

2023 Rule of Law Report - targeted stakeholder consultation

Fields marked with * are mandatory.

Introduction

The annual Rule of Law Report lies at the centre of the European rule of law mechanism, which acts as a preventive tool, deepening multilateral dialogue and joint awareness of rule of law issues. So far, three editions of the Rule of Law Report have been published in 2020, 2021 and 2022.

In the preparation of the first three editions of the Rule of Law Report, the Commission has relied on a diversity of relevant sources, including from Member States, country visits, and stakeholders' contributions collected through the targeted stakeholder consultation [1]. The information provided has informed the Commission's country-specific assessments in preparing the Report. Building on the positive experience from the first three editions of the Rule of Law Report, the Commission is now inviting stakeholders to provide written contributions for the preparation of the 2023 Rule of Law Report through this targeted consultation.

The contribution to be provided should include (1) information on measures taken to implement the recommendations addressed to the Member State in the 2022 Rule of Law report, as well as developments with regard to the points raised in the respective country chapter and (2) any other significant developments since January 2022 [2] falling under the 'type of information' outlined in the next section.

The input should be short and concise and summarise information related to one or more of the areas referred to in the template. You are invited to focus on the areas that relate to the scope of work and expertise of your organisation. Existing reports, statements, legislation or other documents may be referenced with a link (no need to provide the full text). Stakeholders are encouraged to make references to any contributions already provided in a different context or to Reports and documents already published. Contributions should focus on significant developments both as regards the legal framework and its implementation in practice.

If you wish to submit information concerning several Member States, you will have to fill-in the questionnaire separately for each Member States (due to the size of the questionnaire). There is no limit to the number of contributions submitted by a single participant. In such cases, you are not required to repeat the information in the section "about you" that is non-mandatory nor the information on horizontal developments.

Please provide your contribution by **20 January 2023**. Should you have any requests for clarifications or encounter difficulties in filling in the questionnaire, you can contact the Commission at the following email

address: rule-of-law-network@ec.europa.eu.

[1] For the consultation for the 2022 Report, see https://ec.europa.eu/info/publications/2022-rule-law-report-targeted-stakeholder-consultation_en

[2] Unless the information was already submitted in the consultation for the previous Rule of Law Reports.

Type of information

The topics are structured according to four pillars: I. Justice system; II. Anti-corruption framework; III. Media pluralism; and IV. Other institutional issues related to checks and balances. The replies could include aspects set out below under each pillar. This can include challenges, current work streams, positive developments and best practices:

Legislative developments

- Newly adopted legislation
- Legislative drafts currently discussed in Parliament
- Legislative plans envisaged by the Government

Policy developments

- Implementation of legislation
- Evaluations, impact assessment, surveys
- White papers/strategies/actions plans/consultation processes
- Follow-up to reports/recommendations of Council of Europe bodies or other international organisations
- Important administrative measures
- Generalised practices

Developments related to the judiciary / independent authorities

- Important case law by national courts
- Important decision/opinions from independent bodies/authorities
- State of play on terms, nominations and expired mandates for high-level positions (e.g. Supreme Court, Constitutional Court, Council for the Judiciary, heads of independent authorities included in the scope of the questionnaire[1])

Any other relevant developments

- Respondents are free to add any further information, which they deem relevant; however, this should be short and to the point.

If there are no changes, it is sufficient to indicate this and the information covered in the contributions for the previous Rule of Law Reports should not be repeated.

[1] Such as: media regulatory authorities and bodies, national human rights institutions, equality bodies, ombudsman institutions, supreme audit institutions and, where they exist, transparency authorities.

About you

* I am giving my contribution as

- ☐ Academic/research institution
- ☐ Business association
- ☒ Civil society organisation/NGO
- ☐ International organisation
- ☐ Judicial association or network
- ☐ Media organisation or association
- ☐ Public authority or network of public authorities
- ☐ Other

* Organisation name

250 character(s) maximum

Repubblika

Main Areas of Work

- ☒ Justice System
- ☒ Anti-corruption
- ☒ Media Pluralism
- ☐ Other

Please insert an URL towards your organisation's main online presence or describe your organisation briefly:

500 character(s) maximum

Repubblika.org

Transparency register number

Check if your organisation is in the transparency register. It's a voluntary database for organisations seeking to influence EU decision-making

129499948114-16

* Country of origin

Please add the country of origin of your organisation

- ☐ Afghanistan
- ☐ Albania
- ☐ Algeria
- ☐ Andorra
- ☐ Angola
- ☐ Antigua and Barbuda

- ☐ Argentina
- ☐ Armenia
- ☐ Australia
- ☐ Austria
- ☐ Azerbaijan
- ☐ Bahamas
- ☐ Bahrain
- ☐ Bangladesh
- ☐ Barbados
- ☐ Belarus
- ☐ Belgium
- ☐ Belize
- ☐ Benin
- ☐ Bhutan
- ☐ Bolivia
- ☐ Bosnia and Herzegovina
- ☐ Botswana
- ☐ Brazil
- ☐ Brunei Darussalam
- ☐ Bulgaria
- ☐ Burkina Faso
- ☐ Burundi
- ☐ Cabo Verde
- ☐ Cambodia
- ☐ Cameroon
- ☐ Canada
- ☐ Central African Republic
- ☐ Chad
- ☐ Chile
- ☐ China
- ☐ Colombia
- ☐ Comoros
- ☐ Congo
- ☐ Costa Rica
- ☐ Côte D'Ivoire
- ☐ Croatia
- ☐ Cuba
- ☐ Cyprus
- ☐ Czechia
- ☐ Democratic Republic of the Congo
- ☐ Denmark
- ☐ Djibouti
- ☐ Dominica
- ☐ Dominican Republic
- ☐ Ecuador
- ☐ Egypt
- ☐ El Salvador

- ☐ Equatorial Guinea
- ☐ Eritrea
- ☐ Estonia
- ☐ Eswatini
- ☐ Ethiopia
- ☐ Fiji
- ☐ Finland
- ☐ France
- ☐ Gabon
- ☐ Gambia
- ☐ Georgia
- ☐ Germany
- ☐ Ghana
- ☐ Greece
- ☐ Grenada
- ☐ Guatemala
- ☐ Guinea
- ☐ Guinea Bissau
- ☐ Guyana
- ☐ Haiti
- ☐ Honduras
- ☐ Hungary
- ☐ Iceland
- ☐ India
- ☐ Indonesia
- ☐ Iran
- ☐ Iraq
- ☐ Ireland
- ☐ Israel
- ☐ Italy
- ☐ Jamaica
- ☐ Japan
- ☐ Jordan
- ☐ Kazakhstan
- ☐ Kenya
- ☐ Kiribati
- ☐ Kuwait
- ☐ Kyrgyzstan
- ☐ Laos
- ☐ Latvia
- ☐ Lebanon
- ☐ Lesotho
- ☐ Liberia
- ☐ Libya
- ☐ Liechtenstein
- ☐ Lithuania
- ☐ Luxembourg

