

2024 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 Annual Rule of Law Cycle, which acts as a preventive tool, deepening multilateral dialogue and joint awareness of rule of law issues. So far, four editions of the Rule of Law Report have been published in 2020, 2021, 2022 and 2023.

The Commission would like to invite stakeholders to provide contributions to the 2024 Rule of Law Report. This survey provides information on the type of information and topics that will be covered in the 2024 Rule of Law Report, in order to allow stakeholders to provide input. More targeted input may be requested at a later stage of preparation of the 2024 Rule of Law Report, including in the context of country visits, or bilateral contacts.

The 2024 Rule of Law Report will continue to deepen the assessment under the existing four pillars, and will also follow-up on the implementation of the recommendations to Member States, that were issued as part of the 2023 Rule of Law Report. The contribution to be provided should include **(1) information on measures taken to implement the recommendations addressed to the Member State in the 2023 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 2023^[1] falling under the ‘type of information’ outlined in section II.**

The input should consist of a short summary, if possible in English, covering the areas referred to below. Legislation or other documents may be referenced with a link. Contributions should focus on significant developments since the last Rule of Law Report both as regards the legal framework and its implementation in practice.

[1] Unless the information was already submitted in the input 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:

A) Legislative developments

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

B) 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

C) 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[2])

D) 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.

Please also indicate whether the developments reported are linked to the implementation of reforms and investments under the RRP, where applicable.

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.

[2] 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

The Daphne Caruana Galizia Foundation

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

<https://www.daphne.foundation/en/>

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

481066842274-13

* 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

Francesca

Surname

Borg Costanzi

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

* 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 2024 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 2024 RoL Report.pdf](#)

Please provide any relevant information on horizontal developments here

5000 character(s) maximum

Anti-corruption framework

Horizontal change is minimal. High-level corruption cases are still not being prosecuted and the government continues to fail to implement anti-corruption recommendations made by European institutions. The authorities in charge of fighting corruption lack capacity, expertise and resources. The culture of impunity in which they operate dulls their ability to carry out their work and weakens their public standing. The FIAU and the Asset Recovery Bureau have reported an increase in capacity but human resources in other authorities (e.g. Attorney General and the Financial Crime Investigations Department of the police) are being depleted.

Improvement in the independence of the authorities has also been insignificant. Major corruption scandals involving public officials punctuated 2023 but the PM has repeatedly downplayed the level of corruption, its impact, and the measures that should be taken.

The government has failed to implement the anti-corruption recommendations set out by GRECO and the OECD. And there has been no transparency in the achievement of the milestones set out in the National Anti-Corruption Strategy. The government continues to refuse to implement the rule of law recommendations made in the report of the public inquiry into the circumstances of the assassination of Daphne Caruana Galizia.

Public sector decision-making is opaque because it is governed by rules that are unclear and unenforced so policy on lobbying, revolving doors, conflicts of interest, and gifts are often ignored by public officials. No laws have been introduced to regulate lobbying.

Whistleblower protection is substandard and the channels through which persons can speak out are muddled with political influence. The public is becoming increasingly apathetic to reporting corruption because of the lack of protection and fear that they will become targets.

The passport sales scheme, use of EU funds, elections, the benefits system and driving licensing are the five areas that are most susceptible to corruption and the infiltration of organised crime in the government remains high.

The government has taken little action against the main players in the multiple corrupt schemes exposed this year. The major obstacles that hinder corruption investigations are the continued culture of impunity; the lack of resources, capacity, accountability, and enforcement; the polarised environment within which the authorities operate; and public perception. Administrative sanctions imposed by the FIAU have repeatedly been found to be unconstitutional by the Maltese courts but the authority will not change its procedures until it is mandated by the outcome of court appeals. 60% of the fines imposed remain unpaid.

Media pluralism and freedom

The environment and independence of the media have been stagnant in 2023 and progress in the area of media reform has been a box-ticking exercise. Collaboration between the media and the police on safety is superficial and safety measures for journalists are ineffective. The Freedom of Information process is still resistant to public disclosure and access to ministers is problematic. Independent newsrooms are underfunded and increasingly dependent on public funds.

The Broadcasting Authority is politically-biased and there has been no effort to increase its independence, despite it repeatedly being found by the courts to have failed to be impartial. The public broadcaster continues to lose money, even with a yearly injection of €6 million in public money. Its governance has also been criticised for favouring the narrative of the governing party.

The under-resourced Institute of Maltese Journalists is not a formalised union and has shown little public support for its members. It contributed towards freezing the media reform bills that the government was trying to push through by threatening to pull out of the process. Its governing members involved in the PM-appointed committee of experts refused to share information on the report that the committee drafted.

State advertising is an opaque process because the government and political parties are not mandated to provide detailed information on how funds are allocated for advertising. This lack of transparency and independent media's reliance on advertising contributes to the government having political influence over what is published by withholding campaign budgets. Transparency in media ownership is not a legal obligation. The beneficial ownership register remains closed to journalists and civil society.

The proposed media reform falls short of protecting journalists and the government has not taken any steps

to provide any specialised assistance to journalists.

Malta had the highest no. of SLAPPs per capita of any country in Europe in 2022 and the government's proposed legislation does little to reduce the problem. The impact of the Anti-SLAPP Directive remains to be seen.

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 State in the 2023 Rule of Law report, as well as developments with regard to the points raised in the respective country chapter of the 2023 Rule of Law Report and (2) any other significant developments since January 2023^[3]. Please always include a link to and reference relevant legislation/documents (in the national language and/or where available, in English). 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.

[3] 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
- ☐ Sweden

I. Justice System

Please provide information on measures taken to follow-up on the recommendations received in the 2023 Report regarding the justice system (if applicable)

5000 character(s) maximum

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)

5000 character(s) maximum

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)

5000 character(s) maximum

Promotion of judges and prosecutors (incl. judicial review)

5000 character(s) maximum

Allocation of cases in courts

5000 character(s) maximum

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)

5000 character(s) maximum

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)

5000 character(s) maximum

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

5000 character(s) maximum

Independence/autonomy of the prosecution service

5000 character(s) maximum

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

5000 character(s) maximum

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

5000 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)

5000 character(s) maximum

Resources of the judiciary (human/financial/material)

(Material resources refer e.g. to court buildings and other facilities. Financial resources include salaries of staff in courts and prosecution offices.)

5000 character(s) maximum

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

5000 character(s) maximum

Digitalisation (e.g. use of digital technology, particularly electronic communication tools, within the justice system and with court users, procedural rules, access to judgments online)

5000 character(s) maximum

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)

5000 character(s) maximum

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

5000 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

5000 character(s) maximum

Other - please specify

5000 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 2023 Report regarding the anti-corruption framework (if applicable)

5000 character(s) maximum

Recommendation: Step up measures to address challenges related to the length of investigations of high-level corruption cases, including by establishing a robust track record of final judgments.

No effective measures have been introduced to address the length of investigations of high-level corruption nor to prosecute the individuals involved. There are no prosecutions of high-level, large scale corruption and therefore no robust track record of final judgments.

Furthermore, the European Parliament (EP) expressed its concern at the lack of action by the Prime Minister in a resolution adopted on the 19th October 2023 on the rule of law in Malta. Among the concerns raised, the EP commented that it was appalled that the Prime Minister downplayed acts of institutionalised corruption and in turn further anchored the country into a culture of impunity for public officials involved in scandals in his statement during the reopening of parliament following the summer recess.: https://www.europarl.europa.eu/doceo/document/TA-9-2023-0374_EN.pdf. Moreover, throughout 2023 the government continued to fail to address the recommendations concerning corruption and strengthening the rule of law made by the Public Inquiry into the assassination of Daphne Caruana Galizia. <https://theshiftnews.com/2023/10/03/pms-failure-to-address-rule-of-law-recommendations-shocking/>.

The EP called on the Venice Commission to draw up an opinion on how to strengthen the Maltese legal framework to effectively and forcefully address corruption and abuse of power. It also called on the Maltese government to take measures which rigorously ensure the prosecution of high-level economic and financial crimes to address the obstacles related to the length of investigations into high-level corruption. The government has not begun to take any steps to efficiently address the recommendations made in the resolution.

At its 95th Plenary Meeting, after adopting the 2nd Fifth Round Compliance Report on Malta (GrecoRC5 (2023)7), GRECO invited its Committee to solicit Malta on "the need for determined action to be taken with a view to achieving tangible progress as soon as possible". It also invited Malta to authorise the publication of the 2nd Fifth Round Compliance Report "as soon as possible" but there is no indication that this publication has so far taken place. <https://rm.coe.int/greco-2023-14-eng-decisions-greco-95-2787-7198-9768-1/1680ad92b5>

The Fifth Round Evaluation Report published in May 2022 indicates that, of GRECO's 23 recommendations, Malta was found to have implemented only 2 recommendations in a satisfactory manner, while 12 are only partly implemented and 9 were not implemented. <https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/1680a69ed2>

During the time under review, the OECD published two public governance reviews which are of relevance to Malta's anti-corruption framework. In its report on Public Integrity in Malta, the OECD made several recommendations for the improvement of the integrity and transparency framework for elected and appointed officials, while in its report on Public Procurement in Malta the OECD made recommendations for building capacity and managing risks. There is no indication that any of these recommendations have been

implemented or acted on. <https://www.oecd-ilibrary.org/deliver/d64e5e05-en.pdf?itemId=/content/publication/d64e5e05-en&mimeType=pdf>
<https://www.oecd-ilibrary.org/deliver/0ecc469e-en.pdf?itemId=/content/publication/0ecc469e-en&mimeType=pdf>

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 and with foreign authorities. Indicate any relevant measure taken to effectively and timely cooperate with OLAF and EPPO (where applicable)

5000 character(s) maximum

The authorities in charge of prevention, detection, investigation and prosecution of corruption remain under-resourced and overstretched.

The Malta Police Force's infrastructure is heavily undermined by a lack of resources, including specialised investigative capacity, leading to delays in bringing several serious criminal cases to court. The police force has also been accused of obstructing the course of justice by leaking information to suspects:

<https://timesofmalta.com/articles/view/prosecution-former-top-police-officer-suspected-corruption-stalls.1062795> & https://ocindex.net/assets/downloads/2023/english/ocindex_profile_malta_2023.pdf.

Three inspectors and a constable resigned from the Financial Crimes Investigations Department in the space of 10 months in 2022 - a fifth of its officers: <https://newsbook.com.mt/en/four-resignations-in-10-months-at-fcid/>. The major issues within the FCID are the lack of capacity and expertise, and the ability to work in a national environment riddled with impunity. The FCID is faced with having to investigate very complex schemes of financial crime and corruption which involve political networks when the PM himself condones the abuse as a form of political service.

In 2023 governing party MP Silvio Grixti was found to have falsified medical certificates for people to claim benefits they were not entitled to: <https://timesofmalta.com/articles/view/revealed-exlabour-mp-silvio-grixti-centre-huge-benefit-fraud-racket.1053088>. Recipients of fraudulent benefits are being prosecuted. The MP and other officials involved in the scheme are not.

The Financial Intelligence Analysis Unit (FIAU) reports an increase in the enforcement sector in 2022. In the last ten years, the staff increased from 13 to 131 and the budget from €480,000 to €11.5 million. The FIAU continues to be under close scrutiny after the Financial Action Task Force (FATF) decided, in June 2022, to remove Malta from the FATF grey list. In June 2023, the government appointed MFSA CEO Kenneth Farrugia as chairman of the FIAU, i.e. the same person occupies senior positions in two regulatory authorities. Farrugia was FIAU director when FATF grey-listed Malta in June 2021: <https://theshiftnews.com/2023/06/16/new-mfsa-ceo-also-goes-back-to-the-fiau-as-chairman/>.

