



Human Rights Council
Working Group on the Universal Periodic Review
Forty-fifth session
22 January–2 February 2024

Summary of stakeholders' submissions on Malta*

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

I. Background

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the periodicity of the universal periodic review and the outcome of the previous review.¹ It is a summary of 10 stakeholders' submissions² for the universal periodic review, presented in a summarized manner owing to word-limit constraints.

II. Information provided by stakeholders

A. Scope of international obligations³ and cooperation with human rights mechanisms

2. JS1 recommended that Malta ratify the OP-ICESCR and the OP-CRC-IC.⁴
3. JS2 recommended that Malta accede to the 1961 Convention on the Reduction of Statelessness, remove reservations to the 1954 Convention relating to the Status of Stateless Persons, and consider acceding to the ICRMW.⁵

B. National human rights framework

1. Constitutional and legislative framework

4. The Council of Europe (CoE)-Venice Commission recalled its December 2018 Opinion on Constitutional arrangements and separation of powers and the independence of the judiciary and law enforcement in Malta, which had concluded that in the existing Maltese Constitution, the Prime Minister was clearly the centre of political power, and that other actors such as the President, Parliament, the Cabinet of Ministers, the judiciary or the Ombudsman, had too weak an institutional position to provide sufficient checks and balances, and that it had made recommendations to strengthen those other actors. CoE-Venice Commission welcomed the efforts of the Maltese authorities to implement various recommendations and noted that they alone would not yet be sufficient to achieve an adequate

* The present document is being issued without formal editing.



system of checks and balances. It highlighted that government proposals were part of a wider reform, which would also be driven by a Constitutional Convention, and that, with a dialogue opened among all stakeholders, the Convention should look into the overall constitutional design of the country.⁶

2. Institutional infrastructure and policy measures

5. AI and JS1 reported that Malta had not established a national human rights institution aligned with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles).⁷ CoE-ACFC asserted that the institutional framework against discrimination did not comply with the Paris Principles, although relevant bills were under consideration in Parliament.⁸

6. CoE-ACFC encouraged Malta to pursue efforts to establish an independent and impartial national human rights institution in compliance with the Paris Principles.⁹ JS1 recommended passing an act that sets up a Human Rights and Equality Commission (or similar national human rights institution) that contained strong provisions for independent and effective decision-making, and establishing a national human rights institution in accordance with the Paris Principles.¹⁰ JS3 recommended adopting legislation creating a national human rights institution in accordance with the Paris Principles.¹¹

C. Promotion and protection of human rights

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

Equality and non-discrimination

7. ADF International noted that parliamentary debates were ongoing regarding an Equality Bill, comprising Bill 96, to prohibit discrimination in the private sector and public administration, and Bill 97, aiming to establish the Human Rights and Equality Commission. It expressed concern about the apparent lack of appropriate safeguards for freedom of religion or belief, freedom of expression, and freedom of conscience, as well as lack of legal certainty and reversal of the burden of proof.¹² JS1 noted that Malta had not adopted a consolidated law on equality and anti-discrimination, and that the above Bills had stalled in 2020.¹³

8. ADF International recommended that Malta: ensure that the proposed Equality Act does not undermine human rights and fundamental freedoms as protected under international human rights law and the Constitution of Malta; guarantee the right to conscientious objection; ensure that the right to due process, presumption of innocence, and a fair trial, is fully respected in existing and new legislation; and conduct a comprehensive review of domestic legislation in order to enhance protection for the human rights to freedom of thought, conscience and religion, and freedom of opinion and expression.¹⁴ JS1 asserted that it was imperative that an Equality Act, without opt-outs on anti-discrimination legislation based on religious belief, was passed, and recommended that Malta adopt comprehensive anti-discrimination legislation protecting all persons in all spheres of life.¹⁵

9. CoE-ACFC noted that discrimination cases, though isolated, were still reported, and that no data were collected systematically on the prevalence of racially motivated crimes or the number of cases on incitement to racial hatred.¹⁶ It encouraged Malta to adopt a dialogue-based approach to persons who might be interested in the protection provided by the Framework Convention for the Protection of National Minorities, and strongly encouraged including non-mandatory open-ended questions on ethnic affiliations in the population census.¹⁷ CoE-ACFC encouraged Malta, through education policies, to further promote ethnic, linguistic and religious diversity as an essential societal value, and to pursue efforts to strengthen the anti-discrimination legal framework, in line with international obligations. It reiterated its call on the authorities to establish a publicly available data collection system on hate crime incidents, prioritise combating all forms of racism, intolerance, and discrimination, and protect all persons within Malta's jurisdiction from such acts.¹⁸

