



# International Convention for the Protection of All Persons from Enforced Disappearance

Distr.: General  
25 June 2025

Original: English

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## Committee on Enforced Disappearances Twenty-eighth session

### Summary record of the 524th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 25 March 2025, at 10 a.m.

*Chair:* Mr. de Frouville

## Contents

Consideration of reports of States Parties under article 29 (1) and additional information under article 29 (4) of the Convention (*continued*)

*Initial report of Malta (continued)*

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*The meeting was called to order at 10 a.m.*

**Consideration of reports of States Parties under article 29 (1) and additional information under article 29 (4) of the Convention** *(continued)*

*Initial report of Malta (continued)* (CED/C/MLT/1; CED/C/MLT/Q/1; CED/C/MLT/RQ/1)

1. *At the invitation of the Chair, the delegation of Malta joined the meeting.*
2. **Ms. Lochbihler** (Country Rapporteur) said that she would like to know what criteria were applied by the State Party prior to an extradition to evaluate whether the requested person might be at risk of being subjected to enforced disappearance or serious human rights violations in the requesting State. She would like to know, too, whether the State Party's registers of persons deprived of their liberty included the minimum details prescribed by article 17 of the Convention, whether those details were systematically updated, and whether the definition of "place of deprivation of liberty" in Maltese law was consistent with that contained in the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
3. The delegation might comment on reports that asylum-seekers were being held in detention facilities owing to there being insufficient space in open holding centres and update the Committee on their situation. She would like to know what measures had been implemented to prevent enforced disappearance in the context of migration and how the State Party had responded to the reported failures of the Maltese authorities to assist migrants and refugees in distress at sea, including alleged incidents of pushbacks, which had exposed those individuals to serious human rights violations in Libya. The Committee would welcome further information on the Memorandum of Understanding signed between Malta and Libya, including how it served to prevent the disappearance of migrants and refugees.
4. She would be grateful if the delegation could confirm whether there were any migration detention facilities that were not operated by the Detention Service and whether steps were being taken to establish a central register of all places of deprivation of liberty.
5. With regard to the migrants and asylum-seekers who were awaiting deportation at Mount Carmel Psychiatric Hospital, she wondered what the minimum and maximum length of stay was, how many individuals had stayed there for extended periods and whether data on their nationalities were available. She would also like to receive an update on the steps taken to extend the mandate of the Maltese mechanisms for the prevention of torture, along with a timeline for that process.
6. She would be interested to know whether the training provided to the Malta Police Force included training on the Convention and whether such training would also be provided to medical professionals, public officials and individuals involved in the custody or treatment of persons deprived of their liberty, as well as migration officials and the staff of childcare institutions. She wondered whether the Committee's general comment No. 1 (2023) on enforced disappearance in the context of migration and its joint statement on illegal intercountry adoption (CED/C/9) were covered by any training on the Convention.
7. She wished to know whether Maltese law imposed any time limit for gaining access to compensation or reparation for victims of enforced disappearance. She would also welcome information on the provisions governing the legal situation of disappeared persons whose fate had not been clarified, and the situation of their relatives, in fields such as social welfare, financial matters, family law and property rights.
8. She would be grateful if the delegation could describe the policies and measures implemented by the State Party to protect children, especially unaccompanied minors, from enforced disappearance, in particular in the context of migration and human trafficking. She would also like to receive further information on the policies in place to better protect missing children, as well as any data available on disappearances, and on the measures implemented to prevent illegal intercountry adoptions.
9. **Mr. Kanyongolo** (Country Rapporteur) said that he wished to emphasize that the absence of recorded cases of enforced disappearance did not absolve the State Party from

fulfilling its obligations under the Convention. He would like to know whether the State Party planned to expand the definition of “victim” under the Victims of Crime Act in the light of the definition of a victim of enforced disappearance contained in article 24 of the Convention, particularly with regard to including family members of any individual who had suffered harm as a result of enforced disappearance, even if the disappearance had not directly resulted in death.

