

Annual Rule of Law
Report - Council of
Europe input

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

2021

Directorate General Human Rights and Rule of Law (DG I)

Malta

I Justice System

A. Independence

CEPEJ

CEPEJ – Country profile Malta - Scoreboard (2019 data) (*content of the link will be available after acceptance of the CEPEJ Study for the Scoreboard by DG-Just*)

[CEPEJ Country Profiles Malta Scoreboard](#)

CEPEJ European Judicial Systems Evaluation Report – Evaluation cycle 2018-2020 (2018 data) – Part 2 Country profile Malta

[CEPEJ Evaluation Report - Country Profiles – Malta](#)

CEPEJ website – General Country profile Malta (including answers to the Evaluation Scheme)

[General CEPEJ Country profile](#)

European Judicial Systems CEPEJ Evaluation Report – Evaluation cycle 2018-2020 (2018 data) – Part 1 Tables, graphs and analysis

[CEPEJ Evaluation Report 2020 Part 1](#)

CEPEJ Dynamic database of European judicial systems

[CEPEJ-STAT](#)

1. Appointment and selection of judges and prosecutors

GRECO

<https://www.coe.int/en/web/greco/evaluations/malta>

5th round: corruption prevention in respect of central government, including the top executive functions, and law enforcement

4th round: corruption prevention in respect of MPs, judges and prosecutors

3rd round: incrimination and transparency of Party Funding

2. Irremovability of judges, including transfers of judges and dismissal

GRECO

<https://www.coe.int/en/web/greco/evaluations/malta>

5th round: corruption prevention in respect of central government, including the top executive functions, and law enforcement

4th round: corruption prevention in respect of MPs, judges and prosecutors

3rd round: incrimination and transparency of Party Funding

3. Promotion of judges and prosecutors

GRECO

<https://www.coe.int/en/web/greco/evaluations/malta>

5th round: corruption prevention in respect of central government, including the top executive functions, and law enforcement

4th round: corruption prevention in respect of MPs, judges and prosecutors

3rd round: incrimination and transparency of Party Funding

4. Allocation of cases in courts

GRECO

<https://www.coe.int/en/web/greco/evaluations/malta>

5th round: corruption prevention in respect of central government, including the top executive functions, and law enforcement

4th round: corruption prevention in respect of MPs, judges and prosecutors

3rd round: incrimination and transparency of Party Funding

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

GRECO

<https://www.coe.int/en/web/greco/evaluations/malta>

5th round: corruption prevention in respect of central government, including the top executive functions, and law enforcement

4th round: corruption prevention in respect of MPs, judges and prosecutors

3rd round: incrimination and transparency of Party Funding

6. Accountability of judges and prosecutors, including disciplinary regime and ethical rules.

GRECO

<https://www.coe.int/en/web/greco/evaluations/malta>

5th round: corruption prevention in respect of central government, including the top executive functions, and law enforcement

4th round: corruption prevention in respect of MPs, judges and prosecutors

3rd round: incrimination and transparency of Party Funding

7. Remuneration/bonuses for judges and prosecutors

8. Independence/autonomy of the prosecution service

GRECO

<https://www.coe.int/en/web/greco/evaluations/malta>

5th round: corruption prevention in respect of central government, including the top executive functions, and law enforcement

4th round: corruption prevention in respect of MPs, judges and prosecutors

3rd round: incrimination and transparency of Party Funding

9. Independence of the Bar (chamber/association of lawyers)

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

GRECO

<https://www.coe.int/en/web/greco/evaluations/malta>

5th round: corruption prevention in respect of central government, including the top executive functions, and law enforcement

4th round: corruption prevention in respect of MPs, judges and prosecutors

3rd round: incrimination and transparency of Party Funding

The European Commission for Democracy through Law – Venice Commission

CDL-AD(2018)028 English 17/12/2018 - Public

[Malta - Opinion on Constitutional arrangements and separation of powers and the independence of the judiciary and law enforcement, adopted by the Venice Commission at its 117th Plenary Session \(Venice, 14-15 December 2018\).](#)

11. Other - please specify

PACE

Democracies facing the Covid-19 pandemic

Rapporteur : Mr Ian LIDDELL-GRAINGER, United Kingdom, EC/DA

[Doc. 15157](#)

