

Coronavirus pandemic in the EU – Fundamental Rights Implications

Country: Malta

Contractor's name: The People for Change Foundation

Date: 3 November 2020

DISCLAIMER: This document was commissioned under contract as background material for a comparative report being prepared by the European Union Agency for Fundamental Rights (FRA) for the project “Coronavirus COVID-19 outbreak in the EU – fundamental rights implications”. The information and views contained in the document do not necessarily reflect the views or the official position of the FRA. The document is made available for transparency and information purposes only and does not constitute legal advice or legal opinion.

1 Measures taken by government/public authorities impacting on specific freedoms

Please briefly describe the main developments, between 1 September – 31 October 2020, in the legal framework and related measures adopted in your country in response to the Coronavirus pandemic with respect to emergency laws/state of emergency, freedom of assembly and freedom of movement.

1.1 Emergency laws/states of emergency

Since mid August, Malta has been registering an increased number of new COVID-19 cases. On 12 October, the Medical Association of Malta (MAM) raised alarm bells on the increased admission of patients in the Intensive Therapy Unit (ITU) at Mater Dei Hospital.¹ On 15 October, Prime Minister Robert Abela announced the possibility of introducing new restrictions and enforcement measures albeit without specifying when these would be introduced.² In line with this statement, Deputy Prime Minister and Health Minister Chris Fearné did not exclude the tightening of measures to prevent the ITU from reaching its full capacity. The number of cases reached its peak on 17 October, when 204 new cases were registered – thus bringing the number of active cases to 1257.³ The total number of cases as at 31 October 2020 was 6042, total recoveries were 4155 and the total number of active cases was 1825.⁴ Despite the significant rise in COVID 19 positive cases and related deaths, in October 2020, Malta's COVID-19 mortality rate (the percentage of death in relation to the total number of registered positive cases) stood at circa one per cent and therefore among the lowest in Europe, according to the data compiled by the European Centre for Disease Prevention and Control (ECDC).⁵ The total number of deaths as at 31 October, stood at 62.⁶

As of end October 2020, Malta did not reintroduce a public health emergency.

In order to curb the spread of the virus, the Government of Malta introduced a number of different measures during the month of October. The mandatory use of medical or cloth masks in all public places was put into effect by way of Legal Notice 402 of 2020 amending the Mandatory Use of Medical or Cloth Masks Regulations (Subsidiary Legislation 465.48), which came into force on 20 October 2020.⁷ This is however not applicable to children below the age of three years nor to persons with severe cognitive, physical, mental or respiratory impairments who have difficulties tolerating a mask (as certified by a licensed medical practitioner). The temporary removal of masks is moreover permitted in a number of instances, including in the case of children attending kindergarten, when speaking or providing assistance to any individual who relies on lip reading to communicate, and during intensive physical activity. In addition, Legal Notice 408 of 2020 amending the Number of Persons in Public Spaces Regulations (Subsidiary Legislation 465.51) which came into force on 26 October 2020, prohibits group gatherings of more than six people in public spaces, including queues and bus stops.⁸ A €200 fine was made applicable in instances of breach. If the offender admits and pays the penalty before the initiation of proceedings, the fine would be reduced to €100. Lastly, the closure of bars and nightclubs until 1 December 2020 was put into effect by way of Legal Notice 407

¹ The Malta Independent, [‘Watch: I do not exclude anything’ – Fearné on further COVID-19 restrictions](#), 12 October 2020.

² Times of Malta, [COVID-19 rules enforcement update ‘shortly’, OPM says, but fails to specify](#), 15 October 2020.

³ Times of Malta, [204 new COVID-19 cases, a new record for Malta](#), 17 October 2020.

⁴ University of Malta, [Covid-19 Update](#), 30 October 2020.

⁵ Times of Malta, [Malta's COVID-19 mortality rate still among the lowest in Europe](#), 27 October 2020.

⁶ University of Malta, [Covid-19 Update](#), 30 October 2020.

⁷ Legal Notice 402 of 2020, [Mandatory Use of Medical or Cloth Masks \(Amendment No. 3\) Regulations](#), 20 October 2020.