10. He would welcome further information on the measures in place to guarantee the right of victims of enforced disappearance to know the truth regarding the circumstances of a case of enforced disappearance, the progress and results of the investigation and the fate of disappeared persons, as well as to ensure that the State fulfilled its obligation to search for, locate and secure the release of disappeared persons and, in the event of death, to locate, respect and return their remains.

11. He wondered whether Maltese law provided for the right of victims of enforced disappearance to obtain reparation and prompt, fair and adequate compensation, including for material and moral damages and, where appropriate, other forms of reparation. He wondered, too, whether the State was obliged under national law to continue its investigations until the fate of a disappeared person had been clarified.

12. Lastly, he would be curious to learn whether any measures had been implemented to guarantee the right to form and participate freely in organizations and associations concerned with attempting to establish the circumstances of instances of enforced disappearance and the fate of disappeared persons, and to assist victims of enforced disappearance.

13. **Ms. Villa Quintana** said that she would like to know whether a gender perspective had been incorporated into police training, whether the same training was provided to judicial officials and prosecutors, and how knowledge of enforced disappearance and the Convention was incorporated into police operations and practices. It would also be useful to learn how women and children would be protected in cases of enforced disappearance, and what measures were taken to address the specific needs of female and child victims of human trafficking.

*The meeting was suspended at 10.25 a.m. and resumed at 10.45 a.m.*

14. **A representative of Malta** said that the Constitution guaranteed a number of fundamental rights and freedoms during criminal and extradition proceedings. For example, article 36 provided that no one was to be subjected to inhumane or degrading treatment or punishment. Article 10 of the Extradition Act prohibited returning persons to a country if it appeared that the request for their return had been made to prosecute or punish them on the basis of race, place of origin, nationality, political opinions, colour or creed, or if they would face prejudice at trial for those reasons. Those provisions applied to all offences, including enforced disappearance.

15. In Malta, extradition proceedings were handled by the Court of Magistrates. Under article 16 of the Extradition Act, persons who were remanded in custody could not be returned until 15 days had elapsed from the date on which their committal had been ordered. For European arrest warrant proceedings, that period was seven days. Malta adhered to a 10-day surrender period under the European Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States. During that period, the person in question could appeal to the Court of Criminal Appeal or raise grievances before the Civil Court, First Hall, or the Constitutional Court.

16. On 12 August 2024, the Court of Criminal Appeal had overturned the judgment of the Court of Magistrates in *The Police v. Paul-Philippe Al-Romaniei*, in which the latter court had decided to surrender Mr. Al-Romaniei to the Romanian authorities in response to a European arrest warrant issued against him. However, following a successful appeal by Mr. Al-Romaniei before the Court of Criminal Appeal, the decision to surrender him had been reversed on the basis of the systematic deficiencies in Romanian prisons. The Court of Criminal Appeal had likewise found the assurances provided by the Romanian authorities that he would not be subjected to inhumane and degrading treatment to be insufficient, citing the judgment of the Court of Justice of the European Union in *Aranyosi and Căldăraru*, which had highlighted the inadequate conditions in Romanian prisons. The Court of Criminal

Appeal, having assessed the detention conditions in Romania and the personal circumstances of Mr. Al-Romaniei, had determined that he could face a real risk of inhumane or degrading treatment if surrendered. Under article 13 of the Extradition Act, the Maltese courts must request additional information from States sending requests for European arrest warrants or extradition requests if the initial information submitted was insufficient.

17. **A representative of Malta** said that amendments were currently being introduced to the Protection of the Whistleblower Act to ensure protection for the members of the “disciplined forces” and others. In Malta, the protection of women and children in cases of trafficking in persons was regulated by the Criminal Code, the Victims of Crime Act and international agreements. Maltese law was aligned with the relevant European Union directives and international conventions to provide comprehensive protection, assistance and justice for victims.

18. Articles 248A–248E of the Criminal Code covered trafficking in persons, including sexual exploitation, forced labour and organ removal, prescribing penalties ranging from 6 to 12 years’ imprisonment. Aggravated circumstances applied if the victim was a minor or a vulnerable person. If the victim was under 18 years of age, their trafficking was automatically considered coercive, thus making consent irrelevant in legal proceedings.