- ☐ Madagascar
- ☐ Malawi
- ☐ Malaysia
- ☐ Maldives
- ☐ Mali
- ☒ Malta
- ☐ Marshall Islands
- ☐ Mauritania
- ☐ Mauritius
- ☐ Mexico
- ☐ Micronesia
- ☐ Monaco
- ☐ Mongolia
- ☐ Montenegro
- ☐ Morocco
- ☐ Mozambique
- ☐ Myanmar
- ☐ Namibia
- ☐ Nauru
- ☐ Nepal
- ☐ Netherlands
- ☐ New Zealand
- ☐ Nicaragua
- ☐ Niger
- ☐ Nigeria
- ☐ North Korea
- ☐ North Macedonia
- ☐ Norway
- ☐ Oman
- ☐ Pakistan
- ☐ Palau
- ☐ Panama
- ☐ Papua New Guinea
- ☐ Paraguay
- ☐ Peru
- ☐ Philippines
- ☐ Poland
- ☐ Portugal
- ☐ Qatar
- ☐ Republic of Moldova
- ☐ Romania
- ☐ Russian Federation
- ☐ Rwanda
- ☐ Saint Kitts and Nevis
- ☐ Saint Lucia
- ☐ Saint Vincent and the Grenadines
- ☐ Samoa

- ☐ San Marino
- ☐ Sao Tome and Principe
- ☐ Saudi Arabia
- ☐ Senegal
- ☐ Serbia
- ☐ Seychelles
- ☐ Sierra Leone
- ☐ Singapore
- ☐ Slovakia
- ☐ Slovenia
- ☐ Solomon Islands
- ☐ Somalia
- ☐ South Africa
- ☐ South Korea
- ☐ South Sudan
- ☐ Spain
- ☐ Sri Lanka
- ☐ Sudan
- ☐ Suriname
- ☐ Sweden
- ☐ Switzerland
- ☐ Syrian Arab Republic
- ☐ Tajikistan
- ☐ Tanzania
- ☐ Thailand
- ☐ Timor-Leste
- ☐ Togo
- ☐ Tonga
- ☐ Trinidad and Tobago
- ☐ Tunisia
- ☐ Turkey
- ☐ Turkmenistan
- ☐ Tuvalu
- ☐ Uganda
- ☐ Ukraine
- ☐ United Arab Emirates
- ☐ United Kingdom
- ☐ United States of America
- ☐ Uruguay
- ☐ Uzbekistan
- ☐ Vanuatu
- ☐ Venezuela
- ☐ Viet Nam
- ☐ Yemen
- ☐ Zambia
- ☐ Zimbabwe

First name

Emanuel

Surname

Delia

Email Address of the organisation (this information will not be published)

[REDACTED]

*** Publication of your contribution and privacy settings**

You can choose whether you wish for your contribution to be published and whether you wish your details to be made public or to remain anonymous.

- ☐ Anonymous - Only your type of respondent, country of origin and contribution will be published. Organisation name, URL, transparency register number, first name and surname given above will not be published. **To maintain anonymity, please refrain from mentioning the name of your organisation and any details from which your organisation can be identified in the rest of your contribution.**
- ☒ Public - Your personal details (name, organisation name, transparency register number, country of origin) will be published with your contribution).
- ☐ No publication - Your contribution will not be published. Elements of your contribution may be referred to anonymously in documents produced by the Commission based on this consultation.

☒ I agree with the personal data protection provisions.

[Specific privacy statement targeted stakeholder consultation 2023 rule of law report.pdf](#)

Questions on horizontal developments

In this section, you are invited to provide information on general horizontal developments or trends, both positive and negative, covering all or several Member States. In particular, you could mention issues that are common to several Member States, as well as best practices identified in one Member State that could be replicated. Moreover, you could refer to your activities in the area of the four pillars and sub-topics (an overview of all sub-topics can be found below), and, if you represent a Network of national organisations, to the support you might have provided to one of your national members.

Overview topics for contribution

[list of topics 2023 Report.pdf](#)

Please provide any relevant information on horizontal developments here

5000 character(s) maximum

In spite of the announcement of several policy initiatives by the Maltese authorities referred to in the 2022 rule of law report none of them have so far led to any material improvements to the principle issues raised by the report. The selection of the Chief Justice remains political. The executive exercises discretion on the removal from the record of criminal cases. The transition of prosecutions from the police to the prosecution service is halting and a marked deterioration in the quality of prosecutions particularly in cases of financial crimes is palpable. Specialised tribunals without normal safeguards for separation of powers remain in place. The administration of the justice system remains antiquated and relatively free of digital systems while waiting times for decisions increase. The state has still not prosecuted crimes of corruption that are now 7 years old and documented by the Panama Papers and Daphne Caruana Galizia. Meanwhile the government has rejected proposals for anti-corruption and anti-mafia laws recommended by the Daphne Independent Inquiry. Public sector recruitment "on trust" remain rampant bypassing legal requirements of independence. The public audit function remains under-resourced and follow up on recommendations nearly never happens. Malta continues to unlawfully sell passports to oligarchs unconnected with the country before or after they become its citizens. The authorities have attempted to impose new press laws without public consultation. Though the adoption of the laws has been suspended no consultation has started yet. No progress has been achieved in improving the regulation and conduct of public broadcasting, in transparency in media ownership, and on the regulation of public spending on advertising and PR. Freedom of Information rules continue to be respected merely in the breach and media organisations are forced to spend large sums of money to defend appeals by the government contesting FOI awards granted by lower tribunals. Security provided by the police to journalists and activists has been unilaterally withdrawn without explanation. The Protection of Whistleblowers Act remains unusable and not a single case has applied it since an attempt by the authorities, rejected by the courts, to use the law to frame an opposition politician. The authorities continue to reject repeated calls for consultation on improvements to the law. The Constitutional Convention announced in 2012 has still not been summoned while the government has passed through Parliament in this period several piecemeal changes to the constitution without any form of cohesive public consultation. Independent offices such as the Ombudsman and the Commissioner for Standards in Public Life have been weakened as their headships have been left unreplaced after the expiry of the terms of previous holders of the offices. There has been no discussion on applying universally redress given consistently by the courts on similar cases, particularly in cases of complaints of abusive possession of private properties by the authorities. Meanwhile, Repubblika has been active in its effort to push for reform. On the anti-corruption front we are challenging in the courts the conduct of the police and the decisions of the prosecution service not to prosecute after the Pilatus Bank scandal that exposed systemic money laundering. We are also leading a class action suit seeking a declaration of a breach of the right to property as the government persists in honouring the scandal-ridden Electrogas contract for energy. We are also managing human rights complaints regarding fair hearing by the specialist tribunal deciding on appeals on rejected freedom of information requests after the presiding officer resigned on the eve of a general election on the grounds that they served at the pleasure of the government, another party in the same case. Another human rights complaints concerns the chilling effect on press freedom of a decision by the court of appeal that has the effect of penalising commentary that can suggest mafia links of persons in public life. Another ongoing complaint concerns restrictions to the press for access to inspect living conditions in civil prisons and places of detention. We have also taken legal initiatives that led to the launch of magisterial inquiry into alleged corruption in the privatisation of public hospitals in Malta.

