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HUMAN RIGHTS COUNCIL  
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**NATIONAL REPORT SUBMITTED IN ACCORDANCE WITH PARAGRAPH 15 (A)  
OF THE ANNEX TO HUMAN RIGHTS COUNCIL RESOLUTION 5/1 \***

**Malta**

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\* The present document was not edited before being sent to the United Nations translation services.

## **I. METHODOLOGY AND CONSULTATION PROCESS**

1. Malta's national report for the Universal Periodic Review was prepared in accordance with Human Rights Council Resolution 5/1, and the General Guidelines for the preparation of information under the universal periodic review. The national report covers the territory of Malta.
2. The following government bodies were consulted with regard to preparations of Malta's national report for the universal periodic review: the Ministry of Foreign Affairs; the Ministry of Education, Culture, Youth and Sport; the Ministry for Social Policy; the Ministry of Finance the Economy and Investment; and the Ministry for Justice and Home Affairs. The Ombudsman was also requested to provide his contribution to this national report. Within each Ministry, a focal point was created to facilitate coordination and preparation of the national report; and several meetings were held between these focal points for this purpose; with the Ministry of Foreign Affairs assuming a coordinating role in the preparation of the national report.
3. Several non-governmental organisations active in the promotion of Human Rights were also consulted.

## **II. COUNTRY BACKGROUND**

### **A. Human Rights provisions in the Maltese constitution and legal system**

4. The specific fundamental rights and freedoms enshrined in Chapter IV of the Constitution are the following: protection of the right to life; protection from arbitrary arrest or detention; protection from forced labour; protection from inhuman treatment; protection from deprivation of property without adequate compensation; protection for privacy of home and other property; protection of law (including important safeguards for an accused in Criminal proceedings); protection of freedom of conscience and worship; protection of freedom of expression; protection of freedom of assembly and association; prohibition of deportation; protection of freedom of movement; and protection from discrimination on the grounds of race, place of origin, political opinions, colour, creed or sex. Apart from the provisions of the Constitution and the European Convention Act, the Maltese Government has, over the years, taken various legislative initiatives aimed at further safeguarding the implementation of particular human rights. Inter alia, this refers to legislation on protection against discrimination, the protection of vulnerable persons, the protection of privacy rights, and the protection of rights of workers.

### **B. Human rights institutions**

#### **1. The National Commission for the Promotion of Equality**

5. The National Commission for the Promotion of Equality (NCPE) was appointed in January 2004, in accordance with the "Equality for Men and Women Act";<sup>1</sup> with responsibility<sup>2</sup> in the areas of: discrimination on the grounds of gender, race, ethnic origin, religion or belief, age, or sexual orientation in the provision of goods and services, and gender and family responsibilities in employment. One of the NCPE's principal functions is to investigate complaints made by individuals who feel that they have been discriminated against on the basis of any of the listed areas of responsibility. The Commission may also initiate investigations on any matter involving an act or omission related to discrimination that is allegedly unlawful.

## **2. The National Commission Persons with Disability**

6. Initially set up in 1987 but given legal status in 2000 when the Maltese Parliament unanimously approved the Equal Opportunities (Persons with Disability) Act<sup>3</sup> which outlaws discrimination on grounds of disability, and which established the National Commission Persons with Disability. The Commission was put as the guardian of this legislation. Through such legislation Malta became compliant with the Council Directive to Establish a General Framework for Equal Treatment in Employment and Occupation - EU Directive 2000/78/EC.

## **3. Commissioner for Children**

7. The Commissioner for Children was appointed by virtue of the Commissioner for Children Act.<sup>4</sup> Article 4 of this Act states that “In the exercise of the functions established under this Act, the Commissioner shall act independently and shall not be subject to the direction or control of any other person or authority”, while sub-article 1 of Article 9 (Functions of the Commissioner), states: “to promote compliance with the United Nations Convention on the Rights of the Child as ratified by Malta and with such other international treaties, conventions or agreements relating to children as are or may be ratified or otherwise acceded to by Malta.” Article 10 sets out the guiding principles that the Commissioner has to follow, while Article 11 states how the Commissioner promotes and monitors the best interests of children.

## **4. National Employment Authority**

8. The National Employment Authority set up by virtue of the Employment and Training Services Act,<sup>5</sup> states in article 3(1) that the President of Malta shall appoint a National Employment Authority composed of three independent persons, two other persons appearing to the President to represent the interests of the employers and two other persons appearing to the President to represent the interests of employees. In this article “independent persons” means persons who are neither Government employees nor officials of any organisation representing employers or employees. The Functions of the Authority which can be found under article 4 of the Act, state *inter alia*:

(a) Monitor employment and to investigate and adjudicate, in such manner as it may determine, any complaints which any interested party may bring before it regarding employment and training services provided by the Corporation (*Corporation here refers to the Employment and Training Corporation established under article 5 of this Act*);

(b) To hear appeals as provided for in this Act;

(c) To make rules subject to the provisions of this Act: regarding the circumstances under which a person registered for employment may lose his priority for referral for employment; and providing for special consideration to be given to determinate classes of applicants being applicants with dependants, applicants who are disabled, infirm or incapacitated or applicants requiring physical or social rehabilitation.

## **5. Commissioner for Voluntary Organisations**

9. The office of the Commissioner for Voluntary Organisations was set up in December 2007 in terms of the Voluntary Organisations Act.<sup>6</sup> The objectives of this Act are to regulate voluntary organisations, establish the office of Commissioner for Voluntary Organisations, and provide for privileges to be enjoyed by such enrolled organisations. This Act also established the Register of Voluntary Organisations and the Council of the Voluntary Sector.

10. Under article 7(2) - Functions of the Commissioner, it is stated that: “In the exercise of his functions, the Commissioner shall act impartially and shall not be subject to the direction of any other person or authority.

11. Article 9 – Guiding Principles – states that “The Commissioner shall be guided by the following general principles” and *inter alia* states: “(b) the recognition of the contribution of voluntary action and voluntary organisations, as expressions of participation, solidarity, pluralism and subsidiarity, towards the continued enjoyment and enrichment of democratic life in Malta.”

### **C. International commitments**

12. Malta is party to: the International Covenant on Civil and Political Rights (ICCPR), its Optional Protocol 1 and its Second Optional Protocol aiming at the abolition of the death penalty; the International Covenant on Economic, Social and Cultural Rights (ICESCR); the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD); the Convention on the Elimination of all forms of discrimination against women (CEDAW); the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and its Optional Protocol; the Convention on the Rights of the Child (CRC) and its Optional Protocol on the involvement of Children in Armed Conflict; the Rome Statute of the International Criminal Court; the Palermo Protocol – Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; the Convention relating to the Status of Refugees, and its Protocol; and to the UNESCO Convention against Discrimination in Education.