10. CoE-ECRI noted the establishment of the Hate Crime and Speech Unit, which appeared to focus on supporting victims of hate crime and hate speech, and was also tasked

to compile statistics in this regard. CoE-ECRI thus considered fully implemented its recommendation to ensure that a mechanism for collecting disaggregated data on hate crime incidents, including hate speech, on grounds of race, colour, language, religion, ethnic origin, citizenship, sexual orientation, and gender identity, was put in place.¹⁹

11. OSCE-ODIHR reported that intolerance and discrimination were directed towards refugees and migrants, who were blamed for the spread of COVID-19 in Malta.²⁰ OSCE-ODIHR recommended that Malta: condemn any form of discrimination and hate crime and abstain from any statement or action that exacerbated vulnerabilities; ensure that the consequences of the pandemic did not affect states' capacities to provide support to hate victims including through funding to non-state actors; build law enforcement and justice sector capacities to investigate hate crimes and ensure that specialized training is provided for officials and civil society organizations; enact policies to address hate crimes in a comprehensive manner; and celebrate and harness the strength of diversity within the country, including through awareness-raising programmes.²¹

Right to life, liberty and security of person, and freedom from torture

12. CoE-CPT stated that in 2020 its delegation witnessed an immigration system that was struggling to cope, that "contained" migrants who had essentially been forgotten, within poor detention conditions which verged on institutional mass neglect. It noted, inter alia, the lack of building maintenance, lack of information provided to detainees, and extreme overcrowding.²² CoE-CPT indicated that the COVID-19 pandemic had pushed a strained system to the breaking point, with the long lock-down, quarantine, and poor conditions, resulting in deep frustration, at times exploding into violent riots.²³ CoE-CPT considered that young children, their parents, and unaccompanied/separated minors should not be detained, and stated that protection policies and protocols for looking after vulnerable migrants needed to be put in place.²⁴ It asserted that more investment was needed in the staff working with migrants and increasing their numbers, and greater oversight was required whenever resort was had to private contractors.²⁵ CoE-CPT stated that there was an urgent need for Malta to reconsider its immigration detention policy, to one better steered by its duty of care to treat all persons deprived of their liberty with dignity, and that the length and legal basis of all three grounds governing the detention of migrants needed reform.²⁶

13. JS3 highlighted that Malta had been imposing automatic detention on all persons rescued at sea, that detention was generally imposed based on group considerations, that there was limited access to legal services, arbitrary use of solitary confinement/isolation, and inhumane living conditions in detention, that children pending age assessment were treated as adults, and individuals considered vulnerable were held for prolonged periods, with no remedy to challenge administrative detention.²⁷ JS3 recommended that Malta ensure that immigration detention is only used as a means of last resort, following an individualised assessment, refrain from detaining children and vulnerable persons, provide detained persons with material living conditions respectful of their human dignity, allow NGOs and other stakeholders access to detainees, ensure a swift impartial review of detention decisions, with access to quality free legal aid, and provide all detainees with accurate and clear information on their rights.²⁸

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

14. Regarding corruption, CoE-GRECO concluded that Malta had implemented satisfactorily two of its twenty-three recommendations. It acknowledged that, regarding persons entrusted with top executive functions, substantial reforms had been initiated, but that most of these measures were still to be implemented and shortcomings yet to be addressed. The development of an over-arching anti-corruption strategy had not been initiated. Several important policy documents had been adopted for law enforcement authorities, but additional measures were needed to meet the demands of recommendations, including greater coherence among the rules on police ethics and integrity.²⁹

15. JS1 asserted that in 2019 Malta had been shaken by a series of arrests and revelations regarding the assassination of journalist Daphne Caruana Galizia and the broader context of corrupt and illicit behaviour, and while protests had resulted in the resignation of the Prime Minister, severe institutional problems remained. It was widely felt that the government

failed to implement in good faith recommendations from the public inquiry into the assassination, while legislative changes to strengthen the rule of law as recommended by the Venice Commission continued tentatively, with lack of civil society participation, and a general narrowing of civil society space since 2018.³⁰ The independence of key stakeholders such as the Attorney General, the Chief Justice and the Commissioner of Police, particularly their method of appointment, remained problematic, as did the independence of quasi-judicial tribunals.³¹ AI noted that a vast programme of rule-of-law reforms was being undertaken but that the pace of change had been slow and meaningful consultation of civil society inadequate.³² JSI recommended that Malta depoliticise and strengthen the appointment system for the judiciary, the quasi-judicial tribunals, and the Chief Justice.³³

