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Subject : Amended proposal for a Council Directive on minimum standards on procedures  
in Member States for granting and withdrawing refugee status  
- Minimum common list of safe countries of origin

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Delegations will find attached the reply from the **Maltese** delegation.

## Assessment template

To be completed by Member States in respect of each of the 10 countries under consideration and returned to the Council Secretariat by 8 June 2004

Name of Member State	Malta
Name of country for designation	Benin

<b>QUESTIONS</b>	<b>YES/NO</b>	<b>BASIS FOR RESPONSE</b>	<b>Details of supporting information sources other than those at Annex B. Please indicate if these are publicly available</b>
1. Does the country have a democratic system in place?	Yes	The Republic of Benin is a constitutional democracy. The Constitution provides citizens with the right to change their government peacefully and citizens exercised this right in practice through periodic, free and generally fair elections held on the basis of universal suffrage. 87% of eligible voters turned out for the presidential elections in March	

		2001. Election observers said that there were discrepancies and logistical problems, but these were the result of inefficiency rather than fraud. They believed the result represented the will of the people.	
2. Is there a situation of internal or international armed conflict in the country?	No		

<p>3. Is there generally and consistently no persecution as defined in Article 9 of the Qualification Directive in the country?</p>	<p>Yes</p>	<p>Benin is a party to a number of regional and international human rights instruments. The government generally respected the human rights of its citizens. There were credible reports that police sometimes beat suspect and at times the authorities arbitrarily arrested and detained persons. One of the most serious human rights problems continued to be the failure of police forces to curtail acts of vigilantism and mob justice. During 2003, incidents of mob justice continued to occur nationwide. Government made no concerted attempt to investigate or prosecute anyone involved, and the police generally ignored vigilante attacks. In 2001 and 2002, there was no known action taken against persons responsible for mob killings.</p>	
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<p>4. Is there generally and consistently no torture or inhuman or degrading treatment or punishment in the country?</p>	<p>Yes</p>	<p>The Constitution prohibits such practices, although there were credible reports that police sometimes beat those in custody. In 2003, there were no reports of torture.</p> <p>In March 1997, the African regional office of WHO launched a regional plan of action against all forms of FGM or FGC. The Government's position is to eliminate this practice in Benin. The government of Benin allows for the distribution of posters and informational materials in government-run clinics.</p> <p>In January 2003, Benin joined the growing list of African countries that have made female circumcision/female genital mutilation a crime.</p> <p>The new law imposes prison sentences and fines on individuals who practice FC/FGM in Benin. Stiffer penalties are meted out to those who perform FC/FGM on women under the age of 18.</p>	
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5. Where there is a situation of internal or international armed conflict in the country is there generally and consistently no threat by reason of indiscriminate violence in the country?	N/A		
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6. Is the extent to which protection is provided against persecution or mistreatment by means of (a) – (d) below sufficient to show that there is generally and consistently no persecution or mistreatment in the country?				
(a)	the relevant laws and regulations of the country and the manner in which they are applied	Yes	<p>Benin is a party to a number of regional and international human rights instruments.</p> <p>The Constitution prohibits torture, inhuman or degrading treatment, although there were credible reports that police sometimes beat those in custody.</p> <p>In 2003, there were no reports of torture.</p> <p>The Constitution specifically provided for human rights guarantees (e.g. freedom of speech and of the press, of religion, of assembly, arbitrary arrest and detention, right to a fair trial, rights and guarantees of every person deprived of liberty).</p>	

(b)	<p>observance of the rights and freedoms laid down in the European Convention for the Protection of Human Rights and Fundamental Freedoms and/or the International Covenant for Civil and Political Rights and/or the Convention against Torture, in particular the rights from which derogation cannot be made under Article 15(2) of the said European Convention</p>	Yes	<p>Government generally respects the human rights of its citizens. However, there have been reports of police brutality and harsh and unhealthy prison conditions. Prisoners were allowed to meet with visitors such as family members, lawyers and others. The government permitted prison visits by human rights monitors and NGOs.</p> <p>The Constitution provides for the right to a fair public trial. A defendant enjoys the presumption of innocence and has the right to a fair public trial and to legal representation.</p> <p>The Constitution provides for freedom of speech and of the press and the Government generally respected these rights in practice. There was a large and active and active privately-owned press and active privately-owned press. Publications criticised the Government freely and frequently.</p> <p>The generally amicable relationship among religions in society contributed to religious freedom. The US Government discusses religious freedom issues with the Government in the context of its overall dialogue and policy of promoting human rights. The government at all levels strives to protect this right in full and does not tolerate its abuse, either by governmental or private actors.</p>	
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(c)	respect of the non-refoulement principle according to the Geneva Convention	Yes	The law provides for the granting of refugee status to persons who meet the definition in the 1951 Geneva Convention and its 1967 Protocol. In practice the Government provided protection against refoulement and granted refugee status. The Government cooperated closely with the UNHCR and other humanitarian organisations in assisting refugees, including those in need of temporary protection.	
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(d)	provision for a system of effective remedies against violations of these rights and freedoms	Yes	<p>The Constitutional Court has been constantly monitoring the question of police custody and the Supreme Court has been combating all human rights violations. On 31 May 2002, the Constitutional Court rules that persons whose constitutionally-protected human rights have been violated by cruel, inhuman or degrading treatment may claim compensatory damages.</p> <p>The Constitution provides for an independent judiciary and the government generally respected this provision in practice. The rulings of the Constitutional Court in past years against both the executive and legislative were respected by both branches, demonstrating the Court's independence.</p> <p>A High Court of Justice, scheduled to be installed in 2004, deals with crimes committed by the President or government ministers against the state.</p>	
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<b>OVERALL ASSESSMENT</b>		
	<b>YES/NO</b>	<b>Insert basis for response</b>
1. Do you consider that the information sources listed at Annex B are sufficient for the purpose of conducting the in-depth assessment referred to by the JHA Council with regard to this country?	No	
2. If you answered no to Q 1 please specify: in which areas you consider the information sources to be insufficient; and any other sources of information available to you which would assist discussions and which you are in a position to share with other Member States (Provide website address or other details).		Given the importance of including a country on the minimum common list, determinations must be motivated by ample research and material. It is difficult to make such assertions with just the amount of material provided and the very short timeframe given to make such assessments.

3. Is the country suitable for inclusion on the minimum common list?	YES/NO	Insert basis for response
	Yes	<p>Given the importance of including a country on the minimum common list, determinations must be motivated by ample research and material. It is difficult to make such assertions given the amount of material provided and the short timeframe given to make such assessments. These factors ought to be taken into account when evaluating Malta's assessments.</p> <p>The legal situation, the application of the law within a democratic system and the general political circumstances in Benin indicate that this country appears to be considered generally and consistently safe.</p> <p>Benin's credentials as a democratic country have given the country a high standing with the international community. Cotonou was chosen to host the 2001 European Union-African Caribbean Pacific (EU-ACP) summit. In 2003 Benin was elected to one of the non-permanent seats on the UN Security Council, which it will hold until 31 December 2005.</p>

## Assessment template

To be completed by Member States in respect of each of the 10 countries under consideration and returned to the Council Secretariat by 8 June 2004

Name of Member State	Malta
Name of country for designation	Botswana

<b>QUESTIONS</b>	<b>YES/ NO</b>	<b>BASIS FOR RESPONSE</b>	<b>Details of supporting information sources other than those at Annex B. Please indicate if these are publicly available</b>
1. Does the country have a democratic system in place?	Yes	Boswana is a longstanding multi-party democracy with elections for the National Assembly held at five-yearly intervals. The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free and fair elections held on the	

		basis of universal suffrage. The 1999 elections generally were regarded as free and fair by domestic and international observers.	
2. Is there a situation of internal or international armed conflict in the country?	No		

