

Greener and Cleaner

Annual Human Rights Report 2015



April 2016

The Platform of Human Rights Organisations in Malta (PHROM) presents 'Greener and Cleaner: Annual Human Rights Report 2015'.

Author: Dr Neil Falzon
Research Assistant: Lara Farrell

Dr. Neil Falzon is Director of the human rights organisation aditus foundation. aditus foundation is one of PHROM's founding Member Organisations and is the Secretariat for the Platform's Executive Committee.

The Platform of Human Rights Organisations in Malta (PHROM) was established in 2014 as a not-for-profit Platform (VO/0970) gathering NGOs working for the promotion of improved human rights protection in Malta. PHROM's mission is to provide a national forum for human rights organisations in Malta to more effectively develop, promote and advocate for the values of human dignity and equality.

At time of writing, 30 human rights NGOs are PHROM Member Organisations. Five of these organisations sit on PHROM's Executive Committee. The full Member Organisation list is provided below.

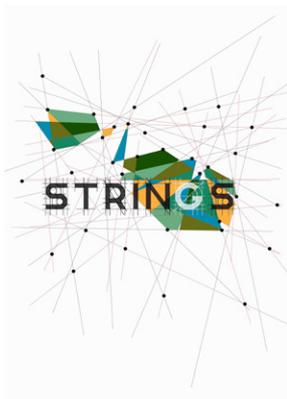
Address: 149,
Old Mint Street,
Valletta, VLT 1513
Malta

Telephone: + 356 2010 6295
Fax: + 356 2010 6296
E-mail: info@humanrightsplatform.org.mt
Web: www.humanrightsplatform.org.mt

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Malta Community Chest Fund



First Call - Social Projects

Projects part-financed by Malta Community Chest Fund
Co-financing rate: 90% MCCF funds. 10% Beneficiary's funds

Stepping Up

This is PHROM's second Annual Human Rights Report since its inception. The report outlines our Member Organisations' main perceptions and expectations in the human rights field for the year 2015. It is interesting to note that the concept of good governance features as a main human rights concern.

The concept of good governance entails respect for the rule of law, stakeholder participation, multi-agency cooperation, transparency and accountability, access to information, absence of discrimination and sustainable development. The NGO sector is a key player in the fulfilment of these objectives in so far as it is the main advocate in this regard, and also acts as a watchdog on Government. Government, on the other hand, is the main player and must ensure transparency, responsibility, accountability, participation and responsiveness; whilst the media can play an invaluable role in putting a spotlight on issues requiring attention.

It is clear therefore, that the findings of this 2015 Annual Human Rights Report are calling upon us all to step up in our work, in order to move away from a charitable approach and replace it with a rights-based approach to social and economic development. I invite all key players to use this report, and particularly its structured recommendations, as a tool to achieve these objectives.

Dr. Roberta Lepre

PHROM Executive Committee Chairperson

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The completion of this Annual Human Rights Report would not have been possible without the participation and valid contribution of PHROM's Member Organisations.

aditus foundation (Sec.)
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Amputees4Amputees
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DRACHMA
Fondazzjoni Mid-Dlam għad-Dawl
Foundation for Support and Shelter to Migrants
Gender Liberation
Inspire Foundation
Integra Foundation
Jesuit Refugee Service
KSU
Libya Foundation for Rehabilitation
Malta LGBTIQ Rights Movement (EC)
Malta Humanist Association
Migrant Women Association Malta
National Foster Care Association and Gender Liberation.
Organisation for Friendship in Diversity
PRISMS
Richmond Foundation (EC)
SOS Malta
Troupe 18:45
UpBeat Music House
Victim Support Malta (EC)
We Are
Why Not?
Women's Rights Foundation
YMCA Homeless

ABBREVIATIONS

| | |
|---|--------|
| PHROM Annual Human Rights Report | AHRR |
| Council of Europe | COE |
| Convention on the Rights of the Child..... | CRC |
| European Convention for the Protection of Human Rights and Fundamental Freedoms.. | ECHR |
| European Union..... | EU |
| Gender Identity, Gender Expression and Sex Characteristics Act | GIGESC |
| Human Rights and Integration Directorate (MSDC) | HRID |
| Human Rights and Equality Commission | HREC |
| National Commission Persons with Disability | KNPD |
| Lesbian, Gay, Bisexual, Trans, Intersex, Queer | LGBTIQ |
| European Union Member State..... | MS |
| Ministry for the Family and Social Solidarity..... | MFSS |
| Ministry for Foreign Affairs | MFA |
| Ministry for Gozo..... | MGOZ |
| Ministry for Social Dialogue, Consumer Affairs and Civil Liberties..... | MSDC |
| Ministry for Sustainable Development, the Environment and Climate Change | MSDE |
| National Commission for the Promotion of Equality..... | NCPE |
| National Human Rights Institution | NHRI |
| Non-Governmental Organisation | NGO |
| Office of the Prime-Minister | OPM |
| Platform of Human Rights Organisations in Malta | PHROM |
| United Nations | UN |
| Universal Declaration of Human Rights..... | UDHR |

Introduction

2015 was an interesting year for human rights in Malta. Continuing their steady rise to the top of the national agenda, LGBTIQ rights once again topped the list of most significant developments for the year. The waves of applause generated by the adoption of the Gender Identity, Gender Expression and Sex Characteristics Act (GIGESC) came as the echo to similar, yet probably less resounding, applause triggered by the Civil Unions Act in 2014. Together with strongly welcoming GIGESC as a milestone in Malta's human rights progress, this report stresses the relentless work undertaken by all those human rights NGOs involved in GIGESC's eventual adoption and on-going implementation.

PHROM is also extremely satisfied to note that 2015 was also the year of the environment, not so much for any significant positive developments at the institutional level but more for a loud call for the environment to be positioned within a human rights framework. The creation of the Front Harsien ODZ was hailed by most Member Organisations as a notable development, for the fresh and innovative discourse adopted in relation to environmental rights and for being an excellent example of civic mobilisation in support of Malta's ill-treated and mismanaged natural heritage. PHROM and several Member Organisations joined the national movement, in reiteration of the indivisibility of all fundamental human rights.

Throughout 2015, our Member Organisations continued to support and advocate for Malta's most socially excluded communities. Difficulties accessing public services was mentioned as a core concern by most Member Organisations, highlighting their own struggle in ensuring sustainability within a context that is challenging to finance and, at times, a threatening working environment. In fact, the rise of hate speech is given prominence in the report as a worrying development assaulting the integrity of our Member Organisations, their human rights work and their own beneficiaries.

The 2015 Annual Human Rights Report (AHRR) invites Malta to be greener. It challenges the nation to demand respect, protection and promotion of the rights of all persons to enjoy and partake in Malta's natural heritage, to a healthy and clean environment, and to environmental governance that is accessible, transparent and accountable.

PHROM is also urging a cleaner Malta. This is not an environmental appeal but, more importantly, an expression of serious concern at the lack of good governance evident across so many areas of the public sector. Identified by our Member Organisations as a key challenge of 2015 and also for 2016, the right to good administration not only suffers from not being recognised as a fundamental human right but also from an apparent disregard of its meaning and impact on the lives of all persons living in Malta.

Dr Neil Falzon
PHROM Head of Secretariat



Launch of PHROM's 2014 Annual Human Rights Report

Research Methodology

General Note

One of the major strengths of PHROM's Annual Human Rights Report lies in its research and drafting methodology, since it is based on and emerges from the collective voices of all PHROM's Member Organisations. The inherent value of this approach should not be underestimated, as it produces a concerted voice that is unique in Malta.

There is, firstly, the thematic significance of this chosen methodological approach. A quick glance at the list of current PHROM Member Organisations will help reiterate the Platform's understanding of human rights as an extremely broad and inclusive concept that incorporates all economic, social, cultural, civil and political rights. No other national document, policy or entity can claim to have adopted this approach to human rights. In this, therefore, PHROM is unique and the insight this position offers the AHRR allows PHROM to be truly intersectional in the way we identify trends and common challenges, and also in our advocacy strategy that is firmly rooted in the universality and indivisibility of all fundamental human rights.

Secondly, by drawing on the experiences, expertise and perspectives of our Member Organisations we are reaching out and giving a voice to Malta's most vulnerable and socially excluded themes and communities. We are of course aware that many, if not all of our Member Organisations are involved in activities promoting the empowerment and increased civic participation of their beneficiaries. Giving a voice is, therefore, not new or exclusive to PHROM – far from it. Yet the AHRR, because it is built on all the voices represented by our Member Organisations, strives to strengthen these excluded themes and communities by placing them within a collective and united framework. Not only are the voices stronger, through collective action, they are no longer alone, no longer forgotten.

Until this inclusive methodology remains relevant to PHROM and to our Member Organisations, it will be maintained and further strengthened.

SPOTLIGHT

**ANTHONY TALIANA V COMMISSIONER OF POLICE
AND THE ATTORNEY GENERAL¹**

Court: **Constitutional Court, Malta**
Judgement Date: **6 February 2015**
Application no.: **35/2012/1**
Violation: **Fair Trial (Article 6 ECHR): right to access a lawyer during questioning**

The facts

On the scene of a fatal hit and run traffic accident police found licence plates belonging to Anthony Taliana's father's car. On being questioned, the father confirmed that Anthony Taliana was driving the car early that morning. Mr. Taliana was taken to the police station and was interrogated by a Court expert appointed by the inquiring magistrate, without the assistance of a lawyer. During this interrogation he gave a statement that was then used by the prosecution as evidence during the criminal proceedings instituted against him.

After the prosecution presented its evidence, which included the statement taken at the police station, the accused requested that this be removed from the acts of the case, as its inclusion would entail a breach of his right to a fair trial. The Court of Magistrates denied this request and Mr. Taliana instituted proceedings in the Constitutional Court requesting that the Court declares that (i) the taking of the statement and (ii) the subsequent conclusion of the Court experts violated Article 6 of the European Convention. In addition, Mr. Taliana claimed that the actions were aggravated by the fact that (i) he had the right to legal assistance even if he was not vulnerable and that (ii) in any case he was vulnerable when the statement was taken.

The judgment

The Constitutional Court held that the fact that Mr. Taliana was over 18 did not mean that he did not feel intimidated and the fact that he had a high blood alcohol level during interrogation only increased his vulnerability. The Court found that Mr. Taliana was indeed vulnerable and the taking of his statement breached his rights under Article 6 ECHR. However, the Court held that the statements and the reports of the court experts should not be removed from the acts of the case, but should not be relied upon to judge the guilt or innocence of Mr. Taliana. The case was sent back to the Court of Magistrates².

1 All Malta judgements can be accessed through the Justice Services portal: <http://www.justiceservices.gov.mt/courtservices/Judgements/default.aspx>

2 See also Peter Joseph Hartshorne v. Advocate General and the Commissioner of Police, (100/2013/1), 27 February, 2015 where the Constitutional Court found that there had not been a breach of Article 6 of the ECHR due to that fact that although the accused was not assisted by a lawyer during interrogation he was found guilty after admitting in Court on two occasions with the assistance of his lawyer.