13. Malta signed: the Optional Protocol to the CRC on the sale of children, child prostitution and child pornography; the Convention on the Rights of Persons with Disabilities and its Optional Protocol; and the International Convention for the Protection of All Persons from Enforced Disappearance (CED).

### **D. Regional commitments**

14. Malta is also a party to: the Council of Europe Convention on the Protection of Human Rights and Fundamental Freedoms, and its Protocols Nos. 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 13 and 14; the European Social Charter, its Protocol and the revised European Social Charter; the European Agreement relating to Persons participating in proceedings of the European Commission and the Court of Human Rights; the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and its Protocols No. 1 and 2; the Sixth Protocol to the General Agreement on Privileges and Immunities of the Council of Europe; the Framework Convention on the Protection of National Minorities; and the Convention on Action Against Trafficking in Human Beings.

### **E. Entry into force of international treaties**

15. In accordance with the Ratification of Treaties Act<sup>7</sup> no provision of a treaty shall become, or be enforceable as, part of the law of Malta except by or under an Act of Parliament.

16. Depending on the subject covered by a treaty, the line Ministry discusses the implications of signature, ratification or accession by Malta, following which, the advice of the Office of the Attorney General is sought. In most cases, when the line Ministry and the Office of the Attorney General clear the text of a treaty, the Ministry of Foreign Affairs proceeds by preparing the instruments required.

## **F. National legislation/initiatives**

17. Apart from the provisions of the Constitution and the European Convention Act which incorporates into Maltese law the relevant articles of the European Convention for the Protection of Human Rights and Fundamental Freedoms and the First, Fourth, Sixth, Seventh and Thirteenth Protocols, the Maltese Government has, over the years, taken various legislative initiatives aimed at further safeguarding the implementation of particular human rights.

18. In this regard one may refer to legislation on protection against discrimination such as the Equal Opportunities (persons with Disability) Act,<sup>8</sup> and the Equality for Men and Women Act,<sup>9</sup> to legislation on the protection of vulnerable persons such as the Commissioner for Children Act<sup>10</sup> and the Refugees Act,<sup>11</sup> to legislation on the protection of privacy such as the Data Protection Act<sup>12</sup> and also to more general legislation such as the European Union Act<sup>13</sup> which facilitates the implementation of all European Union measures in the human rights field.

19. Reference may also be made to the Employment and Industrial Relations Act<sup>14</sup> which protects rights of workers, rights of trade unions and employers associations, collective bargaining and safeguards acceptable conditions of work. This Act is also complemented by the provisions of the Occupational Health and Safety Authority Act.<sup>15</sup>

20. Moreover, in the field of telecommunications the Malta Communications Authority Act provides for the establishment of an Authority that has the duty to ensure “the protection of the right to privacy” and “the protection of the rights and freedoms of others.”<sup>16</sup>

21. Within the context of human rights within marriage and family values, on the other hand, one may refer to the Marriage Act which refers to “wanting to ensure, in line with fundamental human rights and the values of family based on marriage, a free choice in matters of marriage.”<sup>17</sup>

## **G. Parliamentary committees**

22. The House of Representatives of Malta has seven Standing Committees. These are: (a) House Business Committee; (b) Consideration of Bills Committee; (c) Foreign and European Affairs Committee; (d) Social Affairs Committee; (e) Public Accounts Committee; (f) Privileges Committee; and (g) Development Planning Committee. There is also the National Audit Office Accounts Committee set up in virtue of the Development Planning Act. The House may appoint a Select Committee of its Members for the purpose of investigating any subject. It shall be competent for the Speaker to be appointed a Member of any Select Committee of the House; whilst the Deputy Speaker of the House is the Chairman of Committees of the whole House.

## **H. Health care system**

23. The Maltese health care system is based on the principle of equity and solidarity with universal coverage. The public health care system provides a comprehensive basket of health services to all persons residing in Malta who are covered by the Maltese Social Security legislation and also provides for all necessary care to special groups such as irregular immigrants. Universal coverage is also in place for long-term care.<sup>18</sup> Access is linked to need and to capacity within the currently available infrastructure.<sup>19</sup> Services are provided by the state, church and private/voluntary organisations.

### **III. PROMOTION AND PROTECTION OF HUMAN RIGHTS**

#### **A. Data protection**

24. The right to privacy has long been recognised in human rights charters such as the Universal Declaration of Human Rights, 1948 and the European Convention on Human Rights and Fundamental Freedoms, 1953 hereinafter referred to as the European Convention of Human Rights (ECHR). In Europe, the concept of data protection is derived from the qualified right to privacy as contained in Article 8 of the latter. This article, which deals with the right to respect for private and family life, recognises data protection principles and consequently protects personal data as part of an individual's private life. Data protection is highly regarded as an indivisible part of the protection of human rights.

25. The above is clearly manifested in the Council of Europe's Convention for the Protection of individuals with regard to Automatic Processing of Personal Data to which Malta is a State party and in Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data (the European Data Protection Directive) which was transposed into Maltese law by means of the Data Protection Act.<sup>20</sup> Each of these single the right to privacy as being especially pertinent in a data protection context.

26. The Data Protection Act should be interpreted so as to be compatible with Article 8 of the ECHR, which article imposes a positive obligation on States to ensure that their laws provide adequate protection against the unjustified disclosure of personal information. The Data Protection Act is an important part of the detailed implementation of this positive obligation.

27. In the context of data protection, another human right which is worth mentioning is that of freedom of expression (Article 10 of the ECHR). Reference to this human right is made in Article 9 of Directive 95/46/EC as transposed in Article 6 of the Data Protection Act.

28. Both the right to respect for private and family life (Article 8) and freedom of expression (Article 10) of the ECHR are generally taken into consideration when analysing data protection issues.

#### **B. Consumer rights**

29. Malta's consumer rights are regulated by the Consumer Affairs Act<sup>21</sup> but consumer protection is also contemplated in the financial services, tourism and standardisation legislation. The Declaration of Principles found in the Consumer Affairs Act<sup>22</sup> incorporates the eight basic consumer rights that, though not directly enforceable in the courts or tribunals, are adhered to in the interpretation and implementation of the said Act and of the relevant regulations. These provide for the prohibition of unfair contract terms, unfair commercial practices and of illicit schemes and establish rules in connection with liability for defective products and regulate the sale of goods to consumers. This Act also gives the Consumer Claims Tribunal the jurisdiction to hear and determine claims made by consumers against traders when the former purchase, hire goods or are provided with a service by the latter.

