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# 2024 Trafficking in Persons Report: Malta

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### MALTA (Tier 2 Watch List)

The Government of Malta does not fully meet the minimum standards for the elimination of trafficking but is making significant efforts to do so. These efforts included establishing a specialized trafficking investigation unit, a specialized anti-trafficking working group to guide coordination, and an additional hotline for victims to receive referrals to services. However, the government did not demonstrate overall increasing efforts compared with the previous reporting period. The government investigated fewer trafficking cases and initiated fewer prosecutions against suspected traffickers. Anti-trafficking training for judges remained inadequate and courts continued to frequently overturn trafficking convictions on appeal for administrative technicalities. Gaps in victim identification persisted and the government did not report identifying any Maltese nationals, asylum-seekers, or undocumented migrants as trafficking victims. For the third consecutive year, the government did not identify any child trafficking victims. The government decreased funding for prevention, continued to lack coordination among ministries, and has never awarded restitution or compensation to any trafficking victims. The government did not report efforts to effectively enforce labor regulations to prevent recruitment fees charged to workers, which increase workers' vulnerability to trafficking. The government did not make concrete efforts to increase oversight and regulation of massage parlors where there was a higher incidence of trafficking indicators. Therefore Malta was downgraded to Tier 2 Watch List.

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## PRIORITIZED RECOMMENDATIONS:

Increase efforts to vigorously and expeditiously investigate and prosecute trafficking crimes. \*

Increase efforts to convict traffickers, including complicit officials, and seek adequate penalties for convicted traffickers, which should involve significant prison terms. \*

Ensure relevant staff and officials proactively identify trafficking victims, including Maltese nationals, especially among vulnerable populations, including children, migrant workers, asylum-seekers, and individuals in commercial sex. \*

Institutionalize victim-centered and trauma-informed anti-trafficking training for front-line officials, police officers, prosecutors, and judges with a focus on the use of psychological coercion and fraud as means of trafficking. \*

Increase cooperation with civil society regarding victim identification, referral, shelter support, and additional victim assistance. \*

Institutionalize mandatory trafficking training for judges to improve understanding and sentencing practices by sensitizing judges to the severity of trafficking crimes and the full range of penalties available. \*

Allow formal victim identification without the requirement to cooperate with law enforcement and by entities other than police including by labor inspectors, asylum case workers, health care professionals, social workers, and NGOs. \*

Improve effective leadership and prioritization of human trafficking, as well as streamline anti-trafficking coordination and communication efforts among ministries. \*

Enact a legal provision to ensure victims are not inappropriately penalized solely for unlawful acts committed as a direct result of being trafficked. \*

Make comprehensive law enforcement efforts to consistently enforce strong regulations and oversight of labor recruitment companies, including by enforcing the law prohibiting recruitment fees charged to migrant workers, and holding fraudulent labor recruiters criminally accountable. \*

Implement license controls and oversight of massage parlors and continue to increase screening for trafficking victims. \*

Increase the use of interpreters when engaging with potential trafficking victims. \*

Improve efforts to proactively inform foreign worker groups of worker rights and responsibilities and victim assistance resources in their native languages. \*

Ensure trafficking victims have consistent early access to free legal aid. \*

Increase awareness of and trafficking survivor access to damages and compensation, regardless of their nationality or residency status. \*

Increase prosecutor awareness of and efforts to systematically request restitution for survivors in criminal trials. \*

Consider removing the maximum limits for compensation and damages and allowing confiscated assets from traffickers to be awarded to victims.

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## PROSECUTION

The government decreased law enforcement efforts. Article 248A-G of the criminal code criminalized sex trafficking and labor trafficking, and it prescribed penalties of six to 12 years' imprisonment. These penalties were sufficiently stringent and, with respect to sex trafficking, commensurate with those prescribed for other grave crimes, such as rape. In 2023, law enforcement initiated nine new investigations, compared with 12 investigations in 2022 and 16 in 2021. Seven investigations were for sex trafficking and two for labor trafficking. Six investigations remained ongoing from prior years. The Attorney General's Office (AG) initiated criminal proceedings against two suspects for labor trafficking in 2023; this was a decrease compared with six prosecutions initiated in 2022. Via an appeal from the AG, the government reported convicting one previously acquitted labor trafficker in 2023, which included a significant sentence; this compared with one conviction for labor trafficking in 2022 and zero in 2021. The government did not report any investigations, prosecutions, or convictions of government employees allegedly complicit in trafficking crimes; however, official complicity in trafficking crimes remained a significant concern.