Asset Recovery Bureau (ARB) - the relevant legislation was amended in 2021 purportedly to reinforce its independence from the government, to require the Bureau to establish relations with equivalent institutions overseas, and to strengthen its capacity by hiring more staff: https://commission.europa.eu/system/files/2023-01/C_2023_779_1_annexe_EN.pdf. In 2022, the ARB seized > €51.5 million in property and valuable goods - €20 million more than the previous year. It collaborated with the police on six investigations in a seizure

totalling €10.2 million. It reported an exponential increase in the number of investigations it is involved in, an increase in its human resources, and broadened expertise in specialised areas such as arms and exotic animals - although there are no reports or news articles to substantiate their claims. The number of international requests for assistance rose from 19 in 2019 to 64 in 2022. The ARB is building new and improved premises to store and maintain seized assets: <https://timesofmalta.com/articles/view/from-exotic-animals-art-515m-assets-seized-crime-suspects-last-year.1060059>.

Attorney General (AG) - The discretion to decide whether to initiate prosecution for serious crimes was transferred from the police to the AG but there has been no observed uptake of prosecutions nor any charges brought against politically-connected persons. <https://tvmnews.mt/en/news/prosecution-of-major-crimes-to-be-passed-on-to-attorney-general/>. The AG continues to be kept under scrutiny for alleged blunders, with civil society constantly calling for her resignation: <https://www.independent.com.mt/articles/2023-10-08/local-news/The-10-times-the-AG-was-told-to-resign-and-she-didn-t-6736255437>

Cooperation with OLAF and EPPO: EPPO executed arrests in July 2023 in a customs fraud operation carried out with the support of the Malta Police Force, Malta's Customs Enforcement Section & Malta's Asset Recovery Bureau: <https://timesofmalta.com/articles/view/customs-officials-among-eight-arrested-eu-fraud-corruption-case.1044526>.

In the Marsa flyover scandal, the Permanent Commission Against Corruption (PCAC) halted all investigations into the case once EPPO announced that it would be taking over the probe: <https://timesofmalta.com/articles/view/eu-prosecutor-pulls-rank-marsa-flyover-corruption-probe.1068222>. The Permanent Commission Against Corruption (PCAC) lacks prosecutorial power and has minimal investigative powers.

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

5000 character(s) maximum

Independence of relevant authorities remains low and no new notable safeguards have been instituted.

In its Fourth Evaluation Round on 'Corruption prevention in respect of parliament, judges and prosecutors', GRECO welcomed the revision of the Code of Ethics that will provide safeguards for the independence of prosecutors in Malta and also said that progress has been made in the independence and impartiality of judges with constitutional changes: <https://rm.coe.int/fourth-evaluation-round-corruption-prevention-in-respect-of-members-of/1680ab7619>.

Besides the review of the Code of Ethics there are no other notable developments.

Close links between politicians and business interests continue to pose a threat to the independence of these authorities. Recent examples include the connection between Prime Minister Robert Abela and Christian Borg who is implicated in serious crimes. Abela and his wife entered into four transactions involving large sums of money with Borg. Six months after the transactions, Robert Abela entered into a contract to buy a plot of land in Zabbar and then transferred his shares to Borg a few months later: <https://www.independent.com.mt/articles/2023-04-23/local-news/Four-payments-were-issued-between-Christian-Borg-and-Robert-and-Lydia-Abela-report-6736251312>. <https://www.independent.com.mt/articles/2022-01-24/local-news/Five-charged-with-abducting-man-in-Rabat-denied-bail-6736240059>

The PM dismissed corruption schemes involving public authorities and persons holding public office as a good example of political service, thereby continuing to foster impunity and strengthening the political

protection of those involved from investigation and prosecution: <https://timesofmalta.com/articles/view/watch-abela-driving-tests-scandal-it-way-political-system-works.1058787>.

According to the Global Organised Crime Index, Malta's public sector is plagued with a number of corruption scandals and is vulnerable to organised crime of the state, political and executive branches, the judiciary, and law enforcement. In the past few years, state capture and infiltration by criminal groups has raised international concerns about how police investigations may have been hindered by high-level officials covering up connections between the government and organised crime. Criminal actors are believed to extract resources from the State through public procurement and bribes: https://ocindex.net/assets/downloads/2023/english/ocindex_profile_malta_2023.pdf.

Malta continues its downward trend in the Corruption Perception Index to 51 in 2022, dropping three points from the previous year. Contributing factors include the lack of implementation of the recommendations of the public inquiry report into the assassination of Daphne Caruana Galizia, the lack of prosecution of high-level corruption, concerns about the fight against organised crime, and a lack of judicial independence, according to the Transparency International Corruption Index 2022: <https://images.transparencycdn.org/images/CPI-2022-Western-Europe-EU-regional-analysis.pdf>.

According to the Eurobarometer poll (April), 92% of the public believe that corruption is widespread in Malta, particularly among political parties, officials issuing building permits, officials awarding public tenders, and politicians: <https://timesofmalta.com/articles/view/over-90-believe-corruption-widespread-malta-survey.1042166>.

In terms of appointments to senior level jobs within these authorities, there is little independence from State or politics.

While the Permanent Commission Against Corruption (PCAC) lacks prosecutorial power and has minimal investigative powers, in the 2020 constitutional reforms it was authorised to send its findings to the Attorney General for further action. Responsibility for appointing the chairperson shifted from the PM to legislators. The PCAC has limited resources and has shown no tangible results for their efforts, according to the Freedom in the World report 2023: <https://freedomhouse.org/country/malta/freedom-world/2023>.

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

5000 character(s) maximum

The National Anti-Fraud and Corruption Strategy action plan has 4 main objectives: capacity building, communications strategy, maximisation of national cooperation, and maximisation of EU and International Cooperation. It spans 36 months with regular milestones. Nine were meant to be completed by the end of 2023 but there are no relevant published reports: https://parlament.mt/media/112436/national-anti-fraud-and-corruption-strategy_en.pdf.

Since there is no transparency standard within the public sector, there has been no public follow up on the progress of the Government in reaching these milestones and, as a result, a lack of accountability on completing the activities on time.

The Use of Cash (Restriction) Regulation was introduced in March 2021 purportedly to reduce money laundering and incentivise a move towards a cashless and digital future of transactions: <https://legislation.mt/eli/ln/2021/81/eng>. However its scope is narrow and applies to very few goods.

GRECO's Second Addendum to the Second Compliance Report concluded that Malta had not implemented

five of the nine recommendations of the Fourth Round Evaluation Report in 2015. Malta has not revised the Code of Ethics for MPs and the standing orders related to integrity, ethics, asset declarations and conflicts of interest and has only partly implemented the recommendations related to: the supervision and enforcement of the rules on asset declaration, financial interests, ethical standards and conflicts of interest applicable to MPs; confidential counselling for parliamentarians and awareness raising activities for MPs covering issues of ethics, gifts, personal business interest, prevention of corruption and maintaining integrity; judicial accountability; and compulsory induction training programme, mentoring arrangements for new judges and in-house training on the prevention of corruption: <https://rm.coe.int/fourth-evaluation-round-corruption-prevention-in-respect-of-members-of/1680ab7619>.

According to GRECO's 2nd Fifth Evaluation report, Malta failed to fully implement 21 out of 23 recommendations: <https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/1680a69ed2>. These cover the legal situation of persons of trust, review of the FOI Act to improve public disclosure, appropriate public consultation and disclosure of draft legislation, guidelines for disclosure of conflicts of interest, provisions on incompatibilities and side-activities, extension of asset declaration to persons of trust and spouses, reform of criminal investigations of top executives, disclosure by the police on its work, adoption of an anti-corruption strategy in the police force, transparent criteria for recruitment and promotion in the police, regulations on parallel activities, and the setting up of mechanisms for complaints and whistleblowing within the force.

A few unfulfilled recommendations stand out. In terms of persons of trust, earlier this year the Malta Employers Association called for full disclosure of persons appointed to such positions and a cap on the number of persons in a position of trust: <https://theshiftnews.com/2023/07/10/persons-of-trust-employers-want-full-disclosure-and-performance-audits/>. This followed the publication of the Eurobarometer poll which showed that 84% of the population think that favouritism and corruption are hindering competition in Malta. According to information tabled in Parliament in 2022, there were at least 161 persons in positions of trust employed within ministries' private secretariats and this is not a comprehensive number: <https://newsbook.com.mt/en/prime-minister-employs-44-persons-of-trust-in-his-office/>.

There have been no reforms to the FOI act. The PM whitewashed the obstacles of the FOI procedure in a letter to Council of Europe Human Rights Commissioner Dunja Mijatovic: <https://theshiftnews.com/2023/11/29/key-information-about-foi-act-omitted-in-letter-to-council-of-europe/>.

Action taken to foster transparency in the preparation of draft laws is insignificant. E.g, the legislative media reform still awaits the launch of a public consultation, while the Government recently rushed through new legislation to establish the Centre of the Maltese Language defying its legal obligation to first consult stakeholders on the centre and the appointment of its officers Government's appointee to head the centre was formerly a political appointee as head of news at the public broadcaster: <https://theshiftnews.com/2023/09/07/parliament-summer-recess-prime-time-for-sneaking-in-legislation/>. No information on this new entity or relevant legislation was shared with the public or with the National Council for the Maltese Language.

The law regulating freezing orders of those accused of corruption was rushed through parliament: <https://timesofmalta.com/articles/view/pn-suggest-changes-proposed-legislation-limiting-freezing-orders.1072377>.

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)

5000 character(s) maximum

Integrity in the public sector remains problematic despite there being codes of ethics and other policies in place for public officials. The OECD report on the Public Integrity in Malta sheds light on the situation by making recommendations on:

1. Strengthening the institutional and procedural set-up of the Standards Commissioner's office:
 - Strengthening the roles and functions of the Commissioner
 - Strengthening the human and financial resources assigned to the office of the Commissioner
2. Strengthening the legislative and institutional framework for public integrity:
 - Closing loopholes in the Standards in Public Life Act
 - Protecting the independence and strengthening the functions of the Commissioner and the Committee for Standards in Public Life
3. Strengthening the codes of ethics for Ministers, parliamentary secretaries, and Members of the House of Representatives:
 - Including clear definitions, values, ensuring proper use of information, provisions on engaging with lobbyists and third parties, provisions on dealing with conflicts of interest, asset declarations, gifts, post-public employment
 - Enforcement mechanisms in case of breaches of the code
 - Awareness-raising, capacity building, and guidance by the Commissioner to public officials to implement Codes of Ethics
4. Improving the system of asset and interest declarations:
 - Broadening the scope to respond to corruption
 - Streamlining the process for submission of asset declaration for better scrutiny
 - Amending legal framework for the compilation and review of asset declarations
 - Strengthening sanctions for inconsistencies in declarations
5. Improving transparency and integrity in lobbying:
 - Setting up of a legal framework to regulate lobbying
 - Ensuring transparency in lobbying and fostering integrity in lobbying (e.g. setting up an open transparency register and a register for lobbyists, rules governing the registers, revolving door policy with regard to lobbying, capacity-building and awareness-raising guidance for public officials, sanctions for breaches)

<https://www.oecd-ilibrary.org/docserver/c39511b6-en.pdf?expires=1703156239&id=id&accname=guest&checksum=67A67A0A7420F70A9B336AE83B3AF62D>

No measures have been taken to implement any of the OECD recommendations. Furthermore, the former Commissioner for Standards in Public Life was nominated by government to the Court of Auditors. The government amended the law governing the appointment of his successor, granting itself the power to force the appointment of its preferred candidate through parliament. Despite objections to the appointment of the current Commissioner by the Opposition, the government used its newly-created anti-deadlock measure to appoint its preferred nominee.