30. Financial Services legislation<sup>23</sup> empowers the Malta Financial Services Authority (MFSA) to investigate complaints from private consumers arising out of or in connection with any financial services transaction and to refer such cases, as may be necessary or appropriate, to the Supervisory Council for their consideration.

31. Tourism Services legislation<sup>24</sup> gives the right of appeal to any person who feels aggrieved by a decision of the Malta Tourism Authority vis-à-vis tourism operations. This legislation and its subsidiary legislation also guarantees the rights of tourists or any other persons in the case of bookings that are not honoured, issues with Package Holidays, Time Sharing, and Host Families.

32. The Malta Standards Authority (MSA), through its Market Surveillance Directorate, is responsible for the enforcement of product safety as outlined in the Product Safety Act,<sup>25</sup> the Food Safety Act<sup>26</sup> and the Pesticides Control Act.<sup>27</sup> This legislation covers various standards that include labelling, health and safety issues and consumer safety. The Authority is also authorized to withdraw any product from the market so as to protect the consumer from any risk that may have been identified or suspected for products already available to the consumer.

### **C. Solidarity services**

33. Malta believes that civil and political rights go hand in hand with social and economic rights. Malta is therefore fully committed to a vigorous development of economic and social policy, and is constantly pursuing a progressive agenda on such policy.

34. In view of solidarity services and issues of family friendly measures, Malta has:

(a) In 2006, enacted the Domestic Violence Act<sup>28</sup> to make special provision for domestic violence and to make consequential and other amendments to the Criminal and Civic Codes. This legislation also establishes the Commission on Domestic Violence, which amongst other functions, upholds the main role of advising the Minister responsible for Social Policy on all aspects of Domestic Violence;

(b) Put forward a number of initiatives to increase family friendly measures through the provision of more flexible working arrangements.

35. Malta has also in place safeguards to maintain the present way of life of its inhabitants. These include:

#### **1. The Social Security Act<sup>29</sup>**

36. The Director General (Social Security) is vested with the execution of the Social Security Act. However, it provides for means of redress when a claimant feels aggrieved by a decision of the Director General. The Act has the provision that an Umpire is to be appointed to ensure that decisions taken by the Director General (Social Security) are in accordance with the provisions of the Social Security Act. The Umpire has the powers, which are the same as those conferred by law on the First Hall of the Civil Court. Any claimant, any claimant's surviving spouse, or a trade union on the claimant's behalf, can lodge an appeal from any decision of the Director General on any question of law or principle of importance vis-à-vis the Social Security Act. Furthermore, an appeal from the decision of the Umpire shall lie to the Court of Appeal at the instance of any person, including the Director General. Such inbuilt mechanism of redress in the Social Security Act does not preclude any person from taking civil action in court against the Director General.

#### **2. Employment and industrial relations**

37. The principle of equality and non-discrimination in employment is regulated by a number of provisions. The Employment and Industrial Relations Act,<sup>30</sup> in article 26, prohibits discrimination which may take place at different stages in the course of employment, while

article 27 enshrines the principle of equal pay for work of equal value and article 28 prohibits victimisation.

38. The Employment and Industrial Relations Act is the parent act of the Equal Treatment in Employment Regulations (Legal Notice 461 of 2004) which give effect to the European Directives on discrimination and implement the principle of equal treatment in relation to employment by laying down minimum requirements to combat discriminatory treatment on the grounds of religion or religious belief, disability, age, sex, sexual orientation, and racial or ethnic origin. As the Employment and Industrial Relations Act, these regulations address all stages of the employment life, including access to employment, promotions, training, remuneration and other conditions of employment, and membership of, and involvement in, any organisation of employees and employers or professional organisation.

39. The Regulations prohibits direct and indirect discrimination, harassment and sexual harassment. Employers are obliged to provide reasonable accommodation for persons with disabilities; to bring to the attention of the employees the equality policy; and to take effective measures to prevent all forms of gender discrimination at the workplace.

### **3. Employment services through the Employment and Training Corporation (ETC)**

40. The Employment and Training Corporation (ETC) is Malta's national employment agency. It is responsible to keep the employment/work record of every person working in Malta, to receive applications and issue work permits to non-Maltese nationals, to keep a register of unemployed persons and to organise and provide training and re-skilling programmes both to unemployed as well as those in employment.

### **4. Social Welfare Standards**

41. The Department of Social Welfare Standards has recently replaced the former Department for Social Welfare. The main functions of the new regulatory Department are to set and monitor the implementation of standards of service provision in the social welfare sector. It is also the designated "Central Authority for Child Abduction" in terms of the Child Abduction and Custody Act<sup>31</sup> which was adopted by the Maltese Parliament to ratify the Hague Convention on the Civil Aspects of International Child Abduction (1980), and the European Convention on the Recognition and Enforcement of Decisions Concerning Custody and on Restoration of Custody of Children (1980). The Department liaises with numerous central authorities abroad and with local legal and court authorities to carry out this function.

### **5. Housing**

42. The Housing Authority is the National Agency for the provision of social housing in Malta. The Authority aims to provide decent and affordable housing for Maltese citizens. It is the function of the Authority to: (a) develop, promote, and finance the development of social housing; (b) administer housing estates, other residential accommodation, related facilities and amenities, and (c) promote homeownership and generally improve housing conditions in Malta.

### **6. Protection of children**

43. The rights of children include those rights enunciated in the Convention on the Rights of the Child. In accordance with the "Commissioner for Children Act,"<sup>32</sup> the Commissioner for Children has the power to investigate any breaches or infringements of the rights of children. The Commissioner's functions include *inter alia* the promotion and support of the rights and



interests of children; the promotion of the highest standards of health, education, social services, leisure, play and recreational facilities for Children; and the promotion of compliance with the United Nations Convention on the Rights of the Child.

## **7. Gender issues**

44. The National Commission for the Promotion of Equality is an autonomous body which *inter alia*, monitors and reviews local legislation and suggests amendments as necessary and ensures the implementation of an inclusion policy across all grounds in all areas of decision making. It also actively promotes equality through various initiatives and through the investigation of complaints brought before it by the general public and through the dissemination of information in view of the various projects that it is leading or a member of their respective partnership.

