

Committee of the Parties
to the Council of Europe Convention
on Action against Trafficking in Human Beings



CP(2024)07

**Report submitted by the authorities
of Malta
on measures taken to comply with
Committee of the Parties Recommendation
CP/Rec(2021)06 on the implementation
of the Council of Europe Convention
on Action against Trafficking in Human Beings**

Third evaluation round

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**Final Report on Recommendation CP/Rec(2021)06 on the implementation of the
Council of Europe Convention on Action against Trafficking in Human Beings by
Malta**

Adopted at the 29th meeting of the Committee of the Parties on 17 December 2021

List of Abbreviations

- AG- Attorney General
- AWAS- Agency for the Welfare of Asylum Seekers
- CJLAWG- Criminal Justice and Legislative Amendments Working Group
- EASO- European Asylum Support Office
- FIAU – Financial Intelligence Analysis Unit
- FCID – Financial Crime Investigations Department
- FSWS- Foundation for Social Welfare Services
- GMU- Gender Mainstreaming Unit
- HRD- Human Rights Directorate
- HRIU – Human Rights Initiatives Unit
- IARU- Intercultural and Anti-Racism Unit
- IPA- International Protection Agency
- MEYR- Ministry for Education, Sport, Youth, Research and Innovation
- MFE- Ministry for Finance and Employment
- MFH- Ministry for Health
- MFJ- Ministry for Justice
- MHSR- Ministry for Home Affairs, Security, Reforms and Equality
- MIVC- Ministry for Inclusion, Voluntary Organisations and Consumer Rights
- MMC- Malta Migrants Commission
- MSPC- Ministry for Social Policy and Children's Rights
- OAG – Office of the Attorney General
- OSA – Office of the State Advocate
- PDPI- Policy Development and Programme Implementation
- SOGIGESC- Sexual Orientation, Gender Identity, Gender Expression and Sex Characteristics Unit

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| <p>1. Ensure the provision of information to presumed victims of human trafficking in asylum reception centres and immigration detention centres, including by developing and disseminating information materials on the rights of victims of trafficking, the services and assistance measures available and how to access them, and ensuring access to interpretation</p> | <p><u>Ministry for Health:</u></p> <ul style="list-style-type: none"> • Migrant Health Liaison Office • Primary HealthCare <p><u>Ministry for Social Policy and Children's Rights:</u></p> <ul style="list-style-type: none"> • Foundation for Social Welfare Services | <p><u>MFH</u>- The Migrant Health Liaison Office participated in the EQUAL Project led by APPOGG. This involved sessions on Human trafficking and dissemination of leaflets to migrants.</p> <p><u>FSWS</u>- As of last year (2022) workers from the Human Trafficking Services organized information sessions on human trafficking. The session included:</p> <ul style="list-style-type: none"> • Understanding the term of human trafficking (including labour exploitation, sexual exploitation, online grooming and trafficking in intimate relationship) • Learn more about their rights • Learn about the services available for them within the Maltese Island. <p>Sessions were held with the assistance of cultural mediators provided by AWAS to be delivered in a language that attendees could understand.</p> <p>Sessions were held at Hal Far Family Centre, Hal Far Tent Village and Dar il-Liedna.</p> <p>Sessions within the open centers are held where inhabitants are informed of their rights as workers, and they are provided with information on the services that they can access. There is also the use of interpreters for these session with the help of AWAS as well as leaflets disseminated in 11 languages in open centres, health centres, etc. A major issue is that many victims are afraid of courts, police, and authorities. Debriefing sessions are also offered after court. Another major difficulty is that the workers are often asked where the court procedure stands, and this is information they would not have.</p> |

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| | <p data-bbox="631 225 1021 331"><u>Ministry for Home Affairs, Security, Reforms and Equality:</u></p> <ul data-bbox="689 373 1003 778" style="list-style-type: none"> <li data-bbox="689 373 947 440">• Human Rights Directorate <li data-bbox="689 448 1003 515">• International Protection Agency <li data-bbox="689 523 1003 624">• Agency for the Welfare of Asylum Seekers <li data-bbox="689 632 853 667">• Identitá <li data-bbox="689 675 1003 710">• Malta Police Force <li data-bbox="689 718 958 778">• Victim Support Agency | <p data-bbox="1070 225 1946 515"><u>MHSR</u>- All persons admitted to an Immigration Detention Centre are provided with a detailed information booklet, which is available in several languages. Furthermore, each person is screened by medical professionals immediately upon admission. Medical screening comprises an assessment of possible ill treatment or torture. In these circumstances a report is filed with the Police, provided the person in question gives his or her consent.</p> <p data-bbox="1070 557 1946 1070">The Agency for the Welfare of Asylum Seekers (AWAS), which manages Open Reception Centres and has a presence within all migrant centres, has an Assessment Team, which is responsible for the screening of asylum seekers for vulnerability. As part of this assessment process, individuals are screened for potential involvement in human trafficking cases. The assessments are voluntary and primarily focus on undocumented migrants. Those migrants who are identified as potential victims are referred to appropriate entities. Moreover, AWAS has established a central referral system. This system ensures that any NGO, AWAS Service, or international organisation that encounters a vulnerable individual or someone in need is directed to a designated contact point where their service needs can be identified.</p> <p data-bbox="1070 1112 1946 1219">Professionals within AWAS have benefited from Human Trafficking Training provided by the European Asylum Support Office (EASO).</p> <p data-bbox="1070 1260 1946 1406">AWAS has also actively engaged in various round-table discussions organised by the Foundation for Social Welfare Services-Aġenzija Appoġġ, as part of the All-Equal project. This initiative aims to support victims of human trafficking.</p> |

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| | | <p>AWAS has also implemented several measures to prevent migrant and asylum-seeking women and children from becoming victims of criminal activities such as trafficking and exploitation. Notably, AWAS now has a gender-specific Welfare Officer within the Initial Reception Centres. This officer provides hospital and health support, with a particular focus on single mothers and pregnant women. Additionally, AWAS conducts sessions in its centres to provide information about services that assist in addressing past traumatic situations, along with raising awareness about the threats posed by labour trafficking and human trafficking for sexual exploitation. These sessions are facilitated by the Foundation for Social Welfare Services in collaboration with AWAS and the Correctional Services Agency, under the coordination of the Human Rights Initiatives Unit within the Human Rights Directorate. The design of these sessions is rooted in the understanding that knowledge is pivotal in combating human trafficking. The sessions target marginalized groups, including migrants, homeless individuals, and those working in the sex industry.</p> <p>AWAS has also initiated awareness and support efforts through the Migrants Advisory Units, which offer information about support structures, processes, NGOs, and available counselling. Additionally, AWAS provides counselling groups and outreach services to female beneficiaries through both NGOs and AWAS's own Psychosocial Team, composed of Assistant Psychological Officers, Counsellors, and Psychologists.</p> <p>Moreover, the International Protection Agency (IPA), which is responsible for first-instance asylum determination, refers presumed victims of human trafficking through the</p> |

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| | | <p>national referral mechanism, which includes Agenzija Appogg among other entities. These entities provide information and support.</p> <p>Interpretation Services are available throughout these processes.</p> <p><u>AWAS</u>- A screening process occurs on reception of all beneficiaries and training of staff to assist is carried out.</p> <p><u>HRD</u>- During 2022, MHSR, through HRD, submitted to DG Reform (responsible for the TSI-Technical Support Initiative programme) the HRD project now known as “23MT16 - First Step: Online Pre-departure Integration Measures.” HRD submitted this project to be provided with an evidence-based study to support the introduction of this new stage of integration governance within the upcoming second national integration strategy and action plan. In fact, pre-departure integration measures were included in the integration governance framework proposed in the integration public consultation, held in June 2023, and the development was met with positive feedback. The second integration policy is currently being drafted.</p> <p>The European Commission contracted IOM to implement the project with HRD. The public launch event of the project was held at Dar l-Ewropa on 27/7/2023, with the participation of the Hon. Parliamentary Secretary for Reforms and Equality, the Hon. Parliamentary Secretary for EU Funds, the EU Representative in Malta, Mr Hart for IOM, and HRD. The project’s Steering Committee has already met following the launch, and IOM is currently seeing to the first deliverables, including recruitment. The project will run till the end of</p> |

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| | | <p>2024, with tailor-made recommendations on the delivery of services which meet the national interest and the Maltese context. The project will map existing legislation, policy and services, through deep engagement with key national authorities and others, analysis of best practice abroad, and deliver the afore-mentioned recommendations and options to the Maltese authorities.</p> <p>Pre-departure integration measures target only persons already in the legal processes of departure, and will not seek in any way to attract/recruit workers to Malta who are not already in the processes run by other MT authorities. Well organised pre-departure integration measures, including language and vocational training as well as civic orientation and skills assessment, provide potential legal migrants with knowledge and skills that can contribute to their effective integration after arrival and enable them to create the necessary connections with the communities that welcome them. Moreover, such a harmonized approach will help prospective foreign workers make informed decisions on whether foreign employment is right for them, and equip current workers with information about labour and migration related laws, red flags related to trafficking, socio-cultural norms and practices and advice to succeed in their workplaces.</p> <p><u>VSA</u> – A National support line 116 006 for Victims of THB has been launched in March 2023</p> |