Consultative Council of European Judges (CCJE)

Statement by the President of the CCJE on the role of judges during and in the aftermath of the COVID-19 pandemic: lessons and challenges (24 June 2020)

<https://rm.coe.int/ccje-2020-2-statement-of-the-ccje-president-3-lessons-and-challenges-c/16809ed060>

Opinion No. 23 (2020) of the CCJE on the role of associations of judges in supporting judicial independence (6 November 2020)

<https://rm.coe.int/opinion-23-en-ccje-2020/1680a03d4b>

Consultative Council of European Prosecutors (CCPE)

Opinion No. 15 (2020) of the CCPE on the role of prosecutors in emergency situations, in particular when facing a pandemic (19 November 2020)

<https://rm.coe.int/opinion-no-15-ccpe-en/1680a05a1b>

GRECO

[9 December 2020 – International Anti-Corruption Day - Newsroom \(coe.int\)](#)

GRECO President: “No quarter to corruption in healthcare, governments must lead by example”

B. Quality of justice

CEPEJ

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CEPEJ Dynamic database of European judicial systems

[CEPEJ-STAT](#)

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

13. Resources of the judiciary (human/financial)

CEPEJ

CEPEJ conducted the Project “**Supporting the efficiency of Justice in Malta**”. More information can be found on <https://www.coe.int/en/web/cepej/supporting-the-efficiency-of-justice-in-malta> The following documents

were developed under the project over the period March 2020-March 2021. They are not meant to be publicly shared on the internet:

- The “Report on Human Resources Strategy and Setting up of the HR Agency” developed recommendations on a document made by an external provider on the Human Resources Strategy for Maltese judicial system, as regards the setting up of an specifically designed Agency. The final report also developed specific recommendations for the different Departments and units of judicial administration in Malta. It also developed, upon request of the beneficiaries during the covid crisis, an extensive part on the use of teleworking,

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

15. Other - please specify

European Commission for the Efficiency of Justice (CEPEJ)

<https://www.coe.int/en/web/cepej/country-profiles/malta>

C. Efficiency of the justice system

CEPEJ

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GRECO

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5th round: corruption prevention in respect of central government, including the top executive functions, and law enforcement

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16. Length of proceedings

Department for the Execution of Judgments of the European Court of Human Rights

[Galea and Pavia v Malta \(No. 77209/16\) \(ENHA\)](#): This case concerns both the excessive length of criminal proceedings (between 1983 and 1999) and of constitutional redress proceedings (between 1999 and 2016) and lack of effective remedies in this respect (violation of Articles 6 and 13).

Presentation on Hudoc.exec: [Galea and Pavia v Malta](#)

Latest information: [Action report of 15 February 2021](#)

17. Enforcement of judgements

18. Other - please specify

CEPEJ

Digitalisation of the justice system

CEPEJ conducted the project “Establishing a digital strategy for the Maltese justice sector”. More information can be found on <https://www.coe.int/en/web/cepej/establishing-a-digital-strategy-for-the-maltese-justice-sector1>. The project has provided the following input:

- Expert Assessment report of the existing and planned ICT initiatives in the Maltese justice sector. This report provides an overview of the all the justice-related ICT activities of the most relevant stakeholders in the Maltese justice sector. This report will be important for the continued elaboration of the digital justice strategy and its action plan, as it provides the necessary overview of what is needed, and what already exists.

European Court of Human Rights - country profile

https://echr.coe.int/Documents/CP_Malta_ENG.pdf

Execution of Judgments of the European Court of Human Rights - country factsheets

<https://rm.coe.int/1680709758>

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 that have occurred since these documents were published.

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

GRECO

Guidelines addressed to GRECO 50 Member States

[Corruption Risks and Useful Legal References in the context of COVID-19](#)

[Published 21/04/2020](#)

Office of the Commissioner for Human Rights

[Corruption undermines human rights and the rule of law - Human Rights Comments - Commissioner for Human Rights \(coe.int\) – published on 19 January 2021](#)

GRECO

<https://www.coe.int/en/web/greco/evaluations/malta>

5th round: corruption prevention in respect of central government, including the top executive functions, and law enforcement

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3rd round: incrimination and transparency of Party Funding

19. List of relevant authorities (e.g. national agencies, bodies) in charge of prevention detection, investigation and prosecution of corruption. Where possible, please indicate the resources allocated to these (the human, financial, legal, and practical resources as relevant).