16. Notwithstanding some legislative changes, JSI stated that the efficiency of the justice system had deteriorated, and, despite substantial funds allocated to the digitalisation of the justice system, it was falling behind in areas such as use of digital technology. It recommended that Malta adopt a long-term plan to reduce the duration of judicial procedures, including by appointing additional judges/magistrates and allocating resources to the Courts.³⁴

17. JSI highlighted that the benchmark to be granted legal aid for civil and administrative cases was based on financial resources and merit, that legal aid was only provided if there was *probabilis causa litigandi*, meaning in the majority of cases that an individual was not eligible for legal aid that covered pre-litigation advice, and that legal aid in migration matters was only granted at specific procedural stages.³⁵ JSI recommended that Malta ensure effective access to legal aid for persons needing it, including by increasing the income threshold to the average wage, and expand the nature of legal aid services to include legal information and advice.³⁶

Fundamental freedoms and the right to participate in public and political life

18. In the letter of the CoE Commissioner for Human Rights to the Prime Minister of Malta in September 2019, she noted that some 30 civil defamation claims continued posthumously against the family of Ms. Galizia, raising issues of great concern not only to the family, but also to the protection of media freedom and, more broadly, to the rule of law in Malta. She expressed the belief that amending related legislation and withdrawing the pending defamation claims would be a sign of the commitment of the Prime Minister and his government to fully respecting the right to freedom of expression, and to safeguarding the rule of law in Malta.³⁷ In a letter of November 2019, she further expressed serious concern about allegations of political interference in the investigation of the murder of Ms. Galizia, and called on the Prime Minister and his government to ensure that the investigation was fully independent in order to bring long overdue justice to the family of Ms. Galizia and Maltese society as a whole.³⁸

19. In her September 2022 letter, the Commissioner stated that the murder of Ms. Galizia, the lack of effective results in establishing accountability almost five years later and the lawsuits against her family and journalists showed the urgency of strengthening the protection of media actors. It was crucial that the government set out a plan with defined objectives and timings to implement the recommendations of the 2021 public inquiry report and communicate it to the public. It was necessary to comply with international standards, effectively engage civil society and ensure accountability and transparency at all stages.³⁹ In the report of her October 2021 visit to Malta, the Commissioner stated that the report, which had found the state responsible for the assassination of Ms. Galizia, provided a solid foundation for effecting vital changes, and urged authorities to ensure that legislative and other reforms complied with international standards. Reforms to strengthen the protection of journalists should start with a co-ordinated response to threats against journalists, enhanced awareness-raising among the police, and dialogue between law enforcement and media professionals, while the media community should adopt an effective system of self-regulation.⁴⁰

20. AI reported that progress on media freedom and the protection of journalists had been slow and inadequate, and that the number of so-called “Strategic Lawsuits Against Public Participation” to target journalists remained high and journalists faced challenges when trying to access official information.⁴¹

21. Noting a dismal record in transparency and consultations with the public during the legislative process, JS1 recommended that Malta adopt legislation granting civil society organisations the right to participate in the law-making process.⁴²

22. JS1 asserted that there were numerous examples where institutions privileged the Roman Catholic Church in Malta, and that Roman Catholic schools, largely funded by the state, may discriminate against otherwise qualified teachers, and refuse to enrol pupils, if they were not Roman Catholic.⁴³

23. OSCE-ODIHR reported that the March 2022 parliamentary elections were organized professionally by the Electoral Commission (EC) and stakeholders had expressed confidence in most stages of the process, but limited access to EC activities and the lack of regulations for observation diminished transparency, while the use of public resources by the governing party, and limited access to information on party and campaign income and expenditure, further reduced transparency and created, in some areas, an uneven playing field.⁴⁴ OSCE-ODIHR recommended that Malta: consider ensuring access to EC meetings for all stakeholders and publishing all meeting minutes; remove all restrictions on voting rights based on disability; consider safeguarding voter data privacy; review the legal framework to enhance the oversight system, including by providing the EC with adequate powers and resources to enforce political finance regulations; have the Broadcasting Authority enforce legal obligations for impartiality and accuracy in broadcasting; align the appointment procedure for governing boards of the Broadcasting Authority and Public Broadcasting Services with international standards to provide independence; consider amending the legal framework to ensure the secrecy of voting for assisted voting; provide the full database with voters' selections to contestants; and revise the legal framework to guarantee observer access to all stages of the process.⁴⁵

Prohibition of all forms of slavery, including trafficking in persons

24. CoE-GRETA noted the continued development of the legislative and policy framework against trafficking in human beings.⁴⁶ It reported that Malta remained primarily a country of destination for trafficked persons, with trafficking for labour exploitation predominant. No trafficking victim had ever been granted compensation in Malta. CoE-GRETA recommended that Malta ensure that trafficking victims are given information in a proactive manner regarding their rights and receive legal assistance and free legal aid at an early stage, strengthen victim access to the labour market and economic and social inclusion, and guarantee effective access to compensation for victims.⁴⁷