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| <p>2. Make efforts to guarantee effective access to compensation for victims of human trafficking, in line with Article 15 (4) of the Convention, including by:</p> | | |
| <p>i. Ensuring that the collection of evidence about the harm the victim has suffered, including the financial gain from the exploitation of the victim, is part of the criminal investigation, with a view to supporting compensation claims in court</p> | <p><u>Ministry for Health:</u></p> <ul style="list-style-type: none"> • Migrant Health Liaison Office • Primary HealthCare <p><u>Ministry for Home Affairs, Security, Reforms and Equality:</u></p> <ul style="list-style-type: none"> • Malta Police Force | <p><u>MFH</u>- The Migrant Health Liaison Office includes this statement in the training given to health and social care professionals.</p> <p><u>MHSR</u>- The provision of specialised training to all officers within the Police Force dealing with the investigation of THB cases has always been accorded its due importance. In recent years, training has also been provided specifically to address the financial aspect of the offence, as the financial aspect may deliver a significant blow to the operations of the offender.</p> <p>The Police Force will be investing further in human resources to deal with organised crime, including human trafficking.</p> <p>During 2024, specialised training on THB will be provided to the Malta Police Force.</p> |

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| <p>ii. Enabling victims of trafficking to effectively exercise their right to compensation, by ensuring access to legal assistance and free legal aid</p> | <p><u>Ministry for Social Policy and Children's Rights:</u></p> <ul style="list-style-type: none"> • Foundation for Social Welfare Services <p><u>Ministry for Home Affairs, Security, Reforms and Equality:</u></p> <ul style="list-style-type: none"> • Human Rights Directorate • International Protection Agency • Agency for the Welfare of Asylum Seekers • Identitá • Malta Police Force • Victim Support Agency • Working Group (CJLAWG) <p><u>Ministry for Justice:</u></p> <ul style="list-style-type: none"> • Legal Aid Agency | <p><u>FSWS</u>- As part of the services provided by FSWS, social workers refer their service users to the needed services, including legal help. Service users are assisted to access such services and even accompany them to legal advisors if necessary. Legal advice is provided by in house lawyers.</p> <p><u>MHSR</u>- The Victim Support Agency will continue to raise awareness on Victims' Rights and support victims in accessing their rights.</p> <p>At the Police end, victims of crime are informed of the possibility to obtain compensation from perpetrators. Information is given about the services provided by the Victim Support Unit, as well as NGOs.</p> <p>CJLAWG – The Working Group, set up in June 2023, has found that no compensation from perpetrators has been granted to victims of THB.</p> <p><u>Office of the State Advocate</u>- This does not fall within the remit of the Office of the State Advocate.</p> <p><u>Legal Aid Agency</u>- has embarked to issue calls for specialized legal aid lawyers for victims of crime (thus including victims of trafficking), in order to provide the appropriate legal assistance to initiate any proceedings necessary and defend victim rights appropriately. The specialised panel of lawyers</p> |

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| | <p><u>Civil Society:</u></p> <ul style="list-style-type: none"> Malta Migrants Commission (MMC) | <p>for victims of crime would start functioning as from 1st January 2024.</p> <p>NGOs such as the <u>MMC</u> offer free legal advice, but they cannot provide free legal services. There are other civil society organisations that also offer free legal representation even if it is a challenge for NGOs to match the demand for legal aid and services.</p> |
| <p>iii. Building the capacity of lawyers to support victims in claiming compensation</p> | <p><u>Ministry for Justice:</u></p> <ul style="list-style-type: none"> Legal Aid Agency | <p><u>Office of the State Advocate</u> - This does not fall within the remit of the Office of the State Advocate.</p> <p><u>Legal Aid Agency</u>- is in the process of building its capacity in order to be able to expand its services across diverse legal aid needs. This exercise is not intended only for victims of human trafficking, but they will also benefit from it as a result of an increase in the number of trained lawyers that can assist these special victims.</p> <p>However, it is noted that in a questionnaire carried out last year (2022) by the FSWS Human Trafficking Service to past and current service users it was noted that not many were aware about the right for compensation.</p> |

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| <p>iv. Including compensation in training programmes for judges and prosecutors, encouraging them to use all the possibilities the law offers to uphold compensation claims by victims of human trafficking and requiring courts to state, where applicable, why compensation is not considered</p> | <p><u>Ministry for Justice:</u></p> <ul style="list-style-type: none"> • Legal Aid Agency • Department of Justice • Office of the State Advocate • Office of the Attorney General • Court Services Agency | <p><u>Office of the State Advocate</u> - This does not fall within the remit of the Office of the State Advocate.</p> <p><u>MFJ</u>- The training of judges lies within the remit of the Judicial Studies Committee.</p> <p>Under the Maltese legal system, the Office of the Attorney General has purely a prosecutorial function and is not involved in obtaining compensation for victims under S.L. 9.12. However, when charging suspects with human trafficking offences, the Office of the Attorney General routinely writes in the charge sheet that should the accused be found guilty, the provisions of Articles 15A and 28H of the Criminal Code (which deal with compensation pursuant to a finding of guilt) should apply. Prosecutors within the Office of the Attorney General are well aware of this.</p> <p>It is worth explaining that Maltese law contains various compensation mechanisms. Articles 15A and 28H of the Criminal Code apply only against the accused persons and only if the accused persons are found guilty. However, under S.L. 9.12, compensation is payable if the Claims Officer considers the claim justified irrespective of whether anyone is accused or found guilty. This renders S.L. 9.12 a form of application of automatic state liability. Moral damages are also available, albeit capped. Furthermore, victims always have the option to file an ordinary civil case for damages. In those cases, damages are uncapped. Finally, should victims consider it necessary, they can always claim a violation of human rights and file a claim before the competent court.</p> <p>The Office of the Attorney General considers it necessary to</p> |

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| | | <p>point out:</p> <p>First, that the way the recommendation is worded almost means that courts should automatically uphold compensation claims. Given that the basic function of a court is to decide upon claims brought before it, requiring a court to automatically uphold a claim essentially means that the court is robbed of discretion and consequently, the matter need not be decided by a court and could be decided by a civil service functionary;</p> <p>Second, it is worth noting that Maltese law generally requires courts to give reasons for their decisions, whether such decisions uphold or reject claims of whatever nature.</p> <p><u>Court Services Agency</u> - Training of the judiciary, is specifically catered for by the Judicial Studies Committee with training in various subjects including Human Trafficking and compensation of victims in general.</p> |
| <p>v. reviewing the legislation to allow the use of confiscated assets to secure compensation to victims of human trafficking</p> | <p><u>Ministry for Home Affairs, Security, Reforms and Equality</u></p> <p><u>Ministry for Justice:</u></p> | <p><u>MHSR</u>- A working group led by the Human Rights Directorate (HRD) has been establish with a view to proposing required legislative amendments. Work is presently ongoing.</p> <p><u>Office of the State Advocate</u> - The Office of the State Advocate has not been asked to review this.</p> |

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| | <ul style="list-style-type: none"> • Legal Aid Agency • Department of Justice • Office of the State Advocate • Office of the Attorney General • Court Services Agency | <p><u>Office of the Attorney General</u> - Maltese legislation relative to proceeds of crime stipulates that once assets are confiscated, they become property of the State. This is the Proceeds of Crime Act (Chapter 621 of the Laws of Malta), which provides for the taking of property of the guilty party by order of the competent authority that deprives said guilty party of title, for no compensation.</p> <p>Under Subsidiary Legislation 9.12, compensation is payable by the State, and one does not enter into where the State gets the money. <u>Compensation under S.L. 9.12 does not depend on a finding of guilt.</u> Were it to be otherwise, one could end up saying that a victim would be compensated if the guilty party has a lot of property to be compensated, but left without compensation if the guilty party is not particularly well off.</p> <p>Furthermore, pursuant to a finding of guilt, Articles 15A and 28H of the Criminal Code come into effect, following which the guilty party is bound to pay compensation to the victims to the amount and in the manner stipulated in the finding of guilt. <u>Compensation under these articles of the Criminal Code depends on a finding of guilt.</u></p> <p>It is thus clear that Maltese law caters for various scenarios and does not exclude compensation in the case a person is found not guilty. Additionally, other avenues for compensation include an ordinary civil case for damages (<i>culpa aquiliana</i>) as well as moral damages if one sues the</p> |

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| | | <p>State and the State is found culpable.</p> <p>Therefore, it may not be necessary to review legislation in this regard. Rather, emphasis should be placed on informing the legal profession in Malta of the possibility of filing claims under Subsidiary Legislation 9.12.</p> <p>Maltese law speaks of compensation and not where that compensation comes from. If a perpetrator is found guilty, their assets will be confiscated by the state and then the compensation comes from the state- this prevents the issue of victims getting less compensation if their perpetrator was not well-off or had no assets.</p> |
| <p>vi. removing the maximum limit of €10,000 of compensation for moral damages</p> | <p><u>Ministry for Home Affairs, Security, Reforms and Equality</u></p> <p><u>Ministry for Justice</u></p> <ul style="list-style-type: none"> • Office of the Attorney General • Office of the State Advocate • Department of Justice | <p><u>MHSR</u>- A working group led by the HRD has been established with a view to proposing required legislative amendments. Work is presently ongoing.</p> <p><u>OSA</u> - The Office of the State Advocate has not been asked to consider this amendment.</p> <p><u>OAG</u>- With reference to implementation, the capping of €10,000 is referred to in Article 1045(1) of the Civil Code, under which compensation is to be payable by the person responsible. However, a distinction should be made with respect to the maximum of €23,300 payable in compensation that can be applied for and payable by the State (under Subsidiary Legislation 9.12) which is not limited to moral damages.</p> |