2015 Methodology

Member Organisations Input

Contrary to the research process for the 2014 AHRR, funding was not available this year to engage a Research Consultant. The main consequence of this limitation was the impossibility of having full-length interviews with all 30 Member Organisations. Nonetheless, six interviews were held with Member Organisations in order to complement questionnaire data with at least a small number of qualitative meetings. Criteria for selecting the six Member Organisations were informal and mixed, including:

- PHROM's limited familiarity with the operational details/human rights priorities of specific Member Organisations;
- Thematic variety;
- Logistical considerations (e.g. availability, willingness, etc.).

The six interviewed Member Organisations were: Mid-Dlam Għad-Dawl, Richmond Foundation, Malta Humanist Association, DRACHMA, Kunsill Studenti Universitarji, and PRISMS.

In order to gather the perspectives of all other Member Organisations a basic questionnaire was designed and distributed. The questions were largely modelled on those used for the 2014 Report, not only due to their substantive utility but also because it is the AHRR's aim to be more than a solid and stand-alone report, and to provide comparative assessments and analyses of human rights developments from year to year. It is only in this way, we feel, that Government, NGOs, academics, stakeholders, the private sector and the broad public are able to assess the impact of specific measures and establish levels of progress or regress. The data obtained from the six interviews was also mapped according to the questionnaire.

The list of questions is included in Annex II, and essentially they seek to understand the perspective of our Member Organisations regarding human rights developments occurring throughout 2015. Together with seeking their views on the most significant developments, we also asked Member Organisations to highlight those human rights issues and themes they feel are being ignored, including by civil society. We feel this is an important dimension to the questionnaire since it provides us with a clearer idea of what Malta's gaps are. Looking at this specific question, and its answers, over a number of years should clearly indicate recurring lacunae or, possibly, interventions based on the identification of these gaps. Questions were designed and approved by PHROM's Executive Committee.

Member Organisations were also asked to provide us with information on their main events, as well as activity photos. We identified and included as Case Studies those Member Organisation activities representing best practices in human rights promotion, since we want to give added visibility to such fantastic and original work.

27 Member Organisations provided input through the questionnaire, directly or following a meeting with us.

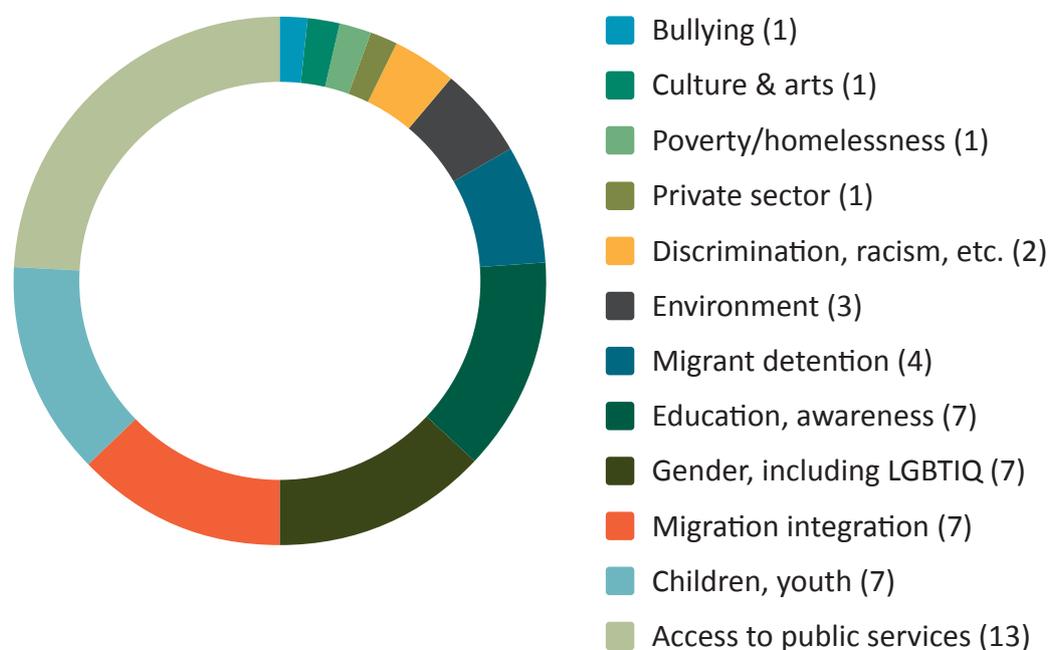
Desk Research

Member Organisation data was supplemented with desk research, essentially producing the list of most prominent items in the media (for the purpose of Question 1 in Annex II), and the information included in the Spotlight sections. This research was largely internet-based, complemented by research through various publications available at PHROM's Secretariat office. The Spotlight sections cover:

- Major jurisprudence before Malta's Constitutional Court;
- Major jurisprudence (Malta-related) of the European Court of Human Rights;
- International human rights reports covering Malta, generally or specifically;
- An overview of the activities of Malta's equality bodies:
 - Office of the Ombudsman;
 - National Commission for the Promotion of Equality (NCPE);
 - National Commission Persons with Disability (KNPD).

The desk research also compiled the Information Boxes scattered throughout the report, providing useful explanations of laws, measures, terms and other significant elements.

Figure 1: Respondents' 2015 Priorities



Member Organisations' 2015 Priorities

It is useful to have a general understanding of the thematic priorities of the Member Organisations responding to the questionnaire, clearly relevant for 2015. The rationale for this specific question goes beyond a mere interest in appreciating the

various themes covered by PHROM's Member Organisations, and seeks to provide a logical framework to the provided responses.

The illustration indicates the themes prioritised by the responding Member Organisations throughout 2015, as indicated in their responses. A few observations are necessary:

1. Efforts have been made to gather identified themes under various headings, based on similarity and proximity of the indicated themes. This is based on our own judgement, yet all attempts have been made not to distort our Member Organisations input in any way;
2. Being a list of priorities implies that the list is, of course, not an exhaustive list or description of all the themes and activities covered by either by all respondents or by all our Member Organisations. We are keen to observe that this list is not a characterisation of our Member Organisations but merely an indication of what they chose to prioritise in their work throughout 2015;
3. The listed priorities are not internally exclusive, so that a theme identified by a Member Organisation could be classified under one or more headings. For example, responses referring to activities focusing on GIGESC are included under the heading 'Legislation, Implementation' and also 'Gender, including LGBTIQ'.

GENDER IDENTITY, GENDER EXPRESSION AND SEX CHARACTERISTICS ACT (GIGESC)

Enacted on 1 April 2015, this Act introduced the right for individuals to determine their own gender identity, meaning that there is no longer a need for intrusive medical or psychological examinations in order to be recognised as the gender one identifies with. GIGESC makes Malta the first country in the world to prohibit the globally common practice of medically unnecessary sex assignment surgery on intersex minors – until the person is old enough and able to give informed consent. The Act also allows for parents to postpone the entry of a 'F/M' gender marker on their child's birth certificate, until the child is old enough to decide on a marker for itself.

In terms of observations that may be made on these responses, PHROM underlines the fact that most of its Member Organisations are actively involved in either providing core services to their beneficiaries or advocating for their improved access to public services. This is not only evident from the topping of 2015 priorities by 'Access to public services', but also from a more in-depth appreciation of probably all the other headings as they also include strong elements of service-provision. Whilst we are not surprised at this data, it seems to confirm a number of important elements that PHROM feels need to be addressed internally and also externally.

Clearly, there are several communities that, without the support of NGOs, are unable to effectively access public services or who, having accessed these services, are unable to live a dignified life. Whilst it is not the aim of this report to assess the social, economic, personal and other factors explaining this situation, it is important to flag it as a serious concern.

SPOTLIGHT

GEORGE SPITERI; AND AFTER HIS DEATH MARIA CARMELA SIVE MARLENE SPITERI ET. V POLICY MANAGER OF THE MALTA SHIPYARDS WITHIN THE MINISTRY FOR INFRASTRUCTURE, TRANSPORT AND COMMUNICATIONS; CHIEF MEDICAL OFFICER; CHAIRPERSON OF THE OCCUPATIONAL HEALTH AND SAFETY AUTHORITY; ATTORNEY GENERAL; AND THE COMMISSIONER OF POLICE

Court: **Constitutional Court, Malta**
 Judgement Date: **27 March 2015**
 Application no.: **30/2009/1**
 Violation: **Right to Life (Article 2 ECHR); Prohibition of Torture (Article 3 ECHR) and Right to respect for private and family life (Article 8 ECHR); compensation**

The facts

Mr. Spiteri worked at the Malta Drydocks during which time he was exposed to asbestos without adequate protection. He filed a case in the Civil Court claiming a breach of Articles 2,3, and 8 ECHR and Article 33 and 36 of the Constitution. Mr. Spiteri died during the course of proceedings. The Civil Court declined to take cognisance of the case as it felt that Spiteri had other remedies available under ordinary law¹. An appeal was lodged in the Constitutional Court where the Spiteri family claimed that:

- There are certain rights, such as those that impose positive obligations on the State – including the right to life and the right to protection from torture or inhuman or degrading treatment or punishment – the breaches of which may only be remedied through a Constitutional action; and
- The right to moral damages is not recognised in Maltese Civil Law, but is only recognised in the ambit of Constitutional Law, and therefore can only be granted through a Constitutional action.

The judgment

The Constitutional Court confirmed that under Maltese Civil Law there is the possibility of granting material damages, (e.g. damages granted on loss of earnings, medical costs etc.) however, moral damages (e.g. damages given to compensate for pain and suffering) cannot be granted by the ordinary courts. The Constitutional Court made reference to the *Brincat and others v Malta* judgment that affirmed that in cases of breaches of Articles 2, 3 and in certain circumstances 8 ECHR, there should always be a possibility for the granting of moral damages.

The Constitutional Court held that in these circumstances it is no longer desirable for Constitutional Courts to decline to exercise jurisdiction even though other remedies were available to the applicants under ordinary civil law.

¹ This judgment from the First Hall Civil Court was given before the European Court of Human Rights judgment in *Brincat and Others v. Malta* [60908/11, 62110/11, 62129/11, 62312/11 and 62338/11] relating to exposure of asbestos at the Malta Drydocks

This understanding is of course further exacerbated by the fact that the majority of these communities facing difficulties receiving necessary support are composed of individuals prone to vulnerability such as the family members of inmates, migrants and refugees, youth and children, and trans persons. A number of Member Organisations were also keen to stress the inter-relationship between this vulnerability and membership of one or more minority groups (e.g. a woman from an ethnic minority, a gay man with a disability, etc.).

PHROM fully supports this valuable work undertaken by its Member Organisations, and will explore if and how we can provide more tangible interventions that facilitate this service-provision. On the other hand, PHROM reiterates the central advocacy role to be played by human rights NGOs, as clearly evidenced from even a superficial assessment of Malta's human rights strides in 2014 and 2015. Appreciating the several difficulties faced by NGOs dedicated wholly or partially to human rights advocacy¹, PHROM will reach out to its Member Organisations and to external partners in order to explore methods of strengthening our Member Organisations' advocacy activities.