Perennial issues with rule of law, corruption, slow court proceedings, a backlog of court cases, insufficient judicial resources, and an understaffed police force continued to hamper prosecutions and convictions. Courts continued to overturn trafficking convictions on appeal for administrative technicalities. After the conviction of two traffickers in 2019, courts initially overturned the conviction in 2020 for failure to adhere to court procedure, and in 2023 overturned the conviction a second time because the case was tried in the incorrect court. Courts ultimately upheld the conviction of two traffickers in December 2023, via a plea deal, and sentenced them to significant sentences; an appeal from a third trafficker in a separate case was also upheld, which also included a significant sentence. Experts continued to report judges lacked training on trafficking – specifically psychological coercion as a means of trafficking – resulting in some judges dismissing cases or pursuing crimes with inadequate penalties if physical violence and injuries were not sustained by trafficking victims; experts recommend mandatory and institutionalized training for judges. In its 2021 report, GRETA stressed the government's failure to convict traffickers and the absence of effective, proportionate, and dissuasive penalties undermined efforts to combat human trafficking and victims' access to justice. GRETA also expressed concern, in 2021, about the length of criminal proceedings negatively impacted victims, who could experience re-victimization through repeated confrontations with alleged traffickers. GRETA's 2021 report noted the government lacked specialized judges for trafficking cases and did not pursue financial crime investigations in tandem with human trafficking charges and recommended the government consider addressing both deficiencies.

In October 2023, the government established a specialized human trafficking investigation unit comprising four staff and a backup unit to assist as needed. In October 2021, the AG formally became the main prosecutor for all trafficking cases and took a more direct role in investigations and charges issued; this change alleviated the responsibility of prosecution from police. Coordination between the AG and police was managed through an SOP, allowing prosecutors to lead investigations and interview victims. The government continued to provide trafficking-specific training to police and immigration officials, including to the newly established human trafficking investigation unit on victim identification, best practices for successful prosecutions, evidence-based investigations, and the pursuit of financial crime investigations in tandem with human trafficking. The government did not report providing trafficking-specific training to any judges in 2023 despite sustained concerns related to gaps in judges' knowledge of trafficking crimes. Law enforcement reported one effort to cooperate with EUROPOL on a Joint Action Day in December 2023 where the specialized trafficking investigative unit partnered with immigration authorities to inspect three locations in Malta. While authorities reported screening for trafficking during the operation, they did not report identifying any potential victims; however, they did report arresting five Nigerian women for immigration violations in a location known for commercial sex. Experts encouraged separate inspections for the trafficking investigation unit and immigration authorities, as fear of deportation often deterred potential victims from engaging with law enforcement.

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## PROTECTION

The government maintained insufficient protection efforts. In 2023, *Agenzija Appogg*, a government office within the Foundation for Social Welfare Services (FSWS) that provided national assistance to trafficking victims, identified 16 victims, while police identified two. Of the 18 total victims, police formally identified six trafficking victims and the other 12 victims remained potential victims, this compared with five formal and nine potential victims identified in 2022. Of the 18 total victims, traffickers exploited nine in sex trafficking, three in both sex and labor trafficking, and six in labor trafficking, including one for forced labor, one for forced criminality, and four for domestic servitude. All identified victims were adults (17 women and one male), and foreign nationals. Gaps in victim identification remained, and, in 2023, the government did not report identifying any trafficking victims that were Maltese or among vulnerable populations, including migrant workers or asylum-seekers. For the third consecutive year, the government did not identify any child trafficking victims.