<p>3. Is there generally and consistently no persecution as defined in Article 9 of the Qualification Directive in the country?</p>	<p>Yes</p>	<p>The government generally respected the human rights of its citizens; however, there were problems in several areas. Some members of the security forces, in particular the police, occasionally committed human rights abuses. Police sometimes beat or otherwise mistreated criminal suspects to obtain evidence or coerce confessions. Authorities took action in some cases against officials responsible for such abuses. Prison conditions were poor and in some cases life-threatening. The judicial system did not provide timely fair trials due to a serious and increasing backlog of cases. The Government continued to dominate domestic broadcasting and limited freedom of the press. Some citizens remained marginalized in the political process. Violence and discrimination against women remained a serious problem. Trade unions continued to face some legal restrictions, including those against the right to strike and the government did not always ensure that labor laws were observed in practice. There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.</p>	
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<p>4. Is there generally and consistently no torture or inhuman or degrading treatment or punishment in the country?</p>	<p>Yes</p>	<p>The Constitution explicitly prohibits such practices, and the government generally respected this prohibition in practice; however, instances of abuse occurred. There were reports that on occasion, police used beatings and other forms of intimidation to obtain evidence or elicit confessions. In some cases, the authorities took disciplinary or judicial action against persons responsible for abuse. Coerced confessions and evidence gathered through coercion or abuse are inadmissible in court. Customary courts continued to impose corporal punishment in the form of lashings on the buttocks, generally against young offenders in villages for crimes such as vandalism, theft and delinquency. The Prisons Act makes it illegal for prison officials to mistreat prisoners. The Act also grants relatives, lawyers, magistrates and church organizations the right to visit prisoners for “rehabilitative purposes”; however, the Commissioner of Prisoners has the authority to decide whether domestic and international human rights organizations may visit. Independent monitoring of prison conditions by human rights groups, the media, or the International Committee of the Red Cross generally was allowed if these organizations sought permission from the Commissioner of Prisons; however, sometimes permission was denied.</p>	
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5. Where there is a situation of internal or international armed conflict in the country is there generally and consistently no threat by reason of indiscriminate violence in the country?	N/A		
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6. Is the extent to which protection is provided against persecution or mistreatment by means of (a) – (d) below sufficient to show that there is generally and consistently no persecution or mistreatment in the country?	
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(a)	the relevant laws and regulations of the country and the manner in which they are applied	Yes	<p>Bostwana is a party or signatory to all but one of the core UN and regional human rights treaties and, where necessary, has enacted the appropriate domestic legislation to support those treaties. Botswana has not signed the International Covenant on Civil and Political Rights. It retains the death penalty.</p> <p>The Constitution explicitly prohibits torture, inhuman and degrading treatment, requires due legal process, enshrines the presumption of innocence and guarantees freedom from arbitrary arrest and detention, arbitrary interference with privacy, family, home or correspondence; provides for an independent judiciary; guarantees the right of peaceful assembly and association (though the law severely restricts the right to strike), and provides for an independent judiciary and freedom of religion, and the Government generally respected this provision in practice.</p> <p>The Constitution provides for freedom of speech and of the press, and the Government attempted to limit freedom of the press and continued to dominate domestic broadcasting. The government occasionally censored stories or news sources that it deemed undesirable.</p> <p>The Constitution forbids governmental discrimination on the basis of ethnicity, race, nationality, creed, sex, or social status and the government generally respected these provisions in practice. However, neither the Constitution nor the law prohibits discrimination by private persons or entities.</p> <p>The rights of children are addressed in the Constitution and the Children’s Act, and the government remained committee to the protection of these rights. Under the law, the country has a court system and social service apparatus designed solely for juveniles. The Prisons Act makes it illegal for prison officials to mistreat prisoners. The Act provides for a governmental visiting committee for each prison.</p>	
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(b)	observance of the rights and freedoms laid down in the European Convention for the Protection of Human Rights and Fundamental Freedoms and/or the International Covenant for Civil and Political Rights and/or the Convention against Torture, in particular the rights from which derogation cannot be made under Article 15(2) of the said European Convention	Yes	<p>The Constitution explicitly prohibits torture, inhuman and degrading treatment, requires due legal process, enshrines the presumption of innocence and guarantees freedom from arbitrary arrest and detention, arbitrary interference with privacy, family, home or correspondence; provides for an independent judiciary; guarantees the right of peaceful assembly and association (though the law severely restricts the right to strike), and provides for an independent judiciary and freedom of religion, and the Government generally respected this provision in practice.</p> <p>A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials usually were cooperative and responsive to their views. However, some groups complained that the Government's cooperation was designed mainly to mute criticism and did not result in improved human rights conditions. The government cooperated with UNHCR, UNICEF as well as other international organizations.</p>	
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(c)	respect of the non-refoulement principle according to the Geneva Convention	Yes	The law provides for the granting of refugee status or asylum to persons who meet the definition in the 1951 UN Convention relating to the status of refugees and its 1967 Protocol, and also provides protection to certain individuals who fall outside the definition of the Convention. In practice, the government generally provided protection against refoulement and granted refugee status or asylum. The UNHCR is present with observer status at the interviews. Once persons are granted refugee status, the government transferred them to the Dukwe Refugee Camp until their resettlement or voluntary repatriation. Refugee applicants who were unsuccessful in obtaining asylum also were allowed to remain at Dukwe until the Government referred their case to the UNHCR for resettlement.	
(d)	provision for a system of effective remedies against violations of these rights and freedoms	Yes	The Government of Botswana seeks to protect the human rights of its nationals and in any cases where rights are not respected challenges can be made through the High Court. The Constitution provides for an independent judiciary and the Government generally respected this provision in practice. The law provides for a right to a fair trial. There is a presumption of innocence and defendants have the right to appeal. There is a military court system, and civilians are not tried in military courts.	



<b>OVERALL ASSESSMENT</b>		
	<b>YES/NO</b>	<b>Insert basis for response</b>
1. Do you consider that the information sources listed at Annex B are sufficient for the purpose of conducting the in-depth assessment referred to by the JHA Council with regard to this country?	No	
2. If you answered no to Q 1 please specify: in which areas you consider the information sources to be insufficient; and any other sources of information available to you which would assist discussions and which you are in a position to share with other Member States (Provide website address or other details).		Given the importance of including a country on the minimum common list, determinations must be motivated by ample research and material. It is difficult to make such assertions with just the amount of material provided and the timeframe given to make such assessments.

<p>3. Is the country suitable for inclusion on the minimum common list?</p>	<p><b>YES/NO</b> Yes</p>	<p><b>Insert basis for response</b></p> <p>Given the importance of including a country on the minimum common list, determinations must be motivated by ample research and material. It is difficult to make such assertions given the amount of material provided and the short timeframe given to make such assessments. These factors ought to be taken into account when evaluating Malta's assessments.</p> <p>The legal situation, the application of the law within a democratic system and the general political circumstances in Botswana indicate that this country appears to be considered generally and consistently safe.</p> <p>While examples of human rights infringements do exist, Botswana has a good track record, comparing favourably internationally, not just in Africa. The Government of Botswana seeks to protect the human rights of its nationals and in any cases where rights are not respected challenges can be made through the High Court.</p> <p>Botswana/UK relations are excellent, and several thousand British citizens live and work in Botswana.</p>



## Assessment template

To be completed by Member States in respect of each of the 10 countries under consideration and returned to the Council Secretariat by 8 June 2004

Name of Member State	Malta
Name of country for designation	Cape Verde

<b>QUESTIONS</b>	<b>YES/NO</b>	<b>BASIS FOR RESPONSE</b>	<b>Details of supporting information sources other than those at Annex B. Please indicate if these are publicly available</b>
1. Does the country have a democratic system in place?	Yes	Cape Verde is a multiparty parliamentary democracy. The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free and fair elections held on the basis of universal suffrage. The National Electoral Commission and the international media judged the January presidential elections, as well as legislative and municipal elections in 2000 to be free and fair.	