⁸ Legal Notice 408 of 2020, [Number of Persons in Public Spaces \(Amendment No. 2\) Regulations](#), 26 October 2020.

of 2020 amending the Organised Public Mass Events Regulations (Subsidiary Legislation 407 of 2020) , which came into force on 29 October 2020. The Legal Notice also prohibits snack bars and kiosks from selling any alcoholic beverage and imposes the closure of business between 23:00 hours and 05:00 hours.⁹

On 1st October 2020, Legal Notice 379 of 2020 was passed, the Contact Tracing and Alerting Mobile Application Order. The Order concerns the processing of data by the Superintendent of Public Health, “by means of a contact tracing and alerting mobile application which supports contact tracing through the use of proximity tracing technology and alerts users to take appropriate voluntary action, including testing or self-isolation, if potentially exposed to the COVID-19 virus.”¹⁰

1.2 Freedom of assembly

In September, in order to curtail the further spread of the COVID-19 virus, the Deputy Prime Minister and Health Minister Chris Fearne announced a decrease, from 15 to 10 people, allowed to gather in open public spaces¹¹. This decrease was put into effect by way of Legal Notice 380 of 2020 amending the Number of Persons in Public Spaces Regulations (Subsidiary Legislation 465.51) and became effective from 1 October.¹² Prohibitions on the maximum number of persons allowed to gather in open public spaces do not apply to people living in the same residence. Citizens who assemble in groups of more than 10 were made liable to a €100 fine which would be reduced to €50 if paid before the cut off day.¹³ Legal Notice 408 of 2020 amending the Number of Persons in Public Spaces Regulations (Subsidiary Legislation 465.51) which came into force on 29 October 2020 was issued after an increase in the number of positive cases was registered. Groups in public spaces were thereby further restricted from 10 to 6 people.¹⁴ Moreover, as per Legal Notice 407 of 2020 referenced above, bars and clubs were closed until the 1 December while snack bars and kiosks had to close down their business between 23:00 hours and 05:00 hours.¹⁵ On 16 October 2020, Prime Minister Robert Abela announced that the police force would be stepping up on enforcement to ensure better observance of COVID-19 prevention measures.¹⁶ On 20 October, the media reported that in the previous week, 250 people had been fined for not wearing masks in public.¹⁷ Currently no update as to fines and enforcement of the rules on groups are available. Enforcement of COVID-19 related regulations in Malta is carried out by the Environmental Health Directorate, Local Enforcement System Agency (LESA), Malta Tourism Authority and the Police.¹⁸ All standing public mass events have been prohibited since the 28 August and in line with the Organised Public Mass events Regulations In agreement with church organisations, the Health Authorities have continued to prohibit religious processions and village festivals. The rules concerning funerals of Coronavirus casualties have been reviewed in line

⁹ Legal Notice 407 of 2020, [Organised Public Mass Events \(Amendment No. 6\) Regulations](#), 26 October 2020.

¹⁰ Legal Notice 379 of 2020, [Contact Tracing and Alerting Mobile Application Order](#), 1 October 2020.

¹¹ Malta Today, [COVID-19: Group gatherings in public spaces reduced to 10 people](#), ...30 September 2020.

¹² Legal Notice 380 of 2020; [Number of Persons in Public Spaces \(Amendment\) Regulations](#), 01 October 2020.

¹³ Malta Today, [COVID-19: Group gatherings in public spaces reduced to 10 people](#), 30 September 2020.

¹⁴ Legal Notice 408 of 2020, [Number of Persons in Public Spaces \(Amendment No. 2\) Regulations](#), 26 October 2020.

¹⁵ Malta Today, [COVID-19: Bars, kafini forced to close until 1 December, group gatherings down to six](#), 26 October 2020.

¹⁶ The Times of Malta, [Increasing police presence to enforce COVID-19 measures - Robert Abela](#), 16 October 2020.

¹⁷ Malta Independent, [Over 250 people fined for not wearing masks](#), 20 October 2020.

¹⁸ Malta Winds, [New measures to curb the spread of COVID-19, 17 October 2020](#)

with World Health Organization recommendations.¹⁹ The funeral celebration may be held in churches and places of worship, in line with the measures currently applicable to mass and church services.²⁰

To date, there have been no protests or judicial complaints concerning the introduction of new measures and restrictions.

