



Malta Report

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Sustainable Governance
Indicators 2020

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Executive Summary

Malta's 2004 accession to the European Union (EU) acted as a catalyst for social, economic and political transformation. The EU's liberal ethos propelled the 2011 introduction of divorce to one of the last bastions of catholic zealotry. Since 2013, the Maltese government has fueled this liberal current. Malta has considerably relaxed its censorship laws and extended rights to people with diverse gender identities and sexual orientations, including civil marriage. Recent legislation on domestic violence and reproductive rights have given practical expression to women's right. The right to employment for disabled persons has also been codified, with employers penalized with fines for ignoring equality of opportunity laws. Since accession, Malta has extended maternity benefits and provided free childcare centers, enhanced pension rights and increased assistance for the elderly, upgraded health services, and embarked on a €50 million social housing project. The government has implemented migrant-integration policy recommendations by introducing reception centers, allowing migrants to register for work and setting up an integration program. Since 2017, including in the 2020 budget, the government has continued to increase pension and other social-benefit levels with the aim of redressing social inequalities.

In some senses, 2019 was an "annus terribilis" for Malta. However, it will also be marked as a defining year, and as one that may lead to change and growth. For this year like no other has solidified the conviction among the majority that the island's governing structures need to be overhauled. Malta's political system was crafted under suboptimal conditions when the island was transitioning from colonial rule in the 1960s. Its constitutional development was therefore constrained by the interests of the ruling elites, including external elites. Some constitutional changes have taken place in the intervening decades; however, the governing structures inherited from the British have largely remained unchanged. Indeed, during the long period under center-right government rule from 1987 – 1996, and again from 1998 – 2013, they were deemed to be adequate, a view was supported by the EU Commission in its assessments of the island's institutions prior to its accession

in 2004. However, the separation of powers has long been weakened by an entrenched two-party system, which has resulted in a parliament that rubber-stamps the decisions of the executive, and a judiciary that is wholly selected by the prime minister. Further capture of state institutions by such practices as placing back-bench legislators on government boards, and expanding the numbers and remit of persons of trust has weakened the system further. Electoral changes in the 1990s further entrenched the position of the two main parties, which have long tended to view their election to government as an opportunity to gather the spoils of war. The pillaging of state resources by both the political and administrative elite, with the support of key economic elites, has long been seen as maintaining the status quo. The failure to address this situation once the rot set in reflects a massive failure of the political class to take action.

This state of affairs was exacerbated by changing circumstances in the post-2013 period. Malta's economy was now fully incorporated into the international domain, resulting in annual growth rates of up to 6% and producing huge injections of cash into the local economy. At the same time, Malta was still updating its financial and security institutions, which had not kept pace with changing circumstances and ultimately proved inadequate to deal with rapid change. The Labor party (MLP) came to power with the largest majority since independence, and has continued to increase this majority at every local, national and EU-level election since. In tandem, the opposition party has become increasingly fragmented, irrelevant and unelectable. No other party has surfaced to challenge the dominance of the Socialist party. A thriving economy and successful social and liberal reforms cemented the position of the MLP as unassailable, and allowed it to survive decisions such as retaining ties to politicians sullied by the Panama papers as well as other allegations of corrupt practices.

Malta's economy has recorded growth rates of between 4% and 6% annually – among the highest in the EU – while obtaining generally positive ratings from credit agencies. The result is an economy that has shifted from a significant public deficit to one of successive surpluses. The debt-to-GDP ratio continues to be meaningfully reduced. Many economic sectors such as tourism, aircraft maintenance and registration, and service industries continue to expand. The country's sole energy provider, Enemalta, is no longer a millstone on the island's finances, and the transition to use of a gas-fired power station has proved beneficial.

A number of recent reforms have improved the institutional environment, including legislation intended to regulate and improve the transparency of political-party funding; a new rule making ministers, members of parliament

and senior officials accused of breaching codes of ethics accountable to a Public Standards Office; the removal of statutes of limitations in cases of alleged corruption by politicians and senior officials; legislation introduced to increase judicial-system efficiency; a new procedure in which heads of regulatory bodies and politically appointed representatives abroad are to be scrutinized by a new consultative parliamentary committee before taking office. These institutions, in conjunction with the utilization of the Freedom of Information act and the work of the audit and ombuds office, have ensured greater scrutiny of the government. This has enabled the rot to surface, but has not extirpated it.

Civil society and the media have stepped in to fill the void left by a weak opposition, challenging examples of government graft. However, these efforts proved ineffective until the assassination of Daphne Caruana Galizia, a journalist who was covering a number of allegations of corruption at the political level, including connections to the Panama papers. Like no other event before it, her October 2017 murder proved able to destroy the previously precarious balance of power and destabilize the state. Unease spread within an electorate demanding answers as to who was responsible for the murder. Civil society organizations increasingly made their voices heard, appealing in particular to the federal government. Calls from local and international institutions for a reform of government institutions multiplied. In November 2019, the alleged mastermind of the murder, a family member of a powerful business group, was exposed. It subsequently became clear that Caruana Galizia had been murdered in order to prevent the exposure of alleged illicit business dealings being carried out by a member of this powerful business group, and of potential links with the political class. Moreover, the close relations that turned out to exist between alleged mastermind Jurgen Fenech and the prime minister's chief of staff, Keith Schembri, shook the government to its foundations. Protesters across the political spectrum took to the streets, and several ministers including the prime minister resigned from government

As a result of this political crisis, the island's reputation suffered internationally, and in 2020 the country was relegated to the status of flawed democracy in the Economist Intelligence Unit's Democracy Index. However, the crisis has also generated a new consensus on the urgency of constitutional reform and the need to shore up good-governance practices. The new prime minister enjoys widespread support, and has made good governance a key plank of his new administration. Reforms of the office of the Attorney General have taken place, and reforms of the appointment process for the commissioner of police are currently being discussed in parliament. Judicial-appointment reforms are said to be imminent. The minister of environment is committed to establishing a register of lobbyists, and financial institutions are

being shored up as Malta implements the fifth anti-money-laundering directive. Controversial government contracts are being reviewed, and investigations are ongoing to weed out maladministration in the civil service. If these and other initiatives bear fruit, 2020 may well prove to be an *annus mirabilis* for the island.

Key Challenges

In 2019, Malta was at the center of tempestuous events at both the EU and global levels. Advisory reports outlining a way forward in the context of government reform have been authored by the Group of States against Corruption (GRECO), the Council of Europe's Moneyval body and the Venice Commission. Though these reports will prove helpful, the way forward ultimately needs to be mapped out locally. Democratic institutions are essential; however, it is the way they are implemented and enforced that gives them credibility and sustainability. In order for the reforms to be effective and durable, the Maltese need to deal once and for all with their *bete noir*. A partisan mentality continues to characterize Maltese society. Despite some dealignment and realignment within the party system, the party-identification model remains dominant. The unshakable alignment of core groups with specific parties has created an extremely divisive, corrosive and toxic environment on the island. The result has been the creation of a wasteland in terms of political discourse, where much of the population engages with information within mutually exclusive echo chambers. Conflict is avoided rather than negotiated, and what compromise and consensus does emerge is built on shifting sands. Though the political model is predicated on consensually united elites, the shift has been toward dis-unified elites, especially since 2017. A reluctance to discuss politics has resulted in a situation in which key issues contributing to group identity are sidelined. One central theme is that of coming to terms with the nation's recent history, for unlike other nations, a process of historical revisionism is still in its infancy. With no agreement over the interpretation of past political events, the creation of consensus on present and future developments becomes much harder.

Nevertheless there seems to be a consensus that for the country to move forward, three major challenges need to be dealt with. The first is constitutional reform and the creation of greater respect for the tools of governance. The second is the acknowledgment that a small island state needs to protect its environment and ensure that economic development is sustainable. The third challenge is the recognition that Maltese identity since

EU membership has evolved, and that the population needs to embrace its own more diverse and eclectic character.

With regard to the first challenge, the process is already underway. However, it is essential that certain key structures, as yet untouched, be reformed. The first of these is the electoral system, which allows for multi-seat electoral districts; since its inception in 1921, this has facilitated entrenched clientelism and political patronage on a large scale. Although the single transferrable vote (STV) system was intended to promote a multiparty system in Malta, it eventually gave rise to a strong two-party system. Amendments passed in the 1980s and 1990s have only worsened the situation. The two-party system has failed to encourage a bipartisan approach. Instead, the winner-takes-all approach has bred a destructive politics of division and mutual distrust. Malta thus remains the only European parliament with only two parties. A shift to a multiparty system that would better represent diverse views and help erode polarization is essential. Electoral-system changes, better access to the media and state support to all political parties will be needed to carry this through.