2. Is there a situation of internal or international armed conflict in the country?	No		
3. Is there generally and consistently no persecution as defined in Article 9 of the Qualification Directive in the country?	Yes	<p>The Government generally respected the human rights of its citizens, however, there were problems in some areas. There continued to be credible reports of police abuse. Prison conditions were poor. The judicial system was overburdened. There were some limitations on press freedom and there continued to be allegations of media self-censorship. The law prohibits arbitrary arrest and detention and the Government generally observed these prohibitions.</p> <p>The Government investigated allegations of human rights abuses by police, however, these investigations did not result in any legal action against the perpetrators.</p>	
4. Is there generally and consistently no torture or inhuman or degrading treatment or punishment in the country?	Yes	<p>The Constitution prohibits such practices. There were credible reports that police continued to beat persons in custody and in detention, despite government efforts to stop such practices.</p>	
5. Where there is a situation of internal or			

international armed conflict in the country is there generally and consistently no threat by reason of indiscriminate violence in the country?	N/A		
6. Is the extent to which protection is provided against persecution or mistreatment by means of (a) – (d) below sufficient to show that there is generally and consistently no persecution or mistreatment in the country?			

(a)	the relevant laws and regulations of the country and the manner in which they are applied	Yes	<p>The Constitution prohibits discrimination based on race, sex, religion, disability, language or social status. However, the Government did not enforce these provisions effectively and not all elements of society, particularly women and children, enjoyed full protection against discrimination. The Constitution mandates special protection for the aged and persons with disabilities.</p> <p>The Constitution provides for freedom of assembly and association and the Government generally respected these rights in practice.</p> <p>The Constitution provides that workers legally are free to form and join unions without government authorization or restriction. Unions were free to affiliate internationally and had ties with African and other international trade union organisations.</p>	
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(b)	<p>observance of the rights and freedoms laid down in the European Convention for the Protection of Human Rights and Fundamental Freedoms and/or the International Covenant for Civil and Political Rights and/or the Convention against Torture, in particular the rights from which derogation cannot be made under Article 15(2) of the said European Convention</p>	<p>Yes</p>	<p>The Constitution provides for freedom of speech and of the press and the Government generally respected freedom of speech; however, there were some reports of restrictions on freedom of the press. The Constitution provides for freedom of religion and the Government generally respects this right in practice. The generally amicable relationship among religions in society contributed to religious freedom. The US Government discusses religious freedom issues with the Government in the context of its overall dialogue and policy of promoting human rights. The government at all level strives to protect this right in full and does not tolerate its abuse, either by government or private actors. Violation of religious freedom is a crime subject to a penalty of between two and eight years' imprisonment.</p> <p>The law stipulates that a suspect must be charged before a judge within 48 hours of arrest. Police may not make arrests without a court order unless a person is caught in the act of committing a felony. The Constitution provides for the right to a fair trial. Defendants are presumed innocent; they have the right to a public, non-jury trial, to counsel, to present witnesses and to appeal verdicts. There was also a functioning system of bail. The government permitted both formal visits by human rights monitors to prisons and routine visits to individual prisoners.</p> <p>A number of domestic human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views.</p>	
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(c)	respect of the non-refoulement principle according to the Geneva Convention	Yes	The law provides for the granting of refugee status or asylum to persons who meet the definition in the 1951 UN Convention relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement and granted refugee status or asylum. The Government cooperated with the UNHCR and other humanitarian organizations in assisting refugees. The government also provided protection to certain individuals who fall outside of the definition of the 1951 Convention.	
(d)	provision for a system of effective remedies against violations of these rights and freedoms	Yes	The Constitution provides for an independent judiciary and the Government generally respected this provision in practice. Judges were independent and could not belong to a political party. Free counsel was provided for the indigent. The judiciary generally provides due process rights. However, the inefficiencies of the judicial system made it difficult for government institutions to address certain problems, such as of child abuse and mistreatment.	

<b>OVERALL ASSESSMENT</b>		
	<b>YES/NO</b>	<b>Insert basis for response</b>
1. Do you consider that the information sources listed at Annex B are sufficient for the purpose of conducting the in-depth assessment referred to by the JHA Council with regard to this country?	No	
2. If you answered no to Q 1 please specify: in which areas you consider the information sources to be insufficient; and any other sources of information available to you which would assist discussions and which you are in a position to share with other Member States (Provide website address or other details).		Given the importance of including a country on the minimum common list, determinations must be motivated by ample research and material. It is difficult to make such assertions with just the amount of material provided and the very short timeframe given to make such assessments.

3. Is the country suitable for inclusion on the minimum common list?	YES/NO	Insert basis for response
	No	<p>Given the importance of including a country on the minimum common list, determinations must be motivated by ample research and material. It is difficult to make such assertions given the amount of material provided and the short timeframe given to make such assessments. These factors ought to be taken into account when evaluating Malta's assessments.</p> <p>The legal situation, the application of the law within a democratic system and the general political circumstances in Cape Verde indicate that this country appears to be considered generally and consistently safe.</p>



## Assessment template

To be completed by Member States in respect of each of the 10 countries under consideration and returned to the Council Secretariat by 8 June 2004

Name of Member State	Malta
Name of country for designation	Chile

<b>QUESTIONS</b>	<b>YES/NO</b>	<b>BASIS FOR RESPONSE</b>	<b>Details of supporting information sources other than those at Annex B. Please indicate if these are publicly available</b>
1. Does the country have a democratic system in place?	Yes	Chile is a multiparty democracy. The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free and fair elections held on the basis of universal suffrage.	

2. Is there a situation of internal or international armed conflict in the country?	No		
3. Is there generally and consistently no persecution as defined in Article 9 of the Qualification Directive in the country?	Yes	<p>Not only have the mechanisms for the prevention of torture been considerably improved, but also practical steps have been taken to prevent it from occurring, through the reform of legislation intended to prohibit and punish it.</p> <p>The Constitution provides for equality before the law and the Government generally respected these provisions.</p>	
4. Is there generally and consistently no torture or inhuman or degrading treatment or punishment in the country?	Yes	<p>The systematic practice of torture ended completely with then installation of the democratic governments. As stated in the report on the visit to Chile in 1995 by Sir Nigel S. Rodley, Special Rapporteur on torture, submitted at the 52<sup>nd</sup> session of the Commission on Human Rights: "... torture is not practised in Chile either systematically or as a result of government policy..." and a profound difference in relation to the period of the military regime "... was the real commitment of the civilian</p>	

	<p>Governments to human rights and, in particular, to the need to eliminate the perpetration of torture, cruel, inhuman or degrading treatment or punishment by officials of the State”.</p> <p>The rulings of the Supreme Court during recent years have recognised the importance of the international treaties relating to human rights and humanitarian law, giving effect to their provisions and drawing attention to their value in a number of cases.</p> <p>Not only have the mechanisms for the prevention of torture been considerably improved, but also practical steps have been taken to prevent it from occurring, through the reform of legislation intended to prohibit and punish it. The Chilean domestic legal order has characterised and laid down penalties for torture pursuant to the definition contained in article 1 of the Convention.</p> <p>The Constitution forbids the use of excessive pressure on detainees and the law provides that if a member of the police force uses “torture or unlawful coercion”, either physical or mental,</p>	
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		orders them to be applied, or commits them against a person under arrest or detention, the officer would be sentenced to imprisonment. Officers who know of the abuse and have the “necessary power and authority” to prevent or stop it would also be considered accessories to the crime if they fail to do so.	
5. Where there is a situation of internal or international armed conflict in the country is there generally and consistently no threat by reason of indiscriminate violence in the country?	N/A		

