

MALTA REVIEW

I. Justice System

B. Quality of justice

Accessibility of courts (e.g. court/legal fees, legal aid, language)

In its preliminary conclusions of 7 July 2023 on Malta, the UN Working Group on discrimination against women and girls welcomed the availability of free legal aid and the facilitation of interpretation services where necessary. However, the UN Working Group heard that the quality of legal aid is not always optimal and that training on women's human rights and cultural diversity should also be provided to members of the legal profession to ensure that gender and cultural bias can be overcome. The UN Working Group recommended to Malta to strengthen the quality and resourcing of legal aid, ensuring also that interpretation and translation services are provided to foreign offenders. They were deeply concerned by the fact that about half of the women detained are awaiting trial, often for many years and recommended that Malta deploy all possible efforts to address the judicial backlog, in accordance with Malta's international commitments ().

Resources of the judiciary (human/financial/material)

In its preliminary conclusions of 7 July 2023 on Malta, the UN Working Group on discrimination against women and girls found that there were considerable backlog and delays in courts due to the lack of magistrates and judges. Indeed, it can take years for the justice system to resolve a case. The fact that women are financially highly dependent on their partner also prevents them from seeking access to justice. The UN Working Group welcomed the positive practice of police and magistrates who request the presence of social workers throughout the justice process and who do not necessarily accept the requests from certain victims to withdraw their complaint before the case is heard (*Training of justice professionals (including judges, prosecutors, lawyers, court staff, clerks/trainees)*)

In its preliminary conclusions of 7 July 2023 on Malta, the UN Working Group on discrimination against women and girls were informed by victims and also high level officials that both police and magistrates sometimes used discriminatory language in cases of gender-based violence (for instance, "what were you wearing?", "did you provoke him?"). While they were informed that members of the judiciary and police officers benefit from training, several stakeholders insisted that the training given is not sufficient or adequate. They also met with very committed police officers, judges and magistrates who expressed the need for increased support by the State in their determined endeavours. To address the various shortcomings in the prevention and protection chain, the UN Working Group recommended that compulsory regular gender-responsive training based on international and regional human rights standards and

jurisprudence be provided to all actors ().

C. Efficiency of the justice system

Length of proceedings

In its preliminary conclusions of 7 July 2023, the UN Working Group on discrimination against women and girls welcomed the positive changes which have taken place in the past years in the administration of justice, in particular, through the incorporation into domestic law of the Istanbul Convention, including the modification of the Criminal Code in June 2022 to include murder ‘with femicidal intent’, the establishment of specialized courts, the Victim Support Agency, the Gender-based and Domestic Violence Unit within the Police (GBDVU), tailored social services provided by APPOGG, sexual assault response teams in hospitals as well as the very recently established Multi Agency Risk Assessment mechanism established to ensure a coordinated and timely response to serious cases of domestic violence. However, the UN Working Group have heard consistently from various stakeholders that women face many obstacles in their path to justice, with delays, cumbersome procedures, and an inconsistent response based on who they encounter in the system. Indeed, Victims expressed that the reporting process is often very long and inadequate, and that the victim already had to describe her case at a district police station before being re-directed to the GBDVU. This leads to the revictimization of the woman and can also have a dissuasive effect in terms of pursuing a complaint. Stakeholders involved in cases of domestic violence insisted that improvements still had to be made in the whole complaint procedure and hoped that the project to open two additional hubs dedicated to gender-based violence cases would help ().

IV. Other institutional issues related to checks and balances

C. Accessibility and judicial review of administrative decisions

Judicial review of administrative decisions: short description of the general regime (in particular competent court, scope, suspensive effect, interim measures, and any applicable specific rules or derogations from the general regime of judicial review)

In its preliminary conclusions of 7 July 2023, the UN Working Group on discrimination against women and girls noted that women detained at the closed immigration detention centre seemed to have a limited possibility for successfully challenging an order of deportation and no judicial recourse. The UN Working Group recommend that Malta consider alternatives to immigration detention and in any case determine detention on the basis of a judicial decision and adopts judicial review of immigration related decisions ([Microsoft Word - EoM STATEMENT MALTA_FINAL.docx \(ohchr.org\)](#)).