### **D. Patients' involvement, choice and information**

45. A series of measures aimed at promoting patients' rights and responsibilities are at the heart of Government's plans for the health sector in the coming months and years. To this end Bills on Health Care and Mental Health are being drafted. The Bills provide a legal framework for the involvement of patients in the making of decisions concerning care options and the management and administration of the system.

### **E. The elderly**

46. The institutional sector that provides care for the elderly covers a span of needs ranging from custodial to highly dependant care. Criteria for admission into state institutional facilities for long-term care have been established, and made public. Government policy in the long-term care sector is focusing on keeping persons in their own home and attached to their surrounding community milieu whenever possible.

### **F. Persons with mental health problems**

47. In the mental health sector persons requiring institutional long-term care have full access to all the required facilities. Community services for mental health have developed in the past decade and include homes that focus on rehabilitation as well as support services from an interdisciplinary team. The proposed Mental Health Act will place community-based mental health services at the forefront of mental health promotion, prevention and treatment.

### **G. Inclusive education**

48. The National Minimum Curriculum (NMC) entitled "Creating the Future" contains universal elements and priorities for the nurturing and development of what is truly human. One finds an emphasis on self-understanding and emotional development, and on values such as respect for differences among people. It appeals to schools to be the testing ground for Human Rights. The NMC is a significant tool for Human Rights Education. One of its major principles is the issue of inclusive education. Two of its objectives emphasise on the development of citizens and a democratic environment and the strengthening of gender equality.

49. Elements of human rights are integrated across the curriculum and are reflected in subjects like Social Studies, Personal and Social Development and European Studies. Schools are creating a democratic ethos which embodies the values of fairness, justice, equality and respect. They are embedding these principles in their school policies e.g. Anti-Bullying, Equal

Opportunities, Intercultural and Anti-Racist policies. Specific human rights projects are being run in schools e.g. the Jesuit Refugee Service Outreach Project “All Equal,” Global Education Week, The World’s Children Prize for The Rights of the Child, Global Action Schools and Conectando Mundos.

50. Educational and professional development sessions on human rights are held every year for Administrators, all teachers, Guidance teachers and Counsellors. Human rights education is a component in the Social Studies Post Graduate Certificate of Education Course at the University of Malta.

51. Inclusive education programmes, special education, psycho-social services and other schemes related to disability and special individual educational needs are provided in schools for all students irrespective of race, religion or belief.

## **H. Ethics and society**

### **1. The right to life**

52. Article 33 of the Constitution provides that no person shall intentionally be deprived of his life. The Counterpart of this article in the European Convention is article 2 which is somewhat more expansive in that it primarily provides that “*Everyone’s right to life shall be protected by law.*”

53. The Constitution further provides that a person shall not be regarded as having been deprived of his life in contravention of this article if he dies as the result of the use of force to such extent as is reasonably justifiable in the circumstances of the case for the defence of any person from violence or for the defence of property; in order to effect a lawful arrest or to prevent the escape of a person lawfully detained; for the purpose of suppressing a riot, insurrection or mutiny; or in order to prevent the commission by that person of a criminal offence, or if he dies as the result of a lawful act of war.

54. Both the Maltese Constitution and the European Convention provide that no one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law. This notwithstanding, by virtue of Act XXI of 1971 the Maltese Parliament approved the abolishment of the death penalty from the Criminal Code.<sup>33</sup> Moreover, by virtue of Act X of 2000 the death penalty, which was envisaged for certain crimes committed by members of the Armed Forces and in times of war under the provisions of the Armed Forces Act,<sup>34</sup> was substituted with the punishment of life imprisonment. With these legislative instruments Malta altogether abolished the death penalty. It is also relevant to note that although Malta abolished the death penalty in 1971 and the year 2000 the last executions further to a death penalty in Malta date back to 1943.

55. Another significant provision in the criminal code which legally protects one’s right to life is that which states that a criminal action may be prosecuted in Malta against any person in respect of whom an authority to proceed, or an order for his return, following a request by a country for his extradition from Malta, is not issued or made by the Minister responsible for justice on the ground that ... the offence for which his return was requested is subject to the death penalty in the country which made the request, even if there is no provision according to the laws of Malta other than the present provision in virtue of which the criminal action may be prosecuted in Malta against that person.<sup>35</sup>

## **2. Right to life of the unborn child**

56. Sub-title VII of Title VIII of the Maltese Criminal Code<sup>36</sup> also protects the right to life of the unborn child. Article 241 provides that whosoever, by any food, drink, medicine, or by violence, or by any other means whatsoever, causes the miscarriage of any woman with child, whether the woman be consenting or not, shall, on conviction, be liable to imprisonment for a term from eighteen months to three years. The same punishment is awarded against any woman who is found guilty of procuring her own miscarriage, or who shall have consented to the use of the means by which the miscarriage is procured.

## **3. Arbitrary arrest or detention**

57. No person shall be deprived of his personal liberty, save as may be authorised by law in the cases listed in Article 34(1) of the Constitution. The deprivation of one's personal liberty must not only fall within the ambit of the cases listed in Article 34 (1), but they must also fall within the scope of another law.

58. The Criminal Code<sup>37</sup> provides that where there are lawful grounds for the arrest of a person, the Police may request a warrant of arrest from a Magistrate, unless in accordance with any provision of law the arrest in question may be made without a warrant.

59. With the aim of safeguarding one's fundamental rights, both the Constitution and the Criminal Code provide that the person who is arrested or detained shall be informed at the time of his arrest or detention, in a language that he understands, of the reasons for his arrest or detention.<sup>38</sup> With the same aim in mind, the Criminal Code also provides that the officer or any other person authorised by law making an arrest shall not use any harshness, bond or other means of restraint unless indispensably required to secure, or rendered necessary by the insubordination of the person arrested.

60. Any person who is arrested or detained (a) for the purpose of bringing him before a court in execution of the order of a court; or (b) upon reasonable suspicion of his having committed, or being about to commit a criminal offence, and who is not released, shall be brought not later than forty-eight hours before a court; and if any person arrested or detained upon reasonable suspicion of his having committed, or being about to commit, a criminal offence is not tried within a reasonable time, then without prejudice to any further proceedings which may be brought against him, he shall be released either unconditionally or upon reasonable conditions, including in particular such conditions as are reasonably necessary to ensure that he appears at a later date for trial or for proceedings preliminary to trial.<sup>39</sup> Furthermore, the Criminal Code duty binds the custody officer to order the immediate release from custody of any person in police detention where he becomes aware that the grounds for the detention of that person have ceased to apply and there are no other lawful grounds on which the continued detention of that person could be justified.<sup>40</sup>

## **4. Protection from forced labour**

61. No person shall be required to perform forced labour. Article 35 of the Constitution provides that in this context the expression "forced labour" does not include:

- (a) Any labour required in consequence of the sentence or order of a court;
- (b) Labour required of any person while he is lawfully detained by sentence or order of a court that, though not required in consequence of such sentence or order, is reasonably

necessary in the interests of hygiene or for the maintenance of the place at which he is detained or, if he is detained for the purpose of his care, treatment, education or welfare, is reasonably required for that purpose;

(c) Any labour required of a member of a disciplined force in pursuance of his duties as such or, in the case of a person who has conscientious objections to service as a member of a naval, military or air force, any labour that that person is required by law to perform in place of such service;

(d) Any labour required during a period of public emergency or in the event of any other emergency or calamity that threatens the life or well-being of the community.

