



G R E T A

Group of Experts on Action
against Trafficking in Human
Beings

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Reply from Malta to the Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties

Third evaluation round

Thematic focus: Access to justice and effective remedies
for victims of trafficking in human beings

Reply submitted on 3 February 2020

Part I - Access to justice and effective remedies

Question		Answer
<p>1.1 How, at what stage and by whom are presumed victims and victims of THB informed of their rights, the relevant judicial and administrative proceedings, and the legal possibilities for obtaining compensation and other remedies, in a language that they can understand? Please provide copies of any information materials developed to inform victims of THB, including any materials specifically developed for child victims, in the languages in which they exist.</p>		<p>Malta Police Victim Support As soon as a victim of THB reports a case to the divisional police or any other police branch, investigations will be commence by police working at the specialised Vice Squad Unit. The police will contact Appogg Agency for immediate assistance of a social worker. The Police also contacts an NGO, the Women’s Rights Foundation for free legal assistance to victims. The Police Victim Support Unit will act as an intermediary and assist when needed in order to support the victim throughout the judicial process. Assistance can be that of providing the victim with information and follow up on their case and help them regularise their stay in Malta.</p> <p>Appogg Agency Agency Appogg are normally involved in cases of human trafficking following a referral by the police. Normally the police would assign a lawyer mainly through other entities to explain about the court proceedings and victim’s rights.</p> <p>Sometimes victims come directly to Appogg. The social worker would assess the case and inform the victims that they can report the case to the police. If the victim does not understand the language, an interpreter would be sought out. The victims might still be afraid to go to the police due to possible threats by the trafficker and in such cases an informal arrangement has been made with Jesuits Refugee Services’ lawyer to meet with the victims and inform them about their legal rights.</p>
<p>1.2 How is the obligation to provide translation and interpretation services, when appropriate, met at different stages of the legal and administrative proceedings by different agencies?</p>		<p>Interpretation services are provided free of charge by the Police Victim Support Unit or Appogg agency whenever clients do not speak or understand Maltese or English.</p>
<p>2.1 How, by whom and from what moment is legal assistance provided to victims of trafficking? How is legal assistance provided to children?</p>		<p>Legal assistance to victims is provided immediately by the NGO, Women’s Rights Foundation, both to adults and children.</p>

<p>2.2 Do all presumed victims of THB have access to legal assistance, irrespective of immigration status or type of exploitation?</p>		<p>Yes all presumed victims of THB may avail themselves of free legal assistance offered by Government acting as <i>parte civile</i> notwithstanding their immigration status or type of exploitation. In Malta lawyers from two main civil society organisations also offer <i>pro buono</i> legal assistance to victims.</p>
<p>2.3 What are the conditions for access to free legal aid for victims of THB, including children? For which types of proceedings is free legal aid available? Is free legal aid available to help victims claim compensation and execute compensation orders? Please provide the text of the relevant provisions.</p>		<p>Victims of trafficking are provided legal assistance in all criminal cases (as <i>parte civile</i>).</p> <p>All required information can be found on https://justice.gov.mt/en/legalaidmalta/Pages/home.aspx</p>
<p>2.4 Are there lawyers specialised to provide legal aid and represent victims of THB in court? What regulations, if any, are applicable to the provision of such legal aid/representation?</p>		<p>There are no specialised lawyers provided for these cases. However, in March 2019 the Agency together with Identity Malta organised a mandatory training seminar on human trafficking and legal amendments for all legal aid lawyers. The training was provided by a Maltese human rights lawyer and focused on different legal case studies and judgements as well as the type of assistance which could be offered as part of the legal aid service.</p>
<p>2.5 How is the provision of legal assistance and free legal aid for victims of THB funded? Do victims have to pay a fee to obtain legal assistance or start a procedure, or are there other financial barriers in place? If yes, please specify the amount(s).</p>		<p>Victims are entitled to free legal aid if they are unable to cover the expenses incurred as a result of litigation, defence and advocacy.</p>
<p>3.1 What measures are in place to enable courts to award compensation to victims of THB, including children, from the perpetrators as part of criminal proceedings? What is the role of prosecutors in this respect?</p>		<p><i>Article 28H(1) of the Criminal Code:-</i> <i>When making an order for suspended sentence under sub article (1) of article 28A, the court may enter in such order a direction obliging the offender to make restitution to the injured party of anything stolen or knowingly received or obtained by fraud or other unlawful gain by the offender to the detriment of such party by or through the offence to which the suspended sentence relates, or to pay to such party such sum of money as may be determined by the court in that direction as compensation for any such loss as aforesaid or for any damages or other injury or harm caused to such party by or through</i></p>

		<p><i>the offence; and any such order may include both a direction to make restitution and, in default, to pay as aforesaid.</i></p> <p><i>(2) In any case in which it enters such a direction in its order under article 28A(1) the court shall, in that direction, fix the time limit, not being longer than six months from the date of the direction, within which the restitution or payment of compensation specified in the direction shall be made by the offender.</i></p> <p><i>(3) The court shall determine the amount of any compensation directed to be paid under this article after summarily hearing the parties, if they so wish, and any other evidence, including that of experts, it may deem relevant, but the amount of compensation so determined shall be without prejudice to the rights of either of the parties, or any other person interested, ensuing from the final liquidation of the amount due, if any, as may be subsequently agreed or adjudicated upon in a civil action or in any other manner permitted by law.</i></p> <p><i>(4) If the offender fails to comply with a direction entered under this article within the time fixed by the court in that direction, the court shall on the sworn application of the party to whom such restitution or compensation is due, to be served on the offender, appoint a date and time not later than seven days from the date of service of the application, for hearing the parties.</i></p> <p><i>(5) If the court, after such hearing, is satisfied that the offender has failed to comply with its direction under this article, it shall order that the suspended sentence shall take effect. The court may, however, for reasonable cause, grant to the offender a further peremptory period not exceeding one month, for complying with the direction.</i></p> <p><i>(6) The court shall abstain from taking cognizance of an application as is mentioned in sub article (4) if such application is filed after the lapse of three months from the expiration of the time limit fixed by the court for compliance with such direction.</i></p> <p><i>(7) On entering a direction under this article, the court shall explain to the offender in ordinary language his liability under this article if he fails to comply with that direction.</i></p>
<p>3.2 How is the amount of compensation calculated and are there specific criteria or models for calculating it? What types of injury/damage and costs are covered? Are there any circumstances/conditions that would lead to a reduction of the amount of compensation?</p>		<p>Apart from the Courts, there are also the CRIMINAL INJURIES COMPENSATION SCHEME REGULATIONS which came into force in 2012. Under these Regulations the Claims Officer has absolute discretion in the type and amount of compensation to be paid out with a Statutory capping of twenty-three thousand and three hundred euro (€23,300) and such sum shall not be exceeded where there is more than one claimant claiming by virtue of the same crime.</p> <p><i>No compensation will be paid under the Scheme where:</i></p> <p><i>(a) the criminal injury was sustained before 1st January 2006;</i></p>

		<p><i>(b) the Claims Officer is of the opinion that the offender is not indigent or unless proof has been produced that legal action to claim compensation has proved to be fruitless;</i></p> <p><i>(c) the applicant has not, in the opinion of the Claims Officer provided all reasonable assistance and information required for the purposes of these regulations;</i></p> <p><i>(d) the applicant was responsible for the criminal injury sustained because of provocation or any other action of his own;</i></p> <p><i>(e) the Claims Officer is satisfied that the conduct of the victim, his character or his way of life, make it inappropriate that he should be granted and award;</i></p> <p><i>Where the Criminal Court, by virtue of article 532A of the Criminal Code, has already established the compensation due to the victim or victims of the criminal injury, the Claims Officer will not assess that claim but will proceed to pay compensation subject to the provisions of these regulations.</i></p>
<p>3.3 How are compensation orders/verdicts enforced? What measures are in place to guarantee and ensure effective payment of compensation?</p>		<p>Please <i>vide</i> 3(1) <i>supra</i>.</p>
<p>3.4 When foreign victims of THB are removed from or choose to leave the country where the exploitation took place, what measures are in place to enable them to obtain compensation and other remedies?</p>		<p>There is the possibility of obtaining cross-border compensation as long as the other country in question is an EU Member State.</p>
<p>3.5 What procedures are in place to ensure effective access to compensation for victims of THB for the purpose of labour exploitation?</p>		<p>It is possible for victims of human trafficking to seek compensation from the state in terms of Subsidiary Legislation 9.12 – the Criminal Injuries Compensation Regulations, whereby a person can obtain compensation from Government for injuries suffered. One may also file a civil suit requesting unpaid wages from the former employer/perpetrator. The prosecutor in the criminal law suit may also make a request for restitution for victims in Malta, as has been the case of the Leisure Clothing and Mr Clean lawsuits.</p>