The government had a 2014 NRM and *Agenzija Appogg* continued to utilize its own identification screening tool for trafficking victims who self-identified or were referred by an entity other than the police. In its 2021 report, GRETA noted many front-line officials remained unaware of the NRM, and civil society highlighted a need to ensure wide dissemination of the mechanism for uniform implementation. Government officials expressed reluctance to collaborate with civil society on victim identification. This could have hindered victim identification given long-standing challenges with victims choosing not to speak with law enforcement. The government's lack of cooperation with civil society hampered victim identification among vulnerable populations, including foreign nationals and migrant workers. In its 2021 report, GRETA noted the lack of a multidisciplinary approach to trafficking victim identification and the need for additional personnel resources. Trafficking victims could only be "formally" identified by the police vice squad, a decision that could not be challenged. However, staff from *Agenzija Appogg* could be present during the police assessment interviews. In its 2021 report, GRETA noted that contrary to the NRM, civil society reported official identification of victims was sometimes dependent on the possibility of criminal proceedings against the trafficker. These requirements may have deterred some victims – particularly undocumented migrants – from reporting to law enforcement officers, particularly those partnering with immigration officials, due to fear of deportation.

Immigration police reported systematically screening undocumented migrants upon their arrival using updated guidelines at detention centers. The Agency for the Welfare of Asylum Seekers, together with its vulnerability assessment team, screened asylum-seekers for trafficking indicators with an identification protocol tool and referral protocol form; however, the government had not reported identifying any victims among this population since at least 2021. Officials from the Ministry for Home Affairs, Security and, Employment, in partnership with civil society, also screened asylum-seekers for trafficking indicators when they submitted requests for international protection. In its 2021 report, GRETA noted the preliminary assessment was limited to the identification of cases where vulnerability was immediately obvious, such as with unaccompanied children. The lack of sufficient resources to streamline procedures and build capacity at migrant detention centers may have affected the quality of victim screening. Police continued to screen for sex trafficking indicators among individuals in commercial sex, including conducting outreach at several massage parlors and a prison in 2023; however, the lack of interpreters hindered their efforts, and no victims were identified. In its 2021 report, GRETA relayed concerns expressed by civil society that police did not proactively identify trafficking victims in massage parlors.

The FSWS continued to coordinate with the police, legal aid, and health services to provide care to victims. The government provided €190,146 (\$210,106) for victim care in 2023, an increase compared with €157,755 (\$174,315) in 2022 and €129,188 (\$142,749) in 2021. Police continued to utilize the national standard referral procedures to systematically refer victims to *Agenzija Appogg*. All victims were offered services; seven victims received accommodation. This compared with 10 victims assisted in 2022 and 14 in 2021. The government had dedicated services available to both foreign national and Maltese victims, and once victims were referred to care, specialized social workers at FSWS assessed the long-term needs of each victim; assistance could include shelter at a safehouse, food, psychological counseling, interpreters, cultural mediators, and medical and legal aid appointments, as well as assistance with obtaining legal status and job searches.

The law provided victims a two-month reflection period to recover and contemplate cooperation with law enforcement. FSWS operated one specialized shelter in the country, funded by the EU, which could accommodate up to nine residents. While rooms were separated by gender, the shelter accommodated both men and women, which may have made sex trafficking victims feel unsafe and potentially undermined victim recovery. The shelter expected victims to financially contribute to the shelter's operating costs and cooperate with their case workers; experts urged the government to fully fund the shelter without requesting funds from victims. The Child Protection Agency was designated as the responsible agency for vulnerability assessment and interagency coordination for child victims, including formal written procedures for police interaction and coordination requirements. There were no specialized trafficking shelters available for children, but unaccompanied child trafficking victims could stay in foster homes. The government also had a Victim Support Agency (VSA) that was available to assist all crime victims who cooperated with law enforcement. VSA services could include confidential emotional support and accompaniment to court, information about the release of an offender from custody, and legal advice; however, the VSA has not assisted any trafficking victims since 2022. The Legal Aid Agency could legally represent low-income crime victims in a broad spectrum of litigations, defense, and advocacy, but the government had not provided this service to any trafficking victims since 2022. GRETA's 2021 report noted, per the government's 2014 Legal Aid law, legal assistance should have been available to all crime victims; however, as of its publication, all trafficking victims had been represented by NGO lawyers instead of the established Legal Aid Agency. GRETA urged the government in 2021 to increase efforts to ensure victims received legal assistance and free legal aid at an early stage. The government stated victims could receive protection services regardless of their agreement to cooperate with law enforcement; however, only victims who cooperated could receive work permits and residency. While there

was no time limit for victims to access some services, such as services from social workers, the government did not allow their stay in a general shelter or the trafficking-specific shelter to exceed 180 days.