Questions for contribution

The following four pillars (I.-IV.) are sub-divided into topics (A., B., etc.) and sub-topics (1., 2., 3., etc.). For each of the topics and sub-topics, you are invited to provide (1) information on measures taken to implement the recommendations addressed to the Member States in the 2022 Rule of Law report, as well

as developments with regard to the points raised in the respective country chapter of the 2022 Rule of Law Report and (2) any other significant developments since January 2022[1]. Please include a link to and reference relevant legislation/documents (in the national language and/or where available, in English) if relevant. Significant developments can include challenges, positive developments and best practices, covering both legislative developments or implementation and practices.

If there are developments you consider relevant under each of the four pillars that are not mentioned in the sub-topics, please add them under the section "other - please specify". Only significant developments should be covered.

Information provided in reply to the first question under each pillar, related to the follow-up to the recommendations, does not need to be repeated in subsequent parts of the questionnaire, but can be cross-referenced in the subsequent questions, where relevant. All other questions are not limited to the recommendations, but as in previous years, cover the entire scope of the Report.

[1] Unless already covered in the input for the previous Rule of Law Reports.

Member State covered in contribution [only one choice possible]

If you wish to submit information concerning several Member States, please fill in the questionnaire separately for each Member State. There is no limit to the number of contributions submitted by a single participant.

- ☐ Austria
- ☐ Belgium
- ☐ Bulgaria
- ☐ Croatia
- ☐ Cyprus
- ☐ Czechia
- ☐ Denmark
- ☐ Estonia
- ☐ Finland
- ☐ France
- ☐ Germany
- ☐ Greece
- ☐ Hungary
- ☐ Ireland
- ☐ Italy
- ☐ Latvia
- ☐ Lithuania
- ☐ Luxembourg
- ☒ Malta
- ☐ Netherlands
- ☐ Poland
- ☐ Portugal
- ☐ Romania
- ☐ Slovak Republic
- ☐ Slovenia
- ☐ Spain

I. Justice System

Please provide information on measures taken to follow-up on the recommendations received in the 2022 Report regarding the justice system (if applicable)

3000 character(s) maximum

There has been little to no perceptible improvement in the justice system since the 2022 report. A number of statements by the Justice Ministry and by the authorities have confirmed the intent of the authorities to introduce reforms aimed at improving the efficiency of the judicial system. Details, however, have so far not been forthcoming, no public consultation has been commenced, and the existence of internal stakeholder consultation has not in any way been publicly announced.

A. Independence

Appointment and selection of judges, prosecutors and court presidents (incl. judicial review)

(The reference to 'judges' concerns judges at all level and types of courts as well as judges at constitutional courts)

3000 character(s) maximum

There has been no movement to address the anomaly in the most recent reforms of judicial appointments that the position of Chief Justice is filled in a vote in Parliament without reference to the wishes of the judiciary itself. In the appointment of other judges and magistrates the system has introduced discretionary powers by the President of Malta. This may prove problematically if anyone were to ever seek to challenge the application of that discretion as under Maltese constitutional law decisions taken by the President in fulfilment of their duties are not subject to judicial review.

Irremovability of judges, including transfers, (incl. as part of judicial map reform), dismissal and retirement regime of judges, court presidents and prosecutors (incl. judicial review)

3000 character(s) maximum

Promotion of judges and prosecutors (incl. judicial review)

3000 character(s) maximum

Allocation of cases in courts

3000 character(s) maximum

Repubblika has launched a human rights challenge on the system where decisions on calls for the recusal of a judge on grounds of conflicts of interest are decided by the same judge. The issue arose in a case brought by Repubblika against the Attorney General challenging her decision not to prosecute individuals identified by a magisterial inquiry for having committed crimes at the now defunct Pilatus Bank. The case was assigned to Magistrate Nadine Lia, daughter in law, of Paul Lia, the personal attorney of former Prime Minister Joseph Muscat who drew up terms of reference for an inquiry into allegations that Joseph Muscat received unlawful payments at Pilatus Bank. Nadine Lia rejected three calls for her recusal and was then ordered off the case in an interim order given by the constitutional court hearing Repubblika's human rights complaint. At the time of writing that interim order has been reversed by order of the Appeals Court.

Independence (including composition and nomination and dismissal of its members), and powers of the body tasked with safeguarding the independence of the judiciary (e.g. Council for the Judiciary)

3000 character(s) maximum

The Commission for the Administration of Justice includes a person appointed by the government. The appointee in office is Paul Lia who practices in the law courts arguing in front of judges who are then subjected to his authority in disciplinary proceedings. Apart from this general conflict of interest he has a particular conflict of interest as he is the personal attorney of disgraced former prime minister Joseph Muscat and also represents the ruling Labour Party. We consider his presence as a barrier to judicial independence in cases concerning crimes where people in or close to the Labour Party are involved and part cause for Malta's failure to address these cases.

Recent changes to the law governing the Commission for the Administration of Justice have abolished the right of private citizens or of members of the legal profession to file complaints for the consideration of the Commissioner. The right to recourse to the commission has been restricted to two possible complainants: the Chief Justice and the Justice Minister who have therefore become filters themselves of any complaint from any private citizen. This has reduced the accountability of the means of public scrutiny, limited as they have always been, of the judiciary.

Accountability of judges and prosecutors, including disciplinary regime and bodies and ethical rules, judicial immunity and criminal/civil (where applicable) liability of judges (incl. judicial review)

3000 character(s) maximum

Repubblika is currently testing for the first time new provisions in Maltese law that empower persons with a juridical interest to challenge a prosecutor's decision not to prosecute. The case is still ongoing and will be examining a number of fundamental issues that will test the workability of the legislation. The challenge concerns Pilatus Bank on which a magisterial inquiry concluded around 20 months ago directed for a number of prosecutions to commence but none have. In theory the content of the inquiry, the fact that it is concluded, the referral to the prosecutor and a decision of the prosecutor not to prosecute are secret instances which means that in most cases a victim of such a decision would never be made aware of it and consequently would be unable to challenge the same. The respondents in this case are also claiming that as an anti-corruption NGO we have no legal standing in a complaint about the prosecutor's decision not to prosecute as we cannot demonstrate being victims as such. The attorney general has also repeatedly appealed that she should not be forced to testify on her decisions on whether to prosecute someone which pleas have been overruled by the court. However her plea for her evidence to be given behind closed doors has been temporarily accepted by the court pending future review.

