 15.
- <sup>51</sup> *Ibid.*
- <sup>52</sup> For the relevant recommendation, see A/HRC/25/17, para. 102.42.
- <sup>53</sup> See [www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100\\_COMMENT\\_ID:3333630:NO](http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3333630:NO).
- <sup>54</sup> For relevant recommendations, see A/HRC/25/17, paras. 102.75–102.80, 102.99–102.100 and 102.102.
- <sup>55</sup> See CCPR/C/MLT/CO/2, para. 13.
- <sup>56</sup> *Ibid.*
- <sup>57</sup> See CEDAW/C/MLT/CO/4/Add.1, p. 2.
- <sup>58</sup> See letter dated 4 October 2016 from the Permanent Representative of Malta to the United Nations Office and other international organizations in Geneva addressed to the Human Rights Committee. Available from [http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/MLT/INT\\_CCPR\\_FCO\\_MLT\\_25521\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/MLT/INT_CCPR_FCO_MLT_25521_E.pdf), pp. 1–2.
- <sup>59</sup> See UNESCO submission, para. 16.
- <sup>60</sup> *Ibid.*, para. 13.
- <sup>61</sup> For relevant recommendations, see A/HRC/25/17, paras. 102.51–102.55, 102.67–102.71 and 102.98.
- <sup>62</sup> See CCPR/C/MLT/CO/2, para. 12.
- <sup>63</sup> *Ibid.*, para. 11.
- <sup>64</sup> See UNESCO submission, para. 13.
- <sup>65</sup> See CCPR/C/MLT/CO/2, para. 11.
- <sup>66</sup> For relevant recommendations, see A/HRC/25/17, paras. 102.44, 102.72–102.73 and 102.91.
- <sup>67</sup> See CCPR/C/MLT/CO/2, para. 3.
- <sup>68</sup> *Ibid.*, para. 3. See also A/HRC/33/50/Add.1, para. 17.

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- <sup>69</sup> See A/HRC/33/50/Add.1, para. 20.
- <sup>70</sup> See CCPR/C/MLT/CO/2, para. 20.
- <sup>71</sup> See A/HRC/33/50/Add.1, para. 91.
- <sup>72</sup> See CCPR/C/MLT/CO/2, para. 20.
- <sup>73</sup> For relevant recommendations, see A/HRC/25/17, paras. 102.103–102.105.
- <sup>74</sup> See CCPR/C/MLT/CO/2, para. 21.
- <sup>75</sup> See CRPD/C/MLT/Q/1, para. 36 (a).
- <sup>76</sup> See CCPR/C/MLT/CO/2, para. 21.
- <sup>77</sup> See  
[www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100\\_COMMENT\\_ID:3343297:NO](http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3343297:NO).
- <sup>78</sup> See UNESCO submission, para. 14 and p. 5, recommendation No. 1.
- <sup>79</sup> For relevant recommendations, see A/HRC/25/17, paras. 102.46 and 102.106–102.134.
- <sup>80</sup> See CCPR/C/MLT/CO/2, para. 16. See also A/HRC/33/50/Add.1, paras. 26–28.
- <sup>81</sup> See A/HRC/29/36/Add.3, paras. 69–70.
- <sup>82</sup> *Ibid.*, para. 73.
- <sup>83</sup> A/HRC/33/50/Add.1, p. 2.
- <sup>84</sup> *Ibid.*, para. 87.
- <sup>85</sup> See CCPR/C/MLT/CO/2, para. 14.
- <sup>86</sup> See A/HRC/33/50/Add.1, para. 83.
- <sup>87</sup> UNHCR submission, p. 2.
- <sup>88</sup> See letter dated 4 October 2016 from the Permanent Representative of Malta to the United Nations Office and other international organizations in Geneva addressed to the Human Rights Committee. Available from  
[http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/MLT/INT\\_CCPR\\_FCO\\_MLT\\_25521\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/MLT/INT_CCPR_FCO_MLT_25521_E.pdf), pp. 2–3.
- <sup>89</sup> UNHCR submission, p. 2. See also A/HRC/33/50/Add.1, para. 85.
- <sup>90</sup> UNHCR submission, p. 3.
- <sup>91</sup> See A/HRC/33/50/Add.1, para. 89.
- <sup>92</sup> See A/HRC/29/36/Add.3, para. 110.
- <sup>93</sup> See CCPR/C/MLT/CO/2, para. 16.
- <sup>94</sup> UNHCR submission, p. 4.
- <sup>95</sup> See A/HRC/29/36/Add.3, para. 111.
- <sup>96</sup> See CCPR/C/MLT/CO/2, para. 17.
- <sup>97</sup> See A/HRC/33/50/Add.1, para. 89. See also CCPR/C/MLT/CO/2, para. 17.
- <sup>98</sup> See A/HRC/33/50/Add.1, para. 86. See also letter dated 4 October 2016 from the Permanent Representative of Malta to the United Nations Office and other international organizations in Geneva addressed to the Human Rights Committee.  
[http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/MLT/INT\\_CCPR\\_FCO\\_MLT\\_25521\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/MLT/INT_CCPR_FCO_MLT_25521_E.pdf), pp. 2–3.
- <sup>99</sup> UNHCR submission, p. 2.
- <sup>100</sup> See A/HRC/29/36/Add.3, para. 111.
- <sup>101</sup> UNHCR submission, p. 3. See also CCPR/C/MLT/CO/2, para. 18.
- <sup>102</sup> UNHCR submission, p. 4.
- <sup>103</sup> A/HRC/33/50/Add.1, p. 2 and para. 89.
- <sup>104</sup> UNHCR submission, p. 4.
- <sup>105</sup> *Ibid.*, p. 3.
- <sup>106</sup> See UNESCO submission, para. 15.
- <sup>107</sup> UNHCR submission, p. 3.
- <sup>108</sup> *Ibid.*
- <sup>109</sup> See A/HRC/29/36/Add.3, paras. 95–96.
- <sup>110</sup> *Ibid.*, para. 112.
- <sup>111</sup> *Ibid.*
- <sup>112</sup> UNHCR submission, p. 2.
- <sup>113</sup> *Ibid.*, p. 2.
- <sup>114</sup> *Ibid.*, p. 3.
- <sup>115</sup> *Ibid.*
- <sup>116</sup> *Ibid.*, p. 4.
- <sup>117</sup> *Ibid.*, p. 5.
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