Another challenge is the need to reassess the current Westminster governance model. This model invests a great deal of power in the hands of the prime minister. While prime ministers in Malta today have less power than their predecessors, they do retain control over most appointments on the political and higher administrative levels. However, changes to offices and institutions must be carefully weighed in the light of Malta's small size. A hybrid system that would ultimately hinder good governance and political stability rather than promoting it needs to be avoided.

A third obstacle to good governance is the fact that the legislature is a part-time institution, with members generally dedicating only a fraction of their time to parliamentary affairs. Parliament has been strengthened by an increase in the number of parliamentary committees, and a new rule empowering the speaker's office to draw up reform plans and oversee the parliament's budget. However, legislators still tend to prioritize their private sector careers over parliamentary business, diminishing their contribution to government, and lowering the public's opinion of them. Over the last 20 years, this has given rise to a dangerous blurring of lines between the private interests of members of parliament and their public-service duties. Discussions on a full-time parliament has commenced in conjunction with a debate on reforms to promote gender parity of members of parliament.

A cultural change with regard to citizen participation in politics on the island is also required. There is need for a greater respect for both the letter and the spirit of the law. The practice of direct orders involving large amounts of

money need to be abandoned, tendering processes need to be carefully monitored, the utilization of persons of trust should be kept to a minimum, and regulatory institutions need to penalize violators.

Though there is agreement over the need to protect the environment, and reforms seem to be ongoing within the planning and environmental authority, decisions negatively impacting the environment continue to be taken. Development on land zoned for no development has continued, and an initiative intended to bar the relocation of gas stations to agricultural zones has not been implemented. Recently, a unit concerned with the protection of wild birds was relocated from the Ministry of environment to the Ministry for Gozo, a move which NGOs claim is contrary to the law and undermines the government's ability to provide for the unit's needs. Despite the government commitment's to support a transition to a sustainable economy, CO2 emissions remain problematic. Reforms in the direction of sustainable economy need to be taken more seriously. In the last year, the country has seen the collapse of four homes as a result of negligence by developers. The last incident resulted in a woman's death.

Finally Malta's foreign-born population has increased enormously in recent years, shifting in percentage terms from one of the lowest such rates to one of the EU's highest. The introduction of measures addressing the integration of migrants has become imperative. Such measures have indeed been drawn up, but now must be implemented. However, an increase in the number of migrants arriving, a subsequent large-scale rise in dissenting voices and a return to a suboptimal detention policy has hindered the process. Nevertheless in an island country the size of Malta, integration is a sine qua non for future stability.

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Party Polarization

Political-system polarization has been a permanent feature of Maltese politics since parties began to emerge in the 19th century. As in other countries in Southern Europe, the state in Malta has long been divided by the single dominant cleavage of class, characterized on the one hand by a conservative, traditional and religious elite, and on the other by a nascent liberal, progressive and anti-clerical counter-elite. These two groups have aspired to and

represented different models of the state; for many years, the danger of political crisis was never far from the surface, and in the early years of independence, bouts of violence sporadically erupted. However, agreement on an appropriate state model slowly emerged, and Malta's status as a neutral republic and member of the European Union has ultimately generated consensus. In the last 30 years, violence generated as a result of political discord has been rare. Nevertheless, parties continue to tap into previous divisions in order to further their own short-term interest, and to generate support based on party identification. This situation is further exacerbated by a number of variables:

- Many pressure groups are led by individuals who are also activists in a political party.
- The two main political parties own their own sound, print and visual media, which are used to fan controversies.
- The winner-take-all political system generates a zero-sum game in which parties in opposition tend not simply to oppose governments, but to lay siege to them, often circulating false stories and spreading unsettling rumors.
- The introduction of multi-level government in 2004 now means that these conflicts have been replicated both at the local and the supranational/international levels, extending the battlefields to the villages and beyond the shores of Malta.
- As in other states, the need to bring perpetrators of political violence to justice has also continued to entrench polarization.

However, Malta has also shown increasing volatility in voting patterns, a shift from a party-identification to an issue-based voting model, and a consequent process of dealignment within the party system. This was illustrated by the unprecedented electoral landslides of 2013 and 2017. Nevertheless, parties have proved reluctant to abandon the old rules of the game if these are perceived as generating any immediate gains. The fault lies mainly with the electoral system, which provides incentives for political parties to engage in a pattern of behavior that ensures the pursuit of such strategies. (Score: 4)

Citation:

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Policy Performance

I. Economic Policies

Economy

Economic Policy
Score: 9

Economic planning is at the forefront of Malta's policymaking process and a clear-cut assignment of tasks to government institutions is its strength. Strong ties between public institutions, the economic planning ministry, and social partners exist through the Malta Council for Economic and Social Development (MCESD). This system has provided the ideal foundation for strong economic performance. Indeed, provisional GDP estimates for the second quarter of 2019 indicate an increase of 6.6% over the same period in 2018, and a 4.4% increase in volume terms. Moving forward, momentum is set to remain solid but moderate throughout 2019 and 2020. The European Commission's 2019 autumn economic forecast continues to place Malta's economic growth among the highest in the EU, with GDP growth expected to be 4.2 % in 2020 and 3.8 % in 2021. Malta's received a score of 68.6 on the Heritage Foundation's 2019 Index of Economic Freedom, giving it an overall rank of 41st place. In Europe, Malta is ranked 20th out of 44 countries, a score which corresponds to the regional average.

The shift toward the provision of internationally focused services has undoubtedly contributed to the country's economic prosperity. Malta's labor market remains resilient, and the country's unemployment rate is currently among the European Union's lowest. Indeed, increased employment rates have led to higher levels of disposable income. Public consumption and investment in the first half of 2019 were also substantial. As a result, domestic demand replaced net exports as the principal driver of economic growth. Industrial legislation provides protection against dismissals and allows for open bargaining between employers and their unions, but with few codetermination structures. Unit labor costs have increased moderately, but are projected to accelerate at a faster rate in the coming period.

Moody's credit-rating agency upgraded Malta's rating from A3 to A2 for the first time in 11 years in view of the positive economic performance. However, the country's ranking fell from 36th to 38th. Nonetheless, the country was ranked first globally in terms of macroeconomic stability, and 25th in the context of ICT adoption.

The country continues to work to improve its ease of doing business. In a bid to ensure a more efficient and responsive business climate, and to reduce the administrative burden for investors setting up businesses in Malta, the government has created the position of commissioner for simplification and reduction of bureaucracy. Furthermore, it has established five one-stop-shops to assist businesses in the acquisition of information and services. This has been coupled with the creation of the Start-Up Malta Foundation (SUM) to assist nascent and established startups. The government is also working to diversify the economy and attract investment in leading technologies. For example, Malta's parliament has officially approved the Production of Cannabis for Medicinal Use Act in order to provide the necessary regulations for the production and prescription of this substance, and is seeking to transform the island into a center of excellence for blockchain technology, which experts believe will be a leading growth engine in the future. Significantly, in July 2018, Malta became the first country in the world to implement a regulatory framework for stakeholders in the blockchain, cryptocurrency and distributed ledger technology sectors. Nonetheless, no licenses have been issued to date. Malta ranked 10th in the EU Commission digital economy index.

Rapid economic growth has brought several challenges to the fore. First is the continued dependence on financial services and property development. Second, this growth has sparked a massive building program and consequent import of labor, while also increasing demands on infrastructure and social services to a degree that may prove unsustainable for an island country measuring just 316 square kilometers. An IMF review mission cautioned against the risks associated with the country's fast-paced growth. This is coupled with increasing concerns among the general public regarding the prospect of overdevelopment. Finally, Malta ranked only 20th among EU member states on the U.N. Sustainability Index, registering no improvement on key indicators such as the quality of overall infrastructure and sea cleanliness.

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Labor Markets

Labor Market
 Policy
 Score: 9

Unemployment rates are at historically low levels in Malta. Eurostat figures for August 2019 indicated that Malta had the fourth-lowest unemployment rate in the EU, at 3.4%, and one of the lowest youth-unemployment rates in Europe, at 5.1% as compared to the EU-28 average of 6.3%. The overall labor-market activity rate was estimated at 75.7% during the second quarter of 2019, which is the EU’s highest recorded rate among persons 25 to 54 years old. This is largely attributable to a broad range of measures undertaken by the government to reduce unemployment, including a Strategy for Active Aging, the Youth Employment Guarantee Scheme, extended training programs, a reduction in income tax, tapering of social benefits and an in-work benefit scheme. While Malta possesses a consolidated support system for the unemployed consisting of social benefits and retraining opportunities, schemes to help low-skilled individuals find employment were introduced only relatively recently. Though the minimum wage remains relatively low at €69.76 a week, and has seen one of the lowest rate of increase in the EU, Malta’s strong labor market has lifted wages, and the official median salary in 2019 was €19,390.