### **5. Protection from inhuman treatment**

62. Article 36 of the Constitution provides that no person shall be subjected to inhuman or degrading punishment or treatment. It specifies that no law shall provide for the imposition of collective punishments with the exception of the imposition of collective punishments upon the members of a disciplined force in accordance with the law regulating the discipline of that force.

### **6. Protection from deprivation of property without compensation**

63. No property of any description shall be compulsorily taken possession of, and no interest in or right over property of any description shall be compulsorily acquired, except where provision is made by a law applicable to that taking of possession or acquisition:

(a) For the payment of adequate compensation;

(b) Securing to any person claiming such compensation a right of access to an independent and impartial court or tribunal established by law for the purpose of determining his interest in or right over the property and the amount of any compensation to which he may be entitled, and for the purpose of obtaining payment of that compensation;

(c) Securing to any party to proceedings in that court or tribunal relating to such a claim a right of appeal from its determination to the Court of Appeal in Malta.

### **7. Protection for privacy of home or other property**

64. Article 38 of the Constitution also protects the right of privacy of one's property. It provides that except with one's own consent or by way of parental discipline, no person shall be subjected to the search of his person or his property or the entry by others on his premises. This notwithstanding, nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this article to the extent that the law in question makes provision, for example, that is reasonably required in the interest of defence, public safety, public order, public morality or decency, public health, town and country planning, the development and utilisation of mineral resources, or the development and utilisation of any property in such a manner as to promote the public benefit or that is reasonably required for the purpose of promoting the rights or freedoms of other persons reasonably in so far as it is reasonably justifiable in a democratic society.

## **8. Provisions to secure the protection of law**

65. Whenever any person is charged with a criminal offence he shall, unless the charge is withdrawn, be afforded a fair hearing within a reasonable time by an independent and impartial court established by law. Moreover, it is also provided that every person who is charged with a criminal offence shall be presumed to be innocent until he is proved or has pleaded guilty, provided that nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this provision to the extent that the law in question imposes upon any person charged as aforesaid the burden of proving particular facts.<sup>41</sup>

66. It is also relevant to mention that every person who is charged with a criminal offence has the right to be:

(a) Informed in writing, in a language which he understands and in detail, of the nature of the offence charged;

(b) Given adequate time and facilities for the preparation of his defence;

(c) Permitted to defend himself in person or by a legal representative and a person who cannot afford to pay for such legal representation as is reasonably required by the circumstances of his case shall be entitled to have such representation at the public expense;

(d) Afforded facilities to examine in person or by his legal representative the witnesses called by the prosecution before any court and to obtain the attendance of witnesses subject to the payment of their reasonable expenses, and carry out the examination of witnesses to testify on his behalf before the court on the same conditions as those applying to witnesses called by the prosecution;

(e) Permitted to have without payment the assistance of an interpreter if he cannot understand the language used at the trial of the charge, and except with his own consent the trial shall not take place in his absence unless he so conducts himself as to render the continuance of the proceedings in his presence impracticable and the court has ordered him to be removed and the trial to proceed in his absence.

## **9. Protection of freedom of conscience and worship**

67. All persons in Malta shall have full freedom of conscience and enjoy the free exercise of their respective mode of religious worship. A person can object to be instructed in religion once he reaches the age of sixteen, and parents or guardians of a child under that age may object to the child under their care receiving any religious instruction.

## **10. Protection of freedom of expression**

68. Except with his own consent or by way of parental discipline, no person shall be hindered in the enjoyment of his freedom of expression, including freedom to hold opinions without interference, freedom to receive ideas and information without interference, freedom to communicate ideas and information without interference (whether the communication be to the public generally or to any person or class of persons) and freedom from interference with his correspondence.

69. Exceptions include the interests of defence, public safety, public order, public morality or decency and public health; the protection of reputations, rights and freedoms of other persons,

including persons concerned in legal proceedings; the prevention of disclosure of information received in confidence; the protection of parliamentary privileges and the protection of means of communication.

### **11. Protection of freedom of peaceful assembly and association**

70. Except with his own consent or by way of parental discipline no person shall be hindered in the enjoyment of his freedom of peaceful assembly and association, that is to say, his right peacefully to assemble freely and associate with other persons and in particular to form or belong to trade or other unions or associations for the protection of his interests.

### **12. Prohibition of deportation**

71. Extradition is only permitted in pursuance of arrangements made by treaty and under the authority of a law. Moreover, no person shall be extradited for an offence of a political character.

### **13. Freedom of movement**

72. For the purpose of Article 44 of the Constitution this freedom means the right to move freely throughout Malta, the right to reside in any part of Malta, the right to leave and the right to enter Malta. This holds for all Maltese citizens, except in certain cases, for example, for the imposition of restrictions that are reasonably required in the interests of defence, public safety, public order, public morality or decency, or public health.

### **14. Protection from discrimination on the grounds of race, etcetera**

73. Article 45 of the Constitution provides that no law shall make any provision that is discriminatory either of itself or in its effect. The same article moreover provides that no person shall be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the functions of any public office or any public authority. Within the context of this provision, the expression “discriminatory” means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, place of origin, political opinions, colour, creed or sex whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not accorded to persons of another such description.

### **15. Independence of the Judiciary**

74. The separation of powers which exists in Malta is not a strict and sharp one but is more of the nature of checks and balances. Notwithstanding that the Judiciary is appointed by the President, acting in accordance with the advice of the Prime Minister, judges and magistrates are independent of the Executive. The Constitution provides for this independence through its various provisions. A person must have practiced as an advocate in Malta for a period of not less than seven years to qualify for appointment as a magistrate, and twelve years to qualify for appointment as a judge. Judges and magistrates enjoy security of tenure and they can only be removed by the President upon address by the House of Representatives supported by the votes of not less than two-thirds of all the members thereof in the event of proved inability to perform the functions of their office (whether arising from infirmity of body or mind or from any other cause) or proved misbehaviour.