The codes of ethics regulating the behaviour of Members of the House of Representatives, Ministers and Parliamentary Secretaries present many shortcomings. They do not include standards to address some of the key risk areas for corruption and misconduct and need to be strengthened to include all relevant terms and definitions, include provisions on the proper use of information, provisions on how to engage with lobbyists and third parties, manage and prevent conflicts of interest, receive and give gifts and other benefits, and on post public employment restrictions. All of these areas remain unaddressed in the current Codes of Ethics.

The government has also yet to implement the recommendations on strengthening the rule of law and on media reform made by the public inquiry into the assassination of Daphne Caruana Galizia. The only recommendation that was partially implemented was the setting up of a committee of experts to advise the government on media reform but even that was not done transparently or effectively and, years later, it has

not brought about any media reform.

A revolving door policy for public employees was developed in 2020 stipulating that employees in positions with inspectorate or regulatory functions are barred from having a “relationship of profit with a private enterprise or non-government body with which they have dealt during a period of up to five years” in the two years following their resignation, retirement or termination from their position in the public entity. This clause is also written into the code of ethics for public employees - the Public Administration Act: <https://legislation.mt/eli/cap/595/eng>. Even though there is a revolving door policy in place, there are several instances when it is not applied or is neutralised: <https://theshiftnews.com/2023/11/08/malta-gaming-authority-boss-departure-not-resignation/>.

According to GRECO’s 2022 annual report, Malta only fully implemented 9% of the measures that were recommended to improve the integrity among top government officials and law enforcement and preventative measures against corruption: <https://rm.coe.int/general-activity-report-2022-eng-web-2769-5632-1800-1/1680ab9bc1>.

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)

5000 character(s) maximum

Rules on lobbying, asset declaration, gifts policy, and political party financing are weak, insufficiently clear, and lack effective enforcement.

In 2022 the OECD published a Review of the Lobbying Framework in Malta making several recommendations for improving transparency and integrity: [https://one.oecd.org/document/GOV/PGC/INT\(2022\)10/FINAL/en/pdf](https://one.oecd.org/document/GOV/PGC/INT(2022)10/FINAL/en/pdf) Earlier in 2020, the Commissioner for Standards in Public Life prepared a Consultation Paper with proposals to regulate lobbying including the setting up two registers: an open-access “Register for Lobbyists” and a “Transparency Register” and placing disclosure obligations on public officials: <https://standardscommissioner.com/wp-content/uploads/consultation-paper-lobbying.pdf>. None of the recommendations made in the OECD review and the Commissioner’s paper have been implemented.

The rules on MPs’ declaration of assets to Parliament are opaque. MPs often provide general information with varying degrees of detail. The rules are written into the Code of Ethics of MPs in the Standards in Public Life Act with members of cabinet expected to provide more detail than backbenchers and other MPs. The declarations are submitted to the Speaker, who collates them without investigating their veracity. The lack of verification and consequently lack of action taken against MPs have often given rise to dubious practices. E. g, in 2023 the media reported that an MP had failed to declare income from her political appointment as consultant to a public education institute. <https://timesofmalta.com/articles/view/rosianne-cutajar-list-extra-job-its-parliament-declaration.1021210> In a 2021 report, the Commissioner for Standards in Public Life had found that the same MP had failed to declare income from brokerage fees for the sale of property to Yorgen Fenech who stands accused of the murder of Daphne Caruana Galizia. <https://standardscommissioner.com/standards-committee-upholds-commissioners-conclusion-that-the-hon-rosianne-cutajar-failed-to-declare-income/>

In 2019, former Standards Commissioner George Hyzler sought to collect more detailed information from MPs about their assets and income. Some MPs resisted his request, questioning the role of the Commissioner and his power to seek more details which were not otherwise required in the declaration submitted to the Speaker. https://www.maltatoday.com.mt/news/national/97184/hyzler_calls_in_mps_to_explain_declaration_of_assets. There is no indication as to whether the new commissioner has kept up this practice or whether these declarations were ever investigated by the Office of the Commissioner.

Accountability based on these declarations of assets is severely hampered with the Speaker adopting a procedure whereby copies of the declarations are not allowed to be taken out of the Parliament building and declarations can only be viewed in Parliament even by journalists. Researchers at the Daphne Caruana Galizia Foundation were only allowed to view the declarations under constant supervision in the parliament offices. They collected the data by extracting it from the hand-written declarations and published the information: <https://iw.daphne.foundation/declarations.php>.

Political parties have not published financial accounts or donation reports since 2019: https://www.maltatoday.com.mt/news/national/122013/country_in_the_dark_on_party_finances_since_2019. The political party financing system is susceptible to criminal influence because it allows for politicians to be bribed and conduct their official duties motivated by their personal interests. Criminal actors may win favour with government officials through bribes in the form of political party donations or gifts. In turn, the officials may award tenders, permits or projects to the businesses close to the parties. E.g., a recent €600 million incinerator deal came under scrutiny by the Public Contracts Review Board after the tender was awarded to Bonnici Bros, a business with strong links to PM Robert Abela but no experience in the field: <https://theshiftnews.com/2023/11/26/irregular-incinerator-hearing-conflicts-lack-of-experience-witness-denials/>.

The law regulating political party financing stipulates that all political parties have to present to the Electoral Commissioner their statement of accounts and a separate report listing the donations they received in each particular year by no later than April of the next financial year. The Chief Electoral Commissioner, Joseph B. Camilleri, said that the governing party's 2019 reports were still being reviewed by the Electoral Commission's financial advisors, emphasising that reports are reviewed in batches: https://www.maltatoday.com.mt/news/national/122013/country_in_the_dark_on_party_finances_since_2019.

The Daphne Caruana Galizia Foundation database shows that, of the 122 donation entries, 107 were by anonymous donors: <https://iw.daphne.foundation/>.

Rules and measures to prevent and address conflicts of interest in the public sector. Please specify the features and scope of their application (e.g. categories of officials concerned, types of checks and corrective measures depending on the category of officials concerned)

5000 character(s) maximum

The Public Service Management Code (PSMC) was updated in March 2023 to establish rules on conflicts of interest. It defines conflict of interest in the public sector as "when a public employee, or their close relations, have a private or personal interest, sufficient enough to influence or appear to influence the objective exercise of the public employee's duties. In many cases, only the individual employee is aware of the actual or potential conflict." The Code stipulates that the responsibility to report a conflict of interest to a Permanent Secretary within a week of assuming office lies with the employee.

The code also suggests avoiding having family members or persons with business ties working in the same unit to avoid conflicts of interest. The public officer should prioritise their public sector job over personal interests in three circumstances in particular. When the organisation the public sector employee is involved with is:

entering into a contractual relationship with the Government;

involved in lobbying the Government, its departments and organisations, or MPs;

Is regulated by the government department within which the public official is employed.

Before engaging in business outside of official duties, the employee must submit a 'Request to Perform

Private Work' form and obtain approval from their Permanent Secretary or Chairperson. The Permanent Secretary or Chairperson takes into account any conditions that may affect the person's position within the public sector. Once approved, the Director of the Organisation informs the employee that details of the private sector work will be sent to the Commissioner for Revenue.

If the person is transferred or promoted during the period of review of their private sector work, they must begin the process of approval from the beginning.

Public officials may register non-political clubs in their own names as long as the activities of the club do not conflict with their official duties: <https://publicservice.gov.mt/en/Documents/Public%20Service%20Management%20Code/PSMC.pdf>.

a. Public officials do not always adhere to PSMC policy on conflict of interest. Examples of recent violations include:

public officials holding conflicting positions in the private sector - a senior official for Infrastructure Malta, Albert Spiteri, also works for a private sector firm Infinite Fusion Technologies Ltd that was commissioned to transform an Outside Development Zone (ODZ) plot in Bahrija into two villas. The private company is owned by Liam Ferriggi who is a shareholder in the consortium involved in the €17 million tunnels project for which Spiteri was the leading public official overseeing and certifying the project: <https://theshiftnews.com/2023/09/13/infrastructure-malta-official-fronts-private-investment-of-tunnels-contractor/>;

b. public officials fraternising with businesses which their department regulates - the Malta Financial Services Authority (MFSA) found that its CEO Joseph Cuschieri (formerly Executive Chairman of the Malta Gaming Authority) breached the code of ethics when he vacationed in Las Vegas with the alleged mastermind of Daphne Caruana Galizia's murder and owner of casino company, Yorgen Fenech, immediately after leaving the MGA and taking up the CEO role at MFSA. The MFSA said that Cuschieri should not have accepted the invitation by Fenech to the expensive trip as it is very probable that the MFSA is engaged with one of Fenech's companies and therefore an invitation for a trip could be interpreted as buying advantage with government departments. Edwina Licari, who accompanied the pair on the trip, holds the position of General Counsel at the MFSA to this day. The independent panel set up by the MFSA to investigate the Las Vegas trip, which included the current Standards Commissioner Joseph Azzopardi, did not find anything wrong with Licari's conduct. This lack of action calls into question the standard of ethical conduct the MFSA expects of its officials and the ethical standards of the Commissioner for Standards in Public Life: <https://www.independent.com.mt/articles/2023-03-29/local-news/MFSA-publishes-report-on-former-CEO-s-Las-Vegas-trip-with-Yorgen-Fenech-6736250739>;

c. companies linked to state departments winning tenders - an Office of the Prime Minister tender for mystery shopping services to the public administration was awarded to a company co-owned by governing party pollster Vincent Marmara and Acting President of Malta Frank Bezzina which resulted in a competing company filing a complaint claiming a lack of transparency, objectivity and equality in the awarding process. Marmara has been conducting polls for the Labour Party since 2013: <https://theshiftnews.com/2023/12/14/consultancy-firm-accuses-opm-of-bias-for-awarding-tender-to-labour-pollster/>.

If available to you, for the three preceding questions, you are also invited to provide figures on their application, such as number of detected breaches/irregularities of the various rules in place and the follow-up given (investigations, sanctions, etc.).

Measures in place to ensure whistleblower protection and encourage reporting of corruption, including the number of reports received and the follow-up given

5000 character(s) maximum

Whistleblower protection remains weak and no action has been taken to introduce new measures. The government has seemingly ignored key requirements of the Whistleblower Directive and - most seriously - made no attempt to address the core issue and fundamental flaw at the heart of both the original legislation and the law now as it has been amended, the extent of the influence of government on whether a potential witness is granted whistleblower status. Malta's failure to address this fundamental flaw in the legal framework has led to whistleblower protection experts labelling the transposition law a "trojan horse." Furthermore, it seems clear that any whistleblowers who are perceived as hostile to the government's interests will not be able to rely on this new law to protect them.

The law only protects those who go through formal reporting procedures to official whistleblowing units, rather than protecting anyone who provides protected information through informal organisational communication. In addition, the private and public whistleblower units have no guarantee of independence from conflict of interest and therefore cannot be deemed safe and credible. In the past few years, the government has controlled the channels that receive disclosures from whistleblowers and, as a result, published reports on whistleblowing have been discredited as falsehoods.

