

# Franet National contribution to the Fundamental Rights Report 2020

**Malta**

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## Franet country study: policy and legal highlights 2019

<b>Issues in the fundamental rights institutional landscape</b>	<p><b>Equality Bill 2015:</b> It would ensure uniform but tailored protection for all grounds, widening the application scope across the protected grounds and would therefore end the asymmetric protection offered in the existing law. At the end of 2019, the adoption of the Bill was still pending, following its <a href="#">second reading</a> in Parliament in November.</p> <p><b>The Human Rights and Equality Commission Bill:</b> It aims to establish an independent commission responsible for the promotion and protection of human rights, including the right to equal treatment. At the end of 2019, the adoption of the Bill was still pending, following its <a href="#">second reading</a> in Parliament in November.</p>
<b>EU Charter of Fundamental Rights</b>	<p><b>The Maltese Court applying the The EU Charter of Fundamental Rights:</b> In February 2019, the case of <a href="#">JONES CECIL HERBET VS AVUKAT GENERALI</a> took place. The case referred to human rights violations of Article 34 (3) and Article 47.</p>
<b>Equality and non-discrimination</b>	<p>On <b>Equality and non-discrimination</b>, <a href="#">Act III of 2019</a> was passed in March to update the <b>Public Administration Act</b>. -Now everyone in the working sphere is protected from discriminatory behaviours.</p> <p><a href="#">Malta's first interfaith Declaration</a> was signed in February 9, 2019.</p>
<b>Racism, xenophobia &amp; Roma integration</b>	<p><b>On Action to Fight Hate Speech</b>, in June 2019 the Ministry of Home affairs announced the intent to establish a specialised hate speech unit. Following migrant protests and a showing of increased hate speech on social media, the unit was inaugurated in October 2019.</p>
<b>Asylum &amp; migration</b>	<p>No important development in 2019.</p>
<b>Data protection and digital society</b>	<p>Regarding <b>Data protection and digital society</b>, In April 2019, legislative amendments were introduced to the Gaming Act, through <a href="#">Subsidiary Legislation, the Retention of Data (Malta Gaming Authority) Regulations</a>. stipulating that the Gaming Authority may retain all personal data for a period of 10 years from the date when the data is no longer useful.</p> <p><a href="#">The Malta AI Strategy</a> was launched in 2019. Moreover, the Malta AI Taskforce proposes that any national framework document should ensure that AI is not left unregulated.</p>
<b>Rights of the child</b>	<p>Regarding <b>Rights of the Child</b>. <a href="#">The Children and Young Persons Act (Ch. 285) was amended by Act II of 2019</a>. The 2019 amendments concern care orders in respect of a child or young person in need of care, protection or control.</p>
<b>Access to justice, including victims of crime</b>	<p>Regarding <b>Victims Rights</b>, on 25th July 2019, the European Commission sent a <a href="#">letter of formal notice to Malta for infringement of the Victims' Rights Directive 2012/29/EU</a>, as it did not manage to transpose Directive in its legislative system. In May 2019, <a href="#">Bill 84 of 2019 - Criminal Code and the Gender Based Violence and Domestic Violence (Amendment) Act</a> was passed prescribing the police to request protection orders for victims.</p>
<b>Convention on the Rights of Persons with Disability</b>	<p>Subsidiary legislation has been enacted to better implement the <b>Convention on the Rights of Persons with Disability</b>, <a href="#">the Social Care Standards Authority Act: Social Regulatory Standards on Residential Services for Persons with Disability Regulations</a> introduced a new set of standards to promote the dignity of persons with a physical disability, by providing personalised evaluation of the individual's physical and emotional capability. <a href="#">The government committed € 80,000,000 to the Ministry for the Family, Children's Rights, and Social Solidarity</a>, some of which will be devolved to disability.</p>

# Chapter 1. Equality and non-discrimination

## 1. Legal and policy developments in 2019 relevant to combating discrimination based on gender identity, religion or belief, disability, age or sexual orientation

In 2019, there was continued discussion of the Equality Bill, which was first proposed in 2015. It has taken several years for the Equality Bill to start the legislative process. Currently, it is on its second reading in Parliament, having been debated in Parliamentary sitting no. 276 on 11<sup>th</sup> November 2019.<sup>1</sup> It would serve as a unified source for equality and non-discrimination legislation, seeking to ensure uniform but tailored protection for all grounds, widening the application scope across the protected grounds and would therefore end the asymmetric protection offered under the current legislative framework. Truly, according to Article 5, “No person, establishment or entity, [...] shall discriminate against any other person” on the grounds of:

- 1) advertising,
- 2) educational and vocational guidance,
- 3) employment,
- 4) employees’ and employers’ organisations,
- 5) employment agencies,
- 6) self-employment and occupation,
- 7) banks and financial services,
- 8) insurances,
- 9) access to goods and services, including medical care social services and housing<sup>2</sup>

The Bill covers individuals as well as both the private and public sector. Intersectional discrimination was also to be addressed with specific provisions in the proposed legislation. Exceptions to the prohibition of discrimination were also extended in order to a) achieve substantive equality for disadvantaged persons; b) protect persons during pregnancy, childbirth or maternity; c) integrate disabled persons at work; d) to provide goods and services to persons protected under the Bill.<sup>3</sup> Beyond the negative obligation ‘not to discriminate’ the Bill also including a number of positive obligations most notably a requirement on the public administrations to promote equality and gender mainstreaming through its policies, and to actively meet the needs of people with protected characteristics as well as to encourage them to participate in public life. In the case of an allegation of discrimination, the Bill sets a right of action before the competent court of civil jurisdiction to ask for order of cessation of the discriminatory action and/or a compensation for the suffered damage.<sup>4</sup>

In November 2019, in a statement, MP Godfrey Farrugia during the second reading of the Equality Bill in parliament raised the issue that the Bill is venturing beyond the existing Constitution, as “it accounts for all spheres of life which suggests that the principles of equality and non-discrimination are applicable to all legislation regulating all areas of human social activity”<sup>5</sup>. However, the EU anti-discrimination directives only encompass specific areas. As of right now, therefore, the enactment of the Bill would result in stepping on an “uncharted territory”.<sup>6</sup>

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<sup>1</sup> Malta, Parliament of Malta, ‘[Bill no. 96 Equality Bill - Sitting No. 276](#)’, 11 November 2019.

<sup>2</sup> Malta, Ministry for European Affairs and Equality, ‘[Equality Act 2015](#)’, 2015.

<sup>3</sup> Malta, Ministry for European Affairs and Equality, ‘[Equality Act 2015](#)’, 2015.

<sup>4</sup> Malta, Ministry for European Affairs and Equality, ‘[Equality Act 2015](#)’, 2015.

<sup>5</sup> Times of Malta (2019) ‘Equality Bill goes a step too far’ - Godfrey Farrugia’, 6 November 2019.

<sup>6</sup> Times of Malta (2019), ‘Equality Bill goes a step too far’ - Godfrey Farrugia’, 6 November 2019.

The Human Rights and Equality Commission Bill is also only at the stage of the first second reading in Parliament, and was debated alongside the Equality Bill during Parliamentary sitting no. 277 on 12<sup>th</sup> November 2019.<sup>7</sup> The aim of the Bill is to establish an independent commission responsible for the promotion and protection of human rights, including the right to equal treatment.<sup>8</sup> The Commission would fall under the responsibility of the Parliament, according to article 3(2), and according to Article 3(3), “[...] the Commissioner and the members of the Commission shall not be subject to the direction or control of any other person or authority”.<sup>9</sup> The proposed Commission is to be modelled on both the United Nations’ Paris Principles, as well as the European Union’s equality body model laid out in EU equality directives.<sup>10</sup> The Commission would investigate (potential) violations of human rights, or the right to equal treatment and non-discrimination either upon a complaint or on its own initiative, thus having three main functions: 1) it would be a consultative body submitting opinions, 2) recommendations, and 3) reports on matters related to human rights and equality to the Government, Parliament, and any other public entity and examine legislative or administrative provisions. The Human Rights and Equality Commission would be the successor to the present National Commission for the Promotion of Equality for Men and Women (NCPE), although it would significantly widen its scope, functions and complaint mechanism, as stated in Articles 14 to 21.<sup>11</sup>

In March 2019, the Act III of 2019 was passed to update and replace the Public Administration Act, Cap. 497. The Act contains a Code of Ethics for Public Employees and Board Members. Point 20 of this code covers “non-discrimination”, stating that “Public employees and board members shall”<sup>12</sup>:

- (a) “not discriminate in any manner or on any basis including race, place of origin, nationality, skin colour, political opinions, creed, sex, sexual orientation, expression or gender identity, civil status, mental or physical well-being;
- (b) not act in a manner that impairs one’s enjoyment of one’s fundamental rights and freedoms, provided that this enjoyment does not prejudice in any manner and at the same time respects the rights and freedoms of others or the public interest, where fundamental rights and freedoms are legitimately subject to the public interest; and
- (c) treat all with dignity and respect.”<sup>13</sup>

Another achievement of 2019, was the adoption of Malta’s first interfaith Declaration, signed in February 9, 2019 in occasion of the United Nations’ World Interfaith Harmony Week.<sup>14</sup> As stated by the President of Malta Marie-Louise Coleiro Preca during an event organized by the Presidential Office, “[t]his historical declaration is the outcome of a constructive interfaith dialogue, which took place at the Palace in Valletta, in October 2018,” and that its scope was to remind all of us of “the universal human right to freedom of religion and belief,” which in turn is “the twin” right of freedom of expression”.<sup>15</sup> Truly, as explained in her own words: “they both protect unconditionally a person’s inner realm of thinking and believing, where no restrictions can be justified on whatsoever grounds,” thus, they shall “exist in synergy”, and shall be implemented “whenever interfaith dialogue takes place”.<sup>16</sup>

<sup>7</sup> Malta, Parliament of Malta, [‘Bill no. 97 Human Rights and Equality Commission Bill - Sitting no. 277](#), 12 November 2019.

<sup>8</sup> Malta, Ministry for European Affairs and Equality, [‘The Human Rights and Equality Commission Act’, 2015](#).

<sup>9</sup> Malta, Ministry for European Affairs and Equality, [‘The Human Rights and Equality Commission Act’, 2015](#).

<sup>10</sup> Council Directive 2004/113/EC of 13 December 2004; Council Directive 2000/43/EC of 29 June 2000.

<sup>11</sup> Malta, Ministry for European Affairs and Equality, [‘The Human Rights and Equality Commission Act’, 2015](#).

<sup>12</sup> Malta, Ministry for Justice Culture and Local Government, [‘Act No. III of 2019: Public Administration Act’](#) -22 February 2019.

<sup>13</sup> Malta, Ministry for Justice Culture and Local Government, [‘Act No. III of 2019: Public Administration Act’](#) -22 February 2019.

<sup>14</sup> Malta, Office of the President, [‘An event organised by the Office of the President on the occasion of World Interfaith Harmony Week, during which the Malta Interfaith Harmony Week Declaration was signed’](#), press release, 9 February 2019.

<sup>15</sup> Malta, Department of Information, [‘Speech delivered by President of Malta Marie-Louise Coleiro Preca during an event organised by the Office of the President, on the occasion of World Interfaith Harmony Week, 8 February’](#), press release, 9 February 2019.

<sup>16</sup> Malta, Department of Information, [‘Speech delivered by President of Malta Marie-Louise Coleiro Preca during an event organised by the Office of the President, on the occasion of World Interfaith Harmony Week, 8 February’](#), press release, 9 February 2019.

On the grounds of disability, in May 13, 2019, the Parliamentary Secretary for Persons with Disability and Active Ageing, Anthony Agius Decelis commented through a press release that efforts are being redirected towards the “restructuring in the Community Inclusive Employment Scheme”.<sup>17</sup> The aim of the government’s commitment is to ameliorate the employment conditions of people with disability, following the principles of “accessibility, independence and support, as well as inclusion and respect,” to ensure better quality of life for persons with disability and their families.<sup>18</sup> In practical terms, Parliamentary Secretary for Local Government and Communities, Silvio Parnis, said the budget had been upgraded this year, from €100,000 to €300,000, so as to allocate more resources and encourage disabled to participate in the labour market.<sup>19</sup> So far, the scheme has delivered some results, according to which, “21 workers with disability are currently employed with local councils and [...] 7 of these workers will start working on a full-time basis”.<sup>20</sup> Furthermore, starting from January 2019, the weekly assistance payment for severe disabled persons has been raised from €140 to €150, and such scheme has been extended to cover an extra 600 people, thus granting them a respectable life standard.<sup>21</sup> Last but not least, the Disabled Child Allowance raised as well, in 2014 from €16.31 to €20 per week, and with the start of 2019, it increased by an extra €5 to €20 per week, covering 1,400 disabled children and their families.<sup>22</sup>

On the grounds of sexual orientation Malta is covered by the LGBTIQ Strategy and Action Plan (2018-2022), which saw the establishment of The Sexual Orientation, Gender Identity, Gender Expression and Sex Characteristics Unit (SOGIGESC), within the Human Rights and Integration Directorate (HRID).<sup>23</sup> Its goals are to reach civil liberties and antidiscrimination with regards to LGBTIQ; HRID reports to the Ministry for European Affairs and Equality (MEAE).<sup>24</sup> This Action Plan will cover during the years, 10 thematic areas: Right to equality and freedom from discrimination; Right to education; Right to health; Equality in sport; Right to private and family life; Freedom from hatred; LGBTIQ civil society; Right to seek asylum; Promotion of LGBTIQ equality on an international level; and Other LGBTIQ measures.<sup>25</sup> Last but not least, in 2019, the Ministry for Equality and the Tourism Authority launched the #ILKOLLMERHBA (#ALLWELCOME) Campaign, where “businesses and organisations are encouraged to sign up [...] to strive towards a business environment that is respectful of its LGBTIQ workforce, clients and business partners”; in turn they received a sticker to use in the business to showcase their support.<sup>26</sup> This last campaign has been suspended due to a backlash. Truly, “[m]any of those who expressed an opinion against the scheme said that after years of trying to do away with labels, and of trying to achieve equality in society, the government was now resorting to labels to differentiate between different types of people”.<sup>27</sup>

## **2. Research findings, studies or surveys on either experience of discrimination or rights awareness**

According to a survey on loneliness by the University of Malta, “those who have some form of a disability, including problems with vision, hearing, communication, movement activities, learning difficulty, or intellectual difficulties, 57.2% suffer from either moderate or severe or very severe levels

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<sup>17</sup> Malta, Parliamentary Secretariat for Local Government and Communities & the Parliamentary Secretariat for Persons with Disability and Active Ageing, [‘Restructuring in the Community Inclusive Employment Scheme’](#), 13 May 2019.