Various measures have also been introduced to increase labor-market participation rates among women. In the last five years, 30,000 women have joined or rejoined the work force. Policies worth noting include the introduction of free child-care centers in 2014, along with the strengthening of breakfast and after-school clubs. Paid leave maternity, adoption and assisted procreation policies are all now well established. The government has also established a collective maternity fund financed by the private sector, with the goal of reducing discrimination. The in-work benefit scheme has also been

extended for single-earner households with children. Nonetheless, Malta still has the widest labor-market gender gap in the EU (24.1%), a fact directly related to women's traditionally lower labor-market participation rate. Women are also statistically more present in lower-paid occupations, even though their average educational levels are higher than those among men. The gender pay gap has also increased, with women currently earning an average of 12% less than men.

This critical gender gap is further exacerbated by an increasingly aging workforce (the number of persons aged 65+ is expected to increase by 44% by 2035). Moreover, fully 30% of companies report skills shortages, a skills mismatch and a growing reliance on foreign labor. A labor shortage is also being felt in various governmental areas of operation. For instance, the Ministry of Education recently announced plans for the engagement of foreign teachers to address shortages in key areas. At the end of 2018, there were 55,000 foreign workers in Malta (a considerable increase from the previous year's total of 43,000). A policy note published by the Central Bank of Malta found that about 25% of foreign workers leave after a single year while about 45% leave after two years. This leads to constant labor-force turnover.

Malta does not have a unified labor market, but is split into a number of sectors. Nevertheless, tensions have risen in all of them due to recruitment problems. The strongest level of demand has come in the digital and financial sectors, where wages continue to climb. However, other sectors can be characterized by low pay and precarious work conditions. The influx of foreign workers and the higher rate of labor-force participation among women contributed to a moderation of unit labor costs during 2017. However, the tightening labor market is set to lead to an increase of 1.2% in labor costs in 2020. Moreover, concerns related to working conditions remain present, as some employers continue to exploit gaps in the law and employ workers at less than the minimum wage. The U.S. state department identified Malta as a source and destination country for human trafficking, and in 2019 the Malta government launched an awareness campaign and allocated more resources to identify and assist victims.

Citation:

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Malta Independent 21/01/19 Labour Markets

Taxes

Tax Policy
Score: 6

Malta's income-tax system ensures that a portion of income is nontaxable for all three tax categories (€9,100 for single individuals, €12,700 for married individuals and €10,500 for parents). Parents also receive a tax rebate on school fees, cultural activities and creative education. No sales or inheritance tax is levied on a person's primary residence. Moreover, first-time property buyers have been benefiting from a capped duty waiver since 2014, while similar benefits were also extended to second-time buyers at the beginning of 2018. Other measures contributing to greater equity were introduced in the 2020 budget, including a one-time supplementary allowance for all households, reduced tax rates on overtime income, income-tax refunds for all employees, higher pensions and higher tax-free pension ceilings. Like the 2019 budget, the 2020 budget will not be introducing any new taxes. In 2018 Malta's tax burden as a ratio of GDP was the sixth lowest in the EU.

However, the burden of taxation falls mainly on people in fixed and registered employment. Malta's shadow economy is officially equivalent to nearly 25% of GDP, though economists contend that the actual percentage is much higher. Figures published by the European Central Bank in 2018 indicate that Malta is among the countries with the highest number of cash transactions in the EU, a fact that strongly suggests tax evasion. Tax-evasion controls have become more consolidated, but remain relatively ineffective. A number of mitigating measures have recently been introduced to consolidate previously introduced actions in this area. This includes measures in the 2020 budget prohibiting cash transactions exceeding €10,000 for high-value goods such as property. A joint task force that encompasses the Inland Revenue, VAT and Customs departments as well as the Tax Compliance Unit has been established with the aim of facilitating the fight against tax evasion. The recently announced Financial Organized Crime Agency is also intended to help reduce the number of crimes of a financial nature. A recent EU Commission report stated that the offshore holdings of the Maltese stood at €5.2 billion, or nearly 48% of annual GDP, among the highest such rates in the EU. In 2016, Malta lost an estimated €60 million to tax evasion, principally in VAT and income taxes. A 2019 European Commission report stated that the country's VAT gap continues to decrease, and is now well below the EU average of 12.3%.

With a corporate taxation rate of 35%, Malta has one of the highest tax rates applicable to companies in the EU. However, as a result of the full imputation

system and the tax incentives provided to companies registered in Malta, the actual tax rate is estimated to be as low as 5%. Moreover, the Maltese tax policy does not include additional taxes on dividends paid to shareholders, apart from the fact that they are entitled to tax credits. Special tax incentives are also available for industrial research and development projects and innovation activities conducted by SMEs. Professionals in the gaming, financial services and aviation sectors can pay a flat tax rate of 15% on personal income up to € million. The island's global residency program allows individuals with a certain income to benefit from a flat 15% tax rate. Fiscal incentives enhance the competitiveness of various economic sectors and attract foreign direct investment. Indeed, corporate taxation is regarded as an important source of revenue for the island. However, this has raised concerns about exploitation by companies conducting aggressive tax planning. The Maltese government has transposed the provisions of the EU's Anti-Tax Avoidance Directives, which aim to prevent companies from aggressively exploiting differential tax rates across EU states.

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Budgets

Budgetary Policy
 Score: 8

Budgetary developments since 2013 have demonstrated that Malta is set to meet most standards of financial sustainability. As of June 2015, Malta was no longer subject to the EU's Excessive Deficit Procedure. Indeed, deficit levels have been decreasing steadily; the deficit fell to 2.0% of GDP in 2014 and to 1.5% of GDP in 2015. Significantly, a surplus equivalent to 1.0% of GDP was registered in 2016, and increased substantially to 3.9% of GDP in 2017, but

decreased to 2.0% in 2018 (although it was larger than originally projected). It is expected that the surplus will decrease to 1.1% of GDP in 2019 in view of increased expenditures. The European Commission found Malta's 2019 budget to be in line with the euro area's Stability and Growth Pact, and the country was one of only 10 EU members to have passed the fiscal test.

The government is expected to maintain a surplus between 2019 and 2022. The introduction of legislation to enhance the transparency of government finances represents an additional step forward. In the 2020 budget, social spending accounts for 35% of total spending. The government is expected to register a surplus of €14 million in 2020, and public debt as a percentage of GDP is expected to fall from 43.2% to 40.4%. However, the Malta Fiscal Advisory Council cautioned the government to remain vigilant when it came to 2019 fiscal targets. The 2019 European Commission Staff Working Document on Malta's Country Specific Recommendations also notes the problem of sustainability with regards to the healthcare and pension systems, further stating that age-related expenditure is expected to increase at a rate faster than that experienced by other member states, thereby creating challenges to fiscal sustainability. The government has introduced a number of measures intended to contain these challenges (such as gradual increases to the age of pension eligibility and incentives to defer early retirement). The 2018 IMF Country Report stressed the importance of containing financial integrity risks particularly within the context of fast-growing sectors such as remote gaming, real estate and the heavy reliance of the fiscal surpluses on the Individual Investment Program (IIP), especially in the context of a series of tax-reduction measures in 2020.

Air Malta, a state-owned enterprise, continues to face difficulties after enjoying a brief profitable period in 2018. Meanwhile, the country's energy provider, Enemalta, was given a positive review by the S&P Global Ratings agency in 2019 in view of its gradual reduction of long-standing government-guaranteed debts and cleaner energy plans.

Citation:

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Research, Innovation and Infrastructure

R&I Policy
Score: 6

Given Malta's very limited access to natural resources, the country's business R&D sector continues to hold considerable potential. However, Malta has traditionally been one of the EU member states with one of the lowest investment levels in this area. In 2019, Malta was last in the EU in terms of government R&D spending. Eurostat data published in 2019 showed that in 2017, Malta had the third-lowest R&D expenditure level, at 0.55% of GDP.