Due to a loophole in the definitions in the law and contrary to the EU Directive, the Maltese legislation places the burden on the whistleblower (rather than the employer as mandated in the Directive) to provide proof of wrongdoing within their organisation. Instead of offering unconditional security to the whistleblower after revealing the information, a whistleblower's revelation will only be protected if they can prove some sort of retaliation against them. In addition, the law also offers further protection to the employer if they can retaliate against the employer if the retaliation is justifiable for organisational or administrative reasons.

Another Directive requirement left out of Maltese legislation is the national review of the impact of the legislation every three years: <https://whistleblowingnetwork.org/WIN/media/pdfs/WB-ram-final-with-WIN-addition.pdf>.

A recent scandal shows how whistleblowers are treated in Malta: a Palestinian national who blew the whistle on a Transport Malta racket involving government officials unfairly helping specific driving students to pass their driving tests earlier this year said that his residence permit was revoked shortly after the scandal broke and he has since left the country. Identity Malta denied the revocation of his permit and instead claimed that it was the whistleblower who failed to renew it. The whistleblower has agreed to testify in court proceedings related to the scandal via video conferencing because he does not feel safe doing so in person: <https://theshiftnews.com/2023/08/26/the-officials-named-in-the-transport-malta-whistleblowers-court-recourse/>.

No measures have been put in place to encourage whistleblowers to come forward, despite the criticism of the legislation and the OECD's recommendations on how to better the environment for whistleblowers published in its report on Public Integrity in Malta. In a Eurobarometer poll on 'Citizens' attitudes towards corruption in the EU in 2023', there was a 24% increase in Maltese people who decide not to file a report about corruption because there is no protection for those who do so, the highest increase across the EU. Malta also had the highest increase of any country in the EU of people who believe that reporting corruption would be pointless because those responsible will not be punished or the person reporting will get into trouble with the police or other authorities: <https://europa.eu/eurobarometer/surveys/detail/2968>. According to the poll, it is quite clear that there are no incentives to report corruption in Malta and no perception of impact if you do.

According to FIAU's 2022 Annual Report, only 2% of reported offences were about corruption and bribery. The PCAC, tasked with independently investigating public officials suspected of corruption, has resulted in only one court prosecution since being established in 1988. The case dates back to 1994, against former minister Lorry Sant. According to a report published in 2013, there had been 425 investigations up to that

point with close to no impact of the investigations since only one ended up in court. The PCAC recently acquitted disgraced former prime minister Joseph Muscat, and sitting ministers Owen Bonnici and Julia Farrugia Portelli, and former parliamentary secretary Michael Farrugia, from multiple corruption claims: <https://theshiftnews.com/2023/11/25/anti-corruption-commission-investigations-under-resourced-raising-questions-on-effectiveness/>. The lack of impactful investigations calls into question the PCAC's effectiveness and its resourcing.

Sectors with high-risks of corruption in your Member State:

- Measures taken/envisaged for monitoring and preventing corruption and conflict of interest in public procurement
- List other sectors with high risks of corruption and the relevant measures taken/envisaged for monitoring and preventing corruption and conflict of interest in these sectors (e.g. healthcare, citizen /residence investor schemes, urban planning, 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)

5000 character(s) maximum

The areas at high risk of corruption are:

a. benefits system - since the Severe Disability Assistance benefits racket was uncovered earlier this year, fraudulent benefits were terminated in 141 cases and plans are in place to recover €2.1 million. €626,653 has been recovered so far. The police will not be taking action against any of the professionals on the social security medical board. The Social Policy Ministry claims that the Income Support and Compliance Division and Department of Social Security regularly conduct surprise inspections of benefits cases and participate in compliance exercises: <https://www.independent.com.mt/articles/2023-09-05/local-news/Benefits-Fraud-141-cases-of-disability-assistance-suspended-ministry-denies-having-taken-no-action-6736254613>. No further measures have been taken to monitor or prevent corruption in this sector. The Labour party will not be conducting an internal investigation into the racket, leaving investigations to the police.

b. passport sales - despite the criticism and controversy of the cash-for-passports scheme for being opaque, clientelistic and open to abuse, Malta has continued selling passports. Since the suspension of the scheme for Russian and Belarusian nationals, no further measures have been taken: <https://www.euronews.com/2022/03/02/malta-suspends-golden-passport-scheme-for-russian-and-belarusian-citizens>.

c. driving licensing - the driving licences racket that was revealed earlier this year was dismissed by the government as public officials conducting 'customer care'. Thousands of messages to Transport Malta's former director of licensing, Clint Mansueto, show he unfairly helped several students with their tests. The Malta Employers Association said the PM's dismissal of the scandal was an "invitation to anarchy" while the Chamber of Commerce condemned the behaviour as clientelistic. A police investigation resulted in three suspects being arraigned. No other measures have been taken to address corruption in this sector: <https://timesofmalta.com/articles/view/a-corrupt-open-secret-social-partners-react-driving-licences-racket.1060455>.

d. Elections - the Transport Malta whistleblower (section 8) alleged that the Labour Party was assigning ID cards of foreign deceased residents and to other foreign residents for them to vote for the Labour Party. The whistleblower claims to have a list of those involved but has not published it: <https://timesofmalta.com/articles/view/dead-people-identities-used-vote-labour-whistleblower-claims.1050817>. The Electoral Commission distanced itself from the allegations, claiming it had nothing to do with the issuing of identity cards. In a

report predating the 2022 election, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) expressed concern about the potential misuse of state resources for electoral purposes and described an overall lack of regulation and oversight mechanisms to ensure separation of official duties and campaigning: <https://www.osce.org/files/f/documents/4/8/513907.pdf>. No measures have been introduced in this sector.

e. use of EU funds - Maltese companies are under investigation by OLAF and EPPO in connection with a fraudulent scheme originating in Romania. About €15 million in EU funds intended for the development of innovative software solutions was syphoned off by fraudsters who submitted false or inaccurate documents with overvalued services or non-existent services and purchase orders: <https://theshiftnews.com/2022/12/19/malta-the-mafias-el-dorado-report-finds-e4-billion-laundered-through-malta/>. Malta is subject to the 2020 EU regulation designed to protect EU funds. No EU funds have been withheld from Malta in the last three years. Malta received the largest EU package in history for the period of 2021 - 2027 of €2.2 billion. https://www.maltatoday.com.mt/news/ewropej/125265/how_the_eu_can_act_in_cases_of_breaches_of_rule_of_law.

Malta lacks national prevention strategies to curb the operation of organised crime especially in terms of law enforcement and preventative investigation, according to the Global Organised Crime Index 2023. The report also claims that investigations into corruption and organised crime in Malta have lost momentum. The public inquiry into Daphne Caruana Galizia's assassination recommended measures to address organised crime. They have not been implemented: https://ocindex.net/assets/downloads/2023/english/ocindex_profile_malta_2023.pdf. <https://www.documentcloud.org/documents/21114883-public-inquiry-report-en>

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

5000 character(s) maximum

N/A

C. Repressive measures

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

5000 character(s) maximum

There have been no changes to the criminal code for corruption and related offences since last year. The following are main offences related to corruption and related punishment as established in the Criminal Code:

- Offences carried out by public officers including members of parliament:
- Unlawful extortion, imprisonment from 3 months to 1 year;
- Unlawful extortion with threats and abuse of authority, imprisonment from 13 months to 3 years;
- Bribery, depending on the object of the reward imprisonment from 6 months to 8 years. - Bribery committed by a minister, parliamentary secretary, member of parliament, mayor or local councillor and involves abuse of office then the offence is not time-barred;
- Bribery related to sentencing by court is punished with imprisonment from 18 months to 10 years;
- Bribery committed by a member of parliament the object of which was to influence him in his conduct in the House is punished with imprisonment from 1 to 8 years and is also not time-barred.

In all the above-mentioned cases, punishment may also include general or perpetual special interdiction. Offences carried out by private individuals: Bribing public officers or MPs is considered complicity and the same punishment shall apply. Where a bribery attempt targets a public officer, the punishment is for 6

months to 3 years. Where the attempt targets an MP, punishment is from 6 months to 4 years.

The above provisions apply also in cases of foreign bribery.

Other relevant offences established in the Criminal Code are:

- Trading in influence, punishable with imprisonment from 3 to 6 years;
- Accounting offences, punishable with imprisonment from 3 to 18 months in addition to any other punishment prescribed in another law. This could be for ex. in addition to money laundering;
- Embezzlement, punishable with imprisonment from 2 to 6 years and to perpetual general interdiction;
- The taking by a public officer of a private interest in a matter in respect of which he is entrusted with the issuing of orders, winding up of accounts, making of arrangements or payments of any sort, is punishable with imprisonment from 1 to 6 months and to perpetual interdiction from public office or employment;
- The taking by a public officer of a private interest in any adjudication, contract or administration, is punishable with imprisonment.

<https://legislation.mt/eli/cap/9/eng/pdf>

The legislation operates in a culture of impunity with investigative authorities that are under-resourced, understaffed, and lack the expertise to investigate and prosecute corruption thus neutralising the effect of the repressive measures. Without the proper infrastructure to utilise the law, the legislation in itself is useless.

Data on the number of investigations, prosecutions, final judgments and application of sanctions for corruption offences (differentiated by corruption offence if possible) including for legal persons and high level and complex corruption cases) and their transparency, including as regards to the implementation of EU funds

5000 character(s) maximum

During 2022, the Enforcement Section of the FIAU issued 33 administrative measures. Of these, 22 were published on an anonymous basis, meaning that the compliance examination had either resulted in a directive to take remedial action, or in an administrative penalty that did not exceed €50,000. The total amount of administrative penalties imposed during 2022 amounted to €3,355,443: https://fiaumalta.org/wp-content/uploads/2023/10/2091-FIAU-FIAU-Annual-Report-2022_v18_DIGITAL-VERSION_SPREADS-1.pdf

60% of the fines the FIAU imposed in 2023 remain unpaid. <https://timesofmalta.com/articles/view/three-five-fiau-fines-issued-2023-remain-unpaid.1077528>

In reply to a PQ posed in December 2023, Justice Minister explained that there were three cases of corruption pending review by the PCAC at the end of 2022: <https://pq.gov.mt/PQWeb.nsf/f55fba8cadf6d768c12570c90046b098/c1257d2e0046dfa1c1258a7b003c8969!OpenDocument>

In February 2023, the corrupt public hospital concessions deal with Steward Healthcare was annulled by the courts. The court case had been filed by then-Opposition leader Adrian Delia in 2018 in a bid to cancel the 99-year emphyteutical concession agreement awarded to Steward Healthcare to renovate three hospitals. Steward appealed the court's decision but the appeal was dismissed in October 2023. However, an amendment was made to the original judgement for the costs to be shared by the Maltese government and Steward Healthcare rather than Steward Healthcare alone. The original judgement concluded that there were signs of fraud, the Court of Appeal concluded that there was collusion between the two parties. It was not one party swindling the other but a shady deal where both parties - government and the concessionaire - were fully aware of what they were getting into. A magisterial inquiry is underway: <https://timesofmalta.com/articles/view/it-over-hospitals-deal-annulment-confirmed-appeals-court.1062834>. The Opposition party filed a judicial protest in November 2023 against the Police Commissioner, AG, and State Advocate calling on

them to take action once the Court of Appeal passed its judgement. In December, the Opposition party also filed a court case against the State Advocate for not being proactive in recovering the hospitals' deal funds.