<sup>18</sup> Malta, Parliamentary Secretariat for Local Government and Communities & the Parliamentary Secretariat for Persons with Disability and Active Ageing, [‘Restructuring in the Community Inclusive Employment Scheme’](#), 13 May 2019.

<sup>19</sup> Malta, Parliamentary Secretariat for Local Government and Communities & the Parliamentary Secretariat for Persons with Disability and Active Ageing, [‘Restructuring in the Community Inclusive Employment Scheme’](#), 13 May 2019.

<sup>20</sup> Malta, Parliamentary Secretariat for Local Government and Communities & the Parliamentary Secretariat for Persons with Disability and Active Ageing, [‘Restructuring in the Community Inclusive Employment Scheme’](#), 13 May 2019.

<sup>21</sup> Malta, Ministry for Finance, [‘Budget Speech 2019’](#), 22 October 2018.

<sup>22</sup> Malta, Ministry for Finance, [‘Budget Speech 2019’](#), 22 October 2018.

<sup>23</sup> Malta, Ministry for European Affairs and Equality, [‘LGBTIQ equality strategy & action plan 2018-2022’](#), 2018.

<sup>24</sup> Malta, Ministry for European Affairs and Equality, [‘LGBTIQ equality strategy & action plan 2018-2022’](#), 2018.

<sup>25</sup> Malta, Ministry for European Affairs and Equality, [‘LGBTIQ equality strategy & action plan 2018-2022’](#), 2018.

<sup>26</sup> Malta, Ministry for European Affairs and Equality, [‘#ILKOLLMERHBA #ALLWELCOME Campaign’](#), 2019.

<sup>27</sup> Malta Today (2019), ‘Equality sticker campaign aimed at raising awareness among hospitality workers’, 4 June 2019.



of loneliness”.<sup>28</sup> The survey studied a sample of individuals from 11 yrs upwards, using “a stratified random sampling process with adequate representation of gender, age, and district”.<sup>29</sup> The questionnaire, per se, followed the standardised loneliness measure, the De Jong Gierveld Loneliness Scale, studying a sample of 1,009 participants answering to the questionnaire.<sup>30</sup>

In terms of sexual orientation, in September 3, 2019, LGBTI+ Gozo, issued a survey on the sister island of Malta. 53 individuals participated at the online survey, who answered to 18 questions covering “key areas of demographics, issues faced with openly stating one’s sexuality, needs of this population and availability of information related to LGBTI+ needs”.<sup>31</sup> The average age of the respondents was 31-years old, with the youngest one being 17, and the oldest one being 59.<sup>32</sup> 71.7% (38) identified within the male spectrum, 15.1% (8) female, and 13.2% (7) as either agender, trans or else.<sup>33</sup> The results showed that the average age of ‘coming out’ is 21-years old, 60% (32) of them, took 2 years to feel comfortable “with being open about their sexuality entirely,” and 56.6% “found it difficult to be open about their identity,” mainly because of a very small community on the island, traditionalism, discrimination, family disapproval, and loss of friendships.<sup>34</sup> 69.8% of the participants find worse conditions in Gozo, compared to Malta, which is perceived as more open-minded and diverse.<sup>35</sup> Lastly, the improvements that emerged from the survey should be directed towards more education for the general public, and public spaces for the LGBTI+ community, like clubs, events, and support groups.<sup>36</sup>

## Chapter 2. Racism, xenophobia and related intolerance

### 1. Legal, policy developments and measures relating to the application of the Racial Equality Directive

The Equality Bill (see Chapter 1) applied, inter alia, to the Racial Equality Directive. The Bill, which, as of July November 2019, is on its ~~first~~ second reading in the Maltese Parliament strives to be an Act to prohibit discrimination in various spheres of life, to promote equality and prevent discrimination, to incorporate the relevant provisions of Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, amongst other aims related to racial equality.<sup>37</sup>

The proposed Human Rights and Equality Commission Bill, also in its ~~first~~ second reading in Parliament is also relevant with regard to racial equality.<sup>38</sup> The aim of the Bill is to establish an independent commission responsible for the promotion and protection of human rights, including the right to equal treatment. The Commission would investigate (potential) violations of human rights, or the right to equal treatment and non-discrimination either upon a complaint or on its own initiative.<sup>39</sup>

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<sup>28</sup> Malta Independent (2019), ‘57.2% of people with any form of disability experience some degree of loneliness’, 17 June 2019.

<sup>29</sup> Malta Independent (2019), ‘57.2% of people with any form of disability experience some degree of loneliness’, 17 June 2019.

<sup>30</sup> Malta Independent (2019), ‘57.2% of people with any form of disability experience some degree of loneliness’, 17 June 2019.

<sup>31</sup> LGBTI+ Gozo (2019), ‘[LGBTI+ Survey Gozo](#)’, 3 September 2019.

<sup>32</sup> LGBTI+ Gozo (2019), ‘[LGBTI+ Survey Gozo](#)’, 3 September 2019.

<sup>33</sup> LGBTI+ Gozo (2019), ‘[LGBTI+ Survey Gozo](#)’, 3 September 2019.

<sup>34</sup> LGBTI+ Gozo (2019), ‘[LGBTI+ Survey Gozo](#)’, 3 September 2019.

<sup>35</sup> LGBTI+ Gozo (2019), ‘[LGBTI+ Survey Gozo](#)’, 3 September 2019.

<sup>36</sup> LGBTI+ Gozo (2019), ‘[LGBTI+ Survey Gozo](#)’, 3 September 2019.

<sup>37</sup> Malta, Parliament of Malta, ‘[Bill no. 96 Equality Bill - Sitting No. 276](#)’, 11 November 2019.

<sup>38</sup> Malta, Ministry for European Affairs and Equality (2015), ‘[The Human Rights and Equality Commission Act](#)’, 2015.

<sup>39</sup> Malta, Parliament of Malta, ‘[Bill no. 97 Human Rights and Equality Commission Bill - Sitting no. 277](#)’, 12 November 2019.

The Public Administration Act (also mentioned in Chapter 1) which has a Code of Ethics for Public Employees and Board Members covers “non-discrimination”, stating that “Public employees and board members shall “not discriminate in any manner or on any basis including race, place of origin, nationality, skin colour, political opinions, creed, sex, sexual orientation, expression or gender identity, civil status, mental or physical well-being.”<sup>40</sup>

## **2. Legal, policy developments and measures relating to the application of the Framework Decision on Racism and Xenophobia**

On 6<sup>th</sup> April 2019, Lassana Cisse Souleymane from the Ivory Coast was shot dead (and two other individuals, one from Guinea and one from Gambia, were seriously injured) in Ħal Far, Malta.<sup>41</sup> On 18<sup>th</sup> May 2019, two individuals, Francesco Fenech and Lorin Scicluna, (who were both soldiers with the Armed Forces of Malta) were arrested in connection with the murder, as well as the attempted murder of a man from Chad in February 2019, in what is widely affirmed to be Malta’s first racially motivated murder.<sup>42</sup> Following the arrest, the President of Malta released a press statement, warning about the ‘dangers of racist, xenophobic, and extremist discourse. This language of hate is to be condemned, and should not take root in Maltese culture’.<sup>43</sup> The trial of the two suspects began on 24 May 2019. Both of them admitted they did not like migrants and would sometimes drive past Ħal Far taunting them but denied all charges. On the night of the murder, Fenech told Scicluna to join him to shoot cats. Scicluna told the Court that when he expressed shock at the shooting, Fenech threatened to shoot him too.<sup>44</sup> On May 28<sup>th</sup>, it was found that there was enough evidence to indict the two soldiers.<sup>45</sup> On 18<sup>th</sup> September, the most recent sitting of the case in court, the pair were denied bail.<sup>46</sup>

Meanwhile, the Armed Forces have also confirmed, in a Statement, the immediate suspension of both arrestees, condemning the incident and stating that; ‘This occurrence is shocking for the Force, especially considering the sacrifices, commitment and dedication of its members who work incessantly, day and night, to save lives at sea, and not end them. This is done without distinction to nationality, colour and sex. This sense of shock is evident in all other members of the Force, who besides their grief for such loss of life, they are also feeling their own hard work being tarnished by such actions of a condemnable nature. Certainly, this occurrence does not reflect the beliefs and values of the members of the Force.’<sup>47</sup>

In addition, the Commander of the AFM also launched an internal inquiry to find out whether this was an isolated incident or there are other issues of discrimination and intolerance to be investigated. The Board tasked with this inquiry is composed of high-ranking officers with remit also to make additional recommendations on the basis of what results during the course of their inquiry.<sup>48</sup>

Since 2017, the Malta Police Force also receives ongoing training related to hate crime, following a Memorandum of Understanding with the OSCE Office for Democratic Institutions and Human Rights (ODIHR) to implement the Training against Hate Crimes for Law Enforcement (TAHCLE)

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<sup>40</sup> Malta, Ministry for Justice, Culture and Local Government, Chapter 595 Laws of Malta, ‘[Public Administration Act](#)’, 27 September 2019.

<sup>41</sup> Malta Today (2019), ‘Drive-by shooting in Birzebbuga: one killed, two injured, murderer on the run’, 7 April 2019.

<sup>42</sup> Malta Today (2019), ‘Enough evidence for soldiers accused of drive-by murder to be indicted’ 28 May 2019.

<sup>43</sup> Malta, Department of Information, ‘[Press Release by the Office of the President](#)’, press release, 18 May 2019.

<sup>44</sup> Times of Malta (2019), ‘Shut up or I will shoot you too’: Police detail suspects’ trail in migrant murder’, 24 May 2019.

<sup>45</sup> Malta Today (2019), ‘Enough evidence for soldiers accused of drive-by murder to be indicted’, 28 May 2019.

<sup>46</sup> Malta Independent (2019), ‘Migrant murder: soldier would say migrants ‘wanted to rule the place’, former girlfriend testifies’, 18 September 2019.

<sup>47</sup> Malta, Department of Information, ‘[Statement by the Armed Forces of Malta](#)’, press release, 20 May 2019.

<sup>48</sup> Malta, Department of Information, ‘[Statement by the Armed Forces of Malta](#)’, press release, 20 May 2019.



programme.<sup>49</sup> This training and other related training is delivered by the Academy for Disciplined Forces.<sup>50</sup>

In September 2018, Eurobarometer released the results of a survey which demonstrated that Malta holds the highest levels of hate speech in the EU.<sup>51</sup> In the context of this, and the aforementioned hate crime, it was announced in June 2019 that the Ministry for Home Affairs is in the process of establishing a specialised unit dedicated to tackling hate speech and hate crime in Malta. The unit will consist of professionals including psychologists, who will offer support to victims of such crimes.<sup>52</sup> On the 24<sup>th</sup> October 2019, the unit was inaugurated by the Minister for Home Affairs, Michael Farrugia.<sup>53</sup> Pressure was applied from the media,<sup>54</sup> NGOs and members of the public<sup>55</sup> to move forward with the setting up of this unit, especially following a number of manifestations of hate speech online following a riot at the Hal Far open centre on 20<sup>th</sup> October 2019. The event took place after a resident of the centre tried to enter the facility whilst appearing to be drunk, going against the centre's regulations.<sup>56</sup> When the centre's security decided to arrest the migrant, the bystanders decided to intervene, resulting in a rapid escalation.<sup>57</sup> Vehicles and structures were set on fire, and attacks between security and migrants took place. Around 300 migrants were involved in the riots.<sup>58</sup> Following the event, hate speech erupted on social media platforms, coming from Maltese nationals, condemning the event. The comments, "ranged from praise for Lorin Scicluna and Francesco Fenech, two young soldiers charged with the murder of Lassana Cisse Souleymane in Hal Far [...] to promoting Nazi Germany's politics."<sup>59</sup> According to Times of Malta, "at least a fifth of about 500 comments accompanying one news report documenting the late-night riots posted on Facebook incited violence or threatened migrants with death."<sup>60</sup>

In addition, in June 2019 the Ministry of European Affairs and Equality announced in a press release that the Integration Unit of the Human Rights and Integration Directorate (first established in December 2017) of the Ministry would be changing its name to the Integration and Anti-Racism Unit.<sup>61</sup>

An additional response to the rise in hate crime and hate speech in Malta is that in April 2019, in a statement on Television Malta's (Malta's National Broadcaster) Facebook page, the Broadcaster announced that a zero tolerance policy would be put in place and that all racist comments would be removed from posts.<sup>62</sup>

In January 2019, a landmark judgement by the Criminal Court of Malta took place, and the law applied by the court implements obligations arising from the Framework Decision on Racism and Xenophobia. The case concerned incitement to racial hatred and misuse of communication technology by the accused, who posted statements that were considered offensive in a Facebook group. The complaint was brought by a Muslim Maltese Citizen, Sara Ezabe. Speaking about the complainant, the accused posted:

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<sup>49</sup> OSCE Office for Democratic Institutions and Human Rights, 'Malta to implement OSCE/ODIHR hate crime training programme for law enforcement', 2 February 2017.