6. Is the extent to which protection is provided against persecution or mistreatment by means of (a) – (d) below sufficient to show that there is generally and consistently no persecution or mistreatment in the country?				
(a)	the relevant laws and regulations of the country and the manner in which they are applied	Yes	<p>The Constitution specifically provided for human rights guarantees (e.g. freedom of speech and of the press, of religion, of assembly, arbitrary arrest and detention, right to a fair trial, rights and guarantees of every person deprived of liberty).</p> <p>The Chilean domestic legal order has characterised and laid down penalties for torture pursuant to the definition contained in article 1 of the Convention against Torture.</p>	

(b)	<p>observance of the rights and freedoms laid down in the European Convention for the Protection of Human Rights and Fundamental Freedoms and/or the International Covenant for Civil and Political Rights and/or the Convention against Torture, in particular the rights from which derogation cannot be made under Article 15(2) of the said European Convention</p>	Yes	<p>The Government generally respected its citizens' human rights. The most serious problems continued to be excessive use of force and mistreatment by police forces, and physical abuse in jails and prisons. Prisons were often overcrowded and antiquated. Detainees sometimes were not advised promptly of charged against them nor granted a timely hearing before a judge. Anti-defamation laws adversely affected journalists and authors. The authorities themselves used force against protesters. Discrimination and violence against women and children continued to be problems. During 2003, the Government continued to investigate human rights abuses committed during the former military government and in several cases passed sentence on those found guilty.</p> <p>The police force had an extremely low incidence of corruption. Police, prison guards and officials take courses in human rights, which are part of the core curriculum in the police academies. The Constitution provides for the right to a fair trial and an independent judiciary generally enforced this rights. The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. The press maintained its independence, criticised the Government and covered issues sensitive to the military, including human rights cases.</p> <p>The Constitution provides for equality before the law, and the Government generally respected these provisions. Te Government is also committed to children's rights and welfare.</p> <p>The Constitution provides for freedom of religion, and the Government generally respects this in practice. The generally amicable relationship among religions in society contributed to religious freedom.</p> <p>A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.</p>	
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(c)	respect of the non-refoulement principle according to the Geneva Convention	Yes	The law includes provisions for granting asylum and refugee status to persons who meet the definition in the 1951 Geneva Convention. In practice, the government provided protection against refoulement and granted refugee status or asylum. The Government cooperated with the office of the UNHCR and other humanitarian organisations in assisting refugees.	
(d)	provision for a system of effective remedies against violations of these rights and freedoms	Yes	The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice. Impartial administrative investigations of acts of torture have been carried out by competent authorities of the Gendarmerie.	

<b>OVERALL ASSESSMENT</b>		
	<b>YES/NO</b>	<b>Insert basis for response</b>
1. Do you consider that the information sources listed at Annex B are sufficient for the purpose of conducting the in-depth assessment referred to by the JHA Council with regard to this country?	No	
2. If you answered no to Q 1 please specify: in which areas you consider the information sources to be insufficient; and any other sources of information available to you which would assist discussions and which you are in a position to share with other Member States (Provide website address or other details).		Given the importance of including a country on the minimum common list, determinations must be motivated by ample research and material. It is difficult to make such assertions with just the amount of material provided and the very short timeframe given to make such assessments.



3. Is the country suitable for inclusion on the minimum common list?	YES/NO	Insert basis for response
	Yes	<p>Given the importance of including a country on the minimum common list, determinations must be motivated by ample research and material. It is difficult to make such assertions given the amount of material provided and the short timeframe given to make such assessments. These factors ought to be taken into consideration when examining Malta's assessments.</p> <p>The legal situation, the application of the law within a democratic system and the general political circumstances in Chile indicate that this country appears to be considered generally and consistently safe.</p>

## Assessment template

To be completed by Member States in respect of each of the 10 countries under consideration and returned to the Council Secretariat by 8 June 2004

Name of Member State	Malta
Name of country for designation	Costa Rica

<b>QUESTIONS</b>	<b>YES/NO</b>	<b>BASIS FOR RESPONSE</b>	<b>Details of supporting information sources other than those at Annex B. Please indicate if these are publicly available</b>
1. Does the country have a democratic system in place?	Yes	Costa Rica is a longstanding, stable, constitutional democracy. The Constitution provides citizens with the right to change their government peacefully and citizens exercised this right through free and fair elections held on the basis of universal suffrage every four years. The presidential term	

		began in May 2002 in a fair and free election. The independent Supreme Electoral Tribunal ensured the integrity of elections, and the authorities and citizens respected election results.	
2. Is there a situation of internal or international armed conflict in the country?	No		

<p>3. Is there generally and consistently no persecution as defined in Article 9 of the Qualification Directive in the country?</p>	<p>Yes</p>	<p>The Constitution guarantees personal freedom and integrity against acts or omissions of authorities of any kind, including the judicial authorities. The Constitution expressly prohibits penalties which may directly affect a person's physical integrity. The Government generally respected the human rights of its citizens; however, there were problems in a few areas. Penitentiary overcrowding remained a problem. There were some instances of physical abuse by police and prison guards. The Ombudsman's office was an effective mechanism for lodging and recording complaints of police misconduct. The office investigated all complaints and referred serious cases of abuse to the public prosecutor. The judicial system processed some criminal cases very slowly, resulting in lengthy pretrial detention for some persons charged with crimes. Traditional patterns of unequal opportunity for women remained a problem, despite government and media efforts to advocate change.</p>	
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<p>4. Is there generally and consistently no torture or inhuman or degrading treatment or punishment in the country?</p>	<p>Yes</p>	<p>Several of the rights protected by the Constitution, internal legislation and international treaties constitute the basis for the protection of persons against torture and cruel, inhuman or degrading treatment. The Constitution expressly prohibits penalties which may directly affect a person's physical integrity, and holds invalid any statement obtained through violence, and the authorities generally abided by these prohibitions. Members of the public forces were responsible for some physical abuse. The Ombudsman's office was an effective mechanism for lodging and recording complaints of police misconduct. Prison conditions generally met international standards though penitentiary overcrowding remained a problem. Costa Rica permits the extraterritorial enforcement of criminal law in order to prosecute and punish persons responsible for torture.</p>	
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5. Where there is a situation of internal or international armed conflict in the country is there generally and consistently no threat by reason of indiscriminate violence in the country?	N/A		
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6. Is the extent to which protection is provided against persecution or mistreatment by means of (a) – (d) below sufficient to show that there is generally and consistently no persecution or mistreatment in the country?				
(a)	the relevant laws and regulations of the country and the manner in which they are applied	Yes	<p>The Constitution and law specifically provided for human rights guarantees (e.g. freedom of speech and of the press, of religion, of assembly, prohibition of discrimination, arbitrary arrest and detention, right to a fair trial, rights and guarantees of every person deprived of liberty etc...) and the Government generally respected these provisions in practice.</p> <p>Costa Rica has acceded to and ratified most of the international human rights instruments.</p> <p>The 2001 Law for Strengthening the Civilian Police required the police academy to develop course and diploma in police administration that includes material on the fundamental and universal principles of human rights.</p>	