When coupled with responses to the question 'Are your services covered by a Service Agreement with Government?' the above data further underlines the challenges faced by human rights NGOs. Approximately 50% of respondents told us that their services are covered by Service-Agreements with Government, yet upon closer analysis we noticed that the positive responses should have been far less than 50%². This is certainly a worrying scenario, as it highlights the precariousness of NGO-provided services, thereby also the high-risk situation of all their beneficiaries.

It is clear that additional in-depth research is needed in order to map and analyse economic considerations relating to NGO service-provision, covering not only the difficulties faced by NGOs in providing fundamental core services *in lieu* of or in cooperation with state entities but also to understand and highlight the economic contribution such NGOs make to the nation.

2015 Innovations

This 2015 AHRR introduces two new elements to the report's approach and focus. Both changes are being introduced in order to strengthen the report's advocacy potential for PHROM, our Member Organisations and other entities interested in the human rights scenario in Malta. Several lessons were learnt from the 2014 AHRR, primarily on the need for the report to be more strategic in terms of content and follow-up activities.

1 Including lack of funding and being victims of bullying and hate speech (as indicated below).

2 We think this could be related to the vagueness of what we meant by a 'Service Agreement', resulting in some Member Organisations associating or confusing project funding from Government entities with what we originally intended, i.e. a formal agreement or contract for the provision of a specific service that includes elements such as rates per service-user, quality of deliverables, monitoring and reporting, sustainability and continuity.

Focus on Two Themes

Since PHROM adopts the principle of subsidiarity in its activities³, we strive to identify horizontal human rights concerns, being those challenges faced by all or most of our Member Organisations. Much of our research, dialogue with Member Organisations and other stakeholders is geared towards recognising the human rights themes that would be best addressed at PHROM's level, instead of or together with the Member Organisation level. For implementation, these themes would feed into our multi-annual Vision, Action Plans and all project activities.

Following in-depth discussions with our Member Organisations, the Executive Committee identified the first two themes: Relationship with Government, and Expressions of 'hatred'. These two themes were given particular attention in the questionnaire for this 2015 AHRR, and will continue to be given such focused attention in order to map baseline and comparative situations.

FRONT HARSJEN ODŽ

The 'Front for the protection of Open Development Zones' is a citizen-led movement with the goal of environmental protection and the mobilisation of citizens to oppose the development of ODZs.

Structured Recommendations

It is clearly useful for the AHRR to conclude with a series of recommendations, based on the research findings and observations and intended to bring about changes and improvements to Malta's human rights regime. The 2014 AHRR contained a total of 24 recommendations. Yet recommendations without follow-up monitoring and interventions are certainly not as effective as PHROM would like them to be. Lack of human resources, nature of the recommendations, lack of clarity as to addressees and limited dissemination strategy are some of the reasons why a simple list of recommendations is insufficient for the AHRR to achieve its advocacy goals. In order to tackle these challenges, the 2015 AHRR introduces Structured Recommendations.

Inspired by the methodology adopted by the United Nations Human Rights Treaty Bodies in the State Reporting Procedures⁴, and in the Universal Periodic Review⁵, Structured Recommendations will have a number of key features in this and future AHRRs:

- The recommendations will necessarily be specific and targeted, in order to ensure clarity of intent and content;
- All recommendations will be carried on from year to year to ensure follow-up;

3 This is a principle generally defined as an organisational approach whereby matters ought to be handled by the least centralised competent authority, at the most local level possible. It is central to the functioning of the European Union. For PHROM this essentially means respecting our Member Organisations' expertise and competence in handling the specifics of their own operations, themes and beneficiaries.

4 For more information see <http://www.ohchr.org/EN/HRBodies/Pages/WhatTBDo.aspx>.

5 For more information see <http://www.ohchr.org/EN/HRBodies/UPR/Pages/BasicFacts.aspx>.

- Every AHRR will contain a chapter or section providing specific data per each recommendation made in the previous year's AHRR. This will require amendment of the research methodology to ensure relevant data collection for relevant stakeholders;
- Structured Recommendations will be disseminated in a more strategic manner to our Member Organisations, specific addresses and other relevant stakeholders;
- All recommendations will be presented in the tabulated format launched in this 2015 AHRR, indicating implementation status for ease of follow-up and monitoring;
- The 2015 Structured Recommendations include some recommendations presented in the 2014 AHRR, namely those of particular importance and relevance for 2015.

We hope that this methodology will support and facilitate PHROM's and our Member Organisations' advocacy efforts, since it attempts to provide a framework within which to operate and implement related activities.



ACTiveAge Intergenerational Dialogue, a drama-based project. Integra Foundation and Theatre Anon

SPOTLIGHT

SAMUEL ONYEABOR V ATTORNEY GENERAL

Court: **Constitutional Court**
Judgement Date: **14 December 2015**
Application no.: **18/2014 TM**
Violation: **Fair Trial (Article 6 ECHR): length of proceedings and pre-trial detention**

The facts

The case is an appeal filed by the Attorney General from a judgment handed down by the First Hall Civil Court (Constitutional Jurisdiction) that condemned Malta to pay €5,000 compensation to Samuel Onyeabor for breaches of Article 6 ECHR due to lengthy criminal procedures. In effect, the Court of Magistrates was still in the process of compilation of evidence in 2014, although the accused was brought before it under arrest in 2008. The accused spent 22 months in preventative custody and seven years waiting for the indictment to be filed against him.

The judgment

The Constitutional Court held that although the case was a complex one, seven years is not a reasonable period for the indictment to be filed. In examining the procedures undertaken by the Court of Inquiry, the Constitutional Court found that the problem was a systemic one that did not allow criminal procedures to start in a timely fashion. Problems relating to backlogs and lack of resources cannot be used as justification; on the contrary it shows that the State is not fulfilling its obligation to ensure that the judicial system has all the necessary resources to work efficiently.

The Constitutional Court noted that criminal proceedings against Onyeabor were still pending and that the problem relating to the length of proceedings was relevant to several other cases. The Court held that, despite it repeatedly finding breaches of Article 6, the systematic problem continued to subsist and therefore the amount of moral damages awarded would continue to rise¹.

¹ Also in *Raymond Bonnici u Ronald Urry v. Avukat Ġenerali*, 2 March 2015, [76/2013/1] the Constitutional Court found that although the accused hindered the procedures, the total inertia of the prosecution and the lack of commitment contributed to a large extent to the 23-year delay. It found that there had been a breach of Article 6 and awarded €700 compensation to both.

Summary of 2014 AHRR

One of the aims of PHROM Annual Human Rights Report is to provide a tool that extracts, assesses and compares human rights data and information over a number of years. Being the second AHRR allows this present report to glance back at the main findings and recommendations presented in the 2014 AHRR, and use them as a comparator for 2015's assessment.

According to 'Looking beyond the Rainbow: Annual Human Rights Report 2014'⁶, the most important human rights issues for 2014 were (in this order):

1. Immigration;
2. LGBTIQ;
3. Disability and mental health;
4. Children's rights;
5. Gender equality;
6. Environment.

When asked to reflect on successful human rights policies for 2014, in order to elicit good practice examples, Member Organisations identified LGBTIQ-related legislation and MSDC's review of human rights and equality legislation.

In terms of human rights gaps that need further attention, Member Organisations emphasised (in this order):

1. Support for vulnerable groups;
2. Education and awareness-raising;
3. Universalization of human rights;
4. Immigration and detention;
5. Government accountability.

The 2014 AHRR's overall conclusions stressed the need for Malta to engage in concerted action targeting widespread ignorance of fundamental human rights issues, referring not only to a lack of technical expertise at several institutional levels but also – and probably more importantly – to a broader lack of appreciation of the values on which human rights are based: equality, dignity, rights and

⁶ Available at <http://www.humanrightsplatform.org/mt/phrom-launches-looking-beyond-the-rainbow-annual-human-rights-report-2014/>.

responsibilities, solidarity and accountability. The report stressed the need to keep NGOs and other members of civil society, such as academia and trade associations, closely involved in the analysis, formulation and implementation of legislation and policy.

Some key 2014 recommendations are included at the end of this document, as part of the new Structured Recommendation methodology launched in this 2015 report, explained above in the Methodology section.

VICTIMS OF CRIME ACT

Enacted in April 2015, this Act obliges the government to provide free support services, information and protection to victims of crime, and gives victims of crime the right to free legal aid. The Act also allows for the possibility of providing a children's advocate in certain cases.



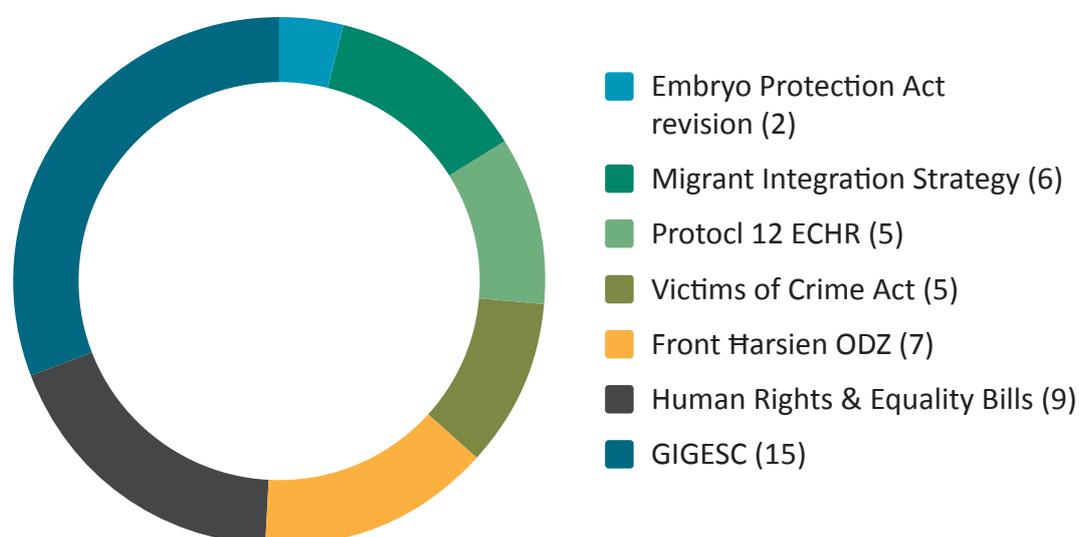
Activity organised by Breaking Limits

Human Rights in 2015

Major Developments

Adoption of the Gender Identity, Gender Expression and Sex Characteristics Act⁷ (GIGESC) on 14 April is considered by the vast majority of PHROM Member Organisations to be 2015's most significant human rights development. Referred to by the United Nations Human Rights Council⁸, and described by Transgender Europe as "a historic break-through"⁹ and by Human Rights Watch as "inspiring"¹⁰, GIGESC is applauded by PHROM Member Organisations for several reasons.

Figure 2: 2015 Major Developments



7 Chapter 540 of the Laws of Malta, available at <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=12312&l=1>.

8 United Nations Human Rights Council, 'Discrimination and violence against individuals based on their sexual orientation and gender identity: Report of the Office of the United Nations High Commissioner for Human Rights', 4 May 2015, available at <http://goo.gl/VfK0cP>.