<p>Can such victims bring civil claims for compensation and/or recovery of unpaid wages and social contributions on the basis of tort, labour, employment or other laws? Please specify the relevant measures.</p> <p>Can victims of THB working in irregular employment or without a contract claim unpaid wages and other compensation and if yes, how is the amount of unpaid wages and other compensation established?</p>		<p>The Department of Industrial and Employment Relations provides free legal assistance to any worker for such recovery for criminal proceedings against a non-compliant employer. This does not prejudice any civil claims that the victim may wish to bring in recovery of other compensation or allowances.</p> <p>Yes, victims of human trafficking working in irregular employment or without a contract can claim unpaid wages and other compensation. Claims for unpaid wages, bonuses and other compensation is set by virtue of Articles 11-25 of the Employment and Industrial Relations Act, Cap 452 of the Laws of Malta. The amount of unpaid wages and other compensation is calculated through personal records/time sheets provided by the worker, which are backed by an affidavit from the worker, or through other records given to the worker by the employer.</p>
<p>3.6 What training is provided to build the capacity of relevant professionals, such as lawyers, law enforcement officers, prosecutors and judges, to enable victims of THB to obtain compensation and other remedies?</p>		<p>The Police</p> <p>During the reporting period the Vice Squad officials attended courses and seminars locally and abroad to improve their knowledge of the subject matter and improve their investigative skills accordingly and legal acumen with respect to the elements which compose the offence of THB under Maltese criminal law. Amongst other:</p> <ul style="list-style-type: none"> ✓ In November 2016 training was provided on two days by two foreign trainers from IOM and Frontex together with local experts, one from the Police and one from the Jesuit Refugee Service to 50 officials over 40 stakeholders. The aim is to enhance the capacity of the stakeholders, and the Maltese system as a whole, to address the identification and protection challenges and counteract the crime of trafficking in persons more effectively, to increase knowledge on the scale and nature of trafficking in persons and to facilitate information sharing and cooperation at the national level. The Frontex expert also shared clues and techniques with trainees both from the police side and the agencies side of how they can ask for information and/or look out for details that by inference can help in generating knowledge to be reused by the police to enhance a greater number of convictions. <p>Stakeholders benefitting from the October training were:</p>

Immigration Police, Vice Squad Police, Rapid Response Unit Police, Asylum Determination Officers from the Office of the Refugee Commissioner, Appogg Agency, and the Agency for the Welfare of Asylum Seekers.

- ✓ In 2016 The Health Department provided training to the immigration police and civilian immigration officers on Cultural Mediation. Including awareness about Cultural Competence.
- ✓ In January 2019 the National Commission on Domestic Violence organised a five-day intensive training on human trafficking provided by the London-based International Centre for Parliamentary Studies (ICPS). The training focused on the four Ps of human trafficking: prevention, protection, prosecution and partnership. It brought together a vast range of stakeholders representing government departments and non-government organisations. The list of participants included representatives of the Police Vice Squad, the Police Immigration Office, Appogg, DIER, Identity Malta, Jobsplus, the Office of the Attorney General, officials of the primary health service and the Genitourinary Clinic. Representatives of non-government organisations Dar Merhba Bik, Women's Rights Foundation and Victim Support Malta also attended the training.
- ✓ Training was held in 2017 for about 100 front line stakeholders on child trafficking delivered by NSPCC Child Trafficking Advice Centre, London, UK, a charity specializing in child trafficking only and supported by Government funding and human resources. Different sessions were held for different stakeholders from the agencies, Civil Society and government departments who may encounter children and young persons during their daily work. An expert from the UK Crime Agency and an Immigration Official from the Home Office in London delivered a session purposely targeting Police officers from immigration, victim support and Vice Squad.
- ✓ Since 2017 each year, a police officer is chosen to attend a one-week training on human trafficking in Vicenza, Italy organized by OSCE.
In 2017, a training event was organised by the Ministry for Home Affairs and National Security and lead by the National Society for the Prevention of Cruelty to Children (NSPCC), a Charity organisation in UK. Training consisted of separate sessions held for different groups of participants. Amongst other there were

		<p>officials from APPOGG Agency (various units including child protection) Jobsplus, Department for Industrial Relations and Employment, Identity Malta, Prosecutors from the Office of the Attorney General, Office of the Commissioner for Children, the Agency for the Welfare of Asylum Seekers, the Salesians Youth Service, Health Transcultural Nursing Services, Community Mental Health Services and Court Services. A special training session was attended by Immigration and Airport Police, Vice Squad and the Economic Crime Unit as well as police officials and a youth worker from the Police Victim Support Unit.</p> <ul style="list-style-type: none">✓ The Parliamentary Secretary for Reforms, Citizenship and Simplification together with the Legal Aid Agency organised training on human trafficking to all legal aid lawyers. The training was provided by a Maltese human rights lawyer in March 2019. It focused on different legal case studies and judgements as well as the type of assistance, which could be offered as part of the legal aid service.✓ A study visit to the UK was organised in October 2019 and it was attended by professionals working at the Foundations for Social Welfare Services and the Police Victim Support Unit. The visit concentrated on victim support provided by the UK Home Office and the Gangmasters and Labour Abuse Authority as well as non-government organisations Hestia and the Salvation Army. The representatives of the Maltese government visited safe houses run by these organisations to have a better understanding of their operation, issues encountered by victims, the support available to them and the procedures in place. They also met Unseen UK which run the modern slavery helpline and help potential victims access the relevant support services.✓ Training on human trafficking is provided each year to Police new Recruits as part of their 3-month induction course.✓ Training was provided for Immigration Police, Immigration Civilian Officers, Customs Officials and Armed Forces Officials and amongst other, a theme addressed in the training covered the issues of trafficking of persons and smuggling. Training during 2016 was provided internally by the Police Force. In 2017 and 2018, the mentioned topics were covered by training provided by EASO.
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4.1 Do the eligibility criteria for State compensation schemes for victims of crimes exclude some victims of THB (e.g. due to irregular residence status, nationality, nature of the offence)? Does access to State compensation depend on the outcome of the criminal case and on failure to obtain compensation from the offenders?		There is one exception in terms of nationality eligibility criterion, in that the Scheme in question is limited to victims from EU Member States, but Statutory compensation is not dependent on the outcome of the criminal case, though failure to obtain compensation from the offenders might affect the eligibility or amount of Statutory compensation.
4.2 How is the amount of State compensation calculated so as to address the gravity of the harm endured by the victim?		Vide 3.2 supra.
4.3 Is it possible for foreign victims of trafficking to submit claims for State compensation in your country after being returned or repatriated to their countries of origin? Please provide examples of any such cases and indicate the measures stipulating such a possibility.		Vide 3.4 and 4.1 supra.
4.4 Are victims seeking State compensation liable for lawyers' costs and fees? Are State compensation awards subject to taxation? Does the receipt of compensation have consequences for access to social security or other benefits?		An applicant may be accompanied by his legal adviser or another person, at his own cost, but the amount of compensation may indirectly impinge on access to social security or related benefits.

<p>5.1 Please describe the legislative and other measures adopted by your country which allow to: i) confiscate or otherwise deprive perpetrators of the proceeds of criminal offences, or property of an equivalent value to those proceeds; and ii) identify, trace, freeze or seize rapidly property which is liable to confiscation, in order to facilitate the enforcement of a later confiscation. Do these measures allow the identification, tracing and seizure of property into which the proceeds of illicit activities have been converted?</p>		<p>i) Confiscation takes place as and when directed by the Courts of Malta upon the delivery of the judgment. The Courts of Malta determine which assets shall be subject to a confiscation order, especially those assets which the Court determines that it is probable that they were obtained from a criminal activity, as per the Criminal Code, Chapter 9 of the Laws of Malta. The Court may also order any compensation for victims of crime, as per the Criminal Code, Chapter 9 of the Laws of Malta.</p> <p>ii) Freezing orders are issued by the Courts of Malta upon a request by the prosecution. Identification and tracing of all assets is thereafter carried out by the Asset Recovery Bureau. An asset inventory is drawn up and presented to Court. This asset inventory may show whether all assets were legally obtained or whether they may be reasonable suspicion that they were obtained from a criminal activity. Should the offender wish to object to any assets being confiscated stating that they are not proceeds of crime, the accused can file a civil court case in the Courts of Malta after the delivery of the res judicata judgment.</p>
<p>5.2 In what way do victims of THB benefit from seized and confiscated assets of perpetrators of THB? Do the confiscated assets go directly to victims, to a compensation fund or scheme for victims of trafficking or to other programmes for the assistance or support of victims of THB? Please provide information on seizures and confiscations of assets in THB cases and how they were used.</p>		<p>Articles 15A of the Criminal Code, Chapter 9 of the laws of Malta states that “(1) In addition to any punishment to which the person convicted of an offence may be sentenced, the Court may order the offender to make restitution to the injured party of any property or proceeds stolen or knowingly received or obtained by fraud or other unlawful gain to the detriment of such party by or through the offence, or to pay to such party such sum of money as may be determined by the Court as compensation for any such loss as aforesaid or for any damages or other injury or harm, including, only in the case of crimes affecting the dignity of persons under Title VII of Part II of Book First and of willful crimes against the person subject to a punishment of imprisonment of at least three years under Title VIII of Part II of Book First up to a maximum limit of ten thousand euro(€10,000) or up to such maximum limit as the Minister responsible for Justice may by regulations establish both with regard to the maximum amount and about the method of computation depending on the case, moral harm and or psychological harm, caused to such party by or through the offence, and any such order may include both a direction to make restitution and, or, to pay as aforesaid. The order shall constitute an executive title for all intents and purposes of the Code of Organization and Civil Procedure.</p>

