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## **National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21\***

### **Malta**

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## **I. Introduction**

1. The advancement and protection of human rights is an inherent aspect of Maltese politics, legislation and way of life. Malta continues to uphold the fundamental values enshrined in the universal declaration of human rights, and its subsequent covenants. These values are deeply enshrined in Maltese society, secured in the Constitution and protected by the various bodies entrusted with the protection and promotion of human rights. Malta continues to do its utmost to further the implementation of human rights instruments and to widen their reach, with a view to ensuring universal respect for and protection of human rights. Since its last Universal Periodic Review Malta has consistently worked towards improving its Human Rights situation and track record by embarking on a number of initiatives as outlined in this report.

2. The change in administration in March 2013 brought along fresh impetus towards the advancement of human rights in Malta. The appointment of a Minister responsible for civil liberties is a first in the Maltese political scenario and undoubtedly a show of commitment towards the better safeguard of civil rights and equality.

3. Malta is party to numerous human rights Conventions<sup>1</sup> that bolster its position in protecting and promoting human rights. The Maltese Government has, over the years, also taken various legislative initiatives aimed at further safeguarding the implementation of particular human rights by instituting new legislation addressing various human rights aspects such as the protection of minors, the rights of persons with disabilities and right pertaining to equality.

4. In addition, a number of specialised National Commissions, Commissioners and Authorities have been set up with specific mandates to protect vulnerable groups and guarantee the protection of their rights. These include, inter alia, the National Commission for the Promotion of Equality; the National Commission Persons with Disability; the Commissioner for Children; the Refugee Commissioner; the National Employment Authority and the Commissioner for Voluntary Organisations.

5. This report outlines the status of human rights in Malta and the progress that was achieved since the last review. Significant improvements have been registered in the promotion and protection of human rights. The Government of the Republic of Malta welcomes the scrutiny and open dialogue fostered by this exercise and believes in the constructive approach that underpins the UPR process as being key to further promote and safeguard the implementation of human rights.

## **II. Methodology and consultation process**

6. Malta's national report was coordinated and compiled by the Ministry for Foreign Affairs in consultation with various line ministries including the Ministry for Social Dialogue, Consumer Affairs and Civil Liberties, the Ministry for the Family and Social Solidarity, the Ministry for Home Affairs and National Security, the Ministry for Health and official commissions including the National Commission for the Promotion of Equality and the National Commission Persons with Disability.

7. The report highlights the existing legal provisions and institutional structures that provide for the protection and promotion of human rights. It also outlines significant developments that were registered since the last review whilst also focusing on the recommendations that emanated from that session and how these recommendations were addressed.

8. Recognising the importance of engaging with civil society in finalising this process, the report was presented to civil society organisations whereby feedback was subsequently solicited. The civil society organisations involved in this exercise are registered with the Office of the Commissioner for Voluntary Organisations and include a broad range of stakeholders whose remit covers various aspects of human rights in Malta.

### **III. Human rights protections**

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

9. The specific fundamental rights and freedoms enshrined in the Constitution (Chapter IV) are the following: protection of the right to life; protection from arbitrary arrest or detention; protection from forced labour; protection from inhuman treatment; protection from deprivation of property without adequate compensation; protection for privacy of home and other property; protection of law (including important safeguards for an accused in Criminal proceedings); protection of freedom of conscience and worship; protection of freedom of expression; protection of freedom of assembly and association; prohibition of deportation; protection of freedom of movement; and protection from discrimination on the grounds of race, place of origin, political opinions, colour, creed or sex. Malta continues to embark on various legislative initiatives aimed at further safeguarding the implementation of a wide range of human rights.

#### **B. National human rights institutions**

10. In Malta there are a number of specialised bodies whose remit covers a wide spectrum of human rights, inter alia, the rights of persons seeking humanitarian protection, the rights of persons with disabilities, the rights of children, and the securing of equal treatment on grounds of gender, sexual orientation, age, religion or belief, racial or ethnic origin and gender identity as outlined hereunder.

#### **C. The Office of the Refugee Commissioner**

11. The Office of the Refugee Commissioner was set up by virtue of the Refugees Act (2000), and is responsible for receiving, processing and determining asylum applications. In this respect, the Office is empowered to recommend two types of protection; Refugee Status and Subsidiary Protection.

12. The work of the Office has increased significantly over the past years due to the rising number of asylum applications. In the last four years, apart from the day to day processing of asylum applications, the Office of the Refugee Commissioner has undertaken various projects; including one aimed at adequately preparing Third Country Nationals (TCNs) for their asylum determination process. Via this project (in place between 2009 and 2011), the asylum application procedure has been reviewed and to this effect, the Office now offers individual assistance in filling in the registration form with the assistance of interpreters. In addition, information sessions are provided to potential asylum seekers as soon as they enter Malta whereby they are informed about their rights and obligations in relation to applying for asylum.

13. Since 2009, this Office has been carrying out a project aimed at strengthening the existing asylum infrastructure by adopting a more efficient asylum procedure, entitled *Emergency Measures Project*. This consisted in upgrading the operations of the Office

through the provision of additional staff and better equipped premises in order to process asylum applications within the first six months of the immigrants' arrival in Malta.

#### **D. The National Commission for the Promotion of Equality (NCPE)**

14. The *'Equality for Men and Women Act'* (2003) provides for the setting up of this Commission which works to ensure freedom from discrimination in Maltese society. The mentioned Act empowers the Commission to independently investigate complaints within its remit and provide independent assistance to persons facing discrimination. Its role also extends to monitoring the implementation of national policies with respect to the promotion of equality for men and women.

15. At its inception, the Commission's remit was limited to the elimination of discrimination on the grounds of gender and family responsibilities in employment. Discrimination on the grounds of race/ethnic origin and gender in the provision of goods and services and their supply were added in 2007 and 2008 respectively. Through amendments to the said Act which took effect in the year 2012, the Commission's remit was further extended so as to also cover the promotion of equality on the basis of sexual orientation, age, religion or belief, racial or ethnic origin, and gender identity in employment, financial institutions and education.

16. Over the last few years, the Commission embarked on various project based initiatives, including a project entitled *'Unlocking the Female Potential'* (2008–2013) which was aimed at the increase of female participation in the labour market. The project *I'm Not Racist But* (2012), was another important initiative taken by the Commission. This was specifically aimed at tackling racial discrimination on two parallel tracks: a) assisting the local African community, as well as, b) raising awareness on racial discrimination with the general public.

17. The NCPE also works to safeguard and promote equal opportunities on the grounds of age, race/ethnic origin, gender, religion, sexual orientation and gender identity, by disseminating information on rights and responsibilities related to equality on these grounds through training and other awareness raising campaigns, and by assisting persons who feel discriminated against on these grounds by investigating their complaints. Furthermore, the NCPE also carries out training as part of its core work to various groups or entities who request training on equality and non-discrimination issues, including facets related to sexual orientation.