(b)	<p>observance of the rights and freedoms laid down in the European Convention for the Protection of Human Rights and Fundamental Freedoms and/or the International Covenant for Civil and Political Rights and/or the Convention against Torture, in particular the rights from which derogation cannot be made under Article 15(2) of the said European Convention</p>	<p>Yes</p>	<p>Costa Rica has acceded to and ratified most of the international human rights instruments. The Constitution provides that all persons are equal before the law and the Government generally respected this provision.</p> <p>The Constitution and law specifically provided for human rights guarantees (e.g. freedom of speech and of the press, of assembly, prohibition of discrimination, arbitrary arrest and detention, right to a fair trial, rights and guarantees of every person deprived of liberty etc...) and the Government generally respected these provisions in practice. The Constitution provides for freedom of religion and the Government generally respected this right in practice. Members of all faiths practiced their religion without government interference.</p> <p>The death penalty was abolished for it was considered inconsistent with fundamental rights. Various human rights groups generally operated without government restriction, investigated and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.</p> <p>The Ombudsman's office was divided into nine different directorates, including one for women's issues, one for children and adolescents, as well as a 'special protection;' directorate for populations such as indigenous people, senior citizens, prisoners, persons with disabilities, immigrants, etc.</p>	
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(c)	respect of the non-refoulement principle according to the Geneva Convention	Yes	The Constitution specifically prohibits repatriation of anyone subject to potential persecution. In practice, the Government provided protection against refoulement and granted refugee status or asylum. There was a long tradition of providing refuge to persons from other countries. The law provides for granting refugee status or asylum to persons who met the definition of the UN Geneva Convention. The Government cooperated with the UNHCR and other humanitarian organisations in assisting refugees.	
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(d)	provision for a system of effective remedies against violations of these rights and freedoms	Yes	<p>The remedy of amparo establishes the right of any person to use this remedy to maintain or reestablish his enjoyment of the other fundamental rights embodied in the Constitution (except for the right to freedom, which is protected by habeas corpus).</p> <p>The Constitution and law provide for an independent judiciary and the Government generally respected this provision in practice. The Constitution provides for the right to a fair trial and an independent judiciary enforced this right. An Ombudsman is part of the legislative branch, ensuring a high degree of independence from the executive branch. The law provides for the functional, administrative and judicial independence of the Ombudsman's office. The office investigates complaints and, when appropriate, initiated suits against officials. The public force (consists of several combined police units) has a Disciplinary Legal Department with an Internal Affairs Unit to investigate charges made against its members.</p>	
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<b>OVERALL ASSESSMENT</b>		
	<b>YES/NO</b>	<b>Insert basis for response</b>
1. Do you consider that the information sources listed at Annex B are sufficient for the purpose of conducting the in-depth assessment referred to by the JHA Council with regard to this country?	No	
2. If you answered no to Q 1 please specify: in which areas you consider the information sources to be insufficient; and any other sources of information available to you which would assist discussions and which you are in a position to share with other Member States (Provide website address or other details).		Given the importance of including a country on the minimum common list, determinations must be motivated by ample research and material. It is difficult to make such assertions with just the amount of material provided and the very short timeframe given to make such assessments.

3. Is the country suitable for inclusion on the minimum common list?	YES/NO	Insert basis for response
	Yes	<p>Given the importance of including a country on the minimum common list, determinations must be motivated by ample research and material. It is difficult to make such assertions given the amount of material provided and the short timeframe given to make such assessments. These factors ought to be taken into account when evaluating Malta's assessments.</p> <p>The legal situation, the application of the law within a democratic system and the general political circumstances in Costa Rica indicate that this country appears to be considered generally and consistently safe.</p>

## Assessment template

To be completed by Member States in respect of each of the 10 countries under consideration and returned to the Council Secretariat by 8 June 2004

Name of Member State	Malta
Name of country for designation	Ghana

<b>QUESTIONS</b>	<b>YES/NO</b>	<b>BASIS FOR RESPONSE</b>	<b>Details of supporting information sources other than those at Annex B. Please indicate if these are publicly available</b>
1. Does the country have a democratic system in place?	Yes	Ghana is a constitutional democracy. The Constitution provides citizens with the right to change their government and citizens exercised this right through periodic, free and fair elections held on the basis of universal suffrage. Despite	

		a few incidents of intimidation and election fraud, domestic and international observers judged elections as generally free and fair.	
2. Is there a situation of internal or international armed conflict in the country?	No		
3. Is there generally and consistently no persecution as defined in Article 9 of the Qualification Directive in the country?	No	<p>Although the Constitution provides for protection against arbitrary arrest, detention or exile, arbitrary arrest and detention were problems.</p> <p>In practice, while incidents of abuse lessened, many abuses still occurred, including detention without charge for longer than 48 hours, failure to obtain a warrant for arrest, and remand of prisoners into investigative custody for indefinite periods by renewing warrants or simply allowing them to lapse.</p> <p>There were several traditional discriminatory practices that were injurious to the health and development of young girls, e.g. female genital mutilation (FGM), although the law prohibits FGM.</p>	

<p>4. Is there generally and consistently no torture or inhuman or degrading treatment or punishment in the country?</p>	<p>No</p>	<p>The Constitution prohibits such practices, however, there continued to be credible reports that police and customs officials beat prisoners and other citizens. It generally was believed that severe beatings of suspects in police custody occurred throughout the country but largely went unreported. Prison conditions in most cases were harsh and sometimes life threatening.</p> <p>In 2003, the National Reconciliation Committee held hearings on human rights abuses for the periods of unconstitutional government since independence in 1957. The Commission's 12-month mandate was extended by 6 months to accommodate the volume of complaints. By year's end, the NRC had registered 4,211 complaints nationwide, including ill treatment, detention, torture, seizure of property, unlawful killing, abductions, disappearance and</p>	
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5. Where there is a situation of internal or international armed conflict in the country is there generally and consistently no threat by reason of indiscriminate violence in the country?	N/A		
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6. Is the extent to which protection is provided against persecution or mistreatment by means of (a) – (d) below sufficient to show that there is generally and consistently no persecution or mistreatment in the country?				
(a)	the relevant laws and regulations of the country and the manner in which they are applied	Yes	<p>The Constitution provided for human rights guarantees (e.g. freedom of speech and of the press, of religion, of assembly, arbitrary arrest and detention, right to a fair trial, rights and guarantees of every person deprived of liberty). The Constitution also prohibits discrimination on the basis of race, sex, disability, language, or social status; however, enforcement by authorities was generally inadequate.</p> <p>Tribal customs are permitted but any customary practice that infringes an individual’s fundamental human rights or which dehumanises or is injurious to the physical and mental well-being of a person is specifically proscribed by the Constitution.</p>	

(b)	<p>observance of the rights and freedoms laid down in the European Convention for the Protection of Human Rights and Fundamental Freedoms and/or the International Covenant for Civil and Political Rights and/or the Convention against Torture, in particular the rights from which derogation cannot be made under Article 15(2) of the said European Convention</p>	No	<p>There were serious problems in some areas. Police use of excessive force resulted in some unlawful killings and injuries. There continued to be credible reports that police beat suspects in custody, and that police arbitrarily arrested and detained persons. Police corruption and impunity was a problem. Prison conditions remained harsh and life threatening. Prolonged pretrial detention remained a problem. Corruption in the judicial system remained a serious problem. At times, Government infringed on citizens' privacy rights. There were occasional reports that government officials pressured government media outlets to minimise coverage of opposition politicians. At times, the government restricted freedom of assembly. Police set up barriers to demand bribes from motorists. A night-time curfew continued in the north where intra-ethnic violence occurred during the previous year. Female genital mutilation still was practised. There were some incidents of politically and ethnically motivated violence, and some ethnic groups complained of discrimination.</p> <p>Some members of the police and other security forces committed numerous serious human rights abuses. Security forces committed some unlawful killings of criminal suspects and innocent bystanders with excessive force. Incidents of police brutality, negligence and corruption contributed to low public confidence in police, mob attacks on police stations and a widespread desire to deal with suspected criminals through vigilante justice.</p> <p>In 2003, the National Reconciliation Committee held hearings on human rights abuses for the periods of unconstitutional government since independence in 1957. The Commission's 12-month mandate was extended by 6 months to accommodate the volume of complaints. By year's end, the NRC had registered 4,211 complaints nationwide, including ill treatment, detention, torture, seizure of property, unlawful killing, abductions, disappearance and others.</p>	
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(c)	Respect of the non-refoulement principle according to the Geneva Convention	Yes	<p>The law provides for the granting of refugee status or asylum to persons who meet the definition in the 1951 Geneva Convention. In practice, the Government provided protection against refoulement and granted refugee status or asylum. The law also incorporates the broadened the refugee definition under the African Union Convention Governing Specific Aspects of Refugee Problems in Africa. The Government co-operated with the UNHCR and other humanitarian organisations in assisting refugees. The country generally had a liberal policy of accepting refugees from other West African countries.</p>	
(d)	provision for a system of effective remedies against violations of these rights and freedoms	No	<p>The Constitution provides for an independent judiciary; however, in practice the judiciary was subject to influence and corruption and lacked adequate resources. There were numerous allegations of corruption within the judicial system. In October 2003, the Chief Justice inaugurated a Complaints Unit of the Judicial Service to receive and investigative complaints of corruption, delays and unfair treatment. Within the first few weeks, the Unit received 46 complaints related to corruption, delay of court processes, and conduct of lawyers.</p>	