<sup>50</sup> Academy for Disciplined Forces Malta, <https://academy.gov.mt/en/education/Pages/Education-and-Training.aspx>.

<sup>51</sup> European Commission, 'Flash Eurobarometer 469 Report: Illegal Content Online', September 2018.

<sup>52</sup> Malta Today (2019), 'Specialised hate speech unit to be in place by September, minister says', 3 June 2019.

<sup>53</sup> Malta, Department of Information, '[Stqarrija Mill-Ministeru Għall-Intern U S-Sigurtà Nazzjonali](#)', press release, 24 October 2019. (Press Release only available in Maltese).

<sup>54</sup> Times of Malta (2019), '[Specialised hate speech unit still in the process of being set up](#)', 23 October 2019.

<sup>55</sup> Several examples on social media from NGOs regarding the situation. See for example: [SOS Malta](#).

<sup>56</sup> Malta Independent (2019) '[107 migrants arrested in Hal Far centre riot](#)', 2 October 2019.

<sup>57</sup> Times of Malta (2019) 'Watch: Hal Far riot sparked by row between migrant and security', 21 October 2019.

<sup>58</sup> Malta Independent (2019), '[Updated \(7\): 107 migrants arrested in Hal Far centre riot](#)', 21 October 2019.

<sup>59</sup> Malta Today (2019), '[Marie-Louise Coleiro Preca decries hate speech in the wake of migrant riots](#)', 22 October 2019.

<sup>60</sup> Times of Malta (2019), '[Specialised hate speech unit still in the process of being set up](#)', 23 October 2019.

<sup>61</sup> Malta, Department of Information, '[Stqarrija mill-ministeru għall-affarijiet ewropej u l-ugwaljanza: il-gvern b'bidma importanti favur l-integrazzjoni tar-refuġjati li qed jgħixu u jaħdmu f'Malta](#)', press release, 20 June 2019. (Press Release only available in Maltese).

<sup>62</sup> [Facebook](#), 'Television Malta', 10<sup>th</sup> April 2019.

“Tmur tihdu fox kemm anda ... awnhekk edin pajjizna .. ahna religjon wihed biss ... huma guests iridu jimxu al ligijiet tagna ... ma jogobomx?? F\*\*\* off back to your country!” (She can go f\*\*\* herself, here we are in our own country...we have only one religion...they are guests and should follow our law...they don't like it...?).<sup>63</sup>

The case was an overturning of a previous ruling whereby the accused, Brandon Bartolo, had previously been acquitted of charges of incitement to racial hatred. In the appeal, Brandon Bartolo was charged and received a suspended two-year jail term for six months for inciting online hate speech. The Magistrate’s Court had previously ruled that the comments should be taken within their context and the comments were an expression of the accused’s views and not one intended to or likely to stir up racial hatred. However, the Court of Appeal determined that in order to be guilty of inciting racial hatred, no intention to insult needed be proven by the prosecution, adding that it sufficed to prove the publication of such comments which, would negatively affect those targeted by such comments.<sup>64</sup>

Following the case, the Dean of Law at the University of Malta was interviewed by the Malta Independent about the judgement. He deemed that Article 82A in Malta’s Criminal Code,<sup>65</sup> is too loosely framed that it does not match the principle of *nullum crimen sine lege*. Agreeing with the Court of Criminal Appeal’s judgement, the professor settled Mr. Bartolo’s behaviour within the purview of article 82A on the incitement of racial hatred. For an indictment of inciting racial hatred to occur, there is no need for actual racial hatred to have taken place. Inciting racial hatred occurs when there is a reference to Malta, Catholicism, and degrading foreigners.<sup>66</sup>

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<sup>63</sup> Malta, Court of Criminal Appeal, [Appeal No. 48/2018](#), 17 January 2019.

<sup>64</sup> Malta, Court of Criminal Appeal, [Appeal No. 48/2018](#), 17 January 2019.

<sup>65</sup> Malta, Ministry for Justice, Culture and Local Government, ‘Chapter 9 Laws of Malta: [Criminal Code](#)’, 10 June 1854.

<sup>66</sup> Malta Independent (2019), ‘Freedom of Speech case: Article of Criminal Code runs counter to legal principle – Dean of Law’, 31 January 2019.

## Chapter 3. Roma integration

There are no current strategies for the integration of Roma/ Travellers. In December 2011, when Malta responded to a call from the European Commission to adopt the National Roma Integration Strategy,<sup>67</sup> it was stated that according to both official and non-official data on foreign nationals in Malta, there was no one of Roma ethnicity registered as living in Malta. This was also reported in the European Commission against Racism and Intolerance (ECRI) report on Malta from 2018, which states that “Malta considers it has no national minorities in its territory and no Roma population.” There have been no further updates in this regard.<sup>68</sup>

### **1. Measures and developments addressing Roma/Travellers segregation**

### **2. Policy and legal measures and developments directly or indirectly addressing Roma/Travellers inclusion**

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<sup>67</sup> Permanent Representation of Malta to the European Union and Ministry for Education, Employment and the Family (2011), ‘[Implementation of the National Roma Strategy by Malta](#)’, 14 December 2011.

<sup>68</sup> European Commission against Racism and Intolerance (ECRI) (2018), ‘[ECRI Report on Malta \(fifth monitoring cycle\)](#)’, 15 May 2018.

## Chapter 4. Asylum, visas, migration, borders and integration

### Unaccompanied children reaching the age of majority

Area of support	Description
<p><b>Residence permit</b>  <i>Reception conditions Directive (article 6 and 7) and Qualification Directive (articles 24 and 31)</i></p>	<p><i>Please explain whether unaccompanied children (non-asylum seekers and asylum seekers) get temporary permits and if they expire when turning 18. Please elaborate on which type of permit is granted when they reach 18 years and under which conditions (e.g. being enrolled in education, or having an employment contract.)</i></p> <p>According to the 2018 EMN synthesis report on approaches to unaccompanied minors following status determination in the EU, most unaccompanied children who arrive in the EU (plus Norway) are granted refugee status or subsidiary protection. However, the report notes that the Member States are the exception to this, one of which is Malta, that only grants long-term or permanent residence permits to unaccompanied minors.<sup>69</sup> However this seems to be refuted in a policy document for a new residence status, <i>Specific Residence Authorisation</i> which was adopted in 2018. The document states the unaccompanied-children were usually granted Temporary Humanitarian Protection status as they often did not meet the criteria for Subsidiary Protection or refugee status.<sup>70</sup> This residence permit is valid for one year with possibility of renewal. A representative from the Agency for the Welfare of Asylum Seekers (AWAS) stated that temporary permits do not expire upon the individual turning 18, but that it is dependent on the type of permit and its validity, ie. if the individual is granted refugee permit, they will have a renewable permit valid for 3 years, whilst a permit for a person with subsidiary protection lasts for one year. All unaccompanied children on arrival are provided with at least temporary protection to stay in Malta, which is granted by the Office of the Refugee Commissioner.<sup>71</sup> Upon turning 18, conditions to be eligible for Specific Residence Authorisation status would have to be reassessed.</p> <p>With regard to the right to education and employment, according to the Asylum Information Database Report 2018, unaccompanied minors would have access to education for free until age 16. Regarding access to education once reaching an age of maturity, they can access the benefits of higher/tertiary education if they hold international protection</p>

<sup>69</sup> European Migration Network (EMN) (2018), [Approaches to Unaccompanied Minors Following Status Determination in the EU plus Norway](#), July 2018.

<sup>70</sup> Malta, Ministry for Home Affairs and National Security (2018), [Policy regarding Specific Residence Authorisation](#), November 2018.

<sup>71</sup> Information provided in an interview with a representative from the Agency for the Welfare of Asylum Seekers (AWAS), 3 December 2019.

	status. <sup>72</sup> As the EMN report notes, an authorisation to work is required for all unaccompanied children in only five EU countries, including Malta. <sup>73</sup>
<b>Guardianship (representative under Reception Conditions Directive Article 24.1)</b>	<p><i>Please elaborate on how the role of guardians is affected when the child reaches 18, and of any initiatives to expand the guardian’s support, for example transforming the guardian into a ‘mentor’ supporting the child until a certain age.</i></p> <p>According to Articles 21 and 22 of the Minor Protection (Alternative Care) Act (16<sup>th</sup> July 2019), the Court shall issue a protection order for an unaccompanied child, which shall remain in force until the child turns eighteen. The protection order encompasses care and custody, supervision and parental responsibility of the minor by a member of the Agency for the Welfare of Asylum Seekers or such other competent authority. The protection order elapses once the child reaches the age of 18, or when revoked.<sup>74</sup> In Malta, a guardian is appointed after registration of an application for international protection. Guardianship ceases when an unaccompanied minor child turns 18 years of age. The CEO of the Agency for the Welfare of Asylum Seekers becomes the legal guardian once a care order for an unaccompanied child is issued. The child is also assigned a social worker from the Agency to assist them. Guardianship ceases once the child turns 18 years of age. However, the social worker continues to support them in this transition period, assisting them with finding employment, guiding them through changes in accommodation (such as being transferred to an Open Centre, or moving into the community).<sup>75</sup></p>
<b>Accommodation Reception Conditions Directive Article 24.2</b>	<p><i>Please explain what children reaching 18 years are entitled to in terms of accommodation, for example extension of foster care programmes until the age of 21, only transfer to an adult accommodation, or other accommodation support.</i></p> <p>There have not been any new developments regarding the accommodation of unaccompanied-children since 2015, found in the Strategy for the Reception of Asylum Seekers and Irregular Migrants<sup>76</sup> and the Reception of Asylum Seekers Regulations.<sup>77</sup> Regulation 15 states that unaccompanied children 16 or over may be placed in accommodation centres for adult asylum seekers.<sup>78</sup></p>

<sup>72</sup> Asylum Information Database (AIDA) (2019), [Country Report on Malta 2018](#), March 2019.

<sup>73</sup> European Migration Network (EMN) (2018), [Approaches to Unaccompanied Minors Following Status Determination in the EU plus Norway](#), July 2018.

<sup>74</sup> Malta, Ministry for Justice, Culture and Local Government, ‘Chapter 602 Laws of Malta, [Minor Protection \(Alternative Care\) Act](#)’, 16 July 2019.

<sup>75</sup> Information provided in an interview with a representative from the Agency for the Welfare of Asylum Seekers (AWAS), 3 December 2019.

<sup>76</sup> Malta, Ministry for Home Affairs and Security (2015), ‘[Strategy for the Reception of Asylum Seekers and Irregular Migrants](#)’, 18 December 2015.

<sup>77</sup> Malta, Ministry for Justice, Culture and Local Government, ‘Subsidiary Legislation 420.06 (Amended by Legal Notice 417 of 2015): [Reception of Asylum Seekers Regulations](#)’, 22 November 2005.

<sup>78</sup> Malta, Ministry for Justice, Culture and Local Government, ‘Subsidiary Legislation 420.06 (Amended by Legal Notice 417 of 2015) [Reception of Asylum Seekers Regulations](#)’, 22 November 2005.