#### **E. The National Commission Persons with Disability (NCPD)**

18. The Commission (founded in accordance with the Equal Opportunities (Persons with Disability) Act (2000)) serves as the watchdog on government initiatives in the disability sector with the capacity to suggest changes to legislation. It is also empowered to investigate complaints falling within its remit. The NCPD also carries out needs assessment of persons with disabilities, their families and voluntary entities working in the field in order to feed into policy formulation.

19. The NCPD Commission adopts a holistic approach in its plan of work, providing an array of services including practical Independent Living Services. Amongst the many initiatives undertaken by the Commission is the creation of an Independent Living Centre which initiated its operations in 2011 and through which the NCPD provides advice to persons with a disability and their families, as well as, information and training.

20. In line with this practical approach, the Commission has also published another edition of *'Design Guidelines'* (2011) which offers guidance for building and designing both closed, as well as, open spaces. This publication aims at eliminating disabling barriers that prevent people with disability from enjoying an acceptable quality of life.

21. Through a programme called *'PEKTUR'*, the Commission offers financial support with the regards to education, training and research within the field of disability. Through this initiative the NCPD organises short training courses for disabled activists and their parents.

## **F. The Office of the Commissioner for Children**

22. The Office of the Commissioner for Children was set up in terms of *'The Commissioner for Children Act'* of 2003. Along the years it has worked for the wellbeing of children and has raised awareness about their needs and rights. The Office of the Commissioner for Children is empowered to initiate changes in legislation through concrete proposals to the government and relevant stakeholders. The Office of the Commissioner carries out research and investigation into the situation of children's rights and more importantly intervenes in cases of alleged breaches of their rights. In the year 2011, the number of complaints or requests for assistance received amounted to 261 cases. This constitutes a 45% increase over the year 2010. The cases consisted, in the main, of family-related and school-related issues.

23. The Office monitors local developments related to children. Various issues have been brought to the forefront of attention. In 2013, the Office of the Commissioner published two documents which put forward pertinent recommendations on various matters related to children. These are *'The Manifesto for Children'* and *'The Research Study on Minors in Advertising and During Election Campaigns'*.

24. The *'Manifesto for Children'* contains tangible proposals on issues such as healthcare, education and child abuse. On healthcare, the Commissioner proposes a more extensive *Neonatal Screening Programmes* to provide for early diagnosis of illnesses. With regards to education, proposals include further investment in new school buildings and increasing efforts in combating school absenteeism. On child abuse, the Commissioner is requesting increased prison sentences for persons committing such abuses.

25. The *'Research Study on Minors in Advertising and During Election Campaigns'* is a commissioned study entitled *'Minors in Advertising and During Election Campaigns'* which lays down guidelines on the subject. Amongst its proposals, the study recommends an amendment to the *Press Act* so as to include the setting up of a Commission which will be responsible for monitoring political party propaganda. It is also advocating for political parties to refrain from including children in political campaigning; with the exception of issues directly related to children.

## **G. The Office of the Commissioner for Voluntary Organizations**

26. The Office of the Commissioner for Voluntary Organizations was set up by the Voluntary Organizations Act 2007 with the task to strengthen the voluntary sector through various initiatives with the specific aim of promoting the work of Voluntary Organization as well as encouraging their role as partners with the government in various initiatives. The ultimate mission of the Commissioner's office is to give more visibility to the voluntary sector as well as to guarantee transparency and accountability of the organizations that compose it in the carrying out of their important work. In view of this, the Office of the

Commissioner is also the regulatory authority responsible for this sector with the aim of monitoring and supervising the activities of these organizations as well as supporting them.

## **H. International instruments**

### **United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)**

27. Malta signed the United Nations Convention on the Rights of Persons with Disabilities on 30 March 2007 and it was subsequently ratified on 10 October 2012.

28. The ratification of this Convention is considered to be a significant achievement in the sector since this was the first Treaty of its kind. Malta's preparation for the ratification of this Convention had been under preparation for a few years. As a result, significant amendments in legislation have taken place prior to ratification. While the Convention does not create new rights for disabled people, nevertheless it further consolidates and safeguards the enjoyment of their human rights particularly in areas relating to accessibility, education and independent living in the community.

### **United Nations Optional Protocol to the Convention on the Rights of Persons with Disabilities**

29. Malta signed the United Nations Optional Protocol to the Convention on the Rights of Persons with Disabilities on 30 March 2007 and ratified it on 10 October 2012.

30. Through the ratification of this Optional Protocol, persons with disability in Malta are now able to bring complaints of breaches of their rights directly to the Committee on the Rights of Persons with Disabilities. Such complaints are considered and duly examined by this Committee.

### **United Nations Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography**

31. Malta signed the United Nations Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography on 7 September 2000 and ratified it on 28 September 2010.

32. The ratification of this Protocol creates the obligation on Malta to punish activities related to sale of children, child prostitution and child pornography. This Protocol has also created obligations on Malta to provide holistic support services to the victims.

### **United Nations Optional Protocol to the Convention on the Rights of the Child on a communications procedure**

33. Malta signed the United Nations Optional Protocol to the Convention on the Rights of the Child on a communications procedure on 18 April 2012.

34. In doing so, Malta expressed its intention to become a state-party to this Protocol, which, once ratified will permit children to file complaints directly to the Committee on the Rights of the Child within the United Nations. In principle, this is recognition that children are considered as individuals in their own right with access to international human rights bodies, a position that Malta fully subscribes to.

### **Council of Europe Convention on preventing and combating violence against women and domestic violence**

35. On 21 May 2012, Malta signed the Council of Europe Convention on preventing and combating violence against women and domestic violence.

36. Malta's signature of this Convention is a milestone in the Government's zero tolerance approach to violence against women and domestic violence. This Convention establishes a policy framework aimed at the protection of victims, the prevention of such abuses, as well as the prosecution of the perpetrators. Its ratification will enable Malta to see to its effective implementation and to further strengthen its commitment in this regard.

#### **Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse**

37. On the 6th September 2010, Malta signed and ratified the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse. It entered into force on 1 January 2011.

38. Through the ratification of this Convention, Malta pledged to enhance its efforts in combating sexual violence against children. This Convention is considered to be the first instrument to establish the different forms of sexual abuse of children as criminal offences. The Convention also lays out preventive measures in this regard; including efficient systems of screening individuals working in environment where children are present.

#### **Labour Organisation Convention on Maritime Labour**

39. On the 22nd January 2013, Malta ratified the International Labour Organisation Convention on Maritime Labour.

40. Through the ratification of this Convention, seafarers working on board Maltese vessels have been granted further protection through better working and living conditions. The provisions of the Convention offer a comprehensive coverage to rights in various areas of seafarers' work; including wages, hours of rest and repatriation. Malta is the 13<sup>th</sup> EU Member State to ratify this Convention.