1.3 Freedom of movement

Entry and Exit Requirements - Corridor Countries

The Malta International Airport reopened on the 1 July 2020 and commercial flights to and from Malta have resumed since then. The Government of Malta imposed certain restrictions, depending on whether the traveller is coming from a country that is included on the Green, Amber or Red lists. Moreover, and irrespective of the lists, any persons travelling to Malta will have to complete the the Public Health Travel Declaration and the Passenger Locator Forms, as required by the Superintendence of Public Health. A false declaration on arrival is considered a criminal offence.²¹

In accordance with the Travel Ban (Extensions to all Countries) Order, 2020,²² which came into force on 15 July, the following corridor countries are part of the Green List: *Andorra, Australia, Austria, Belgium, Bulgaria, Canada, China, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France (except from passengers from Paris airports and Marseille), Germany, Greece, Hungary, Iceland, Indonesia, Ireland, Italy, Japan, Jordan, Latvia, Lebanon, Liechtenstein, Lithuania, Luxembourg, Monaco, Morocco, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Rwanda, San Marino, Slovakia, Slovenia, South Korea, Spain (except for passengers arriving from Barcelona, Girona and Madrid), Sweden, Switzerland, Thailand, Tunisia, Turkey, United Arab Emirates, United Kingdom, Uruguay, Vatican City.* Liechtenstein and Sweden were added to the list by Legal Notice 388 of 2020, the Travel Ban (Extension to All Countries) (Amendment No. 5) Order, which entered into force on 6th October 2020.²³ Quarantine on arrival in Malta is not applicable to travellers from these countries. However, persons suspected of having COVID-19 will be requested to take a swab test.²⁴ Passengers traveling to Malta would need to have been present in any of the corridor country or countries for a minimum of 14 days before arrival in Malta and must not have passed through transit airports outside the list of corridor countries.

The Mandatory Tests for Certain Travellers Regulations, 2020 came into force on 22 August 2020, passengers arriving from countries on the 'Amber List' were required to submit a negative COVID-19 Polymerase Chain Reaction (PCR) test, carried out within the previous 72 hours. Passengers who do not present this certificate could be asked to take a swab test for increased security or asked asked to self-quarantine in Malta upon arrival.²⁵ On 2 October 2020, the Maltese Government updated the list and introduced further restrictions applicable to all passengers traveling from *Romania, Spain (applies to passengers arriving from Barcelona, Girona and Madrid only), France (applies to passengers arriving from Paris and Marseille only), Czech Republic and Tunisia.* The amber list was further amended on 8th

¹⁹ Malta Independent, [Covid-19: Funeral To Be Allowed For People Died From Coronavirus](#), 12 October 2020.

²⁰ Office of the Deputy Prime Minister - Ministry of Health, [COVID-19 Transitioning – Standards and Guidance for faith-based places of worship and services](#), 20 August 2020.

²¹ Ministry for Health, [COVID-menu: Travel](#)

²² Legal Notice 290 of 2020, [Travel Ban \(Extension to All Countries\) \(Amendment No. 4\) Order](#) 10 July 2020.

²³ Legal Notice 388 of 2020, [Travel Ban \(Extension to All Countries\) \(Amendment No. 5\) Order](#), 6 October 2020.

²⁴ Ministry for Health, [COVID-menu: Travel](#)

²⁵ Ministry for Foreign and European Affairs, [Update on travel to and from Malta – 22.10.2020](#), 22 October 2020.

and 24th October 2020, in view of increased Covid-19 cases registered across Europe²⁶. The COVID-19 PCR test also had to be submitted by passengers traveling from: *Austria; Belgium; Bulgaria; Hungary; Ireland; Netherlands (all airports); Poland (applies to passengers arriving from Gdansk and Krakow only); Portugal (applies to passengers arriving from Porto only); Switzerland (all airports); Tunisia; United Kingdom (applies to passengers arriving from Belfast, Cardiff, Leeds, Liverpool, Manchester, Newcastle only)*. From 24 October 2020, Romania was included in the Green list.²⁷

Furthermore, it is the passengers' obligation to check the updated applicable country regulations prior to travelling. Apart from this advice, there are no additional requirements, such as mandatory quarantine, in respect of arrivals from other countries. Within this context, and as part of the medical protocol for testing and quarantine, mandatory quarantine is applicable to persons who would have been authorised by the Superintendent of Public Health to travel to Malta, from countries under the travel ban, and owing to extraordinary circumstances.²⁸

At present, there are no restrictions on travel within the country.

2 Implications of Covid-19 and measures to contain it on specific social rights

Please provide information on legislation/measures taken by the government/public authorities, between 1 September – 31 October 2020, in response to COVID-19 that have impacted negatively on relevant social rights with respect to two of the following areas of life: education, work, health care and housing.