Remuneration/bonuses/rewards for judges and prosecutors, including observed changes (significant and targeted increase or decrease over the past year), transparency on the system and access to the information

3000 character(s) maximum

Independence/autonomy of the prosecution service

3000 character(s) maximum

The Pilatus Bank case, where the Attorney General's actions following a magisterial inquiry into crimes committed there, suggests a lack of motivation to secure convictions that cannot be explained except by the fact that proper prosecutions in this case risk exposing illicit payments made to leaders of the ruling party or perhaps the ruling party itself. The quality of the limited number of prosecutions commenced after the inquiry is very poor and have led to repeated expressions of frustration by the court hearing the cases that the prosecution appears to be in contempt of the entire process. A number of other persons identified for prosecution by inquiry have been given a decision by the prosecutor not to be prosecuted while other persons that are subjected to charges are the subject of international arrest warrants on which the Maltese state has made no demonstrable effort to implement.

The Pilatus Bank case is indicative of a wider culture that was confirmed by evidence given by the prosecution service to the Daphne Caruana Galizia inquiry that confirmed it had advised the police to hold back from taking any action following revelations in the Panama Papers that could be perceived by the investigated persons as intrusive.

The prosecution service has not acted on the evidence in the public domain published at great risk to the journalists who investigated them of corruption, particularly in the case of the procurement of energy (Electrogas, part owned by Yorgen Fenech, charged with ordering the assassination of Daphne Caruana Galizia to cover up the crimes connected to this contract) and in the case of the privatisation of public hospitals.

The continued impunity enjoyed by the perpetrators of these crimes suggests that the prosecution service continues to operate at the service of the political interests of the ruling party.

Independence of the Bar (chamber/association of lawyers) and of lawyers

3000 character(s) maximum

Significant developments capable of affecting the perception that the general public has of the independence of the judiciary

3000 character(s) maximum

B. Quality of justice

(Under this topic, you are not required to give statistical information but should provide input on the type of information outlined under section

2)

Accessibility of courts (e.g. court/legal fees, legal aid, language)

3000 character(s) maximum

Resources of the judiciary (human/financial/material)

(Material resources refer e.g. to court buildings and other facilities)

3000 character(s) maximum

Members of the judiciary habitually complain that they have an excessive case load and that their every effort to hand down judgements expeditiously are frustrated not only by the sheer volume of work but of systemic operational delays that are caused by limits in the resources available to them. Talk of digitisation and even of increased capacity with the recruitment of more members on the bench has had limited to no impact in the real world.

The impact of this reality on delays in securing judgements is considerable. Even human rights cases that are supposed by design to be decided expeditiously stretch out for years. That in and of itself is a breach of the right to a fair hearing which includes timely justice.

Another issue is the multiple functions of magistrates who swap between judicial duties as judges in the lower courts to investigators conducting magisterial inquiries. The duplicate functions creates delays on both fronts.

Training of justice professionals (including judges, prosecutors, lawyers, court staff)

3000 character(s) maximum

Malta provides no specialist training for judges and prosecutors beyond the formal law program given to all lawyers. This lack of specialisation in these specific career paths has an impact on the quality of performance.

Digitalisation (e.g. use of digital technology, particularly electronic communication tools, within the justice system and with court users, including resilience of justice systems in COVID-19 pandemic)

3000 character(s) maximum

No new procedures were implemented since the 2022 report in spite of promise of change.

Use of assessment tools and standards (e.g. ICT systems for case management, court statistics and their transparency, monitoring, evaluation, surveys among court users or legal professionals)

3000 character(s) maximum

There is no accountability of performance of the court system given to court users or the public.

Geographical distribution and number of courts/jurisdictions ("judicial map") and their specialization, in particular specific courts or chambers within courts to deal with fraud and corruption cases

3000 character(s) maximum

C. Efficiency of the justice system

(Under this topic, you are not required to give statistical information but should provide input on the type of information outlined under section 2)

Length of proceedings

3000 character(s) maximum

Length of proceedings remains excessive and anecdotal evidence suggests that the problem is getting worse, rather than better.

Other - please specify

3000 character(s) maximum

II. Anti-Corruption Framework

Where previous specific reports, published in the framework of the review under the UN Convention against Corruption, of GRECO, and of the OECD address the issues below, please make a reference to the points you wish to bring to the Commission's attention in these documents, indicating any relevant updates, changes or measures introduced that have occurred since these documents were published.

Please provide information on measures taken to follow-up on the recommendations received in the 2022 Report regarding the anti-corruption framework (if applicable)

3000 character(s) maximum

Evidence of corruption that has emerged in works by Daphne Caruana Galizia, the Panama Papers, and other journalistic investigations since 2016 have not led to any prosecutions. Magisterial inquiries about these stories continue and no indication has been given of any time for their closure. An inquiry into Pilatus Bank (closed by the ECB) concluded in 2021 and recommending charges for serious crimes against several individuals has led to the prosecution of just one individual who was a middle manager at the bank allowing the bank's owner, directors, and clients to go free. All recommendations made by the Daphne Caruana Galizia Public Inquiry on reforming Malta's anti-corruption legal framework have so far been ignored. Public sector appointments on the basis of trust rather than on a competitive basis -- identified by GRECO and the Commissioner for Standards in Public Life as gravely problematic -- continue without any change in policy. Recommendations to empower the National Audit Office have not been implemented. Amendments to the Protection of the Whistleblower Act, introduced while government rejected calls for public consultation, have retained the core faults in the law that continue to make it unusable. Malta continues to sell passports /citizenship in spite of Commission's legal action. In the meantime it has emerged that the prime minister is himself the landlord of absentee tenants who have acquired passports.

A. The institutional framework capacity to fight against corruption (prevention and investigation / prosecution)

List any changes as regards relevant authorities (e.g. national agencies, bodies) in charge of prevention detection, investigation and prosecution of corruption and the resources allocated to each of these authorities (the human, financial, legal, and technical resources as relevant), including the cooperation among domestic authorities. Indicate any relevant measure taken to effectively and timely cooperate with OLAF and EPPO (where applicable)

3000 character(s) maximum

Although several declarations of intent have been issued no initiatives to improve this sector have materialised. The Permanent Commission Against Corruption remains ill-resourced and its 30 year record of failing to secure even a single prosecution in cases of corruption remains unbroken. Bribery and corruption are in the competence of the Financial Crimes Investigations Department within the police. There have been no new prosecutions in the time in review. Though capacity in the department has increased high profile resignations in the period under review have partly extended the police's state of paralysis in this sector. Findings of unethical conduct by government officials by the Commissioner for Standards in Public Life have not led to appropriate action contemplated by law as his recommendations were stymied by the government control of the supervisory Parliamentary committee that overruled the Commissioner's recommendations in these cases. The position is currently vacant. Recommendations for reforms to improve oversight, prevention of and action against corruption and unethical conduct designed after extensive consultation by the OECD and published by the Commissioner for Standards in Public Life in July 2022 have not been implemented and the government has made no public sign that it intends to take any of them up.