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| | | <p><u>Department of Justice</u> - Should a violation of human rights under the Constitution of Malta and the European Convention on Fundamental Rights be found, no capping on the amount which may be awarded is imposed at law.</p> |
| <p>vii. reviewing the eligibility criteria for state compensation with a view to making it available to all victims of trafficking when the offence was committed in Malta, regardless of their nationality and residence status, and ensuring that it is not conditional on failure to obtain compensation from the perpetrator. This should involve reviewing Article 4, paragraph 3, and Article 11 (b) of S.L. 9.12. The eligibility or amount of state compensation should not be affected by the failure of the victim to inform the authorities of the crime or to co-operate with them or by his/her conduct, character or way</p> | <p><u>Ministry for Home Affairs, Security, Reforms and Equality:</u></p> <ul style="list-style-type: none"> • Human Rights Directorate (Legal Unit) • International Protection Agency • Agency for the Welfare of Asylum Seekers • Malta Police Force • Victim Support Agency • Criminal Justice and Legislative Amendments Working Group (CJLAWG) | <p><u>MHSR</u>- A working group led by the HRD has been established with a view to proposing required legislative amendments. Work is presently ongoing.</p> <p><u>HRD Legal Unit</u>- In June 2023, the Criminal Justice and Legislative Amendments Working Group (CJLAWG) was established within the structure of the Inter-Ministerial Committee (IMC). Its initial task, as set out by the IMC Chair, was to initiate discussions on the urgent GRETA Recommendations which must be addressed through legislative amendments. The HRD Legal Unit led these discussions and draft Legal Notice was initially compiled through a collaborative effort between the HRD Legal Unit and MHSR. These drafts were then circulated to all CJLAWG members and feedback was provided, in terms of the legal principles of the legislation and the wording itself. The scope of this draft Legal Notice would be to serve as recommendations by the CJLAWG (and thus the IMC) to the relevant ministry and Monitoring Committee.</p> <p>S.L. 9.12 has been at the centre of discussions since the inception of the CJLAWG. The proposals related to:</p> |

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| <p>of life. Further, the limit of €23,300 should apply to one victim, and not to a group of victims (paragraph 83)</p> | | <ol style="list-style-type: none"> 1. Making it available to all THB victims when the offence was committed in the jurisdiction of Malta, irrespective of their nationality or residence status; 2. Rendering inapplicable the criteria in Art. 10 paragraphs (a), (b), (d), (e) and (g) and Art. 11 paragraphs (b) and (e) of S.L. 9.12 in cases of THB; and 3. Making the €23,300 limit applicable to each claimant not each claim relating to the same crime. <p>The first and third proposals have been agreed to by most members of the CJLAWG, and are now being analysed from the financial impact aspect.</p> <p>Regarding the second goal, no consensus could be reached within the CJLAWG as to whether these criteria should be rendered inapplicable. Thus, the amendments relating to this goal were removed from the Legal Notice.</p> <p><u>CJLA Working Group</u> found the Criminal Injuries Compensation Scheme Regulations, Subsidiary Legislation 9.12, provides for state compensation. The aim is to remove some of the eligibility criteria as recommended by GRETA, however the scheme should not simply be a box ticking exercise and some evaluation is required. Such an amendment would have to be applied to all victims of crime and not just trafficking victims.</p> <p>There was no objection within the CJLA working group to propose the removal of the 23000-euro limit for compensation applicable per claim and making this limit per applicant.</p> |

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| | <p><u>Ministry for Justice:</u></p> <ul style="list-style-type: none"> • Legal Aid Agency • Department of Justice • Office of the State Advocate • Office of the Attorney General • Court Services Agency | <p><u>Legal Aid Malta</u> reported that no legal advice or representation was provided to any THB victims and there have been no claims for compensation. If claims have arisen from Court, Legal Aid Malta is not aware of this.</p> <p><u>Office of the State Advocate</u> - Some of these recommendations are being discussed during the Anti-Trafficking Inter-Ministerial Committee. The Office of the State Advocate has not been asked to review Regulation 4(3) of Subsidiary Legislation 9.12.</p> <p><u>MFJ</u>- This recommendation is being discussed within the working group relative to legal matters within the Anti-Trafficking Inter-Ministerial Committee.</p> <p><u>Department of Justice</u>- An IMC on Victim Statutory Compensation including THB was set up 2021. Research tasks were assigned to a third-party. The Department will be providing feedback on the recommendations and suggestions when it has more visibility.</p> <p><u>Office of the Attorney General</u>- The AG has never had a claim for compensation from a victim of human trafficking listed. The AGs office can only inform advocates and other legal entities in order to be informed of the claims to compensation, however the AGs office cannot take action without claims.</p> <p>It is being recognised that there is a need to make all legal practitioners aware of this avenue of compensation. In relation to a claim to compensation the AG is the claims officer. Legislative amendments are necessary to ensure that</p> |

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| | | <p>compensation is awarded at a maximum of 23,000 per applicant. Compensation is not dependent on the finding of the perpetrator being found guilty by the Court.</p> <p>Under Subsidiary Legislation (S.L.) 9.12, the Attorney General is the Claims Officer, who, according to law, “<i>shall determine awards and payments of compensation.</i>”</p> <p>This bestows upon the Attorney General in his role as Claims Officer a quasi-judicial role. Should a claim have instead been brought before a court of civil jurisdiction, the claimant would have to prove damage suffered and would have to provide the best possible evidence. It is also a principle of civil law that the person suffering damage, insofar as possible, has the obligation to minimise damage suffered. Generally speaking, Maltese law and case-law on civil damages speaks of <i>damnum emergens</i> (actual damage suffered) and <i>lucrum cessans</i> (loss of earnings or income or of the ability to earn or derive income as a result of the damage suffered). After assessing the evidence before it, including the evidence provided by the opposing side, the court would accept or reject the claim, in whole or in part, and would give reasons for so doing.</p> <p>One must consider that when a claim is filed before the Attorney General as Claims Officer, there is no opposing side. Only one side is heard. Given that the Attorney General as Claims Officer is effectively acting as a court which liquidates damages, it is only logical that the Attorney General as</p> |

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| | | <p>Claims Officer should have the same kind of unfettered discretion which a court would have. Were it not so, one would not need the Attorney General to be Claims Officer. One would not even need the Claims Officer to be an experienced lawyer or even a lawyer at all. In the absence of discretion, the whole exercise would be reduced to a box-ticking exercise and quasi-automatic payment of compensation.</p> <p>S.L. 9.12 acknowledges the quasi-judicial role of the Attorney General as Claims Officer when it allows him to ask for additional evidence in addition to the basic documentation which the law requires to be submitted. It makes sense that if the claimant is claiming physical harm, medical examination should take place to quantify the harm suffered, and if necessary, to quantify any disability suffered in percentage form. Furthermore, the Attorney General as Claims Officer is empowered to seek all relevant information as to the circumstances of the case. Only in that way can the Attorney General as Claims Officer be truly satisfied that a claim is properly substantiated. After all, were a claim to be filed before a court, a court would also seek to be enlightened as to the full picture and evidence submitted by both sides would be subject to scrutiny by the other side. In the absence of this, a court, and by extension, the Attorney General as Claims Officer, would be abdicating his duty.</p> <p>One must also recall that in awarding compensation, the</p> |

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| | | <p>Attorney General as Claims Officer is handling public funds. One must be extremely responsible with handling public funds and must provide reasoned decisions in relation to compensation which reassure the Accountant General that the use of public funds for compensation was done after the claim was meticulously examined according to the criteria set out at law. The recommendations in the first column call for most of the criteria to be dropped.</p> <p>The proposed amendments to S.L. 9.12 rob the Attorney General as Claims Officer of most of his discretion and reduce the compensation exercise to a box-ticking exercise. It would essentially mean that the quasi-judicial function of the Attorney General as Claims Officer could not be exercised as a court would exercise it, meaning after examining the matter in its fullness. The proposed amendments essentially state that the matter should not be examined in its fullness.</p> <p>It is worth noting that under Article 91 of the Constitution of Malta, the Attorney General, in the exercise of his functions according to law (thus including functions under S.L. 9.12), shall be constitutionally independent and shall not be subject to direction or control by any person or authority. The proposed amendments to S.L. 9.12 thus run counter to the Constitution of Malta as they effectively rob the Attorney General of discretion granted by the Constitution. One cannot have discretion granted by the Constitution of Malta (Malta's highest law) but removed by subsidiary legislation.</p> |

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| | | <p>For these reasons, the Office of the Attorney General disagrees with this recommendation but agrees that the amount should be adjusted to allow for €23,300 to each victim in the case of a plurality of victims in one instance.</p> |