The National Research and Innovation Strategy highlights the need to increase the R&D knowledge base, particularly by attracting more doctoral and post-doctoral graduates to the area. Nonetheless, there have been some relative improvements. The 2019 European Innovation Scoreboard classifies Malta as a moderate innovator whose performance has increased relative to that of the EU since 2011. Nonetheless, the 2019 European Commission Malta Working Document also highlights the fact that, "R&D intensity remained flat in recent years (0.55% of GDP in 2017 against 2.07% for the EU) and the country is likely to miss its target of 2% R&D intensity by 2020. The recent slight increase in public R&D intensity is partly explained by the significant inflow of structural funds. The low level of public R&D investment in the public science base limits the full usage of the country's scientific and technological potential."

A better innovation ecosystem would enhance the capacity of innovative companies to scale up their activities; thus, the government has devised a rolling research and innovation action plan that is intended to reduce fragmentation and overlap. The government has additionally engaged a panel of EU experts to provide advice on how to R&D levels can be boosted. This panel indicated that more leadership, public participation and transparency were needed, along with strategic changes as to how resources are allocated, better synergy between the public and private sectors, and more long-term investment from both. A full-fledged competitive funding system also needs to be created. A process of public consultation is currently underway, with the goal of devising the country's R&I strategy in the post-2020 period. Furthermore, Esplora, Malta's Interactive Science Center, is intended to instill a broader interest in science and innovation within the general public. Other significant actions include the FUSION program, which focuses on the

analyses of companies' or researchers' ideas for commercial viability purposes, the introduction of research clusters (e.g., Malta Marittima), the applied research framework administered by the Malta College of Arts, Science and Technology (MCAST), the research trust, the Center for Entrepreneurship and Business Incubation (CEBI) within the University of Malta, the Malta Information Technology Agency (MITA) Innovation Hub, and the Malta Life Sciences Park, which provides high-end facilities for the chemistry, biology and digital-imaging sectors. The Malta Digital Innovation Authority has also been active since 2018 with the aim of promoting digital innovation activities. A new space fund has also been set up. Despite limited funding, Malta is contributing to cutting-edge R&D; two such cases include the development of a computer program that can help airplanes land safely by learning from data on thousands of flights contained in a NASA database, and the use of a new bioinformatics method for the creation of new drugs.

Citation:

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 Malta Independent 02/12/17 Malta holds position as one of lowest spenders on R&D in the EU
 Eurostat News Release 5/2019
 National Research and Innovation Strategy 2020 p.18
 European Innovation Scoreboard 2019 p.60
 Commission Staff Working Document – Country Report Malta 2019 SWD (2019) 1017 final p.35
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<http://esplora.org.mt/>
<http://mcst.gov.mt/ri-programmes/fusion/>
<https://www.mcast.edu.mt/applied-research/>
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<https://www.maltaenterprise.com/industries/life-sciences>
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Global Financial System

Stabilizing
 Global Financial
 System
 Score: 6

Malta is a small economy and as such is not a principal actor in the regulation of financial markets. However, it possesses consolidated links with regional and international organizations which help it through shared intelligence, to combat high-risk or criminal financial activities, ensuring fair cost- and risk-sharing among market actors when a market failure occurs or is likely to occur, and to enhance information transparency in international markets and financial movements. The Central Bank of Malta, the Malta Financial Services Authority (MFSA) and the Ministry of Finance collaborate closely with similar bodies abroad. Malta has a sound regulatory framework for the fight against terrorism financing. This ensures rapid implementation of targeted U.N. financial sanctions on terrorist financing and the financing of weapons of mass destruction.

The Central Bank of Malta operates within the European System of Central Banks. Malta is also a member of Moneyval, a European committee of experts evaluating anti-money-laundering measures. Supranational regulatory regimes have strong influence on Maltese banking regulations. For instance, the 2014 European Bank Recovery and Resolution Directive was transposed into Maltese law in 2015. In the same year, the Central Bank of Malta introduced the concept of a central credit register, which requires Maltese banks to report end-of-month balances of exposures exceeding €5,000.

The Financial Intelligence Analysis Unit (FIAU) helps to combat high-risk or criminal financial activities. The FIAU is responsible for the collection, collation, processing, analysis and dissemination of information related to combating money laundering and the funding of terrorism. The unit is also responsible for monitoring compliance with relevant legislative provisions and issuing guidelines aimed at curbing money laundering. Throughout its years of operation, the FIAU has signed memos of understanding with other national FIAUs, and spearheaded the transposition of the EU's Fourth Anti-Money Laundering Directive (AMLD) into Maltese law in 2018. However the EU Commission is still awaiting the transposition of the Fifth AMLD. Among other elements, this directive makes provisions for the establishment of a national coordinating committee that brings together all key governmental stakeholders and authorities in the area. The Maltese police forces also include an Economic Crimes Unit and National Counterfeit Unit. However, these remain relatively weak, and there have been few convictions or sanctions for money laundering. The recently established Financial Organized Crime Agency aims to address prosecution bottlenecks in this area. However, this has also raised concerns about the overall ineffectiveness of the system. The 2020 budget also introduced a €10,000 ceiling on cash transactions for the acquisition of property, cars, yachts, precious stones and art in a bid to curtail abuses.

Policies within the Maltese financial sector have recently raised concerns at the European and international level, and the sector has been accused of being slow to react to problems in a number of cases. Concerns have been raised by the European Commission and European Banking Authority (EBA), which has asked the FIAU to step up its supervision of the Maltese banking sector. A report published by Moneyval in September 2019 noted recent progress insofar as the competent authorities have improved their understanding of the threats and vulnerabilities, and have undertaken certain actions to mitigate the risks. However, the report also stressed the fact that the Maltese anti-money laundering framework is not equipped to tackle offenses, particularly those of a more complex nature. Moneyval emphasizes that the FIAU is weak and too

small in terms of the size of the island's financial-services sector. Malta scores low with regard to the regulation and supervision of financial institutions, and the oversight of professionals who are not banks themselves but handle clients who launder money. Malta also scores low with regard to cooperation with international agencies that are trying to trace money launderers and freeze their assets. There have not yet been any prosecutions or convictions for financing of terrorism in Malta. Nonetheless, no new infringement notices were put forward by the European Commission against Malta in a January 2019 infringement round.

Citation:

<https://www.mfsa.mt/about-us/>

<https://www.centralbankmalta.org/reasons-with-international-institutions>

Times of Malta 26/10/2015 The impact of the European Bank Recovery & Resolution Directive

The Malta Independent 16/04/2015 Central Credit Register to become operational by October

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<https://www.coe.int/en/web/moneyval/moneyval-brief/members>

<http://www.fiumalta.org/about>

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<https://pulizija.gov.mt/en/police-force/police-sections/Pages/Economic-Crimes-Unit.aspx>

Malta Today 08/09/2019 Tackling Financial Crime

Budget Speech 2020 (Maltese) p. 91

European Commission Press Release 08/11/2018 Commission Requests Maltese Anti-Money Laundering Watchdog to Step Up Supervision of Banks

Malta Today 12/09/2019 Updated | Moneyval: Malta Must Step Up Investigation and Prosecution of Money Laundering

Malta Today 29/01/2019 Relief for FIAU as Malta is kept out of latest EU infringements round

II. Social Policies

Education

Education Policy
Score: 6

Due to a lack of natural resources in Malta, economic growth is intrinsically linked to human resources. Attracting investment and sustaining employment depend very much on the skill and education levels of the workforce. In this, the results are mixed.

The government has implemented a number of programs since 2013 seeking to encourage more students to pursue educational opportunities. Some of these have entailed fiscal support, such as the provision of support for students at risk of failing and/or who have failed admission to higher-education

institutions, as well as the extension of services and facilities at the Malta College of Arts, Science and Technology (MCAST) in order to better address learning challenges at different educational levels. The Malta Visual and Performing Arts School was officially inaugurated in 2018, catering specifically to secondary students with special talents in the arts. A secondary school for students gifted in various sports disciplines is also operational. New vocational subjects have been introduced in schools with the aim of complementing the traditional academic route. A “One Tablet per Child” scheme is in place. New schools have been built and others modernized. To eliminate possible financial obstacles, exam fees were eliminated in 2019.