## **16. Complaints against the police and relative procedures**

75. The Malta Police Force founded in 1814 is one of the oldest Police agencies in Europe with an ad hoc code of practice outlining all the rules to prevent anything prohibited by the Constitution or any other law of Malta, setting out standards to avoid any allegations of improper treatment during arrests and giving special attention to juveniles when these are being interviewed by the Police.

76. Internal supervision of Police officers is structured on the systems used in England, Wales and most Western Police forces. In case of violations committed by Police Officers these are triable and reviewed by the Criminal and Constitutional Courts respectively. In recent years, the Maltese Criminal Code was amended and new provisions more in line with the European Convention on Human Rights and with the European Court of Human Rights in Strasbourg were introduced particularly in the field of arrests, detention, searches and seizures.

77. In view of the fact that the Malta Police Force is answerable to the Government of the day, the House of Representatives effects external supervision through parliamentary questions and by allocating the discussion in connection to the allocation of funds into the force. Furthermore also the Ombudsman has jurisdiction to investigate certain complaints not linked with criminal investigations and court proceedings. Likewise any member of the public may challenge the Commissioner of Police through the Courts. If the complaints are found to be justified, then the Courts may order the Commissioner of Police to initiate appropriate action.

## **17. The Ombudsman**

78. The Ombudsman is an Independent Officer of Parliament who is appointed by the President acting in accordance with a resolution of not less than two thirds of all the Members of the House of Representatives.

79. The Ombudsman investigates complaints about any decision or action, or lack of action, by government departments and other public authorities such as statutory bodies, corporations, foundations, agencies and partnerships where the Government has an effective controlling interest, as well as local councils, in the exercise of their administrative functions on behalf of the Government.

80. These complaints are submitted by members of the public who feel aggrieved and who believe that they have suffered injustice, discrimination or hardship at the hands of a government department or another public body.

81. The Ombudsman may also commence investigations on his own initiative if he is of the opinion that substantial public interest is involved.

82. When the complaint is sustained the Ombudsman will send his final decision to the public body involved including his recommendation/s for redress, wherever appropriate, and will ask to be informed of what the authorities intend to do to effect redress. Complainant/s will also be informed of the outcome of the case.

## **IV. ACHIEVEMENTS, BEST PRACTICES, CHALLENGES AND CONSTRAINTS**

### **A. Achievements and best practices**

#### **1. Correctional facilities**

83. Corradino Correctional Facility (CCF), formerly known as Malta Prisons, was established in 1850 and has since then served as the main prison facility for the Maltese population. Changes in the Maltese Criminal Code were reflected in changes in the population characteristics of the facility, and a move towards the concept of corrections as a place of therapy rather than of punishment led to the re-naming of the prison complex into that of a Correctional Facility.

84. CCF has always sought to respect the dignity of its residents in different ways as follows: (a) *Classification*: the increase in divisions facilitated the better segregation and classification of the residents. CCF caters separately for the safe and humane containment of young male offenders, female residents, vulnerable inmates, inmates needing psychiatric attention as well as inmates needing other medical attention; (b) *Living conditions*: despite the increasing number in the inmate population (412 residents on 1 October 2008), the vast majority of the residents have their own cell with private sanitary facilities; (c) *Health*: all residents residing at CCF have access to continuous medical and psychiatric attention. All procedures are carried out in full respect of the privacy and confidentiality rights of the resident; (d) *Toxicology testing*: Toxicology testing is an on-going practice at CCF. This is used for both medical and disciplinary reasons; and (e) *Family extended visits*: as from 2004, all residents being held at CCF are eligible for a periodic Family Extended Visit after one year of incarceration, over and above normal visits as well as any prison leave privileges.

#### **2. Mental health**

85. Public-Private Partnerships with the collaboration of both the public mental health services and two established NGOs in the sector have established two community hostels for persons suffering from mental health problems. These have been functioning for the last few years. The inception of similar hostels with regards to both function and management style is being considered in other parts of the Islands.

### **B. Challenges and constraints**

#### **1. Migration issues**

86. In view of its geographical position in the central Mediterranean, since 2002 Malta has experienced an unprecedented influx of illegal immigrants from the African continent.

##### **(a) Domestic policy**

87. Maltese policy in relation to the domestic aspect of illegal migration is governed by five principles: (a) safeguarding the national interest by means of security measures and border control; (b) fair, just and humane treatment of migrants in full respect of their Human Rights; (c) establishment of standard procedures and practices for dealing with asylum seekers; (d) inclusion of asylum seekers and integration of beneficiaries of protection; and (e) expeditious removal, as much as possible, of illegal migrants who are not eligible for international protection.



**(b) Arrivals**

**Arrivals of illegal immigrants**

<i>Year</i>	2001	2002	2003	2004	2005	2006	2007	2008	2009
<i>January-December</i>	57	1,686	502	1,388	1,822	1,780	1,702	2,775	163

88. Although in absolute terms these numbers may not seem impressive, they take a different significance when put within the context of Malta's small size and its very high population density.

**(c) Reception (closed centres)**

89. The massive arrival of boat people to Malta poses severe challenges for the Maltese authorities since illegal immigrants, with the exception of vulnerable persons, have to be housed in closed centres until a decision is taken in relation to their asylum application or the maximum period of administrative detention elapses (i.e., 12 months for asylum seekers and 18 months for illegal immigrants or failed asylum seekers). Accommodation for vulnerable persons and persons who are released from detention must also be provided in open centres. Both Government as well as the Opposition endorse the present detention policy that has its legal basis in the Immigration Act.<sup>42</sup>

90. With respect to the management of closed centres, which are separate and distinct from the prison facilities and organisation, a Detention Service was established on 18 August 2005. This is made up of personnel seconded from the Malta Police Force and the Armed Forces of Malta as well as of new recruits (mostly ex-servicemen). All officers operate under the command of the Commander (Detention Services). This Service falls under the authority of the Ministry for Justice and Home Affairs. Tenders were awarded during 2008 for the provision of meals and medical services (which complements the service provided by the Health Division) at the Closed Centres with a view to improving these services. Moreover, extensive upgrades have been carried out at the Closed Centres. However, despite such upgrades, the fact that the large majority of illegal immigrants reach Malta within a relatively short period of time during the year (when sea conditions are favourable for boat crossing) sometimes necessitates the use of tent facilities to supplement accommodation facilities during the peak crisis period.