25. CoE-GRETA expressed concern that failure to convict traffickers and the absence of effective sanctions undermined efforts to combat human trafficking and guarantee victims' access to justice. It recommended taking measures to ensure that human trafficking cases are investigated proactively and lead to effective sanctions, and providing regular training on human trafficking to judges, members of the Attorney General's office, and police officers.⁴⁸ ECLJ asserted that Malta was lacking in its ability to combat human trafficking and protect victims, and recommended dedicating resources and training for law enforcement personnel so that they are able to identify victims and effectively prosecute traffickers.⁴⁹

26. CoE-GRETA further urged Malta to: review the Criminal Code to ensure that all child victims are afforded special protection measures; encourage relevant actors to increase their outreach to identify victims; proactively identify victims through early screening of asylum seekers; ensure that all victims receive unconditional and timely support, including by providing funding to NGOs that act as service providers; accelerate the procedures for age assessment and appointment of legal guardians, and ensure that children are immediately separated from unrelated adults and transferred to specialised accommodation; and strengthen access to residence permits for trafficked persons.⁵⁰

27. CoE-CP made similar recommendations on information provision, victim compensation, effective sanctions, screening, and child protection, and additionally recommended introducing as an aggravating circumstance the offence of trafficking in human beings committed against a child, ensuring that victims and witnesses of human trafficking are provided with effective protection from retaliation or intimidation, and respecting the principle of non-refoulement of victims.⁵¹

Right to work and to just and favourable conditions of work

28. JS4 asserted that the increase in the number of migrant workers, the emergence of a significant role for platform workers, and the general socio-economic situation in the country had resulted in significant incidents of labour exploitation, possibly involving trafficking for the purpose of labour exploitation or the violation of domestic law on labour rights. The organising and representation of categories of workers had reportedly lagged. The so-called single permit structure which tied a migrant worker to an employer and only allowed 10 days to find a new job if that employment ended had been particularly problematic, resulting in workers being tied into often exploitative labour situations or finding themselves undocumented or in an irregular situation.⁵² JS4 recommended that Malta re-consider the ways in which migrant residence permits are tied to employers and facilitate opportunities for individuals to change jobs without risking their employment licence, and ban fines contractually imposed on categories of workers.⁵³

Right to health

29. AI and JS1 reported that in November 2022, the government had proposed an amendment to the Criminal Code aimed at freeing doctors and pregnant women from criminal prosecution when the termination of a pregnancy was undertaken to protect the life or health of a pregnant woman from grave jeopardy, while abortion in all other circumstances would remain illegal. A law decriminalizing abortion in very narrow circumstances was passed in June 2023, allowing a doctor to terminate a pregnancy if the person's life were at immediate risk and before "foetal viability", and additionally doctors could refer pregnant women whose health was in grave jeopardy which may lead to death, to a medical panel to seek access to an abortion.⁵⁴ ECLJ also reported on issues related to abortion.⁵⁵

30. AI recommended that Malta: fully decriminalize abortion; drop criminal charges against, expunge the criminal records of, and release, anyone who had been imprisoned under laws criminalizing abortion; and ensure access to abortion and post-abortion care to all those who required it.⁵⁶ JS1 urged Malta to review its legislation, fully decriminalise abortion, have abortion regulated as a matter of health policy, remove the punitive provisions from the Criminal Code for women who undergo abortion, and provide access to safe and legal abortion through public health services and licensed private providers at least to preserve a woman's physical and mental health, in cases of rape, incest, and severe fatal foetal impairment. It recommended introducing legislation granting access to abortion services.⁵⁷

31. The CoE Commissioner for Human Rights called on authorities to guarantee equality for all women in the enjoyment of sexual and reproductive health and rights, including by ensuring the provision of information and mandatory comprehensive sexuality education, securing the availability of modern contraceptive services, and safeguarding health care access in the light of refusals to provide care on grounds of conscience.⁵⁸

32. JS1 reported that the Maltese National Sexual Health Strategy had not been updated since 2010, and that access to contraceptives was not provided by the national health service. It recommended adopting a comprehensive national sexual health policy and strategy that envisaged making available all methods of contraception to all.⁵⁹