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| <p>3. Introduce as an aggravating circumstance the offence of trafficking in human beings committed against a child, regardless of the means used (paragraph 88)</p> | <p><u>Ministry for Home Affairs, Security, Reforms and Equality:</u></p> <ul style="list-style-type: none"> • Human Rights Directorate (Legal Unit) • Malta Police Force • Victim Support Agency • Criminal Justice and Legislative Amendments Working Group (CJLAWG) <p><u>Ministry for Justice:</u></p> <ul style="list-style-type: none"> • Legal Aid Agency • Department of Justice • Office of the State Advocate • Office of the Attorney General • Court Services Agency | <p><u>MHSR</u>- A working group led by the HRD has been established with a view to proposing required legislative amendments. Work is presently ongoing.</p> <p><u>HRD Legal Unit</u>- Further to what was stated in the response on the state of implementation relating to Recommendation 2(vii), the CJLAWG also addressed certain amendments to the Criminal Code. The initial draft bill, compiled by the HRD Legal Unit and MHSR and circulated to all CJLAWG members, proposed to amend Art. 248D of the Criminal Code to introduce as an aggravating circumstance the offence of THB against minors irrespective of the means used. It also proposed that whenever any of the means mentioned in Art. 248A(2) are used, the punishment shall be increased by two degrees.</p> <p>Consensus was reached within the CJLAWG regarding this amendment, and also with regard to including a definition of minors (under 18 years of age) within Art. 248D and referring to this definition whenever minors are referred to in the THB related provisions of the Criminal Code, such as Art. 248DB.</p> <p><u>Office of the State Advocate</u> - This recommendation is being discussed within the working group relative to legal matters within the Anti-Trafficking Inter-Ministerial Committee.</p> <p><u>MFJ</u>- This recommendation is being discussed within the working group relative to legal matters within the Anti-Trafficking Inter-Ministerial Committee.</p> <p>The Office of the Attorney General is in agreement with the proposal to amend Article 248D of the Criminal Code to this effect.</p> |

| GRETA Recommendation | Sources | State of Implementation |
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| <p>4. Take measures to strengthen the criminal justice response to human trafficking and ensure that human trafficking cases lead to effective, proportionate and dissuasive sanctions, including by:</p> | | |
| <p>i. providing regular training to judges, members of the Attorney General’s office and police officers on trafficking in human beings and the rights of victims, and encouraging the development of specialisation amongst prosecutors and judges to deal with human trafficking cases</p> | <p><u>Ministry for Social Policy and Children's Rights:</u></p> <ul style="list-style-type: none"> • Foundation for Social Welfare Services <p><u>Ministry for Home Affairs, Security, Reforms and Equality:</u></p> <ul style="list-style-type: none"> • HRD / IPA / AWAS • Identitá • Malta Police Force • VSA | <p><u>FSWS</u>- Representatives from the Human Trafficking Services provide training to police cadets focusing on sexual exploitation.</p> <p><u>HRIU, HRD</u>- The HRIU has been receiving training to be able to assist other stakeholders requiring training to officers and entities as part of the implementation stage of the strategy. Training on capacity building, focusing on the operational and training tools are being also planned.</p> <p>During the implementation phase of the TSI project, it is envisaged that national budgets would be tapped for training projects for continuity and sustainability of the project. In fact, the TSI project objectives include training in 2024 as part of the national strategy focused on the setting up of the national independent structures and referral mechanism.</p> <p><u>MPF</u>- Training by CEPOL and further internal training on THB has taken place. During 2024 plans for independent training for the MPF are underway. via The New National Action plan shall include training in 2024 as part of the national anti-trafficking strategy.</p> <p><u>MHSR PDPI</u>- border guards have received human trafficking-related training.</p> |

| <i>GRETA Recommendation</i> | <i>Sources</i> | <i>State of Implementation</i> |
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| | <p data-bbox="692 188 987 220"><u>Ministry for Justice:</u></p> <ul data-bbox="741 264 1039 371" style="list-style-type: none"> <li data-bbox="741 264 1039 296">• Legal Aid Agency <li data-bbox="741 300 1039 371">• Office of the Attorney General | <p data-bbox="1122 225 1995 855"><u>MFJ</u>-The Office of the Attorney General has held and periodically holds training sessions for all prosecutors relative to THB in all its aspects. Furthermore, a number of prosecutors are specialised in the field and there is scope for further specialisation should the need arise. This is also applicable to prosecutors who are specialised in other specific offences and are given specialised training. Some training is held in-house and other training is held through training opportunities abroad. Training is planned and allocated to prosecutors through a training manager within the Office of the Attorney General. Additionally, a specialised library is also found on the premises of the Office of the Attorney General which allows prosecutors to carry out research in their own time on matters related to their specialised area.</p> <p data-bbox="1122 906 1995 986">The Office of the State Advocate has no role in providing training in this area.</p> <p data-bbox="1122 1037 1995 1101">Training of the judiciary lies within the remit of the Judicial Studies Committee.</p> <p data-bbox="1122 1152 1995 1216">A new TSI Project was kicked off on the 31 of October 2023 which includes the AGO, MFJ and OSA.</p> |

| <i>GRETA Recommendation</i> | <i>Sources</i> | <i>State of Implementation</i> |
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| <p>ii. strengthening the proactive investigation of cases of all forms of human trafficking, including internal trafficking, regardless of whether a complaint about the reported crime has been submitted or not, making use of special investigation techniques in order to gather evidence and not having to exclusively rely on the testimony by victims</p> | <p><u>Ministry for Health:</u></p> <ul style="list-style-type: none"> • Migrant Health Liaison Office • Primary HealthCare <p><u>Ministry for Social Policy and Children's Rights:</u></p> <ul style="list-style-type: none"> • Foundation for Social Welfare Services <p><u>Ministry for Home Affairs, Security, Reforms and Equality:</u></p> <ul style="list-style-type: none"> • Human Rights Directorate • International Protection Agency • Agency for the | <p><u>MFH</u>- The Migrant Health Liaison Office has built a good working relationship with APPOGG (the entity in social care working in human trafficking) and liaise accordingly on such matters. When cases of suspected human trafficking are identified at Mater Dei Hospital (MDH), MDH social workers liaise with APPOGG regarding investigation and provision of further support to involved individuals.</p> <p><u>FSWS</u>- Whenever a case of human trafficking is identified by our service, we encourage the victims to collaborate with the police and offer to accompany them during their interviews with the police.</p> <p>Cases in which the person refuses to report to the police but from the assessment we deem that there is risk to self or others, cases are flagged to the Malta Police Force.</p> <p>In collaboration with the Community Police and the Sex Work Support Programme, outreach activities were also being held in the Marsa and Hamrun area to identify any potential cases of sexual exploitation, reach out to potential victims and inform them about our services.</p> <p><u>MHSR</u>- All Police officers dealing with THB investigations will be provided with ad hoc training recommended by the Council of Europe group of experts with a view to bolster the proactive capabilities of the Force with respect to THB investigations. In particular, such training will focus on special investigative techniques relating to victimless investigations. Such an approach would also reduce dependence, but not necessarily do away with, the need for victim testimony.</p> |

| GRETA Recommendation | Sources | State of Implementation |
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| | <p>Welfare of Asylum Seekers</p> <ul style="list-style-type: none"> • Identitá • Malta Police Force • Victim Support Agency • Criminal Justice and Legislative Amendments Working Group (CJLAWG) <p><u>Ministry for Justice:</u></p> <ul style="list-style-type: none"> • Office of the Attorney General | <p><u>MPF</u>- plans are underway to collaborate with EUROJUST. Collaboration with FCID regarding investigations and training occurs across the board. In the future they aim to join investigation units such as the CID.</p> <p><u>CJLAWG</u>- Consensus has been reached within the CJLA Working Group regarding the amendments to the Criminal Code recommended by GRETA that the offence of human trafficking relating to minors should be an aggravated circumstance irrespective of the means with an increase in one degree. When the means described in Art. 248A of the Criminal Code are present it should be increased by two degrees.</p> <p>Through the TSI project there have been discussions on the best implementation of the national referral system and that this will be included in the next national action plan.</p> <p><u>MFJ</u>- A BILL 78/2023 entitled ‘AN ACT to further amend the Criminal Code, Cap. 9 and to make provision with respect to matters ancillary thereto’, is pending before Parliament. Parliament of Malta - Criminal Code (Amendment No 9) Bill (parlament.mt). The objects and reasons of Bill are to further provide for the protection of victims of sexual offences who are minors including through the non-prosecution or the exemption from punishment of victims who are minors for acts which they were compelled to committing the context of sexual offences and child prostitution, and to provide increased protection to vulnerable witnesses when they make declarations to the police or give evidence in a court of criminal judicature.</p> |

| GRETA Recommendation | Sources | State of Implementation |
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| | | <p><u>Office of the Attorney General</u>- Internal and external training and collaborations have taken place to exchange best practices on these matters and to ensure that prosecutors and police can work better together. The AG has an Anti-THB strategy, which involves a collaboration with the police to find all the information required and to analyse the claims to understand and identify these and ensure the prosecution presents all information to the police.</p> |
| <p>iii. requiring consideration of allocation of specialist financial investigators to every human trafficking case</p> | <p><u>Ministry for Home Affairs, Security, Reforms and Equality:</u></p> <ul style="list-style-type: none"> • Malta Police Force <p><u>Ministry for Justice</u></p> <p><u>Ministry for Finance and Employment:</u></p> <ul style="list-style-type: none"> • Financial Intelligence Analysis Unit (FIAU) | <p><u>MHSR</u>- Police officers working on THB cases have been given, and will be given, further training regarding the financial aspects of the crime of THB. There will be two specialised units within the Vice squad dealing exclusively with THB investigations, and these same units will be given additional specialised training, including in the financial aspects of the crime itself.</p> <p><u>MFJ</u>- The allocation of specialist financial investigators during human trafficking cases is the prerogative of the Court presiding these cases.</p> <p><u>FIAU</u>- Apart from other PPPs with the private and public sectors they decided to collaborate with FAST (UN initiative) and they embarked on this project through a RoundTable discussion that was held in which the financial institutions and authorities (Anti-Trafficking Malta, Police, etc.) Workshops and training also took place and Red Flags were determined that can be used by banks and other private entities to identify indicators.</p> |