	<p>As much as possible, AWAS aims to provide unaccompanied children with accommodation at Dar il-Liedna (centre for children up to the age of 17),<sup>79</sup> which has a maximum capacity of 58.<sup>80</sup> AWAS prioritises this accommodation for the youngest children. Other children stay at Hal Far Tent Village (an Open Centre with a maximum capacity of 924),<sup>81</sup> which has separate cabins for those under 18 which are closest to the administration building in case of need.<sup>82</sup> They are moved from such facilities once they reach the age of 18, but are assisted by their social worker.<sup>83</sup> According to the EMN report on Approaches to Unaccompanied Minors following Status Determination, those turning 18 years who have been issued a positive decision on status and a residence permit to stay in Malta also have the option of moving to adult accommodation facilities.<sup>84</sup></p> <p>Malta does not currently have specific arrangements in place for foster care of unaccompanied minors.<sup>85</sup></p>
<p><b>Return</b> <i>Return Directive, Article 10</i></p>	<p><i>Please explain whether there are any special measures to prepare unaccompanied children for a return procedure and whether young adults receive any form of free assistance during eventual return procedures</i></p> <p>As in all Member States, Malta provides the opportunity for children to access AVR[R] (Assisted Voluntary Return [and Reintegration]) programmes, provided that the conditions to return can be met (i.e. consent of the parents, ensuring adequate reception). In line with the Return Directive, as in all Member States, common procedures are applied by Malta when carrying out voluntary return. These procedures are outlined in the EMN report: ‘Defining a plan for return in consultation with the minor’s legal guardian, and through counselling by social workers, which sets out options for assistance to reintegrate in the country of return; Obtaining the formal agreement of the parents or family members in countries of origin to assist the minor in the reintegration process; alternatively, to assure reception in an adequate child-care institution; Arranging an escort, which can be a parent or a designated person authorised to take care of the child, to accompany the minor during travel; Ensuring proper handover to the parent or appointed legal guardian in the country of return.’<sup>86</sup></p> <p>The project ‘Assisted Voluntary Return and Reintegration in the Country of Origin – RESTART VI’ (MT/2015/AMIF/1.01) currently being implemented by IOM Malta, involves, among the target group of third-country</p>

<sup>79</sup> Information provided in an interview with a representative from the Agency for the Welfare of Asylum Seekers (AWAS), 3 December 2019.

<sup>80</sup> Asylum Information Database (AIDA) (2019), ‘[Types of Accommodation](#)’, 2019.

<sup>81</sup> Asylum Information Database (AIDA) (2019), ‘[Types of Accommodation](#)’, 2019.

<sup>82</sup> Information provided in an interview with a representative from the Agency for the Welfare of Asylum Seekers (AWAS), 3 December 2019.

<sup>83</sup> Information provided in an interview with a representative from the Agency for the Welfare of Asylum Seekers (AWAS), 3 December 2019.

<sup>84</sup> European Migration Network (EMN) (2018), [Approaches to Unaccompanied Minors Following Status Determination in the EU plus Norway](#), July 2018.

<sup>85</sup> European Migration Network (EMN) (2018), [Approaches to Unaccompanied Minors Following Status Determination in the EU plus Norway](#), July 2018. This was also confirmed by a representative from the Agency for the Welfare of Asylum Seekers (AWAS), 3 December 2019.

<sup>86</sup> European Migration Network (EMN) (2018), [Approaches to Unaccompanied Minors Following Status Determination in the EU plus Norway](#), July 2018.



	<p>nationals (TCNs), migrants facing situations that make their return to their countries of origin more challenging. The project aims to assist migrants with health-related needs; particular attention is also given to elderly people, pregnant women, unaccompanied migrant children (UMCs), families/single parents returning with minor children, victims of trafficking, persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence and other persons in situations of vulnerability.</p> <p>In accordance with IOM principles and policies, assistance to these groups is only provided under clearly defined standard operating procedures. Individual counselling as well as return and reintegration assistance provided to migrants in situations of vulnerability are always tailor-made to effectively address their specific conditions and needs. For example, when providing AVRR assistance to migrant children, IOM, at all times, acts in a manner that is consistent with international law. When providing AVRR assistance for unaccompanied migrant children, a set of key principles and parameters are applied and among key considerations are the identification of a legal guardian and the determination of best interests of the child, family assessments, family tracing, and sustainable reintegration assistance for the child as well as for the family and broader community.<sup>87</sup></p> <p>With regard to forced returns, the EMN report states that most countries, including Malta, do not perform forced returns of unaccompanied children, unless in exceptional cases. This is often not considered not to be in the best interests of the child, and assuring adequate reception in the country of return proved to almost impossible, including tracing the family and obtaining parents' consent to return.<sup>88</sup>The report also states that for alternatives to return, 'a tolerated status', is granted by few Member States (which includes Malta). This usually means a postponement of the removal until the conditions for the issuance of a return decision exist (e.g. impediments to orderly return cease to exist, or the <del>minor</del> child reaches the age of 18 or 21 years).<sup>89</sup></p> <p>There were no other specific details available regarding returns for unaccompanied-children reaching maturity.</p>
<p><b>Others</b></p>	<p><i>e.g. special permissions to stay based on education or employment programme, etc.</i></p> <p>A representative from AWAS stated that the social worker assigned to work with the unaccompanied child continues to support them in the transition period into adulthood. A few months prior to reaching the age of majority, the social workers discuss the transition arrangements to adulthood, such as accommodation, assistance with finding employment, enrolment into higher education (such as Malta College of Arts, Science and Technology – MCAST).<sup>90</sup></p>

<sup>87</sup> Answer provided by email from a representative at IOM Malta, 8 October 2019.

<sup>88</sup> European Migration Network (EMN) (2018), [Approaches to Unaccompanied Minors Following Status Determination in the EU plus Norway](#), July 2018.

<sup>89</sup> European Migration Network (EMN) (2018), [Approaches to Unaccompanied Minors Following Status Determination in the EU plus Norway](#), July 2018.

<sup>90</sup> Information provided in an interview with a representative from the Agency for the Welfare of Asylum Seekers (AWAS), 3 December 2019.

The EMN report also states that financial support is provided to children reaching the age of maturity.<sup>91</sup> Further to the above aftercare services, the EMN report states that MCAST, which is Malta's leading vocational education and training institution carries out a monitoring of former unaccompanied children that are enrolled in their programmes.<sup>92</sup>

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<sup>91</sup>European Migration Network (EMN) (2018), [Approaches to Unaccompanied Minors Following Status Determination in the EU plus Norway](#), July 2018.

<sup>92</sup> European Migration Network (EMN) (2018), [Approaches to Unaccompanied Minors Following Status Determination in the EU plus Norway](#), July 2018. This was also confirmed in an interview with a representative from the Agency for the Welfare of Asylum Seekers (AWAS), 3 December 2019.

## Chapter 5. Information society, data protection

### 1. Activities developed and launched by national data protection supervisory authorities (SAs) to implement and enforce the GDPR

The Office of the Information and Data Protection Commissioner (IDPC) also issued a decision regarding a data breach committed by the Lands Authority. Following an investigation from the Times of Malta and Shift News in November 2018, which found that there was a significant security flaw with the Lands Authority website as personal data (Identity card details, e-mail correspondence, affidavits and other compromising data) were easily searchable online.<sup>93</sup> This was investigated by the Office of the IDPC, which found that the Lands Authority's online platform did not have the requisite sophistication to adequately protect the data of its users. The Commissioner found the Lands Authority guilty of a breach of provisions related to Article 32 of the GDPR and Article 1 of the Data Protection Act. The Lands Authority was subsequently punished with an administrative fine of €5,000, which was determined by article 83.2 of the GDPR.<sup>94</sup>

In March 2019, preceding the local council and European elections in May, the Office of the IDPC revised and reissued its General Guidelines on the processing of personal data for political campaigning purposes.<sup>95</sup>

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<sup>93</sup> Times of Malta (2018), 'Massive Lands Authority security flaw dumps personal data online', 23 November 2018.

<sup>94</sup> Malta, Office of the Information and Data Protection Commissioner (IDPC) (2019) '[Lands Authority Personal Data Breach](#)', 18 February 2019.

<sup>95</sup> Malta, Office of the Information and Data Protection Commissioner (IDPC) (2019), '[General Guidelines on the processing of personal data for political campaigning purposes](#)', revised March 2019.

## 2. Artificial intelligence and big data

MS	Actor*	Type*	Description	Are Ethical concerns mentioned? (yes/no)	Are Human Rights issues mentioned?(yes/no)	Reference
MT	Government /Parliamentary	Other Projects	In October 2019 following the consultation period, the Strategy on AI was launched. This is the national policy, following the public consultation period (see below) document, outlining the Maltese Government’s legislative and policy plans regarding artificial intelligence. <sup>96</sup>	YES The introductory part of the document contains a short paragraph, answering the question “Why are some people concerned?”. Chapter 7 of the Strategy looks at legal and ethical concerns, highlighting	YES Very briefly, the Strategy refers to international human rights obligations. Human rights are also mentioned in the introductory part	<a href="#">Malta: The Ultimate Launchpad. A Strategy and Vision for Artificial Intelligence in Malta 2030</a>

<sup>96</sup> Malta, Parliamentary Secretariat for Financial Services, Digital Economy and Innovation Office of the Prime Minister (2019), [Malta: The Ultimate Launchpad. A Strategy and Vision for Artificial Intelligence in Malta 2030](#), October 2019. (Document currently not available online).

				the Ethical AI Framework document. <sup>97</sup> The chapter highlights the importance of transparency and accountability as ethical concerns, and again mentions the setting up of the AI Taskforce, as well as a National Technology Ethics Committee. <sup>98</sup>	of the document “Why are some people concerned”? <sup>99</sup>	
MT	Government / parliamentary	Other Projects	Malta Towards an AI Strategy: High-Level Policy Document for Public Consultation is a national policy document that outlines the Maltese Government’s future legislative	YES. Chapter 8 mentions that it may be necessary to develop local regulations to	YES. Chapter 8 mentions the UN Council’	<a href="#">Malta Towards an AI Strategy: High-Level Policy Document for Public Consultation.</a>

<sup>97</sup> NB: It was previously affirmed that following the public consultation period, the Ethical AI Framework document would be published in October 2019. So far, the document has not been published.

<sup>98</sup> Malta, Parliamentary Secretariat for Financial Services, Digital Economy and Innovation Office of the Prime Minister (2019), [Malta: The Ultimate Launchpad. A Strategy and Vision for Artificial Intelligence in Malta 2030](#), October 2019. (Document currently not available online).

<sup>99</sup> Malta, Parliamentary Secretariat for Financial Services, Digital Economy and Innovation Office of the Prime Minister (2019), [Malta: The Ultimate Launchpad. A Strategy and Vision for Artificial Intelligence in Malta 2030](#), October 2019. (Document currently not available online).

			plans regarding artificial intelligence. <sup>100</sup>	regulate AI. The chapter mentions the danger of unregulated A.I. <sup>101</sup>	s suggestions of a human rights framework. <sup>102</sup>	
MT	Government/Parliamentary	Other Projects	The National Framework document compiled by the Malta AI Taskforce outlines the ethical requirements to future national legislation, and regulations for artificial intelligence. The Taskforce proposes that that any national framework document should ensure that AI is not left unregulated that there is human accountability. <sup>103</sup>	Yes, chapter 2, titled Ethical AI Framework speaks at length about the need for an ethical approach to creating a national AI framework. <sup>104</sup>	Yes, Chapter 1 outlines the importance that a national AI framework be compliant with	<a href="#">Malta: Towards Trustworthy AI (Malta Ethical AI Framework for Public Consultation, August 2019)</a>

<sup>100</sup> Malta, Parliamentary Secretariat for Financial Services, Digital Economy and Innovation Office of the Prime Minister (2019) [Malta Towards an AI Strategy: High-Level Policy Document for Public Consultation](#), March 2019.

<sup>101</sup> Malta, Parliamentary Secretariat for Financial Services, Digital Economy and Innovation Office of the Prime Minister (2019) [Malta Towards an AI Strategy: High-Level Policy Document for Public Consultation](#), March 2019.

<sup>102</sup> Malta, Parliamentary Secretariat for Financial Services, Digital Economy and Innovation Office of the Prime Minister (2019) [Malta Towards an AI Strategy: High-Level Policy Document for Public Consultation](#), March 2019.

<sup>103</sup> Malta, Parliamentary Secretariat for Financial Services, Digital Economy and Innovation Office of the Prime Minister (2019), [Malta: Towards Trustworthy AI \(Malta Ethical Framework for Public Consultation\)](#), August 2019.

<sup>104</sup> Malta, Parliamentary Secretariat for Financial Services, Digital Economy and Innovation Office of the Prime Minister (2019), [Malta: Towards Trustworthy AI \(Malta Ethical Framework for Public Consultation\)](#), August 2019.



					existing human rights regulations. <sup>105</sup>	
MT	Parliamentary/Governmental	Other Projects	The Parliamentary Secretary Minister for Financial Services, Digital Economy and Innovation, Silvio Schembri declared that the Maltese Business Registry (MBR) is to become the first governmental institution in the world to incorporate blockchain technology into its day to day operations. The reason given for this is that business registry will be more accurate and add to the modernization process. <sup>106</sup> No human rights concerns, particularly with regard to privacy have yet been highlighted.	No.	No.	<a href="#">Malta's Business Registry Office</a>
MT	Parliamentary/Governmental	Other Projects	Every rental contract for property in Malta will have to be registered on the blockchain. <sup>107</sup>	No.	No.	<a href="#">Malta Rent Agreements to be registered on Blockchain</a>

<sup>105</sup> Malta, Parliamentary Secretariat for Financial Services, Digital Economy and Innovation Office of the Prime Minister (2019), [Malta: Towards Trustworthy AI \(Malta Ethical Framework for Public Consultation\)](#), August 2019.