Safeguards for the functional independence of the authorities tasked with the prevention and detection of corruption

3000 character(s) maximum

There has been so significant improvement in this regard. The requirement of cross-Parliamentary consensus in the appointment of positions such as the Ombudsman and the Commissioner for Standards in Public Life has also exposed a new vulnerability as a way of undermining these offices has been found by the government in proposing candidates unacceptable to the Opposition or vetoing nominees it does not approve of. Whatever roles anti-corruption agencies might theoretically have, the only entity in Malta with the power to arrest and charge anyone for corruption is the police and the only entity with the power to prosecute these cases is the Attorney General. Neither has at any time engaged with the public or civil society to demonstrate any form of concern with corruption and both are in court pushing back on challenges by civil society organisation Repubblika urging them to prosecute people found to have committed crimes the evidence of which has already been documented in magisterial inquiries.

Information on the implementation of measures foreseen in the strategic anti-corruption framework (if applicable). If available, please provide relevant objectives and indicators

3000 character(s) maximum

Given the record to date we are profoundly sceptical that any commitments made in any strategic document (drawn up in any case without any form of public engagement or consultation) are intended to yield some material result. In any case since the publication of the most recent strategic document civil society has been excluded from any discussions with the authorities with regards their intentions to implement these measures. We are indeed not aware of any public communication with regards to the subject of the anti-corruption strategy before, during, or since its launch.

B. Prevention

Measures to enhance integrity in the public sector and their application (including as regards incompatibility rules, revolving doors, codes of conduct, ethics training). Please provide figures on their application

3000 character(s) maximum

The Commissioner for Standards in Public Life last July published recommendations on these topics that were prepared after extensive public and civil society participation by the OECD. The government boycotted the launch of these recommendations and has since made no statement that it intends to look at them let alone implement them.

General transparency of public decision-making, including rules on lobbying and their enforcement, asset disclosure rules and enforcement, gifts policy, transparency of political party financing

3000 character(s) maximum

A number of these elements were included in the recommendations prepared by the OECD and published by the Commissioner for Standards in Public Life. (see above). There is no ongoing public discussion in which the authorities participate concerning any of these subjects. The government takes a very dim view of any form of public scrutiny of any of these affairs. Though political party financing in Malta is extremely problematic due to the disproportionate influence on public policy of a small number of construction magnates on whom political parties depend for their daily functioning, the government has ignored repeated calls made by Repubblika and other civil society organisations calling for a discussion on reforms. Indeed the current systems of political party funding and particularly the weak level of oversight and the near inexistence of any public funding of political parties are, as also identified in the Daphne Caruana Galizia Inquiry, an underlying cause of most of the corruption in Malta.

Rules and measures to prevent conflict of interests in the public sector. Please specify the scope of their application (e.g. categories of officials concerned)

3000 character(s) maximum

There have been no improvements in this regard even though this is a key problematic area identified by GRECO. Conflicts of interest are rampant and at every level. Consider how the prime minister who heads the government which is being legally challenged by the European Commission about the sale of Maltese citizenship to people who falsely claim being residents of Malta is also himself a landlord of absentee "citizens" who have made such acquisition thanks to him personally covering up for their false declarations. This culture of ignoring improper conflicts of interests is deeply ingrained at all levels of the public administration and is often superficially justified by the baseless excuse that Malta is a small country and multiple interests necessarily overlap.

Measures in place to ensure whistleblower protection and encourage reporting of corruption.

3000 character(s) maximum

Revisions to the Protection of Whistleblowers Act have sought to implement the bulk of the innovations in the most recent EU Directive. However the fundamental flaw that was in the original law remains in place and that is that the entity responsible to decide whether an applicant for whistleblower status is granted immunity is an appointee and works at the pleasure of the government which in theory is potentially the subject of allegations made by any whistleblower who can potentially expose government corruption. What's more the law does not provide immunity to potential witnesses who risk falling foul of secrecy laws by providing evidence in support of their application for whistleblower status. This means that with the exception of a failed attempt by the authorities to pursue an Opposition politician, since its inception in 2014, including its updating after the last directive in 2021, the Act has never been applied to meet its objective of protecting witnesses of corruption. Instead it has been used to intimidate potential witnesses by threatening them of

severe consequences (including prison) should they attempt to reveal any secret in support of their application for whistleblower status. The result of this is that not only is the PWA unusable it itself has the chilling effect of scaring potential witnesses into silence.

List the sectors with high-risks of corruption in your Member State and list the relevant measures taken /envisaged for monitoring and preventing corruption and conflict of interest in these sectors (e.g. public procurement, healthcare, citizen investor schemes, risk or cases of corruption linked to the disbursement of EU funds, other), and, where applicable, list measures to prevent and address corruption committed by organised crime groups (e.g. to infiltrate the public sector)

3000 character(s) maximum

Highest risk sectors:

Public procurement (particularly roads and major infrastructure)

Public concessions (particularly in primary healthcare and generation of electricity)

Disposal of public land for private and commercial use

Sale of citizenship to non-residents

Prevention of illegal trafficking at sea (particularly in fuel, drugs, and people)

Announcements of intent for improved oversight were recorded in the last Rule of Law Report. We are not aware either of the implementation of any of those announcements or of any new plans in these areas. The government has conducted no public consultation or initiated no public discussion on measures to prevent corruption in these or any other areas of the administration.

Any other relevant measures to prevent corruption in public and private sector

3000 character(s) maximum

C. Repressive measures

Criminalisation, including the level of sanctions available by law, of corruption and related offences, including foreign bribery

3000 character(s) maximum

No new initiatives.

Data on investigation and application of sanctions for corruption offences, including for legal persons and high level and complex corruption cases and their transparency, including as regards to the implementation of EU funds

(Please include, if available the number of (data since 2019): indictments; first instance convictions; first instance acquittals; final convictions; final acquittals; other outcomes (final) (i.e. excluding convictions and acquittals); cases adjudicated (final); imprisonment / custodial sentences through final convictions; suspended custodial sentences through final convictions; pending cases at the end of the reference year)

3000 character(s) maximum

None is published or made publicly available.

Potential obstacles to investigation and prosecution as well as to the effectiveness of criminal sanctions of high-level and complex corruption cases (e.g. political immunity regulation, procedural rules, statute of limitations, cross-border cooperation, pardoning)

3000 character(s) maximum

Formally there are a number of barriers to the successful prosecution of high-level and complex corruption cases that are however also a problem in the prosecution of other complex crimes as well. A crime comes to trial after the completion of a magisterial inquiry which in such complex cases actually precedes (rather than exists in parallel) a police investigation. A magisterial inquiry and or a police investigation are likely to only start after intelligence gathering by an agency such as the FIAU. When the inquiry and the investigation are concluded and depending on a successful outcome of an internal review by the Attorney General, evidence is heard in open court during the "compilation of evidence". Witnesses are cross-examined as well. Trial is usually still preceded by the extensive review of preliminary objections that are themselves subject to appeal.

