

**Country session: Malta**

**Date of session: 15-16 May 2019**

**Background information:**

[OHCHR press release](#)

Webcast: [Part 1](#) and [Part 2](#)

[Audio file](#)

## Reporting

### Reporting methodology

Regular reporting procedure

Simplified reporting procedure

Concluding Observations with urgent measures

### State report:

Common core document	
Initial submission	-
Updated document	-
Annexes	-
CRC	
No. of report	3 <sup>rd</sup> to 6 <sup>th</sup>
Due date	29 October 2017
Submission	23 November 2017
Written replies	
Submission	15 February 2019
Due date	15 February 2019

### Public reports from children's rights defenders

<b>NGOs</b>	<ul style="list-style-type: none"> <li>• International Baby Food Action Network</li> <li>• Juvenile Justice Advocates International</li> <li>• Platform of Human Rights Organisations in Malta (PHROM)</li> <li>• Stop IGM</li> </ul>
<b>NHRIs</b>	-
<b>Other stakeholders</b>	European Union Agency for Fundamental Rights, selection of rights pf the child passages from published reports related to Malta

### State delegation

The delegation was large and mainly consisted of high level Ministers and a few technical level staff. It was headed by H.E. Mr Christopher GRIMA, Ambassador, Permanent Representative, Permanent Mission of the Republic of Malta and was composed of representatives of the Ministry for the Family, Children’s Rights and Social Solidarity; Ministry for Justice, Culture and Local Government; Ministry for Home Affairs and National Security; Ministry for Health; Ministry for Education and Employment; and the Permanent Mission of Malta to the United Nations Office at Geneva.

### Committee’s Task Force members

Name & Last Name	Country
Bragi Gudbrandsson	Iceland
Olga Khazova	Russian Federation
Gehad Madi	Egypt
Velina Todorova	Bulgaria

### Dialogue description

- i. Character of the dialogue  
The dialogue was interactive, honest and in depth. For the information unavailable or unknown to the delegation, they promised to come back to the Committee at a later stage of the dialogue or during the 48h timeline granted. The dialogue became tense when it came to the definition of the child, when it was asked of the measures taken to harmonize the national legislation with international standards of the Convention.
- ii. General assessment made by the Committee:  
The Committee welcomed the amendments in Malta to raise the minimum age of criminal responsibility. In its final remarks, the Committee mentioned birth registration and right to a nationality, migrant and refugee children and juvenile justice as the areas of main concern. The Committee highlighted that violence would not rather be among the issues of burning concern, not because it does not exist in Malta but because it might be the result of efforts put in addressing it through the positive parenting strategy for instance.
- iii. Main issues discussed:
  - **General measures of implementation:** The Committee welcomed the launch of the children national policy 2020-2024. The Committee encouraged the state party to ratify OPIC. With regards to dissemination and awareness-raising, the Committee asked whether courses exist on Human Rights and on the CRC. Furthermore, the Committee reminded the state party about its previous recommendation on the protection of children from exploitation in tourism activities and asked what was done to implement them. The Committee also raised concern on the criminalization of search and rescue operations of migrants and refugees in the Mediterranean Sea; they asked about the measures taken to ensure freedom of civil society to perform these rescue operations and that the later are not criminalized.
  - **Birth registration and nationality:** The Committee showed concern to the fact that authorities often refuse to register children migrants and asked whether the latter have such a right in reality. The Committee asked the fate, in practice, of children born from stateless parents with regards to the acquisition of the Maltese nationality and suggested the state party to ratify the 1954 and 1961 Conventions related to stateless persons respectively. The state party replied that the government is interested in signing the 1961 Convention.
  - **Right of the child to be heard:** The Committee asked whether children have participated in the Child rights policy. The delegation responded that workshops were conducted in schools to raise awareness on the policy and a number of children gave ideas with regards to implementation. The Committee inquired about the legislation on

child participation in family settings. Moreover, the Committee asked for more clarity on the current situation with regards to child participation in schools, if there are existing mechanisms. The Committee inquired on the level to which judges are prepared to deal with children; and whether a child is heard directly or indirectly in divorce or custody cases. The delegation responded that training exists for judges and other professionals and that in cases of divorce, a judge determines whether it is appropriate to directly involve a child.

- **Violence against children:** The Committee appreciated explicit prohibition of corporal punishment in the Penal Code but remained concerned that the practice still exists; the Committee therefore asked whether there are debates on the issue. The Committee questioned as to whether there is a plan to launch the strategy on prevention and combatting violence against children. Furthermore, the Committee showed concern for violence in the Catholic Church in Malta and asked whether the investigating Commission is impartial and independent since impartiality of one judge has been confronted.
- **Family environment and alternative care:** The Committee appreciated that there is no institutional placement, but rather residential homes mostly run by Catholic churches and asked why they are not called 'residential houses' but rather 'homes'. The delegation highlighted that it is because those 'homes' are more family-oriented, the number of children hosted is limited and the aim is to create a 'homely' environment instead of a cold building for children. In response to what Malta is doing to attract foster carers, the delegation said that the government has been increasing the foster care allowance and it has been encouraging carers through media and educational campaigns.
- **Adolescent health:** Since termination of pregnancy is criminalized in Malta, the Committee asked whether there is any chance to amend the national legislation, mentioning cases of rape. The delegation responded that Malta does not agree that health and reproductive rights include the right to abortion as this goes against the right to life which is paramount.
- **Juvenile Justice:** The Committee welcomed the raising of the minimum age of criminal responsibility from the age of 9 to 14 and the introduction of alternative measures to detention of children but remained concerned on several issues. The Committee showed concern on the definition of a child as a person below 16 years in the Juvenile Act and asked about the fate of children from 16 to 18 years. The delegation responded that the criminal justice system considers juveniles as children aged 16 and less; for persons of 16 to 18 of age -when sentencing-criminal courts take their age into consideration. The Committee moreover pointed out the issue of detention of children with adults.
- **Child trafficking:** The Committee showed serious concern about a case in March 2019 during which the commercial vessel Elhiblu 1 had rescued hundreds of migrants in the Mediterranean Sea, and which had been allegedly hijacked by migrants to prevent it from heading to Libya. Upon its arrival to Malta, a number of migrants had been arrested, including three teenagers who have been charged for very severe charges which amount to terrorism; the Committee regretted that two of the three were children and were held in the same premises as the adults. The delegation replied that the minors were moved 6 days after their detention. The Committee reiterated that criminalization is not meant to punish the NGO for rescuing but to rather ensure that the law was respected.
- **Unaccompanied migrant children:** The Committee asked clarifications about the legal safeguards and the age assessment procedure, how it is conducted, if there is possibility to appeal and whether the child enjoys the principle of the benefit of doubt. The delegation responded that a number of legal safeguards were in place to secure the wellbeing of unaccompanied migrant and asylum-seeking children. The Committee asked the state party to verify whether cases of detention still exist as there is no available updated information. It further asked whether there are plans to improve the reception of migrant children. The delegation responded that the government is recruiting new staff since human resources is much needed.