| <i>GRETA Recommendation</i> | <i>Sources</i> | <i>State of Implementation</i> |
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| <p>iv. ensuring that the length of court proceedings in cases of trafficking of human beings is reasonable, in line with the case-law of the European Court of Human Rights (related to Article 6, paragraph 1 of the ECHR) and the standards set by the European Commission for the Efficiency of Justice (CEPEJ) (paragraph 106)</p> | <p><u>Ministry for Justice:</u></p> <ul style="list-style-type: none"> • Legal Aid Agency • Department of Justice • Office of the State Advocate • Office of the Attorney General • Court Services Agency | <p><u>OAG</u> - Prosecutors within the Office of the Attorney General act with clarity and no delay.</p> <p><u>The Office of the State Advocate</u> does not play a role in proceedings of a criminal nature. However, the State Advocate would be a defendant before the First Hall of the Civil Court (Constitutional Jurisdiction) if it is alleged that proceedings are not being concluded within a reasonable time.</p> <p><u>MFJ</u> - A number of reforms are currently being implemented in order to improve the overall efficiency of the judicial process. The digitization of justice, the reform in magisterial inquiries and the reform on committal proceedings will all positively impact the length of court proceedings including those related to the trafficking of human beings.</p> <p><u>Court Services Agency</u> - It is the prerogative of the presiding judiciary to appoint the experts and resources as required.</p> |

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| <p>5. Take additional steps to ensure that victims and witnesses of human trafficking are provided with effective and appropriate protection from potential retaliation or intimidation, including by:</p> | | |
| <p>i. avoiding cross-examination in the presence to defendants, and giving preference to testifying through video-conference</p> | <p><u>Ministry for Home Affairs, Security, Reforms and Equality:</u></p> <ul style="list-style-type: none"> • Human Rights Directorate (Legal Unit) • Ministry for Home Affairs, Security, Reforms and Equality: <p><u>Ministry for Justice:</u></p> <ul style="list-style-type: none"> • Legal Aid Agency • Department of Justice • Office of the State Advocate • Office of the Attorney General | <p><u>HRD Legal Unit</u>- Further to what was stated in the response on the state of implementation relating to Recommendations 2(vii) and 3, the CJLAWG also addressed other amendments to the Criminal Code in order to ensure that preference is given to testimony through video-conference.</p> <p>Whilst the initial proposals aimed to amend Arts 391(3), 646(2) and 647A(2) of the Criminal Code to ensure that such provisions are applicable to THB minor victims by rewording the references to age to “eighteen years”, several members of the CJLAWG raised concerns on amending a ‘lex generalis’. Therefore, it was agreed that Art. 248E should be amended (the ‘lex specialis’) by including an explicit reference to these provisions.</p> <p>Consensus was reached within the CJLAWG that Arts 391(3), 646(2) and 647A(2) of the Criminal Code should be explicitly referred to in Art. 248E and thus in all THB cases, all witnesses are to testify through video-conference.</p> <p><u>MFJ</u>- The recommendation to give preference for victims and witnesses of human trafficking to testify through video-conference is being discussed during the anti-human trafficking inter-ministerial committee meetings.</p> <p><u>The Office of the Attorney General</u> - The relevant provisions of the Criminal Code and of the Victims of Crime Act are <u>always</u> applied in order that victims and other vulnerable</p> |

| <i>GRETA Recommendation</i> | <i>Sources</i> | <i>State of Implementation</i> |
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| | <ul style="list-style-type: none"> <li data-bbox="741 188 999 260">• Court Services Agency | <p data-bbox="1122 188 1991 647">persons neither testify nor are cross-examined in the physical presence of accused individuals. Testimony <u>always</u> takes place via video-conferencing from another location in the main Court building, <u>with a separate entrance</u>. Additionally, witnesses are further safeguarded as they are not directly questioned by the prosecution or by the defence. Rather, the prosecution and the defence put the questions to the presiding magistrate, who then puts the questions to the witness and rephrases questions if necessary. A social worker is also present during the testimony of witnesses who testify through such means.</p> <p data-bbox="1122 699 1991 1361">All court halls are equipped with video-conferencing facilities. Amendments to the criminal code mean that the first preference for witnesses is via video conferences, however it is also up to the discretion of the witness could request to be present in the court. This request is also reliant on the discretion of the court to ensure the safety and the protection of the victims. Victims are not cross examined in front of the perpetrator and when asked to identify the perpetrator will do so via a screen in the room to be able to point them out. There is also a ban to the publication of any names involved in the case. No court has ever or will ever deny these protections. This ensures that victims are fully protected during criminal proceedings. No witness in a trafficking case has ever requested to testify viva voce as opposed to via video conferencing. There has never been a case where a victim has been treated badly by a court. Training still occurs nonetheless to ensure that this remains the case.</p> |

| GRETA Recommendation | Sources | State of Implementation |
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| | <p data-bbox="689 523 994 592"><u>Ministry for Health /</u> <u>Ministry for Justice</u></p> | <p data-bbox="1120 188 2000 520"><u>CJLAWG</u>- In terms of the issue of video conferences this is being worked on by the working group to seek more clarification in its application in cases when the age of minors to under 18. The Law currently already provides for such protective measures to all minors (under 18s). The amendment to the Criminal Code so that all witnesses are able to testify through video conference is being discussed in view that by virtue of the Victims of Crime Act, video conferencing has already been happening.</p> <p data-bbox="1120 560 2000 703"><u>MFH/MFJ</u> - Reference is being made to the Bill 78/2023 which is pending before Parliament addressing additional protection afforded to minors. Parliament of Malta - Criminal Code (Amendment No 9) Bill (parlament.mt)</p> <p data-bbox="1120 743 1518 778">Abstract from Bill 78/2023:</p> <p data-bbox="1120 818 2000 1038">Article 646 of the Criminal Code shall be amended as follows: (a) in the second proviso to sub-article (2) thereof, the words "is a minor under sixteen years of age" shall be substituted by the words "is a minor under eighteen (18) years of age"; and (b) immediately after sub-article (3) thereof there shall be added the following new sub-article:</p> <p data-bbox="1120 1078 2000 1409">Consequential amendment to the Police Act. Cap. 164. 8. Sub-article (1) of article 55 of the Police Act shall be substituted by the following new sub-article: Objects and Reasons The objects and reasons of this Bill are to further provide for the protection of victims of sexual offences who are minors including through the non-prosecution or the exemption from punishment of victims who are minors for acts which they were compelled to commit in the context of sexual offences and child prostitution, and to provide</p> |

| <i>GRETA Recommendation</i> | <i>Sources</i> | <i>State of Implementation</i> |
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| | <p data-bbox="689 1075 1061 1145"><u>Ministry for Social Policy and Children's Rights:</u></p> <ul data-bbox="748 1187 1016 1292" style="list-style-type: none"> <li data-bbox="748 1187 1016 1292">• Foundation for Social Welfare Services | <p data-bbox="1120 188 1989 293">increased protection to vulnerable witnesses when they make declarations to the police or give evidence in a court of criminal judicature.</p> <p data-bbox="1120 331 1989 699">"(3A) An audio-visually recorded interview or statement of a minor, of any victim of a sexual offence, or of any vulnerable victim or witness made in accordance with sub-article (4) of article 346 shall be admissible as evidence: Provided that where the person so interviewed or who makes the statement gives evidence viva voce as a witness before a court during a trial, the said evidence shall be given by video conference from a place other than the courtroom where the trial is being held and shall be recorded by audio-visual means."</p> <p data-bbox="1120 740 1989 1187">The Consequential amendment to the Police Act. Cap. 164 (1) Any minor, or victim of a sexual offence, or vulnerable victim or witness shall have the said interview and any statement made by them recorded by audio-visual means when interviewed by the police in the course of an investigation: Provided that for the purposes of this sub-article, any audio-visually recorded interview or statement shall be admissible as evidence in any trial before a court of criminal judicature concerning the offence to which it relates and the provisions of sub-article (3A) of article 646 of the Criminal Code shall apply to viva voce evidence given by such person during the trial."</p> <p data-bbox="1120 1225 1989 1369"><u>Agenzija Appoġġ</u>- Sometimes a case does not qualify as a human trafficking case but there are still signs of vulnerability, so the person still needs to be provided with care for their specific needs.</p> |

| <i>GRETA Recommendation</i> | <i>Sources</i> | <i>State of Implementation</i> |
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| <p>ii. building the awareness of all actors in the criminal justice system on how to avoid revictimisation and stigmatisation of victims of human trafficking, as well as prioritising the rights, needs and interests of victims (paragraph 120)</p> | <p><u>Ministry for Health:</u></p> <ul style="list-style-type: none"> • Migrant Health Liaison Office • Primary HealthCare <p><u>Ministry for Home Affairs, Security, Reforms and Equality:</u></p> <ul style="list-style-type: none"> • Agency for the Welfare of Asylum Seekers • Identitá • Malta Police Force • VSA <p><u>Ministry for Justice:</u></p> <ul style="list-style-type: none"> • Legal Aid Agency • Department of Justice • Office of the State Advocate • Office of the Attorney General • Court Services Agency | <p><u>MFH</u>- Training to health and social care professionals which is presently being delivered by the Migrant Health Liaison Office</p> <p><u>MHSR</u>- As regards stigmatisation, Police officers involved in THB investigations benefit from years of experience and are quite capable of showing the right degree of empathy and concern to these very vulnerable victims of crime. Moreover, key stakeholders such as Aġenzija Appoġġ are called upon to assist where alternative accommodation is needed, while the Victim Support Agency provides further assistance to victims.</p> <p><u>MFJ</u>- Victims of THB may testify in court by means of video conferencing. The investigating officer may also request from the magistrate to require the defence counsel to carry out counter-examination of the victim or victims on the same day that they testify in court. Training to prosecutors within the Office of the Attorney General already includes these aspects. The prosecution also ensures that victims testify at the very start of proceedings, and insofar as possible tries to limit their testimony to one sitting. Judges and magistrates are extremely co-operative in that they are willing to rearrange schedules to accommodate sittings during which witnesses are examined and cross-examined, which sittings often take rather a long time.</p> |