		<p>(2) When issuing an order under sub-article (1), the Court may direct that such costs or damages are paid in instalments, in particular, having regard to any other obligations which the offender has towards the victim or any of the victim's dependants"</p> <p>Moreover, upon the delivery of any confiscation order as arising from a res judicata judgment and upon ascertaining that there are no further legal impediments, the Asset Recovery Bureau shall dispose of such assets as indicated in this order and the value of these assets is thereafter transferred to the Government of Malta.</p> <p>The Government of Malta enjoys all powers to invest these monies as it deems appropriate.</p>
<p>5.3 Is it possible to use plea bargaining or some other form of settlement in cases of THB? If yes, please provide the relevant provisions. What protections are in place for victims of THB to ensure that their right of access to justice and effective remedies is not compromised by the plea bargaining or settlement in the legal process?</p>		<p>A reply will be sent at a later stage.</p>
<p>5.4 What is the average duration of court proceedings in THB cases? In which circumstances are such cases given priority? Do you have a system to fast-track human trafficking-related prosecutions in order to improve the trial process and reduce the burden on victims and witnesses, including children? What safeguards are in place to ensure that judges deal with cases of THB without undue delay?</p>		<p>The Court Services report that there is no system in place to fast-track such cases. Having said this, in the eventuality that such a case is brought to court, there are provisions that safeguard the well-being of vulnerable witnesses, victims and children that will apply. These provisions are not meant exclusively for THB cases but for all criminal cases in which vulnerability is a concern.</p>
<p>5.5 How do you ensure that sanctions for THB offences are effective, proportionate and dissuasive?</p>		<p>The sanctions foreseen by the criminal code for human trafficking are commensurate with those applicable to serious crimes. It is therefore considered that they are effective, proportionate and dissuasive. Moreover the sanctions have been revised upwards as recently as 2013.</p>

<p>6.1 What is the procedural position of a victim of THB in criminal proceedings? What steps are taken to assist victims of THB, including children, to enable their rights, interests and views to be presented and considered during the criminal proceedings against offenders? Who is entitled to assist victims of THB in court? Can victims of THB be represented by NGOs in criminal proceedings?</p>		<p>Malta Police Victim Support Every victim has a right for free legal aid to assist them in court, but often legal services are provided by the NGO mentioned above. A social worker from Appogg is also appointed in each case to assist throughout the process.</p> <p>Appogg Agency Although the Service never had minors who were victims of human trafficking, in the case of minors, a social worker can be present while the child is giving his/her testimony. The aim is to assist the child if s/he is visibly distressed by the proceedings. Normally when children are present, the testimony is given through a video 'conference'. Social workers also follow a manual to prepare children for a Court hearing.</p>
<p>6.2 If the authorities fail to discharge their obligation to effectively investigate and prosecute suspected cases of trafficking, what possibilities for redress exist for victims of THB and their families?</p> <p>To what extent have victims of trafficking, including children, access to complaint mechanisms, such as Ombudsman institutions and other national human rights institutions?</p>		<p>A reply will be sent at a later stage.</p> <p>In Malta, the Office of the Commissioner for Children advocates for children's rights and their empowerment. If anyone goes to this office with a case, the office of the CfC would follow it through and refer the minor to the appropriate entities such as the Child Protection Unit at Appogg Agency.</p> <p>Moreover, children in Malta have the same rights as adults and have access to the mechanisms offered by law. In this regard the Victims of Crime Act, Chapter 539 of the laws of Malta prescribes as follows:</p> <p>Article 4 (b) of the Victims of Crime Act, Chapter 539 of the laws of Malta makes provisions for the right of the victim to information on procedures for making complaints with regard to a criminal offence and the victim's role in connection with such procedures;</p> <p>Article 4 (h) makes provisions for the victim to have available procedures for making complaints where the victim's rights are not respected by the competent authority operating within the context of criminal proceedings;</p> <p>Article 5 (1) makes provision for: Where a complaint is made by the victim in terms of article 546 of the Criminal Code, the Executive Police shall deliver to the victim a written</p>

		<p>acknowledgement of his complaint stating the basic elements of the criminal offence concerned;</p> <p>Article 6(1) provides that: A victim shall be notified without unnecessary delay of his right to receive the following information about the criminal proceedings instituted as a result of the complaint made by him and upon request, the victim shall receive information on: ...</p> <p>Furthermore by virtue of the same Act the victim who lives in Malta and suffered a criminal injury abroad and has not made a claim abroad can make the claim when he returns to Malta;</p>
6.3 What reporting and complaint mechanisms are in place for victims of trafficking who are in an irregular migration situation and/or in detention?		All victims of trafficking may file complaints and reports with the police and other government entities independently of their migration status. It should also be noted that the police may issue a residence permit to victims of THB who are cooperating in the investigative process, in accordance with Subsidiary Legislation 217.07.
6.4 Can victims of THB bring claims against the State or its officials for: i) direct involvement in THB; ii) failure to prevent THB or protect them from THB? Have there been cases where State agents or persons acting on behalf, or at the direction, of the State were found responsible for engagement in THB and/or failure to prevent it or protect victims from THB by third parties? Please provide information on any prosecutions against diplomatic and consular staff for alleged involvement in THB.		A reply will be sent at a later stage.
6.5 What steps have been taken to strengthen and maintain the capacity of prosecutors to effectively prosecute trafficking cases?		Police prosecutors within the vice squad attend training courses and seminars organised by the Ministry and other partners. Further details are provided in the section dealing with training.

<p>7.1 Please indicate what measures are taken to ensure that victims of THB, including children, are not punished for their involvement in unlawful activities (criminal, civil, administrative offences), to the extent they were compelled to do so, providing any concrete examples of their implementation.</p>		<p>Detailed and accurate investigations are always carried out to identify to the greatest extent possible who is potentially guilty and for which offence. Under Maltese law based on an EU directive children under 14 years of age cannot be found criminally liable and moreover so far we have not had THB cases involving children as victims and let alone as perpetrators.</p>
<p>7.2 Can persons who have breached national laws in the course, or as a consequence, of being trafficked have access to remedies for victims of trafficking, including State compensation?</p>		<p>Such persons have access to such remedies available at law. Nevertheless, if the applicant was responsible for the criminal injury sustained because of provocation or any other action of his own, or the Claims Officer is satisfied that the conduct of the victim, his character or his way of life, make it inappropriate that he should be granted an award, no compensation will be awarded.</p>
<p>8.1 How are victims of THB protected in practice against potential retaliation or intimidation before, during and after legal proceedings?</p> <p>How is the assessment of the needs for protection performed and who recommends the application of the protection measures?</p> <p>Who is responsible of the implementation of the protection measures?</p>		<p>Victims are offered to reside in a shelter and will each have a social worker from Appogg assigned to him or to her. Once the offender is charged in court, the Magistrate will be able to issue a Protection Order in favour of the victim. The Protection Order will last throughout the criminal proceedings and will also form part of court judgement.</p> <p>Assessments are carried out by Appogg and then discussed with the police to be able to take the necessary preventative measures.</p>
<p>8.2 How do you ensure that victims are provided with realistic and practical information about the progress of the case and whether the perpetrator has been detained or released?</p>		<p>The Victims of Crime Act makes provisions so that the:</p> <p><i>'victim shall be notified without unnecessary delay of his right to receive the following information about the criminal proceedings instituted as a result of the complaint made by him and upon request, the victim shall receive information on any decision not to proceed with or to end an investigation or not to prosecute the offender;(b) the time and place of the trial, and the nature of the charges against the offender;(c) any final judgement in a trial;(d) information enabling the victim to know about the state of the criminal proceedings, unless in exceptional cases the proper handling of the case may be adversely affected by such notification:</i></p>