19. The Victims of Crime Act guaranteed protection, support and legal assistance to trafficking victims, access to legal aid, psychological support and shelter. Victims were informed about criminal proceedings and the status of their traffickers.

20. The Malta Police Force had a specialized human trafficking unit responsible for investigating and prosecuting traffickers. The Maltese courts could also order protection measures, such as restraining orders, against traffickers. Government and non-governmental services provided shelter, psychological counselling and legal aid for victims. The Independent Police Complaints Board was tasked with monitoring the treatment of victims in custody. Police officers received training on identifying and assisting victims effectively.

21. Malta had ratified several treaties aimed at combating trafficking in persons, including the Council of Europe Convention on Action against Trafficking in Human Beings. The country had a robust legal and international framework to protect women and children from trafficking.

22. All persons held in police custody in Malta or Gozo were registered. A detainee book in hard-copy format was kept in all places where persons could be deprived of their liberty, even for less than six hours. All immigration detention records were kept online in a shared database accessible to the police, the Agency for the Welfare of Asylum Seekers and the Migration Directorate. Relevant data were entered immediately upon admission to a detention facility. Migrants admitted to correctional facilities were subject to the same procedures as nationals of Malta and other States members of the European Union.

23. In 2023, officers of the Malta Police Force had participated in training courses organized by the European Union Agency for Law Enforcement Training, covering topics such as hate crime, linking missing persons and identified human remains, behaviour analysis in migrant smuggling, profiling, social media use in missing persons cases, and victim and witness protection. Continuous professional development training for police officers at the Academy for Disciplined Forces included lectures on fundamental human rights, hate crime, victim support and asylum law; reference was made to the Convention in that training.

24. **A representative of Malta** said that members of the Maltese judiciary received extensive training on handling cases involving vulnerable witnesses and on victims’ rights. That included training on psychological trauma, trafficking in persons, gender-based and domestic violence, compensation, access to justice and legal aid. The Office of the Attorney General provided similar training to prosecutors, using up-to-date methodologies and practices and maintaining a well-stocked library.

25. The definition of “victim” contained in the Victims of Crime Act was not the only definition that was applied. Victims had the right to understand and to be understood in interactions with the authorities, including through translation and interpretation services. According to European Union law, victims must receive information on available support, complaints procedures, protection measures, legal advice, legal aid, compensation,

restorative justice services and reimbursement for expenses related to criminal proceedings. When victims filed complaints, they received written acknowledgement and updates on the investigation and prosecution proceedings.

26. During criminal investigations, victim interviews should take place promptly and be kept to a minimum. Victims could be accompanied by legal representatives or a person of their choice. Medical examinations were also kept to a minimum and conducted only when necessary. If the police or the Attorney General decided not to prosecute, victims were informed of the decision and the reasons behind it.

27. Restorative justice measures, such as victim-offender mediation, were applied only if they would benefit the victim. Victims had to provide their informed consent, which could be withdrawn at any time. Victims of crimes committed in another European Union member State could file complaints in Malta if they were unable to do so in the other State.

28. The Victim Support Agency ensured the conduct of timely and individual assessments for victims, especially vulnerable individuals such as minors, victims of terrorism, organized crime, trafficking, gender-based violence, sexual violence, hate crime, and those with disabilities. If a victim was a minor, parental representatives were excluded due to potential conflicts of interest, and a child advocate was appointed.

29. Malta recognized that certain victims needed specific protection, which was granted at the courts' discretion. Victims of sexual offences or of trafficking testified via video link from a separate room and were questioned by the presiding judge, who could modify the questions to prevent revictimization. Victims testified only once and received assistance after criminal proceedings.

30. Avenues for compensation were established in the Criminal Injuries Compensation Scheme Regulations, which were consistent with European Union law. Victims of violent intentional crimes, sexual offences, homicide, bodily harm, trafficking in persons, harassment and stalking could be eligible for compensation.

31. **A representative of Malta** said that migration remained a challenge for countries like Malta that were located on major migration routes and risked receiving sudden influxes of migrants. Over the past 20 years, Malta had saved over 29,000 migrants in distress. It likewise hosted a significant number of beneficiaries of international protection in proportion to the size of its population. Despite its small size and limited resources, Malta had developed robust frameworks for processing asylum claims efficiently.