In relation to the benefits fraud racket exposed in September 2023, no action has been taken against the main players in the scandal. In response to a parliamentary question in November 2023, social Policy Minister Michael Falzon claimed €626,653 in benefits payments had so far been recovered.

In the driving licences scandal, three Transport Malta officials were accused in court in August 2022. Transport Malta director for the Land Transport Directorate Clint Mansueto and two others pleaded not guilty to charges relating to corruption and bribery in relation to driving tests. Minister Ian Borg was not charged. No further developments have been reported in the case.

Nurses union boss Paul Pace is being investigated for fraud and corruption over the amount he claimed in overtime and on-call allowances. He is being investigated by the PCAC and FCID. A parliamentary question found that Pace may have claimed many more hours than he could have possibly worked. In 2022, he was paid €21,387 for overtime work and €10,861 in on-call allowances. This amounts to €411 and €208 per week: <https://timesofmalta.com/articles/view/nurses-union-boss-faces-corruption-financial-probe.1072212>.

In July 2023, Eight suspects were arrested for customs fraud and corruption of public officials in EPPO's biggest operation in Maltese history. The eight are charged with attempting to evade the payment of customs taxes and duties on the importation of clothing and other goods from China, by under-declaring their value and weight, in complicity with customs officials: <https://www.eppo.europa.eu/en/news/malta-eight-arrested-investigation-customs-fraud-and-corruption-public-officials>

In June 2023, Housing Minister Roderick Galdes was acquitted of corruption and bribery after someone on Facebook accused him of favouring his friends and accepting gifts in exchange for social housing units. When the accuser was brought in for questioning by the police, the individual could not provide any tangible evidence to support the claims. The court did not find any evidence of wrongdoing by the Minister: https://www.maltatoday.com.mt/news/national/123261/investigation_clears_housing_ministry_of_bribery_and_corruption_allegations

In November, a senior official with the maritime enforcement section of Transport Malta was suspended pending an investigation into allegations of corruption and bribery. He stands accused of voiding large contraventions, accepting gifts, abusing his overtime, and using Transport Malta personnel for work on his private property: <https://theshiftnews.com/2023/11/09/transport-malta-maritime-official-suspended-over-corruption-racket-claims/>

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)

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The main obstacles to investigation and prosecution of high-level and complex corruption cases remains the culture of impunity towards public officials, the downplaying by the government of the severity of the institutionalised corruption, delayed investigations and constant prosecutorial blunders, lack of resources and capacity of police and investigative departments, failure to shoulder political responsibility and a lack of enforcement of sanctions for breaches in ethics and conduct, lack of cooperation of the police force with the media to expose and investigate corruption and crime, and the polarised environment within which the authorities operate, creating a culture of bias or loyalty towards one party or another, which interferes with the investigative process.

In light of the recent exposure of the complex corruption schemes related to the benefits system and driving licences fraud, the Prime Minister Robert Abela whitewashed both scandals by claiming that those involved were just carrying out their duties. When quizzed about the driving licences scheme, Abela condoned Foreign Minister Ian Borg's conduct as "just doing his job. Shall I tell him to stop doing his job?":

<https://timesofmalta.com/articles/view/driving-license-scandal-ian-borg-customer-care-team-job-pm.1058553>.

The PM plays down the situation as being standard practice, indicating he sees nothing wrong with the extensive corruption that government officials are involved in. When asked why he did not comment publicly about the disability benefits scandal, Abela claimed that he had done his political and civic duty when the problem had been flagged to him some time ago and refused to say anything further citing the ongoing investigation by the police: <https://timesofmalta.com/articles/view/watch-no-sitting-mp-involved-benefit-fraud-racket-robert-abela.1053586>. The PM does not seem to be aware that it is in the public's interest to be informed of the complex corruption playing out in the public sector using public funds. His reaction to the benefits and licensing scandals implies that government officials can participate in corrupt schemes and get away with it.

As was the case last December in the case of Jean Paul Sofia, who was killed on a construction site when the building collapsed, and the exposure of the benefits fraud, the government tends to rely on the results of magisterial inquiries and does not address the roots of crimes and corruption. In the case of Jean Paul Sofia, the Prime Minister refused to appoint a public inquiry to investigate the systemic failures that led to Sofia's death, reiterating on multiple occasions that the magisterial inquiry would reveal any and all failures in its investigation. A parliamentary motion calling for a public inquiry was voted down by governing party MPs, who hold the majority of seats. After a public outcry, a public inquiry was eventually appointed. In the benefits fraud scandal, the Prime Minister once again refuses to take any further steps until the magisterial inquiry is concluded. Magisterial inquiries tend to be a long drawn out process. Waiting for their outcome delays other investigative bodies from continuing their investigations. The police are not mandated to rely on magisterial inquiries to take action but it has become the norm for them to do so. In addition, there is a backlog of pending magisterial inquiries and a lack of capacity of magistrates to take on more work. This contributes to extensive delays which, in turn, increases the possibility of errors or loss of recollection in witness testimony and access to and preservation of evidence. Four magistrates have now been tasked solely with conducting inquiries.

FIAU presents its reports to the police indicating the likelihood of crime, but it cannot oblige the police to take up the case or prosecute the perpetrators. Additionally, the police cannot legally rely on the information received from the FIAU as evidence, unless they obtain the same information directly themselves.

The limited number of officers assigned to the FCID, the resignation of two of the investigation officers, and the ongoing vacancy at the head of the FCID are obstacles to the investigation of complex financial crimes. This delays the investigations for which those who resigned were responsible, entrenching public perception that investigations into financial crime are not taken seriously.

The fact that one of the investigating officers who resigned from the FCID has taken up employment in the private sector with a law firm in which a partner was the subject of a police investigation has continued to dent the public trust in the FCID.

Public perception about the inadequacy of investigations into corruption also hinders investigations because it stops people coming forward with important information.

Administrative sanctions fall under the FIAU. The FIAU's 2022 annual report says it imposed a total of €2,943,773 in administrative penalties with the majority being given to credit institutions and gaming companies. Of the 579 administrative penalties imposed between 2018 and the end of 2022, 518 have not been appealed. The total value of the administrative penalties is €25,310,718 and the value of the fines which have not been appealed is €6,463,974. This statistic indicates that the fines that were appealed had a much higher average value than the ones that were not appealed.

Of the 8,740 suspicious reports received or generated by the FIAU in 2022, 79% were against an individual and 21% were made against an organisation or entity, a 5% increase in the number of legal entities reported. 3,105 requests for information (30%) were sent by the FIAU to supervisory authorities, competent authorities and law enforcement agencies in 2022. A decrease from 3,704 requests in 2021. The other requests went to credit institutions and other subject persons. The decrease in requests is due to the increased use of the Centralised Bank Account Register (CBAR), a searchable database for bank and payment accounts identifiable by IBAN which reduced the need for the FIAU to contact authorities for basic information of account holders. The FIAU disseminated information for further investigation 7,901 times in 2022, a decrease of just over 500 from 2021. The majority of the disseminations were made to foreign counterparts while others were given to the Commissioner for Revenue, the Malta Police Force, and other authorities.

The main reasons for the reports were unknown source of wealth (53%), transaction activity which is unexplained or inconsistent (36%), refusal to provide source of wealth information (22%). The majority of the suspected offences were unknown but the second most common was fraud followed by drug trafficking, targeted financial sanctions and proliferation financing, forgery, human trafficking, corruption and bribery (2%) and participation in organised crime: https://fiaumalta.org/wp-content/uploads/2023/10/2091-FIAU-FIAU-Annual-Report-2022_v18_DIGITAL-VERSION_SPREADS-1.pdf.

Despite the impressive numbers detailed in its annual report, administrative fines by the FIAU have repeatedly been found to be unconstitutional. In June 2023, the court ruled against the FIAU for the third time in four months in an appeal of a €340,058 fine against Lombard Bank. This third landmark case found that the regulations governing the FIAU's procedure breach the person/entity's right to a fair hearing as protected by the Constitution of Malta. The judge found that the bank's constitutional rights had been breached when the FIAU failed to properly inform Lombard about the fine they were about to issue to give the bank the opportunity to adequately defend itself against the allegations: <https://theshiftnews.com/2023/06/05/court-finds-fiau-fines-unconstitutional-for-the-third-time-in-a-row/>.

The FIAU does not plan on changing its procedure for imposing administrative fines, despite them being labelled "unconstitutional". The independent authority has decided to wait for the conclusion of the courts of appeal before considering any changes to its methods. The FIAU director, Alfred Zammit, said that the court decisions were not final so the framework will remain the same until appeals are heard and decided: <https://timesofmalta.com/articles/view/fiau-unconstitutional-fines-pending-court-appeals.1063443>.

Other - please specify

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Malta to head OSCE: https://www.maltatoday.com.mt/news/world/126293/breaking_malta_primed_to_head_osce_for_first_time

Freelance Maltese journalist sets up virtual library documenting a decade's worth of corruption: <https://newsbook.com.mt/en/virtual-library-documenting-a-decades-worth-of-corruption-unveiled/>

III. Media pluralism and media freedom

Please provide information on measures taken to follow-up on the recommendations received in the 2023 Report regarding media pluralism and media freedom (if applicable)

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Working environment for journalists

The systemic failures documented by the public inquiry into the assassination of Daphne Caruana Galizia have not been addressed and its recommendations have not been implemented.

Council of Europe Commissioner for Human Rights, Dunja Mijatović, wrote to PM Abela expressing her concern about this, saying “it is imperative that state authorities [to] cease fostering a climate which is hostile to journalists and media professionals.” <https://rm.coe.int/letter-to-the-prime-minister-of-malta-by-dunja-mijatovic-council-of-eu/1680acc42a>.

Malta fell six places in RSF’s 2023 World Press Freedom Index RSF said Malta has not made much progress in investigating crimes against journalists and progress is slow on collaborative initiatives between authorities and the media community to improve safety, in setting up support services for journalists and in introducing safety measures to protect journalists during protests: <https://rsf.org/en/member-states-must-do-more-implement-european-commissions-recommendation-journalists-safety>.

An open letter to the Prime Minister in September outlined the lack of transparency with which media reform is being conducted and questioned why the recommendation report by the Committee of Experts on Media Reform, was not published once it was presented to the prime minister: <https://theshiftnews.com/wp-content/uploads/2023/09/Petition-to-PM-on-Media-Reform.pdf>.

The Media Reform Initiative (MRI), an informal grouping of professionals, criticised the delayed publication and the secrecy of media reforms. National and international civil society organisations criticised government’s draft anti-SLAPP legislation as ineffective.

The only public consultation conference on implementation of reforms was a box-ticking exercise. No other form of consultation has taken place before or since. <https://www.independent.com.mt/file.aspx?f=235332>.

The Institute of Maltese Journalists (IGM) says journalists receive police training, that there is bilateral communication with the Civil Protection Unit and the Police Force Public Relations Office, and that the treatment of journalists at crime scenes is improving, but no further details are available. No Memorandum of Understanding between the Malta Police Force and the IGM has resulted from talks on the matter. The basic communication between the Police Force and the IGM indicates that the collaborative nature of the relationship is lacking: Addressing a consistent request for police protection (Robert Aquilina, president of Repubblika) took five months and excluded IGM, even though the police said they consider Aquilina a journalist.