		<p><i>Provided that in the circumstances cited in paragraphs (a) and (c) and unless in the case of a verdict in a trial by jury or where prohibited by law, the information shall include reasons or a brief summary of reasons for the decision concerned:</i></p> <p><i>Provided further that it shall not be necessary to furnish such information in cases where the victim, as injured party, has been served with the notice of first hearing or admitted into the proceedings as provided in article 410(4) and (5) of the Criminal Code. (2) A victim shall be offered the opportunity to be notified, without unnecessary delay, when the person remanded in custody, prosecuted or sentenced for criminal offences concerning the said victim is released from or has escaped detention and of any relevant measures issued for his protection in case of release or escape of the offender. (3) A victim shall, upon request, receive the information provided for in sub-article (2) at least in cases where there is a danger or an identified risk of harm to him, unless there is an identified risk of harm to the offender which would result from the notification. Right to interpretation and translation.</i></p> <p><i>7.(1) Where the injured party does not understand the language in which the criminal proceedings are conducted or any evidence is adduced, such proceedings or evidence shall be interpreted to him either by the court or by a sworn interpreter.</i></p> <p><i>(2) An injured party who does not understand or speak the language of the court shall, upon request, be provided with translations of information essential to the exercise of his rights in the criminal proceedings in a language he understands, free of charge, to the extent that such information is made available to the injured party¹.</i></p>
<p>8.3 How do you ensure respect for the victims’ right to safety, privacy and confidentiality during court proceedings?</p>		<p>Victims of human trafficking always testify by means of video conferencing and as such do not face the perpetrator in the court room. Generally, they are accompanied by the social worker or member of the NGO as well as their lawyers from the Legal Aid Agency or the lawyers appointed by the NGO specialising in dealing with human trafficking cases.</p> <p>Appogg Agency Victims are offered the possibility to be accompanied by a social worker during Court hearings and if there are safety issues, the police are informed in order to ensure the victim’s safety.</p>

¹ Article 6 (1) of the Victims of Crime Act, Cap 539 of the Laws of Malta

		With regards to privacy, support offered to victims is voluntary and therefore victims have a right to refuse the service of a social worker or to stop the service at any point.
8.4 In how many cases were witness protection measures used for the protection of victims and witnesses of THB, including children? If witness protection measures/programmes are not applied to victims of trafficking, what are the reasons?		N/A
8.5 When victim protection is provided by NGOs, how are NGOs resourced and supported to perform this function and how do the police and the prosecution co-operate with NGOs?		<p>The social workers from Agency Appogg carry out an initial assessment as soon as victims are referred to the service. Amongst others, the initial assessment evaluates whether the victims feel that they are at risk.</p> <p>Agenzija Appogg offers all victims of THB safe houses where they can reside. The victims are able to move out of the premises however, the location of the safe houses is kept confidential.</p> <p>Should the victim mention fear and potential harm the Service explores the possibility that the victim moves into a shelter who is even safer due to constant surveillance by cameras and 24/7 carers.</p>
8.6 How do you ensure that child victims of THB are treated in a child-sensitive way and are provided with protection before, during and after judicial proceedings in accordance with the Council of Europe Guidelines on Child Friendly Justice? Are interviews with children conducted in specially designated and adapted spaces by professionals trained to interview children?		There were no reported cases of child victims of THB thus not applicable.

<p>What measures are taken in order to ensure a limited number of interviews?</p>		
<p>9.1 What budget, staff and resources, including technical means, are put at the disposal of law enforcement bodies specialised in combating and investigating THB?</p>		<p>Within the Police Force Human Trafficking falls under the responsibility of the Vice Squad, which is currently made up of three inspectors and nine police officers. However, the assistance of other branches may be called upon whenever necessary.</p>
<p>9.2 If your country has specialised units for financial investigations, financial intelligence units and asset and recovery units, please describe whether and how are they used in investigating and prosecuting THB cases.</p> <p>Which special investigation techniques do these units use?</p> <p>Which public and/or private bodies do these specialised financial investigation units co-operate with in relation to THB cases?</p>		<p>The Vice Squad police investigate reported cases of human trafficking, which mostly concern labour exploitation and sexual exploitation. Many times especially the cases of labour exploitation involve several victims and /or a large Organised Crime Group. Particularly when physical evidence is found denoting substantial sums of money as part of the proceeds of this crime being generated. When this is the case, the Vice Squad liaise with the Economic Crimes Unit within the Police Force and asks for their assistance.</p> <p>It is intended that the Vice Squad engages on an ad hoc basis one Police Inspector and his team, specialising in money laundering on a 24x7 basis so as to be hands-on in any ongoing THB investigation as regard financial aspects</p> <p>N/A</p> <p>The Police liaises with local banks financial institutions and government departments, as the case may be.</p>
<p>10.1 How does your country co-operate with other countries to enable victims of THB to realise their right to redress and compensation, including recovery and transfer of unpaid wages after they leave the country in which the exploitation occurred?</p>		<p>Generally in virtue of Bilateral Treaties and/or Agreements and based on international co-operation in matters relating to such matters.</p>

<p>10.2 Has your country co-operated with other countries in the investigation and prosecution of THB cases through financial investigations and/or Joint Investigation Teams?</p> <p>Please provide statistics on such cases and examples from practice.</p>		<p>In 2019 – the Malta Vice Squad police was asked to assist in an investigation, which involved international prostitution with THB implications and involving felons from various EU member states. Spain, Malta Finland, the Netherlands and Romania joined forces in the investigation. The joint investigation focused on on-line prostitution in these various countries and subsequent money laundering mechanisms to cater for large quantities of cash derived proceeds of crime. The principal suspect was found to be staying in Malta and through this JIT Malta Police assisted the key player country to arrest and extradite subject to Spain</p>
<p>10.3 How many mutual legal assistance requests and/or European Investigation Order have you made in THB cases and what was their outcome?</p>		<p>One involving the freezing of monies located in an offshore bank account in Guernsey. The money belongs to a Chinese national, director of a clothing company in Malta who is facing charges of THB in the Maltese court. The case is still sub judice and dates back to 2014.</p>
<p>10.4 What forms of international co-operation have proven to be particularly helpful in upholding the rights of victims of trafficking, including children, and prosecuting alleged traffickers?</p>		<p>N/A</p>
<p>10.5 What international co-operation measures are in place to ensure protection and assistance to victims on return from your country to their countries of origin following their participation in criminal proceedings?</p>		<p>It should be noted that victims of trafficking may be offered an assisted voluntary return package in order to facilitate their reintegration in the country of origin. Such packages are made available in the event that returnees indicate that they would like to avail themselves of such systems and if they are in a position to utilise such assistance. Otherwise, the victim may decide to return to the country of origin without any form of support. Where possible the national agency for social welfare services, Appogg may also make use of the international social work network to ensure protection and assistance when victims return to their country of origin.</p>
<p>10.6 What international co-operation measures are in place to protect and assist victims of THB for the purpose of sexual exploitation through online streaming where the perpetrator is a national or habitual resident of your country</p>		<p>In the event that part of the offence has been committed in Malta, the local authorities may prosecute the offender in terms of national law. Moreover, information would be provided as necessary to the authorities of other countries as necessary including through Europol and/or Interpol Channels.</p>

and elements of the crime have occurred in your country's jurisdiction?		
11.1 What steps are taken to ensure that victims of THB have equal access to justice and effective remedies, irrespective of their immigration status and the form of exploitation?		All access to judicial and related remedies is independent of the victims' immigration status and the form of exploitation suffered.
11.2 What steps are taken to ensure that criminal, civil, labour and administrative proceedings concerning victims of THB are gender-sensitive?		Appogg the agency for social welfare services ensures that all services are available to all and they support all victims as needed.
11.3 What steps are taken to ensure that procedures for obtaining access to justice and remedies are child-sensitive, readily accessible to children and their representatives, and give weight to the child's views?		<i>Vide 11.2 supra</i>
11.4 What steps are taken to ensure that private entities take steps to prevent and eradicate trafficking from their business or supply chains and to support the rehabilitation and recovery of victims? What options exist for victims of trafficking to access effective remedies from businesses implicated in human trafficking?		An awareness-raising event was organised by the Ministry for Home Affairs and National Security and the IOM Between November 2018 and January 2019 and was intended for private sector stakeholders and employers. Which in the main aimed to raise awareness among private sector stakeholders on trafficking in persons while addressing ways of eliminating exploitation from their operations and supply chains. The event was addressed by a representative from the UK business-led initiative Stronger Together as well as other local speakers. Representatives from the General Retailers and Traders Union, the Malta Chamber for Commerce, Enterprise and Industry, the Malta Developers Association and the Malta Hotels and Restaurants Association, labour inspectors and NGOs attended the event. Moreover IOM together with the Ministry for Home Affairs and National security drew up a checklist which was disseminated widely amongst employers in Malta, and which list assists employers in avoiding trafficking like situations and conditions.