Right to education

33. BCN reported that Malta had a high rate of early school leavers, with around 30% of the workforce having, at best, a secondary school level of education, while students in public schools were far more disadvantaged than students attending private or church schools. Given various cultural backgrounds, some students may face difficulties due to limited English proficiency, and there were teacher shortages, and challenges regarding using digital tools in classrooms.⁶⁰ BCN recommended that Malta: allocate sufficient financial resources to address infrastructure needs, enhance teacher training, provide learning materials, and support inclusive practices; develop inclusive language policies, including additional language support services; invest in resources to enhance digital literacy skills among students and teachers; and foster strong partnerships between schools, parents, and communities.⁶¹

2. Rights of specific persons or groups

Women

34. CoE-GREVIO highlighted positive developments, including the “Society’s Concern – Gender-Based Violence and Domestic Violence Strategy and Action Plan”, the Gender-Based Violence and Domestic Violence Act, the Commission on Gender-Based Violence and Domestic Violence, and amendments to laws to align them with the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention).⁶² CoE-GREVIO noted, however, that the strategy failed to provide for integrated measures to tackle harmful forms of violence against women other than domestic violence, and shortcomings in the administration of victim support services. It reported that there were no procedures in place to identify vulnerable individuals rescued at sea, and that practices of abandoning search-and-rescue operations together with the closure of Maltese ports posed a serious risk of *refoulement* of women asylum seekers who were victims of gender-based violence.⁶³

35. CoE-GREVIO identified priority issues requiring further action by Malta, including enhancing the application of a gendered perspective in legislation and policies on violence against women, establishing a public funding request procedure for NGOs that provide specialist victim support services, raising the funding for the Commission, collecting related disaggregated data, setting up institutionalised structures for co-ordination among agencies and service providers, ensuring specialist support services to victims of all forms of violence against women, introducing adequate protocols and standards including regarding female genital mutilation, reviewing the obligation for professionals to report cases, and guaranteeing that adequate information is provided in all phases of reception and the asylum determination procedure to all women seeking asylum.⁶⁴

36. Noting delays in the court system for criminal cases of domestic violence, JS1 recommended ensuring effective protection and remedies for survivors of domestic and other forms of gender-based violence.⁶⁵

37. The CoE Commissioner for Human Rights encouraged the authorities to adopt the Equality Act and the Human Rights and Equality Commission Act, in line, *inter alia*, with the guidance provided by the Venice Commission. While overall gender equality outcomes had improved, patriarchal attitudes and stereotypes regarding the roles of women and men in the family and society continued to place women in a disadvantaged position, including in the labour market and political and public decision-making. The Commissioner asserted that Malta should establish a comprehensive policy to overcome these stereotypes, support with adequate resources awareness-raising activities, step up measures to enable employees in the private sector to benefit from flexible working arrangements, improve the availability of childcare support, act to reverse the growing gender pay gap, and enhance women’s access to political and public leadership and decision-making positions.⁶⁶

Indigenous peoples and minorities

38. CoE-ACFC reported that Maltese authorities had maintained their position that there were no national minorities in Malta, but that they had pursued efforts to reinforce their integration policies, including adopting the National Migrant Integration Strategy and its Action Plan.⁶⁷ It encouraged Malta to continue efforts to implement, monitor and evaluate, on a regular basis, with the participation of civil society representatives, the Strategy, and its Action Plan, and to update them.⁶⁸

Migrants, refugees and asylum-seekers

39. AI asserted that the scale and gravity of the human rights violations against refugees and migrants documented during the review period indicated a regression in respect for their rights.⁶⁹ AI reported that over 7,000 people had arrived irregularly in Malta since the last universal periodic review in 2018, and while Malta rescued hundreds of people at sea, it also responded with measures that breached their human rights, and ignored the rescue and international protection needs of many others who were left stranded at sea or returned to a particular neighbouring country from where they came. AI recounted that: in April 2020 the

government announced that no disembarkations would be allowed, and that Malta would be unable to service its Search and Rescue Region (SRR); the authorities applied practices to prevent people arriving by sea, such as delayed rescues and pushbacks; in May 2020, the government signed a Memorandum of Understanding (MoU) with the particular neighbouring country to combat irregular migration, leading to more interceptions at sea; Malta continued to pursue a deterrence policy, ignoring or responding slowly to distress calls; Malta abused provisions that allowed for the restricted movement of refugees and migrants on medical grounds; and, following the 2020 announcement, Malta detained over 425 asylum seekers and migrants aboard ferry boats outside territorial waters.⁷⁰ JS3 reported similar events and additionally noted that Malta chartered private vessels outside its territorial waters to detain people rescued at sea.⁷¹

40. AI and JS3 noted that police reportedly arrested three teenage asylum seekers, known as El Hiblu 3, on suspicion of having hijacked the ship that had rescued them to prevent being returned, and were awaiting a decision on indictment by the Attorney General.⁷²