Education

On 28 September, the Minister for Education and Employment Owen Bonnici, reported that all schools had been independently assessed by persons whose name appears in the Occupational Health and Safety Authority's Register of Competent Persons and were in line with the protocols set by the Health Authorities.²⁹ In response to appeals by the teachers' unions and in order to allow all the safety checks, the return to in-person classes in most schools was however postponed by one week and was planned over a period of seven days from 7 to 14 October, when all the students would be back at school.³⁰ Various measures were implemented to secure a safe return to school, including temperature checks at the school gate, the use of hand sanitisers, alternative time-tabling, limiting possibility for contact between students. Moreover, masks or visors in all public spaces are now mandatory for both educators and students (from the age of 4 years old), as well as the maintaining

²⁶ Ministry for Foreign and European Affairs, Update on travel to and from Malta – 22.10.2020, 22 October 2020; Italian Embassy, [Emergenza Coronavirus Covid-19 - Tutti Gli Approfondimenti](#), 12 October 2020.

²⁷ Ministry for Health, [COVID-menu: Travel](#)

²⁸ Ministry for Health, [COVID-menu: Travel](#)

²⁹ Department of Information, [Press Release By The Ministry For Education And Employment: Educators Start A New Scholastic Year](#), 28 September 2020.

³⁰ Malta Independent, [Government postpones State schools reopening by a week, sets up staggered return](#), 25 September 2020.

of a physical distance, both in class and common spaces, of at least 1.5 metres (for students) and 2 metres (for educators) and the concept of school ‘bubbles’.³¹

The increased cases registered in Malta during October and the related news about a possible outbreak in schools, generated panic among parents.³² The Malta Union of Teachers (MUT) reported the episode which they claimed was based upon ‘false information’, and highlighted concerns regarding the evolving situation, particularly the ‘psychological impact’ on students, parents and teachers. The MUT has called for a clearer policy to be implemented by the Government: the aim is to track new cases among the students and teachers, and ensure that the procedure to prevent further spread of the virus are taken. Despite initial speculation on outbreaks amongst teachers in schools, even before schools had opened, as well as pressures from teachers unions, the Education and Health Authorities have collaborated to ensure a timely track and trace response to any cases detected in schools and a communication network between the health department, education establishments and parents.³³ The suggestion of implementing a staggered entrance of pupils at schools and, therefore, of starting times of lectures has been positively welcomed by the Maltese Association of Parents of State School Students (MAPSSS).³⁴ One of the smaller teachers unions, the Union of Professional Educators (UPE), stood by its calls for a return to online learning, as the island’s schools witness a rise in COVID-19 cases over the past months.³⁵ The government had previously considered the on-line or a hybrid option of online and in class, but has continued to prefer the traditional classroom-based education. Minister Bonnici has invited both the MUT and the UPE to collaborate in order to maintain in class-lectures. He also announced that €26 million have been allocated to ensure that all schools will implement the strict guidelines to remain open during the Covid-19 pandemic.³⁶ As reported in previous bulletins, digital learning platforms and tools have been provided and free resources made available via <https://teleskola.mt/>. The website, updated at regular intervals, contains online educational resources and pre-recorded lessons. The Ministry’s aim is to continually provide learning opportunities across all levels of education from early childhood education and care to lifelong learning. **Health**

The Social Care Standards Authority and Active Ageing Agency, in collaboration with the Public Health Authorities, have continued to apply measures and protocols to protect residents in the nursing homes.³⁷ Health visits in the residential homes have been in place since March 2020 and will continue in order to ensure compliance and adherence to protocols and standards of care. The plan involves ongoing swabbing of both residents and staff. Additionally, when a positive case for Covid-19 is detected, the resident will be transferred to one of the Maltese hospitals, to prevent any further spread among the other elderly.³⁸

³¹ Office of the Deputy Prime Minister and Ministry for Health, [Advice and Guidelines to the Educational Sector for the Re-opening of Post-Secondary Schools and Institutions in Malta](#), 27 August 2020.

³³ Office of the Deputy Prime Minister - Ministry for Health, [Advice and Guidelines to the Educational Sector for the Re-opening of Post-Secondary Schools and Institutions in Malta](#), 27 August 2020.

³⁴ Malta Independent, [Government postpones State schools reopening by a week, sets up staggered return](#), 25 September 2020.

³⁵ LovinMalta, [Maltese Teachers Union Calls For Return To Online Learning As School COVID-19 Cases Rise](#), 8 October 2020.

³⁶ The Malta Independent, [€26 million spent on COVID-19 precautions for schools to follow all health protocols](#), 26 October 2020.