9 Transgender Europe, 'Malta Adopts Ground-breaking Trans and Intersex Law – TGEU Press Release', 1 April 2015, available at <http://tgeu.org/malta-adopts-ground-breaking-trans-intersex-law/>.

10 Human Rights Watch, 'Dispatches: Malta's Inspiring Gender Recognition Law', 1 April 2015, available at <https://www.hrw.org/news/2015/04/01/dispatches-maltas-inspiring-gender-recognition-law>.

SPOTLIGHT

MAHAMED JAMA V. MALTA

Court: **European Court of Human Rights**
Judgement: **26 November 2015**
Application no.: **10290/13**
Violation: **Right to Liberty and Security (Article 5)**
URL: **<http://goo.gl/eWnMkx>**

The facts

The applicant entered Malta in an irregular manner by boat in 2012 and was detained in Lyster Barracks, Hal Far. She alleged that her continued detention for more than eight months was arbitrary and unlawful and that, in the absence of any information in a language she understood, there was no remedy made available for her to challenge the detention. She complained about the conditions of detention, including: overcrowding, unbearable temperatures, little outdoor exercise and a lack of basic clothing and toiletries, as well as the facility being administered almost exclusively by male staff.

The judgement

While the Court noted concern about the lack of access to outdoor exercise, as well as the lack of heating and of female staff, it concluded that the conditions complained of did not reach the threshold of the violation alleged by the applicant under Article 3, 'Prohibition of Torture'. However, one judge dissented on this, stating that *"those conditions of detention amount to humiliating and degrading treatment in breach of Article 3"*. The Court concluded that the applicant did not have at her disposal an effective and speedy remedy under domestic law by which to challenge the lawfulness of her detention, and had therefore suffered a violation of Article 5.

Firstly, its content guarantees a broad level of human rights enjoyment by a community of persons particularly vulnerable to poverty and social exclusion, lack of education and employment opportunities, discrimination and transphobic violence. Member Organisations commented on the Act's potential to quite immediately directly affect the lives of many people, by improving their sense of personal dignity and supporting their efforts at social and economic integration. Notably, the Act's contents put Malta in the global lead in terms of protection of the rights of trans and intersex persons.

Secondly, GIGESC is the result of years of advocacy activities undertaken primarily by PHROM Member Organisation Malta LGBTIQ Rights Movement (MGRM). This advocacy strategy included several components including: a thematic research report on transgender issues at the workplace¹¹, support to various individuals including through third-party submissions to the European Court of Human Rights¹², an intense media campaign, and the strategic presentation of a draft law in 2010, eventually becoming the basis for discussions on GIGESC¹³.

GIGESC further holds LGBTIQ issues at the top of Malta's human rights agenda, following in the success of the adoption of the Civil Unions Act, indicated by Member Organisations as the most notable human rights development for 2014.

It is with great interest and satisfaction that we note the rise in importance of environmental issues in our Member Organisations' perspectives. The establishment of the Front Harsien ODZ¹⁴ in May 2015 was ranked the second most important human rights development for 2015. The 'Front for the Protection of ODZ' was created as a civil society reaction to a proposed major development at Żonqor Point, situated on land intended to be an Outside Development Zone (ODZ). Within days of its establishment the movement gathered over 30 endorsements from various entities, including organisations not generally associated with environment issues, and organised one of Malta's largest-ever marches along Republic Street, Valletta. The Front's vision is simple and straightforward, promoting "*an open, horizontal and democratic structure*" that embraces principles of active civic participation.

From the perspectives of our Member Organisations, the Front's creation is so significant because it stresses the non-political approach towards environmental issues and elevates them to a level of truly national interest and concern. Also, the Front succeeded in attracting support of a broad spectrum of individuals and organisations, strengthening an intersectional approach and stressing the horizontal

11 MGRM, 'Transgender Issues in the Workplace – Guidelines for Employers', 2008, available at <http://www.maltagayrights.org/cms/pdfs/Trans%20Guidelines%20for%20Employers.pdf>.

12 Presented jointly with aditus foundation in the Joanne Cassar case, where Malta was challenged for failing to recognise Ms. Cassar as a woman for purposes of marriage. Submissions available at http://aditus.org.mt/Publications/joannecassarsubmission_072011.zip. After years of litigation, Ms. Cassar's challenge ended when Mata decided to withdraw its objection to her right to marry. See MGRM and aditus foundation, 'Joint Statement on Joanne Cassar Case', 3 April 2013, available at <http://aditus.org.mt/joint-statement-on-joanne-cassar-case/>.

13 See MGRM, 'Proposed Gender identity Act for Malta', 10 December 2010, available at <http://www.maltagayrights.org/localcampaignsselected.php?title=Proposed%20Gender%20Identity%20Act%20For%20Malta>.

14 See <https://frontharsienodz.wordpress.com/>.

SPOTLIGHT

DIMECH V. MALTA

Court: **European Court of Human Rights**
Judgement: **2 April 2015**
Application no.: **34373/13**
Violation: **No Violation Found**
URL: **<http://goo.gl/GYUaPJ>**

The facts

In 2009 the applicant was arrested and, after being cautioned, questioned in the absence of legal assistance on suspicion of drug trafficking. At this time Maltese law did not provide for legal assistance in pre-trial investigations. The statement given by the applicant was used against him in subsequent legal proceedings. The Civil Court declared that his right to a fair trial had been breached, but the Constitutional Court revoked this judgment and stated that there was no breach. The applicant complained that this inconsistency ran counter to the principle of legal certainty¹. At the time of application to the Strasbourg court, domestic proceedings were still in progress.

The judgment

The Court noted that given that the criminal proceedings against the applicant were still pending before the domestic courts, the complaint was premature. Consequently, this part of the application was rejected, under Article 35 ECHR for non-exhaustion of domestic remedies. The Court noted that the way that domestic courts applied relevant case law of this Court could not by itself raise an issue of legal certainty at the domestic level. It appeared that in their interpretation of the case law, the domestic courts were coherent and respected the criteria of judicial assessment.

¹ Legal certainty is a fundamental principle of law that dictates that legal processes must be consistent.

impact of environmental rights. To date, the Front remains actively engaged in monitoring development issues, with the view to *“mobilise citizen opposition to development outside development zones and to work towards achieving legal protection for such zones as part of a social contract between the citizen and the state.”*¹⁵

PHROM and a number of Member Organisations happily endorsed Front Harsien ODZ in line with our understanding that environmental and cultural matters are also, and importantly, fundamental human rights.

PROTOCOL NO. 12 TO THE EUROPEAN CONVENTION ON HUMAN RIGHTS (ECHR)

This protocol extends the relatively limited protection of equality offered by Article 14 of the ECHR, and provides a far broader guarantee of protection from discrimination, including from discrimination by public authorities.

Together with the establishment of the Front Harsien ODZ, the proposal of two laws by the Ministry for Social Dialogue, Consumer Affairs and Civil Liberties (MSDC) was also ranked the second more important human rights development in 2015. Proposed as part of the ‘Towards a Robust Human Rights And Equality Framework’¹⁶ launched in 2014, the two Bills proposed by MSDC have the potential of radically revising Malta’s human rights institutional and protective frameworks.

The ‘Equality Bill’ seeks to harmonise Malta’s fragmented and inconsistent anti-discrimination legislation into one instrument, and to strengthen protection by prohibiting discrimination across all spheres all life and on any prohibited ground. Associated with this Bill, the Human Rights and Equality Commission (HREC) Bill will establish Malta’s first National Human Rights Institution (NHRI)¹⁷, along the United Nations Paris Principles, as an independent and autonomous body responsible for human rights protection and promotion. Both Bills were publicly presented on 10 December 2015, when the Minister also launched the public consultation process on their contents.

Although not yet fully adopted as legal instruments, the two Bills promise to offer victims of human rights violations a remedy that is effective and speedy. As an NHRI, the proposed HREC has the potential of complementing Member Organisation advocacy activities by monitoring legislation, policy and practice and drawing public attention to gaps and weaknesses. It seems like Member Organisations

15 See Article 2 of the Front Harsien ODZ Vision, available at <https://frontharsienodz.wordpress.com/aboutus/>.

16 All elements of this reform process, including the original Scoping exercise and also PHROM’s technical submissions, can be see at: http://socialdialogue.gov.mt/en/Public_Consultations/MSDC/Pages/Consultations/HumanRights.aspx.

17 Office of the United Nations High Commissioner for Human Rights, ‘National Human Rights Institutions: History, Principles, Roles and Responsibilities’, 2010, available at http://www.ohchr.org/Documents/Publications/PTS-4Rev1-NHRI_en.pdf.

are keen to see these Bills adopted and are looking forward to engaging with the new processes, yet a number of concerns regarding the Bills' contents were also expressed. These relate primarily to the lack of independence of the HREC, its relationship with existing bodies such as the Office of the Ombudsman and KNPD and a failure to actually reach out to interested stakeholders in order to elicit their feedback.

PHROM immediately acknowledged the importance of this reform process as a key opportunity for Malta's human rights standards to be significantly raised in terms of legal safeguards but also of discourse, policy and public awareness. For PHROM, therefore, active participation in the process is essential for its ultimate success and for PHROM's positioning as a lead stakeholder in Malta's human rights sector. PHROM submitted two documents¹⁸ to the process, making several recommendations, including the need to:

- Ensure full independence of the NHRI through the nomination, selection and removal of members;
- Effectively legislate against instances of double discrimination;
- Explore possibilities of third-party complaints, including by NGOs;
- Provide for procedural guarantees in any complaints mechanism.

We expect the two laws to be included in the 2016 AHRR, and look forward to their adoption and implementation.

Following adoption of GIGESC, the establishment of Front Marsien ODZ and the presentation of the two human rights Bills, several Member Organisations also welcomed the signing by Malta of Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), the adoption of the Victims of Crime Act and the publication of a migrant integration strategy document¹⁹. The public consultation on a review of the Embryo Protection Act, whilst deemed significant by a couple of Member Organisations, did not seem to enjoy much interest from other Member Organisations²⁰.