41. JS4 highlighted measures of hindrance and criminalisation of humanitarian assistance to migrants and refugees at sea, a hostile attitude towards rescue organizations with severe delays in disembarkation, and d/misinformation campaigns about their work, refoulement, automatic detention, poor conditions of detention, delays in asylum procedures, and lack of impartiality of the international protection appeal tribunal and of capacity of the international protection agency.⁷³

42. AI recommended that Malta: promptly assist people in distress in Malta's SRR and ensure they are disembarked without delay in Malta or another place of safety, ensure that people rescued and disembarked in Malta are housed in open centres, in adequate conditions, and have access to asylum; establish an independent public inquiry into violations of the rights of refugees and migrants at sea in the Maltese SRR; regarding forced returns of people to the particular neighbouring country, failure to rescue incidents, and the arbitrary detention at sea of over 425 people, ensure independent criminal investigations are conducted, that perpetrators are brought to justice, and provide reparations; withdraw from the MoU; end the practice of arbitrarily detaining refugees and migrants and ensure that no child is detained; reform the immigration detention system; ensure that an independent monitoring body can access all places where refugees and migrants may be deprived of their liberty; and ensure that persons rescued at sea seeking international protection have access to Maltese territory without discrimination.⁷⁴

43. JS3 recommended that Malta: not relinquish search and rescue responsibilities to the Coast guard of the particular neighbouring country, and not return any rescued persons to that country; create safe and legal pathways for refugees to reach Malta; launch public inquiries into incidents in Malta's SRR that result in loss of life; and enshrine the principle of *non-refoulement* in criminal law, rendering it a punishable offence.⁷⁵ JS4 recommended that Malta immediately desist from actions resulting in the return of migrants at sea whilst stepping up actions in the search and rescue of people in distress, and strengthen border and detention monitoring bodies including by ensuring their independence.⁷⁶ AI and JS3 recommended dropping the charges against the El Hiblu 3.⁷⁷

44. The CoE Commissioner for Human Rights, in her May 2020 communication to the Prime Minister of Malta, urged his government to ensure that Malta fully meets its obligations when it is notified of a distress situation or receives requests for assistance, and that all credible allegations of delay or non-response are investigated and addressed. She urged ensuring that humanitarian considerations always take priority.⁷⁸ The Commissioner called on Malta to ensure adequate rescue capacities in Malta's SRR, enhance the co-ordination of rescue operations, and effectively investigate allegations of omissions to provide immediate assistance to persons in distress. She stated that repetition of the human rights and humanitarian crisis created by the temporary closure of Malta's ports in 2020 should be avoided, and that to comply with its *non-refoulement* obligations, Malta should ensure that persons rescued at sea have a genuine possibility of applying for asylum or submitting arguments against return. The Commissioner recalled that a particular neighbouring country was not a safe place for disembarkation and urged the Maltese authorities to suspend co-operation activities, and refrain from any action, including

instructions to private vessels, that would result in returns to that country, and to ensure accountability for such incidents.⁷⁹

45. CoE-ECRI noted that irregular migrants who could not be returned to their countries of origin were granted temporary renewable residence permits but would not receive permanent resident status. An *ad hoc* policy was in place regarding “non-returnable” failed asylum seekers arriving before 31 December 2015, which granted specific immigration status.⁸⁰

46. JS3 recommended that Malta revise public service rules to allow international protection beneficiaries to join the public service, shorten the number of years required for refugees to be eligible for citizenship, establish criteria for refugees to be granted rights to vote and stand for elections, provide immediate access to education to all children in Malta, remove the blanket ban on marriage for asylum-seekers, and support the participation of migrants and refugees in cultural activities.⁸¹

Stateless persons

47. JS2 asserted that the stateless population in Malta may be underreported due to limited data, and the absence of a mechanism to identify and determine statelessness. Gaps existed in the legal framework and practice concerning the protection of stateless people from arbitrary detention. The Citizenship Act provided for Maltese nationality to be conferred through *jus sanguinis* to children born to Maltese nationals in Malta or abroad, but the Act distinguished between children born in and out of wedlock.⁸²

48. JS2 recommended that Malta: improve the recording of statelessness, including by counting stateless individuals in the national census and ensuring that registration officials are trained; establish a statelessness determination procedure and protection status in law; protect stateless persons from arbitrary detention by establishing a referral mechanism to a statelessness determination procedure, and considering statelessness as a juridically relevant fact in detention decisions; amend the law to ensure that all children born on Malta’s territory who would otherwise be stateless acquire a nationality as soon as possible after birth, and remove discriminatory limitations in the acquisition of nationality based on the parents’ marital or other status.⁸³

Notes

¹ A/HRC/40/17, A/HRC/40/17/Add.1, and A/HRC/40/2.