		<p>The Department of Industrial and Employment Relations (DIER) regulates employment contracts in an equitable manner in order to ensure that both the employee and employer observe their rights and obligations. Additionally, the Department strives to ensure that no discriminatory practices take place and that workers whose employment relationship has been terminated are well protected. The Employment and Industrial Relations Act (EIRA) together with National Standard Orders and Wage Regulation Orders are the laws that regulate the conditions of work.</p> <p>The Inspectorate and the Terminations sections are a core function of the Department. These sections cater for the observance and the enforcement of the EIRA regulations. The Inspectorate Section provides prompt customer care service to all employees and employers who require assistance regarding conditions of employment. Inspections are carried out at places of work to ensure that the conditions of employment, as prescribed by law, are observed²</p>
<p>11.5 What legal, policy and practical measures are taken in your country to prevent and detect situations where corruption facilitates human trafficking and infringes the right of victims of THB of access to justice and effective remedies?</p> <p>Please provide information on any known or proven cases of corruption or related misconduct of public officials in THB cases and any sanctions issued.</p>		<p>One of the human trafficking cases in Malta involved a police officer as an accomplice. The main perpetrator in the case was condemned to a term of imprisonment. The case related to the police officer is still <i>sub judice</i>.</p> <p>Further to the above it should be noted that where a human trafficking offence is committed by a person holding office or authority it is regarded as an aggravation by nation law.</p>

² <https://dier.gov.mt/en/Employment-Conditions>

Part II – Country-specific follow-up questions

12. Please provide information on new developments in your country since GRETA’s second evaluation report concerning:

<p>emerging trends of trafficking in human beings (new forms of exploitation, new recruitment methods, vulnerable groups, gender-specific aspects of trafficking, child trafficking);</p>		<p>On the basis of cases being investigated between 2016 and 2018 it is considered that migrant workers from Asia including China, Vietnam and the Philippines are at risk of labour trafficking. Such labour trafficking may take place in the manufacturing or service industry or working as masseurs. It appears that a different class of perpetrators making use of labour trafficking could be operating in Malta.</p> <p>No new trends were identified during 2019, therefore, human for labour exploitation remains the predominant form of human trafficking in Malta.</p> <p>The consultation document also focused on emerging trends in trafficking in human beings and relatively new types of exploitation. It identifies three major risk environments in this regard: (i) temporary work agencies, (ii) gentlemen’s clubs, and (iii) massage parlours:</p> <p>i. Temporary work agencies: the Government of Malta is considering regulation to reduce the chances of labour exploitation among low-skilled workers who are engaged on temporary assignments to perform low-skilled work. The Temporary Agency Workers Regulations (Subsidiary Legislation 452.106) focus on the rights of temporary workers. The Government is considering the introduction of new obligations for temporary work agencies, including the requirement to obtain a licence, with the aim of reducing the chances of labour exploitation.</p> <p>ii. Gentlemen’s clubs: the consultation period also discussed the risk of exploitation and abused faced by performers working at gentlemen’s clubs. The Government maintained that these establishments should not be used as brothels and suggested that these establishments should be regulated by a specific law which safeguards the interests of performers and sets obligations on both the clients and the owners. The latter have participated in the consultation process and supported the Government’s stance for regulation. The Government is mulling other proposals put forward by the civil society or available in academic research on the subject, including (i) strict control on the advertisement of these outlets, (ii) clear rules on what services may be offered by strip clubs, (iii) the nature of the employment agreement between the owners and the</p>
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		<p>performers, and (iv) the possibility of introducing a tax on the operation of these businesses to support anti-trafficking measures.</p> <p>iii. Massage parlours: the changes being envisaged by the Government are aimed to ensure that only genuine and qualified massage therapists are allowed to operate. Such line of thought has been expressed in the consultation period by the representatives of the industry. A licencing system would ensure that only professional massage therapists are authorised to run these type businesses, and that the premises of these businesses will not be used for the purpose of prostitution.</p>
<p>the legislation and regulations relevant to action against THB (e.g. criminalisation of THB,</p>		<p>Subtitle VII BIS is entitled 'Of Traffic of Persons' and it was introduced into our criminal Code (Chapter 9 of the Laws of Malta) on the 9th April 2002 by virtue of Clause 50 of Act III of the year 2002, covering provisions 248A till 248G. A number of these provisions have been subsequently amended by other Legal Notices and or Acts the most recent one being Act XXVIII of 2016. As with regards a clause dealing with force, fraud and coercion in the case of child sex trafficking, article 248A(2) enlists the means used including the use of force, fraud or coercion, apart from indicating the irrelevance of consent of the victim to submit themselves to the trafficking conditions. It is not specific to child sex trafficking but it is applicable thereto in general terms in the same was as it would apply to any form of trafficking with regards to any age or gender of victim. The only clear distinction between the trafficking of minors and adults in our law is that if any such means are used in the case of child trafficking the punishment awarded will be higher (Article 248D proviso).</p> <p>Consequential amendments to the Victims of Crime Act, Cap 539, by virtue of Criminal Laws (Terrorism)(Amendment) Act, 18 December 2018.</p> <p>In May 14, 2018 Cap 532 of the laws of Malta Council of Europe Convention on Prevention and Combating of Violence Against Women and Domestic Violence (Ratification) Act, was enacted to enable Malta to ratify the Council of Europe Convention on prevention and combating of violence against women and domestic violence.</p>

<p>identification and assistance of victims of THB, recovery and reflection period, residence permit, supply chains, public procurement);</p>		<p>A new policy in terms of the Non-EU Single Permit³ including added safeguards to protect third country nationals who wish to come and work in Malta. The Single permit applications are then assessed by a number of stakeholders, mainly by the Police Immigration Office and the Jobsplus⁴.</p> <p>New legislation was published in 2016 by virtue of Subsidiary Legislation 601.03 Public Procurement Regulations of the Laws of Malta. These were updated in 2017 and 2018⁵.</p> <p>The consultation period also discussed the provisions of the White Slave Traffic (Suppression) Ordinance (Cap. 63) and the penalties applicable to a person who 'lives with, or is habitually in the company of, a person practising prostitution or that he has exercised control, direction or influence over the movements of that person in a manner as to show that he is aiding, abetting or compelling the prostitution of that person with any other person or generally'.</p> <p>Writing in the Times of Malta on the 9th September 2019, a few days after the consultation document was launched, Parliamentary Secretary Julia Farrugia Portelli stated that 'the government has no plans to remove the existent provisions of the law which criminalise pimping, living on the earnings of prostitution of others or the managing of brothels'. She added that 'pimping is to me a more subtle word for trafficking and there is no doubt of the explicit link between human trafficking and prostitution'.</p> <p>The Government is not excluding reviewing the provisions of the prostitution law to equate the penalties associated with pimping to those applicable in the case of sex trafficking.</p>
<p>the institutional and policy framework for action against THB (bodies responsible for co-ordinating national action against THB, entities specialised in the fight against THB, national rapporteur or equivalent mechanism, involvement of civil society, public-private partnerships);</p>		<p>The coordination of Human Trafficking initiatives falls under the responsibility of the Human Trafficking Monitoring Committee, made up of high-level officials across Government, which oversees operators in the sector. Moreover, a Stakeholders Task Force at operational level convenes as necessary in order to discuss operational matters affecting the different stakeholders.</p>

³ <https://singlepermit.gov.mt/>

⁴ <https://jobsplus.gov.mt/employers-mt-MT-en-GB/employing-persons/third-country-nationals>

⁵ <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=9532&l=1>

		<p>The Government of Malta is also in the process of launching a national reform on human trafficking. In this regard, the Parliamentary Secretary for Reforms, Citizenship and Simplification is involving victims of human trafficking and non-government organisations working closely with these persons during the consultation process. The latter aims to obtain first-hand experiences from survivors with the aim of establishing more effective means of prevention, protection and prosecution.</p> <p>The budget allocated to the Parliamentary Secretariat for Reforms, Citizenship and Simplification for reform in this field was €120,000 in 2019 and €300,000 in 2020. These figures do not include the funds allocated in the same two years for (i) the administration of the task force, and (ii) the investigation of the crime and the provision of support services to victims.</p> <p>A national education campaign on human trafficking which commenced towards the end of 2019 is also intended as part of reform in this field.</p>
<p>the current national strategy and/or action plan for combating trafficking in human beings (objectives and main activities, bodies responsible for its implementation, budget, monitoring and evaluation of results);</p>		<p>Government has concluded the implementation of the Fourth National Action Plan for the period January 2017 – December 2019. It can be reported that most of the measures have been implemented. A draft of the new Fifth National Action Plan on Human Trafficking (January 2020 – December 2023) amongst stakeholders. <i>(The final version of the Action Plan shall be made available following consultation and publication)</i></p> <p>The Government of Malta has also embarked on a consultation period in September and October 2019 as part of the country's reform on human trafficking and prostitution. The subject of prostitution has been included in this reform as the Government acknowledges the link between the two phenomena, as well as the existence of Maltese individuals who could be exploited for sexual purposes in their home country.</p> <p>The aim of this consultation period is to develop a five-year national strategy (2020 – 2024) against human trafficking with the following objectives:</p> <ul style="list-style-type: none"> - Develop more effective tools to identify potential victims of human trafficking and facilitate the provision of professional support through a fully-fledged national referral mechanism;