32. Since 2020, the Government had significantly improved its asylum and migration management procedures through the allocation of increased funding and the development of new laws and policies. Those improvements included a more fair and efficient asylum system, better reception conditions, the establishment of migrant health services and strengthened return procedures, including assisted voluntary return, and counselling. The Government was committed to maintaining humane reception conditions and protecting asylum-seekers while ensuring that those without the right to stay in Malta were returned safely and humanely.

33. Malta consistently responded to distress calls at sea, complying with the relevant international legal instruments, including the United Nations Convention on the Law of the Sea and the International Convention on Maritime Search and Rescue, 1979. Malta coordinated rescue activities within its search and rescue region, ensuring disembarkation at the closest place of safety, which could be Tunisia, Lampedusa, Sicily, or Malta itself. Although Malta was not responsible for autonomous interceptions on the high seas, it coordinated rescue operations and provided assistance.

34. Not all migrant boat arrivals, such as autonomous landings in Malta and Lampedusa, were considered search and rescue cases, meaning that the Maltese authorities could not intervene under search and rescue protocols in such cases. Other States had the right and responsibility to manage their borders and enforce immigration laws within their own territories. Moreover, Malta had not forced migrants back to Libya, and the Libyan Coast Guard operated only within areas that were under Libyan jurisdiction. There had been no instances of collective expulsion or pushbacks within the jurisdiction of Malta. The Maltese

authorities did not have de jure or de facto jurisdiction over migrant boats in international waters.

35. The Memorandum of Understanding signed by Malta and Libya in 2020 had been renewed in 2024 and could be consulted online. It provided for the establishment of two coordination centres, in Libya and in Malta, to strengthen collaboration between the two countries in combating irregular migration, and also contained a commitment by the Government of Malta to seek European Union funding to help Libya to dismantle organized crime networks and secure its southern borders.

36. Asylum-seekers were detained only for the reasons set out in article 6 (1) of the Reception of Asylum Seekers Regulations, and detentions of unsuccessful asylum-seekers or irregular migrants in the returns process were carried out in line with the Common Standards and Procedures for Returning Illegally Staying Third-Country Nationals Regulations. Detention orders were issued following an individual assessment and as a measure of last resort, after a determination that less coercive alternative measures could not be applied effectively. Detention orders were automatically reviewed within 14 days and every two months thereafter. All such reviews were conducted by an independent quasi-judicial board. Statistics on alternatives to detention could be provided in writing.

37. Persons subject to return decisions and removal orders were informed of voluntary return options and given a period of time in which to depart voluntarily. Such decisions and orders were accompanied by an explanation of the persons' rights and could be contested before the Immigration Appeals Board, an independent quasi-judicial body. Cases of prolonged detention in the context of returns were reviewed ex officio at least every three months and could also be reviewed upon request. The independent monitoring board with oversight over return activities submitted an annual report to the Ministry for Home Affairs, Security and Employment. Free legal aid and interpretation services were provided in cases involving appeals against detention or removal decisions. Efforts were under way to reduce the length of appeals proceedings.

38. Pursuant to the Minor Protection (Alternative Care) Act, unaccompanied minors in Malta were placed in the care of the Agency for the Welfare of Asylum Seekers. Any signs of trafficking were reported immediately to the police. The police were also alerted if an unaccompanied minor failed to return to their residential centre after curfew or if staff at a centre suspected that a minor was planning to leave the country.

39. **A representative of Malta** said that, regrettably, the country's largest open centre for asylum-seekers had been locked down during the coronavirus disease (COVID-19) pandemic, which had resulted in some asylum-seekers' being placed in closed centres. However, that situation had been remedied by building a new open centre in Hal Far in 2020. Since 2021, all asylum-seekers not subject to immigration detention had been accommodated in open centres. The 2020 visit of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment had taken place at a time when Malta had been facing significant pressures owing to the COVID-19 pandemic and the large number of irregular migrants arriving on its shores. The Government was awaiting the report on that committee's 2023 visit to Malta, which had included visits to immigration facilities.