Specific interest was expressed in an item not listed in the questionnaire presented to Member Organisations: the presentation in Parliament in March 2015 of Bill No. 88, 'Maltese Sign Language Recognition Bill'. Although not yet adopted, this Bill was flagged as a significant contribution to Malta's human rights in view of its intention of *"declaring the Maltese Sign language to be an official language of Malta."*²¹

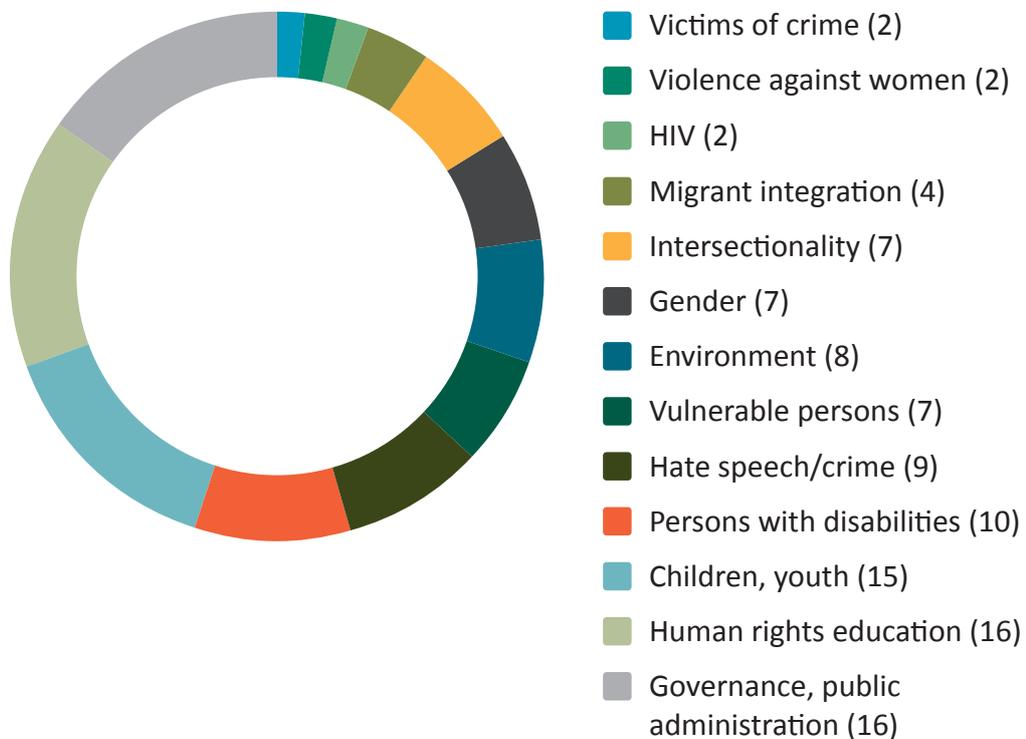
18 PHROM's submission to the White Paper is available at http://aditus.org.mt/Publications/PHROM/PHROMMSDCWhite%20PaperInput_18022015.pdf, whilst the submission on the Bills is available at http://aditus.org.mt/Publications/PHROM/phrominputonhrecbill_29012016.pdf.

19 See the Information Boxes around the Report for further information on all of these initiatives.

20 Chapter 524 of the Laws of Malta. In July 2015 the Parliamentary Secretariat for Health launched a public consultation on the review of this law. The review is included in the major developments for 2015 due to the widespread media attention given to the subject. Consultation information is available here: https://socialdialogue.gov.mt/en/Public_Consultations/MEH-HEALTH/Pages/Consultations/IVF_Legislation.aspx.

21 Article 3(1) of the Bill. View the Parliamentary process at <http://www.parliament.mt/billdetails?bid=512&l=1&legcat=13>.

Human Rights Gaps 2015



SPOTLIGHT

KOLAKOVIC V. MALTA

Court: **European Court of Human Rights**
Judgement: **19 March 2015**
Application no.: **76392/12**
Violation: **Right to Liberty and Security (Article 5)**
URL: **<http://goo.gl/Dg9V71>**

The facts

The applicant, a British national residing in Malta, was arrested in 2009 on charges of possession of cannabis not for their own exclusive use and conspiracy for the purposes of drug trafficking. The applicant remained in custody for 16 months after being granted bail, having not been able to meet the financial conditions of bail, and with a series of requests to have the bail deposit reduced repeatedly rejected. The applicant alleged that the conditions of bail set were disproportionate and illusory.

The judgment

The Court noted that the authorities failed to conduct the criminal proceedings with the requisite diligence, and no steps were taken to speed up the proceedings despite the applicant's continued detention following the granting of bail.

Having taken into account the length of the bail proceedings after the applicant's financial position had become clear – during which the applicant remained in detention despite a decision taken fifteen months earlier granting bail and another decision already finding a violation of Article 5 for other reasons – and the fact that no adequate reasons were put forward by the authorities to justify this delay, together with the authorities' failure to exercise the requisite diligence in pursuing the proceedings while the applicant was in detention, the Court found that there was a violation of Article 5.

Observations

It is interesting to note that, despite the fact that LGBTIQ issues were not the main priority for the majority of Member Organisations in 2015, and despite GIGESC's extremely specific target group, this Act's importance received widespread acknowledgement. Together with the extensive media coverage the law received, Member Organisations also reflected on the significance of its substantive content. A number of Member Organisations not working directly with LGBTIQ issues further commented on the positive impact of GIGESC within their own specific area of operation, thereby highlighting the overall benefits of an intersectional approach to human rights law-making. Specifically, the areas of asylum and disability were referred to, highlighting the Act's accessibility to refugees and its empowerment potential for persons who would otherwise be unable to live and express their gender identity.

PHROM also thinks it is interesting to note, yet possibly not surprising, that two of the top three human rights developments in 2015 (GIGESC and the Human Rights and Equality Bills) were brought about by MSDC. The newly established Human Rights and Integration Directorate (HRID) is indicative of MSDC's moves towards strengthening its human rights law- and policy-making, also evident in the high quality and reach of the legal instruments it is producing.

In this regard, PHROM is keen to reiterate the central role played by NGOs in MSDC's successes. As also highlighted in the 2014 report in relation to the Civil Unions Act, GIGESC remains – at its heart – an NGO initiative, followed by an intense advocacy campaign that first pushed for its themes to be placed on the national agenda, then led the way in public awareness-raising and technical discussions on the law's substantive and procedural content. Again, PHROM underlines the success of a strategy that involved several NGOs working in synergy, with common goals and targets. It is this latter element that characterises the creation of the Front Harsien ODZ, as mentioned above. The movement highlights the importance, and success potential of human rights initiatives that are community-led instead of Government-led.

Yet PHROM remains concerned that one of the main issues raised in the 2014 AHRR remained largely unaddressed in 2015. 'Looking beyond the rainbow', as the chosen title for the 2014 report, captured the Member Organisations' frustrations that whilst LGBTIQ rights were given primary and unprecedented attention by Government, other human rights remained in the shadows. Similar concerns were expressed in relation to 2015. Whilst GIGESC remains applauded, several Member Organisations remain upset at Government's, including MSDC's, absence in other important areas requiring attention.

The presentation of the Human Rights and Equality Bills is definitely perceived as a step in the right direction, hence its ranking by Member Organisations, but together with serious concerns at the HREC's lack of independence, Member Organisations questioned MSDC's lack of intervention in other areas.

SPOTLIGHT

U.S. DEPARTMENT OF STATE, 'TRAFFICKING IN PERSONS REPORT'

Date: **June 2015**

URL: <http://www.state.gov/j/tip/rls/tiprpt/2015/>

Summary

Malta remained classified by the US as a 'Tier 2' country, which means that Malta does not fully comply with the minimum standards set out by the US Trafficking Victims Protection Act. The report nonetheless notes the significant efforts towards compliance.

The 2015 report states that the amount of public funds allocated to anti-trafficking programmes was further reduced by 50%, having already been reduced by €70,000 in 2014. This brings the figure down from €153,000 recorded in 2012 to around just €20,000 in 2015, despite an increase in the number of trafficking victims identified by police, and the US report's call for increased funding for victim services and law enforcement training. The recommendations made by the US Department of State include:

- Hold traffickers accountable through convictions and dissuasive sentences;
- Train police, investigators, and judges on working with traumatized victims;
- Provide adequate funding for victim assistance, trainings, and prevention campaigns;
- Continue to strengthen efforts to identify trafficking victims proactively among vulnerable populations, particularly migrant workers and individuals in prostitution;
- Train stakeholders on the use of the standard operating procedures for victim referral;
- Screen minors found in prostitution for indicators of third-party involvement and treat those minors as victims;
- Consider directing all trafficking cases to judges who have received trafficking-specific training.

Specific reference was made to the lack of significant steps towards a national migrant integration policy, to Government's silence on growing racial hatred and public expressions thereof, and the failure to handle the environment as a national human rights issue. These elements are further highlighted below, under Human Rights Gaps.

FRAMEWORK DOCUMENT: TOWARDS A NATIONAL MIGRANT INTEGRATION STRATEGY 2015-2020

Launched in May 2015 by the Ministry for Social Dialogue, Consumer Affairs and Civil Liberties (MSDC) this Framework Document aims to support efforts contributing to the successful integration of Third Country (i.e. non-EU Countries) Nationals (TCNs) into Maltese society. In the document Malta pledges to celebrate diversity, ensure equality and respect towards minority groups and to safeguard the fundamental human rights and freedoms of all. An Inter-Ministerial Committee on Integration was established to coordinate the Strategy, and MSDC conducted research on perceptions of TCNs and immigration in Malta.

Human Rights Gaps

We think our Member Organisations' rankings of human right gaps are extremely interesting, especially when compared to responses provided for the 2014 AHRR²².

Overall, the themes are quite similar with some elements actually repeated and therefore highlighted for increased concern. Human rights education remains a central gap identified by most Member Organisations for 2014 and 2015. In their discussions with us, our Member Organisations strongly reiterated the horizontal and comprehensive impact of a national low level of human rights awareness. Linking it directly to most other identified gaps, Member Organisations emphasised their concerns at a strikingly low level of critical thinking and rights-based discourse in Malta. This was referred to by most Member Organisations, ranging from those working with children and youth, to those advocating for rights of women, migrants and refugees, to faith-based Member Organisations and also to those working with vulnerable persons.

It was associated with a dogmatic education system that fails to encourage or coax students into independent thinking and, importantly, sharing of thoughts and views without fear of repercussions. Identified as problematic throughout Malta's education, it was generally defined as a lack of sensibility towards the core human rights values of equality, human dignity, civic participation, mutual respect, transparency and social responsibility. It was further associated with civic apathy in the face of issues of national importance, such as the environment, racism and gender discrimination. Importantly, this specific gap was closely associated with the top-most gap identified in 2015: 'Governance, public administration.'

²² The percentages shown in the charts indicate the frequency of mentioning of themes, as Member Organisations were invited to provide a list of themes instead of a maximum number.

Already identified for 2014, yet at a lower ranking, the right to good governance is the human rights gap making the most significant leap in importance by our Member Organisations. Observations made above relating to lack of human rights education were brought into this discussion, with Member Organisations commenting on the direct causal relationship between lack of awareness of human rights and an environment of impunity surrounding the public administration. Talking directly with us, many Member Organisations express their specific concerns at lack of accountability, limited transparency and access to information, favouritism, abuse of public authority and an overall sense of bad governance.

Several examples were given: beneficiaries attempting to access information regarding their files or cases, appointments to public positions on the basis of elements not relevant to the positions, unwritten and unpublished procedures and policies, refusal to divulge information relating to law- and policy-making. Member Organisations, particularly those focusing on service-provisions, emphasised the impact of these elements on their beneficiaries as they attempt to access even the most basic of services. This reinforces observations made above regarding 'Access to public services' being the most widespread priority for Member Organisations in 2015.