<b>OVERALL ASSESSMENT</b>		
	<b>YES/NO</b>	<b>Insert basis for response</b>
1. Do you consider that the information sources listed at Annex B are sufficient for the purpose of conducting the in-depth assessment referred to by the JHA Council with regard to this country?	No	
2. If you answered no to Q 1 please specify: in which areas you consider the information sources to be insufficient; and any other sources of information available to you which would assist discussions and which you are in a position to share with other Member States (Provide website address or other details).		Given the importance of including a country on the minimum common list, determinations must be motivated by ample research and material. It is difficult to make such assertions with just the amount of material provided and the very short timeframe given to make such assessments.

3. Is the country suitable for inclusion on the minimum common list?	YES/NO	Insert basis for response
	No	<p>Given the importance of including a country on the minimum common list, determinations must be motivated by ample research and material. It is difficult to make such assertions given the amount of material provided and the short timeframe given to make such assessments. These factors ought to be taken into account when evaluating Malta's assessments.</p> <p>Although the legal and/or constitutional provisions of Ghana may indicate the existence of fundamental rights and freedoms for its citizens, there is the concern that the general circumstances of Ghana, as demonstrated in the illustrations set out throughout this assessment, do not indicate this country to be generally and consistently safe as yet.</p>

## Assessment template

To be completed by Member States in respect of each of the 10 countries under consideration and returned to the Council Secretariat by 8 June 2004

Name of Member State	Malta
Name of country for designation	Mali

<b>QUESTIONS</b>	<b>YES/NO</b>	<b>BASIS FOR RESPONSE</b>	<b>Details of supporting information sources other than those at Annex B. Please indicate if these are publicly available</b>
1. Does the country have a democratic system in place?	Yes	Mali is a constitutional democracy. The Constitution provides citizens with the right to change their government peacefully and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Independent international and domestic observers judged the elections to be generally free and fair and without evident fraud.	

2. Is there a situation of internal or international armed conflict in the country?	No			
3. Is there generally and consistently no persecution as defined in Article 9 of the Qualification Directive in the country?	Yes	<p>Efforts have been made by the state to ensure greater respect for human rights.</p> <p>Female Genital Mutilation (FGM) was common. The practice was widespread among most regions and ethnic groups and was not religiously based. However, the Government instituted a plan to eliminate all forms of FGM by 2008.</p>		
4. Is there generally and consistently no torture or inhuman or degrading treatment or punishment in the country?	Yes	<p>The Constitution prohibits such practices and there were no reports that government officials employed them in 2003. Prison conditions remained poor. The government permitted prison visits by human rights monitors.</p>		
5. Where there is a situation of internal or international armed conflict in the country is there generally and consistently no threat by reason of indiscriminate violence in the country?	N/A			

6. Is the extent to which protection is provided against persecution or mistreatment by means of (a) – (d) below sufficient to show that there is generally and consistently no persecution or mistreatment in the country?				
(a)	the relevant laws and regulations of the country and the manner in which they are applied	Yes	The Constitution specifically provided for human rights guarantees (e.g. freedom of speech and of the press, of religion, of assembly, arbitrary arrest and detention, right to a fair trial, rights and guarantees of every person deprived of liberty). Several laws protect children and provide for their welfare.	



(b)	<p>observance of the rights and freedoms laid down in the European Convention for the Protection of Human Rights and Fundamental Freedoms and/or the International Covenant for Civil and Political Rights and/or the Convention against Torture, in particular the rights from which derogation cannot be made under Article 15(2) of the said European Convention</p>	<p>Yes</p>	<p>The Constitution provides for freedom of religion and the Government generally respects this right in practice. The generally amicable relationship among religions in society contributed to religious freedom, and government policy continued to contribute to the generally free practice of religion.</p> <p>The government generally respected its citizens' human rights, although there were problems in some areas. Prison conditions remained poor. Occasionally, police arbitrarily arrested and detained persons. The judiciary continued to be subject to executive influence and there were reports of corruption in the courts. Female genital mutilation (FGM) was widespread, although educational campaigns against FGM were ongoing.</p> <p>A practice which is said to persist in Mali is levirat, whereby a widow is inherited by the deceased husband's brothers and cousins.</p> <p>The Government was committed to providing for children's welfare and rights. In December 1996, the government formed a National Action Committee to promote the eradication of harmful health practices against women and children.</p> <p>In 2003, there were no reports that security forces committed human rights abuses, and no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents. The Constitution prohibits arbitrary arrest and detention and the Government generally observed these prohibitions. Several independent domestic human rights organisation generally operated without government restriction, investigating and publishing their findings on human rights cases.</p>	
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(c)	respect of the non-refoulement principle according to the Geneva Convention	Yes	The law provides for the granting of refugee status or asylum to persons who meet the definition of the 1951 Geneva Convention. In practice, the Government provided protection against refoulement and granted refugee status or asylum. The government cooperated with the UNHJCR and other humanitarian organisations in assisting refugees.	
(d)	provision for a system of effective remedies against violations of these rights and freedoms	Yes	The Constitution provides for an independent judiciary; however, in practice the executive branch continued to influence the judiciary. Domestic human rights groups alleged that there were instances of bribery and influence peddling in the courts. The Government continued to campaign against corruption.	

<b>OVERALL ASSESSMENT</b>		
	<b>YES/NO</b>	<b>Insert basis for response</b>
1. Do you consider that the information sources listed at Annex B are sufficient for the purpose of conducting the in-depth assessment referred to by the JHA Council with regard to this country?	No	
2. If you answered no to Q 1 please specify: in which areas you consider the information sources to be insufficient; and any other sources of information available to you which would assist discussions and which you are in a position to share with other Member States (Provide website address or other details).		Given the importance of including a country on the minimum common list, determinations must be motivated by ample research and material. It is difficult to make such assertions with just the amount of material provided and the very short timeframe given to make such assessments.