		<ul style="list-style-type: none"> - Strengthen the country’s investigative and judicial arms against perpetrators of human trafficking and secure convictions of traffickers in a shorter time period; - Set up preventive mechanisms and introduce regulations aimed at safeguarding the interests of vulnerable persons who face greater risks of human trafficking. <p>One of the top priorities of the strategy is the setting up of a permanent structure within government which shall see the over-all implementation of the strategy. The said structure will also coordinate the work of state and non-state entities which are already part of the Government’s existing task force on trafficking in human beings within the Ministry for Home Affairs and National Security, including social welfare, immigration and employment agencies, the Malta Police Force and the civil society.</p>
<p>recent case law concerning THB for different forms of exploitation.</p>		<p>In 2017, 3 cases of THB were encountered in Malta, the first one involved a case of sexual exploitation; however, the victim did not wish to initiate criminal proceedings against the alleged perpetrator (her ex-employer). Nevertheless the ex-employer was charged in court for keeping up a brothel and living on the earnings from prostitution.</p> <p>The second case in 2017, involved a case of labour exploitation. The alleged perpetrators, 3 siblings and their father, directors of a cleaning services company, were arraigned in court charged with having trafficked persons of age for the purposes of labour exploitation. By means of this case the prosecution requested compensation for unpaid wages and other benefits, for the victims and these were paid early in the court process even though the case is still <i>sub judice</i>.</p> <p>During this reporting period, two persons made allegations with the police of being victims of domestic servitude. They claimed to being trafficked by a foreign diplomat. Both victims were granted a reflection period and a temporary residence permit in accordance with SL 217.07. Criminal action against the alleged perpetrator was precluded due to diplomatic immunity. The Ministry for Foreign Affairs was informed.</p> <p>In 2018 the Vice Squad Police arraigned 10 persons for alleged human trafficking offences in 3 separate cases. 7 persons were arraigned on forced labour accusations, 2 on sexual exploitation and one 1 on domestic servitude. The Police also identified 15 adult male and female victims of human trafficking and a female minor in the mentioned 3 cases. The adult victims are all Filipino nationals except one who is Nepalese. The minor victim is of</p>

		<p>Somali origin but holds a Maltese identification document. Investigations in these three separate cases ended up with court arraignments and are all <i>sub judice</i>.</p> <p>In 2018, in addition, seven other cases involving alleged trafficking in persons in massage parlours were investigated. 18 people were investigated, all adults and arraigned for living off the earnings of prostitution and/or for keeping a brothel. No victims of trafficking were actually identified during the investigations. Nationalities of the females found working in these parlours were South American, Italian Moldovan and Ukrainian. Parlours were run by Maltese nationals, male and/or female. All investigations ended up with court arraignments and all are now <i>res judicata</i>.</p> <p>In 2018, one case was decided against a Romanian national and who was acquitted from all the charges which included human trafficking charges for sexual exploitation.</p> <p>Also in 2018 two other separate cases were concluded against two Maltese males and one male and one male and female consecutively were charged with trafficking of persons of age for sexual exploitation, inducing persons of age for prostitution and organised crime, complicity of trafficking of persons of age for sexual exploitation, living off the earnings of prostitution, keeping up a brothel and making use of premises for the purpose of prostitution.</p> <p>In 2019 once case was investigated for trafficking for sexual exploitation by the police however charges of trafficking could not be proven however perpetrators have been charged with running a brothel and living off the earnings from prostitution.</p> <p>In 2019, 2 court cases were finalised one included charges of domestic servitude and the other included charges for sexual exploitation. In both cases the perpetrators were found guilty of human trafficking. Accused were sentenced to 4 years (one male) and 12 years each (one male and one female) imprisonment, respectively.</p>
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13. Please provide information on measures taken in your country in respect to the following recommendations made in GRETA's second evaluation report:

prevent human trafficking for the purpose of labour exploitation, including by further		✓ <i>Vide 11.4 supra</i> for training with the private sector
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<p>sensitising relevant officials and working closely with the private sector</p>		<ul style="list-style-type: none"> ✓ In 2018 an awareness campaign was launched through a series of TV adverts about Human Trafficking. The adverts gave telephone numbers where one may report cases involving labour or sexual exploitation. ✓ In 2018 the Maltese authorities have waived the fees related to the application for first-time residence permits and work permits by victims of human trafficking. The government has increased the collaboration between different entities to fast-track the process of issuing residence permits and work permits to victims of human trafficking. In the case involving labour trafficking investigated in March 2018, 14 individuals were granted the status of victims of human trafficking within less than one day from the discovery of the case. The authorities initiated the process to issue residence permits to the victims immediately afterwards, whereby the processing time to issue residence permits to victims did not exceed one working week. ✓ Conducted the second national study on the vulnerability to human trafficking amongst women and minors in migrant open centres. The study concluded that although no cases of human trafficking could be identified, some of these people were potentially vulnerable to human trafficking. ✓ In order that Government action is more effective to reduce trafficking in human beings in Malta, the Secretariat for Reforms, Citizenship and Simplification of Administrative Processes has launched a public consultation process in order to discuss a way forward for necessary changes and updating of policies and legislation and ensure assistance and protection to victims of human trafficking including for sexual exploitation. The consultation period ended on the 31st October 2019 and the authorities are expected to launch a national five-year strategy against human trafficking. ✓ Identity Malta, the agency responsible of issuing residence permits, has established procedures to ensure that third-country nationals applying for an authorisation to reside and work in Malta are fully aware of the nature of their prospective employment and the conditions related to it. Indeed, applicants are requested to provide a signed employment contract upon the submission of their application for a work/residence permit. This requirement has proved to be crucial evidence for the prosecution in three major cases of labour trafficking.
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| | | <ul style="list-style-type: none">✓ The Minister for Foreign Affairs and Trade Promotion, in January 2019 signed the instrument of ratification for the 2014 Protocol to the 1930 Forced Labour Convention and Convention No. 144 of 1976 promoting tripartism and social dialogue at the national level by guaranteeing the involvement of employers and workers organisations at each stage of ILO's standards-related activities. The new protocols establish the obligations to hinder forced labour, protect victims and provide them with access to remedies and emphasises the link between forced labour and trafficking in persons, including sex trafficking.✓ For the purpose of offering a holistic approach to assist victims of human trafficking encountered in Malta Government continues to allocate additional funds. There has been an increase in resources by the government's social welfare agency Appogg, this included a social worker dedicated solely to assisting victims, accommodation for the victims, provision of daily living needs – these included food supplies, toiletries etc. Appogg, also assisted victims in the process of obtaining residence permits and work permits immediately after they were discovered by the authorities. Moreover, new additional state run facilities are now available in order to accommodate victims of human trafficking in safe shelters.✓ Malta signed a two-year Memorandum of Understanding with the British High Commission in Malta which secures collaboration between the two countries on the management of anti-trafficking strategies, preventive measures and the strengthening of support mechanisms available to victims of human trafficking. The agreement was signed in December 2018 and will expire in December 2020. It is facilitating training to personnel as well as the sharing of best practices on awareness-raising and other measures aimed at preventing human trafficking.✓ It should also be noted that during this reporting period, the Ministry for Home Affairs and National Security and the Parliamentary Secretariat for Reforms, Citizenship and Simplification has launched a residence scheme known as the Specific Residence Authorisation. The said scheme will give the opportunity to rejected asylum seekers who (i) have been in Malta for a period exceeding five years, and (ii) could not be returned to their country of origin, to obtain a two-year renewable residence permit. The scheme will facilitate the reintegration of these migrants into the Maltese society and lessen the vulnerability and risks of trafficking faced by this category of migrants. |
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- ✓ In 2019, the Government of Malta has engaged in discussions with the Philippine Overseas Labour Office in Rome in order to reduce the risks of labour trafficking in the immigration process of Filipino workers. The discussions included the Ministry for Foreign Affairs and Trade Promotion, Identity Malta, the Police, Jobsplus and the Department of Industry and Employment Relations.
- ✓ Moreover, two new labour laws came into effect on the 1st January 2019. Subsidiary Legislation 452.115 – Annual Leave National Standard Order sets clear procedures on the cancellation of leave, special leave, the accrual of leave during maternity leave and the payment of the leave balance in case of termination of employment. It also increases the obligations of employers in instances of forced leave.
- ✓ Subsidiary Legislation 452.116 – Itemised Payslip Regulations requires employers to issue payslips to employees on a monthly basis. Payslips issued to employers should include the number of hours worked, number of hours worked at overtime rates and leave balances, amongst others. Failure to abide by these conditions will subject employers to a fine. The new law will facilitate the collection of data by national enforcement bodies, mainly the Malta Police Force and the DIER, during the investigation of potential cases of labour trafficking.

The above-mentioned new legislation aim to facilitate the collection of data by national enforcement bodies, mainly the Malta Police Force and the DIER, during the investigation of potential cases of labour trafficking.