³⁷ Department of Information, [Press Release by the Parliamentary Secretariat for Active Ageing and Persons with Disability: Further strengthening of the contingency plans for residential homes for older persons](#), 26 September 2020

³⁸ Department of Information, [Press Release by the Parliamentary Secretariat for Active Ageing and Persons with Disability: Further strengthening of the contingency plans for residential homes for older persons](#), 26 September 2020

On 18th October, the Malta Union of Midwives and Nurses (MUMN) appealed for the government's intervention to increase the measures to prevent the spread of Covid-19, stating that hand washing, social distancing and wearing masks were no longer considered to be sufficient to prevent it.³⁹ The concerns were related to the increased number of cases detected and the envisaged pressure on the Maltese hospitals should large numbers of positive cases require hospitalisation and intensive care simultaneously. Moreover, the Union stated that it is not sufficient to simply increase the number of ITU beds to physically admit the patients; it is also necessary to have adequate trained and skilled healthcare staff who are able to manage ventilators and provide intensive care.⁴⁰ The Medical Association of Malta (MAM) warned that there are less skilled staff than the number of ventilators available in Malta at present.⁴¹ On various occasions, the Deputy Prime Minister and Minister for Health as well as the Superintendent of Public Health appealed to the public to comply with the respective measures in order to allay preventable additional pressures on the health system and staff, which have their limitations^{42 43}.

On 26 October, the MAM reported that the average increase was of 125 new cases per day and that the increased number of patients admitted to the hospitals for intensive care, raised concerns.⁴⁴ They claimed that health services would soon hit a critical point where coping with the demand would be extremely challenging unless further restrictive measures and a possible new lockdown were introduced.⁴⁵ Moreover, the MUMN stated that Mater Dei hospital was in urgent need of increased nursing staff to cover for healthcare staff deployed to COVID-19 care.⁴⁶ The Union also added that the evolution of the situation could highly increase the pressure on healthcare staff and ultimately have a dramatic effect on patients.⁴⁷ In an interview, Opposition Leader Bernard Grech was reported to have said that the impact on health care is already evident by way of cancellation and postponement of routine surgery to prevent avoidable hospital admissions.⁴⁸ Whilst urging people to get vaccinated for influenza, to prevent a situation where the hospital would have to cope with both flu and COVID-19 patients, the Deputy Prime Minister and Health Minister Chris Fearne warned that human resource limitations of the national health service meant that outpatient services and certain interventions would have to stop functioning if COVID-19 ITU wards reach their full capacity.

Swab tests for COVID-19 are carried out by appointment only, upon being allocated a time slot after calling the helpline (111). There are currently 6 testing centres in different parts of Malta, including one on the island of Gozo: one in Pembroke, one in Luqa, one at Mater Dei Hospital (for health care professionals) one in Qormi, one in Burmarrad and one in Xewkija, Gozo. The Department of Health website affirms that one should attend for swab test in their own vehicle or sit in the back if driven by

³⁹ The Malta Independent, [Covid-19: Malta suffering consequences of PM's 'know-it-all' attitude – Bernard Grech](#), 18 October 2020.

⁴⁰ The Malta Independent, [Substantial number of Covid cases will result in 'disastrous situation' in health sector - MUMN](#), 17 October 2020.

⁴¹ The Malta Independent, [Average 125 new cases per day: MAM urges restrictive measures to 'avoid collapse'](#), 26 October 2020.

⁴² <https://lovinmalta.com/news/chris-fearne-confirms-outpatient-services-and-operations-will-stop-if-covid-19-itu-wards-fill-up/>

⁴³ <https://timesofmalta.com/articles/view/100-icu-beds-available-for-covid-19-patients-120-ventilators.824584>

⁴⁴ Malta Today, [MUMN warn of lockdown after 'alarming' number of patients in ITU](#), 25 October 2020.

⁴⁵ Malta Today, [MUMN warn of lockdown after 'alarming' number of patients in ITU](#), 25 October 2020.

⁴⁶ Malta Today, [MUMN warn of lockdown after 'alarming' number of patients in ITU](#), 25 October 2020.

⁴⁷ The Malta Independent, [Substantial number of Covid cases will result in 'disastrous situation' in health sector - MUMN](#), 17 October 2020.

⁴⁸ The Malta Independent, [Covid-19: Malta suffering consequences of PM's 'know-it-all' attitude – Bernard Grech](#), 18 October 2020.

someone else. Swab tests cannot be attended for by taxi, bus or any car-sharing option. Test results are usually received within 72 hours by SMS, email or landline phone call, as well as on the myhealth government portal for Maltese citizens and residents aged over 14 years.⁴⁹ Persons who would not have received their results within this time window, usually owing to the provision of erroneous contact information, may request a copy of the result by email. On 28 October, it was announced that rapid testing would now be available at two new swabbing centres - one at Boffa Hospital in Floriana and another in the North of the island - which centre was not identified by the authorities. Initially, the rapid tests will be used in certain settings such as the airport, educators and for care workers, including staff at care homes.⁵⁰ Other persons wishing to book a rapid test are advised to call the national helpline (111) for further guidance.