3. Is the country suitable for inclusion on the minimum common list?	YES/NO	Insert basis for response
	Yes	<p>Given the importance of including a country on the minimum common list, determinations must be motivated by ample research and material. It is difficult to make such assertions given the amount of material provided and the short timeframe given to make such assessments. These factors ought to be taken into account when evaluating Malta's assessments.</p> <p>The legal situation, the application of the law within a democratic system and the general political circumstances in Mali indicate that this country appears to be considered generally and consistently safe.</p>

## Assessment template

To be completed by Member States in respect of each of the 10 countries under consideration and returned to the Council Secretariat by 8 June 2004

Name of Member State	Malta
Name of country for designation	Mauritius

<b>QUESTIONS</b>	<b>YES/NO</b>	<b>BASIS FOR RESPONSE</b>	<b>Details of supporting information sources other than those at Annex B. Please indicate if these are publicly available</b>
1. Does the country have a democratic system in place?	Yes	The Republic Mauritius is a parliamentary democracy. The Constitution provides citizens with the right to change their government peacefully and citizens exercised this right in practice through periodic, free and fair elections on the basis of universal suffrage. According to international and local observers, free and fair elections were held in 2000.	
2. Is there a situation of internal or			

international armed conflict in the country?	No		
3. Is there generally and consistently no persecution as defined in Article 9 of the Qualification Directive in the country?	Yes	<p>The government generally respected the human rights of its citizens. The Constitution specifically provided for human rights guarantees (e.g. freedom of speech, or religion, of assembly, prohibition of discrimination, arbitrary arrest and detention, right to a fair trial etc...), and the Government generally enforced these provisions.</p> <p>However, there were reports that some of the members of the security forces committed human rights abuses, the most frequent form of alleged police abuse being the use of force to coerce a suspect to sign a confession. Police had also abused suspects and detainees and delayed suspects' access to defense counsel.</p>	

4. Is there generally and consistently no torture or inhuman or degrading treatment or punishment in the country?	Yes	The law prohibits torture and inhuman punishment and authorities generally respected this prohibition. The competence of the National Human Rights Commission includes examination of torture complaints. Prison conditions generally met international standards.	
5. Where there is a situation of internal or international armed conflict in the country is there generally and consistently no threat by reason of indiscriminate violence in the country?	N/A		

6. Is the extent to which protection is provided against persecution or mistreatment by means of (a) – (d) below sufficient to show that there is generally and consistently no persecution or mistreatment in the country?				
(a)	the relevant laws and regulations of the country and the manner in which they are applied	Yes	The Constitution specifically provided for human rights guarantees (e.g. freedom of speech, or religion, of assembly, prohibition of discrimination, arbitrary arrest and detention, right to a fair trial etc...) and the Government generally enforced these provisions. The Protection of Human Rights Law establishes the National Human Rights Commission.	



(b)	observance of the rights and freedoms laid down in the European Convention for the Protection of Human Rights and Fundamental Freedoms and/or the International Covenant for Civil and Political Rights and/or the Convention against Torture, in particular the rights from which derogation cannot be made under Article 15(2) of the said European Convention	Yes	The government generally respected the human rights of its citizens. A training programme for the police further sensitizes the police on international human rights standards and law enforcement. The establishment of the National Human Rights is an important element in the protection of human rights. Some domestic and international human rights organisations investigate and publish their findings on human rights cases. Government officials were generally cooperative and responsive to their views. However, there were problems in some areas. There were reports that police abused suspects and detainees and delayed suspects' access to defense counsel. The government maintained control over the nation's television stations. At times, police restricted freedom of assembly. Violence and discrimination against women and abuse of children continued to be problems.	
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(c)	respect of the non-refoulement principle according to the Geneva Convention	Yes	In practice the Government provides protection against refoulement, although it does not grant refugee or asylum status on the grounds that the country was small, had limited resources and did not wish to be a haven for large numbers of refugees.	
(d)	provision for a system of effective remedies against violations of these rights and freedoms	Yes	The Constitution provides for the right to a fair trial and an independent judiciary and the government generally respected this provision in practice. The National Human Rights Commission provides an individual with additional means to seek redress if he or she is subjected to torture or runs the risk of being extradited to a State where there are reasonable grounds to believe that he or she would be subjected to torture.	

<b>OVERALL ASSESSMENT</b>		
	<b>YES/NO</b>	<b>Insert basis for response</b>
1. Do you consider that the information sources listed at Annex B are sufficient for the purpose of conducting the in-depth assessment referred to by the JHA Council with regard to this country?	No	
2. If you answered no to Q 1 please specify: in which areas you consider the information sources to be insufficient; and any other sources of information available to you which would assist discussions and which you are in a position to share with other Member States (Provide website address or other details).		Given the importance of including a country on the minimum common list, determinations must be motivated by ample research and material. It is difficult to make such assertions with just the amount of material provided and the very short timeframe given to make such assessments.

3. Is the country suitable for inclusion on the minimum common list?	<b>YES/NO</b>	<b>Insert basis for response</b>
	Yes	<p>Given the importance of including a country on the minimum common list, determinations must be motivated by ample research and material. It is difficult to make such assertions given the amount of material provided and the short timeframe given to make such assessments. These factors ought to be taken into account when evaluating Malta's assessments.</p> <p>The legal situation, the application of the law within a democratic system and the general political circumstances in Mauritius indicate that this country appears to be considered generally and consistently safe.</p>

## Assessment template

To be completed by Member States in respect of each of the 10 countries under consideration and returned to the Council Secretariat by 8 June 2004

Name of Member State	Malta
Name of country for designation	Senegal

<b>QUESTIONS</b>	<b>YES/NO</b>	<b>BASIS FOR RESPONSE</b>	<b>Details of supporting information sources other than those at Annex B. Please indicate if these are publicly available</b>
1. Does the country have a democratic system in place?	Yes	Citizens have the constitutional right to change their government through periodic multiparty elections, which they exercised during the 2000 presidential election that ended the Socialist Party's 40-year domination of government. International and national observers characterised the elections as free and transparent.	
2. Is there a situation of internal or		The government and the MFDC signed two peace	

international armed conflict in the country?	No	agreements in 2001. Up to 15,000 displaced persons are expected to return to their home villages in Casamance this year as a low-level insurgency that has gone on for two decades peters out.	
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<p>3. Is there generally and consistently no persecution as defined in Article 9 of the Qualification Directive in the country?</p>	<p>No</p>	<p>The Government generally respected its citizens' rights; however, there were problems in some areas. Government forces were responsible for several deaths during the year and several disappearances from previous years remained unsolved. At times, police tortured and beat suspects during questioning and arbitrarily arrested and detained persons. Prison conditions were poor. Impunity remained a problem. Lengthy pretrial detention is a problem. The Government, at times, limited the freedoms of speech and associations. Although female genital mutilation (FGM) is a criminal offence, it remained a problem. There were national and governmental action plans against FGM.</p> <p>There were reports that rebel MFDC forces committed killings, torture and rape. The government generally did not punish members of the military, gendarmerie, or police for human rights abuses.</p>	
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<p>4. Is there generally and consistently no torture or inhuman or degrading treatment or punishment in the country?</p>	<p>No</p>	<p>The Constitution prohibits such treatment. Despite stronger legal provisions against torture, the Government was reluctant to prosecute members of the security forces accused of torture. Prison conditions remained poor and overcrowded. The government generally did not punish members of the military, gendarmerie, or police for human rights abuses.</p>	
<p>5. Where there is a situation of internal or international armed conflict in the country is there generally and consistently no threat by reason of indiscriminate violence in the country?</p>	<p>N/A</p>		



6. Is the extent to which protection is provided against persecution or mistreatment by means of (a) – (d) below sufficient to show that there is generally and consistently no persecution or mistreatment in the country?				
(a)	the relevant laws and regulations of the country and the manner in which they are applied	Yes	The Constitution specifically provided for human rights guarantees (e.g. freedom of speech and of the press, of religion, of assembly, arbitrary arrest and detention, right to a fair trial, rights and guarantees of every person deprived of liberty).	