² The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: www.ohchr.org.

Civil society

Individual submissions:

ADF International	Alliance Defending Freedom International, Geneva (Switzerland);
AI	Amnesty International, London (The United Kingdom of Great Britain and Northern Ireland);
BCN	Broken Chalk, Amsterdam (The Kingdom of the Netherlands);
ECLJ	European Centre for Law and Justice, Strasbourg (France).

Joint submissions:

JS1	Joint submission 1 submitted by: Aditus Foundation, Valletta (Malta) and Humanists Malta, Valletta (Malta);
JS2	Joint submission 2 submitted by: European Network on Statelessness, London (The United Kingdom of Great Britain and Northern Ireland), Aditus Foundation, Valletta (Malta), and Institute on Statelessness and Inclusion, Noord-Brabant, Netherlands (The Kingdom of the Netherlands);
JS3	Joint submission 3 submitted by: Malta Refugee Council, Hamrun (Malta), composed of Aditus Foundation, African Media Association (Malta), Blue Door Education, Integra Foundation, Jesuit Refugee Service (Malta), KOPIN, Migrant Women Association (Malta), Migrants Commission, MOAS,

JS4 SOS Malta, SPARK15, Sudanese Community in Malta;
Joint submission 4 submitted by: The People for Change Foundation, San Gwann (Malta) and The Migrant Women’s Association Malta.

Regional intergovernmental organizations:

CoE The Council of Europe, Strasbourg (France); Attachments: (CoE-Commissioner Letter of 12 September 2019) Letter of the Commissioner for Human Rights to the Prime Minister of Malta, 12 September 2019, Strasbourg; (CoE-Commissioner Letter of 26 November 2019) Letter of the Commissioner for Human Rights to the Prime Minister of Malta, 26 November 2019, Strasbourg; (CoE-Commissioner Letter of 5 May 2020) Letter of the Commissioner for Human Rights to the Prime Minister of Malta, 5 May 2020, Strasbourg; (CoE-Commissioner Letter of 23 September 2022) Letter of the Commissioner for Human Rights to the Prime Minister of Malta, 23 September 2022, Strasbourg; (CoE-Commissioner Visit Report) Report of the Commissioner for Human Rights following her visit to Malta from 11 to 16 October 2021 CommDH(2022)1; (CoE-ECRI) European Commission against Racism and Intolerance’s conclusions on the implementation of the recommendations in respect of Malta subject to interim follow-up, adopted on 30 March 2021, CRI (2021) 17; (CoE-GRETA) – Group of Experts on Action against Trafficking in Human Beings, Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Malta, Third Evaluation Round, Strasbourg, published on 10 November 2021, GRETA (2021) 10; (CoE-CP) Committee of the Parties to the Council of Europe Convention on Action against Trafficking in Human Beings, Recommendation CP/Rec(2021)06 on the Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Malta, adopted on 17 December 2021; (CoE-ACFC) Advisory Committee on the Framework Convention For The Protection Of National Minorities, Strasbourg, Fifth Opinion on Malta adopted on 5 October, 2020 ACFC/OP/V (2020) 003; (CoE-CPT) Report to the Maltese Government on the visit to Malta by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from 17 to 22 September 2020, CPT/Inf (2021)1; (CoE-CPT-Gov Response) Response of the Maltese Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment on its visit to Malta from 17 to 22 September 2020, CPT/Inf (2021)2; (CoE-GRECO) Compliance Report on Malta, Fifth Round Evaluation, Preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies, adopted by the Group of States against Corruption on 20–22 September, 2021, GrecoRC5 (2021)5; (CoE-GREVIO) Group of Experts on Action against Violence against Women and Domestic Violence, Istanbul Convention, Baseline Evaluation Report, GREVIO/Inf(2020)17; (CoE-Venice Commission) European Commission for Democracy through Law, Opinion on Proposed Legislative Changes adopted on 19 June 2020, CDL-AD(2020)006;

OSCE/ODIHR Office for Democratic Institutions and Human Rights of the Organisation for Security and Co-operation in Europe, Warsaw (Poland).