It is worthwhile to note that the EU Charter of Fundamental Rights, a legally binding human rights text, enshrines the right to good administration²³. Summarily, these include the following rights:

- To have affairs handled impartially, fairly and within reasonable time;
- To be heard;
- To have access to his/her file;
- To be given reasons for decisions taken by the public administration.

The new elements, particularly those featuring in the 2015 top five themes, are indicative of those newer variables affecting Member Organisations' specific concerns. These could include, in the case of 'Hate speech/crime' an observation of increased episodes of public expressions of hatred, possibly triggered by the ongoing European migration scenario, whilst in the case of 'Persons with disabilities' concerns at a feeling of status quo in relation to effective implementation of the Convention on the Rights of Persons with Disabilities (CRPD).

We were especially interested to note the appearance of 'Children, youth' at the top of the 2015 list in replacement of 'Vulnerable persons' at the top of the 2014 list, with the latter theme remaining relevant for this year's respondents but to a lesser extent. Apart from eliciting specific comments associating this theme with the above-mentioned theme of 'Human rights education', the research did not have the resources to engage in a much more in-depth discussion with Member

23 EU, 'Charter of Fundamental Rights of the European Union', 2009, Article 41, available at http://www.europarl.europa.eu/charter/pdf/text_en.pdf. Although the right's formulation is directed towards "the institutions and bodies of the Union", the Court of Justice of the European Union has repeatedly stressed that the right to good administration is a general principle of EU law, thereby binding on all MS.

Organisations on why ‘Children, youth’ featured so repeatedly in their responses²⁴.

Unsurprisingly, ‘Environment’ and ‘Intersectionality’ rank third in frequency together with the more tradition themes ‘Vulnerable persons’ and ‘Gender’. PHROM is particularly satisfied to note the appearance of these two themes, for various reasons. In relation to ‘Environment’, cross-reference to data presented in ‘Respondent 2015 Priorities’ and to ‘2016 Human Rights Challenges’ underlines the sharp rise to prominence of the environment as an issue of widespread human rights concern. As mentioned above, this repackaging of environmental issues within human rights discourse was one of PHROM’s missions upon establishment, as also reflected in the strategic inclusion of environment and culture NGO Din I-Art Helwa on PHROM’s Executive Committee.

Although it would be unreasonable or far-fetched to attribute to PHROM’s activities the prominent rise of ‘Environment’ in so many of our 2015 questions, the indirect impact of our public statements and discussions with Member Organisations and other stakeholders is undeniable.

We feel the same may be said in relation to the flagging of ‘Intersectionality’, a possible interesting rephrasing of 2014’s ‘Universalization of human rights’. PHROM’s mantra on the indivisibility of all human rights – also included in our Statutes²⁵ – and our efforts at stimulating intersectional dialogue amongst our Member Organisations, also inspired by the work of many of our Member Organisations, will remain at the heart of what PHROM is and how it chooses to engage with human rights and with all stakeholders.

Thematic Focus

As mentioned in the Introduction, in reaction to feedback on the 2014 AHRR, PHROM’s Executive Committee chose to introduce increased elements of continuity between one Annual Human Rights and another. Together with the Structured Recommendations, below, two specific themes were chosen for specific attention in this and future AHRRs. The themes were selected on the basis of their horizontal and structural importance to all Member Organisations, a need to map theme-specific developments from one year to another, and PHROM’s own interest in mapping certain aspects of our Member Organisations and their activities.

Relationship with Government

We asked our Member Organisations to describe their relationships with Government, focusing on the extent and nature of dialogue engagement and also on Government funding of public services they provide, if relevant. The latter element is commented on above under Member Organisations’ 2015 Priorities.

²⁴ In this regard it is worth highlighting that whilst some of PHROM’s Member Organisations work with specific aspects of rights of the child, such as children with disabilities and migrant/refugee children, no Member Organisation works exclusively on child-specific advocacy.

²⁵ See the Mission Statement at Article 3, available at <http://goo.gl/48imJr>.

SPOTLIGHT

UNITED NATIONS SPECIAL RAPPORTEUR ON THE HUMAN RIGHTS OF MIGRANTS REPORT

Date: **May 2015**

URL: <http://goo.gl/pqHGsp>

In May 2015 the UN Special Rapporteur on the Human Rights of Migrants published the report of a visit to Malta in December 2014. Based on the observation of unprecedented arrivals of migrants by boat at that time, the Special Rapporteur strongly urged Malta to develop programmes offering immediate assistance, legal safeguards, alternatives to detention and integration support. The Special Rapporteur also noted the following:

- Malta has several agreements with other countries regarding the return of their nationals, but there is a lack of monitoring of the implementation of these agreements;
- Requiring migrants and asylum-seekers who may be traumatized to complete a questionnaire immediately after their entry in to Malta is questionable;
- The impact of portraying migrants as criminals by locking them contributes to creating a climate of fear;
- Particular concern was expressed over reports that doctors question the extent of their professional responsibilities towards migrants in an irregular situation;
- Poor conditions in detention centres, lack of access to support services and a number of issues relating to access to justice.

Does Government regularly consult with you?

| | |
|-----------------------|----|
| Yes | 18 |
| No | 3 |
| Neutral, I don't know | 5 |

Discussions with Government are in-depth & effective

| | |
|-----------------------|----|
| Yes | 7 |
| No | 5 |
| Neutral, I don't know | 14 |

Have your beneficiaries been victims of 'hatred'?

| | |
|-----------------------|----|
| Yes | 11 |
| No | 9 |
| Neutral, I don't know | 6 |

Overall, the responses indicate a positive relationship between Government and human rights NGOs. Member Organisations felt that their work is appreciated by Government and that their expertise in relevant areas of operation is generally acknowledged. It seems that dialogue between our Member Organisations and Government is present, at least at a formal level.

As a best practice of an active and open forum for Government engagement with human rights NGOs, Member Organisations specifically mentioned the LGBTIQ Consultative Council established in 2013 by the Minister for Social Dialogue, Consumer Affairs and Civil Liberties. The Council meets on a regular basis and provides technical input to Government law- and policy-making. Membership to the Council is open to any organisation active in the area of LGBTIQ rights. Together with the Ministry, the Council recently launched an ambitious 'LGBTIQ Action Plan 2015 – 2017'²⁶, containing a list of national targets in various sectors (including health, education, and documentation) with the broad aim of *"strengthen (sic) policy initiatives aimed at combating discrimination on the grounds of sexual orientation in the public service, including in the police force."*

At the time of writing, eight organisations were represented on the Council, six of which are PHROM Member Organisations. PHROM fully supports and encourages these initiatives, especially because they formalise relations with Government in a manner that ensures structure, sustainability and dialogue. The LGBTIQ Consultative

26 Available at <https://socialdialogue.gov.mt/en/Documents/LGBTIQ%20Action%20Plan/LGBTIQ%20Action%20Plan%20lo%20res.pdf>.

Council is yet another example of the prioritisation of LGBTIQ rights on the national human rights agenda.

In view of responses received from Member Organisations, we feel that the above proviso referring to at least a level of formal dialogue with Government is necessary since comments on the actual quality of discussions with Government, whilst more positive than negative, indicate that Member Organisations are not too aware of the real impact of their dialogue with Government. This may be attributed to a number of elements, including:

- Dialogue with Government is simply not relevant to the responding Member Organisation. This is particularly relevant for those Member Organisations that are largely project-based and that do not engage or seek to engage in discussions on law and/or policy;
- Dialogue with Government tends to focus on the Member Organisation providing input and feedback, rather than actually exchanging and discussing information and ideas with Government;
- The Member Organisation does not engage in follow-up activities in order to assess the actual impact of discussions with Government, due to issues such as lack of resources or lack of access to information.

Whichever the scenario, it is in PHROM's interest to assess these scenarios and evaluate the extent to which it is able to support the improvement of effective dialogue between Member Organisations and Government.

Expressions of 'hatred'

Even before Member Organisations indicated hate speech and hate crimes as human rights gaps for 2015 and also concerns for 2016, quite high in terms of ranking on both lists, PHROM acknowledged the need to address these serious attacks against not only human rights themselves but also against our Member Organisations, human rights defenders ²⁷.

Has your organisation been the victim of 'hatred'?

| | |
|-----------------------|----|
| Yes | 11 |
| No | 10 |
| Neutral, I don't know | 5 |

²⁷ PHROM underlines that the Criminal Code, Chapter 9 of the Laws of Malta, in Article 82A prohibits hate speech: "Whosoever uses any threatening, abusive or insulting words or behaviour, or displays any written or printed material which is threatening, abusive or insulting, or otherwise conducts himself in such a manner, with intent thereby to stir up violence or racial hatred against another person or group on the grounds of gender, gender identity, sexual orientation, race, colour, language, ethnic origin, religion or belief or political or other opinion or whereby such violence or racial hatred is likely...to be stirred up...". Available at <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8574&l=1>.

Have your beneficiaries been victims of 'hatred'?

| | |
|-----------------------|----|
| Yes | 11 |
| No | 9 |
| Neutral, I don't know | 6 |

Throughout 2015 PHROM received information from several Member Organisations that their beneficiaries, staff, volunteers and representatives were often targeted by individuals or groups, the latter adopting vulgar, violent, threatening or insulting language. Although, fortunately, no incidents of physical violence were reported, PHROM is extremely concerned at these episodes. Not only do they create an environment of fear and intimidation, but also they further isolate individuals and deprive them of their sense of human dignity. They are unacceptable.

The responses from Member Organisations are noteworthy. For both questions the majority of Member Organisations confirmed that they and their beneficiaries have been on the receiving end of expressions of hatred. Several Member Organisations noted that these expressions are often manifested on social media sites such as Facebook, with some respondents querying the extent of the right to free expression when this is vulgar, insulting or even violent.

There are evident trends in the target groups of such expressions of hatred. The vast majority of Member Organisations working with migrants and refugees, as well as those working with the LGBTIQ community confirmed that they are often victims of hate speech or verbal bullying. They also confirmed that their beneficiaries are frequently verbally bullied, harassed, or insulted.

Together with these two groups, other victims include Member Organisations supporting individuals deemed to be socially unacceptable or threatening and those promoting alternatives to what are generally described as 'core Maltese values', such as family and religion. In fact, these latter two descriptors may also be applied to the former two groups in attempting to understand the social dimensions triggering such strong negative emotions, and their expression.

SPOTLIGHT

UNITED NATIONS WORKING GROUP ON ARBITRARY DETENTION FOLLOW-UP VISIT STATEMENT

Date: **June 2015**

URL: <http://goo.gl/0o3gZK>

In June 2015 the United Nations Working Group on Arbitrary Detention visited Malta in order to follow up on its 2009 visit, which had resulted in heavy criticism of Malta's arbitrary detention. In 2009, 13 recommendations had been made concerning criminal and juvenile justice, and immigration detention and monitoring. The aim of the 2015 visit was to examine the follow-up implementation of these recommendations. The Working Group also made the following recommendations:

- Improve access to effective legal assistance for indigent foreigners and shorten the pre-trial detention period;
- Broaden the scope of juvenile criminal legislation to include all children aged 18 and under, in line with the Convention on the Rights of the Child (CRC);
- Consult civil society organisations on proposed legislative changes to immigration detention;
- Provide access to legal aid to persons deprived of their liberty at immigration detention centres;
- Address the serious concern in relation to the lack of long-term planning for persons residing at the Open Reception Centres, their difficulties at integrating and the precarious working conditions of migrants;
- In relation to Corradino Correctional Facility (CCF), address the lack of education and training opportunities, particularly for female inmates, and revise the system of mixing pre-trial detainees with convicted persons;
- The Working Group commended the plans for a separate unit for female juveniles, but stressed that minors and young offenders should be separated, in line with the CRC.