Safety protection measures currently in place are ineffective: journalists most in need of protection are not aware of them, no steps have been taken to raise awareness of them or to improve the overall situation.

FOI requests are frequently rejected. A 2-year cycle for completing the process of filing complaints and appeals is not unusual due to delayed responses, consistent requests for extensions by the public authorities, incomplete information provided, and public authorities’ contesting favourable rulings by the Information and Data Protection Commissioner in lengthy court appeals funded by taxpayers:

<https://theshiftnews.com/2023/11/29/key-information-about-foi-act-omitted-in-letter-to-council-of-europe/>.
<https://theshiftnews.com/2023/09/16/the-shift-wins-four-more-foi-appeal-court-cases-tallying-18-in-total/>.

Access to ministers remains problematic. The contact numbers of communications officers are not published. Journalists are expected to send in questions by email and wait for responses. Emailed replies are often not complete.

Rules and mechanisms to enhance the independent governance and editorial independence of public service media

Legacy media continue to face shrinking revenue and increasing dependence on public funding through advertising. The allocation of state-financed advertising remains opaque and the criteria applied are not publicly known. The Public Broadcasting Service (PBS) lacks independent governance and editorial independence. The Board of Directors is still appointed by the PM. PBS has been taken to court on multiple occasions for lack of impartiality, for promoting the governing party's propaganda, and for muting any opinion from other political parties, e.g. <https://timesofmalta.com/articles/view/court-confirms-judgement-pn-case-pbs-broadcasting-authority.1016157>. PBS's editorial board has failed to publish its annual report for the past seven years. PBS has not yet replied to a parliamentary question in March 2023 for information on the members of the board of directors and the editorial board, when their term ends, and their remuneration: <https://www.independent.com.mt/articles/2023-03-04/local-news/Minister-Bonnici-yet-to-publish-annual-reports-of-impartial-PBS-board-from-2016-PN-MP-6736250146>.

A. Media authorities and bodies

(Cf. Article 30 of Directive 2018/1808)

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

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Political appointments into multiple government roles, appointments of persons affiliated with the governing party, government control and a bipolar monopoly of public service media are factors affecting the independence of media authorities.

Regarding enforcement and monitoring powers, PBS and the Broadcasting Authority fail to ensure impartiality and protection from discrimination. E.g., a judgment in the Constitutional Court slammed PBS and the Broadcasting Authority (BA) for its delayed publication of a right to reply after two complaints were filed with the BA and for a lack of balance in political advertising related to the 2022 National Budget: <https://timesofmalta.com/articles/view/court-confirms-judgement-pn-case-pbs-broadcasting-authority.1016157>.

No measures have been introduced to bring about change. The Media Pluralism Monitor in the Digital Era 2023 found that the makeup of the BA is opaque and punctuated with political influence without the consultation of civil society: <https://theshiftnews.com/wp-content/uploads/2023/06/Monitoring-Media-Pluralism-in-the-Digital-Era-Malta-2023-Report.pdf>.

The roles of executive chairman and CEO within PBS were previously separate, however, the PM has appointed the same person to both roles simultaneously. Mark Sammut is paid two separate salaries for the jobs, totalling more than €130,000 per year, including €8,666 per board meeting, and has other ties to and roles within State entities, including the chairmanship of a state-owned 'phantom' airline company registered

in 2018 to give a false impression that the national airline, Air Malta, was turning a profit, and multiple direct orders from the Ministry of Health for services from his IT business, worth tens of thousands of euros annually.

<https://theshiftnews.com/2023/04/23/pbs-boss-is-being-paid-twice-for-the-same-role-two-year-foi-battle-reveals/>.

A PBS board member told The Shift News that board meetings are a complete waste of time because PBS has become a “one-man-show”: <https://theshiftnews.com/2023/06/10/pbs-executive-chairman-was-paid-e8666-per-board-meeting-last-year/PBS> continues to lose millions yearly despite an injection of €6 million in public money. In August 2023, PBS refused an FOI request for information on how €6 million of public funds was allocated. The politically appointed head of PBS refused the FOI request citing “commercial sensitivity”: <https://theshiftnews.com/2023/08/30/pbs-hiding-the-allocation-of-millions-of-euros-of-public-funds/>.

A National Audit Office report found that PBS, registered losses across the board and suffers from maladministration, a lack of transparency, and a total lack of proper procedures. The audit found that, despite an annual government subsidy of €6 million and despite registering a revenue of €7.5 million from commercial ads, the broadcaster is losing money in every division except radio.

(December - REPORT BY THE AUDITOR GENERAL ON THE PUBLIC ACCOUNTS 2022 - downloadable from <https://nao.gov.mt/en/recent-publications>).

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

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PBS is a government-owned company. The Board of Directors of PBS is appointed by the government of the day and it is mainly answerable to the relevant minister. The appointment of the Editorial Board and Board of Directors of the PBS is detailed in the National Broadcasting Policy that has not been updated since April 2004: <https://parlament.mt/media/77214/03470.pdf>.

The role of PBS' editorial board has been called into question on a number of occasions for its lack of intervention on important issues and its existence has been questioned: <https://timesofmalta.com/articles/view/changes-media-impartiality-laws-could-impact-church-stations.1017714>, The editorial board's influence was called into question when the opposition party filed a complaint about the failure to air footage of the parliamentary vote (and its aftermath) on whether to appoint a public inquiry into the death of a young man at a construction site. The government opposed the public inquiry and won the vote. The victim's family voiced their disagreement from the gallery and others protested outside the building. The PBS chair said that the board was not part of the newsroom but supported the editor's decision and did not see the need to air any of the footage. The chairman of the editorial board decided to omit a piece of news that was of public interest, in-keeping with the government's position. This indicates that political bias may influence decisions by the editorial board.

<https://timesofmalta.com/articles/view/ba-provided-pn-remedy-setting-precedent-pbs-reports-court-told.1057273>.

Details of the Broadcasting Authority (BA) governance are detailed in the Broadcasting Act: <https://legislation.mt/eli/cap/350/eng/pdf>, According to the Constitution, members are appointed by the President following their nomination by the Prime Minister. The BA, although it is the broadcasting regulator, fails to comply with its own constitutional and legal obligations. Two members are nominated by the government and another two by the opposition. The chair is appointed by the President on the advice of the Prime Minister after consulting the Opposition. Appointees are affiliated to the party appointing them and are perceived as being loyal to that party. There is no consultation with civil society. The two main parties own their own broadcast,

print, and online media to promote their messages. The BA interprets the concept of impartiality as the political party media balancing out each other. This reasoning is flawed. A civil court case challenging the imbalance is still underway. Meanwhile, the BA fails to act as a impartial balance between the two main parties, as confirmed by a recent court judgment that found the BA failed to maintain impartiality: <https://timesofmalta.com/articles/view/court-confirms-judgement-pn-case-pbs-broadcasting-authority.1016157>

In January 2022, the roles of PBS Editor and Head of News were separated. The previous newsroom head and registered editor, Norma Saliba, was appointed head of news directly by the government without a public call, succeeding another governing party appointee. PBS's COO Charles Dalli, was appointed editor, a dual role he still holds. <https://newsbook.com.mt/en/pbs-left-without-a-head-of-news-for-weeks/>

The head of news was edged out following a disagreement with the company chair, claiming that she was the subject of a character assassination campaign. She was given another publicly funded job whose contract includes a clause that allows her to return to her role at PBS if the Culture Ministry terminates her latest appointment: Culture Minister Owen Bonnici stated that Saliba was still employed by PBS and was being seconded to her new post. <https://newsbook.com.mt/en/norma-saliba-still-employed-by-pbs-to-be-seconded-to-language-centre-bonnici-says/>
<https://timesofmalta.com/articles/view/norma-saliba-72000-contract-revealed-ngos-shun-new-language-centre.1055866>.

PBS remains without a head of news almost six months on from Saliba's resignation but sources close to the Foundation have said that Charles Dalli is effectively heading the news team, filling the role of COO, editor and head of news.

Governing party representative in the BA, Alessandro Lia, is currently facing serious criminal charges of aggravated grievous bodily harm, threats, misuse of telecommunications, harassment, and causing fear of violence in relation to his estranged wife. Despite the serious accusations, he insists on keeping his seat and can only be removed by the President of Malta: <https://theshiftnews.com/2023/11/06/prime-minister-renews-commissioner-for-justice-despite-ongoing-criminal-court-case/>

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

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The Institute of Maltese Journalists (IGM), founded in 1989, is the only nation-wide association of journalists <https://igm.mt/>. It does not function as a union and not all practising journalists are members. Members of the MSJA are automatically members of the IGM. <https://www.maltasportsjournalists.com/> The Executive Council of the IGM takes up their positions on a voluntary basis and includes journalists that are politically-affiliated, often leading to criticism that their work can be viewed more as propaganda rather than journalism.

The IGM is a member of the European Federation of Journalists and the International Federation of Journalists. The IGM is open to State-affiliated, independent and freelance journalists across the country. The declared objectives are to:

- encourage journalists to work jointly
- provide professional services to journalists
- implement measures for self-regulation
- raise professional and educational standards
- protect the freedom of expression.

According to the organisation's website, its greatest achievement is its contribution to the Malta Press Act to include Confidentiality of the Source, Qualified Privilege, the Right for Information and the Right of Reply.

The IGM contributed towards the PM freezing the media reform initiated without public consultation by threatening to pull out of the reform process: <https://timesofmalta.com/articles/view/pm-agrees-freeze-media-reform-consultation.987416>

The PM appointed the IGM president and secretary to the Committee of Experts on Media Reform tasked with providing recommendations on how to improve government's three proposed bills on media reform. The committee disbanded after an 18-month period and the report being submitted to government in June 2023. The members of the committee, including four IGM members, refused to publish the report. The claim that they were bound by non-disclosure agreements is false as no such agreements existed. In any case, any NDA agreements would not be relevant after the committee was disbanded: <https://newsbook.com.mt/en/government-unveils-media-reform-proposals-but-rules-out-public-consultation/>

The Media Reform Initiative criticised the Committee of Experts' attempt at protecting people's right to freedom of expression: https://www.maltatoday.com.mt/news/national/125715/press_reform_critics_say_committee_proposals_weak_on_pbs_and_slapp.

Members of the IGM questioned the lack of transparency of the journalistic body in its contribution to the Committee of Experts report, refusing to share information with stakeholders on its recommendations to the government on anti-SLAPP legislation, the timeframe for the legislation to be passed or opened up for consultation, and any significant developments along the way. The IGM delayed its threat to withdraw its support for government's proposed legislation in 2022. It was only after there was uproar from more than 100 journalists and media freedom organisations that the IGM threatened to pull support for the media reform bills.

The under-resourced IGM has shown little public support for journalists. The last press release in support of a journalist published on the IGM website was in March 2022: <https://igm.mt/press-releases/>.

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)

5000 character(s) maximum

The government has not made any attempt to create a more fair and transparent environment in the allocation of state advertising and continues to ignore the proposals made by the Commissioner of Standards in Public Life in 2021: <https://standardscommissioner.com/wp-content/uploads/guidelines-government-advertising-promotional-material.pdf>

Information about the allocation of indirect state subsidies for media outlets by the government, in the form of advertising or sponsorship is not publicly available and there is no legislation that regulates the process. During October and November 2022, the government budgeted and spent €115,000 in promotions over a period of three weeks but did not provide any additional information about how the money was spent or which newsrooms it was allocated to, despite requests from journalists: <https://timesofmalta.com/articles/view/government-spent-least-115000-promote-budget-measures.998361>. The lack of transparency and due process according to pre-set criteria means that the government can allocate public funds preferentially to favoured media outlets, e.g. media that are owned by the governing party, when allocating funds for State advertising e.g. 18 ministers and parliamentary secretaries paid €16,700 in public funds for advertisements in a single edition of governing party-owned Sunday newspaper *Kulhadd* in January 2022: <https://lovinmalta.com/media/transparent-state-advertising-a-step-closer-for-malta-as-european-commission-adopts-media->

freedom-act/.