**(d) Reception (open centres) and integration**

91. The operation of open centres is being strengthened by investment in personnel and services in order to assist in the first steps in integration, for those who are granted a legal right to reside on national territory, once migrants are released from detention. The Organisation for the Integration and Welfare of Asylum Seekers (OIWAS), set up in 2007 by the then Ministry for the Family and Social Solidarity, and currently also under the remit of the Ministry for Justice and Home Affairs, was created with a view to assist asylum seekers/beneficiaries of international protection, by providing language training, assessment of skills and other services meant to facilitate their integration into mainstream society. Furthermore, in order to combat discrimination on the basis of race and ethnicity, the remit of the National Commission for the Promotion of Equality has been widened to encompass also this area. Moreover, in 2002, the Criminal Code was amended, introducing the concept of racially or religiously aggravated offences<sup>43</sup> in relation to offences against the person. In 2006, further amendments to the Criminal Code were made, so that a number of offences against the person introduced after the 2002 amendments, as well as offences against property, may also be considered as racially or

religiously aggravated.<sup>44</sup> Further amendments to the Criminal Code were also proposed by means of a bill published in the Government Gazette on 25 November 2008,<sup>45</sup> with a view to further strengthening the provisions of the Criminal Code relating to racism and xenophobia. The proposed amendments include, *inter alia*, a broader definition of the terms ‘violence’ and ‘racial hatred’, as well as a general provision whereby *any* offence may be considered racially or religiously aggravated and therefore subjected to an increase in punishment. The introduction of further offences is also envisaged, particularly that of condoning, denying or trivialising certain crimes directed against a group, defined by reference to race, colour, religion, descent, or national or ethnic origin. Persons aiding, abetting or instigating such offences, or the existing offence of incitement to racial hatred, would also be subject to the same punishment as that applicable to the perpetrator of the offence. Efforts have also been made to tackle the particular situation of vulnerable persons. In this regard residential services have been opened within the community.

92. The Maltese authorities are fully appreciative of the invaluable contribution extended by the various NGO’s working in the areas of illegal immigration and asylum. Full cooperation is extended to such entities to enable them, as far as possible, to fulfil their particular mission and projects. In this regard, OIWAS convenes a monthly “NGO Forum” to bring together stakeholders, with a view to enhancing cooperation.

#### **(e) Health care for migrants**

93. Presently all migrants who enter Malta illegally, irrespective of their status, are offered free medical care by the Maltese Health Authorities, on humanitarian grounds. As migrants have special health care needs, a health policy which includes a preventive approach to their problems in this area is also being developed. Moreover, in the next few months, a reception centre for newly-arrived illegal immigrants will be set up as temporary accommodation until their respective results of screening tests for infectious diseases are known.

94. On 29 July 2008, Médecins Sans Frontiers (MSF) signed a Memorandum of Understanding (MoU) with Malta for the purpose of providing free medical aid to illegal immigrants reaching Malta, thus complementing the service already provided by the Government. MSF will operate through the presence of a field coordinator, two doctors, a nurse, a psychologist, a health promotion expert and interpreters. MSF staff will assist the Maltese authorities in the identification of vulnerable categories of immigrants upon their arrival and refer them to OIWAS. MSF will also assist the authorities in the areas of mental health and sexual and reproductive health. This one-year agreement provides for assistance to be given by MSF staff to immigrants upon their arrival, as well as to immigrants in detention and open centres.

#### **(f) The asylum process**

95. The Office of the Refugee Commissioner has granted protection to over half of the asylum applicants who requested protection between 1 January 2002 and 12 December 2008. This means that Malta has the highest rate of acceptance in the EU. Out of 7,254 asylum applications submitted during this period, involving 7,851 persons, 204 persons have been recognised as refugees, 3,761 have been granted subsidiary protection and there have been 3,241 rejections. In accordance with the Refugees Act,<sup>46</sup> asylum seekers have a right to appeal a negative decision by the Refugee Commissioner. Appeals fall under the responsibility of the Refugee Appeals Board. At this stage of the procedure applicants are provided with free legal aid. For this purpose, a legal aid pool was set up in 2004. Moreover, as from 2005, for the purpose of

further increasing the transparency of the asylum procedure, information documents for asylum applicants were issued.

**(g) Rights enjoyed by beneficiaries of international protection in Malta**

96. In accordance with the EU Qualification Directive,<sup>47</sup> immigrants who are duly recognised as refugees have access to employment, and are also eligible to receive social assistance, free medical care, free education, family reunification and a Convention Travel Document. Beneficiaries of subsidiary protection have the access to employment subject to labour market considerations, and are also eligible to core social assistance, core free medical care, and free education as well as to a document enabling them to travel especially when serious humanitarian reasons arise.

**2. Health care**

97. Increased attention is being devoted to vulnerable groups and health inequalities, which have not yet received sufficient attention. Thus, future policy efforts will focus on developing a comprehensive policy framework and action plan on the health of migrants, in particular asylum seekers, and on increasing accessibility of residents of Malta's sister island, Gozo, to healthcare services.

**3. The Elderly**

98. Although Government's main goal is for older people to remain active and independent in the community for as long as possible, the state of health of some individuals, especially amongst the very elderly, deteriorates to a point where 24-hour long-term institutional care becomes necessary. In this respect, the demographic increase in the age-group of the 'very old' is a major challenge to access to institutional long-term care. To ensure equitable access to long-term care government is seeking to address this demand by increasing bed capacity in long term geriatric care institutions. Another objective for this area is to improve the quality of services being provided. (See chapter V below.)

**4. Correctional facilities**

99. CCF offers a highly challenging milieu in which its administration seeks to meet all its obligations towards its residents, the criminal justice system, various NGOs and society at large by working within a series of constraints and limitations.

100. The numerous functions that have to be carried-out by a limited Correctional Staff at the Facility, lead to an increase in expenditure as a consequence of overtime, and rise in officer burn-out. It is also regrettable, that on-the-job training to meet the changing CCF population is a difficult endeavour; and that therapeutic staff to enhance the care given to residents with psycho-social needs are also in demand.

101. Over the past years CCF has experienced an increase in the populations of young and female offenders. A more recent increase in the population of paraphiliac residents led to the opening of a section for vulnerable residents. The use of illicit substances within CCF has been hard to curtail, and data from random toxicology sessions indicate an increase in drug consumption, though searches on the residents, their visitors, correctional staff as well as in cells are regularly carried out. The challenge lies in the way drug consumption can be curtailed by using present, limited human resources.