D. The enabling framework for civil society

Rules and practices having an impact on the effective operation and safety of civil society organisations and human rights defenders. This includes measures for protection from attacks – verbal, physical or online –, intimidation, legal threats incl. SLAPPs, negative narratives or smear campaigns, measures capable of affecting the public perception of civil society

organisations, etc. It also includes measures to monitor threats or attacks and dedicated support services

In its preliminary conclusions of 7 July 2023, the UN Working Group on discrimination against women and girls were concerned about the intimidating environment surrounding the debate on sexual and reproductive health rights, and in particular, online and offline attacks against women activists in Malta. These include gender-based threats and hate speech on social media, smear campaigns, blackmail, intimidation and stigmatization, with comments such as “Here come the troublemakers”. The UN Working Group also heard of one instance of physical attack and two instances of online death threats. Independent women’s and girls’ organisations and networks play a critical role in ensuring a healthy democracy and the fulfilment of human rights. They should be granted adequate resources, be able to carry out their work without fear of reprisals and be included in policy-making. Any harassment of activists must be prevented and duly sanctioned ().

Rules and practices on the participation of civil society organisations and human rights defenders to the decision-making process (e.g. measures related to dialogue between authorities and civil society, participation of civil society in policy development and decision-making, consultation, dialogues, etc.)

In its preliminary conclusions of 7 July 2023, the UN Working Group on discrimination against women and girls recommended that the authorities in Malta must ensure that all women activists are safe and can work without fear of reprisals. Indeed, independent and well-resourced women’s and girls’ organisations and networks play a critical role in a healthy democracy. Malta benefits from a vibrant civil society which should be supported and consulted with. ().

E. Initiatives to foster a rule of law culture

Measures to foster a rule of law culture (e.g. debates in national parliaments on the rule of law, public information campaigns on rule of law issues, contributions from civil society, education initiatives etc.).

In its preliminary conclusions of 7 July 2023, the UN Working Group on discrimination against women and girls identified some proposals and promising practices in the areas of menstrual hygiene, teen pregnancy prevention with one-on-one individual coaching of girls and their parents about sexuality education and contraception in addition to the class courses provided. Moreover, in relation to gender equality education in the school curriculum, the UN Working Group was pleased to learn that there is a stream on Personal, Social and Cultural Development (PSCD) which focuses on human rights broadly and also specifically examines gender equality, sexuality and relationships education, including respect for different sexual orientations and gender identities. Many interlocutors described the difficulties for some teachers in properly teaching this program, particularly where the teacher holds conflicting views to the content being taught, or where they do not have the tools and understanding to effectively deliver the content. The UN Working Group believed it would be valuable for the Government to evaluate the effectiveness of the current curriculum with a view to strengthening it so it is delivered in a systematized manner. Furthermore, the UN Working Group was also concerned by the difficult paths towards naturalisation for women. The fact that apart from the criteria foreseen in the law, there are criteria added in internal policies of the

Citizenship Office, which are not published nor public, raises concerns about the rule of law in a democratic society as experienced by persons seeking (or possibly unknowingly deserving) citizenship. They were surprised to learn that there is often no explanation or legal foundation and justification given for the decisions denying citizenship, and that there is no administrative nor judicial recourse to challenge such decisions ().

Other

Implementation of international law and lack of monitoring - In its preliminary conclusions of 7 July 2023, the UN Working Group on discrimination against women and girls found that despite its comprehensive legal, policy and institutional framework for the protection and promotion of women's and girls' human rights, Malta lags in implementation. The lack of comprehensive available disaggregated data and strong monitoring capacity is a key barrier to identifying gender equality challenges and measuring change ().