## **IV. Achievements, best practises, challenges and constraints**

### **A. Rights and responsibilities**

#### **Freedom of Information Act**

41. The Government of Malta is committed to freedom of information. By means of Legal Notice 156 of 2012 published in The Malta Government Gazette of May 18, 2012, the remaining provisions of the Freedom of Information Act 2008, which had not yet been brought into force, became law from 1 September 2012. 39 provisions out of 48, the vast majority, thus entered into Maltese law. The entry into force of this law demonstrates a clear commitment by the Government of the Republic of Malta to more openness, transparency and accountability.

#### **The right to demand divorce**

42. By virtue of recent amendments to the Maltese Civil Code (Cap. 16 of the Laws of Malta), brought forth by Act XIV of 2011, divorce was introduced in Malta as a legal remedy which can now be resorted to before the Maltese Courts.

43. Thus, under the new Maltese divorce legislation, an aggrieved spouse may file an application before the Maltese Courts, asking for a judicial pronouncement of divorce if the spouses in question have been legally separated for at least four years or have lived apart for a period of, or periods that amount to, at least four years out of the immediately preceding five years. Alternatively, the spouses may file a joint demand for divorce after

having reached a consensual agreement that their marriage is to be dissolved. In these circumstances, the Maltese Courts must be satisfied that there exists no reasonable prospect of reconciliation between the spouses and that all of their children are, as a matter of fact, receiving adequate maintenance.

44. The new divorce legislation in Malta also caters for the conversion of separation suits into divorce proceedings, subject to proof relating to satisfaction of the necessary preconditions associated with the pronouncement of divorce. Within this context, mediation proceedings would appear to play a more prominent role in relation to attempts at reconciling spouses who are not already legally separated, or who are not parties to a suit of personal separation, thus, also acting as the appropriate forum for negotiations conducive to the pronouncement of divorce on the basis of an agreement entered into voluntarily by the parties.

#### **‘Equality Mark’ certification**

45. The National Commission for the Promotion of Equality (NCPE) launched the ‘Equality Mark’ certification in 2010. It is part of the Commission’s ‘Unlocking the Female Potential’ project, which project is co-financed by the European Union through the European Social Fund. Because of the high uptake of the Equality Mark, the NCPE decided to continue with the certification even after the end of the above-mentioned project.

46. The NCPE awards the ‘Equality Mark’ certification to entities that work to actively foster gender equality. Through the ‘Equality Mark’ further awareness is raised on the rights and responsibilities of employers, human resources managers, equality committees/representatives within the workplace and employees. Following an assessment of the respective policies and measures, organisations whose management is based on the recognition and promotion of the potential of all employees irrespective of their gender and caring responsibilities are awarded the ‘Equality Mark’.

47. The criteria assessed for the award of the ‘Equality Mark’ include: policies and initiatives on equality and sexual harassment; equal opportunities in recruitment and employment, including equal pay for work of equal value to employees irrespective of their gender; equality in career advancement and personal development; as well as the availability of family friendly measures for men and women with caring responsibilities. Till January 2013, 52 companies were awarded the ‘Equality Mark’ and other companies are in the process of being awarded this certification.

#### **Draft national children’s policy**

48. In November 2011 the Government of Malta published a draft National Children Policy that sets out to promote the well-being, rights and obligations, protection, active participation, inclusion, creativity and leisure of children. The draft Policy has further strengthened the idea of giving the child a voice to be heard and encourages active citizenship even among children, thereby minimising the gaps between existing policy and practice. The draft National Policy was drawn up following an extensive period of consultation, including with children. A child-friendly version of the draft Policy was also published. The launch of the Draft Children’s Policy is another step forward towards enhancing the respect for the rights of children in Malta. The finalisation and implementation of the National Children’s Policy will be a significant milestone in securing the rights of the Child in Malta. Given the recent change in administration in Malta, the finalisation and implementation of the National Children’s Policy is pending discussions with a view to determining the way forward on the matter.



## **B. Justice and security**

### **Presence of legal assistance during cases**

49. The law regulating the right of a person to seek legal advice prior to police interrogation while held in arrest in police custody was introduced via Article 355AT of the Maltese Criminal Code by means of Act III of 2002. This provision came into force on 10th February 2010.

50. This Article aims at ensuring that a person, while under arrest in police custody, is given the possibility to seek legal advice prior to his interrogation in order to ensure that he is made aware of his basic rights by a professional person independent of the Police Officers assigned to a given case. This ensures that persons undergoing investigations by Police Officers are not induced into committing legal mistakes or make culpable declarations at a stage when they would be most vulnerable.

51. Police Officers are obliged to inform the person arrested, at the time of the arrest, and in a language which he/she understands, the reason for his arrest and detention. The Police also provide the person arrested with a “caution” whereby the person arrested is informed of the fact that he/she has the right to remain silent and that he/she is not obliged to reply to police questioning; but if he/she decides to reply, any statement made by him/her could be brought as evidence in a Court of law.

### **The Restorative Justice Act**

52. The Restorative Justice Act (Chapter 516), enacted through ACT XXI of 2011 (27th January, 2012), is a very positive recent development in the field of corrections in Malta and is primarily aimed at facilitating the re-integration of persons, particularly young people who have come into contact with the Criminal Justice System.

53. The Act is holistic in its approach, and contains provisions on four major areas: a mechanism for mediation between criminals and their victims; new provisions on parole; a review of remission of prison sentences; and victim support measures. The Act complements reforms to the prison system with a view to enhance the educational and vocational programmes of inmates, particularly of juveniles. It also provides for the needs of the victim, with the aim of balancing the rehabilitation of the offender and the protection of the public.

54. More specifically, the Act establishes a Parole Unit, which is responsible of assigning parole officers to prisoners applying for parole and preparing reports regarding the reintegration of prisoners. Another important measure set up by the Act is the Offender Assessment Board which carries out analysis of the problem areas that may have contributed to the committed criminal act, as well as, prepare follow-up care plan to assist in reformation and reintegration. With regards to the victims, the Act provides for a Victim Support Unit, which amongst other things will be tasked with victim-offender mediation proceedings.

### **Protection of Minors (Registration) Act**

55. The ‘Protection of Minors (Registration) Act’, which came into force in 2012, aims at increasing the level of protection afforded to children. The Protection of Minors Act provides for the registration of sexual offenders and other offenders who commit offences of serious violence. Such offenders are prevented from being employed or offer voluntary service in a place that brings them in contact with minors. The onus is on the employer to make sure that a registered sexual offender is not engaged in any form of employment, whether against remuneration or otherwise, that allows contact with children. The law also applies to present employees as well as potential employees.