102. The Working Group on Arbitrary Detention visited Malta in January 2009. A report on their mission to Malta will be considered by the Working Group at its fifty-fourth session to be held in Geneva in May 2009

## **V. KEY NATIONAL PRIORITIES**

### **A. Care of the elderly**

103. Malta contends that social inclusion, health and long-term care policies must combine the respect for and active defence of diversity and should foster a solidarity that protects both the dignity and autonomy of the person in all the stages of life and the population as a whole. The elderly and persons with mental health problems are groups within the population which are being given special attention by government through a number of initiatives aimed at improving the access and quality of long-term care services available for them. The on-going development of community-based services is a main priority area for Government in this field. A policy will be developed that will address the need to increase awareness and understanding of what constitutes abuse, prevention of abuse and procedures to be followed in cases of suspected abuse. This will apply to both institutional/residential settings as well as for those elderly persons living in the community

### **B. Social welfare**

104. In order to address on-going social welfare concerns and emerging needs in the area of social welfare, for the next couple of years Malta is proposing the following three over-arching policy priority objectives:

(a) Promoting the social inclusion prospects of children and young persons, through measures that target the intergenerational transmission of poverty and advance children and young persons' personal development, well-being, rights, interests and responsibilities;

(b) Promoting active inclusion, by endorsing a pro-active social inclusion strategy which goes beyond a social protectionist vision so as to ensure that provision of services facilitates participation and inclusion and leads citizens towards greater self-actualisation, and empowerment through:

(i) Adequate income support;

(ii) Access to inclusive labour markets;

(iii) Access to quality social services;

(c) Promoting equality of opportunities so as to ensure full social participation regardless of age, disability, gender, race, belief and sexual orientation by:

(i) Combating discrimination;

(ii) Promoting the integration of third country nationals;

(iii) Mainstreaming social inclusion and anti-discrimination issues.

105. The measures and initiatives proposed through this social inclusion strategy are being complemented by the setting of a number of quantifiable targets under the three different

overarching policy objectives and the consolidation of structures and working methods so as to ensure a good governance approach for developing, monitoring and evaluating social inclusion issues. This strategy is being endorsed in the recognition that a human rights approach requires inclusive public policy strategies and programming and that human rights and social justice are fundamental to social welfare.

### Notes

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<sup>1</sup> Chapter 456 of the Laws of Malta.

<sup>2</sup> This responsibility is derived from the Equality between Men and Women Act<sup>2</sup> – emanating from Directive 2002/73/EC (*Gender*); Legal Notice 85 – Equal Treatment of Persons Order – emanating from Directive 2000/43/EC (*Race*); and, Legal Notice 181 – Access to Goods and Services and their Supply (Equal Treatment) Regulations, 2008 – emanating from Directive 2004/113/EC.

<sup>3</sup> Chapter 413 of the Laws of Malta.

<sup>4</sup> Chapter 462 of the Laws of Malta.

<sup>5</sup> Chapter 343 of the Laws of Malta.

<sup>6</sup> Chapter 492 of the Laws of Malta.

<sup>7</sup> Cap. 304 of the Laws of Malta.

<sup>8</sup> Cap. 413 of the Laws of Malta.

<sup>9</sup> Cap. 456 of the Laws of Malta.

<sup>10</sup> Cap. 462 of the Laws of Malta.

<sup>11</sup> Cap. 420 of the Laws of Malta.

<sup>12</sup> Cap. 440 of the Laws of Malta.

<sup>13</sup> Cap. 460 of the Laws of Malta.

<sup>14</sup> Cap. 452 of the Laws of Malta.

<sup>15</sup> Cap. 424 of the Laws of Malta.

<sup>16</sup> Cap. 418 of the Laws of Malta.

<sup>17</sup> Chapter 255 of the Laws of Malta.

<sup>18</sup> For the purpose of this report long-term care services are being defined as institutional and community services provided across a range of settings spanning from primary care to rehabilitation for diverse client groups including the elderly, persons with disabilities, mental health problems, substance abuse problems and chronic debilitating illnesses.

<sup>19</sup> The facilities for institutional care in the public and church sectors are limited and there are waiting lists for admission both for the elderly as well as for the persons with disability in state and church institutions.

<sup>20</sup> Chapter 440 of the Laws of Malta.

<sup>21</sup> Chapter 378 of the Laws of Malta.

<sup>22</sup> Article 43, Subarticle 2 of the Consumer Affairs Act (Chapter 378 of the Laws of Malta).

<sup>23</sup> The Malta Financial Services Authority Act (Chapter 330 of the Laws of Malta).

<sup>24</sup> The Malta Travel and Tourism Services Act (Chapter 409 of the Laws of Malta).

<sup>25</sup> Product Safety Act (Chapter 427 of the Laws of Malta).

<sup>26</sup> Food Safety Act (Chapter 449 of the Laws of Malta).

<sup>27</sup> Pesticides Control Act (Chapter 430 of the Laws of Malta).

<sup>28</sup> Chapter 481 of the Laws of Malta.

<sup>29</sup> Chapter 318 of the Laws of Malta.

<sup>30</sup> Chapter 452 of the Laws of Malta.

<sup>31</sup> Chapter 410 of the Laws of Malta.

<sup>32</sup> Chapter 462 of the Laws of Malta.

<sup>33</sup> Chapter 9 of the Laws of Malta.

<sup>34</sup> Chapter 220 of the Laws of Malta.

<sup>35</sup> Criminal Code – Chapter 9 of the Laws of Malta, article 5(h).

<sup>36</sup> Chapter 9 of the Laws of Malta.

<sup>37</sup> Ibid.

<sup>38</sup> Criminal Code – Cap. 9 of the Laws of Malta, article 355AL & article 355AC; Constitution of Malta, Chapter IV Article 34 (2).

<sup>39</sup> Constitution of Malta, Chapter IV Article 34 (3).

<sup>40</sup> Criminal Code – Cap. 9 of the Laws of Malta, article 355AJ (3).

<sup>41</sup> Constitution of Malta, Chapter IV Article 39.

<sup>42</sup> Chapter 217 of the Laws of Malta.

<sup>43</sup> Article 222A(2) & (3) of the Criminal Code (Chapter 9 of the Laws of Malta).

<sup>44</sup> Articles 251D and 325A respectively of the Criminal Code (Chapter 9 of the Laws of Malta).

<sup>45</sup> Government Gazette No. 18,345.

<sup>46</sup> Chapter 420 of the Laws of Malta.

<sup>47</sup> Directive 2004/83/EC on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted.

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