<sup>106</sup> Malta Independent (2019), 'Malta Business Registry Offices Inaugurated by PM in Zejtun, 29 June 2019.

<sup>107</sup> Malta Today (2019), 'Rent contracts will all have to be registered on the blockchain, Prime Minister says', 23 June 2019.

### 3. Data retention

In April 2019, legislative amendments were introduced to the *Gaming Act*, through Subsidiary Legislation 583.12 *Retention of Data (Malta Gaming Authority) Regulations*.<sup>108</sup> This legislation stipulates that the Gaming Authority may retain all personal data for a period of 10 years from the date when the data is no longer useful. The retention of personal data is lawful when it is necessary: for legal compliance; public interest, scientific, historical or statistical research and, or for the defence of legal claims brought against the Gaming Authority.<sup>109</sup> There were no other significant changes to Malta's data retention policy so far in 2019.

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<sup>108</sup> Malta, Ministry of Justice, Culture and Local Government (2019), 'Subsidiary Legislation 583.12: [Retention of Data \(Malta Gaming Authority\) Regulations](#)', 16 April 2019.

<sup>109</sup> Malta, Ministry of Justice, Culture and Local Government (2019) '[Subsidiary Legislation 583.12: Retention of Data \(Malta Gaming Authority\) Regulations.](#)', 16 April 2019.

## Chapter 6. Rights of the child

### 1. Procedural safeguards for children who are suspects in criminal proceedings

<b>Legislative changes</b>	<p><i>e.g. reform of the criminal code</i></p> <p>According to the Police Act<sup>110</sup> (Chapter 164 of the Laws of Malta) every person, who is arrested should be provided with a Letter of Rights in a language that the person understands. There is currently no distinction between juvenile and adult suspects.</p> <p>There are no legislative changes with regard to Children who are suspects in criminal proceedings. The Children and Young Persons Act (Ch. 285) was amended by Act II of 2019, however, the amendments did not concern the procedural safeguards for children involved in criminal proceedings (Act II 2019 substituted article 4, <i>Care order in respect of a child or young person in need of care, protection or control</i>).<sup>111</sup></p> <p>Another Law that was amended by Act II of 2019 was the Child Abduction and custody Act (Ch. 410), however, the Law and the amendments did not concern procedural safeguards for children who are suspects in Criminal proceedings.<sup>112</sup></p> <p>The Minor Protection Act<sup>113</sup> of 2019, which replaced the Alternative Care Act, is another legislative change that took place in Malta in 2019. The Act establishes a new legal framework minors who are placed in out-of-home care and aims at safeguarding and protecting the best interests of those children. Although Directive 2016/800 is not mentioned in the Act, Title II of the Act (articles 14-25) discusses changes proposed with regard to the Juvenile Court in Malta.</p> <p>The Act establishes the conditions for the hearing of the minor in court (Art 17. 1.a), suggesting that the Court should ensure that the minor has received all the relevant information in relation to procedures relevant to the minor. The Court should also ensure that, in cases where the minor is not consulted directly, the person consulting the minor has received appropriate training to make such consultations.</p> <p>Title III of the Act (of the Therapeutic and Secure Centre) establishes a Therapeutic and Secure Centre with the purpose of holding minors who have absconded (or are probable to abscond), those who are in risk of hurting themselves, and those who are at risk of causing harm to others. Essentially Title III introduces a new mechanism for the protection of minors who are showing deviant behaviour and creates a safe space for such minors that will allow them to receive help from social workers, and other experts.</p>
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<sup>110</sup> Malta, Ministry for Justice, Culture and Local Government, 'Chapter 164 Laws of Malta: [Police Act](#)', 12 May 2017.

<sup>111</sup> Malta, Ministry for Justice, Culture and Local Government, 'Chapter 285 Laws of Malta: [Children and Young Persons \(Care Orders\) Act](#)', 29 November 1985.

<sup>112</sup> Malta, Ministry for Justice, Culture and Local Government, 'Chapter 410 Laws of Malta [Child Abduction and Custody Act](#)', 1 August 2000.

<sup>113</sup> Malta, Ministry for Justice, Culture and Local Government, 'Chapter 602 Laws of Malta [Minor Protection \(Alternative Care\) Act](#)', 16 July 2019.

<b>Policy developments</b>	<p><i>e.g. guidance or training for law enforcement officers on the treatment of child suspects; amendment of police academy curriculum; training of judges; developing indicators to monitor the situation of child suspects and improve data collection</i></p> <p>There are no policy developments with regard to Directive 2016/800 in 2019 in Malta.</p>
<b>Other measures or initiatives</b>	<p><i>E.g. relevant activities to promote alternatives to detention; community involvement or general initiatives related to the dissemination and information in relation to the entering into force of the Directive.</i></p> <p>There are no other measures or initiatives with regard to Directive 2016/800 in 2019 in Malta.</p>

## 2. Legal and policy measures or initiatives developed about child internet safety

In Malta the responsible institution for the monitoring of all online communications is the Malta Communications Authority<sup>114</sup>. The functions and responsibilities of the Malta Communications Authority are described in the Malta Communications Authority Act (Ch. 418), which was lastly amended in 2019. Especially with regard to Electronic Communications, the legal framework is completed by the Electronic Communications (Regulation) Act<sup>115</sup> (Ch. 399) and subsidiary legislation 399.28 on Electronic Communications Networks and Services (General) Regulations.<sup>116</sup>

The Malta Communications Authority Act incorporates several EU Directives<sup>117</sup> but not the Audiovisual Media Services Directive. The Act also lists the purpose, functions and powers of the Authority (Art. 4). These among others include the prevention of disorder or crime (iii), the protection of public health (iv), and the protection of morals and respect for the dignity of the human person (v). However, the Act does not include explicit measures acting towards creating a safer internet environment for kids and minors.

The Cyber Crime Unit is the section within the Malta Police Force with the responsibility to deal with cases wherein the computer is the target, or the means used. The Unit is also responsible for child abuse taking place over the internet.<sup>118</sup> During the first six months of 2019 the unit was involved in investigating 18 cases – 10 regarding child indecent material and eight concerning online sexual offences on minors.<sup>119</sup>

Initiatives:

<sup>114</sup> Malta Communications Authority, [www.mca.org.mt/](http://www.mca.org.mt/).

<sup>115</sup> Malta, Ministry for Justice, Culture and Local Government, ‘Chapter 399 Laws of Malta [Electronic Communications \(Regulation\) Act](#)’, 2 January 1998.

<sup>116</sup> Malta, Ministry for Justice, Culture and Local Government, ‘Subsidiary Legislation 399.28 [Electronic Communications Networks and Services \(General\) Regulations](#)’, 12 July 2011.

<sup>117</sup> Directives 2002/21/EC, 2002/19/EC, 2002/20/EC, 2002/22/EC, and 2002/58/EC

<sup>118</sup> Malta, Cyber Crime Unit, <https://pulizija.gov.mt/en/police-force/police-sections/Pages/Cyber-Crime-Unit.aspx>.

<sup>119</sup> Times of Malta (2019), ‘Nearly 100 online child abuse cases investigated in two years’, 2 September 2019.

1. Rights 4U 2019 – A three-day live-in organized by the office of the Commissioner for Children. For 2019 the topic was creating a better internet for children and young people and was organized as part of the BeSmartOnline! Initiative.<sup>120</sup>
2. Safer Internet Day 2019 Competition – Church Schools students (4 to 10 years of age) were invited to create a flyer for the year’s “Together for a better internet” theme, and submit it to the competition.<sup>121</sup>
3. Bank of Valletta held an awareness session for its staff on Safer Internet Day. The session focused mostly on the dangers that children can meet over the internet.<sup>122</sup>
4. BeSmartOnline! Encouraged all schools in Malta to participate in Safer Internet Day celebrations, while on February 3<sup>rd</sup> they set up a stand in a shopping mall and distributed resources and promotional material.

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<sup>120</sup> Malta, Commissioner for Children (2019), ‘Rights 4U 2019’, 1 August 2019.

<sup>121</sup> Secreteriat for Catholic Education (2019), ‘[Safer Internet Day 2019](#)’, 23 January 2019.

<sup>122</sup> Malta Independent (2019), ‘Bank of Valletta celebrates Safer Internet Day’, 7 February 2019.

# Chapter 7. Access to justice including crime victims

## 1. Victims' Rights Directive

On 25<sup>th</sup> July 2019, the European Commission sent a letter of formal notice to Malta for infringement of the Victims' Rights Directive (*hereinafter* VRD, or Directive).<sup>123</sup> According to the letter, Malta had failed to adequately transpose the Directive within its national legislative system.

According to the letter, Malta has failed to properly implement several provisions of the VRD, *exempli gratia* the right to be informed about the rights and the case, or the right to support and protection.<sup>124</sup> Now Malta has a two months' time period to act accordingly, otherwise the Commission will proceed via other measures. For the time being, no other information is accessible on the matter.

On 31<sup>st</sup> May, [Bill 84 of 2019 - Criminal Code and the Gender Based Violence and Domestic Violence \(Amendment\) Act](#) was adopted.<sup>125</sup> Though this Bill pertains mainly to the following section on violence against women, it is noteworthy to be discussed from a more general victim's right perspective, as the proposed amendments pertain also to the Criminal Code, as it will be explained below according to Article 540A. The aforementioned Bill added article 540A to the temporary protection orders.<sup>126</sup> Following are the points upon which the discussion will be based on:

### Article 540A

(1) "Upon the receipt of any report, information or complaint requiring proceedings to be taken against a person, the Executive Police shall immediately conduct an assessment in accordance with the provisions of the Victims of Crime Act."<sup>127</sup>

(2) "Where, following such assessment, it becomes apparent that any person is at a serious risk of harm, the Executive Police shall immediately apply in person to a Magistrate requesting the issue of a temporary protection order stating the grounds for the request and giving the Magistrate all such information that will enable the Magistrate to decide upon the request."<sup>128</sup>

(3) "Before deciding whether to issue the temporary protection order the Magistrate may require the police officer or the person making the report or complaint giving the information, to confirm on oath the information supplied by him and the temporary protection order shall be issued once the Magistrate is satisfied that sufficient grounds for the issuing of the order exist: Provided that such a decision shall be taken within 6 hours of receipt of the application."<sup>129</sup>

(6) "A temporary protection order issued under this article shall remain in force for a period not exceeding thirty days, specified by the Magistrate, but can be revoked or

<sup>123</sup> European Commission (2019), [July infringements package: key decisions](#). Brussels, 25 July 2019.

<sup>124</sup> European Commission (2019), [July infringements package: key decisions](#). Brussels, 25 July 2019.

<sup>125</sup> Malta, Ministry for Justice, Culture and Local Government, '[Bill no. 84 of 2019 - Criminal Code and the Gender Based Violence and Domestic Violence \(Amendment\) Act](#)', 31 May 2019.

<sup>126</sup> Malta, Ministry for Justice, Culture and Local Government, '[Bill no. 84 of 2019 - Criminal Code and the Gender Based Violence and Domestic Violence \(Amendment\) Act](#)', 31 May 2019.

<sup>127</sup> Malta, Ministry for Justice, Culture and Local Government, '[Bill no. 84 of 2019 - Criminal Code and the Gender Based Violence and Domestic Violence \(Amendment\) Act](#)', 31 May 2019.

<sup>128</sup> Malta, Ministry for Justice, Culture and Local Government, '[Bill no. 84 of 2019 - Criminal Code and the Gender Based Violence and Domestic Violence \(Amendment\) Act](#)', 31 May 2019.

<sup>129</sup> Malta, Ministry for Justice, Culture and Local Government, '[Bill no. 84 of 2019 - Criminal Code and the Gender Based Violence and Domestic Violence \(Amendment\) Act](#)', 31 May 2019.



extended for further periods on good cause being shown by the Police or by the injured party, who shall, upon determining that no criminal proceedings are warranted against the alleged offender, forthwith inform the magistrate and request the revocation of the temporary protection order [...]"<sup>130</sup>

This Article, is also in line with VRD's requirements included in [Articles 26, 31, 32](#), as far as keeping informed the victim is concerned, and in [Article 40](#), for what it concerns the establishment of protection for a victim.<sup>131</sup> Inferring from the above provisions, it is clear the temporary protection orders—delineated in Article 540A—will be evaluated by the Executive Police, which will apply to the court for the issuance of a protection order. Moreover, the order will endure for a period of 30 days. However, as stated by Women's Right Foundation:

"[w]e are [...] very concerned by the fact that such orders are dependent solely on an investigation that is to be carried out by an officer of a rank not less than police inspector, given that police resources are over stretched as it is. We are further perplexed how the police can ask for a court order requesting the issuance of a temporary protection order, whilst in the same breath still leaves at their discretion not to proceed with instituting criminal action against the perpetrator."<sup>132</sup>

Therefore, the surfacing problem is dual: 1) on the one hand how can the police handle the issuance of a protection order with such short notice, and will it be carried out properly in the best interest of the victim? and 2) will the police manage, at the same time, to issue an accurate criminal action against the offender? As the following paragraph will highlight, this issue has already come forth during prosecutions in domestic violence cases.