In June 2020, it was announced that the government would spend an estimated €100 million more on healthcare in 2020 than planned.⁵¹ On 19 October, Finance Minister Edward Scicluna presented the Maltese Parliament with the 2021 Budget.⁵² Although the budget speech did not highlight specific COVID-19 financial allocations for healthcare, it was affirmed that the wage supplement would continue to be paid until 2021.⁵³ However, in a press release dated 28 October and concerning the allocation of funds for health and COVID-19, Deputy Prime Minister and Minister for Health Chris Fearne affirmed the introduction of rapid testing and two more swabbing centres. They also announced that 2021 would be a record year for the budget allocated to health care (around €824 Million for 2021).^{54 55}

3 Negative impact on social rights for vulnerable groups including measures to address this

Please select and provide information concerning two groups whose social rights were particularly negatively impacted with respect to developments/measures adopted in relation to COVID-19, between 1 September – 31 October 2020. For each of the two groups selected – highlight which social rights were most impacted. Also, identify any government and related measures that were introduced to alleviate the negative impact on these groups.

Migrants, Refugees And Asylum Seekers

The United Nation Office of the High Commissioner for Human Rights (OHCHR) has called on Malta to take action to protect migrants' human rights in their attempt to reach the European sea border.⁵⁶ A team of human rights officers undertook a week-long mission in Malta from 21st to 26th September 2020 to gather information about the situation of migrants transiting through Libya to the recipient European country. They engaged with Government officials, UN Partners, migrant community leaders, civil society organizations, and spoke to 76 migrants from 25 different countries.⁵⁷ The report

⁴⁹ Ministry for Health, COVID19: Getting Tested.

⁵⁰ Malta Today, [Rapid testing for COVID-19 available at two new swabbing centres](#), 28 October 2020.

⁵¹ Times of Malta, [Malta spending €100 million more than planned on healthcare in 2020](#), 9 June 2020.

⁵² Ministry for Finance, [Budget 2021](#), 19 October 2020. NB: Budget speech only available in Maltese.

⁵³ Ministry for Finance, [Budget 2021](#), 19 October 2020. NB: Budget speech only available in Maltese.

⁵⁴ <https://www.gov.mt/en/Government/DOI/Press%20Releases/Pages/2020/October/28/pr202109.aspx>

⁵⁵ Malta Today, [Rapid testing for COVID-19 available at two new swabbing centres](#), 28 October 2020.

⁵⁶ UN Office of the High Commissioner for Human Rights, [Shocking' cycle of violence for migrants departing Libya to seek safety in Europe](#), 2 October 2020.

⁵⁷ UN News, [Mediterranean Sea: 'Cycle of violence' for fleeing migrants must be addressed](#), 2 October 2020.

highlighted how migrants' human rights have been systematically violated: the brutal conditions upon which migrants are detained in Libya; the delayed rescues at sea; the refused disembarkation, and organised pushbacks to Libya by European countries in disagreement with European⁵⁸ and international treaties.⁵⁹ The inhumane conditions allegedly led migrants to escape from detention centres in the past months, with a recent attempt leading to the death of a Sudanese national who fell off a fence whilst trying to escape from detention in Hal Far.⁶⁰

Various sources have reported that Migrants have been detained for several months with limited access to legal services and information.⁶¹ Moreover, migrants in detention were reportedly deprived of their personal phones⁶² and had restricted contacts with the outside world, while living in poor hygienic conditions with unsatisfactory nutrition.⁶³ Migrants could make calls to relatives and other third parties by means of telephone sets installed in different areas of the closed centres. On 6th September, a video was released in the media from the Safi detention centre which showed the extent of the poor conditions they were living in. In the video, the migrants are seen asking to be allowed to return home after months of detention.⁶⁴ All of these migrants were spoken to and refused to be assisted to leave Malta voluntarily through assisted voluntary return and reintegration programmes. Human Rights NGOs reported having been denied access to enter the Safi detention centre since August despite raised concern about migrants' conditions;⁶⁵ furthermore, migrants have been held in the centre with limited access to medical services. On the 29th of October, a migrant detained for 144 days at the Safi centre after being rescued at sea in June was released and transferred to the Hal Far open centre: there was no apparent public health reason for his detention nor other reasons given.⁶⁶

In a report released in September 2020, Amnesty International reported that Malta was implicated in "multiple failures to respect and protect the rights of refugees and migrants at sea", as well as the coordination of pushbacks to Libya. They also accused Malta of delays in responding to distress calls in its search and rescue region on multiple occasions since the beginning of 2020, leaving migrants at risk.⁶⁷ In a letter to Amnesty International dated 25 August 2020, Malta's Prime Minister firmly rejected allegations that Maltese authorities may have ignored distress calls in Malta's SAR region. In his words, "Malta has acted on all the distress calls inside its area of responsibility and coordinated rescue to ensure that the persons in distress disembark in the closest place of safety", adding that Maltese authorities have rescued "a record number of 1,966 persons in the first seven months of this year".