| <i>GRETA Recommendation</i> | <i>Sources</i> | <i>State of Implementation</i> |
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| | <p data-bbox="692 778 1061 852"><u>Ministry for Social Policy and Children's Rights:</u></p> <ul data-bbox="748 890 1016 995" style="list-style-type: none"> <li data-bbox="748 890 1016 995">• Foundation for Social Welfare Services | <p data-bbox="1122 229 1995 730">The provisions of the Criminal Code and of the Victims of Crime Act ensure that victims testify via video-conferencing (thus not in the presence of the accused). The prosecution and the defence conduct their questioning of the witnesses not directly, but through the presiding magistrate. The presiding magistrate then puts the question to the witness either as stated or rephrases it should it be inappropriate or otherwise poorly-worded. This avoids attempts by the defence to engage in victim-blaming and thus prioritises the rights, needs, interests and overall wellbeing of victims. It is worth stating that some members of the Maltese judiciary are specialised in this area.</p> <p data-bbox="1122 785 1995 858">NGOs also conduct important work to ensure that such awareness is created across the board.</p> <p data-bbox="1122 944 1995 1273"><u>FSWS</u>- Service users are provided social work support and counselling (should they require) during the court procedures. When necessary, we also facilitate communication with legal advisors and police. During the actual court hearing, the social workers accompany the victims to support them during their testimony and on most occasions a debriefing session is offered following the court session as such session can trigger lots of negative emotions and possible re-traumatization in recollecting the events.</p> |

| GRETA Recommendation | Sources | State of Implementation |
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| <p>6. Review the Criminal Code with a view to ensuring that all child victims of human trafficking, including children older than 16, are afforded special protection measures (paragraph 140)</p> | <p><u>Ministry for Social Policy and Children's Rights:</u></p> <ul style="list-style-type: none"> • Foundation for Social Welfare Services <p><u>Ministry for Home Affairs, Security, Reforms and Equality:</u></p> <ul style="list-style-type: none"> • Human Rights Directorate (Legal Unit) • International Protection Agency • Agency for the Welfare of Asylum Seekers • Identitá • Malta Police Force • Victim Support Agency | <p><u>FSWS</u>-No referrals from human trafficking to child protection or child protection to human trafficking have been made. If either one encounters a minor, they will work the case jointly.</p> <p><u>MHSR</u>- A working group led by the HRD has been establish with a view to proposing required legislative amendments. Work is presently ongoing.</p> <p><u>HRD Legal Unit</u>-Further to what was stated in the response on the state of implementation relating to Recommendations 2(vii), 3, and 5(i), the CJLAWG also discussed the special protection measures with regard to children, insofar as potentially conflicting definitions of minors were concerned.</p> <p>Through discussions within the CJLAWG, it was recognised that the Victims of Crime Act is applied in all cases where there are THB victims. Notwithstanding, it was agreed that in order to ensure clarity and coherence of the law, the provisions of Arts 391(3), 646(2) and 647A(2) of the Criminal Code are to be rendered applicable in all THB cases.</p> <p>Additionally, clarifications were made as to who is considered a minor under Art. 248D so that any references to minors within a THB context leave no room for interpretation and that a minor is always considered to include all persons below the age of 18 years, notwithstanding any other age assigned to the term 'minor' in any other provision.</p> <p>Consensus was reached within the CJLAWG on all of the above proposals.</p> |

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| | <p><u>Ministry for Justice:</u></p> <ul style="list-style-type: none"> • Legal Aid Agency • Department of Justice • Office of the State Advocate • Office of the Attorney General • Court Services Agency <p><u>Civil Society Organisations:</u></p> <ul style="list-style-type: none"> • Malta Migrants Commission (MMC) | <p><u>MFJ</u>- This recommendation is being discussed within the working group relative to legal matters within the Anti-Trafficking Inter-Ministerial Committee.</p> <p><u>The Office of the Attorney General</u> - There is a difference between affording special protection measures – which affects all areas of victims’ lives – and introducing the commission of the act of trafficking on minors as an aggravating circumstance – which is already done.</p> <p>In any case, the Criminal Code (with specific reference to Articles 412C and 382A of the said Code) and the Victims of Crime Act are used to the fullest extent by prosecutors within the Office of the Attorney General. Prosecutors are well aware of and are committed to using the relevant provisions of law to protect victims.</p> <p><u>MMC</u>- With regards to the protection of children there are models on the special protection to minors can be provided. Children should not be detained from the start. Better ways to access funding needs to be explored. Funding is very often project based and there is a need for funding to be continuous since the services are continuous. The Malta Migrants Commission does benefit from Government funding for one of their residences.</p> <p>The MMC were invited with other NGOs in the discussions with authorities to address the necessary services in relation to the number of requests for services and accommodation the Migrants Commission receive.</p> |

| GRETA Recommendation | Sources | State of Implementation |
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| <p>7. Respect the principle of non-refoulement of victims of trafficking (paragraph 174)</p> | <p><u>Ministry for Home Affairs, Security, Reforms and Equality:</u></p> <ul style="list-style-type: none"> • Human Rights Directorate • International Protection Agency • Agency for the Welfare of Asylum Seekers • Identitá • Malta Police Force • Victim Support Agency | <p><u>MHSR</u>- The principle of non-refoulement in relation to victims of human trafficking goes hand in hand with the avoidance of re-victimisation. The Police Force acts within its powers to ensure that during the investigation phase and court proceedings victims are not re-victimised. Moreover, the victim is required to distance himself or herself from the perpetrator to access the benefits emanating from the Permission to Reside for Victims of Trafficking or Illegal Immigration who co-operate with the Maltese Authorities Regulations (SL 217.07).</p> <p>As far as the International Protection Agency is concerned, the principle of non-refoulement applies to all asylum seekers, irrespective of the nature of their claim or profile.</p> <p>Without prejudice to the above, it should be noted that if an application for international protection lodged by a (presumed) victim of human trafficking is subsequently rejected, the person concerned is subject to return to his/her country of origin or habitual residence.</p> <p><u>Identitá</u>- Regarding the process for the application of a residence permit if you are a victim of trafficking there is no specific time frame in which the application must be processed, but the permit is then granted for 6 months and can be renewed. If the principal immigration officer recommends that the person is granted a residence permit as a victim of trafficking, then they are granted that residence permit and have access to work. Victims are also given a 2-month reflection period where the victim is</p> |

| <i>GRETA Recommendation</i> | <i>Sources</i> | <i>State of Implementation</i> |
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| | | <p>allowed time to think if they want to cooperate with the authorities to testify, identify the perpetrator, etc. Third country nationals must provide proof of where they're staying (either lease of payment, or a declaration from someone that they're staying at their place or a declaration from the shelter that they're staying at the shelter). There have been no refusals to victims of trafficking for residents permits since 2020. Moreover, collaboration with Jobsplus occurs for job permits and collaboration with the Malta Police occurs for residents permits.</p> |

| GRETA Recommendation | Sources | State of Implementation |
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| <p>8. Take additional steps to proactively identify victims of trafficking, including by screening asylum seekers, in particular all unaccompanied children, for indicators of human trafficking upon or swiftly after their arrival in Malta, and enabling specialised NGOs to have regular access to facilities for asylum seekers and detained migrants in order to proactively identify victims of trafficking. This involves providing information on the rights of victims of trafficking, the services and assistance measures available and how to access them (paragraph 175)</p> | <p><u>Ministry for Health:</u></p> <ul style="list-style-type: none"> • Migrant Health Liaison Office • Primary HealthCare <p><u>Ministry for Social Policy and Children's Rights:</u></p> <ul style="list-style-type: none"> • Foundation for Social Welfare Services • Office of the Commissioner for Children | <p><u>MFH</u>- This is included in the training to health and social care professionals which is presently being delivered by the Migrant Health Liaison Office. A booklet entitled 'Forewarned' was prepared by the Migrant Health Liaison Office specifically to inform unaccompanied minors and adults on how to avoid situations that can lead to human trafficking: https://healthservices.gov.mt/en/phc/mhlo/Pages/activities.aspx</p> <p><u>FSWS</u>- During the year 2022 and 2023 information sessions were held with migrants (within open centres and in the community) and sessions with female inmates to inform the participants how to avoid falling in the trap of traffickers and to know which are the indicators of human trafficking, especially when they are offered illegal employment. We also provided both the migrants and also the inmates with the information needed on how to access our services for help should they need any support.</p> <p><u>Office of the Commissioner for Children</u>-Detention centres have been visited and there is a lot that can be done but at the same time it is not like a prison. They are behind bars, but the space is quite big. Language barriers remain a large problem. Another issue is that minors are only allowed to watch cartoons which might be unreasonable considering the older minors at the centre. Furthermore, there are difficulties in determining who are minors and who are not. Psychosocial determination takes place to try and figure out the age of the person and until their appropriate age is determined</p> |