CASE STUDY #1

TROUPE 18:45 – HOLQA EUROPEAN THEATRE FESTIVAL FOR STUDENTS

Troupe 18:45 is a non-profit organisation that aims to use theatre as a means to enrich, educate and entertain. Troupe 18:45 produces plays tackling social, cultural and political issues, and uses theatre as a way to ask difficult questions about the world²⁸.

Holqa, the Maltese word for ‘link in a chain’, was an artistic education project for students aged 16-19, developed by Ġ.F. Abela Junior College and Troupe 18:45. The project, which culminated in a theatre festival in March 2015, provided an opportunity for young theatre professionals and adolescents across Malta to work alongside students from different European countries through a range of theatre styles and activities. Students from the Malta Drama Centre participated with groups of students from educational establishments in France, Germany, Iceland, Ireland, Italy and Spain.

The aim of the project was to create an intercultural platform through which to bring students together and share ideas, views and culture through artistic expression. It also provided an opportunity for the students to showcase their artistic and creative talents, and raise awareness on themes of interest. The project also provided an opportunity to strengthen the international collaboration of Junior College and Troupe 18:45 with other educational institutions. *Holqa* is an on-going and long-term project, also contributing to the run up of the Valletta 2018 European Capital of Culture²⁹.

Holqa (2015) was supported by Premju tal-President għall-Kreattività 2014, Valletta 2018 Foundation, Farsons Foundation, www.visitmalta.com and Kunsill Studenti Junior College (KSJC).



28 For more information see <https://www.facebook.com/troupe18.45/>.

29 For more information see <http://valletta2018.org/>.

CASE STUDY #2

PRISMS – MIND IT: DISCOVERING THE LINK BETWEEN SELF-IDENTITY, MENTAL HEALTH AND THE MEDIA

PRISMS, an NGO founded by a group of youth workers, aims to empower people with the tools needed to become an active member of society. Through workshops and training sessions that use non-formal methods of communication, PRISMS projects provide a space and an opportunity for people to develop their personal skills³⁰.

In April 2015 PRISMS ran the ‘Mind it’ training course for youth workers, which tackled the issue of mental health in relation to pressures created by or through the media. The course raised awareness on these topics and provided youth workers with the tools to recognize and support youth who are encountering these mental health issues more than ever. The main issues addressed by the course were: anorexia nervosa, bulimia, anxiety and depression. The 31 course participants came from nine countries: Malta, Latvia, Romania, Estonia, Bulgaria, Portugal, Italy, Turkey and Germany.

The sessions utilised non-formal tools of education in the form of discussions, simulations, sketches, workshops and team-building activities. The participants of ‘Mind It’ equipped themselves with the necessary skills to better understand the transition period which young people age between 13 and 19 undergo. The training course also increased their awareness of how to approach mental health issues, and how to include this awareness in their own development programmes. As a result of the training course, youth workers also gained a greater understanding of the role played by the media in shaping the identity of young people, and improved their understanding of the influence and effect of the media on the young people they work with.

The training course also contributed to an increase in the youth workers’ overall level of media literacy. An online campaign was published and launched during ‘Mind It’, being a publicly accessible tool as well as a platform where young people can ask questions.

PRISMS ‘Mind It’ Training Course for Youth Workers, held in April 2015



30 For more information see <http://www.prismsmalta.com/>.

SPOTLIGHT

‘THE WILL OF THE STATE: NORTH KOREAN FORCED LABOUR’

Date: **September 2015**

URL: **<http://bit.ly/WillOfTheState>**

The European Alliance for Human Rights in North Korea (EAHRK) published a report outlining the situation of forced labour of North Koreans sent overseas, including to Malta. The report states that Malta accepted workers from the DPRK Ministry of Fisheries, and that working conditions abroad broadly resemble those inside the DPRK with an absence of rights and evidence of workplace brutality, isolation from the outside world and ideological indoctrination.

The report asserts that the exportation of human labour from North Korea violates existing UN sanctions, which call upon States to prevent the transfer of financial assets to North Korea, as this could potentially contribute to its nuclear missiles programmes. EAHRK reported to PHROM that they have received no response to their report from the Maltese Government. It is reported that 93 Maltese visas were issued to North Koreans between 2013 and 2015, who are understood to be working for a Chinese owned fishing firm based in Valletta.

CASE STUDY #3

INTEGRA FOUNDATION – STEJJER IMFEWĦA (FRAGRANT STORIES)

Founded in 2004, Integra is a non-profit organisation whose mission is to facilitate the space for marginalised groups and individuals to be listened to, and to have an active and meaningful say in their lives and wellbeing on their own terms. Integra's four key areas of work are: advocacy, research, community development and international development³¹.

Stejjer Imfewħa was an artistic heritage project, supported by the Arts Council Malta³², which aimed to create, preserve and communicate the historical and cultural significance of spices and flowers, and document this for future generations. The diverse mix of participants and multi-media artists focused on the unique cultural identity and story of spices and flowers.

The project consisted of intercultural and intergenerational dialogue workshops, along with workshops focused on creative expression, within which participants created pieces of art that were published in the project's publication. The project also culminated in a theatre production, based on narratives from the workshops.



31 For more information see <http://integrafoundation.org/>.

32 For more information see <http://www.artscouncilmalta.org/>.

SPOTLIGHT

'AMNESTY INTERNATIONAL REPORT 2014/15; THE STATE OF THE WORLD'S HUMAN RIGHTS'

Date: **February 2015**

URL: <http://goo.gl/3SCfPS>

Amnesty International warned that Malta's automatic detention of undocumented migrants for 18 months and of asylum-seekers for 12 months was in breach of international human rights obligations. It also criticised Malta's search and rescue operations at sea for being too 'restrictive', and described the conditions of immigration detention centres as 'sub-standard'.

The report highlighted that abortion is illegal in Malta in all circumstances, including when the mothers' lives are at risk. The report outlined concerns about the compatibility of the Maltese abortion prohibition with the right to life, as stated in the International Covenant on Civil and Political Rights (ICCPR).

Structured Recommendations

| Reference | Recommendation | AHRR | Addressee(s) ¹ | Status ² |
|-----------|---|------|---------------------------|---------------------|
| 1.2014 | Maintain and reproduce, where relevant, inclusive consultation processes on issues of national importance. | 2014 | MSDC | Complete |
| 2.2014 | Mainstream human rights education and awareness in order to improve knowledge and accessibility of human rights for all. | 2014 | MEDE, MSDC | Inactive |
| 3.2014 | Be more actively aware of Gozo-specific themes, individuals, communities and organisations. | 2014 | MGOZ, MSDC, PHROM | Active |
| 4.2014 | Strengthen monitoring and enforcement of anti-discrimination legislation across all sectors. | 2014 | MSDC | Active |
| 5.2014 | Increased efforts should be explored to support cooperation and dialogue between human rights NGOs to improve service-provision, advocacy and underline intersectionality. | 2014 | MSDC | Active |
| 6.2014 | Adopt a more inclusive approach towards the UN human rights monitoring machinery, involving human rights NGOs at all stages of reporting and disseminating. | 2014 | MFA, MSDC, PHROM | Inactive |
| 7.2014 | Endorse the understanding that environmental and cultural heritage issues are human rights issues and, as such, require identical levels of respect, protection and fulfilment. | 2014 | MSDC, MSDE | Inactive |
| 8.2015 | Adopt a national migrant and refugee integration police. | 2015 | MSDC | Active |
| 9.2014 | Increase physical accessibility of structures and public spaces. | 2014 | MFSS | Active |

| Reference | Recommendation | AHRR | Addressee(s) ¹ | Status ² |
|-----------|--|------|---------------------------|---------------------|
| 10.2014 | Ensure better access to information for deaf people through basic recognition of Maltese Sign Language, producing more professionally trained Maltese Sign Language Experts, and creating subtitles for TV and other visual media. | 2014 | MFSS | Active |
| 11.2015 | Liaise with PHROM Member Organisations providing public services in order to explore possibilities of Service Agreements. | 2015 | MSDC (MFSS, MJCL) | Active |
| 12.2015 | Step up efforts at combating hate speech, particularly through public endorsements of human rights NGOs, increased condemnations of hate speech and public awareness/education campaigns targeting use of internet and social media. | 2015 | MSDC | Inactive |
| 13.2015 | Provide stimulus to human rights NGOs to focus on the rights of the child and of youth. | 2015 | MSDC | Inactive |
| 14.2015 | Create a human rights training programme targeting public officials. As a minimum, the programme should cover elements of the right to good administration. | 2015 | MSDC, OPM | Inactive |
| 15.2015 | Provide stimulus to human rights NGOs to engage in advocacy and research, particularly by shifting away from project-related funding opportunity and more towards programme-related schemes. | 2015 | MSDC | Active |
| 16.2015 | Disseminate the 2015 AHRR to Member Organisations, relevant Ministries, Equality Bodies, the Office of the Ombudsman and the University of Malta. | 2015 | PHROM | Active |
| 17.2015 | Explore the possibility of transposing the model of the LGBTIQ Consultative Council onto other human rights areas. | 2015 | MSDC | Inactive |
| 18.2015 | Adopt the Human Rights and Equality Commission Bill and the Equality Bill, taking due accounting of PHROM's input and its red lines. | 2015 | MSDC | Active |

Annexes

ANNEX I – HUMAN RIGHTS LEGAL INSTRUMENTS

This Annex provides a comprehensive list of international and regional legal instruments directly relevant to human rights and which have been ratified and/or signed by Malta. They are presented in chronological order by date of adoption, with Protocols and similar instruments listed together with their respective main instruments.

European Union and national instruments have been omitted due to the fact that EU and national instruments or provisions relevant to human rights are not contained in individual comprehensive texts but are dispersed across an extremely wide spectrum of documents.

The list is based on that included in the 2014 AHRR, with the instruments ratified by Malta in 2015 clearly indicated in **bold**.

International

ILO Convention (No 11) concerning the Rights of Association and Combination of Agricultural Workers (1921)

Slavery Convention (1926)

Protocol amending the Slavery Convention (1953)

Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956)

ILO Convention (No 29) concerning Forced Labour (1930)

ILO Convention (No 87) concerning Freedom of Association and Protection of the Right to Organize (1948)

Convention on the Prevention and Punishment of the Crime of Genocide (1948)

Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (1949)

Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (1949)

SPOTLIGHT

National Commission Persons With Disability (KNPD)

In October 2015 Government announced plans to build a €12 million disability hub in Naxxar. Amidst harsh criticism from many sectors, the KNPD publicly supported the plans, welcoming the centralisation of currently fragmented disability services. However, former KNPD chairperson Joseph Camilleri publicly opposed the scheme, claiming that the hub would foster segregation¹.