40. Mount Carmel Psychiatric Hospital was not and had never been used as an immigration removal centre. Involuntary admissions to the hospital took place under the Health Act or the Mental Health Act, not the Immigration Act. Training on topics such as human rights, mental health and the asylum process was provided, in partnership with institutions such as the Office of the United Nations High Commissioner for Refugees and the European Migration Network, to all persons working in immigration settings.

41. The Government had designated the Corradino Correctional Facility Monitoring Board and the Monitoring Board for Detained Persons, both independent bodies, as national mechanisms for the prevention of torture. Since 2015, all annual reports of the Monitoring Board for Detained Persons had been laid in Parliament. In addition, police detention facilities were subject to monitoring by the Independent Police Complaints Board, and the health authorities were subject to oversight by the commissioners for health and mental health. The Board and the two commissioners were also independent.

42. **A representative of Malta** said that, under the Civil Code, the presumptive heirs of an absentee, who were normally the immediate family members, and other interested persons could, regardless of the reason for the absence, ask the courts to appoint a curator to manage the absentee's property. The curator, who was subject to the supervision of the court, would prepare an inventory of the assets. After a certain period, which depended on the circumstances of the case but could not exceed 10 years, had elapsed, the presumptive heirs could ask to have the absentee's assets distributed to them in accordance with the person's will or, in the absence of a will, with Maltese inheritance laws. Article 233 of the Civil Code authorized the courts, at the request of any person, to appoint curators for any minor children of the absentee left without parental care.

43. The Minor Protection (Alternative Care) Act, which provided for the establishment of a directorate for child protection services with authority to initiate investigations *ex officio* and request the intervention of the courts, contained a definition of "significant harm" that included exploitation and trafficking. No law could restrict the constitutional right of all persons to freedom of association.

44. **Ms. Lochbihler** said that she wondered whether the issue of enforced disappearance and the reported involvement of members of the Libyan Coast Guard in trafficking in persons and human rights violations had been addressed in the negotiations that had led to the signing of the Memorandum of Understanding. She would like to know what action the State Party had taken in response to the Views adopted by the Human Rights Committee in communication No. 3042/2017 ([CCPR/C/130/D/3042/2017](#)), which had referred to the failures of the Maltese authorities in connection with a 2013 shipwreck in the Mediterranean. She would be grateful for further information on the training provided, including any training on enforced disappearance, for medical personnel at Mount Carmel Psychiatric Hospital. She wished to know whether migrants deprived of their liberty had the right of access to a lawyer and whether the possibility of enforced disappearance was addressed in the State Party's work with the International Organization for Migration under the Missing Migrants Project or similar initiatives. It would be helpful to receive an update on the work being done by the State Party in connection with AMBER Alert Europe. She wished to know whether the State Party had reviewed the joint statement on illegal intercountry adoption issued by the Committee and others in 2022.

45. **Mr. Kanyongolo** said that he would be grateful for further details of the amendments being considered to the Protection of the Whistleblower Act and the expected time frame for their adoption. He wished to know whether all the information referred to in article 17 (3) of the Convention was recorded and regularly updated in registers of persons deprived of their liberty and whether those registers were interconnected, allowing users to easily move between them and cross-check information. In the absence of an autonomous offence of enforced disappearance and given the State Party's position that enforced disappearance was covered by various other offences, he wished to learn whether the concept of "victim" was defined as broadly with respect to those offences as it was in article 24 (1) of the Convention. It would also be helpful to know whether victims of those offences were entitled to compensation and all the forms of reparation set out in article 24 (5) of the Convention.

46. **A representative of Malta** said that, in addition to the remedies available to victims under the Criminal Injuries Compensation Scheme and the Victims of Crime Act, victims could also seek compensation by claiming injured party status in criminal proceedings. Rehabilitation and satisfaction measures, including restoration of dignity and reputation, were provided by government agencies to persons recognized as victims under the Victims of Crime Act. Pursuant to the case law of the European Court of Human Rights, in particular its judgment in *Rantsev v. Cyprus and Russia*, the obligation of States to provide compensation and restitution was contingent on the conduct of an investigation, not on a guilty verdict. Investigations into disappearances were pursued even where evidence was scarce, and could be recategorized as murder or trafficking cases, for instance, depending on the findings of the investigation. Unauthorized adoptions of all sorts were addressed in Maltese law, including the Adoption Administration Act.