Independent newsrooms, like The Shift News, Times of Malta, MaltaToday, The Malta Independent, operate in a financially precarious environment and rely heavily on advertising. As public authorities, including the government, are among the main advertising clients for nation-wide media organisations, government could apply pressure directly by withholding campaign budgets that are integral to keeping the newsrooms afloat. This financial hold on media organisations through advertising can be seen as an “iron fist in a velvet glove” and can lead to journalists and their newsrooms being subjected to commercial or political influence: <https://theshiftnews.com/wp-content/uploads/2023/06/Monitoring-Media-Pluralism-in-the-Digital-Era-Malta-2023-Report.pdf>.

There is also a lack of clarity in the two main political parties’ expenditure on advertising for the 2022 General Election. The political parties are not legally obliged to provide a detailed breakdown of their campaign expenditure but elected candidates are duty bound to declare all expenses within 10 days of being elected. It is not clear what information needs to be submitted in the declaration.

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

5000 character(s) maximum

The different categories of media are as follows:

Broadcasting (Radio, TV) which can be categorised into 3 types:

1. Public service media:

- Members of editorial and directorial boards are all politically appointed. Absolute lack of editorial independence.

2. Private and owned by political parties:

- Closer to propaganda and editorial and operational decisions are taken depending on what works for the party.

3. Private and owned by private companies/foundations.

- Owned and managed by persons whose income is derived from government consultancies

- Internal independence and editorial autonomy with government influence through advertising.

Non-broadcast news media:

1. Public service media

- Members of editorial and directorial boards are all politically appointed. Absolute lack of editorial independence and operational.

2. Party-owned media: Closer to propaganda and editorial and operational decisions are taken depending on what works for the party. Strong influence on news content and discussion programmes.

3. Privately owned media:

- Government-affiliated private owners: Owner of MaltaToday, Saviour Balzan, was a consultant to the Justice Minister while serving as a member of the media experts committee and a media campaign

consultant and communications strategy adviser to the same minister: <https://theshiftnews.com/2023/03/07/balzan-was-justice-ministry-paid-adviser-while-on-media-experts-committee/>

- Independent newsrooms with government influence through advertising and grants.

According to the Media Pluralism Monitor 2023 Malta has no common regulatory safeguard that guarantees editorial autonomy when appointing and dismissing editors-in-chief. <https://theshiftnews.com/wp-content/uploads/2023/06/Monitoring-Media-Pluralism-in-the-Digital-Era-Malta-2023-Report.pdf>.

Government appoints heads of management and governing bodies within the public service media (PBS and BA). An FOI request asking for details on the process for hiring full time staff without an open call was refused after at least 18 employees bypassed the usual recruitment regulations when they were hired: <https://theshiftnews.com/2022/08/18/pbs-refuses-foi-request-to-explain-recruitment-processes-appeals-filed/>. The BA regulates all content on radio and TV that originates from Malta and it is tasked with issuing broadcasting licensing under conditions the BA deems fit.

The BA is authorised to issue the following licences.

1.For nationwide radio and TV broadcasting services - a prospective broadcaster must first be assigned a channel by one of two commercial service providers, Melita or GO plc, and then apply to the BA for a licence. Applications for a nationwide sound broadcasting licence must be accompanied by a non-refundable fee of €5,823. The annual licence fee payable to the BA is €11,646.

2.For digital radio broadcasting service, a prospective applicant must first be assigned a new channel by the licensed digital radio broadcasting service provider Digi B Network Limited, and then apply to the BA for a broadcast licence and pay a fee of €1,160. An annual licence fee is also applicable. Unless a licence is lawfully terminated or abridged, it is valid for up to four years and is renewable every four years against a fee of €3,000.

3.For community radio stations, the prospective licensee must first obtain frequency allocation from the Malta Communications Authority (MCA). Applications for a community sound broadcasting licence (including for one-off events) must be accompanied by a non-refundable application fee of €116. The annual fee payable to the BA for a community sound broadcasting licence is €349; for community sound broadcasting services for one-off events it is €116 per event.

4.For nationwide teleshopping broadcasting service, a prospective applicant must first make arrangements with Melita or GO, the two incumbent cable TV distribution networks, for the provision of a new teleshopping channel.

5.For a satellite television broadcasting service, a prospective applicant must first submit an application for a Satellite Earth Station Licence with the MCA. The applicable licence fees are:

- for each station, for the transmission of communications, depending on the radio frequency bandwidth:

a. stations using up to 10MHz radio frequency bandwidth, per 1MHz radio frequency bandwidth, the fee is €650 p.a.; and

b. stations using more than 10MHz radio frequency bandwidth, annual fee is €6,500; and

- each station, for the transmission of communications, used for any event:

a. of 30 days or part thereof, per 1MHz radio frequency bandwidth, the fee is €110; and

b. exceeding 30 days or part thereof, monthly fee, per 1MHz radio frequency bandwidth, the fee is €110.

As soon as the uplink services are approved by the MCA, an application for a licence for a satellite television broadcasting service may then be submitted: <https://www.lexology.com/library/detail.aspx?g=0803daea-1beb-461a-8641-c5ea879208ec>

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

5000 character(s) maximum

The beneficial ownership register in Malta has been closed to journalists and civil society since the decision in the Court of Justice of the European Union (CJEU) in November 2022 on joined Cases C-37/20 and C-601/20 which restricted beneficial ownership registers to those with a legitimate interest: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62020CJ0037>. The CJEU recognised that “both the press and civil society organisations linked to prevention and combating against money laundering and terrorist financing have a legitimate interest in accessing beneficial ownership information” (Para 74) however, Malta still refuses to open it up to those with a legitimate interest.

The structure and control of the media in Malta is enshrined in the socio-political situation in the country, according to the country report on Media Ownership Monitor. Seven out of 15 registered printed news outlets are politically controlled or controlled by political affiliations such as labour unions (In-Nazzjon, L-Orizzont, Kullhadd, Il-Mument, It-Torċa and Illum) or to the Catholic Church (Il-Lehen). In the case of broadcast media, each party has its own channel (television and radio), namely the Labour Party controls One Radio and One TV, while the Nationalist Party has Net Radio and Net TV. The Catholic Church does not own a television station, but it does own a radio station (103 Malta's Heart) and an electronic media outlet (Newsbook).

A large proportion of independent media is privately-owned and the largest among these (with the largest overall in terms of market shares) are legacy outlets, including Times of Malta and the Malta Independent.

There are no specific legal obligations for media companies to publish their ownership structures on their website or in documents that are easily accessible to the public. However, all companies in Malta are obliged to submit a Memorandum of Association with the Registrar of Companies which will display the details of the company shareholders on the Malta Business Registry website: <https://media-ownership.eu/findings/countries/malta/>

With regard to the cross-ownership of media, there are currently no rules in place to limit the extent of media ownership by one owner. Nevertheless, the Broadcasting Act imposes some restrictions on the private industry with regard to media concentration, only for radio and television services and not for other media such as the press and the new media. It is pertinent to note that both of the largest cable TV providers in Malta are owned and controlled by non-Maltese interests: <https://www.lexology.com/library/detail.aspx?g=0803daea-1beb-461a-8641-c5ea879208ec>

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

Rules and practices guaranteeing journalists' independence and safety, including as regards protection of journalistic sources and communications, referring also, if applicable, to follow-up given to alerts lodged with the Council of Europe's Platform to promote the protection of journalism and safety of journalists

5000 character(s) maximum

In the proposed amendments to the Constitution of Malta, the Government's proposals for media reform fall short of what is needed to protect journalists, their freedom of expression, their access to information and protection of their sources. In Article 19's analysis of Government's proposed amendments, it recommends that the Government should adopt comprehensive measures to strengthen the protection of journalists as proposed by the Board of the Public Inquiry into Daphne Caruana Galizia's assassination, and should develop a National Action Plan on Safety of Journalists in collaboration with the media and civil society: https://www.article19.org/wp-content/uploads/2022/07/Malta_analysis_final.pdf.

In a libel lawsuit inherited by Daphne Caruana Galizia's heirs which had been filed by Joseph and Michelle Muscat regarding the ownership of the secret offshore Panama company Egrant, Daphne's heirs are being forced to answer questions related to the ownership of the company that only Daphne had access to through

her protected sources. The Caruana Galizia family claims that continuing with the libel suit breaches their fundamental rights, as they have no way of defending themselves in the case. In principle, to attempt to force the family to provide this information, is to violate the obligation to protect a journalist's sources - which is fundamental to safeguarding freedom of the press. <https://timesofmalta.com/articles/view/daphne-caruana-galizia-family-claims-breach-rights-egrant-case.1038468>.
https://www.echr.coe.int/documents/d/echr/FS_Journalistic_sources_ENG

On the follow-up given to alerts lodged with the Council of Europe's Platform, three alerts were created or resolved in 2023. The first alert concerns the healthcare operator Steward Health Care International, one of the companies involved in the hospitals scandal, who asked the government to investigate MaltaToday journalist Matthew Vella for reporting on the opacity of the company's ownership. There is no state reply recorded on the Council of Europe platform, but the Justice Minister commented to a reporter that "it is not government's job to investigate journalists": <https://fom.coe.int/en/alerte/detail/107638764;globalSearch=false>

One of the two resolved alerts is about the journalists who were locked into the Office of the Prime Minister in November 2019 following a press conference by former disgraced Prime Minister Joseph Muscat. The Criminal Court upheld an appeal by the Attorney General and found Jody Pisani, Mark Gauci, and Emanuel McKay guilty of holding the journalists Monique Agius, Miguela Xuereb, Julian Bonnici and Paul Caruana Galizia against their will. It sentenced the men to six months on probation. They were previously acquitted of using force against the press workers: <https://fom.coe.int/en/alerte/detail/55514052;globalSearch=false>

The third alert was that of the murder of Daphne Caruana Galizia. In October 2022, hitmen Alfred and George Degiorgio brothers pleaded guilty to the murder and received 40 years each for their role in the assassination. The brothers filed an appeal which they subsequently lost, and had their sentences confirmed for a second time in November 2023. The alleged mastermind behind the assassination, Yorgen Fenech, reopened the compilation of evidence in the case to hear a number of specific witnesses: <https://fom.coe.int/en/alerte/detail/29768461;globalSearch=false>.

The following unresolved alerts on the Council of Europe platform have not received a reply from the Maltese state.