Malta currently has the EU’s second-highest school drop-out rate, while 31.1% of adults aged 25 – 54 have a tertiary level of education (compared to the EU average of 35.2%). This latter figure indicates growth as compared to previous years. The government has continued with its efforts to reduce the drop-out rate, but has not always been supported by the strongly unionized teachers. In 2019, Maltese students took second place among the 45 countries participating in the annual Supertmatic Mental Maths challenge. The island’s 2018 PISA scores remain relatively unchanged from previous years, with Malta falling within the lower range of the middle 33% due to scores lower than the OECD average in the reading, mathematics and science sections. However, the mean performance level in mathematics has improved relative to 2010. The country’s gender gap (in favor of girls) in reading, mathematics and science was higher than the average OECD gap. Some 13% of disadvantaged students in Malta were able to score in the top quartile in terms of reading performance (OECD average 11%). A number of reforms aimed at improving the education system are being contemplated, including the replacement of benchmarking at the end of primary school with continuous assessment, with the aim of smoothing the transition from primary school to secondary school; the introduction of bilingual exam papers for mathematics; and a reform of the post-secondary exams and matriculation certificate system to include a continuous assessment system. A reading recovery program recently introduced by the education authorities ensured that four out of every five students who attended the course went from having weak to strong reading and writing skills in 20 weeks.

Malta provides a high level of equitable access to education at all levels. A total of 80% of all schools are free, and various measures exist to support students who need help. Access to higher education is open to all due to the absence of tuition fees and the availability of stipends for students. The provision of free state preschool facilities for children three years and over has been greatly expanded. Changes to the education system outlined in 2018 and 2019 attempted to address the lack of alignment between education and the

needs of the economy in various sectors. These include the introduction of Education-Business Encounters, the enactment of the Work-Based Learning and Apprenticeship Act, and the validation of informal and non-formal learning processes. Nevertheless, the education sector continues to fail to meet the needs of the economy in various sectors. Other challenges have also slowed reform, including difficulties with teacher recruitment, high student-teacher ratios, expanding student populations due to relatively high birthrates among the migrant communities that make up 9% of the school population, and delays in the building of new schools. However, school principals in Malta have reported fewer staff shortages and materials shortages than the OECD average. In Malta, 32% of students recently reported being bullied at least a few times a month, compared to an average of 23% across the OECD as a whole.

Citation:

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Malta Today 02/06/2016 €15 million invested in construction of new schools

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National Reform Programme Malta 2019 p. 42

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Malta Today 6/06/19 Maltese students place second in international maths competition

Malta Today 27/06/19 Benchmarking at the end of primary school to be phased out

Malta Independent 03/08/19 MUT Takes aim at MATSEC over proposed reforms

TimesofMalta 10/09/19 second chance course turned poor readers into good ones in 20 weeks

https://www.oecd.org/pisa/publications/PISA2018_CN_MLT.pdf

Social Inclusion

Social Inclusion
Policy
Score: 7

Malta has a consolidated social benefits system that supports those with low incomes; in addition, healthcare and education are available free of charge. A failure to adjust pension and welfare benefit levels previous to 2013 had increased the risk of poverty among the unemployed and the elderly, significantly increasing their risk of social exclusion. To this end, budgetary measures have been introduced in recent years with the aim of raising benefit levels within the lower pension band, while also creating incentives to bring people back to work. The 2020 budget reiterated this stance, and included a significant rise in pensions as well as a range of allowances and bonuses aimed at ameliorating the conditions of disadvantaged groups.

Social security expenditures totaled €12 million during the first half of 2019, 3% higher than the expenditure for the same period in 2018. Malta has the fifth lowest in-work poverty rate in the EU, at 5.2%. However between 2012 and 2017, the number of employed persons at risk of in-work poverty increased by 13.5%, though in the same period the number of employees suffering from material and social deprivation decreased significantly from 15.4% in 2014 to 4.3% in 2017. Currently, 19% of the population is the verge of falling into poverty or social exclusion, down from 20%. The 2019 Commission Staff Working Document noted that poverty and social exclusion risks are declining but remain significant for children, people with disabilities, the elderly and non-EU migrants. Women are more likely to fall into the poverty trap than men. Despite low unemployment rates, Malta's economic-inactivity rate remains high among those with mental-health problems, women and the elderly, affecting these populations' ability to access government benefits. Rising housing prices are increasingly regarded as a source of concern, with the increasing demand for rental accommodation directly affecting lower-income Maltese tenants. To this end, new rent regulations will come into force in 2020 with the aim of creating appropriate safeguards for renters. The 2020 budget introduced a range of measures to ensure that vulnerable strata have adequate access to housing options. This includes subsidies to help young people acquire their first property, and subsidies for rental accommodation. Data on the number of homeless individuals in Malta remain absent or incomplete, but estimates indicate that there could be around 300 individuals, mainly foreigners, living in this condition. Food price increases have been double the EU average, and the number of families making use of food banks has increased.

The number of disabled people in the workforce has increased significantly since a new enforcement policy was implemented in 2017, although there remains room for improvement. The 2020 budget also provides new and expanded financial support for disabled persons unable to work. Foreigners, and particularly migrants from outside the EU are also likely to be at the risk of poverty and social exclusion. The country's first migrant-integration strategy was launched at the end of 2017. Nonetheless, integration remains a key concern, particularly in localities with large non-EU migrant communities, where children of African parentage in particular face poverty. In a survey, fully 88% of sub-Saharan Africans stated that their wages were lower than those of their Maltese counterparts.

Several measures have been introduced over the last few years to address cross-cutting social problems. These include supplementary benefits for children, breakfast at school, free school transport, greater support for low-

income working parents through the creation of after-school clubs for their children, fiscal incentives for people to invest in pensions programs, an annual bonus for senior citizens over the age of 75 and free public transport for the elderly. Malta's purchasing power is now 96% of the EU average.

Citation:

<https://ec.europa.eu/eurostat/news/themes-in-the-spotlight/poverty-day-2019>

Budget Speech 2020 (Maltese) p.12-29, p.33-34

National Statistics Office (NSO) News Release 122/2019

Commission Staff Working Document – Country Report Malta 2019 SWD (2019) 1017 final p.5

The Malta Independent 26/07/2019 New rent regulations come into force as of January 2020; seeks stability in sector

The Malta Independent 08/02/2019 The hidden scandal: an estimated 300 people are homeless

Budget 2016 Speech (English) p. 31

Budget 2015 Speech (English) p. 49

Times of Malta 15/12/2017 Malta gets a migrant-integration strategy

Anna Borg ESPN Thematic Report on In-work poverty Malta 2019 p. 10

Budget 2017 Speech (Maltese) p. 134, p. 138

Times of Malta 22/10/2018 Budget 2019 at a glance

Times of Malta 07/12/19 Food bank feeding four times more people than 19 years ago

Health

Health Policy
Score: 7

Malta provides quality healthcare to all citizens, with extensive inpatient and outpatient hospital services offered for free. This is reinforced by agreements with the United Kingdom and Italy to service patients in need of special treatments that are unavailable locally. Vulnerable groups are entitled to state support for a list of prescription medications, and all citizens are entitled to free medicine for specified chronic diseases (e.g., high blood pressure and diabetes). Couples are entitled to IVF services, and the government also supports oncology patients, providing otherwise expensive treatments for free.

In 2018, the Lancet medical journal ranked Malta ninth in its annual health-related index. However, the Euro Health Index 2018 ranked the country at 27th place, finding that despite decent access to healthcare, performance lags when it comes to treatment results, and that there are notable gaps in the public subsidy system. Malta's mediocre ranking may also be due to poor scores for access to psychiatric care for children and suicide reduction, and a zero score for the country's nonexistent abortion rights. Accessibility of patient records was also flagged. With a childhood obesity rate of 5.5%, Maltese children are among Europe's most affected by severe childhood obesity.

Malta fares well in terms of self-reported unmet need for medical care, with just 0.2% of the total population reporting such a need, compared to the EU-28 average of 1.8%. Much has been done to reduce patient waiting times and dependence on private hospital care. A 2017 National Audit Office (NAO)

report stated that there had been a 22% decrease in patient waiting times for elective operations. Nonetheless, the average patient waits around 40 weeks for their first outpatient appointment.

The government has initiated a number of infrastructure projects over the last few years. For example, the general hospital's limited bed capacity has been increased by building new wards and devising plans to add new buildings to the existing infrastructure, while a new oncology hospital has been added on the same site. Increased investments in regional centers that offer primary care were announced during the 2020 budget speech.

There have been repeated calls for reform of the mental-health sector and for a new mental-health hospital. A 2018 NAO audit described the country's mental-health hospital as underfunded, understaffed and lacking in adequate security. To this end, a Mental Health Strategy for the period 2020 – 2030 maps out the strategic direction required to effect the required changes in this area. Healthcare provisions also have to be updated to deal with a more diverse population. Meanwhile, medical cannabis was legalized in 2018.