Reference is made to the event involving the tanker Maersk Etienne. On 4th of August, after the Maltese authorities requested the tanker's assistance with respect to a vessel in distress in waters between Libya and Tunisia, they refused to allow the disembarkation of passengers in Malta. After 38 days, the 27 migrants, among which there was a pregnant women and a child, were disembarked in Pozzallo, Italy.⁶⁸ The Maltese authorities maintained that since the rescue occurred in Tunisian waters,

⁵⁸ Article 3 of the European Convention on Human Rights.

⁵⁹ The principle of non-refoulement; Article 3.1 of the Convention against torture; and Article 33.1 of the Convention and protocol relating to the status of refugees.

⁶⁰ Malta Today, [Immigrant dies after attempting to escape Hal Far detention centre](#), 2 September 2020.

⁶¹ Times of Malta, [Watch: Migrants in covert video beg to be sent back home](#), 7 September 2020.

⁶² Times of Malta, [Watch: Migrants in covert video beg to be sent back home](#), 7 September 2020.

⁶³ Times of Malta, [UN slams 'shocking' conditions for migrants in Malta](#), 2 October 2020.

⁶⁴ Times of Malta, [Watch: Migrants in covert video beg to be sent back home](#), 7 September 2020.

⁶⁵ Times of Malta, [NGOs denied access to Safi migrant centre since August](#), 11 September 2020.

⁶⁶ Times of Malta, [Court orders release of migrant held illegally for 144 days](#), 29 October 2020.

⁶⁷ Amnesty International, [Malta: Waves Of Impunity. Malta's Human Rights Violations And Europe's Responsibilities In The Central Mediterranean](#), September 2020.

⁶⁸ UNHCR Malta, [ICS, UNHCR and IOM call on States to end humanitarian crisis onboard ship in the Mediterranean](#), 7 September 2020.

Malta was not the nearest place of safety and that in accordance to the Conventions applicable to it, it was not the country responsible for disembarkation.

On 2nd October 2020 the UN High Commissioner for Human Rights, Michelle Bachelet, reported how the Covid-19 pandemic has exacerbated the already failing system of migration governance in the Mediterranean; nonetheless, she stated that human rights must always be upheld.⁶⁹ In a televised interview on 3rd August, Prime Minister Abela claimed that the drastic spike in reported COVID-19 cases was due to the inclusion of rescued migrants who tested positive for the virus. The Medical Association of Malta (MAM) rebutted this, highlighting how mass events allowed during the summer against the health authorities' advice were more likely to explain the new spike in positive cases.⁷⁰ The NGO Repubblika criticised the statement, underlining how rescued migrants do not freely circulate as opposed to the tourists allowed to travel to Malta since July. Moreover, it raised concern about the risk of increasing racial prejudice against migrants in an already challenging situation.⁷¹

Nonetheless, PM Abela has declared that Malta's position on migration will remain unchanged unless the EU agrees on a satisfactory migration pact, referring to the EU Commission's proposal for the Pact on Migration and Asylum. Abela claimed that the country has been overwhelmed over the past years with migrant arrivals and is unable to accommodate any more people: this approach is, in his view, the only way to make other Member States aware of Malta's plight.⁷² The Government maintains that Malta has long been carrying a disproportionate responsibility and that non-mandatory relocation will not address the challenges faced by the smallest Member State of the EU with respect to irregular migration. In view of the increasing number of coronavirus cases amongst migrants and the continued migrant arrivals, the Maltese government appears to be moving forward with the plan to charter a vessel that will be used to quarantine migrants, at a cost of 33,500 euro a day.^{73 74}