56. This is held in Article 3(3) which lays down that “any registered person shall be ineligible for membership of, or any employment or other position with, any institution, establishment or organisation providing or organising any service or activity which involves the education, care, custody, welfare or upbringing of minors, whether such membership, employment or other position is against payment or otherwise”.

## C. Protecting the rights of migrants, refugees and asylum seekers

### Migration

57. In the last decade Malta has experienced heavy influxes of irregular migration mainly from sub-Saharan Africa. Ever since 2002, the number of irregular immigrant arrivals remained consistently high, reaching a record in 2008, with 2,775 arrivals. In 2011, 1,579 irregular immigrants reached Malta through Libya. In 2012, a total of 1,890 irregular migrants reached Malta’s shores representing nearly a 20% increase in arrivals when compared to 2011. In 2013, approximately 1079 irregular immigrants have already (July 2013) reached Malta’s shores.

58. This phenomenon challenges Malta’s financial and human resources especially because the number of migrant arrivals remains consistently high. Although in absolute terms these numbers may not seem impressive, they take a different significance in the context of Malta’s small size and its very high population density. With a population exceeding 400,000 and covering no more than 316 square kilometres, Malta’s population density stands at 1300 persons per square kilometre, making Malta by far the most densely populated EU Member State and one of the most densely populated countries in the world.

#### Irregular migrant arrivals 2009–2013

| <i>Year</i> | <i>2009</i> | <i>2010</i> | <i>2011</i> | <i>2012</i> | <i>2013*</i> |
|-------------|-------------|-------------|-------------|-------------|--------------|
|             | 1475        | 47          | 1579        | 1890        | 1079         |

\*Data as at 18 July 2013

#### Decisions taken by the Office of the Refugee Commissioner by Status from 2009–2013

| <i>Status</i>                           | <i>2009</i> | <i>2010</i> | <i>2011</i> | <i>2012</i> | <i>2013*</i> |
|---|-------------|-------------|-------------|-------------|--------------|
| Refugee                                 | 20          | 41          | 72          | 34          | 34           |
| Subsidiary                              | 1666        | 158         | 695         | 1236        | 704          |
| Temporary<br>Humanitarian<br>Protection | 10          | 7           | 129         | 15          | 211          |
| Rejected                                | 895         | 116         | 708         | 159         | 139          |

\*Data as at 18 July 2013

#### Irregular migrants who chose to return to their Country of origin through projects of Assisted Voluntary Return

| <i>Year</i> | <i>2009</i> | <i>2010</i> | <i>2011</i> | <i>2012</i> | <i>2013*</i> |
|-------------|-------------|-------------|-------------|-------------|--------------|
|             | 148         | 42          | 31          | 39          | 36           |

\*Data as at 18 July 2013

59. Since 2009, Malta continued to further improve the situation relating to **recommendation 45**, namely that Malta deals with the influx of illegal migrants, taking a fair and humane approach, and treat these immigrants and asylum seekers, particularly the most vulnerable persons in the most proper manner.

60. Pursuant to the decriminalisation of illegal entry, irregular immigrants are subject to administrative detention, within centres which are distinct from the prison facilities and under separate management. Vulnerable migrants, including unaccompanied minors, persons with disabilities, the elderly, families with young children, pregnant woman and lactating mothers, are not detained. Medical checks are systematically carried out for every immigrant upon arrival and vulnerable migrants are provided with alternative accommodation as well as any special attention they may require, such as health care. Minors receive the same rights as Maltese minors, including the right to attend state schools. When a person is determined to be an unaccompanied minor asylum seeker, an interim care order appointing a guardian is immediately issued until a care order is issued.

61. In view of taking concrete measures to improve services for migrants and to ensure full respect of their human rights (**Recommendation 2**), the Government of the Republic of Malta, with the assistance of NGOs and the International Organisation for Migration (IOM) are inter alia implementing Assisted Voluntary Return and Reintegration (AVRR) programmes, whereby rejected asylum seekers/irregular migrants who cooperate with the authorities for their repatriation, will not only have their travel arrangements made, but will also receive training and financial assistance in order to facilitate a humane return and their successful reintegration into their own society.

62. In its continued effort to continue to take steps to ensure the well-being and protection of migrants and their rights (**Recommendation 46**) the Government of the Republic of Malta ensures that refurbishment of detention centres is carried out regularly, while basic needs are met with the provision of adequate food, clothing, cleaning materials, and so forth. As part of such efforts, tent facilities at the Centres have been replaced with mobile homes, which led to a marked improvement of living conditions.

63. It should also be noted that improvements were also made at Open Centres. Through funds from European Refugee Fund Emergency Measures a hundred prefabricated mobile homes were acquired to substitute tents previously used to accommodate migrants. The mobile homes are now fully functional and in use by the residents of the centres.

64. The Government continues to work towards ensuring equality via initiatives that aim at addressing discriminatory treatment against irregular migrants and asylum seekers and to foster a climate of greater tolerance and acceptance towards immigrants.

65. With regards to **Recommendation 1**, Malta currently does not envisage signing the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (MWC). The main reason lies in the broad nature of this Convention, particularly in terms of the broad definitions it adopts, and therefore, its potentially far-reaching scope, granting, as a result, extensive rights to an excessively broad category of migrant workers, making it difficult to assess its impact. In view of this, ratification and application of the MWC by Malta is currently, not viewed as feasible, both from a practical and a sustainability point of view. No other EU Member State has signed this convention for the same reasons.

#### **Asylum seekers**

66. In 2009 Malta accepted **recommendation 42**, namely 'to strengthen its efforts to make the legal system for asylum seekers effectively accessible, prevent delays and

administrative obstacles and guarantee to asylum seekers the necessary procedural safeguards in detention according to international standards.<sup>6</sup>

67. The fact that the overwhelming majority of irregular migrants arriving in Malta apply for international protection clearly demonstrates that effective access to asylum procedures exist and that the asylum system is readily accessible. In 2012, 95% of irregular migrants entering Malta by sea applied for international protection. This accessibility is further confirmed by the UNHCR statistics for 2011<sup>2</sup>, from which it transpires that Malta received the largest number of asylum applications among the 44 industrialised countries covered by the report, with 4.4 applications per 1,000 inhabitants. According to the same report, Malta also received the largest number of asylum applications per 1,000 inhabitants for the period 2007-2011, with 20.1 applications per 1,000 inhabitants.

68. Malta's asylum recognition rate is consistently high, at around 50% or over, in recognition of the needs of persons seeking protection in Malta. This likewise demonstrates that the principle of non-refoulement is upheld both legally as well as in practice. **(Recommendation 41)**. It is also worthwhile mentioning that Asylum proceedings have suspensive effect, thus the principle of non-refoulement is safeguarded through the suspension of removal orders as soon as an asylum request is lodged. No removal order is executed before a definitive decision has been given. Thus, where an appeal has been lodged, the outcome of that appeal must be awaited.