³ The following abbreviations are used in UPR documents:

ICERD International Convention on the Elimination of All Forms of

	Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
OP-ICESCR	Optional Protocol to ICESCR
ICCPR	International Covenant on Civil and Political Rights
ICCPR-OP 1	Optional Protocol to ICCPR
ICCPR-OP 2	Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
OP-CEDAW	Optional Protocol to CEDAW
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
OP-CAT	Optional Protocol to CAT
CRC	Convention on the Rights of the Child
OP-CRC-AC	Optional Protocol to CRC on the involvement of children in armed conflict
OP-CRC-SC	Optional Protocol to CRC on the sale of children, child prostitution and child pornography
OP-CRC-IC	Optional Protocol to CRC on a communications procedure
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CRPD	Convention on the Rights of Persons with Disabilities
OP-CRPD	Optional Protocol to CRPD
ICPPED	International Convention for the Protection of All Persons from Enforced Disappearance

⁴ JS1 para. 36.

⁵ JS2 paras. 31 I–III.

⁶ CoE-Venice Commission, paras. 103–106.

⁷ AI para. 7 and JS1 para. 5.

⁸ CoE-ACFC p. 4 para. 2.

⁹ CoE-ACFC p. 4 para. 9.

¹⁰ JS1 paras. 21 and 23.

¹¹ JS3 para. 96.

¹² ADF International paras. 3–4, 7–12, and 15–17.

¹³ JS1 paras. 5 and 20.

¹⁴ ADF International paras. 22 a)–d).

¹⁵ JS1 paras. 21–22.

¹⁶ CoE-ACFC p. 4 para. 2.

¹⁷ CoE-ACFC p. 4 paras. 5–6.

¹⁸ CoE-ACFC p. 4 paras. 8–11.

¹⁹ CoE-ECRI p. 5.

²⁰ OSCE-ODIHR paras. 9–11.

²¹ OSCE-ODIHR para. 12.

²² CoE-CPT para. 86.

²³ CoE-CPT para. 87.

²⁴ CoE-CPT para. 88.

²⁵ CoE-CPT para. 89.

²⁶ CoE-CPT para. 90. See also CoE-CPT/Gov Response pp. 4–5.

²⁷ JS3 paras. 31–60.

²⁸ JS3 paras. 61–66.

²⁹ CoE-GRECO paras. 118–121.

³⁰ OSCE-ODIHR paras. 2–3.

³¹ JS1 para. 4.

³² AI para. 6.

³³ JS1 para. 10.

³⁴ JS1 paras. 11–13.

³⁵ JS1 paras. 14–15.

³⁶ JS1 paras. 16–17.

³⁷ CoE-Commissioner Letter of 12 September 2019 p. 1.

³⁸ CoE-Commissioner Letter of 26 November 2019 p. 1.

³⁹ CoE-Commissioner Letter of 23 September 2022 p. 1.

- 40 CoE-Commissioner Visit Report p. 4.
 - 41 AI para. 3.
 - 42 JS1 para. 35.
 - 43 JS1 paras. 39–42.
 - 44 OSCE-ODIHR paras. 4–5.
 - 45 OSCE-ODIHR para. 6.
 - 46 CoE-GRETA p. 4.
 - 47 CoE-GRETA p. 4.
 - 48 CoE-GRETA pp. 4–5.
 - 49 ECLJ para. 26.
 - 50 CoE-GRETA p. 5.
 - 51 CoE-CP pp. 2–3 paras. 1–8.
 - 52 JS4 p. 6.
 - 53 JS4 p. 7.
 - 54 AI para. 10 and JS1 para. 26.
 - 55 AI paras. 14–19 and 25.
 - 56 AI para. 32.
 - 57 JS1 paras. 27–29.
 - 58 CoE-Commissioner Visit Report p. 6.
 - 59 JS1 paras. 24–25.
 - 60 BCN paras. 4–14.
 - 61 BCN paras. 15–18.
 - 62 CoE-GREVIO p. 7.
 - 63 CoE-GREVIO pp. 7–8.
 - 64 CoE-GREVIO p. 9.
 - 65 JS1 paras. 30–31.
 - 66 CoE-Commissioner Visit Report p. 6.
 - 67 CoE-ACFC p. 4 para. 1.
 - 68 CoE-ACFC p. 4 para. 7.
 - 69 AI para. 5.
 - 70 AI paras. 11–16.
 - 71 JS2 paras. 1–8.
 - 72 AI para. 18 and JS3 para. 24.
 - 73 JS4 p. 6.
 - 74 AI paras. 20–30.
 - 75 JS3 paras. 19–23 and 26.
 - 76 JS4 p. 7.
 - 77 AI para. 31 and JS3 para. 27.
 - 78 CoE-Commissioner Letter of 5 May 2020 p. 1.
 - 79 CoE-Commissioner Visit Report p. 5.
 - 80 CoE-ECRI p. 5 para. 2.
 - 81 JS3 paras. 78–79 and 82–87.
 - 82 JS2 paras. 15–29.
 - 83 JS2 paras. 31 IV–VII.
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