#### Recommendations of the Committee

- **Main areas of concern:** The Committee recommends the state party to particularly take urgent measures on the following areas: children's rights and the business sector, birth registration and nationality, harmful practices, education, including vocational training and guidance, asylum-seeking, refugee and migrant children, and administration of juvenile justice.

- **Legislation:** The Committee recommends that the state party expedite the adoption of the Minor Protection (Alternative Care) Bill and take all necessary measures to ensure its coming into force and effective implementation in full compliance with the Convention, in particular by establishing the necessary structures for its implementation.
- **Children's rights and the business sector:** While referring to its GC 16 and to the Guiding Principles on Business and human rights, the Committee recommends Malta to undertake awareness-raising programmes with the tourism industry to encourage reporting of abuse, establish monitoring mechanisms for the investigation of such abuses.
- **Definition of the child:** The Committee recommends the State party amends its Marriage Act and the Civil Unions Act so as to remove all exceptions that allow marriage and entering into a civil union under the age of 18 years.
- **Birth registration and nationality:** The Committee urges the state party to strengthen efforts to ensure the birth registration of children whose parents do not have personal documents; and to establish the nationality of children with undetermined citizenship, under the Civil Code and the Maltese Citizenship Act. The Committee further recommended Malta to consider ratifying the Convention on the Reduction of Statelessness of 1961, the 1997 European Convention on Nationality and the 2009 Council of Europe Convention on the avoidance of statelessness in relation to State succession.
- **Harmful practices:** The Committee urges the state party to strengthen its awareness-raising programmes on the harmful effects of child marriage and FGM; provide training for teachers, judges and other professional staff, strengthen protection schemes for potential victims. The Committee also recommends Malta to effectively investigate incidents of surgical and other medical treatment of intersex children without informed consent and provide redress to such victims.
- **Education, including vocational training and guidance:** The Committee urges the state party to take measures necessary to improve accessibility and the quality of education, including for children in vulnerable and marginalized situations, such as asylum-seeking, refugee and migrant children and children with disabilities, and implement a human rights-based approach to the entire educational system. The Committee also recommended Malta to strengthen measures to combat bullying and raise awareness of its harmful effects, particularly cyberbullying,
- **Refugee and migrant children:** The committee, while referring to its GC N.6, urges the state party to prohibit the immigration detention of migrant, asylum-seeking and refugee children in law and in practice; and ensure effective alternatives to detention so as to allow children to remain with family members and/or guardians in non-custodial, community-based contexts, consistent with their best interest. The Committee also recommends the state party to implement a uniform protocol on age determination methods that is multidisciplinary; and to ensure that child protection authorities are promptly informed to participate in procedures for the determination of the best interests of the child once an unaccompanied or separated child arrives in the State party.
- **Administration of juvenile justice :** While referring to its GC 10, the Committee urges the state party to bring its juvenile justice system fully into line with the Convention and other relevant standards by review in its legislations to ensure that all children below 18 years are treated as children; ensure that detention is used as a measure of last resort and for the shortest period of time; to ensure that detained children are not in the same premises as adults and promote non-judicial measures as diversion for children.

### Sustainable Development Goals

- 3.4, on reducing premature mortality from non-communicable diseases through prevention and treatment and promote mental health and well-being;
- 3.5, on strengthening of the prevention and treatment of substance abuse, including narcotic drug abuse and harmful use of alcohol;
- 3.9, on reducing of deaths and illnesses from hazardous chemicals and air, water and soil pollution and contamination;
- 4.5, on eliminating gender disparities in education and ensure equal access to all levels of education and vocational training for the vulnerable, including persons with disabilities, indigenous peoples and children in vulnerable situations;



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- 4.A, on building and upgrading education facilities that are child, disability and gender sensitive and provide safe, non-violent, inclusive and effective learning environments for all;
- 5.3, on eliminating all harmful practices, such as child, early and forced marriage and female genital mutilation
- 10.3, on ensuring equal opportunity and reducing inequalities of outcome, including by eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and action in this regard;
- 16.2, on ending abuse, exploitation, trafficking and all forms of violence against children;
- 16.9, on providing legal identity for all, including birth registration

### Next State report

CRC	
No. of report	7 <sup>th</sup>
Due date	29 October 2024

**Disclaimer:** Child Rights Connect reports are all drafted in English. If the State report and/or the alternative reports were submitted in another UN language (Spanish, French, Arabic, Russian or Chinese) the report will be translated accordingly.