- ✓ In addition, a Procedure for the Inspection of Illegally Staying and Illegally Employed Third Country Nationals and the Monitoring of Third Country Nationals enrolled in Educational Establishments Regulations, 2019 published on 4 June 2019 by virtue of Legal Notice 112 of 2019. By virtue of this Legal Notice, a new Reporting Unit was set up within Identity Malta Agency with a view to inspecting the illegally staying and illegally employed third-country nationals. This is possible in accordance with the Minimum Standards on Sanctions and Measures Against Employers of Illegally Staying Third Country Nationals Regulations (S.L 217.14 of the Laws of Malta) and the monitoring of Third Country Nationals enrolled in educational establishments.

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| | | <ul style="list-style-type: none"> ✓ The Government of Malta also celebrated the EU Anti-Trafficking Day (18th October) among primary schoolchildren in collaboration with NGO Cross Cultural International Foundation Malta. The event marked the end of an awareness campaign for children aimed at (i) reducing the chances of child trafficking among the children, and (ii) increasing the students' awareness on different forms of human trafficking. Students were given free merchandise at the end of the event with the slogan 'Freedom is not negotiable' printed on them. ✓ The Parliamentary Secretary for Reforms, Citizenship and Simplification together with the Legal Aid Agency organised training on human trafficking to all legal aid lawyers in March 2019 and was delivered by a lawyer who has broad experience in the field. ✓ Also a two-day training seminar was organised for labour inspectors and employment officers employed by the Department of Employment and Industrial Relations and Jobsplus respectively between the 5 – 6th March 2019. The training was delivered by the UK's Gangmasters and Labour Abuse Authority (UK) in March 2019. The training dealt mainly with the exploitation at the place of work. The trainees were given specific training on interviewing potential victims of human trafficking. ✓ In January 2019 The National Commission on Domestic Violence organised a five-day intensive training on human trafficking provided by the London-based International Centre for Parliamentary Studies (ICPS). The training focused on the four Ps of human trafficking: prevention, protection, prosecution and partnership. It brought together a vast range of stakeholders representing government departments and non-government organisations. The list of participants included representatives of the Police Vice Squad, the Police Immigration Office, Appogg, DIER, Identity Malta, Jobsplus, the Office of the Attorney General, officials of the primary health service and the Genitourinary Clinic. Representatives of non-government organisations Dar Merhba Bik, Women's Rights Foundation and Victim Support Malta also attended the training. ✓ In January 2018 all the officials of the Expatriates Unit and the Central Visa Unit within Identity Malta Agency were provided professional training to recognise signs of human trafficking. As the entities responsible of issuing residence permits and visas respectively, the employees have been trained to (i) look out for signs of human trafficking, (ii) deal |
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with vulnerable individuals who could potentially be subjected to exploitation, and (iii) refer the case to the pertinent authorities in the shortest time possible. The training provided to the Identity Malta employees was made compulsory for 48 employees working in both units of the Agency. The training was provided by a representative of the UK's National Crime Agency.

- ✓ A study visit to the UK was organised in October 2019 and it was attended by professionals working at the Foundations for Social Welfare Services and the Police Victim Support Unit. The visit concentrated on victim support provided by the UK Home Office and the Gangmasters and Labour Abuse Authority as well as non-government organisations Hestia and the Salvation Army. The representatives of the Maltese government visited safe houses run by these organisations to have a better understanding of their operation, issues encountered by victims, the support available to them and the procedures in place. They also met Unseen UK which run the modern slavery helpline and help potential victims access the relevant support services.
- ✓ Training on human trafficking was provided to Air Malta's pilot and cabin crew instructors in December 2019. The training was provided by a British immigration expert and the course content is in line with the Guidance on Human Trafficking published by the International Air Transport Association (IATA). Other sessions with the national airline's members of the cabin crew are being planned for 2020.
- ✓ In July 2019 the then Minister for Foreign Affairs and Trade Promotion Carmelo Abela announced that Malta had expressed its intentions with the United Nations Office on Drugs and Crime to join the Blue Heart Campaign. On the 30th July 2019, a number of landmark buildings in Malta and Gozo were lit up in blue to mark the World Day Against Trafficking in Persons.
- ✓ Identity Malta, the government's agency responsible for the immigration process, introduced a new requirement in 2016 applicable to all third-country labour migrants. Persons applying for a residence permit to work in Malta must present a signed employment contract at application stage. Through such requirement, applicants will be fully aware of the nature of their employment and the employment conditions before leaving the country of origin. Information about the working conditions held by Identity

		<p>Malta has proved to be crucial in the investigations and court proceedings, particularly in proving an element of fraud or deceit.</p>
<p>Strengthen their efforts to discourage demand for the services of trafficked persons, for all forms of exploitation, in partnership with civil society and the private sector</p>		<p>Article 248F of the Criminal Code penalises any person who engages in or make use of the different services or labour defined in the said law with the knowledge that the person providing the service has been trafficked. Such act is punishable by 18 months to 5 years' imprisonment.</p> <p>The same article also punishes the acts of aiding, abetting or instigating any human trafficking offence by the same punishment laid down for the offence aided, abetted or instigated.</p> <p>The Government of Malta has organised a national education campaign on human trafficking aimed at reducing the occurrence of human trafficking in the country. The campaign Human, Like You was launched in July 2019 and it targets (i) potential victims of human trafficking, and (ii) the public who could be making use of goods and services provided by victims of exploitation. The campaign focuses on the three existing forms of trafficking in Malta, sex trafficking, labour exploitation and domestic servitude. The Government's plan is to make the initiatives of the campaign available on a permanent basis to the public.</p> <p>The national education campaign launched the following initiatives between July and December 2019:</p> <ol style="list-style-type: none"> i. A new website in six different languages – trafficking.gov.mt - was set up to share the experiences of victims of human trafficking and promote a detailed list of indicators of human trafficking. One of the experiences featured a Maltese victim of prostitution to emphasise the fact that there are Maltese citizens who at risk of exploitation. ii. New television commercials on human trafficking were produced and aired on the three most popular television stations, including the national broadcaster. The adverts featured three monologues featuring three employers who share information on the way they treat their subordinates; a construction worker, a domestic worker and a dancer in an entertainment establishment. iii. Different social media platforms to share knowledge on the different forms of human trafficking by means of statistics, stories, infographics and other interactive information.

	<p>iv. A drama performance for secondary education students which engages the audience and uses the concept of hot seating. Students have the opportunity to interview each character and discuss human trafficking in detail. The project was organised by the Drama Unit within the Ministry for Education who will be organising different sessions of the performance for different secondary students.</p> <p>v. The publication of a book for primary students authored by renowned author Trevor Zahra. The project was designed following consultation with the IOM who worked on a very similar project in Finland. The book features the story of a number of fairy-tale characters who experienced different ordeals, including deceit and exploitation. An adults' guide was published together with the book in order to assist teachers and parents help the readers. The National Literacy Agency has been engaged in this project in order to organise story-telling sessions and distribute copies of the book in all year-four classes of state and non-state schools.</p> <p>vi. A photographic exhibition on human trafficking organised as part of the annual Notte Bianca events. Malta's leading media houses were invited to make photographic submissions on different forms of human trafficking. Thousands of members of the public who visited the Office of the Prime Minister on the day had the opportunity to learn more on the subject through the photographic displays by the Malta Independent and Maltatoday.</p> <p>vii. Information on human trafficking was also disseminated by means of adverts in newspapers, online news portals and the social media. Four billboards promoting the campaign's messages were set up in Malta and Gozo.</p> <p>viii. An informative session to the members of the Malta Girl Guides provided by a Maltese human rights expert. The MGG introduced a new guide badge to each member who attends the session in the future. The badge shows the campaign logo.</p> <p>All the information being disseminated by the campaign gives prominence to the national support line 179. The professionals running this service were briefed about the campaign and the information being disseminated to the public on the type of support available to potential victims of human trafficking.</p> <p>The Government of Malta allocated funds in Budget 2020 to be used for the extension of the campaign, mainly the provision of multi-language promotional material to all third-country labour</p>
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		<p>migrants obtaining an authorisation to work in Malta, an experience van to raise awareness on the danger faced by street-based prostitutes, signs in public areas and promotional material to be distributed in households.</p> <p>✓ The Parliamentary Secretariat for Citizenship, Reforms and Simplification has invested €39,000 in a support programme aimed to help thirteen inmates who engaged in prostitution. The funds were granted to local non-government organisation Dar Hosea who runs a shelter for victims of prostitution. The organisation's support workers are holding frequent sessions inside the Corradino Correctional Facility to help beneficiaries consider alternative ways of living away from prostitution. The initiative is aimed to lessen the chances of re-exploitation of these individuals. The funds were also used by Dar Hosea to improve the facilities at the shelter.</p> <p>In Budget 2020 the Government allocated funds for the setting up of the first-ever exit programme to help vulnerable individuals who seek to quit prostitution.</p>
<p>ensure that the procedure for the identification and referral to assistance of child victims of trafficking takes into account the special needs and circumstances of children, through developing a specific referral mechanism for children</p>		<p>A referral system is currently in place however plans are in hand to develop a system specific to child victims of trafficking.</p>
<p>ensure that child victims of trafficking benefit from the assistance measures provides for under the Convention, including appropriate accommodation and access to psychological support and legal assistance</p>		<p>Legislative and administrative provisions are already in place to provide for such assistance. Appogg Agency has increased the number of units to accommodate victims of THB substantially.</p>
<p>establish in law the minimum duration of the recovery and reflection period at 30 days, during which time it is not possible to remove the victim or potential victim of trafficking from the country's territory</p>		<p>It should be noted that the Regulation 3 of the 'Permission to reside for victims of trafficking or illegal immigration who cooperate with the Maltese authorities', transposed into Subsidiary Legislation 217.07, regulates the conditions for the granting of a permit for victims of trafficking is in line with the provisions of Council Directive 2004/81/EC of 29 April 2004, which it transposes. It should also be noted that the reflection periods are not issued for less than 30 days, in line with the recommendation.</p>