| GRETA Recommendation | Sources | State of Implementation |
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| | <ul style="list-style-type: none"> • International Protection Agency • Agency for the Welfare of Asylum Seekers • Identitá • Malta Police Force • Victim Support Agency • Policy Development and Programme Implementation <p><u>Ministry for Finance and Employment:</u></p> <ul style="list-style-type: none"> • JobsPlus <p><u>Civil Society Organisations:</u></p> <ul style="list-style-type: none"> • Malta Migrants Commission | <p>applicant is a victim of human trafficking, for any possible procedural guarantees that might be required. Furthermore, relevant personnel from the International Protection Agency have been trained on the identification of vulnerable applicants, including victims of human trafficking.</p> <p>Without prejudice to the above, it should be noted that the assessment carried out by the IPA is based on readily apparent signs and/or the applicant's oral declarations.</p> <p><u>MHSR, PDPI</u>- There is awareness of human trafficking within the irregular migration/ asylum system, notably within AWAS. So far, however, cases of human trafficking involved persons who entered Malta legally. For all that, human trafficking is taken into consideration in the irregular migration scenario.</p> <p><u>MFE</u>- Jobsplus' inspectors carry out inspections as per the Employment and Training Services Act. However, the inspections are related to breaches of Chapter 594. In cases when inspectors suspect cases of human trafficking, the respective authorities, including the Malta Police Force are notified.</p> <p><u>MMC</u>- There have been efforts to improve access to detention centres. However, visiting children in detention centres and prison is still limited. With regards to children's access to education, guardianship etc. more work needs to be done to address the reality of minors going missing and these may link to organized crime and organized crime networks throughout Europe. Access to detention has been restricted to migrants in detention centres requesting access to legal help only, if they are aware of services available to them. A</p> |

| GRETA Recommendation | Sources | State of Implementation |
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| | <p data-bbox="640 448 1037 555"><u>Ministry for Education, Sport, Youth, Research and Innovation</u></p> <ul data-bbox="689 560 981 632" style="list-style-type: none"> <li data-bbox="689 560 981 632">• National School Support Services | <p data-bbox="1070 188 1946 331">number of NGOs including the MMC asked for access to Detention Centres and it has not been granted. The issue of unaccompanied children remains a problem that needs to be addressed.</p> <p data-bbox="1070 411 1946 632"><u>National School Support Services</u>- When children come to Malta and don't speak Maltese or English there is the educational hub in Naxxar which offers basic Maltese and English (both at primary and secondary level) for a whole year. When they finish the course, they are integrated into the school system.</p> |

Additional Information from the GRETA Round-Table held on the 10th of October 2023

Follow-up to GRETA's 3rd evaluation report and the Committee of the Parties' recommendation concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by MALTA

| <i>Round-Table Agenda</i> | <i>Sources</i> | <i>State of Implementation</i> |
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| Access to justice and effective remedies for victims of THB | | |
| Access to work, vocational training and education | <p><u>Ministry for Social Policy and Children's Rights</u></p> <ul style="list-style-type: none"> • Foundation for Social Welfare Services (FSWS) <p><u>Ministry for Home Affairs, Security, Reforms and Equality</u></p> <ul style="list-style-type: none"> • Human Rights Directorate (HRD) | <p><u>FSWS</u> - language barriers are a massive obstacle that victims face when finding work.</p> <p><u>JobsPlus</u>- Work permit applications are very simple and free of charge for victims of trafficking.</p> |
| Criminal justice response to THB | | |
| Non-punishment provision | <p><u>Ministry for Justice</u></p> <ul style="list-style-type: none"> • Office of the Attorney General | <p><u>Office of the Attorney General</u>- The office of the attorney general does not prosecute all offences. The offences of which victims of trafficking are usually guilty of do not fall within the competence of the office of the attorney general. There are also problems of stigma regarding the attitude held by victims towards the police and authority figures. Eg: the case of a Venezuelan woman who didn't tell the police that she was trafficked because in Venezuela</p> |

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| | | she says the police work against victims. |
| Follow-up issues from previous evaluation rounds | | |
| Measures to prevent and combat THB for the purpose of labour and sexual exploitation | <p><u>Ministry for Finance and Employment</u></p> <ul style="list-style-type: none"> • JobsPlus <p><u>Ministry for Home Affairs, Security, Reforms and Equality</u></p> <ul style="list-style-type: none"> • Human Rights Initiatives Unit (HRIU), Human Rights Directorate (HRD) • Identitá • CJLAWG | <p><u>Jobsplus</u>- There is the issue of the employment of irregular migrants which is illegal. It is also illegal to employ a third country national without the proper permit. With regards to exploitation, Jobsplus monitors infringements. The law keeps the employer liable for any infringements. Unfortunately, many third country nationals who wish to leave a place of work are victims of abuse from employers who benefit from their employment by applying for single permits benefits for example and thus they delay the third country nationals' termination form to continue to benefit. With regards to the employment of minors, anyone caught employing minors can be liable to a fine of up to €5,000.</p> <p><u>MHSR</u>- The newly launched strategy on Gender-Based Violence and Domestic Violence 2023-2028 has included a Measure 1.1 to “Ensure that Maltese legislation sufficiently safeguards victims of gender-based violence (GBV) and domestic violence (DV) and that it is effectively implemented” - specifically Action (k) to “Develop a strategy to address human trafficking, addressing issues related to forced prostitution and exploitation for sexual purposes as a crime”. This is another aspect of the intersectionality principle by which the Trafficking in Persons Reform is being devised. https://www.stopviolence.gov.mt/wp-content/uploads/2023/11/VIOLENCE-STRATEGY-ENG.pdf</p> <p><u>The Human Rights Directorate</u> has been responsible to implement the Government's Electoral Manifesto Measure 665 and Budgetary Measure 377 – namely:</p> <p>To continue the fight against human trafficking through:-</p> |

- a) A National Strategy Against Human Trafficking; and
- b) Legislative Amendments

The Foundation for Social Welfare Services and the Human Rights Directorate entered into an agreement on 16th October 2020 with the objective of creating a new support service for sex workers. This programme is intended to be extended and developed further by Agenzija Apogg to implement the Electoral Manifesto Measures 663 and 664 and develop national actions in line with the Government's targets below to serve as prevention and protection of potential victims or essentially victims of THB for the purposes of sexual exploitation.

Such national actions in line with the electoral manifesto measures, have been taken into consideration in the First National Strategy to combat human trafficking aiming for the introduction of forms of aid to help vulnerable people caught in prostitution and to strengthen this help and develop it in a voluntary professional exit program provided by the state.

Furthermore, the government announced in the October 2023 budget speech that TEMPING AGENCIES would all need to undergo a licensing process and be licensed to operate by June 2024. This means that Malta is taking a step in the right direction in securing a sustainable future in fighting the persistent foreign population growth in Malta while also the persistent labour gap and the need for protection of the vulnerable foreign workers. This law will come into effect by 1st April 2024. <https://timesofmalta.com/articles/view/temping-agencies-licenced-next-april.1068870>

As part of the EU Funded project managed by HRIU, five working groups have been set up to carry out discussions with the agencies and service providers and identify national measures to be included in the next National Action Plan as from 2024

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| | | <p>onwards. The HRD is in its final stages of presenting the FINAL DRAFT document of the first national Strategy against Human Trafficking 2024-2028 and National Action Plan as from 2024 that achieves the necessary balance between enforcement and the protection of victims of human trafficking.</p> <p>Moreover, the Awareness Raising Campaigns carried out, having good responses from all national stakeholders who collaborated with information on helplines to include on social media designs, billboards, website, and published material.</p> <p>During events HRIU gave presentations and met an international survivors group. Insight and experiences from former victims of THB was also sought through research carried out among victims in Malta as part of the current National Action Plan 2020-2023.</p> <p>The HRIU collaborate with all the international organisations and promotes publications, recommendations and events on its website dedicated to the Anti-Trafficking Malta Reform.</p> <p>The budgetary and manifesto measure managed by HRIU also involves national coordination with all stakeholders to ensure their participation in activities and events organised by the Directorate, such as the ones associated with the UN Blue Heart campaign, the EU Anti-Trafficking Day, the World Day Against Child Labour and International Day for the Abolition of Slavery.</p> |
| <p>Assistance to victims (access to shelters, coordination, and funding)</p> | <p><u>Civil Society Organisations:</u></p> <ul style="list-style-type: none"> • Caritas Malta • Malta Migrants Commission | <p><u>Caritas Malta</u>-Some areas are tackled well while other still require work. With regards to women in prosecution especially local persons, Caritas runs a very specialised program for women who have drug problems. Caritas also runs an emergency shelter for people who are roofless. Third country nationals remain very vulnerable to human trafficking especially labour exploitation. Housing for victims of THB in the emergency shelter is an issue</p> |