Law enforcement endeavored to conduct discreet interviews with potential victims to protect their identities and ensure their safety. To avoid re-traumatization, the government provided victims with protective support, including the option to testify via video, the absence of the suspected trafficker in court, accompaniment to court by a social worker, and victim support sessions before and after court hearings. Foreign victims who cooperated with law enforcement were entitled to a renewable six-month temporary residence permit free of charge, police protection, legal assistance, and the right to obtain flexible work permits; however, the government did not report whether it provided these protections to any victims. The government could grant refugee status to victims as an alternative to removal to countries where they may face hardship or persecution; however, the government did not report providing this status to any victims.

The government could grant a maximum of €23,300 (\$25,746) of compensation to victims from state funding; however, the government has never reported issuing compensation to trafficking victims. Legal aid was not available for victims seeking compensation from the government, and government compensation was not available for foreign trafficking victims without residency; GRETA urged the government to extend these services to all victims. Furthermore, GRETA's 2021 report stated the law did not allow assets confiscated from traffickers to be used as compensation or restitution for victims and urged the government to allow this to improve effective access to compensation for victims. Courts have never reported awarding restitution to any victims, and GRETA noted limited awareness of the possibility of restitution by lawyers and judicial authorities. Victims could receive a maximum of €10,000 (\$11,050) in damages; however, the government did not report whether any victims filed suits during the reporting period, and the government has never reported awarding damages to any trafficking victims. GRETA urged the government to review the eligibility criteria for state compensation and add the concept of trafficking survivor restitution to training programs for judges and prosecutors. The government did not have a legal provision to ensure victims were not inappropriately penalized solely for unlawful acts committed as a direct result of being trafficked. GRETA recommended the enactment of such a provision and the dissemination of the non-punishment principle to not only judges but all law enforcement to prevent victim penalization as early as possible.

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## PREVENTION

The government maintained prevention efforts. The Human Rights Directorate (HRD) was responsible for coordinating national anti-trafficking efforts, as well as implementing the NAP, coordinating data collection, and reviewing policy and practice. The government had a committee, the Anti-Human Trafficking Inter-Ministerial Committee (IMC), established in 2022, which functioned as the national rapporteur and was responsible for strengthening national cooperation and monitoring trafficking efforts. The IMC met once during the reporting period. The HRD re-instated the anti-trafficking monitoring committee to oversee the work of the IMC, which it previously dissolved in 2021, and that committee met once during the reporting period. The government also established a trafficking-focused working group in July 2023 to support the work of the IMC; it met four times to develop the anti-trafficking strategy, discuss legislative changes, develop indicators on the nexus between financial crimes and human trafficking, and continue drafting an updated anti-trafficking NAP. In its 2021 report, GRETA again recommended the government consider establishing an independent national rapporteur to ensure an impartial review of government anti-trafficking efforts. Authorities and NGOs continued to report a lack of effective leadership, corruption allegations, and insufficient prioritization of human trafficking, which hindered progress.

In 2023, the government allocated €50,000 (\$55,249) to the HRD for prevention efforts, including continuing to draft a new anti-trafficking NAP and raising public awareness. This was a significant decrease compared with €300,000 (\$331,492) allotted by the government in 2022, 2021, and 2020. The government continued to implement its 2020-2023 anti-trafficking NAP; however, it continued to focus primarily on coordination and prevention efforts and did not address key gaps in prosecution or victim identification and assistance. The HRD reported drafting a new NAP; however, it was not adopted by the end of the reporting period. The government, held awareness campaigns, including multiple events and conferences, to inform the general public on trafficking indicators and how to report potential trafficking crimes to authorities. The government published most awareness-raising material online for public access. In November 2023, the HRD also organized consultations with six civil society organizations and trade unions to obtain feedback on the awareness campaign material. The HRD sought input from survivors for a research project on the efficacy of victim assistance and the experience of victims.