69. All asylum seekers are entitled to have legal representatives to assist them at any stage of the procedure. Many NGO representatives are very active in providing assistance in legal proceedings. This complements the free legal aid provided by the State for proceedings before the Refugee Appeals Board, which hears appeals regarding asylum applications. Immigrants may, if they wish, make use of private legal counsel.

70. As a result of investment and restructuring at the Office of the Refugee Commissioner, (Malta's asylum determination authority), improvements have been registered in asylum determination timeframes with most cases determined within 6 months. In view of continuous improvement, the Office of the Refugee Commissioner organises in-house training for all asylum determination officers and invests in having its asylum determination officers attend training programmes in Malta and abroad.

71. The Office of the Refugee Commissioner actively supports the European Asylum Curriculum (under the remit of the European Asylum Support System) and participates in the training it provides. All the asylum determination officers would have also attended a training course in document analysis, which aims at developing their level of expertise on the subject and at improving the asylum determination process. On June 2012, the asylum determination officers attended an intensive five-day course on profiling skills that aimed to assist them during the thorough asylum interviews. Furthermore, Detention Service personnel, working with asylum-seekers in detention centres (detained pursuant to illegal entry), receive appropriate training in humanitarian law and the treatment of asylum seekers and immigrants in custody.

72. Since its set-up in 2001, the Office of the Refugee Commissioner worked closely with UNHCR. The UNHCR Malta Office opened in 2005. This led to a closer collaboration with the Office of the Refugee Commissioner which is the determining authority with reference to applications for international protection in Malta. Regular meetings are held between the Refugee Commissioner and the head of the UNHCR Malta Office during which various issues on the asylum procedure in Malta are discussed in-depth.

73. Extensive collaboration on training also exists between Malta and the UNHCR **(Recommendation 27)**. Throughout recent years, the technical staff at the Office of the

Refugee Commissioner has received training organized and delivered by UNHCR. Some of the training programmes were the following:

- A workshop on Refugee Status Determination held in Malta on 6-8 May 2008 attended by all the asylum determination officers;
- A training session delivered by Mr. Jeremy Sabety from UNHCR Geneva on the REFWORLD Portal held in Malta on 20 May 2010 attended by all the asylum determination officers;
- Training/Seminar on Aspects of Sexual and Gender Based Violence held on 22 March 2012 attended by two asylum determination officers;
- On 14-15 June 2012 an asylum determination officer attended training on The Protection of Minority Rights in the EU Asylum Process organized by the Academy of European Law held in Trier, Germany that has been paid for by UNHCR.

74. It is noteworthy to mention that the UNHCR has been present during a number of asylum interviews. Recently, the Refugee Commissioner and the head of UNHCR Malta Office have agreed on a monitoring plan that consists of having UNHCR representatives attend asylum interviews. UNHCR will be communicating recommendations to the Office of the Refugee Commissioner that arise out of observations during the asylum interviews.

75. It also has to be noted that the UNHCR and the Maltese government work in close cooperation on a number levels to find durable solutions for refugees and beneficiaries of protection in Malta. They work towards improved access to protection and conditions of asylum in Malta, an increased protection-sensitive asylum system and related policies, and to increase general awareness about asylum issues at a national level.

76. In the performance of its functions, the Agency for the Welfare of Asylum Seekers (AWAS) continues to (a) oversee the daily management of accommodation facilities either directly or through subcontracting agreements; (b) provide particular services to categories of persons identified as vulnerable according to current policies; (c) provide information programmes to its clients in the areas of employment, housing, education, health and welfare services offered under national schemes; (d) act as facilitator with all public entities responsible for providing services to ensure that national obligations to refugees and asylum seekers are accessible; (e) promote the Government's policy and schemes regarding resettlement and assisted voluntary returns; (f) maintain data and draw up reports that are considered relevant for its own function and to provide statistics to appropriate policy-making bodies; (g) advice the Minister on new developments in its field of operation and propose policy or legislation required to improve the service given and fulfil any legal obligations in respect of its service users; (h) encourage networking with local voluntary organisations so as to increase the service standards as well as academic research; and (i) work with other public stakeholders and, where possible, offer its services to asylum seekers accommodated in other reception centres not under its direct responsibility.

### **Detention**

77. The aspect of detention has its legal basis in the Immigration Act (1970), which is compliant with the European Convention on Human Rights. Adequate procedural safeguards continue to be in place thereby ensuring that the detention of irregular immigrants does not infringe international standards.

78. Pursuant to the decriminalisation of illegal entry, irregular immigrants are subject to administrative detention, within centres which are distinct from the prison facilities and under separate management. It should be clarified that vulnerable migrants, including unaccompanied minors, persons with disabilities, the elderly, families with young children, pregnant woman and lactating mothers, are not detained.

79. Administrative detention is limited in its duration (**Recommendation 26**). It is subject to a maximum period of 18 months for irregular immigrants and failed asylum seekers, and to 12 months for asylum seekers. The latter is established in the Regulations transposing directive 2003/9/EC on the minimum standards of reception conditions for asylum seekers essentially providing, in particular to all persons in detention, all procedural safeguards in compliance with international standards. Furthermore, improvements have been registered in asylum determination timeframes pursuant to investment and restructuring at the Office of the Refugee Commissioner, Malta's asylum determination authority, with the result that most cases are determined within six months.

80. It has to be highlighted that with regards to failed asylum seekers, their extended stay in detention is frequently due to difficulties in obtaining travel documents enabling their return, particularly due to lack of cooperation by the migrants themselves. Where rejected migrants cooperate in the obtaining of travel documents from their country of origin, their return may occur sooner upon the rejection, avoiding the need to spend the rest of the 18 months in detention.

81. Despite the fact that it may be difficult during certain periods due to pressures imposed by the sheer number of incoming migrants, refurbishment of detention centres and improvement of general living conditions (**Recommendation 25**) remains an ongoing process while basic needs are assured by the provision of adequate food, clothing, cleaning materials, and so forth.

82. In this regard, from time to time refurbishments are carried out in the Detention Centres to improve the living conditions for the detainees. Apart from these refurbishments, routine maintenance in all centres is carried out on a daily basis by the Detention Service maintenance personnel.

83. In relation to upgrading initiatives, it should also be noted that the Ministry for Home Affairs availed itself of the European Commission's European Refugee Fund Emergency Measures for 2011 to co-finance a project which addresses certain remaining limitations in the accommodation of asylum seekers and beneficiaries of international protection, both within Detention Centres and Open Centres. Tent facilities at these Centres have been replaced by mobile homes. This led to a marked improvement in the general living conditions.