47. **A representative of Malta** said that victims, which normally referred to the heirs of the person who had suffered the harm, could file a civil suit for damages against the Government with the Civil Court, First Hall. However, such suits applied only in respect of

material harm and were subject to a two-year statute of limitation, which could be extended by judicial letter. In cases involving a breach of human rights and in which a constitutional application was made, the Civil Court, First Hall, had discretionary power to order any remedial measure it saw fit. Where the First Hall found that there had been no breach, the victim could lodge an application with the European Court of Human Rights. All in-country and intercountry adoptions had to be authorized by the Adoption Board.

48. **A representative of Malta** said that migrants were afforded the same rights in criminal proceedings as the rest of the population, including the rights of access to a lawyer, to contact with family and to medical assistance. They were informed of their rights in a language that they understood from the outset of their detention. The services of an interpreter could also be provided during criminal proceedings.

49. **A representative of Malta** said that healthcare professionals were given financial incentives to continue acquiring skills and knowledge related to the settings in which they worked.

50. **A representative of Malta** said that the Memorandum of Understanding signed with Libya, which focused on enhancing the operational and technical capacity of the Libyan authorities to dismantle organized criminal networks engaged in migrant smuggling and trafficking in persons, with the aim of preventing irregular departures and, thus, loss of life at sea, had been renewed. Services for migrants, including interpretation and free legal representation before the Immigration Appeals Board, were provided by the Ministry for Home Affairs, Security and Employment.

51. The Malta Red Cross transmitted requests for information on migrants missing at sea to the Ministry for Home Affairs, Security and Employment and the migration authorities, which conducted the necessary checks using relevant databases and communicated their findings to the Malta Red Cross. Cases where a migrant was found deceased following a rescue operation were investigated by the district police, which typically requested an autopsy. Malta had joined the new Network of National Focal Points for Missing Migrants in 2024 and expected the topic of enforced disappearance to be an integral part of the Network's discussions.

52. **A representative of Malta** said that there was no time frame for the adoption of the amended Protection of the Whistleblower Act; however, the proposed amendments would include provisions to extend protections to law enforcement personnel and other individuals not currently covered under the Act.

53. **A representative of Malta** said that, regarding the 2013 shipwreck, Malta complied with its international obligations and had never relinquished responsibility over or failed to respond to a single distress call made in its search and rescue region.

54. **A representative of Malta** said that the registers of persons deprived of their liberty kept by the competent authorities were fully compliant with article 17 (3) of the Convention.

55. **Mr. Diop** said that he wished to learn about how cases of suspicious disappearances were handled in the State Party, specifically how long search operations lasted and whether, in such cases, the authorities simply applied the procedure for absence cases, since the manner in which such cases were treated had an impact on the families' ability to exercise their civil rights.

56. **A representative of Malta** said that article 193 of the Civil Code did not distinguish between absences for personal reasons and enforced disappearance. The consequences of such an absence from a civil perspective were regulated in articles 194 to 233 of the Code.

57. **A representative of Malta** said that the register kept by the police included the personal information of detainees, the time of arrest, the reading of rights, the reason for and location of detention, details of all interviews, including time, date, location and presence of counsel, and the provision of any other support services, including medical care. The register could be reviewed to check its compliance with legal standards. All extensions of police custody beyond the 48-hour legal limit had to be communicated to the competent judge and recorded in the register.



58. **A representative of Malta** said that Malta was proud to be a State Party to the Convention despite its never having implemented policies that had given rise to enforced disappearance in its territory. It valued its interactions with the Committee, aimed at better ensuring the rights of all persons living in Malta, and looked forward to receiving its concluding observations, which the Government would carefully analyse and take into account in future legislative and policy considerations in the various thematic areas covered during the interactive dialogue.

*The meeting rose at 12.20 p.m.*