The private sector accounts for approximately two-thirds of the workload in primary healthcare; however, healthcare delivery in Malta is dominated by the public sector with only a small number of private hospitals. Malta also has fewer hospital beds per 100,000 inhabitants than many of its European counterparts. While the country's overall stock of doctors and nurses is close to the EU average, the number of specialists remains relatively low. Health-related expenditure is forecast to increase by 2.7 percentage points by 2070 compared to the EU average of 0.9 percentage points. Health system capacity is being stretched due to a combination of factors, including population expansion due to increased immigration, a buoyant tourism industry, demographic aging and altered risk-taking behaviors. The European Commission has indeed expressed concerns about Malta's ability to sustain growing long-term care demands, and has recommended that Malta take action to ensure the sector's sustainability. To this end, a new public-private partnership contract for three existing hospitals was agreed in 2015. However, aspects of the deal are now currently under investigation

Citation:

Times of Malta 05/09/2012 Three health agreements signed with Italy

<https://deputyprimeminister.gov.mt/en/cbhc/Pages/Entitlement/Reciprocal-Agreement-MaltaUK.aspx>

Times of Malta 06/0/2018 104 IVF births at Mater Dei in first two years

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Times of Malta 10/11/2018 Malta's health sector among the world's top 10 – The Lancet

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The Malta Independent 01/05/2019 At 5.5%, Malta's kids most affected by severe obesity

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 The Malta Independent 20/09/2015 Sir Anthony Mamo oncology center officially inaugurated Times of
 The Budget Speech 2020 (Maltese) p.57
 Times of Malta 04/07/2018 Mt Carmel Hospital is underfunded, under staffed and lacking security, audit finds
 A Mental Health Strategy for Malta 2020-2030
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 Health systems in transition vol 19 no 1 2017 Malta Health System Review, N Azzopardi Muscat, N Buttigieg, N Calleja, S Merkur, European Observatory on Health Systems and Policies
 State of health in the EU: Malta, country health profile 2017, OECD, European observatory on health systems and policies
 Commission Staff Working Document – Country Report Malta 2019 SWD (2019) 1017 final p.20
 COUNCIL RECOMMENDATION of 9 July 2019 on the 2019 National Reform Programme of Malta and delivering a Council opinion on the 2019 Stability Programme of Malta (2019/C 301/18)
 Malta Today 30/10/19 Agreement with Vitals and Steward healthcare are under investigation says NAO

Families

Family Policy
 Score: 7

With a difference of approximately 24% between the employment rates for women and men, Malta has the widest gender-based employment gap in the European Union. However, women's participation in the informal economy (which accounts for almost 25% of GDP) may make this figure somewhat inaccurate. In the Global Gender Gap Index for 2018, Malta was ranked at 91st place. Women score very low in terms of formal political engagement; however, in the context of education Malta is one of 25 countries to have reached parity between the sexes. Women matriculate at low rates in the subjects related to engineering, manufacturing, construction, and information and communication technologies. Malta ranks 15th within the EU on the 2019 Gender Equality Index, with 62.5 out of 100 points. The country has moved toward gender equality at a faster rate than the EU average. Malta's score in the domain of work is 73.3, indicating progress of 12.5 points since 2005. Around 25% of women work part-time, compared to 7% of men. Mean monthly earnings almost tripled for women and men between 2006 and 2014, but the gender gap persists, with women earning an average of 15% less than men. The gender gap is even wider among couples with children (among whom women earn an average of 27% less) and among people aged 50 – 64 (among whom women earn an average of 30% less). The gender gap in earnings is also much bigger among people with high level of education (30%). The biggest gap on the index was in the power domain, which produced Malta's lowest score.

Labor-market participation rates are high for women aged 30 or less, but this figure decreases for subsequent age brackets. In recent years, new workplace policies were designed to ensure that employed parents retain or are able to return to their jobs. This has included parental leave (both maternity and

paternity leave), reduced working hours, career breaks, the introduction of financial and tax incentives for mothers returning to work, free child-care centers, school breakfasts, after-school clubs, and lifelong learning programs. These measures are enabling more women to enter and remain in the labor market.

The parents of more than 15,800 children are benefiting from free child-care facilities. As a result, Malta is experiencing one of the highest rates of increase in labor-market participation rates in the EU, but is still lagging behind the EU average (60.6% compared to 66.4% in 2017). Since 2015, employers have been legally obliged to contribute the equivalent of 0.3% of each employee's salary, irrespective of the employee's gender, to the Maternity Leave Trust Fund. The 2020 budget continued to consolidate or introduce more measures that benefit families, such as the introduction of a €300 allowance for every newborn or adopted child, free school transport for all primary and secondary school children, and an allowance for widowed parents.

Citation:

The Malta Independent Malta's gender employment gap continues to decrease, but still the highest in Europe – Eurostat
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 European Semester Thematic Factsheet – Undeclared Work p. 3
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 Times of Malta 21/07/2015 New Maternity Leave Trust Fund launched in bid to end gender discrimination
 The Budget Speech 2020 (Maltese) p.19, p. 23, p. 61

Pensions

Pension Policy
 Score: 7

Government expenditure on social security benefits amounted to €12.0 million during the first six months of 2019, with an increase of €13.1 million for retirement pensions alone. Indeed, pensions represent a substantial public expenditure with projections indicating that pension-related expenditure will increase by 3.4 percentage points of GDP by 2060; this has been a major concern at the EU level. Indeed, the sustainability of pensions has been a recurring point of concern in the European Commission's Country Specific Recommendations in the last few years.

In 2014, the parliament voted to introduce a third pillar to the pension system. However, it will be some time before this reform can reduce the stress of pension costs on public finances. Second-pillar pensions have not yet been introduced, though this is increasingly regarded as an important addition to the pension system. The government has also introduced tax incentives for private

individuals opting to invest in a private pension plan in Malta. These tax incentives are also applicable to corporations and employers. However, labor unions have called for greater government support for work-based pensions. A Pension Strategy Group was established in 2018 and is expected to release its findings by December 2020. Within this context, a government scheme is aiming to encourage increased voluntary saving through a system of occupational pensions.

Nonetheless, 25.4% of individuals aged 65 years and over are at risk of poverty and social exclusion. The Maltese pension system is based on a pay-as-you-go model, as well as a means-tested noncontributory system. Until recently, pensions were not linked to inflation, and considerable erosion in real value occurred. Although this has been partially rectified, the real value of pensions today cannot make up for decades of decline. Low tax ceilings have also meant that pensioners have been required to pay income tax on their pensions. As it stands, Malta's pension system protects against absolute poverty, but does not constitute an adequate income replacement. Additionally, women are worse off, since Malta has the highest gender-related pension gap in the EU.

A number of measures have been taken since 2013 to address these shortcomings. The 2020 budget continues to build on previous years, and foresees increases in contributory pensions and higher income-tax ceilings for pensioners. Government bonds designed to provide pensioners with an additional source of revenue have also been offered for the last three years. Increases have also been made to disability pensions, and allowances provided to those caring for the elderly. NGOs have also flagged the issue of lack of pensions for migrants working in undeclared jobs, a fact that will impact these individuals and the economy more broadly in years to come. The lack of pensions for women who have not paid into the system remains a problem. The government provides women with a two-year tax credit for every child they raise; however this needs to be increased to reflect the EU average as well as the realities of women who have stayed home to look after children.

Citation:

National Statistics Office (NSO) News Release 122/2019

Long-Term Pension Projection For Malta: 2016-2070 p. viii

COUNCIL RECOMMENDATION of 9 July 2019 on the 2019 National Reform Programme of Malta and delivering a Council opinion on the 2019 Stability Programme of Malta (2019/C 301/18)

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Commission Staff Working Document – Country Report Malta 2019 SWD (2019) 1017 final p.20

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The Malta Independent 15/10/2015 Toward a sustainable pension system

The Malta Independent 30/09/2019 People aged 65 or over make up 19% of population, face double risk of poverty – NSO

Times of Malta 01/06/2019 Malta's pension gap is the widest in Europe; women earn 11% less than men

<https://socialsecurity.gov.mt/en/Pensions/Pages/Contributory-Retirement-Pension-FAQ.aspx>
The Budget Speech 2020 (Maltese) p.16-17, p.24
Newsbook.com.mt 21/02/2019 Gov announces 62+ Savings Bonds for the third year

Integration

Integration Policy
Score: 4

Malta's geographical location places it at the center of migration flows from Africa to Europe. On a per capita basis, the island receives a relatively high number of migrants and asylum-seekers, with the numbers having increased drastically over the last decade. It is estimated that Malta received 20% of the persons rescued or intercepted by search and rescue teams following departure from Libya between January and August 2019. This increase in numbers has prompted the government to reintroduce longer periods of detention in substandard conditions for asylum-seekers, a policy which has been heavily criticized by NGOs.