84. Males and females were always kept in separate zones within the detention centres. The only instance where men and women are kept together is when couples are declared so by the Police authorities. Furthermore, in 2010, mini buses were procured by the Detention Service so that the migrants would have a safer and a more convenient transportation means when being taken for hospital appointments and interviews.

85. With reference to legal counsel and assistance (**Recommendation 25 and 43**) persons issued with a removal order or a detention order are entitled to file an appeal from such orders with the Immigration Appeals Board in accordance with Articles 14 and 25A of the Immigration Act. The Board shall order the release of a person in detention if such detention is unreasonable on the grounds that there are no reasonable prospects of deportation within a reasonable time (Article 25A (10) of the Immigration Act), provided that such persons have cooperated with the authorities in relation to his or her repatriation. It is not considered that the absence of free legal assistance in this context can operate to the disadvantage of those subject to detention. Nevertheless, the implementation of this recommendation is under consideration.

### Rescue operations at sea

86. Since 2009 Malta furthered its work on **Recommendation 44** namely to take an active part in rescue operations at sea particularly for irregular migrants entering Malta by sea and provide instant refuge for them.

87. Malta has to date always fulfilled its moral and legal obligation to coordinate search and rescues services and operations to all vessels in distress within the area for which it is responsible and facilitates the necessary arrangements for rescued persons to reach the nearest safe port. Furthermore, it is continuously seeking to improve its cooperation with neighbouring countries. Malta has Search And Rescue Agreements with Libya and Greece and seeks to increase its interoperability and training capability.

88. In the drive to further enhance Malta's SAR capabilities, the Armed Forces of Malta (AFM), who are tasked as the national SAR competent authority, have reached a SAR Cooperation Memorandum of Understanding (MOU) with the US Coast Guard (USCG), it being one of the foremost SAR agencies worldwide. The expertise gained through this arrangement is put to good use in SAR operations in aid of persons in distress at sea, including third country nationals (irregular migrants). In fact, between 1 January 2013 and 18 July 2013, no less than 1079 irregular migrants were disembarked in Malta, a large part of whom were rescued by the AFM, frequently far offshore and in unfavourable conditions.

89. The wealth of knowledge garnered through the partnership with the US Coast Guard and the numerous Search And Rescue cases carried out has been shared with many other countries in the region. To name but two: the AFM's Maritime Safety and Security Training Centre, has delivered SAR Mission Coordination Courses to staff of the Libyan Navy, Coast Guards and Air Force in a dedicated course this year. In addition, on behalf of the International Maritime Organisation, a similar course was held for SAR personnel of the Black Sea region. Officials who graduated from this course hail from Bulgaria, Georgia, Romania, Russia, Turkey and Ukraine.

90. In adopting such actions, Malta is not only fulfilling its international obligations, but goes well beyond when assisting other States to enhance their SAR capabilities. In doing so, Malta is ensuring that coastal States are better prepared to render assistance to persons in distress at sea, particularly in the Mediterranean region, with the ultimate aim of making the Mediterranean seas safer.

## D. Protecting the rights of individuals and vulnerable groups and promoting equality

### Equality

91. In Malta the National Commission for the Promotion of Equality (NCPE) promotes equality through various initiatives and through the investigation of complaints brought before it by the general public. The NCPE is an autonomous body which, inter alia, monitors and reviews local legislation and suggests amendments as necessary.

92. In 2009, Malta accepted the **recommendation 12** on *strengthening the National Commission for the Promotion of Equality*. In 2012, the remit of the National Commission for the Promotion of Equality (NCPE) was extended to cover equal treatment on the grounds of gender and family responsibilities, sexual orientation, age, religion or belief, racial or ethnic origin, and gender identity in employment; banks and financial institutions, education and vocational guidance; as well as on the grounds of race or ethnic origin and gender in the access to and supply of goods and services.

93. NCPE is empowered to work to safeguard equality on these grounds by raising awareness and investigating complaints of persons who feel discriminated against on these grounds. It assists persons who feel discriminated against on the grounds of age, race/ethnic origin, gender, religion, sexual orientation and gender identity in employment, education and vocational guidance and financial institutions, by investigating their complaints. To this end, NCPE provides independent assistance and carries out independent investigations in relation to alleged discriminatory incidents that are lodged with it. Following an investigation, the Commissioner may (as per Article 18(1) of Chapter 456) dismiss the complaint, or in cases where the complaint is proven, can: (i) where the action complained upon constitutes an offence, make a report to the Commissioner of Police for action on his part; or (ii) where the action complained of does not constitute an offence, call upon the person against whom the complaint is directed to redress the situation, and mediate between the complainant and such person to settle the matter.

### **Discrimination**

94. The NCPE carries out various awareness raising initiatives to promote equal treatment (**Recommendation 13**). The NCPE carried out the EU co-funded project ESF 3.47 – *Unlocking the Female Potential* with the aim of improving access to employment and enhancing the participation and progress of women in the labour market. Inter alia the project seeks to raise awareness through the ‘Equality Mark’ certification that is given to employers who foster equal opportunities in their business cases, following an equality review carried out for each organization. Through the ‘Equality Mark’ employers are encouraged to factually promote equal treatment and equal opportunities irrespective of one’s gender or caring responsibilities.

95. The NCPE also carried out the EU co-funded project, *Gender Mainstreaming – In Practice*<sup>3</sup>. Carried out in 2011 and 2012, the project was aimed at strengthening the knowledge and understanding of gender mainstreaming within the public administration; producing tools for the effective implementation of gender mainstreaming; providing training and highlighting good practices on gender mainstreaming; and encouraging the replication of such good practices to enhance the implementation of this principle. Another EU co-funded project and carried out by the NCPE was *Think Equal*<sup>4</sup>, its main objective being to sensitise, train and empower stakeholders on issues of equality, non-discrimination and diversity. This project targeted youth through training, awareness raising campaigns and competitions on equality and diversity, as well as professional academics through a symposium on the concept of multiple discrimination.

96. Furthermore, the project *Strengthening Equality beyond Legislation*<sup>5</sup>, also carried out by NCPE in 2010, was aimed at enhancing the principle of equal treatment on all the grounds of discrimination, including multiple discrimination. This project sought to: disseminate further legislation on non-discrimination through awareness raising, training, and research; and to disseminate information on EU and national policy and information on the non-discrimination field.

97. The National Commission for the Promotion of Equality works to safeguard equal treatment on the grounds of age, race/ethnic origin, gender, religion, sexual orientation and gender identity in employment, education and in the access and supply of goods and services. To this end, it carries out awareness raising campaigns that also address racial discrimination so to continue fostering a climate of greater tolerance and acceptance towards immigrants. In addition, it assists persons who, in this regard, feel discriminated against by investigating their complaints and by carrying out research on specific facets related to racial discrimination at a national level. The Commission also provides independent assistance and carries out independent investigations in relation to alleged discriminatory incidents that are lodged with it. It should be noted that anti-discrimination



and human rights legislation in Malta applies. As a result, adequate protection is provided to all persons in Malta, including migrants.