42/2023 Healthcare operator seeks government investigation into Malta Today editor Matthew Vella: <https://fom.coe.int/en/alerte/detail/107638764>

88/2022 Blogger Manuel Delia targeted in electoral campaign: <https://fom.coe.int/en/alerte/detail/107637229>

233/2021 Continued spoof calls and harassment campaigns against journalists: <https://fom.coe.int/en/alerte/detail/107636683>

232/2021 Malta Today threatened with data protection legal action: <https://fom.coe.int/en/alerte/detail/107636681>

230/2021 Maltese journalist Julian Delia requested to delete pictures: <https://fom.coe.int/en/alerte/detail/107636685>

134/2020 Attempt by a lawyer to bribe journalist Ivan Martin: <https://fom.coe.int/en/alerte/detail/75456341>

82/2020 British-Azerbaijani journalist threatens action against five media outlets: <https://fom.coe.int/en/alerte>

/detail/68678138 (Background note: Turab Musayev resigned from the Electrogas board soon after his fellow former director Yorgen Fenech was charged with complicity in journalist Daphne Caruana Galizia's murder.)
<https://timesofmalta.com/articles/view/power-plant-director-quit-after-yorgen-fenech-charged-over-murder.766669>
9/2019 Cyber-attack against Maltese online news platform <https://fom.coe.int/en/alerte/detail/43682043>

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

5000 character(s) maximum

Effective prosecution into crimes against journalists in Malta remains low and despite a few developments in the case, the trial by jury of the alleged mastermind of Daphne Caruana Galizia's murder and of the alleged bomb suppliers has not started yet. Also, there are no mechanisms in place to improve the safety of journalists in Malta and there is no specialised assistance for journalists who feel threatened. There are also no training or risk-reduction strategies in place by the Maltese government to protect journalists covering protests: <https://newsbook.com.mt/en/eu-journalist-safety-recommendations-malta-offered-vague-promises-rsf/>.

Anti-corruption activist and Repubblika president, Robert Aquilina asked in a letter to the Prime Minister and Chief of Police to provide him with effective police protection in April 2023 citing concerns about the safety of his family and himself. These concerns have been echoed by a number of police officers. Aquilina's work relates to the rule of law, corruption, abuse of power, and impunity - all matters of public interest and fall under the right to freedom of expression and the right to association under the European Convention for the Protection of Human Rights and Fundamental Freedoms. The European Court of Human Rights has established that it is the State's obligation to not only allow the exercise of these freedoms but to protect it: <https://newsbook.com.mt/en/anti-corruption-activist-calls-on-prime-minister-police-chief-to-provide-him-with-effective-protection/>. Aquilina has been the subject of multiple threats from threatening letters to verbal threats, as well as a threat by a police officer who eventually resigned from the police force. Despite the multiple threats, both the Government and the Malta Police Force have not acted on Aquilina's requests.

In October 2023, Aquilina once again asked for police protection after witnesses noticed he was being followed and discovered marks on his front door which indicated that someone was trying to forcefully enter his home. The risks towards Aquilina appear to be intensifying and yet the police still have not acted on his requests: <https://timesofmalta.com/articles/view/robert-aquilina-asks-police-protection-saying-followed.1064031>.

Access to information and public documents by public at large and journalists (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)

5000 character(s) maximum

The right of access to official documents held by public authorities is, on paper, guaranteed by the Freedom of Information Act. However, the situation in practice is quite different. A significant amount of FOI requests are unsuccessful, with the public authorities coming up with all sorts of excuses as to why requests cannot be fulfilled - confidentiality, commercial sensitivity, data protection, and privacy are just some of the reasons given. By law, applicants do not have to explain why they are making a request and the public authority has a duty to the applicant to help them. However, the reality of the situation is quite the opposite. The process tends to be long and often ends up in a lengthy court battle.

An applicant can file an FOI request through an online portal and the public authority has 20 working days to

assess the request. If the response of the public authority is unsatisfactory, the applicant then has 30 working days to file an internal complaint after which the public authority has 10 working days to assess the complaint. If the applicant is dissatisfied with the public authority response to the complaint, the applicant can file a complaint with the Information and Data Protection Commissioner (IDPC) to investigate the refusal of the request. The IDPC may take up to a year to assess the complaint and issue a decision notice. Once the decision notice is issued, the applicant or the authority may appeal the IDPC's decision in the Information and Data Protection Appeals Tribunal within 20 working days. If the legal process continues past this point, it can lead to years of court hearings and deferred sittings which all play into the government entity's ploy to draw out the process and keep information under wraps.

There are two opposing forces at play - the applicant wanting to access information of public interest and the public authority's exercise of their censorial power of an information monopoly by refusing to share information with public watchdogs: <https://timesofmalta.com/articles/view/editorial-the-foi-marathon-obstacle-race.1047616>.

The Prime Minister has the power to overrule the IDPC so if the Commissioner issues a decision notice to make a document available to an applicant, the Prime Minister can annul the IDPC's decision. This would mean that if the Prime Minister had a political or personal interest in the matter, it can nullify the IDPC's decision to protect that which he would like to keep covert. The Prime Minister brings a conflict of interest into play because if the IDPC is issuing a decision notice related to a request filed with the Office of the Prime Minister, the Prime Minister has the power to decide on his own cause: <https://www.independent.com.mt/articles/2023-11-26/blogs-opinions/Freedom-of-Information-Act-out-of-the-pan-into-the-fire-6736256671>.

Parliamentary questions are a useful source of information but replies are often delayed, postponed, or incomplete. Since March 2022, 750 parliamentary questions have remained unanswered. <https://theshiftnews.com/2023/12/18/ministers-dodged-750-parliamentary-questions-since-march-2022/>

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

5000 character(s) maximum

Libel cases against journalists decided in 2023:

February 2023: Former Central Bank of Malta deputy governor Alfred Mifsud won a libel case against Daphne Caruana Galizia, almost 6 years after her murder during which time her family was legally obliged to defend her case when their primary witness was dead. The court awarded Mifsud €1K in moral damages, payable by Caruana Galizia's heirs: <https://www.independent.com.mt/articles/2023-02-09/local-news/Alfred-Mifsud-wins-libel-over-Daphne-Caruana-Galizia-post-6736249526>

May 2023: MaltaToday was cleared of libel in 2 cases and lost 1 lawsuit filed by a former journalist. Malta Today's head of newsroom was ordered to pay Ivan Camilleri €2.5K in moral damages: <https://timesofmalta.com/articles/view/maltatoday-cleared-libel-two-cases-filed-sacked-journalist-loses-one.1029791>

May 2023: Judge threw out appeals on 3 libel cases by consultancy group Schranz&Ellul filed against Matthew Caruana Galizia: <https://www.independent.com.mt/articles/2023-05-05/local-news/Court-throws-out-appeals-on-3-libel-cases-filed-by-consultancy-group-against-Matthew-Caruana-Galizia-6736251599>

July 2023: Libel judgments ruled against Daphne Caruana Galizia and awarded damages to former minister Konrad Mizzi and Lindsey Gambin. The family of the slain journalist say the judgments are human rights violations attempting to harass the family into silence. They inherited the case when Daphne was killed and, in the intervening years, were obliged to defend the case when their primary witness was dead and without access to her sources. The judge awarded Mizzi and Gambin each €1K in damages for a total of €2K: <https://timesofmalta.com/articles/view/libel-judgements-caruana-galizia-heirs-human-rights-violation.1043672>

Former Labour MP (now independent MP), Rosianne Cutajar filed a libel case against blogger Mark Camilleri who wrote about her intimate relationship with the alleged mastermind of Daphne's assassination Yorgen Fenech. The case is ongoing: <https://newsbook.com.mt/en/camilleri-presents-documents-to-prove-his-case-in-libel-case-opened-by-rosianne-cutajar/>

Malta has the highest number of SLAPPs per capita of any country across Europe according to the CASE 2023 report: <https://www.the-case.eu/wp-content/uploads/2023/08/20230703-CASE-UPDATE-REPORT-2023-1.pdf>.

Although, in January 2022, the government tabled 3 bills to amend the Constitution and other laws with the stated aim of strengthening press freedom, parliamentary debate on these bills was suspended following public outcry against the bills' content, the report of the Committee of Experts on Media which was government appointed, and the lack of public consultation. After uproar from more than a hundred Maltese journalists and media workers in September 2022, the IGM threatened to pull out of the reform process unless the government held a public consultation. PM Robert Abela conceded by suspending the parliamentary debate and authorised the Committee of Experts to hold a public consultation. <https://timesofmalta.com/articles/view/daphne-parents-malta-reverse-conditions-led-assassination.983657>

On 15 February 2023, the Committee held a half-day national conference as part of the public consultation process in which its members presented the work they had carried out. The Minister of Justice was invited but chose to attend a constituency event instead and did not nominate a representative to speak on his behalf. In its fact-check of the PM's statement in response to an open letter raising concern on the lack of transparency of the media reform process, the Media Reform Initiative referred to the conference as a box-ticking exercise: <https://manueldelia.com/2023/09/media-reform-initiative-false-and-misleading-statements-in-opms-press-release/>.

The Daphne Caruana Galizia Foundation published a document outlining its expectations of the reform process and outcome following the public inquiry into Daphne's assassination: <https://www.daphne.foundation/en/2023/02/17/public-inquiry-expectations>

The Committee presented their final report to the Government on 24 July 2023 which was made public in Parliament after the summer recess, even though it was meant to be made public 10 days after submission to Parliament according to the terms of reference of the Committee of Experts.

In October 2023, the government announced that it will be issuing a white paper with the proposed media reform laws and will hold public consultation, although the Prime Minister did not outline a timeframe: <https://www.independent.com.mt/articles/2023-10-02/local-news/PM-agrees-to-issue-white-paper-on-media-reform-bill-6736255300> No such white paper has yet been published, nor has any publication date or timeframe been announced.

There are no measures, political or otherwise, currently in force to safeguard journalists against manifestly unfounded and abusive lawsuits - in fact political rhetoric has continued to denigrate journalists and media.

Other - please specify

5000 character(s) maximum

The journalism profession in Malta is at risk of dying out due to the lack of new journalists and others leaving the profession altogether. Journalism in Malta is plagued by a lack of funding, a hostile environment and narrative towards independent media, and pressure on journalists to have a consistent high quality output. The problem is with retention of talent and recruiting new candidates from tertiary institutions. This worrying trend came to light during a conference titled 'Safeguarding Journalism and Media Pluralism in the EU'

organised by The Shift News in collaboration with Centre for Media Pluralism and the Justice for Journalists Fund. The first one of its kind, the event brought together members of the national and international press, academics, lawyers, and civil society organisations to talk about the climate within which journalism operates in the Maltese context and the wider EU context: <https://theshiftnews.com/2023/11/24/future-of-maltese-media-at-risk-as-journalists-leave-in-droves-scared-to-take-up-profession/>

IV. Other institutional issues related to checks and balances

Please provide information on measures taken to follow-up on the recommendations received in the 2023 Report regarding the system of checks and balances (if applicable)

5000 character(s) maximum

A. The process for preparing and enacting laws

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

[1] This includes also the consultation of social partners

5000 character(s) maximum

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)

5000 character(s) maximum

Rules and application of states of emergency (or analogous regimes), including judicial review and parliamentary oversight

5000 character(s) maximum

Regime for constitutional review of laws

5000 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#>)

5000 character(s) maximum

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

5000 character(s) maximum

C. Accessibility and judicial review of administrative decisions

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

5000 character(s) maximum

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)

5000 character(s) maximum

Rules and practices related to the application by all courts, including constitutional jurisdictions, of the preliminary ruling procedure (Art. 267 TFEU)

5000 character(s) maximum

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

5000 character(s) maximum

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)

5000 character(s) maximum

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

5000 character(s) maximum

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)

5000 character(s) maximum

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.)

5000 character(s) maximum

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, education initiatives etc.)

5000 character(s) maximum

Other - please specify

5000 character(s) maximum

Contact

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