Malta has begun to consolidate its policy approach to integration only recently, with a migrant-integration policy launched at the end of 2017. Under the current government, the Ministry for European Affairs and Equality is responsible for the integration of migrants. The Human Rights and Integration Directorate unit within this ministry is responsible for the provision of integration courses including Maltese, and English, as well as the cultural-orientation classes, awareness campaigns and spearhead measures listed in the Migrant Integration Action Plan. The unit is also implementing the EU-funded "I Belong" program. Meanwhile, the Agency for the Welfare of Asylum-Seekers is responsible for the provision of some services, including employment, housing, education, healthcare and welfare information. The agency is also a facilitator between public services, and serves as a pre-integration functionary. The office of Refugee Commissioner spearheads important initiatives such as the new initial reception centers, the creation of a work registration system, and detention-policy reform. A new information center run by Peace Lab has been set up to help migrants integrate into the workforce

A large number of migrants have been granted subsidiary or humanitarian protection. UNHCR figures indicate a rejection rate of 14% for the first seven months of 2019. In 2016, the government introduced a new migration strategy which terminated the practice of automatic detention. Moreover, refugees and asylum-seekers granted protection are eligible for unemployment benefits. Maltese legislation has now been brought in line with EU Directive 2003/86, and the relevant domestic law was amended in 2017 to facilitate family reunification, especially in the case of refugees. These reforms aim to lessen the hardship on migrants seeking work and their own accommodation.

Furthermore, the Malta Declaration was signed by all EU state leaders in February 2017 as the first step toward concrete solutions for combating illegal migrant routes in the Mediterranean. Meanwhile, Malta and three other member states are seeking endorsement for a fast-track procedure to be used for the evacuation and distribution of migrants to other countries.

Evidence of poverty and homelessness among migrants indicates the need for government to allocate more resources to this group. The incidence of rent-related exploitation has also increased. Integration difficulties in communities with large migrant populations remain especially pronounced, while numerous riots in detention centers have highlighted ongoing difficulties. A recent report on migrant relocation to Malta stated that the system was characterized by disorganization, a lack of coordination, deficiencies in information provision, a lack of sensitivity toward migrant experiences and low-quality conditions at the open center used for migrant reception and other services. The government is developing a new open center at Hal Far, which will raise the capacity to 2,400 asylum-seekers.

Improved watchdog and oversight mechanisms are needed to ensure that the migrant workforce is not exploited. Bangladesh and Nepal have reported that their citizens have been subject to exploitation in Malta's labor market. The current system for the care of young unaccompanied migrants remains inadequate. Current arrangements fail to ensure the appointment of legal guardians with sufficient experience in asylum issues. There is also a need to build capacities within local communities to prevent migrants from becoming ghettoized. The issue of citizenship for the children of asylum-seekers born in Malta also needs to be urgently reassessed; currently, these children have no right to citizenship. Statistics indicate that there are currently about 6,600 foreign students in the country's primary and secondary schools, making up about 10% of the school population; this too may contribute to integration challenges in the future. Indeed, a study of this cohort found that a third of these students have been bullied at school

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<https://www.gov.mt/en/Government/Government%20of%20Malta/Ministries%20and%20Entities/Pages/Ministries%202017/MEAER-Portfolio.aspx>

<https://integration.gov.mt/en/ibelong/Pages/IBelongProgramme.aspx>

<https://homeaffairs.gov.mt/en/MHAS-Departments/awas/Pages/AWAS.aspx>

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[departments/the%20office%20of%20the%20refugee%20commissioner/Pages/Refugee.aspx](https://homeaffairs.gov.mt/en/mhas-departments/the%20office%20of%20the%20refugee%20commissioner/Pages/Refugee.aspx)

Malta Today 19/11/2018 Children make up 17% of Malta's population

Times of Malta 28/05/19 Low Awareness of Human Rights

Times of Malta 20/06/19 They don't let me play at school because I am Syrian

TVM 19/11/19 Foreign Children in Malta where are they from?

Timesofmalta 22/06/19 Betrayed expectations of migrants relocated

Times of Malta 25/07/19 Hal Far Open Center to be extended

Times of Malta 25/08/19 community spirit in full swing as new center puts migrants on path to job

Times of Malta 04/01/20 1400 migrants detained illegally at Marsa and Safi UNHCR

Internal Security
Policy
Score: 6

Safe Living

Malta is generally considered a safe place to live. However, crime rates have spiked somewhat, and in 2017, Malta had the fourth-highest homicide rate in the EU. Fraud cases have also increased drastically. Conflicts between criminal organizations involved in drug-trafficking and money laundering also occur from time to time. The car bombing of a well-known Maltese journalist in 2017 garnered intense international attention; however, the identification of the alleged mastermind behind the murder in 2019 has raised the profile of the police force somewhat.

The state faces few external security threats, making it difficult to assess local readiness or the state's ability to protect citizens if such threats were to materialize. The U.S. State Department highlights the fact that like all other European countries, Malta is vulnerable to transnational terrorist groups. However, in its 2019 report on crime and safety in Malta, the U.S. Department of State's Overseas Security Advisory Council (OSAC) placed Malta only at Level 1, meaning that it is a country where no more than normal precautions need to be exercised. This is particularly significant given Malta's geographic location and open borders with other Schengen-area members. Numbeo recently ranked Malta 44th worldwide on its Safety Index, based on data compiled in mid-2019.

Malta is affiliated with Interpol, and is party to several cross-border security cooperation efforts, particularly those coordinated by the European Union. Frontex operations in the Mediterranean area are also of pivotal importance to the island. As Malta is tasked with ensuring the security of an external frontier of the European Union, it has received substantial assistance through the External Borders Fund. Through this fund, the Armed Forces of Malta (AFM) continue to obtain important resources for the enhancement of the existing border-control system, which is primarily directed toward policing the island country's maritime borders from irregular migration and drug smuggling.

Malta's Secret Service is small, and depends heavily on intelligence from foreign intelligence services. The country has the second-highest number of police per 100,000 inhabitants in the EU. Four police commissioners have resigned over a five-year period; in 2020, one of the first moves of the new prime minister was the removal of the current police commissioner. Changes to the process of selecting the head of police, with the goal of enhancing oversight, are in the pipeline. A 2016 report found that the police force lacks direction. A policy revision that no longer requires police officers to have

demonstrated clean conduct for the purposes of rehiring and promotion was not received well. According to the EU Barometer 2019, trust in the army has risen somewhat to 67%, while confidence in the Maltese police force has fallen minimally to 65%. Parliamentary figures indicate that 103 officers were assaulted during 2019. A total of 24 murders have remained unsolved since 2008. Institutional capacity to deal with organized crime has not kept pace with the rapid change in Malta's economic and social structures, although the police did score some notable successes in 2019. A Police Governance Board was appointed in 2019, and is seeking to address these evolving challenges with an EU grant. A 2019 assessment by the U.S. State Department acknowledged the progress that Malta had made in the area of human trafficking, but highlighted the fact that the conviction rate in this area remains low.

Meanwhile, the annual World Risk Report found Malta to be the second-safest country in the world when it comes to natural disasters.

Citation:

Times of Malta 22/02/2019 Significant increase in cases of fraud as crime rate drops
 The Malta Independent 16/10/2017 Updated: Daphne Caruana Galizia killed as vehicle blows up in Bidnija; bomb not in cabin – expert
https://www.numbeo.com/crime/rankings_by_country.jsp
<https://www.osac.gov/Country/Malta/Content/Detail/Report/d6da0d8b-ce89-4716-965c-15f4aeb4812d>
<https://pulizija.gov.mt/en/police-force/police-sections/Pages/Interpol.aspx>
 The Malta Independent 11/06/2018 'Migrants' search and rescue took place outside operational waters' - Frontex
 On Parade Magazine October 2014, Armed Forces of Malta p.17
 Malta Today 21/05/2018 Trust in the Police needs to be rebuilt
 Lovin Malta 09/10/2019 The Malta Independent 07/08/2016 Police force 'lacks direction', full skills-audit recommended
 Lovin Malta 11/04/2019 70 Murder Victims Since 2008: Just 7 People Have Been Found Guilty Of Homicide In Malta In The Last 10 Years
 Malta Today 21/06/2019 Malta made significant efforts to fight human trafficking but convictions remain low, U.S. report finds
 The Malta Independent 13/09/2019 World Risk Report ranks Malta as the world's second-safest country for natural disasters again
 Times of Malta 24/01/20 Tenacity to implement change

Global Inequalities

Global Social
 Policy
 Score: 5

The Maltese government has very limited opportunities to help shape or advance social inclusion beyond its borders. What little influence of this kind it has acquired is related to its participation in international organizations (such as the UN and WHO) and EU Ministerial Councils. A 2018 Implementation Plan delineates several main areas of implementation (co-funding of official development assistance projects, capacity-building, the creation of the Arvid Pardo scholarship fund, and contributions to trust funds for the purposes of humanitarian aid funding). Moreover, a European Commission press release

stated that in 2018, Malta was one of four member states that increased its ratio of official development assistance to GNI by more than 0.01 percentage points.