## 2. Violence against women

Analysing the aforementioned Article 540A, specifically from a GBV perspective, citing the Women's Right Foundation, it "stresses that while there are obligations on the authorities to provide information on actions taken against the perpetrator, there is great frequency of the victim having to chase the authorities for information."<sup>133</sup> This is particularly clear from a recent prosecution presided by Magistrate Donatella Frendo Dimech who "came down hard on the prosecution in a domestic violence case after charges were filed [by the police] six months after the incident took place, leaving the victim to continue living with her husband."<sup>134</sup>

As far as GBV and Domestic Violence are concerned, Malta is still covered by the three year plan called *Society's concern: Gender-based violence and domestic violence strategy and action plan vision 2020*.<sup>135</sup> The strategy is in line with "the policy recommendations included in the Council of Europe Convention on prevention and combating violence against women and domestic violence (Istanbul Convention), which Malta ratifies in 2014".<sup>136</sup> The plan is built on

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<sup>130</sup> Malta, Ministry for Justice Culture and Local Government, [Bill 84 of 2019 - Criminal Code and the Gender Based Violence and Domestic Violence \(Amendment\) Act, 2019. Government Gazette of Malta No. 20,202](#), 31 May 2019.

<sup>131</sup> European Parliament. [Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA](#), 25 October 2012

<sup>132</sup> Malta Independent (2019), "WRF files judicial protest against ministry's proposed amendments to temporary protection order", 7 June 2019.

<sup>133</sup> Newsbook (2019), "Law would no longer protect domestic violence victims – WRF", 7 June 2019.

<sup>134</sup> Malta Today (2019), "Magistrate lambasts prosecution's request for protection order in six-month old domestic violence case", 6 August 2019.

<sup>135</sup> Council of Europe, Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) (2019), [Report submitted by Malta pursuant to Article 68, paragraph 1 of the Council of Europe Convention on preventing and combating violence against women and domestic violence \(Baseline Report\)](#), Strasbourg, Council of Europe, 9 September 2019.

<sup>136</sup> Malta, Ministry for European Affairs and Equality, [Society's concern: Gender-Based Violence and Domestic Violence Strategy & Action Plan VISION 2020](#), 2017.

the four Istanbul Convention pillars: prevention, protection, prosecution, and integrated policies.<sup>137</sup> To ease the coordination and execution of the strategy, an Inter-Ministerial Committee (IMC) was established, composed by:

- 1) Commission on Gender-Based Violence and Domestic Violence (CGBVDV) and the Human Rights and Integration Directorate (HRID), both falling under the Ministry for European Affairs and Equality (MEAE),
- 2) The National School Support System (NSSS), falling under the Ministry for Education and Employment (MEDE),
- 3) Aġenzija Appoġġ from the Foundation for Social Welfare Services (FSWS), falling under the Ministry for the Family, Children's Rights and Social Security (MFCS),
- 4) The Department for Probation and Parole (DPP) and the Malta Police Force (MPF), falling under the Ministry for Home Affairs and National Security (MHAS),
- 5) The Department for Justice, Ministry for Justice, Culture, and Local Government (MJCL),
- 6) The Department for Policy in Health, falling under the Office of the Deputy Prime Minister (ODPM) and Ministry for Health (MFH).<sup>138</sup>

Regarding the current measures, and actions concerning this specific matter, the 2020 action plan displays the following activities:

### 1) Legal Measures and Integrated Policies

- Victims shall be provided with legal aid, psychological support, and protection, to do so, a risk assessment must follow and the victims referred to legal or psychosocial support.<sup>139</sup>
- Victims' rights shall be upheld throughout the investigations and proceedings; thus, they shall be provided with information about the case, services at disposal, and the provision of a safe environment "through court accompaniment services during investigations and court hearings".<sup>140</sup>
- Raising awareness about GBV and DV both regionally and internationally, "demanding coordinated action," so as to highlight the matter from a public safety perspective.<sup>141</sup>

### 2) Protection and Support for victims and child witnesses

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<sup>137</sup> Malta, Ministry for European Affairs and Equality. [Society's concern: Gender-Based Violence and Domestic Violence Strategy & Action Plan VISION 2020](#), 2017.

<sup>138</sup> Council of Europe, Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) (2019), [Report submitted by Malta pursuant to Article 68, paragraph 1 of the Council of Europe Convention on preventing and combating violence against women and domestic violence \(Baseline Report\)](#), Stasbourg, Council of Europe, 9 September 2019.

<sup>139</sup> Malta, Ministry for European Affairs and Equality, [Society's concern: Gender-Based Violence and Domestic Violence Strategy & Action Plan VISION 2020](#), 2017.

<sup>140</sup> Malta, Ministry for European Affairs and Equality. [Society's concern: Gender-Based Violence and Domestic Violence Strategy & Action Plan VISION 2020](#), 2017.

<sup>141</sup> Malta, Ministry for European Affairs and Equality. [Society's concern: Gender-Based Violence and Domestic Violence Strategy & Action Plan VISION 2020](#), 2017.

- Provide and ensure a 24hour efficient support line relative to GBV&DV, by strengthening the already existing Supportline 179, and the “referral mechanism among stakeholders so as to provide with timely support to victims”.<sup>142</sup>
- Provide financial support and housing to victims “as well as training opportunities to enhance the employment prospects and thus the financial independence”, by “Strengthen[ing] housing and training schemes for victims of GBV&DV”.<sup>143</sup>

For a more detailed and expanded description of the various measures and actions being undertaken, please refer to [Society’s concern: Gender-Based Violence and Domestic Violence Strategy & Action Plan VISION 2020](#).

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<sup>142</sup> Malta, Ministry for European Affairs and Equality. [Society’s concern: Gender-Based Violence and Domestic Violence Strategy & Action Plan VISION 2020](#), 2017.

<sup>143</sup> Malta, Ministry for European Affairs and Equality. [Society’s concern: Gender-Based Violence and Domestic Violence Strategy & Action Plan VISION 2020](#), 2017.

# Chapter 8. Developments in the implementation of the Convention on the Rights of Persons with Disabilities

## 1. CRPD policy & legal developments

In 2019, there has not been any primary legislation, which explicitly makes reference to the United Nation's Convention on the Rights of Persons with Disabilities (UNCRPD). There is, however, subsidiary legislation that has been enacted by the government, which better implements some of the articles in the UNCRPD.

The *Social Care Standards Authority Act: Social Regulatory Standards on Residential Services for Persons with Disability Regulations* introduced a new set of regulations and standards to promote the dignity of persons with a physical disability.<sup>144</sup> The purpose of this legislation is to improve the care persons with disabilities are entitled to, whilst encouraging their independence. By providing personalised evaluation of the individual's physical and emotional capability, the regulations require that the authorities strive to provide them with a residence, which they can navigate through without being endangered.<sup>145</sup> This subsidiary legislation is congruent with article 19 of the CRPD, which implements provisos for future legislation to promote "Living Independently and Being Included in the Community".<sup>146</sup> According to this article, persons with disabilities should have access to various and a range of support services, which improve their living circumstances and improve their ability to be involved in the community.

In its 2019 budgetary document, the Maltese government committed approximately € 80,000,000 to the Ministry for the Family, Children's Rights, and Social Solidarity.<sup>147</sup> Additionally, the government will also provide approximately €980,000,000 for Social Security Benefits.<sup>148</sup> A portion of the funds provided to these governmental institutions is to be used to ensure that the guarantees promised by the government regarding the social security benefits and the improvements to the aid provided to individuals with disabilities is ensured. When approving the budget for the aforementioned institutions, the government expected larger expenditures to provide persons with a disability with a residence.<sup>149</sup> A commitment of note, within this document is the increased weekly assistance payment for people whose disability permanently affects their ability to work will be increased from €140/week to €150/week.<sup>150</sup>

## 2. CRPD monitoring at national level

In its *Concluding Observation on the Initial Report for Malta* report, the UNCRPD expressed concern about the independence and the transparency of the CRPD under article 33(2), due to the appointment of the members of the monitoring body being undertaken by the executive branch of government, as per the *Equal Opportunities (Persons with Disability) Act*.<sup>151</sup> The UNCRPD recommended that articles 21(2) and 24(1) be repealed or amended to ensure a better representation of organisations of persons with disabilities, accountability and transparency.<sup>152</sup> The proposed Bill on the Human Rights and Equality Commission Act,

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<sup>144</sup> Malta, Ministry for the European Affairs and Equality (2019), [Day Centre Services for Persons with Disability](#), March 2019.

<sup>145</sup> Malta, Ministry for the European Affairs and Equality (2019), [Day Centre Services for Persons with Disability](#), March 2019.

<sup>146</sup> United Nations Department of Economic and Social Affairs (2007), [Convention on the Rights of Persons with Disabilities and Optional Protocol](#), Article 19.

<sup>147</sup> Malta, Ministry for Finance (2018) [Budget Speech 2019](#), 22 October 2018.

<sup>148</sup> Malta, Ministry for Finance (2018) [Budget Speech 2019](#), 22 October 2018.

<sup>149</sup> Malta, Ministry for Finance (2018) [Budget Speech 2019](#), 22 October 2018.

<sup>150</sup> Malta, Ministry for Finance (2018) [Budget Speech 2019](#), 22 October 2018.

<sup>151</sup> United Nations Human Rights: Office of the High Commissioner (2018), [Concluding Observations on the Initial Report on Malta](#), 17 October 2018.

<sup>152</sup> United Nations Human Rights: Office of the High Commissioner (2018) [Concluding Observations on the Initial Report on Malta](#), 17 October 2018.

2019 (see also Chapter 1) increases the independency of the National Commission Persons with Disability, as it pertains to the investigation of complaints covered by the *Equal Opportunities (Persons with Disabilities) Act*. One of the functions of the proposed Commission is to co-operate with the government agencies responsible for the protection and advocacy of the rights of vulnerable groups.<sup>153</sup>

Apart from the bill discussed above, no further developments have occurred regarding the maintenance and improvement of a national framework for monitoring the rights of persons with disabilities.

The Platform of Human Rights Organisations in Malta’s (PHROM) report on the rights of the child, published in April 2019, highlighted an issue relating to children with disabilities, stating that according to the Commission for the Rights of Persons with Disability, there has been a significant increase in complaints filed by families with a disabled child concerning education.<sup>154</sup> The issues pertained to the lack of support, resources in schools, and support educators.<sup>155</sup>

Table: Structures set up for the implementation and monitoring of the CRPD (Malta)

<b>EUMS</b>	<b>Focal points within government for matters relating to the implementation of the CRPD – Article 33 (1)</b>	<b>Coordination mechanism – Article 33 (1)</b>	<b>Framework to promote, protect and monitor implementation of the CRPD – Article 33 (2)</b>
<b>MT</b>	National Focal Point Office within the Ministry for the Family and Social Solidarity ( <i>Ministeru għall-Familja u -Solidarjeta` Soċjali</i> ); Parliamentary Secretariat for the Rights of Persons with a Disability and Active Ageing ( <i>Segretarju parlamentari għad-drittijiet ta' persuni b'diżabilità u anzjanita' attiva</i> )	Fair Society Action Council ( <i>Kunsill Azzjoni lejn Soċjeta' Ġusta</i> )	<a href="#">Commission for the Rights of Persons with a Disability</a> ( <i>Kummissjoni għad-Drittijiet ta' Persuni b'Diżabilità</i> )

<sup>153</sup> Malta, Ministry for European Affairs and Equality, ‘[The Human Rights and Equality Commission Act](#)’, 2015.

<sup>154</sup> PHROM (2019), “[The platform of human rights organisations in Malta \(phrom\) on the rights of the child in Malta submissions to the committee on the rights of the child, 81st session \(2019\)](#)”, April 2019

<sup>155</sup> PHROM (2019), “[The platform of human rights organisations in Malta \(phrom\) on the rights of the child in Malta submissions to the committee on the rights of the child, 81st session \(2019\)](#)”, April 2019

## Annex 1 – Promising Practices

Thematic area	<p><b>EQUALITY AND NON-DISCRIMINATION</b></p> <p>Please provide one example of a rights awareness campaign held in your country in 2019 relevant to equality and non-discrimination, preferably one conducted by a national equality body. Where no such campaign was held, please provide an example of a promising practice implemented in 2019 in your country (this could include innovative initiatives at local level) to combat discrimination on any one of the following grounds: religion or belief, disability, age, sexual orientation, gender identity or sex characteristics. Where relevant, always highlight any relevance or reference to multiple discrimination.</p>
Title (original language)	Rainbow Support Service
Title (EN)	Rainbow Support Service
Organisation (original language)	Malta Gay Rights Movement (MGRM)
Organisation (EN)	Malta Gay Rights Movement (MGRM)
Government / Civil society	Civil Society / NGO
Funding body	It was launched thanks to the support of the U.S. Embassy (grant of \$26,000) and Aġenzija Żgħażaġh (Youth Agency). In 2017 it received extra 135,000 euro for a three-years term by the Social Solidarity Ministry
Reference (incl. url, where available)	<a href="http://maltgayrights.org/the-rainbow-support-service/">http://maltgayrights.org/the-rainbow-support-service/</a>
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	Launched in 2013, still running
Type of initiative	It is the first support service for LGBTIQ individuals, their family and friends
Main target group	LGBTIQ people of any age, and their families to facilitate communication, understanding, acceptance
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	<p>This is the first support service for LGBTIQ people and their families. It aims to provide social work services which users can benefit from to gather information and support; to help with one-on-one interventions and group support; therapeutic sessions; trainings to professionals on LGBTIQ matters; public awareness raising activities; and legal advice. It currently hosts four types of initiatives free of charge to which anyone is welcome to join, to learn, also functioning as a networking tool to get to know other people belonging to the LGBTIQ community. Those are: The Rainbow Support Service Youth Group, open twice a month, which aims to provide a safe meeting place for LGBTIQ youth and for them to meet their peers, and share common concerns, and seek support if needed; the Consultancy Service, which works with other professionals working with LGBTIQ mandates; the Social Work Service, which aims to provide support to individuals and families, and the Kafe` mill-Uffiċċju, which hosts social events for people aged 25 years+. It is moreover a rights awareness raising initiative, as participants are instructed on the rights of LGBTIQ+ and available support services.</p>
Highlight any element of the actions that is transferable (max. 500 chars)	Being mostly based on social activities, like café events, safe spaces where people can go and share and seek for help, it is easily replicable also in other places.



Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	It is sustainable because thanks to this support service, the people participating will inevitably bring to the table new issues, share them with the community, and receive support, be it in legal terms stemming from the expertise of MGRM, or emotional support, stemming from the creation of new friendships in a safe environment. This way the LGBTIQ community will be empowered to come out and feel free to express its ideas, preoccupations, and receiving a constructive positive feedback from peers. Moreover, family will also participate, enabling them to become cultured and educated on the matter and avoid doing harm to their LGBTIQ child.
Give reasons why you consider the practice as having concrete measurable impact	It has a concrete measurable impact because it creates a very solid, trust-based network of same individuals and supporters, which protect each other, creating an open environment for discussion and reciprocal understanding.
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	Such events are already taking place in some different forms already in many other countries; thus, this specific type of support service would not be difficult to apply in other contexts. It requires people to meet in a safe environment to create reciprocal understanding, support and referral to specific service that the individuals can access.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	N/A
Explain, if applicable, how the practice provides for review and assessment.	N/A

Thematic area	<b>RACISM, XENOPHOBIA AND RELATED INTOLERANCE</b> Please provide one example of a promising practice to address discriminatory ethnic profiling within law enforcement agencies and other relevant national authorities. Where no such practice exists, please provide one example of a promising practice related to combating racism, xenophobia and related intolerances.
Title (original language)	Report Racism Malta
Title (EN)	Report Racism Malta
Organisation (original language)	The People for Change Foundation
Organisation (EN)	The People for Change Foundation
Government / Civil society	Civil Society
Funding body	Self-funded. Some additional funding was used as part of the Tackling Hate Crime and Hate Speech (THACAS) project in 2018.
Reference (incl. url, where available)	<a href="http://www.reportracism-malta.org">http://www.reportracism-malta.org</a>
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	November 2014 – Ongoing In 2018 Report Racism Malta was updated as part of the Tackling Hate Crime and Hate Speech Project co-funded by the European Union.
Type of initiative	Online platform
Main target group	Victims or witnesses of racist incidents

Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	<p>Report Racism is an initiative by The People for Change Foundation that tackles the problem of underreporting of racist incidents by providing a safe, easy to use channel for victims or witnesses to communicate and report such occurrences. Victims of race-related crimes are directed towards the right channels (e.g. police or equality body) so that appropriate action may be taken, and remedies accessed. The initiative aims to provide an accessible option for individuals wishing to report racist incidents, provide a clearer picture of the current state of such incidents in Malta, build an understanding of the data gap in the area, as well as provide clear information, guidance and support for individuals wishing to file formal reports.</p> <p>Whilst there are no formal agreements with the Police or other NGOs, the People for Change Foundation has made authorities (including the Police) aware of the platform and disseminated materials (posters and postcards) promoting the platform to NGOs (especially those working with migrants) and migrant community organisations. NGOs have reported that they promote the service to clients. Between November 2018 and November 2019, there were 35 incidents reported to the platform.</p>
Highlight any element of the actions that is transferable (max. 500 chars)	<p>The nature of the project is an online platform that serves as a channel for victims and witnesses to report racist incidents. The online nature of the platform permits accessibility to anyone who has access to internet, (which is the vast majority of people in Malta, with free internet hotspots in most public places). By providing new accessible channels for action on discriminatory crimes and incidents, it may encourage more action to combat the underreporting of such occurrences linked to racism and discrimination of that nature. The online element of this project that provides maximum accessibility and the ability to directly collect data in regards to the reports filed is transferable to other projects that intend to combat underreporting of crimes of different nature.</p>
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	<p>The platform is free (thus cost-effective), user friendly and intended for long term use. It is managed through a website and connected via the NGO's employees who connect victims and witnesses to the appropriate authoritative bodies for action. The project therefore does not require any funding, as long as there remain people who connect the victims or witnesses to the appropriate bodies for action.</p>
Give reasons why you consider the practice as having concrete measurable impact	<p>The initiative aims to provide an accessible option for individuals wishing to report racist incidents, provide a clearer picture of the current state of such incidents in the member state (Malta), build an understanding of the data gap in the area, as well as provide clear information, guidance and support for individuals wishing to file formal reports.</p>
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	<p>Accessibility and lack of awareness are often the core reasons for the underreporting of racist incidents. The nature of the project, i.e. as an online platform, tackles both these issues. The idea of an online platform to report crimes that affect minorities and marginalized groups in society can be transferred to all other member states to tackle the underreporting of these crimes as well as collect data.</p>
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	N/A

Explain, if applicable, how the practice provides for review and assessment.	N/A
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Thematic area	<b>ROMA INTEGRATION</b>
	Please provide one example of promising practice in relation to addressing a Roma/Travellers segregation at either national, regional or local. These could be (not limited to) in the area of segregation in education, residential segregation, segregation in healthcare services or in employment.
	No promising practice has been identified for this thematic area.

Thematic area	<b>Asylum, visas, migration borders and integration</b>
	Please provide a promising practice on the support provided to unaccompanied children when reaching majority.
Title or short description of promising practice in original language and in English	Implementing a socio- educational programme for unaccompanied minor asylum seekers under a care order (project reference no. ERF 10.07)
Organisation (Government / Civil society) in charge of promising practise (original language/English )	Agency for Welfare of Asylum Seekers (AWAS)
Funding body	EU co-financing + Government financing
Reference (incl. url, where available)	This is not official web-page, it does not exist, it is in a list of programmes implemented in Malta: <a href="https://homeaffairs.gov.mt/en/MHAS-Departments/awas/Documents/SOLID_Project_List_ERF.pdf">https://homeaffairs.gov.mt/en/MHAS-Departments/awas/Documents/SOLID_Project_List_ERF.pdf</a>
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	2010-2012
Main target group	Unaccompanied children asylum seekers under care order
Brief description (around 1000 characters)	Provision of a safe residential setting for youths, belonging to the target group population, under a care-order, focusing on education, socialisation skills, preparation for legal employment, appropriate recreational activities and cultural orientation. These youths have experienced various forms of trauma and separation and the environment around them should help to improve their situation and give them the necessary aid to move forward in life.
Indicate level of implementation: Local/Regional/National	Local
Indicate success factors – why has the practice effectively promoted integration?	It promoted integration because by taking care of this vulnerable group, they were provided with specific services aiming to ease their integration process, and to get over with their traumatic experiences.

If the initial funding of the initiative ended, how has the initiative been continued/followed-up?	Due to a lack of information it is impossible to determine whether there will be future initiatives. This is the only programme identifiable relating to unaccompanied children, yet there are no recent ones that can be identified at the moment.
Explain, if applicable, how the practice is being reviewed and assessed.	N/A
Does the initiative apply to both asylum seekers and protection status holders – and/or support the transition from one to the other?	Not specified
Does the initiative specifically support persons in need of international protection as they turn 18? If so, which type of support is provided?	Not specified

Thematic area	<b>INFORMATION SOCIETY, DATA PROTECTION</b> Please provide one example of a promising practice in relation to one of the topic addressed in this Chapter
Title (original language)	Vodafone Malta: Hackathon Innovating for Good
Title (EN)	Vodafone Malta: Hackathon Innovating for Good
Organisation (original language)	Vodafone Malta Foundation
Organisation (EN)	Vodafone Malta Foundation
Government / Civil society	Civil Society
Funding body	Vodafone Malta Foundation; GDG Malta; University of Malta; Skyparks Business Centre; Go & Fun
Reference (incl. url, where available)	<a href="https://www.vodafone.com.mt/hackathon2019">https://www.vodafone.com.mt/hackathon2019</a>
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	8 March 2019 -10 March 2019
Type of initiative	Charitable
Main target group	Technology Enthusiasts
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	The Hackathon is a 48-hour competition where teams of three compete to develop a mobile technology solution used to tackle the issue of poverty and social exclusion in Malta. The Hackathon topics are the following: hunger and food waste; loneliness within the elderly community; homelessness; facilitating education for young people with learning difficulties; pairing voluntary help with who need it and recognising early signs of an individual's situation leading to poverty/social exclusion.

Highlight any element of the actions that is transferable (max. 500 chars)	The winning ideas of the Hackathon, at Vodafone's discretion, be selected for "further development and eventual implementation". The purpose of the hackathon is to find concepts that can be implemented to reduce and eventually eliminate elements of poverty and social inclusion.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	The Vodafone Malta Foundation Hackathon is a strong and sustainable practice because it is in its first iteration. The implementation of the ideas developed during the hackathon, the money associated with winning (€5,000 (1st), € 2,000 and €1,000) can encourage other persons with coding expertise to participate in future hackathons, resulting in the best ideas being accumulated to combat social issues.
Give reasons why you consider the practice as having concrete measurable impact	The possibility of further developing an idea from the code/data used to compete in the Hackathon has already affected 83,000 people in Malta on the verge of poverty in Malta. By identifying a group of people, the initiative has a set target to achieve. By targeting a subset of the population that is statistically measurable, Vodafone can use the data from the ideas implemented to ascertain whether the concept had any measurable impact on the specified population of people.
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	The Hackathon is transferrable to multiple settings due to the universality of the language of code. The same coding languages are learnt by experts world-wide, sharing the code with other world governments/organisation with specialists in information technology will lead to a seamless transition to a new setting. Given the topics covered by the Hackathon are also universal problems (see brief description), the concepts chosen for further development and implementation can be used to tackle similar problems in other European Union Member States. The advantage of bringing technology/code to the continent after they have been implemented in Malta is that the data compiled in Malta can be used to tailor and streamline the approach to a different setting.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	N/A
Explain, if applicable, how the practice provides for review and assessment.	N/A

Thematic area	<b>RIGHTS OF THE CHILD</b>
	Please provide one example of a promising practice in relation to one of the topic addressed in this Chapter.
Title (original language)	Be Smart Online
Title (EN)	As Above
Organisation (original language)	Implemented through a consortium coordinated by Tech.mt
Organisation (EN)	As Above
Government / Civil society	Government
Funding body	co-funded by the European Union through the Connecting Europe Facility (CEF) and forms part of INSAFE and INHOPE – the European network of Safer Internet Centres and hotlines

Reference (incl. url, where available)	<a href="http://www.besmartonline.org.mt/?AspxAutoDetectCookieSupport=1">http://www.besmartonline.org.mt/?AspxAutoDetectCookieSupport=1</a>
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	Launched in January 2017 – Ongoing
Type of initiative	Consortium of public entities
Main target group	It aims at empowering and protecting children and teens online from risks associated with online activity
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	The initiative aims at empowering and protecting children and teens online from risks associated with online activity, through numerous awareness raising initiatives and by fighting illegal and harmful content (particularly online child abuse) and behaviour online.
Highlight any element of the actions that is transferable (max. 500 chars)	It is transferable because similar initiatives could be implemented in other countries to ensure improved internet safety for children.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	It is sustainable because of its peculiar structure, that being a consortium of partners, coming from the government, The University of Malta, and others which all bring into the system their expertise and comparative advantage to create a safer internet for children. Moreover, the awareness team involves children in decision making, by allowing them to express their opinion, to create an effective awareness on online safety.
Give reasons why you consider the practice as having concrete measurable impact	It has a measurable impact as a strong consortium, plus a strong awareness team, and the various helpline and hotline services mutually reinforce in the beneficiaries' mind the idea that the state and the actors involved do really care about children's online safety, and they can benefit from specialised support and guidance.
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	Practices such as this one already exists in some way or another in other countries. The setting up should not be very problematic.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	N/A
Explain, if applicable, how the practice provides for review and assessment.	N/A