B. Prevention

GRECO

Guidelines addressed to GRECO 50 Member States

Corruption Risks and Useful Legal References in the context of COVID-19

Published 21/04/2020

GRECO

<https://www.coe.int/en/web/greco/evaluations/malta>

5th round: corruption prevention in respect of central government, including the top executive functions, and law enforcement

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3rd round: incrimination and transparency of Party Funding

20. Integrity framework: asset disclosure rules, lobbying, revolving doors and general transparency of public decision-making (including public access to information)

The European Commission for Democracy through Law – Venice Commission

CDL-AD(2014)035 English 14/10/2014 - Public

Joint Opinion on the Draft Act to regulate the formation, the inner structures, functioning and financing of political parties and their participation in elections of Malta, adopted by the Venice Commission at its 100th Plenary Session (Rome, 10-11 October 2014)

21. Rules on preventing conflict of interests in the public sector

22. Measures in place to ensure Whistle-blower protection and encourage reporting of corruption

23. List the sectors with high-risks of corruption in your Member State and list the relevant measures taken/envisaged for preventing corruption in these sectors. (e.g. public procurement, healthcare, other).

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

C. Repressive measures

GRECO

<https://www.coe.int/en/web/greco/evaluations/malta>

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4th round: corruption prevention in respect of MPs, judges and prosecutors

3rd round: incrimination and transparency of Party Funding

25. Criminalisation of corruption and related offences,

26. Overview of application of sanctions (criminal and non-criminal) for corruption offences (including for legal persons)

27. Potential obstacles to investigation and prosecution of high-level and complex corruption cases (e.g. political immunity regulation)

The European Commission for Democracy through Law – Venice Commission

CDL-AD(2018)028 English 17/12/2018 - Public

Malta - Opinion on Constitutional arrangements and separation of powers and the independence of the judiciary and law enforcement, adopted by the Venice Commission at its 117th Plenary Session (Venice, 14-15 December 2018).

III Media pluralism

A. Media regulatory authorities and bodies

28. Independence, enforcement powers and adequacy of resources of media authorities and bodies

Relevant recommendation of the Committee of Ministers of the Council of Europe to member states:

[Recommendation Rec \(2000\) 23 of the Committee of Ministers to member states on the independence and functions of regulatory authorities for the broadcasting sector](#)

Daphne Caruana Galizia's assassination and the rule of law in Malta and beyond: ensuring that the whole truth emerges

Report on follow-up to Parliamentary Assembly Resolution 2293 (2019)

Rapporteur: Mr Pieter OMTZIGT, the Netherlands, Group of the European People's Party

[AS/Jur \(2020\) 42 \(coe.int\)](#)

Statement endorsed by the Committee on Legal Affairs and Human Rights: [Malta's response to Assembly demands on Daphne's assassination and the rule of law 'unsatisfactory' \(coe.int\)](#)

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

B. Transparency of media ownership and government interference

30. The transparent allocation of state advertising (including any rules regulating the matter)

31. Public information campaigns on rule of law issues (e.g. on judges and prosecutors, journalists, civil society)

[Office of the Commissioner for Human Rights](#)

[Time to take action against SLAPPs - Human Rights Comments - Commissioner for Human Rights \(coe.int\)](#) – published on 27 October 2020

32. Rules governing transparency of media ownership

Relevant recommendation of the Committee of Ministers of the Council of Europe to member states:

[Recommendation CM/Rec\(2018\)1 of the Committee of Ministers to member States on media pluralism and transparency of media ownership](#)

PACE

[The impact of the Covid-19 pandemic on human rights and the rule of law](#)

(Rapporteur : [Mr Vladimir VARDANYAN](#), Armenia, EPP/CD)

[Doc. 15139](#) / See also the [Opinion](#) by the Committee on Culture, Science, Education and Media on the aforementioned report.