The 2014 PHROM report highlighted that whilst there are over forty organisations serving persons with disabilities in Malta, only eight are actually run by persons with disabilities and consequently meet the UN's definition of Disabled People's Organisations (DPOs)². KNPD Chairperson Mr. Oliver Scicluna explained to PHROM that he has undertaken to have the Equal Opportunities Act amended, in order to require a majority of KNPD Board members to be persons with disabilities directly representing themselves.

In December 2015 KNPD Chairperson, Mr. Oliver Scicluna announced that the KNPD receives on average three reports per day from persons with disabilities who feel they have been discriminated against. He was speaking at a special parliamentary session held for persons with disabilities, to which, according to Malta Independent, only eight MPs attended³.

National Commission for the Promotion of Equality (NCPE)

One of the NCPE's priorities for 2015 was 'Developing a Culture of Rights through Capacity Building', a EU co-funded project that included training, research and awareness raising. It also concluded its two-year 'Forms of Violence in Malta – A gender perspective' EU co-funded project in December, with a major outcome being the statement that gender-based violence is set to be a main priority for Malta's 2017 EU Presidency.

In May 2015 the NCPE announced 12 new workplaces receiving the Equality Mark, bringing the total to 60, translating to around 15,800 employees working in equality certified entities.

At its annual conference in May the NCPE launched its online Directory of Professional Women⁴, with the aim of giving visibility to professional women. The NCPE professional women-mentoring programme continued throughout 2015 with 30 women being mentored.

1 Times of Malta, Segregation by stealth, 15 October 2015, available at <http://goo.gl/KG3fG9>.

2 More information on DPOs available at http://www.un.org/disabilities/documents/iasg/undg_guidance_note_final.pdf.

3 The Malta Independent, Parliament session for disabled persons: KNPD gets 3 reports of discrimination daily, 10 December 2015, available at <http://www.independent.com.mt/articles/2015-12-10/local-news/Parliament-session-for-disabled-persons-KNPD-receives-average-three-reports-of-discrimination-daily-6736150251>.

4 Available at <http://ncpe.gov.mt/en/Pages/Directory/Search.aspx>.

The Office of the Ombudsman

According to a Final Opinion⁵ published by the Office of the Ombudsman August 2015, after an investigation by Commissioner for Health at the Office of the Ombudsman, the Ombudsman announced that some patients were being unfairly denied medical treatments, thus being deprived of their Entitlement to the Free Supply of Medicinals under the Social Securities Act.

On its 20th Anniversary in December 2015 the Office of the Ombudsman published a report on truth, transparency and accountability in Government, which outlined the principles essential to good governance⁶. The report contained guidelines for Government on the disclosure of public contracts, good public administration as a fundamental right of citizens and the need for debate and dialogue.

On its 20th Anniversary in December 2015 the Office of the Ombudsman published a report⁷ on truth, transparency and accountability in Government, which outlined the principles essential to good good governance. The report contained guidelines for Government on the disclosure of public contracts, good public administration as a fundamental right of citizens and the need for debate and dialogue.

It was widely reported in December 2015 that The Office of the Ombudsman received complaints on several cases of government allocation of public land for development purposing- decisions that had sparked public outcry⁸.

5 Office of the Ombudsman, Commissioner for Health, Entitlement to the Free Supply of Medicinals under the Social Security Act, August 2015, available at <http://www.ombudsman.org.mt/wp-content/uploads/2015/08/Entitlement-to-the-Free-Supply-of-Medicinals-under-the-Social-Security-Act.pdf>.

6 Office of the Ombudsman, The State's duty to inform, December 2015, available at <http://www.ombudsman.org.mt/wp-content/uploads/2015/12/The-States-Duty-to-Inform.pdf>.

7 'Truth, Transparency and Accountability; The State's duty to inform, Essential to the right to good governance <http://www.ombudsman.org.mt/wp-content/uploads/2015/12/The-States-Duty-to-Inform.pdf>

8 Find the Malta Independent report here <http://goo.gl/UTyyI9>

Geneva Convention relative to the Treatment of Prisoners of War (1949)

Geneva Convention relative to the Protection of Civilian Persons in Time of War (1949)

Additional Protocol to the Geneva Conventions of 12 August 1949 relating to the Protection of Victims of International Armed Conflicts (Protocol I) (1977)

Declaration foreseen by Article 90 of Protocol I (concerning the provisional acceptance of the competence of the International Fact-Finding Commission)

Additional Protocol to the Geneva Conventions of 12 August 1949 relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) (1977)

ILO Convention (No 98) concerning the Application of the Principles of the Right to Organize and Bargain Collectively (1949)

ILO Convention (No 100) concerning Equal Remuneration for Men and Women Workers for Work of Equal Value (1951)

Convention relating to the Status of Refugees (1951)

Protocol relating to the Status of Refugees (1967)

Convention on the Political Rights of Women (1953)

Convention on the Nationality of Married Women (1957)

ILO Convention (No 105) concerning the Abolition of Forced Labour (1957)

ILO Convention (No 111) concerning Discrimination in Respect of Employment and Occupation (1958)

UNESCO Convention against Discrimination in Education (1960)

UNESCO Protocol Instituting a Conciliation and Good Offices Commission to be responsible for seeking the settlement of any disputes which may arise between States Parties to the Convention against Discrimination in Education (1962)

International Convention on the Elimination of All Forms of Racial Discrimination (1965)

International Covenant on Economic, Social and Cultural Rights (1966)

International Covenant on Civil and Political Rights (1966)

Optional Protocol to the International Covenant on Civil and Political Rights (1966)

Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty (1989)

ILO Convention (No 135) concerning Protection and Facilities to be afforded to Worker's Representatives in the Undertaking (1971)

ILO Convention (No 138) concerning Minimum Age for Admission to Employment (1973)

ILO Convention (No 141) concerning Organizations' of Rural Workers and their Role in Economic and Social Development (1975)

Convention on the Elimination of All Forms of Discrimination against Women (1979)

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)

Declarations recognizing the competence of the Committee against Torture under Articles 21 and 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (to receive and consider communications by one State Party against another or presented from or on behalf of individuals)

Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2002)

Convention on the Rights of the Child (1989)

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (2000)

Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (2000)

International Convention for the Suppression of Terrorist Bombings (1997)

Rome Statute of the International Criminal Court (1998)

International Convention for the Suppression of the Financing of Terrorism (1999)

ILO Convention (No 182) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999)

International Convention for the Suppression of Acts of Nuclear Terrorism (2005)

Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005)

Convention on the Rights of Persons with Disabilities, (2006)

Optional Protocol to the Convention on the Rights of Persons with Disabilities, (2006)

International Convention for the Protection of All Persons from Enforced Disappearance (2006)

Signed but not ratified by Malta

Optional Protocol to the Convention on the Rights of the Child on a communications procedure (2014)

Regional (Council of Europe)

European Convention on Human Rights (1950)

Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms (1952)

Protocol No 4 to the Convention for the Protection of Human Rights and Fundamental Freedoms, securing certain rights and freedoms other than those already included in the Convention and in the first Protocol thereto (1963)

Protocol No 6 to the Convention for the Protection of Human Rights and Fundamental Freedoms concerning the Abolition of the Death Penalty (1983)

Protocol No 7 to the Convention for the Protection of Human Rights and Fundamental Freedoms (recognition of new rights) (1984)

Protocol No 11 to the Convention for the Protection of Human Rights and Fundamental Freedoms restructuring the control machinery established thereby (1994)

Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms (2000)

Protocol No 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms, concerning the Abolition of the Death Penalty in all Circumstances (2002)

Protocol No 14 to the Convention for the Protection of Human Rights and Fundamental Freedoms Amending the Control System of the Convention (2004)

European Social Charter (1961)

Protocol amending the European Social Charter (1991)

European Convention on the Repatriation of Minors (1970)

European Convention on the Non-Applicability of Statutory Limitation to Crimes against Humanity and War Crimes (1974)

European Convention on the Compensation of Victims of Violent Crimes (1983)

European Social Charter (revised) (1996)

European Agreement relating to persons participating in proceedings of the European Court of Human Rights (1996)

European Convention on the Exercise of Children's Rights (1996)

European Agreement relating to Persons Participating in Proceedings of the European Commission and Court of Human Rights (1969)

European Convention on the Suppression of the Terrorism (1977)

Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (1981)

European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (1987)

Protocol No 1 to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (1993)

Protocol No 2 to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (1993)

Framework Convention for the Protection of National Minorities (1995)

Convention on Cybercrime (2001)

Convention on Contact concerning Children (2003)

Convention on Action against Trafficking in Human Beings (2005)

Council of Europe Convention on the Prevention of Terrorism (2005)

Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (2007)

European Convention on the Adoption of Children (Revised) (2008)

Convention on Preventing and Combating Violence against Women and Domestic Violence (2011)

Signed but not ratified by Malta

European Convention on the Supervision of Conditionally Sentenced or Conditionally Released Offenders (1964)

European Convention on Nationality (1997)

European Landscape Convention (2000)

ANNEX II – MEMBER ORGANISATION QUESTIONNAIRE

1. These are the developments that made the headlines in 2015. Which 2 themes do you think were the most significant? If none, choose none. If Other, choose Other.
 - Creation of the Front Harsien ODZ
 - Adoption of the Gender Identity, Gender Expression and Sex Characteristics Act
 - Presentation of the Equality Bill and the Human Rights and Equality Commission Bill
 - Ratification of the 12th Protocol to the European Convention on Human Rights, broadening the scope of anti-discrimination protection
 - Adoption of the Victims of Crime Act
 - Presentation of the Framework document: Towards a National Migrant Integration Strategy 2015-2020
 - Review of the Embryo Protection Act
 - Other...

2. Were there any specific themes you focused on in 2015 (1-word answers are fine)?

3. What human rights themes/groups/issues do you think are not being given due attention in Malta, including by NGOs, if at all (1-word answers are fine)?

4. What do you think will be Malta's human rights challenges in 2016 (1-word answers are fine)?

5. Tick where appropriate along the grind (*Options are True, Neutral/I don't know, False*):
 - We are regularly consulted on issues that concern our work.
 - Our work is generally respected.
 - When we provide input, there is scope for discussion.
 - Discussions are in-depth and effective.
 - We provide services on the basis of service-agreements with Government.
 - We provide services, but we do not have a service-agreement with Government.
 - Our organisation has been the victim of hate speech, or some form of expressed 'hatred'.
 - Our beneficiaries/clients have been the victims of hate speech, or some form of expressed 'hatred'.

6. Is there anything you would like to add regarding human rights issues for 2015?

1 Recommendations of a general or crosscutting nature are addressed to MSDC.

2 Inactive = no action has been or is being taken; Active = action has been or is being taken; Complete = goals have been reached.



Malta Community Chest Fund



First Call - Social Projects

Projects part-financed by Malta Community Chest Fund
Co-financing rate: 90% MCCF funds. 10% Beneficiary's funds