The delays at the investigatory stage often lead to the expiry of the statute of limitations on these crimes. In theory corruption involving directly people who have been in Parliament is not subject to a statute of limitations. But the problem is more practical. When evidence of corruption first emerges months and years pass before any action, if ever, happens, and this is often too late to gather material evidence necessary for prosecution.

As this scenario suggests there are deeper informal obstacles to investigation and prosecution of corruption where politicians are concerned. Appointees to the police and other agencies and institutions often owe their jobs and their loyalties to the politicians they are expected to investigate. Repeatedly this leads to procedural or prosecutorial "mistakes" that lead to technical acquittals, procedural delays to push criminal complaints beyond the statute of limitations, or, in the more serious cases, an unspoken guarantee of impunity.

Information on effectiveness of non-criminal measures and of sanctions (e.g. recovery measures and administrative sanctions) on both public and private offenders

3000 character(s) maximum

Administrative sanctions issued by the Financial Intelligence Unit have focused almost exclusively on non-political actors who were sanctioned typically for failures in adopting preventive anti-money laundering procedures. The administrative fines are consistently downscaled (typically around ten fold) as they are found by the courts to be too onerous to be handed down by a body without the fair trial safeguards of a court of law. Even with this relative insurance of ineffectiveness, the financial intelligence agency has not applied its sanctioning powers in cases of corruption involving politicians.

Asset recovery is poor to inexistent. The state function barely operates at all, its effectiveness has been minimal and in probably the only case of any significance that they have acted, the decision was reversed by court order. Consider that the Electrogas power-station -- on which its owners allegedly paid bribes to Keith Schembri and Konrad Mizzi who were exposed by the Panama Papers to secure a public concession -- for which the police have openly declared they believe Yorgen Fenech (CEO of Electrogas) ordered the murder of Daphne Caruana Galizia who exposed the corruption in that case remains the property of Yorgen Fenech and his partners.

No move has been made to charge him and the ministers with corruption, let alone to recover the asset in his possession.

Other - please specify

3000 character(s) maximum

III. Media Freedom and Pluralism

Please provide information on measures taken to follow-up on the recommendations received in the 2022 Report regarding media freedom and pluralism (if applicable)

3000 character(s) maximum

The government has published a draft bill to amend the constitution, a bill to amend various laws with a view of introducing measures against SLAPP, and a bill to set up a security committee to oversee the safety of journalists. The bills, published without any public consultation, was severely criticised by the press freedom community and was 'frozen' pending a public consultation. We are not aware that such consultation has occurred yet. The published proposals fall short of the recommendations of the Daphne Caruana Galizia public inquiry and of the EU Commission's recommendation that came with the draft anti-SLAPP directive. There has been no discussion on the reform of the Broadcasting Authority while public broadcasting has retained a strict compliance with government control. No progress has been achieved in improving media ownership transparency rules. There is no known progress towards the regulation of government spending on the media which remains secret and without any rules on fairness. Freedom of Information requests are honoured in the breach and the government systemically appeals awards of freedom of information cases by the regulator delaying any possible final award beyond any utility for the information if it is ever obtained. In the meantime independent journalists report that any requests for information put to official ministry spokespeople are almost invariably ignored. Security for journalists and activists at risk or who have received credible threats has been withdrawn by the police.

A. Media authorities and bodies

(Cf. Article 30 of Directive 2018/1808)

Measures taken to ensure the independence, enforcement powers and adequacy of resources (financial, human and technical) of media regulatory authorities and bodies

3000 character(s) maximum

None. Recommendations to reform the Malta Broadcasting Authority have not been implemented.

Conditions and procedures for the appointment and dismissal of the head / members of the collegiate body of media regulatory authorities and bodies

3000 character(s) maximum

No change.

Existence and functions of media councils or other self-regulatory bodies

3000 character(s) maximum

The Institute of Maltese Journalists (IGM) is a voluntary body grouping together a number of journalists from various media include media owned or controlled by the government and political parties. It is generally unable to fulfil its duty as a representative body to promote the interests of the journalism profession and to secure the independence of the free press largely because it works with close to zero financial resources, no staff, and the little personal time, if any, left over the working hours of the volunteers on its committee who

themselves are journalists working in an under-resourced, under-funded industry.

This is exploited by the authorities who recruit the IGM as a partner and consultee of its measures in these areas which however is unable to fulfil its basic functions of negotiator or even participant in a meaningful consultation process.

B. Safeguards against government or political interference and transparency and concentration of media ownership

Measures taken to ensure the fair and transparent allocation of state advertising (including any rules regulating the matter)

3000 character(s) maximum

None. Government advertising and government funding of media organisations (for example as in the case during covid) is decided behind closed doors. It is not accounted for separately and there are no rules governing value for money or media budgeting according to objective criteria such as fairness or even audience reach. This allows the government to reward sympathetic media organisations including the media organisations that the ruling party owns and to punish critical news organisations by withholding advertising expenditure.

Safeguards against state / political interference, in particular:

- safeguards to ensure editorial independence of media (private and public)
- specific safeguards for the independence of heads of management and members of the governing boards of public service media (e.g. related to appointment, dismissal), safeguards for their operational independence (e.g. related to reporting obligations and the allocation of resources) and safeguards for plurality of information and opinions
- information on specific legal provisions and procedures applying to media service providers, including as regards granting/renewal/termination of licenses, company operation, capital entry requirements, concentration and corporate governance

3000 character(s) maximum

Private independent media are in theory entirely autonomous in their editorial decision and in the hiring or firing of staff. Pressures are not be applied such as the case of Victor Vella, editor of newspapers owned by the General Workers' Union, who was suspended from duty and threatened with dismissal for reporting that was critical of the government on migration matters.

There are no safeguards to prevent political interference in both the editorial decisions and the recruitment and dismissal policies in public broadcasting. Indeed political interference is regular and employees working there operate in the understanding that none of their work can risk being seen as dissenting from the official sources.

Constitutional safeguards exist to ensure that on matters of political controversy the views of the Parliamentary opposition are included in the reporting. Outside of that scope other voices in society, particularly dissenting opinions, protest movements, civil society organisations, and members of minorities such as immigrant communities are systemically disadvantaged or excluded from public broadcasting.

The two parliamentary parties own two of the three TV stations in Malta that carry a news-service while the

third station is state owned and largely controlled by the government. This ensures that there is no independent journalism to speak of on Malta's TV space and matters such as the rule of law, minority rights, free speech, and corruption are only covered in so far as they enable the political agenda of their owner.