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| | <p><u>Ministry for Education, Sport, Youth, Research & Innovation</u></p> | <p>since the emergency shelters have a six-week deadline. This is not the ideal environment for victims of trafficking since they need more structure.</p> <p><u>MEYR</u> - One may wish to note that information related to the Migrant Learners' Unit is available on the MLU website and on the MLU Facebook page. As a general note, action being taken in asylum reception centres and immigration detention centres, include initiatives being taken at national level against trafficking in human beings, from an education perspective:</p> <p>The Ministry for Education, Sport, Youth, Research and Innovation (MEYR) takes note that Malta is obliged to take appropriate measures within the education and training field to discourage and reduce the demand that foster all forms of exploitation related to trafficking in human beings. Actions undertaken may include information and awareness raising campaign, as well as research and education programmes.</p> <p>At compulsory education level, the Child Safety Service (CSS) within the National School Support Services (NSSS) within the Ministry for Education, Sport, Youth, Research and Innovation (MEYR) is specialised in dealing with issues of child abuse. It is an educational and therapeutic service which offers help and intervention to students, parents, and members of staff. The Service supports children who are victims of abuse or are at risk of abuse. The CSS's main tasks are: prevention programmes, consultations, monitoring of cases and working collaboratively with other services like the Child Protection Services within the Foundation for Social Welfare Services (FSWS).</p> <p>Furthermore, also at compulsory education level, the Directorate for Quality and Standards in Education (DQSE) within the Ministry for Education, Sport, Youth, Research and Innovation (MEYR) is the entity in charge of reviewing the quality of the educational service provision given in all Primary</p> |
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and Secondary schools in Malta. It caters for all state, church and independent educational institutions. External reviews are conducted in line with published standards which amongst other things list that:

- the school identifies and effectively addresses the different needs of learners;
- and that the school possesses policies which commit stakeholders towards promoting positive behaviour and increase learners' well-being at school in line with relevant policies and legislation.

When reviewing schools, Education Officers (Quality Assurance) make sure that these comply with the relevant standards. Effective compliance to such standards entails that school cooperate effectively with all stakeholders, including the National School Support Services, the Education Psychological Services, the Migrant Learners Unit, Agenzija Appoġġ, and any other agency that may be involved, in making sure that children are being provided with all the services to which they are entitled. The school external reviews include parents and children as important stakeholders. This helps to validate that children and parents who may have been identified as victims of human trafficking are indeed being given the support they require.

Additionally, from an education perspective, at compulsory education level, the fight against trafficking in human beings can be addressed within certain curricula of some subjects like Social Studies, Ethics, Religion and Personal, Social and Career Development (PSCD). Here, it is particularly important to note that during PSCD, learning outcomes include identifying emotionally stressful relationships and how this might affect those in an individual's relationship, how to recognise when others are taking advantage of another person and how to

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| | <p><u>Ministry for Inclusion, Voluntary Organisations and Consumer Rights</u></p> | <p>identify such a situation and describe signs of an abusive relationship.</p> <p>Moreover, at further and higher education level, from a VET perspective, the Malta College of Arts, Science and Technology (MCAST) has actively engaged in awareness activities in the past such as collaborating with an NGO dedicated to this field during MCAST Freshers. Additionally, MCAST has a Well Being Hub with counsellors who are aware about issues emanating from the GRETA recommendations. When necessary, the said counsellors provide guidance and refer individuals to specialised external resources.</p> <p>Further, Malta's further and higher education institutions such as the University of Malta, MCAST and Institute for Education also could be providing information and awareness raising in relation to the fight against THB in a direct or indirect manner in courses being offered from their end.</p> <p><u>MIVC</u> - In relation to the point referred to re 'enabling specialised NGOs to have regular access to facilities for asylum seekers and detained migrants in order to proactively identify victims of trafficking', please note that our Ministry / MCVS has no control on such situation since the respective VOs working in the field deal directly with the Ministries responsible on this issue.</p> |
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| Co-ordination and co-operation | | |
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| Independent National Rapporteur on THB | <u>Ministry for Home Affairs, Security, Reforms and Equality</u> | <u>HRD</u> - The HRD has received several recommendations from International Organisations for the setting up of an independent national rapporteur. It will be publishing the first Anti-Trafficking Strategy and new National Action Plan with specific actions based on these recommendations. |
| Engagement with the private sector | <u>Ministry for Home Affairs, Security, Reforms and Equality</u> <ul style="list-style-type: none"> • Human Rights Initiatives Unit (HRIU), Human Rights Directorate (HRD) | <u>HRIU, HRD</u> - the OSCE recommendations which specifically target due diligence in supply chains have been shared to be adopted by the private sector and businesses. These are regulated by various other national authorities. The technological facilitated human trafficking also required the cooperation of the telecommunication corporations. An event was held in 2022 by OSCE through the Ministry of Foreign Affairs on understanding supply chains and ways to monitor it. However, there is no entity that holds the responsibility for the due diligence on human trafficking yet. Due to limitations with the resources of the HRD the focus has been on the implementation of the NAP and the project leading to the first national strategy while carrying out awareness raising activities to encourage all authorities who are responsible in regulating the private sector to work on due diligence on human trafficking. HRIU has managed to convey the national obligations through its strategic awareness raising campaign involving authorities that regulate the private sector, so they can relay such national obligations to the private sector. More awareness is being raised regarding the importation of products coming from third countries especially those that are made through forced and child labour. The Malta Consumer and Competition Affairs Authority has received information on the relative EU Directives on the subject matter through the Anti-Trafficking IMC. |

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| International co-operation | <u>Ministry for Home Affairs, Security, Reforms and Equality</u> | HRIU, HRD- Malta has strong partnerships in place and is a signatory to most international conventions and will continue to make efforts to implement relevant provisions accordingly, and to make use of Joint Investigation Teams whenever relevant. |
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The Human Trafficking National Reform

Since 2022, the Human Rights Directorate acquired technical expertise to implement the tasks leading to a National Strategy and Action Plan aimed at addressing the wide and complex elements of the crime of Trafficking in Human Beings (THB). Through the initiatives of the Human Rights Initiatives Unit (HRIU), delegated with the responsibility to lead the THB Reform, the necessary mechanisms ex officio for coordination and reporting purposes were set up. The Unit led the TSI project as its main function being project management. It acquired the required expertise through activities and participating in activities held during the year 2022/2023 in support to the finalisation of a draft for the first national Anti-Trafficking Strategy against Trafficking in human beings to be presented to the Monitoring Committee by December 2023. HRD was further awarded technical support from the Council of Europe funded by the EU technical Support Instrument, to implement the Electoral Manifesto Measure Number 665 and the Budgetary Measure Number 377, both referring to the need for a National Strategy to combat human trafficking in Malta, to streamline all ongoing activities as well as recommendations given by European and international agencies.

During 2023, Malta has improved its leadership and prioritisation of human trafficking, as well as streamlined anti-trafficking coordination and communication efforts among ministries. The Initiatives Unit within the Human Rights Directorate facilitated the establishment of a mechanism for national reporting in October 2022, through the **Anti-Human Trafficking Inter-Ministerial Committee (IMC)**. The IMC, chaired by the HRIU, informed its members comprising of representatives from each Ministry on the State's main obligations in preventing the crime of THB, protecting potential and identified victims of crime, the necessary tools to acquire for more effective investigations and prosecutions and partnerships, both on a national and international level. The meetings aimed at fulfilling the Coordination, Reporting and Monitoring functions of the Maltese State emerging from EU Directive 36/2011, the Council of Europe Convention on Action against Trafficking in Human Beings, Warsaw, 16.V.2005 and the United Nations Convention Against Transnational Organized Crime and the Protocols thereto among other international instruments relevant to the Human Trafficking Reform.

This IMC has been set up with focal points from each Ministry in order to identify and implement measurable actions within their purview and collaborating on shared challenges. The Committee focuses on how ministries and departments could improve their coordination in the field of trafficking in human beings: it also serves as an essential tool for Malta's efforts to meet its coordination, reporting and monitoring obligations under European and international frameworks. The Committee is also serving the Technical

Support Instrument (TSI) project being implemented in collaboration with the European Commission and the Council of Europe to set-up the relevant tools and structures and launch the first National Strategy and Action Plan Against Trafficking.

CJLA Working Group

The HRIU has undertaken the initiative of setting up of the **Technical Working Group on Criminal Justice and Legislative Amendments (CJLA)** in June 2023, which is composed of IMC Members and Legal Officers from the Ministry of Home Affairs, Security, Reforms & Equality, the Ministry of Justice and the Ministry of Foreign Affairs to address the necessary legislative amendments in fulfilment of the Budgetary and Manifesto Measure and the recommendations to Malta by the Group of Experts on Action against Trafficking in Human Beings of the Council of Europe (GRETA) concerning Malta's obligation to combat human trafficking as a State Member to the Council of Europe Convention on Action Against Trafficking in Human Beings. The CJLA Working Group convened for the first time on the 19th of June 2023 and held three other consecutive meetings to date, on the 3rd of July 2023, 2nd of August 2023, 5th and 18th of September 2023. During these meetings, discussions focused on the GRETA recommendations and any possible legislative changes which would help Malta combat THB more comprehensively and provide further protection to victims.

FINAL Comments:

Since July 2021, the Human Rights Initiatives Unit has fulfilled the functions of National Rapporteur & National Coordinator delegated to HRD.

It consulted with all the IMC representatives, MHSR (PDPI), IARU, SOGIGESC and GMU and obtained the clearance of the Human Trafficking Monitoring Committee's Chairperson Ms. Joyce Dimech on the 12th December 2023 to submit this report through the Ministry for Foreign and European Affairs and Trade by the 17th December 2023.