Elderly

Several cases of Coronavirus were detected in Maltese nursing homes during September and October 2020. On 11th September 2020, 13 positive cases, among which two were carers, were detected in the Casa Antonia nursing home, two in Casa San Paolo and 32 cases, among which seven were carers, in St Joseph's home.⁷⁵ The situation rapidly escalated and by 23rd September, it was reported that 113 positive cases out of 278 residents were detected at the St Joseph Home in Fgura; moreover, 29 members of staff tested positive while 50 were in quarantine.⁷⁶ At the beginning of October, Malta became the second country in Europe with the highest rate of mortality amongst the elderly.⁷⁷

Residents who tested positive were required to be quarantined within the residential home, except when hospitalization was required: in this case, they would have to be quarantined for 5 days after returning to the nursing home.⁷⁸ Several controls were implemented, including for the carers. It was reported that the restrictive measures to prevent the spread of Covid-19 also had a psychological

⁶⁹ UN Office of the High Commissioner for Human Rights, [Shocking' cycle of violence for migrants departing Libya to seek safety in Europe](#), 2 October 2020.

⁷⁰ Malta Today, [Unfair of Prime Minister to blame COVID spike on migrants, doctors' union says](#), 4 August 2020.

⁷¹ Times of Malta, [COVID-19 spike: 'PM unfair to blame migrants to cover his blunder' – doctors](#), 4 August 2020.

⁷² The Malta Independent, [Malta's position on migration will not change until EU migration pact – Abela](#), 21 October 2020.

⁷³ The Shift, [EXCLUSIVE: Prime Minister to spend €1m a month to detain migrants on ship](#), 31 August 2020.

⁷⁴ The Shift, <https://theshiftnews.com/2020/09/05/objections-quashed-migrants-ship-given-green-light-at-e1m-per-month/> 5 September 2020.

⁷⁵ Times of Malta, [Watch: Rise in COVID-19 in elderly amid outbreak in three homes](#), 11 September 2020.

⁷⁶ Malta Today, [Almost half of St Joseph Home elderly residents test positive for COVID-19](#), 23 September 2020.

⁷⁷ Times of Malta, [Malta with second-highest COVID-19 rate among elderly patients](#), 2 October 2020.

⁷⁸ Times of Malta, [Homes for the elderly: Quarantine, temperature checks and 'bubbles'](#), 17 September 2020.

impact on the elderly. The Social Care Standards Authority and the Health and Family Ministries strongly urged relatives not to visit their loved ones if they were feeling unwell.⁷⁹ Moreover, visitors are required to keep physical distance from the residents and to communicate from behind a screen. Physical distance also needs to be maintained among the residents in the home.⁸⁰ Thus, government authorities recommended that all Maltese nursing homes should be equipped with the necessary technology to allow virtual communication between residents and their relatives.⁸¹ The director of St Joseph's home reported that the majority of the positive cases were asymptomatic and that they were kept separate from the residents testing negative and from those in quarantine.⁸² The Social Care Standards Authority commenced an investigation into the outbreak of coronavirus in elderly homes in October, in order to establish whether health protocols were correctly implemented. The Authority also investigated complaints that relatives were allegedly not kept informed about the health conditions of the elderly who tested positive or were in quarantine. Moreover, concerns were expressed about the staffing levels and consequently the level of care of their relatives.⁸³ The nursing homes have strongly denied these accusations.

Following the implementation of National guidelines in residential homes, on the 24 October 2020 the Public Health Superintendent Prof. Charmaine Gauci reported that the most common cause of clusters of new cases remained family gatherings and work places. She stated that cases in the nursing homes for the elderly were under control and were decreasing owing to isolation, quarantine and testing of residents and all staff.⁸⁴ Meanwhile, a new specialised unit to treat elderly persons with COVID-19 has been set up to allow their isolation to avoid further spread of the virus within residential homes.⁸⁵

⁷⁹ Times of Malta, [Homes for the elderly: Quarantine, temperature checks and 'bubbles'](#), 17 September 2020.

⁸⁰ Malta Today, [Almost half of St Joseph Home elderly residents test positive for COVID-19](#), 23 September 2020.

⁸¹ Times of Malta, [Homes for the elderly: Quarantine, temperature checks and 'bubbles'](#), 17 September 2020.

⁸² Malta Today, [Almost half of St Joseph Home elderly residents test positive for COVID-19](#), 23 September 2020.

⁸³ Malta Today, [Updated | Investigation into elderly homes over COVID-19 surge to establish whether protocols were followed](#), 5 October 2020.

⁸⁴ Malta Independent, [Weekly briefing: Gauci says number of Covid-19 cases in elderly homes is on the decline](#), 9 October 2020.

⁸⁵ Times of Malta, [Watch: Special unit set up to treat elderly with COVID-19, Charmaine Gauci says](#), 30 October 2020.