<b>ACCESS TO JUSTICE, INCLUDING RIGHTS OF CRIME VICTIMS</b>	
Thematic area	Please provide one example of a promising practice in relation to one of the topic ad-dressed in this Chapter
Title (original language)	Violet Support Online – Improving Support Structures for Victims of Gender Based Violence
Title (EN)	Violet Support Online – Improving Support Structures for Victims of Gender Based Violence
Organisation (original language)	The project is in partnership with 5 partners: Solidarity and Overseas Service Malta (SOS Malta), Victim Support Malta, CORE Platform, Commission on Domestic Violence (CDV), and Advenio E-academy (AeA LTD)
Organisation (EN)	
Government / Civil society	Civil society, private and public sector.
Funding body	Funded by the European Union (EU) DG justice Rights, Equality and Citizenship Programme
Reference (incl. url, where available)	Official website: <a href="http://www.vso.org.mt">http://www.vso.org.mt</a> Up to date information on the project can be found at: <a href="http://www.sosmalta.org/gbvso">http://www.sosmalta.org/gbvso</a>
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	The program runs from November 2018 (background research on GBV in Malta) until October 2020, yet officially launched October 2019.
Type of initiative	PPP Initiative
Main target group	Victims of Gender Based Violence in the work-place
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	The project aims at expanding the public awareness on GBV in Malta, and in particular within the workplace, as it is one of the European countries with the worst attitudes towards GBV. It seeks to enhance cross sectoral collaboration to prevent GBV and wants to build the capacity of managers and HR to better address the issue. It also provides online, confidential, anonymous support for the victims, which enables them to freely and securely speak out and reach for help and support. Moreover, it has been created, as an awareness tool, an online 2 credits course on GBV, entirely for free, provided by Advenio e-Academy to train HR professionals on the topic.
Highlight any element of the actions that is transferable (max. 500 chars)	First of all, the added capacity of managers and HR staff to deal with GBV in the workforce. It is a skill that once acquired will be transmittable also in future jobs the professionals will decide to undertake. Second of all, the fact that this project is aiming not only to practically help the victims, but also to raise awareness among the general public about the issue, via campaigns, research, and outreach strategies, which will ultimately be transferable to the Maltese community. Moreover, the online free course is accessible to anyone interested and is for free, equipping the course taker with up to date information on legal measures, best practices, and knowledge on how to tackle GBV in the work-place.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	It is sustainable because: 1) tackles the issue from the workplace. By working from within this sector, the result could be of creating better working environments, thus sustainable working environments. 2) it is sustainable because by informing the population it will create a ripple effect which, with time will possibly cause a change in the way GBV is currently viewed in Malta.
Give reasons why you consider the practice as	It creates better informed managers, and HR who will be more vigilant and ready to react vis-a-vis GBV, and it supports the victims through online safe help, thus



having concrete measurable impact	diminishing their risks, possibly enabling victims to achieve relief and freedom from violence.
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	It is transferable to other settings because already many other countries have some sort of victim online support. Thus, they would need to enhance it, while at the same time raising awareness both in the workplace and among society. This way victims will be empowered to speak out, and seek for help, knowing that they can do it anonymously.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	N/A
Explain, if applicable, how the practice provides for review and assessment.	N/A

Thematic area	<b>Developments in the implementation of the Convention on the Rights of Persons with Disabilities (CRPD)</b> Please provide one promising practice example of projects or programmes implementing the CRPD or furthering the rights of persons with disabilities.
Title (original language)	INK
Title (EN)	INK
Organisation (original language)	Agenzija Sapport
Organisation (EN)	Support Agency
Government / Civil society	Government
Funding body	European Social Fund 80%; 20% National Funds
Reference (incl. url, where available)	Agenzija Sapport. (2018). INK, available at <a href="https://sapport.gov.mt/en/Pages/INK.aspx">https://sapport.gov.mt/en/Pages/INK.aspx</a>
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	2018 - 2021
Type of initiative	Support initiative
Main target group	Adults with disabilities
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	INK aims to provide persons with vocational training, which will improve their inclusion in the labour market and strengthen their social engagement. To achieve this, Ink provides participants with many products brought about through their work including certification, training and support, etc. The purpose of this initiative is to have participants integrate into mainstream employment.
Highlight any element of the actions that is	The project will include erecting six independent living locations, one of which will be in Gozo, which will give individuals with disabilities and their immediate family “information, advice and training” on how to recapture and maintain an

transferable (max. 500 chars)	independent lifestyle. This act is built to ensure the longevity of the projects' goals, at least in the individuals who received the training.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	The longevity of this practice, as opposed to one off practices, is ensured by the skills, training and support the project provides. Ink is not just a one-off project that seeks to provide persons with disabilities the skills and training needed to re-join and maintain employment. The six independent living hubs promised by the program ensure the permanency of the support mechanisms put in place by the INK project.
Give reasons why you consider the practice as having concrete measurable impact	The certification and recognition awards provided by INK will provide a measurable impact by giving employers a form of recognition once they have employed a person with a disability. The distribution of such an award to both recipients of the training and the firms to employ them is visibly measurable. In addition to the physical, and albeit superficial form of measurement, the prolonged employment of disabled person who undertook the training provided by INK is another tool that is measurable.
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	If successful, the training, and support given to participants of INK can be transferable to other settings. The idea of centralised hubs, where people and go to receive training and support is an innovative idea, that if successful can be easily implemented in other European Union Member States. Psychological services and training are concrete ideas with little need for interpretation. Other than the need for translation, most of the tools used in the INK project are transferrable to varying settings.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	N/A
Explain, if applicable, how the practice provides for review and assessment.	N/A

## Annex 2 – Case law

Thematic area	<b>EQUALITY AND NON-DISCRIMINATION</b>  Please provide one high court decision addressing discrimination on any one of the following grounds: gender identity, religion or belief, disability, age, or sexual orientation. Where relevant, always highlight any relevance or reference to multiple discrimination in the case you report
	No case law has been identified for this thematic area.

Thematic area	<b>RACISM, XENOPHOBIA AND RELATED INTOLERANCE</b>  Please provide the most relevant high court decision concerning the application of either the Racial Equality Directive, the Framework Decision on racism and xenophobia, or relevant to addressing racism, xenophobia and other forms of intolerance more generally.
Decision date	17/06/2019
Reference details	58/2018 IL-PULIZIJA vs APAP JOSEPH <a href="https://ecourts.gov.mt/onlineservices/Judgements/PrintPdf?JudgementId=0&amp;CaseJudgementId=117329">https://ecourts.gov.mt/onlineservices/Judgements/PrintPdf?JudgementId=0&amp;CaseJudgementId=117329</a>
Key facts of the case (max. 500 chars)	The case concerns incitement to violence and racial hatred and physical assault. The defendant, JOSEPH APAP, was indicted for physical assault and verbal racial abuse at a an establishment.
Main reasoning/argumentation (max. 500 chars)	The Appeal Court found the defendant guilty of inflicting injury of a greivous nature. Under Article 82A of the Criminal Code, the defendant was indicted of racial hatred through abusive words and intention to commit violence on the basis of race/ethnic origin.
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	The key issue was whether the defendant's assault and verbal abuse counted as inticement to violence and racial hate as covered under 82 A (2) of the Criminal Code. It was clear that the defendant's intentions were to incite violence on the basis of the victim's ethnic origin, and thus fell under the requisites of 82A (2) of the Criminal Code.
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	The Appeal Court reinstated the sanctions imposed by the First Court (Court of Magistrates), i.e. a sentencing to nine months imprisonment.
Key quotation in original language and translated into English with reference details (max. 500 chars)	Mhemmx dubbju li dan l-artikolu (222 A (2)) japluka ukoll [ma 82A] u dan ghaliex jirrizulta ghas sodisfazzjon tal-Qorti li l-inkwiet inqala ghaleix l-incident kien motivate fuq bazi ta razza, kulur u origini etnika u dan qed jinghad ghaliex l-appellant ghajjar lil vitmi “ black” minhabba il-karnaggion taghhom u razza meta qalilhom b’mod disprggjattiv li huwa mill Afrika u li huma Nigerjani u li ghandhom imorru lura f’pajjizhom... Dan hu ezattament – agir li l-legislatur ried jimpunixxi u cioe li bniedem ma jittrattax nies b’razza u generu etniku b’inqas rispettu u b’mod dispreggjattiv.

	<p>**</p> <p>There is no doubt that Article 222 A (2) applies to the case as well as 82A (both of the Criminal Code) and this confirms to the Court that the incident was motivated on the basis of race, colour and ethnic origin and occurred as the defendant reviled the victim “black” due to their skin colour and race when he called them in a derogative manner that they are African and Nigerian and that they should go back to their country...this is exactly the behaviour the legislator wanted to be punished in that people to not treat those with different race and ethnic origin with less respect and in a derogative manner.</p>
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Thematic area	<p><b>ROMA INTEGRATION</b></p> <p>Please provide the most relevant high court decision addressing violations of fundamental rights of Roma in the context of education, employment, health, housing, etc. In particular, focus on cases where discrimination or segregation (not limited to segregation in education or housing) are addressed.</p>
Decision date	No case law has been identified for this thematic area.

Thematic area	<p><b>INFORMATION SOCIETY, DATA PROTECTION</b></p> <p>Please provide the most relevant high court decision in relation to one of the topic addressed in this Chapter</p>
Decision date	30/04/2019
Reference details	Court of Appeal (Inferior) 46/2017. Dr. Jeffrey Pullicino Orlando vs. Commissioner for Information and Data Protection
Key facts of the case (max. 500 chars)	<p>The appellant (“Orlando”) appealed a decision from the Court of Appeals to the Information and Data Protection on September 14th 2017.</p> <p>Five photos had been deemed to violate provisions of Chapter 440 of the Laws of Malta on data processing, sending the case back to the appellant. The photos were published in articles in Daphne Caruana Galizia’s blog.</p> <p>The respondent (“the Commissioner”) rejected the appellants’ claim concluding that the appellant’s rights were not violated.</p> <p>The appellant appealed the decision of the respondent, and the tribunal decided that none of the photographs were deemed to be of public interest and ruled that the private family life of the appellant should not be subject to public information.</p>
Main reasoning/argumentation (max. 500 chars)	<p>The respondent rejected the appellant’s claim and concluded: “following legal analysis of the facts and circumstances surrounding the complaint, judiciously-the commissioner decided that no violation of the appellant’s rights had been committed.</p> <p>The respondent claimed that the blog posts did not reveal or expose any pieces of data that public could not have become aware of.</p> <p>The respondent submitted that the journalistic rights to impart the whereabouts of a public person do not violate his rights to the protection of his personal information as outlined by the Data Protection Act 2018.</p> <p>The appellant submitted that the activities pertaining to an individual’s private life does not fall under the journalistic standard to disclose to the public information,</p>

	<p>opinions or ideas. Disclosing information about a person's private life is simply to satisfy the public's curiosity and is not protected under the freedom of expression. The publication of the name, surname and photographs of the appellant constitute processing personal data as defined under article 2 of the Data Protection Act</p> <p>For action appeal of the respondent said that in this case there was no processing of personal data.</p>
<p>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</p>	<p>In any case the Court already made it clear now processing of personal data. The fact that the information was about things that occurred in public does not mean it ceases to be personal data and to draw processing of personal data.</p> <p>In ascertaining whether a public disclosing elements of private life also concerned a question of public interest, the court has taken into account the importances of the question for the public and the nature of the information disclosed</p> <p>The public has a right to be informed, and print the purpose of essential right in a democratic society which in special circumstances can even extend to aspects of private life of public figures. However, articles aimed solely at satisfying curiosity of a particular readership regarding the details of a person's private life.</p> <p>The public interest cannot be reduced to the public's thirst for information about the private life of others, or to an audience's wish for sensationalism or even voyeurism. The court does not agree with the respondent's reasoning because what was reported about what was done in public, then the applicant's claim should be dismissed.</p> <p>The court declares without hesitation that there is no public interest that the reader has access to that kind of information about the applicant.</p>
<p>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</p>	<p>Appeal denied with costs against the respondent.</p>
<p>Key quotation in original language and translated into English with reference details (max. 500 chars)</p>	<p>M'hemmx dubju li jezisti l-jedd għall-liberta ta' espressjoni. Pero' jezisti wkoll il-jedd għall-privatezza. Irid jinstab il-bilanc bejn iz-zewg drittijiet fundamentali. Ovvjament fejn per eżempju hemm dibattitu ta' interess pubbliu, fit li xejn jista' jkun hemm skop għal restrizzjoni fuq id-dritt li persuna xxerred l-informazzjoni għaliex il-pubbliku għandu dritt li jkun unfurmat.</p> <p>***</p> <p>There is no doubt that exists the right to freedom of expression. But also exists the right to privacy. You must find the balance between the two fundamental rights. Obviously where for there is a public interest debate, hardly possible to view restrictions on the right to disseminate information because the public has a right to be informed.</p>

<p>Thematic area</p>	<p><b>RIGHTS OF THE CHILD</b></p> <p>Please provide the most relevant high court decision in relation to one of the topics addressed in this Chapter.</p>
	<p>No case law has been identified for this thematic area.</p>

Thematic area	<b>ACCESS TO JUSTICE, INCLUDING RIGHTS OF CRIME VICTIMS</b> Please provide the most relevant high court decisions in relation to one of the topic ad-dressed in this Chapter..
	No case law has been identified for this thematic area.

Thematic area	<b>Developments in the implementation of the Convention on the Rights of Persons with Disabilities (CRPD)</b> Please provide the most relevant high court decision making reference to the CRPD or employing the CRPD in their reasoning.
	No case law has been identified for this thematic area.