C. Framework for journalists' protection

33. Rules and practices guaranteeing journalist's independence and safety and protecting journalistic and other media activity from interference by state authorities

The European Commission for Democracy through Law – Venice Commission

CDL-AD(2018)028 English 17/12/2018 - Public

[Malta - Opinion on Constitutional arrangements and separation of powers and the independence of the judiciary and law enforcement, adopted by the Venice Commission at its 117th Plenary Session \(Venice, 14-15 December 2018\).](#)

34. Law enforcement capacity to ensure journalists' safety and to investigate attacks on journalists

Relevant recommendation of the Committee of Ministers of the Council of Europe to member states:

[Recommendation CM/Rec\(2016\)4 of the Committee of Ministers to member States on the protection of journalism and safety of journalists and other media actors](#)

35. Access to information and public documents

Office of the Commissioner for Human Rights

[Access to official documents is crucial – let's make it a reality - Human Rights Comments - Commissioner for Human Rights \(coe.int\) – published on 1 December 2020](#)

36. Other - please specify

Office of the Commissioner for Human Rights

[Tapping the full potential of Equality Bodies for a fairer Europe Tapping the full potential of Equality Bodies for a fairer Europe - Human Rights Comments - Commissioner for Human Rights \(coe.int\) – published on 26 June 2020](#)

Platform to promote the protection of journalism and safety of journalists

<https://www.coe.int/en/web/media-freedom/malta>

Freedom of expression chapters of the annual reports of the Secretary General of the Council of Europe featuring indicators on media pluralism and transparency of ownership, media independence and safety of journalists as well as country-specific assessments:

2018

<https://rm.coe.int/state-of-democracy-human-rights-and-the-rule-of-law-role-of-institutio/168086c0c5>

2017

<https://edoc.coe.int/en/an-overview/7345-pdf-state-of-democracy-human-rights-and-the-rule-of-law.html>

2016

https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680646af8

2015

https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=090000168058e01e

IV Other institutional issues related to checks and balances

A. The process for preparing and enacting laws

37. Stakeholders'/public consultations (particularly consultation of judiciary on judicial reforms), transparency of the legislative process, 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).

38. Regime for constitutional review of laws

B. Independent authorities

39. independence, capacity and powers of national human rights institutions, ombudsman institutions and equality bodies

The European Commission for Democracy through Law – Venice Commission

CDL-AD(2018)014 English 23/06/2018 - Public

[Malta - Opinion on the draft act amending the Constitution, on the draft act on the human rights and equality commission, and on the draft act on equality, adopted by the Venice Commission at its 115th Plenary Session \(Venice, 22-23 June 2018\)](#)

C. Accessibility and judicial review of administrative decisions

40. modalities of publication of administrative decisions and scope of judicial review

41. implementation by the public administration and State institutions of final court decisions

D. The enabling framework for civil society

42. Measures regarding the framework for civil society organisations

43. Other - please specify

The European Commission for Democracy through Law – Venice Commission

[CDL-AD\(2020\)006-e](#), Malta - Opinion on proposed legislative changes, adopted by the Venice Commission on 18 June 2020 by a written procedure replacing the 123rd Plenary Session

[https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2020\)006-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2020)006-e)

The European Commission for Democracy through Law – Venice Commission

[CDL-AD\(2020\)019-e](#), Malta - Opinion on ten Acts and bills implementing legislative proposals subject of Opinion CDL-AD(2020)006, adopted by the Venice Commission at its 124th online Plenary Session (8-9 October 2020)

[https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2020\)019-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2020)019-e)

The European Commission for Democracy through Law – Venice Commission

CDL-AD(2014)035 English 14/10/2014 - Public

[Joint Opinion on the Draft Act to regulate the formation, the inner structures, functioning and financing of political parties and their participation in elections of Malta, adopted by the Venice Commission at its 100th Plenary Session \(Rome, 10-11 October 2014\)](#)

Expert Council on NGO Law report on criminalisation of NGO activity in relation to migration and a compendium of developments 2017-2019 in NGO law, freedom of association

<https://rm.coe.int/expert-council-conf-exp-2020-1-ngos-developments-in-standards-mechanis/16809ccd3a>

<https://rm.coe.int/expert-council-conf-exp-2019-1-criminal-law-ngo-restrictions-migration/1680996969>

Private Office procedure on human rights defenders interacting with the Council of Europe

https://www.coe.int/en/web/secretary-general/news-2019-thorbjorn-jagland/-/asset_publisher/9j1gCsAwfdMt/content/revised-private-office-procedure-on-human-rights-defenders-interacting-with-the-council-of-europe