### **Disabilities**

98. In 2009 Malta accepted **Recommendation 21** namely to strengthen efforts to protect, in particular, children with disabilities against any form of discrimination, including by envisaging awareness-raising campaigns. Since then Malta also ratified the UN Convention on the Rights of Persons with Disabilities (**Recommendation 4**) and its Optional Protocol on the 10 October 2012. The Convention on the Rights of Persons with Disabilities was published in Maltese and is also made available in an easy to read version. The Convention was also made available in audio in Maltese and in Maltese Sign Language DVD. Furthermore, numerous awareness-raising campaigns continue to be launched via the National Commission Persons with Disability (KNPD) as outlined hereunder.

99. Through the ratification of this convention, Malta is committed to a better quality of life for disabled persons in mainstream society and better recognition of their rights. As a result of the “Inclusive and Special Education Review” of 2005, the Ministry of Education and Employment, provided training to around 1167 Learning Support Assistants to upgrade their qualifications and therefore improve the quality of support they offer to students with disability. Furthermore, the Directorate for Educational Services, through the Student Services Department, has worked to implement all the recommendations that emerged in the said Review to improve the quality of services offered. According to the World Report on Disability (WHO 2011), Malta has one of the highest proportion of disabled children in inclusive education in the European Union.<sup>6</sup>

### **Politics**

100. The political system per se does not discriminate against female representation in politics in the Maltese Islands (**Recommendation 36**). Citizens who wish to contest local or national elections are confirmed or otherwise as candidates after a preliminary vetting by the respective parties. Although female participation in politics has always been low, the amount of females who are elected in Local Council elections is gradually increasing (currently stands at 20.5%. These include mayors, deputy mayors and councillors).

101. Following general elections in March 2013, a total of ten women were elected as members of Parliament. Hon. Helena Dalli was appointed as Minister for Social Dialogue, Consumer Affairs and Civil Liberties and is now in charge of this new ministerial portfolio. This is the first time in Maltese politics that a Minister responsible for civil liberties was appointed. The Hon. Marie Louise Coleiro Preca was appointed Minister for the Family and Social Solidarity. Her Ministerial portfolio includes Social Policy, Family Policy, Child Policy, the Elderly, Policy concerning Persons with Disability and Solidarity Services.

### **Employment opportunities**

102. The Employment and Industrial Relations Act (EIRA) has provisions<sup>7</sup> on the protection against discrimination related to employment, including the principle of equal treatment at all stages of the employment life and the right to be paid equally for work of the same value (**Recommendation 20**). Moreover, the Equal Treatment in Employment Regulations<sup>8</sup> makes it the duty of the employer to ensure that there is no direct or indirect discrimination on grounds of sex with regard to all aspects and conditions of remuneration. The Director of Industrial and Employment Relations is empowered by law to enforce both the provisions of EIRA and its subsidiary legislation to safeguard these principles.

103. In continued efforts to ensure equal opportunities in the job market, access to the labour market by women has been on the forefront of government’s initiative. Malta’s

National Reform Programme 2008-2010 aimed at increasing the female employment rate by training and engaging mothers absent from the labour market. The National Reform Programme contains measures aimed at ensuring that Malta achieves its Europe 2020 (Europe 2020 is the EU's growth strategy for the coming decade) in education, employment, poverty, research and development, energy and the environment. The Employment and Training Corporation (ETC) is working towards such an aim by encouraging and assisting more women to be active in the labour market. Additionally, the Government of Malta has also undertaken fiscal measures in order to motivate women to remain or return to the labour market.

### **LGBTI**

104. Following a change in the Government administration in March 2013, the newly-elected Government of Malta set up a consultative council on LGBT issues, to prepare draft bills and policy papers aiming at furthering LGBT rights. It is also the Government's view that education from an early age is key to eradicate discrimination on all grounds including sexuality and gender identity. In this respect, there are plans to address discrimination and negative attitudes towards minorities from a young age.

105. On 15 April 2013, an amendment to the Civil Code was presented to Parliament. This amendment has now passed all stages of Parliament. It is the intention of the Government to introduce civil unions for same sex couples by the end of 2013.

### **Racism**

106. The National Commission for the Promotion of Equality (NCPE) was initially responsible to safeguard equal treatment on the grounds of race or ethnic origin in the access to and supply of goods and services by virtue of Legal Notice 85 of 2007. In 2012, NCPE's remit was widened (**Recommendation 18**) to cover equal treatment on additional grounds, including racial or ethnic origin in employment, by banks and financial institutions as well as education and vocational guidance.

107. In the light of provisions outlined above, anyone who believes that s/he has been a victim of discrimination on the basis of racial or ethnic origin in employment, banks and financial institutions as well as discrimination on the basis of racial or ethnic origin in the provision of goods and services and their supply, may submit a complaint to the NCPE. Persons who require assistance with formulating / writing such a complaint are offered such assistance by the NCPE. Furthermore, the NCPE endeavours to ensure that each complaint is dealt with in the shortest possible timeframes.

108. In cases where following the necessary investigations it is determined that the action complained about constitutes an offence, a report is made to the NCPE's Commissioner for action from his end. The Commissioner may also refer the matter to the competent civil court or to the Industrial Tribunal for redress. In cases where the action complained about does not constitute an offence, the Commissioner of Police can call upon the person against whom the complaint is directed so to redress the situation and mediate between the complainant and such person to settle the matter.

109. The National Commission for the Promotion of Equality carries out awareness raising campaigns, as for example the EU co-funded project *I'm not Racist, But...*<sup>9</sup> – where the main aim of this project was to raise awareness on racial discrimination and promote cultural diversity (**Recommendation 46**) and disseminated information on rights and responsibilities in this respect through training.

### **Corporal punishment (on minors)**

110. It must be stated that any form of bodily harm is punishable under Maltese legislation. In this regard the Government of Malta contends that ‘the bounds of reasonable chastisement’ referred to in the Civil Code cannot be understood as legalising conduct which is prohibited by the Criminal Code, such as corporal punishment of children. The Government contends that the words ‘bounds of reasonable chastisement’ do not cover corporal punishment but only includes other forms of discipline.

111. Within the Ministry of Education and Employment, Child Safety Services form part of the Safe Schools Programme in the Education Psycho-Social Services, within the Student Services Department. Child Safety Services is a specialized service working in the area of child abuse. It is an educational, coordinating and therapeutic service, offering intervention and preventive services to students, parents and staff in schools. It strives to offer effective and professional services catering for the needs of children who have experienced abuse, while also undertaking the functions of prevention, consultation, monitoring of cases and coordination of services, training, intervention, research, tracing as well as multidisciplinary team work.