<p>introduce as an aggravating circumstance the offence of human trafficking committed against a child, regardless of the means used</p>	<p>Malta has a title in our Criminal Code specifically dealing with Human Trafficking which covers sex trafficking as well as labour exploitation of men, women and children. Part 2 Subtitle VII BIS is entitled 'Of Traffic of Persons' and it was introduced into our criminal Code (Chapter 9 of the Laws of Malta) on the 9th April 2002 by virtue of Clause 50 of Act III of the year 2002, covering provisions 248A till 248G. A number of these provisions have been subsequently amended by other Legal Notices and or Acts the most recent one being Act XXVIII of 2016. As with regards a clause dealing with force, fraud and coercion in the case of child sex trafficking, article 248A(2) enlists the means used including the use of force, fraud or coercion, apart from indicating the irrelevance of consent of the victim to submit themselves to the trafficking conditions. It is not specific to child sex trafficking but it is applicable thereto in general terms in the same way as it would apply to any form of trafficking with regards to any age or gender of victim. The only clear distinction between the trafficking of minors and adults in our law is that if any such means are used in the case of child trafficking the punishment awarded will be higher (Article 248D proviso). Migrant smuggling is dealt with under another provision and is dealt with separately to these offences. Article 337A in the General provisions applicable to Part 2 of the Criminal code (chapter 9 of the laws of Malta) criminalizes the smuggling of human beings which is a distinct provision from that of human trafficking, although the definition of vulnerable victim as well as other subsidiary laws are applicable to both victims of human trafficking and smuggling in the same way.</p> <p>As already mentioned above, Malta has laws against slavery or the exploitation of women in prostitution by means of force, fraud and coercion and this by virtue of Articles 248A(1)(2)(3), 248B continuing up until article 248DB of the Criminal code as well as Article 248E, the latter of which lays down the definition of human trafficking. All these provisions fall under the title on trafficking of persons so if they are prosecuted under these provisions they would be considered as forms of trafficking. Apart from these provisions we find the White Slave Traffic Ordinance (chapter 63 of the laws of Malta) which deals with sexual exploitation and the criminalization of pimping as well as the loitering for the purpose of prostitution and the running of a brothel and other related activity, as well as Chapter 452 of the laws of Malta entitled the Employment and Industrial Relations Act which deals with the breach of labour law legislation. The offence of solicitation or patronizing of sex traffic victims of any age to perform a sexual act is criminalized under a separate title and provision in the criminal code but it is not drafted to specifically address victims who were or are actually trafficked. This offence is dealt with under articles 204 till 205 as well as articles 208 till 208AA all falling under Part II sub-title 3 of the Laws of Malta entitled 'of sexual offences' of the Criminal Code (Chapter 9). Having said that though articles 208AC lays down a number of aggravations to these provisions which include a situation of vulnerability. This automatically</p>
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		refers to a definition of vulnerable victim which is indicated under the proviso to Article 208AC. Moreover article 208B mentions the applicability of article 248E(4) and (6) which fall under the title of Human trafficking but which deal with corporate liability and the exemption of criminalization of criminal acts committed by victims under compulsion and hence the avoidance of secondary victimization.
develop a comprehensive and coherent statistical system on measures to protect and promote the rights of victims as well as on the investigation, prosecution and adjudication of human trafficking cases		It would be appreciated if a clarification were to be given in relation to the objectives of this proposal.

Part III - Statistics on THB

14. Please provide the following statistics, **per year starting with 2016**, where available disaggregated as indicated below:

Number of presumed victims and identified victims of THB in the sense of having been recognised by a state institution or mandated NGO as bearers of rights to services provided for by the Convention (with breakdown by sex, age, nationality, form of exploitation, internal or transnational trafficking, and body which identified them).		No presumed victims were encountered during the reporting period. For a list of victims according to police data <i>vide</i> table 1 attached
Number of victims of THB identified as part of the asylum procedure (disaggregated by sex, age, nationality, form of exploitation).		The Office of the Refugee Commissioner does not collect data relating to Trafficking in Human Beings as this does not feature among the reasons why an international protection application may be filed or among the reasons why an application may be positively considered.

<p>Number of victims of THB who received assistance (disaggregated by sex, age, nationality, form of exploitation, internal or transnational trafficking).</p>		<p>Appogg Agency In 2017 Appogg had 28 victims, in 2018 Appogg assisted 48 victims and in 2019 Appogg assisted 44 victims of THB (Jan-June 2019). Therefore, since 2017, Agency Appogg assisted 120 victims.</p> <p>All victims experienced transnational trafficking.</p> <p><i>Vide</i> table 2 attached</p>
<p>Number of child victims of THB who were appointed legal guardians.</p>		<p>No child victims were referred to Appogg Agency during the reporting period.</p>
<p>Number of victims of THB granted a recovery and reflection period (disaggregated by sex, age, nationality, form of exploitation).</p>		<p>Identity Malta, following a decision to this effect by the Police, issued seven new residence permits to victims of human trafficking as per Subsidiary Legislation 217.07. All the cases were related to labour exploitation and involve 5 Filipino nationals, three men and two women, in one single case as well as one Egyptian man and another Indian man in two other separate cases.</p>
<p>Number of victims of THB granted a residence permit, with an indication of the type of the permit and its duration (disaggregated by sex, age, nationality, form of exploitation).</p>		<p>Identity Malta issued seven new residence permits to victims of human trafficking as per Subsidiary Legislation 217.07. All the cases were related to labour exploitation and involve 5 Filipino nationals, three men and two women, in one single case as well as one Egyptian man and another Indian man in two other separate cases.</p>
<p>Number of persons given refugee status or subsidiary/complementary protection on the grounds of beings victims of THB (disaggregated by sex, age, nationality, form of exploitation).</p>		<p>The Office of the Refugee Commission does not compile this data as human trafficking is not, per se, one of the reasons why an international protection applicant may be granted international protection.</p>

Number of victims of THB who claimed compensation, who were granted compensation and who effectively received compensation (disaggregated by sex, age, nationality, form of exploitation, with an indication of whether the compensation was provided by the perpetrator or the State, and the amount awarded).		N/A
Number of victims of THB who received another form of financial support from the State, with the indication of the amount received.		N/A
Number of victims of THB who received free legal aid		Information is not available.
Number of victims of THB who were returned or repatriated to/from your country (disaggregated by sex, age, country of destination, form of exploitation).		N/A
Number of investigations into THB cases (disaggregated by type of exploitation, with an indication of the number of victims concerned).		2016 – 1 case (labour exploitation) – 31 victims 2017 – 2 cases (one labour and one sexual exploitation) - 4 victims 2018 – 4 cases (labour exploitation) and 1 case (sexual exploitation) – 36 victims 2019 – 2 cases (labour exploitation) – 0 victims
Number of prosecutions in THB cases (disaggregated by type of exploitation, with an indication of the number of victims and defendants concerned).		2016 – 1 case (labour exploitation) -31 victims and 4 defendants 2017 – 1 case (same as above) - 5 victims and 4 defendants 2018 – 3 cases (same as above) – 34 victims and 10 defendants 2018 – 1 case (sexual exploitation) – 1 victim and 2 defendants 2019- none
Number of convicted perpetrators of THB (disaggregated by sex, age, nationality, form of exploitation).		3 convicted persons in 2019 two males and a female Male – 38 yrs – Indian – Slavery Male, 41 yrs – Hungarian sexual exploitation Female 36 years – Hungarian sexual exploitation

Number of convictions for THB, with an indication of the form of exploitation, whether the victim was adult or child, the type and duration of the penalties, and whether they were effectively enforced or suspended.		Slavery – victim was adult and sentenced to 2 years imprisonment and 5,000 Euro. Sexual exploitation two Victims both adults. Both accused sentenced to 12 years imprisonment plus 847.11 euros court fees each and a five-year protection order for all victims delivered 22.11.2019. Judgement has been appealed.
Number of judgments in THB cases resulting in the confiscation of assets.		1 judgement
Number of convictions of legal entities for THB.		N/A