(b)	<p>observance of the rights and freedoms laid down in the European Convention for the Protection of Human Rights and Fundamental Freedoms and/or the International Covenant for Civil and Political Rights and/or the Convention against Torture, in particular the rights from which derogation cannot be made under Article 15(2) of the said European Convention</p>	No	<p>The Constitution provides that men and women are equal before the law and prohibits discrimination based on sex, race, class or language. However, sex discrimination was widespread and the anti-discrimination laws often were not enforced. The Government generally respected its citizens' rights; however, there were problems in some areas. Government forces were responsible for several deaths during the year and several disappearances from previous years remained unsolved. At times, police tortured and beat suspects during questioning and arbitrarily arrested and detained persons. Prison conditions were poor. Impunity remained a problem. Lengthy pretrial detention is a problem. Human rights advocates and NGOs continued to report a decrease in arbitrary arrests and random violence in connection with the Casamance insurgency. The Government, at times, limited the freedoms of speech and associations. Although female genital mutilation (FGM) is a criminal offence, it remained a problem. There were national and governmental action plans against FGM. There were reports that rebel MFDC forces committed killings, torture and rape. A wide variety of human rights groups generally operated without government restriction, investigating and publishing their findings. Government officials generally were cooperative and responsive to their views.</p>	
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(c)	respect of the non-refoulement principle according to the Geneva Convention	Yes	The law provides for the granting of asylum and refugee status in accordance with the 1951 Geneva Convention. The Government cooperated with the UNHCR and other such humanitarian organisations.	
(d)	provision for a system of effective remedies against violations of these rights and freedoms	No	The Constitution provides for an independent judiciary; however, in practice it is subject to government influence and pressure. Low pay, poor working conditions, and family and political ties made magistrates vulnerable to outside pressure.	

<b>OVERALL ASSESSMENT</b>		
	<b>YES/NO</b>	<b>Insert basis for response</b>
1. Do you consider that the information sources listed at Annex B are sufficient for the purpose of conducting the in-depth assessment referred to by the JHA Council with regard to this country?	No	
2. If you answered no to Q 1 please specify: in which areas you consider the information sources to be insufficient; and any other sources of information available to you which would assist discussions and which you are in a position to share with other Member States (Provide website address or other details).		Given the importance of including a country on the minimum common list, determinations must be motivated by ample research and material. It is difficult to make such assertions with just the amount of material provided and the very short timeframe given to make such assessments.

3. Is the country suitable for inclusion on the minimum common list?	YES/NO	Insert basis for response
	No	<p>Given the importance of including a country on the minimum common list, determinations must be motivated by ample research and material. It is difficult to make such assertions given the amount of material provided and the short timeframe given to make such assessments. These factors ought to be taken into account when evaluating Malta's assessments.</p> <p>Although the legal and/or constitutional provisions of Senegal may indicate the existence of fundamental rights and freedoms for its citizens, there is the concern that the general circumstances of Uruguay, as demonstrated in the illustrations set out throughout this assessment, do not indicate this country to be generally and consistently safe as yet.</p> <p>However, it appears that the situation in Senegal is improving; according to a recent article describing Senegal-Germany relations, Senegal fulfils the five criteria for receiving German development aid relatively well within an African context: human rights, participation of the population in the political process, the rule of law, a market-friendly economic system and development-oriented governance.</p>

Assessment template

To be completed by Member States in respect of each of the 10 countries under consideration and returned to the Council Secretariat by 8 June 2004

Name of Member State	Malta
Name of country for designation	Uruguay

<b>QUESTIONS</b>	<b>YES/NO</b>	<b>BASIS FOR RESPONSE</b>	<b>Details of supporting information sources other than those at Annex B. Please indicate if these are publicly available</b>
1. Does the country have a democratic system in place?	Yes	The country is a multiparty democracy. The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.	

2. Is there a situation of internal or international armed conflict in the country?	No		
3. Is there generally and consistently no persecution as defined in Article 9 of the Qualification Directive in the country?	Yes	The government generally respected the human rights of its citizens. The Constitution specifically provided for human rights guarantees (e.g. freedom of speech, or religion, of assembly, prohibition of discrimination, arbitrary arrest and detention, right to a fair trial etc...), and the Government generally enforced these provisions. However, there were reports that some of the members of the security forces committed human rights abuses. Legislation punishes discrimination in the treatment of, or opportunities granted to, women.	

<p>4. Is there generally and consistently no torture or inhuman or degrading treatment or punishment in the country?</p>	<p>No</p>	<p>The Government generally respected the human rights of its citizens; however, there were problems in some areas. A report by the National Peace Commission confirmed human rights violations such as torture, illegal arrests and detentions in clandestine centers during the military dictatorship. Some members of the security forces committed some human rights abuses. There were numerous reports of abuse of prisoners inside the prison system. Human rights groups and an organisation of the families of prisoners filed complaints that included routine beatings in processing; routine hazing and beatings of prisoners during searches; poor quality and insufficient quantities of food, bedding and clothing and poor access to medical care. Prison conditions deteriorated during 2003. Overcrowding increased. The majority of prisoners infected with HIV and AIDS did not receive adequate treatment or medication.</p>	
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5. Where there is a situation of internal or international armed conflict in the country is there generally and consistently no threat by reason of indiscriminate violence in the country?	N/A		
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6. Is the extent to which protection is provided against persecution or mistreatment by means of (a) – (d) below sufficient to show that there is generally and consistently no persecution or mistreatment in the country?				
(a)	the relevant laws and regulations of the country and the manner in which they are applied	Yes	The Constitution specifically provided for human rights guarantees (e.g. freedom of speech and of the press, of religion, of assembly, arbitrary arrest and detention, right to a fair trial, rights and guarantees of every person deprived of liberty).	

(b)	observance of the rights and freedoms laid down in the European Convention for the Protection of Human Rights and Fundamental Freedoms and/or the International Covenant for Civil and Political Rights and/or the Convention against Torture, in particular the rights from which derogation cannot be made under Article 15(2) of the said European Convention	No	<p>A report by the National Peace Commission confirmed human rights violations such as torture, illegal arrests and detentions in clandestine centers during the military dictatorship. Some members of the security forces committed some human rights abuses. There were numerous reports of abuse of prisoners inside the prison system. Human rights groups and an organisation of the families of prisoners filed complaints that included routine beatings in processing; routine hazing and beatings of prisoners during searches; poor quality and insufficient quantities of food, bedding and clothing and poor access to medical care. Prison conditions deteriorated during 2003. Overcrowding increased. The penal system suffered from understaffing, corruption, and physical violence. The majority of prisoners infected with HIV and AIDS did not receive adequate treatment or medication.</p> <p>Protests and demonstrations about economic conditions, labour issues, bio-technical issues, the war in Iraq and student issues took place without interference. The Constitution and law prohibit discrimination on race, sex, religion or disability. Despite these provisions, societal discrimination against some groups existed. Women enjoyed equality under the law in the workplace but faced discrimination stemming from traditional attitudes and practices. Legislation punishes discrimination in the treatment of, or opportunities granted to, women.</p> <p>A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views.</p>	
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(c)	respect of the non-refoulement principle according to the Geneva Convention	Yes	The government grants refugee status in accordance with the 1951 Geneva Convention. In practice, the government protected against refoulement and granted refugee status. The Government cooperated with the office of the UNHCR.	
(d)	provision for a system of effective remedies against violations of these rights and freedoms	Yes	The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.	

<b>OVERALL ASSESSMENT</b>		
	<b>YES/NO</b>	<b>Insert basis for response</b>
1. Do you consider that the information sources listed at Annex B are sufficient for the purpose of conducting the in-depth assessment referred to by the JHA Council with regard to this country?	No	
2. If you answered no to Q 1 please specify: in which areas you consider the information sources to be insufficient; and any other sources of information available to you which would assist discussions and which you are in a position to share with other Member States (Provide website address or other details).		Given the importance of including a country on the minimum common list, determinations must be motivated by ample research and material. It is difficult to make such assertions with just the amount of material provided and the very short timeframe given to make such assessments.

3. Is the country suitable for inclusion on the minimum common list?	YES/NO	Insert basis for response
	No	<p>Given the importance of including a country on the minimum common list, determinations must be motivated by ample research and material. It is difficult to make such assertions given the amount of material provided and the short timeframe given to make such assessments. These factors ought to be taken into account when evaluating Malta's assessments.</p> <p>Although the legal and/or constitutional provisions of Uruguay may indicate the existence of fundamental rights and freedoms for its citizens, there is the concern that the general circumstances of Uruguay, as demonstrated in the illustrations set out throughout this assessment, do not indicate this country to be generally and consistently safe as yet.</p>