112. Prevention is a continuous process practised in schools. This includes awareness raising sessions with parents and prevention sessions with students. Such programmes aim at equipping students with the necessary knowledge about child abuse and vital skills necessary to protect themselves from such a problem. During dialogue sessions with parents, personnel raise awareness about positive discipline and the negative effects of physical discipline. During the class interventions and follow up sessions with the students, the staff encourages students to talk to a trusted adult if they suffer physical abuse. Also, personnel inform teachers and all members of staff that they are bound by the National Policy to report any case of physical abuse. Similarly, healthcare personnel have a duty to report cases of physical abuse they may encounter.

### **The Right to life**

113. On reproductive rights, Malta continues to sustain that the right to life (**Recommendation 34**) is an inherent right of every human being and that this right also includes the unborn child, from its conception. Abortion is thus a direct contradiction to the right to life. The Government of Malta recalls that according to the International Conference on Population and Development (ICPD), in no case should abortion be promoted as a method of family planning.

114. It is also noteworthy to recall that in its definition of reproductive rights, chapter seven of the Programme of Action of the International Conference on Population and Development does not include references to abortion. Malta continues to believe that action towards the fulfilment of sexual and reproductive rights should focus on the positive aspects of education, social welfare and health care.

### **Sexual and Reproductive Health Policy**

115. In 2009 Malta accepted **Recommendation 38** to *formulate a national policy on sexual education*. The Maltese Government is of the view that the focus of any initiatives undertaken with regards to sexual health should focus on ‘knowledge uptake’ and ‘education’ with a view to changing attitudes and empowerment initiatives intended to enable persons to make the right choices about their lifestyle and, in particular, their sexual lifestyle. This is also the approach adopted in the National Sexual Health Policy (launched in November 2010) and the Sexual Health Strategy (launched in November 2011).

116. The National Sexual Health Policy and the Sexual Health Strategy were formulated by the Ministry of Health, the Elderly and Community Care in consultation with various

partners, including the Ministry of Education and Employment. As a follow up, an Implementation Group chaired by the Superintendent of Public Health and including various stakeholders from various Government entities (the Health Department, the Education Department, National Youth Agency) as well and a member of the public, was set up.

117. The terms of reference of the Implementation Group are:

- To establish priorities for the implementation of the various measures in order to effectively achieve the full implementation of the strategy targets.
- To ensure that measures outlined in the strategy document are translated into concrete action plans with specific interventions within an established timeframe and budget.
- To monitor and co-ordinate, where appropriate, the implementation of the interventions.
- To ensure close collaboration and consistency of action between all stakeholders involved in the implementation of the strategy.
- To recommend and commission any research that may be required to fill any deficiencies in information that is considered essential to the implementation of the strategy.
- To keep track of existing or develop new surveillance systems to be able to monitor progress in achieving the targets identified in the strategy.

#### **Sexual and reproductive health care**

118. A number of sexual and reproductive health-care services are freely available within the national public healthcare system. These include: family planning, safe motherhood, infertility treatment, assisted reproduction, prevention, confidential testing, diagnosis and treatment of reproductive tract infections, STIs and HIV/AIDS, prevention and treatment of reproductive cancers and maternal morbidities. According to the Criminal Code, abortion is illegal in Malta.

119. Health education (**Recommendation 39**) is an ongoing initiative which is mainly coordinated by the Ministry for Health and the Ministry for Education and Employment. In 2007, the Government of Malta set-up an Education-Health Committee, made up of experts from the Ministry for Social Policy and the Ministry for Education, Culture, Youth and Sport. The committee meets regularly to discuss and co-ordinate school health activities, to review existing health programmes and initiatives taking place in schools and to advise and put forward proposals for the Health content of the National Curriculum Framework for schools. Furthermore, the Ministry of Health provides a Genito-Urinary Clinic which offers a confidential service of diagnosis and treatment of Sexually Transmitted Infections and counselling and testing for HIV and other genital conditions not necessarily sexually acquired.

120. Aspects of sexual education are covered in schools as part of the 'Personal and Social Development' (PSD) curriculum subject. In PSD, various topics related to sexuality and relationships education are tackled, addressing the various age groups throughout the scholastic year. The main aims of Sexuality and Relationship education in PSD are to help students develop a positive attitude of sexuality, and be able to communicate about sexuality, emotions and relationships; develop the necessary skills to make informed and responsible decisions and choices about their sexual behaviour and health; develop the necessary skills to enter into relationships which are based on mutual respect and understanding for one another's needs and boundaries; encourage critical thinking and

reflection about gender identities and gender-role stereotyping; develop acceptance and respect for people with different sexual choices and orientations; acquire the necessary information that they need to take care of their sexual health; acquire the necessary information about different types of sexually transmitted infections and contraception and acquire the knowledge and skills to be able to identify and access sexual health resources in the community. The topics are also discussed within a pedagogical model which allows attitudes and skills to be acquired through experiential learning (learning from participants' own experiences, be they real or simulated through an activity) and individual and group processing.

## V. Looking ahead

121. Malta remains committed to a strong and effective multilateral human rights system that impartially monitors the implementation by all States of their human rights obligations. Malta will vigorously defend the universality of human rights and will continue to lend its voice against human rights violations worldwide. Malta believes that the UPR process is critical to further human rights around the world. Malta will spare no effort to uphold and take into serious consideration the recommendations emanating from this review and continue to work with all relevant stakeholders, be they Governmental and/or civil society partners, to implement those which will be accepted. In so doing, Malta will ensure that those human rights initiatives it seeks to embark upon will be the most relevant with the most positive impact possible, thereby securing the rights of the most vulnerable in full respect of all human rights and fundamental freedoms.

### Notes

<sup>1</sup> International Convention on the Elimination of All Forms of Racial Discrimination; International Covenant on Economic, Social and Cultural Rights; International Covenant on Civil and Political Rights and its Optional Protocols; Convention on the Elimination of All Forms of Discrimination against Women; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol; Convention on the Rights of the Child and its Optional Protocols; Convention on the Rights of Persons with Disabilities and the International Convention for the Protection of All Persons from Enforced Disappearance.

<sup>2</sup> UNHCR, Asylum Levels and Trends in Industrialised Countries for 2011, dated 27 March 2012.

<sup>3</sup> VS/2010/0819

<sup>4</sup> VS/2010/0569

<sup>5</sup> VS/2009/0405

<sup>6</sup> World Disability Report, WHO (2011), Geneva (Switzerland). Available from: [http://www.who.int/disabilities/world\\_report/2011/en/index.html](http://www.who.int/disabilities/world_report/2011/en/index.html).

<sup>7</sup> Chapter 452 of the Laws of Malta articles 26–32

<sup>8</sup> Regulation 3A

<sup>9</sup> JUST/2011/PROG/AG/1902