Transparency of media ownership and public availability of media ownership information, including on direct, indirect and beneficial owners, as well as any rules regulating the matter

Media ownership is, by and large, transparent, yet Malta is particular in view of the fact that the two main political parties - the PL (Partit Laburista) and the PN (Partit Nazzjonalista) - own and operate multimedia outlets which include TV, radio, print and online platforms. Consequently, such ownership structures, inevitably, have an impact on the editorial autonomy of their newsrooms, since editorial direction tends to reflect the concerned party's respective agenda. There is also a lack of transparency when it comes to the publication of revenues, since party-owned media structures have failed, repeatedly, to publish audited accounts, as required by law.

C. Framework for journalists' protection, transparency and access to documents

Rules and practices guaranteeing journalist's independence and safety, including as regards protection of journalistic sources and communications

3000 character(s) maximum

At present the physical protection of journalists is at the discretion of the police without any external oversight. The police have appointed a person to act as liaison with journalists but she does not appear to be part of the decision on whether journalists require protection. Protection granted to a number of journalists and activists before the March 2022 general election was withdrawn straight after. There is no publicly available information about this matter.

There is no known ongoing dialogue between the police and other competent authorities and members of the journalism profession on ways to ensure their safety.

Law enforcement capacity, including during protests and demonstrations, to ensure journalists' safety and to investigate attacks on journalists

3000 character(s) maximum

Reports made to the police of threats made to journalists on a regular basis using electronic media and computer misuse as well as the cloning of online media outlets have not resulted in any prosecutions. The police have privately acknowledged that their capabilities in completing such investigations are very limited.

Personal security that was provided outside the homes of journalists and activists who have been threatened was withdrawn with the explanation that this was partly due to severe limitations on police resources.

Journalists's complaints about physical assaults or aggression in public spaces are regularly investigated and prosecuted by the police and regularly result in protection and anger management orders handed down by the courts.

Access to information and public documents (incl. transparency authorities where they exist, procedures, costs/fees, timeframes, administrative/judicial review of decisions, execution of decisions by public authorities, possible obstacles related to the classification of information)

3000 character(s) maximum

The Freedom of Information Act is entirely dysfunctional. It becomes desirable to use it more readily than should be expected because in most cases the government will not provide responses to questions from the press or the public unless it's forced to. Once a request is made applying the FOIA process a long list of exceptions in the law is applied or just as readily misapplied to deny the requested information. When called to review, the Data Protection and Information Commissioner can be expected to apply the law appropriately and order the release of the requested information. More often than not that decision would then be appealed by the government to a special tribunal. The special tribunal is appointed by a government appointee without security of tenure and according to custom resigns every time the minister who appointed them is changed to allow the new minister to replace them with someone they like. It is then only possible to appeal from the tribunals decision to the courts on points of law. By then almost invariably information that would have been in the public interest when it was first requested would be entirely redundant when it is given.

Lawsuits (incl. SLAPPs - strategic lawsuits against public participation) and convictions against journalists (incl. defamation cases) and measures taken to safeguard against manifestly unfounded and abusive lawsuits

3000 character(s) maximum

Proposals made by the government in this regard in draft laws published this year are still very limited. The proposals would allow journalists to ask for "manifestly unfounded" defamation claims to be made at the start of proceedings. But the proposal does not include the possibility of requesting the dismissal of vexatious lawsuits. Nor do the proposals allow judicial initiative in dismissing unfounded claims during proceedings.

A second proposal claims to offer protection against judgements abusively obtained from courts outside Malta. The law excludes judgements within the EU or any third country judgement protected by any other law or international treaty. The protection, such as it is, is the limitation of penalties imposed by an international court to penalties applicable under Maltese law and only if the defendant journalist has defended their case in that international court. The penalties would still be enforceable if the journalist is found responsible for actions that are not unlawful under Maltese law.

The proposals fall short of the standard set by the draft EU directive. No penalties are proposed to dissuade corporate bullies from using SLAPPs.

No proposals are action by the authorities indicates any intention to provide training for practitioners about SLAPPs, there is no news about any planned information campaigns, and no offer of support for journalists undergoing SLAPP suits.

Other - please specify

3000 character(s) maximum

IV. Other institutional issues related to checks and balances

Please provide information on measures taken to follow-up on the recommendations received in the 2022 Report regarding the system of checks and balances (if applicable)

The government almost never publishes draft laws before debate on them has already started in parliament and there is almost close to no possibility at all for the public or civil society to participate in the drawing up of legislation. A constitutional convention promised in 2012 and postponed in 2020 due to covid has not yet been convened and there is no news yet about its starting date. In the time period since 2012 several amendments to the constitution have been adopted piecemeal by Parliament. There has been no indication that the government is considering the universal application of findings of the constitutional court which forces property owners unable to enjoy their property due to government abuse to have to seek and obtain decisions by the court identical to several other decisions taken in other identical cases.

A. The process for preparing and enacting laws

Framework, policy and use of impact assessments and evidence based policy-making, stakeholders'[1] /public consultations (particularly consultation of judiciary and other relevant stakeholders on judicial reforms), and transparency and quality of the legislative process

[1] This includes also the consultation of social partners

Outside the practice of consulting social partners in the preparation of the national budget, policy consultation in the legislative process is nearly inexistent. White papers with draft pre-publication bills are nearly extinct. Stakeholder's calls for public consultation ahead of anticipated legislation is nearly always ignored. The process of drafting legislation happens almost entirely internally to the government. The Opposition normally sees the drafts after the debate on their approval is already scheduled in the Parliamentary agenda and they are normally given a few days to review the laws before they are discussed. Opposition and back-bench government MPs are almost never able to add any significant value to legislative debates. Stakeholders and civil society are never invited by the government's initiative to comment about the drafts in any meaningful advance time before the enactment of the law. There is close to no effort to provide data or evidence that support legislative changes, nor are comparative legislative models from other countries made available as policy options from which the government has made its choices.

Rules and use of fast-track procedures and emergency procedures (for example, the percentage of decisions adopted through emergency/urgent procedure compared to the total number of adopted decisions)

In practice, and outside the approval of the yearly budget, legislative acts of parliament largely enable ministerial legislative discretion. There were 72 acts of Parliament in 2021. In the same year ministers signed 510 subsidiary legislative acts into force. There is no process of public debate or scrutiny before the publication of Legal Notices that become law by virtue of their publication. There is a rarely used ex-post option for MPs to propose to Parliament the cancellation of a Legal Notice but this never ends with the withdrawal of the Legal Notice.

This keeps public debate on legislation to the minimum as acts of Parliament are usually unsubstantive enabling acts while the effective application of the law is enforced by executive order.