In its 2021 report, GRETA urged Maltese authorities to provide asylum-seekers with informational materials on the rights of trafficking victims, as well as the services and

assistance measures available and how to access them. The government continued to cooperate, via an MOU valid through 2023, with the Government of Libya, as well as Frontex and the European Border and Coast Guard Agency, to manage irregular migration from Libya. However, many NGOs and international experts criticized this coordinated effort, including the provision of training, because it often resulted in the occupants of vessels identified in the Libyan search-and-rescue area being returned to Libyan shores. Civil society reported state and non-state actors in Libya committed severe human rights abuses, including sex and labor trafficking, against many of the more than 20,078 migrants and refugees returned to Libya between August 2022 and August 2023, including inside detention centers. A 2023 UN fact-finding mission to Libya documented numerous crimes against humanity, including human trafficking, committed by Libyan government or state-affiliated actors. The report criticized the EU's ongoing support to these actors, including the Libyan Coast Guard, and urged member states, including Malta, to ensure funds supporting the EU mission did not contribute to these crimes.

Fraudulent labor recruitment remained a significant concern. Through a government initiative to increase economic growth, the presence of foreign national workers, most of whom were employed in low-earning vocations, increased significantly to approximately 100,000. However, the government did not report correspondingly increased efforts to proactively inform foreign workers of their rights and responsibilities and victim assistance resources, aside from leaflets at job centers, information available online, or potentially from a labor inspector. The Employment Agencies Act (EIRA) regulated labor recruiters and required recruiters to have a license. The EIRA did not allow workers to be charged recruitment fees by employment or recruitment agencies, though many agencies illegally charged such fees. To address this, the government passed new regulations in 2023, effective April 2024, that gave the government the option to prohibit recruitment companies from operating if they charged a recruitment fee, withheld identity documents, or impeded freedom of movement and job transfers. However, in a report published by the Auditor General in January 2024, the office concluded labor inspectors responsible for implementation of employment laws took a lenient approach toward compliance and did not effectively enforce the law. The report also found applicable penalties were not sufficient to deter violators, which created exploitable gaps in enforcement. The government did not report comprehensive law enforcement measures taken to prevent and deter fraudulent recruitment by labor recruiters. Experts urged the government to enforce the law prohibiting fraudulent recruitment and recruitment fees charged to workers. Foreign workers and asylum-seekers could not change employers without prior government permission, as work permits were tied to a specific employer, which may have increased their vulnerability to trafficking. NGOs and government officials continued

to report a lack of oversight and regulation on the licensing of massage parlors, which had a higher likelihood of sex trafficking occurring.

The national welfare agency continued to operate a 24-hour hotline for individuals in need of social services and referral to care, including potential trafficking victims; operators received training on trafficking victim identification. The government identified two potential trafficking victims through the hotline during the reporting period. In 2023, the VSA established an additional hotline for potential victims who could call anonymously and receive general information and referral to additional services; however, the government did not report whether any trafficking victims received assistance through the hotline. The government did not make efforts to reduce the demand for commercial sex acts. The government did not provide anti-trafficking training to its diplomatic personnel. The government prohibited convicted traffickers from being selected for public contracts.

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## **TRAFFICKING PROFILE:**

As reported over the past five years, human traffickers exploit domestic and foreign victims in Malta. Sex traffickers exploit foreign national and Maltese women and children, and labor traffickers exploit foreign men and women. Women from Southeast Asia working as domestic workers, foreign women working in massage parlors, and women from Central and Eastern Europe, Russia, and Ukraine working in nightclubs are vulnerable to trafficking. Refugees and asylum-seekers residing in Malta are vulnerable to trafficking in the country's informal labor market, including in the construction, hospitality, and domestic work sectors. Cooperation with the Government of Libya prevents thousands of undocumented migrants and refugees from arriving at Maltese ports; however, occupants of vessels recovered in the Libyan search-and-rescue area are returned to Libya, where NGOs cited severe security and human rights conditions, including in detention centers. The more than 12,000 undocumented migrants held in detention centers across Libya are at increased risk of trafficking.

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