Regime for constitutional review of laws

Laws can be challenged for their constitutional compliance by any citizen in the constitutional court. The court has declarative powers but any law declared unconstitutional remains in force until the legislature decides to remove or replace it.

COVID-19: provide update on significant developments with regard to emergency regimes/measures in the context of the COVID-19 pandemic

- judicial review (including constitutional review) of emergency regimes and measures in the context of COVID-19 pandemic
- oversight (incl. ex-post reporting/investigation) by Parliament of emergency regimes and measures in the context of COVID-19 pandemic
- processes related to lessons learned/crisis preparedness in terms of the functioning of checks and balances

3000 character(s) maximum

B. Independent authorities

Independence, resources, capacity and powers of national human rights institutions ('NHRIs'), of ombudsman institutions if different from NHRIs, of equality bodies if different from NHRIs and of supreme audit institutions

(Cf. the website of the European Court of Auditors: <https://www.eca.europa.eu/en/Pages/SupremeAuditInstitutions.aspx#>)

3000 character(s) maximum

The Human Rights Directorate is an integral unit of the public service and has no policy autonomy from the government whatsoever. It reports to the Ministry for Home Affairs which is itself the subject of several human rights criticism particularly in the areas of search and rescue at sea, detention of undocumented migrants, forced repatriations, as well as conditions in civil prisons. Other equality government agencies are also entirely in control of government.

The Ombudsman's office work is only successful to the point that the government agrees to implement their recommendations. When they don't, reports by the Ombudsman referred to Parliament are systemically ignored.

The Commissioner for Standards in Public Life has also completed several high profile investigations. However the Committee for Standards in Public Life that has a majority of MPs from the ruling party has consistently blocked the implementation of the recommended findings. The position is currently vacant and there's cross-party gridlock on the choice of replacement which makes the office completely ineffective.

Statistics/reports concerning the follow-up of recommendations by National Human Rights Institutions, ombudsman institutions, equality bodies and supreme audit institutions in the past two years

3000 character(s) maximum

From the Ombudsman's report for 2021: "In fact, during the year no less than 16 reports by the Ombudsman and his Commissioners were sent to the House of Representatives and laid on the Table of the House by the Speaker. There has been absolutely no reaction from Members on either side."

C. Accessibility and judicial review of administrative decisions

Transparency of administrative decisions and sanctions (incl. their publication and rules on collection of related data)

3000 character(s) maximum

Accessibility to the courts for judicial review of administrative decisions (469A) is limited by tight requirements on juridical interest of the complainant which reduces the opportunity for rights monitors to seek review of administrative decisions where the victim is not easy to identify.

Accessibility to the courts for judicial review of decisions by the Attorney General not to prosecute (469B) is new to our laws and is being tested for the first time by Repubblika in a case brought against the AG for a decision not to prosecute persons identified by a Magisterial inquiry for crimes committed at the former Pilatus Bank. The case is ongoing so it remains to be seen if the legal barrier on juridical interest proves insurmountable. In the meantime the practical difficulty with the application of this new law is that it depends on the complainant discovering there has indeed been a decision not to prosecute. Such a decision is taken by the AG in secret and there is no legal obligation to inform the victim, let alone the public, that the decision has been taken, which makes it impossible to contest at all.

Judicial review of administrative decisions:

- short description of the general regime (in particular competent court, scope, suspensive effect, interim measures, and any applicable specific rules or derogations from the general regime of judicial review)

3000 character(s) maximum

The judicial review under Article 469A of the Code of Organisation and Civil Procedure, Chapter 12 of the laws of Malta (the “Code”), is a staple judicial remedy that grants natural or legal persons the ability to request the Maltese courts of justice of civil jurisdiction to “enquire into the validity of any administrative act or declare such act null, invalid or without effect”. This legal provision is often resorted to by natural or legal persons that believe to have been unjustly prejudiced by an administrative act carried out by a public authority within the Maltese jurisdiction. As stated in sub-article (1)(b) of article 469A, the prejudiced party requesting this judicial remedy is required to prove that the administrative act being contested was either carried out in violation of the Constitution of Malta, or that the public authority was acting beyond its legal authority and powers, or ultra vires, on any of the grounds listed therein.

Follow-up by the public administration and State institutions to final (national/supranational) court decisions, as well as available remedies in case of non-implementation

3000 character(s) maximum

To our knowledge institutions comply with court decisions following judicial review.

D. The enabling framework for civil society

Measures regarding the framework for civil society organisations and human rights defenders (e.g. legal framework and its application in practice incl. registration and dissolution rules)

3000 character(s) maximum

Following a crisis in 2020 where proposed changes to rules governing civil society threatened the viability of this activity, we entered a more stable period with the applications of relatively reasonable regulatory rules. Given the very limited resources of human rights oriented NGOs the administrative burden of complying with oversight requirements of the office of the Commissioner of Voluntary Organisation is considerable and for smaller organisations impractical.

Rules and practices having an impact on the effective operation and safety of civil society organisations and human rights defenders. This includes measures for protection from attacks – verbal, physical or on-line –, intimidation, legal threats incl. SLAPPs, negative narratives or smear campaigns, measures capable of affecting the public perception of civil society organisations, etc. It also includes measures to monitor threats or attacks and dedicated support services.

3000 character(s) maximum

Anti-SLAPP legislation proposed by the government in September 2022 and currently frozen pending the start of public consultations introduce protective provisions that are restricted to journalists and exclude activists, NGOs and other human rights defenders.

Following the March 2022 general election, security provided by the police to ensure the safety of activists who had been threatened was withdrawn.

Reports of threats and abuse sent through electronic media using anonymised communication have not led to any prosecutions. The police have, however, acted in cases of physical threats made to civil society activists and secured convictions and protection orders.

Organisation of financial support for civil society organisations and human rights defenders (e.g. framework to ensure access to funding, and for financial viability, taxation/incentive/donation systems, measures to ensure a fair distribution of funding)

3000 character(s) maximum

None. Civil society organisations that act as watchdogs on the public administration particularly if they are concerned with issues such as human rights, free speech, the rule of law, and similar enjoy no public funding, and no financial support measures. The few organisations who raise enough funds to be able to employ at least one individual are able to pitch for EU funds but the first employee barrier is too high for most organisations.

Rules and practices on the participation of civil society organisations and human rights defenders to the decision-making process (e.g. measures related to dialogue between authorities and civil society, participation of civil society in policy development and decision-making, consultation, dialogues, etc.)

3000 character(s) maximum

There are no such rules. The government has full discretion when and if to discuss with anyone the laws it adopts or pushes through Parliament and more often than not that means speaking to no one.

E. Initiatives to foster a rule of law culture

Measures to foster a rule of law culture (e.g. debates in national parliaments on the rule of law, public information campaigns on rule of law issues, contributions from civil society etc.)

3000 character(s) maximum

No such measures are taken by the authorities.

Other - please specify

3000 character(s) maximum

Contact

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