Malta supports EU efforts to address the refugee crisis, and was the only EU member state to have fulfilled its asylum relocation commitments in 2017. The country had Europe's seventh-highest asylum-application approval rate. Malta will also provide its support for the UN Global Compact for Safe, Orderly and Regular Migration. Moreover, through the European Union, Malta contributes to the EU Emergency Trust Fund supported by the Joint Valletta Action Plan and the Malta Declaration during Malta's EU presidency in 2017. Projects implemented by Maltese non-governmental development organizations (NGDOs) also contribute significantly to development projects in other countries. The state also provides an increasing number of scholarships to young people from less developed states, and responds to requests to assist countries, notably in the Balkans, with capacity-building programs.

Malta's development policy attaches special importance to countries in the Horn of Africa and Sub-Saharan Africa, the main source of asylum-seekers and clandestine immigrants to Malta. To this end, a Maltese High Commission was opened in Ghana, making it the country's first mission to sub-Saharan Africa. Malta's development policy also seeks to assist with development in Mediterranean states, notably North Africa and the Palestinian territories, providing scholarships and other forms of aid. Malta is one of 26 states serving as a permanent member of the Committee on the Exercise of the Inalienable Rights of the Palestinian People. Malta also actively assists other small states throughout the Commonwealth by making available its acquired experience and expertise as a developed small island country. For example, a new Commonwealth center of excellence for small states will be set up in Malta. In general, Malta follows the lead of the European Union, with its policies on tariffs in line with those agreed to in Brussels.

Between 2015 and 2018, Malta used its role as chair of the Commonwealth Heads of Governments Meeting to press for development in a number of areas, including polio eradication, financial support for poorer Commonwealth states, combating climate change and women's rights. In June 2019, Malta additionally hosted the Summit of the Southern EU Countries with the aim of exploring issues of common interest in the Mediterranean region. In 2015, Malta became a signatory to Agenda 2030, which seeks to transform the world through sustainable development.

Citation:

2019, Malta hosted the Summit of the Southern EU Countries with the aim of exploring issues of common interest in the Mediterranean region.

Official Development Assistance Policy and a Framework for Humanitarian Assistance- Implementation

Plan 2018

European Commission Press Release Europe remains the world's biggest development donor – €74.4 billion in 2018

Malta Today 25/04/2019 Malta with seventh highest number of approved asylum applications in EU compared to population in 2018

European Council 03/02/17 Malta Declaration by members of the European Council on the external aspects of migration

https://ec.europa.eu/europeaid/regions/africa/eu-emergency-trust-fund/north-africa_en

Newsbook 16/10/2018 Malta to be one of largest donors to Africa's Emergency Trust Fund

Malta Today 18/10/2019 Malta appoints its first ambassador to Ghana

<https://www.um.edu.mt/newspoint/noticeboard/opportunities/2018/04/scholarshipsforpalestinianstudents-postgraduatestudiesatum>

Times of Malta 26/11/2015 Commonwealth trade facility to be set up

Times of Malta 28/11/2015 Commonwealth can bridge divide on climate change

Times of Malta 25/11/2015 Malta to host Commonwealth Center to help small states, contribute €100,000

Times of Malta 27/11/2015 Financial services: 'some of best growth opportunities in Commonwealth'

<http://www.cvent.com/events/commonwealth-local-government-conference-2017/custom-114-aa1de6ec6d75469b9be8f952bfedd9a6.aspx>

Malta Independent 12/06/2019 Summit of the Southern EU Countries being held in Malta on Friday

III. Environmental Policies

Environment

Environmental
Policy
Score: 4

Malta's environmental challenges are complicated by large population density, a constant challenge to create employment opportunities, attract foreign investment and improve standards of living. As an EU member state, Malta is bound to fulfill key climate targets within the context of the Europe 2020 Strategy. Although the country ranks among the top five countries with the least amount of renewable energy per capita, Malta appears to be only two percentage points short of meeting its national target of deriving 10% of its energy from renewable sources. Moreover, the country is aiming to become carbon neutral by 2050, apart from working to fulfill its targets within the EU Emissions Trading Scheme. Presently, Malta continues to show the EU's second-highest level of CO₂ emissions increases. In 2020, the country will purchase € million in renewable energy credits from Estonia in order to reach its energy targets, though there has been a slight improvement relative to 2017. The volume of plastic waste in Malta has increased by nearly one-third over the last decade, making the country one of the worst performers in the EU. However, the government has gradually banned the use of free plastic bags in shops, and will be phasing out single-use plastics. Shortcomings are largely a result of the country's continued high dependence on cars, the growing dependency on air conditioning, and the slow reduction in the island country's forest and parkland area.

Several initiatives to fulfill these targets have been undertaken. These include the generation of photovoltaic power, the establishment of photovoltaic farms, construction of an interconnected electricity system with Sicily, a shift to the sole use of electric cars paired with a phase-out of fuel-inefficient cars, plans for a more bicycle-friendly road network, the promotion of car-sharing facilities, free public transport access for young people and the construction of a gas-fired power station. A differentiated waste-collection system that had previously been voluntary became mandatory at the end of October 2018.

Fresh water is a scarce resource in Malta. Nonetheless, the government's approach to this important issue was until recently inconsistent, and in general inadequate to the task of protecting the island country's water reserves. The production of water for domestic and commercial use is heavily dependent on reverse-osmosis plants. To relieve pressure from reverse-osmosis water generation, a National Flood Relief Project was concluded at the end of 2015 with the aim of increasing the amount of water collected annually.

The Maltese countryside is protected from unsustainable development through a regulatory process of permits and enforcement. Within this context, the Planning Authority recently launched a public consultation process aimed at updating its Rural Policy Design Guidance. EU data highlights the fact that Malta has one of the highest proportions of artificial land cover, coupled with a population density that is among the highest in the EU. Between 2017 and 2018, the number of planning permits granted shot up by 48%. Many government road-building projects have not followed proper planning procedures. In 2010, the government refused to ratify the European convention that would oblige it to protect heritage buildings and respect its threatened landscapes. The Malta Environmental and Planning Authority (MEPA) was restructured and divided into two separate entities (Planning Authority and Environment and Resource Authority) which are respectively responsible for planning and environmental issues. The split and many of the related changes have generated considerable controversy, including increased ministerial powers in the selection of board members, reducing the autonomy and independence of these boards and the strange anomaly that allows a representative of the environmental authority to sit on the planning authority boards only when invited to do so. However, under the new prime minister, responsibility for planning and environmental protection have been placed under the same ministry; time will tell whether they will ultimately be fully merged as under the old model. The new minister for environment and planning intends to log all meetings with stakeholders and lobbyists and publish a transparency register.

A new agency called Ambjent Malta was established in August 2018. Rather than being a regulatory institution, it is intended to bring together all of the country's environmentally related directorates. Its aim is to improve people's quality of life and appreciation of the environment. A new underwater cultural heritage unit has also been established. However, the government decision to extend the hours of hunting to 12:00 in the Majjistral Nature and History Park, Malta's first national park, against the unanimous objection of the advisory board, undermines these policies, as did the decision to allow autumn hunting in 2019 despite flagrant abuses. The introduction of a fuel service-station policy deemed to have a negative impact on undeveloped land was meant to be reassessed; however, this process had not taken place by the end of the review period.

Citation:

Commission Staff Working Document – Country Report Malta 2019 SWD (2019) 1017 final p.4
 The Malta Independent 14/10/2019 Budget 2020: Environment – Banning of variety of single-use plastic products to begin in 2021
 Malta Today 15/02/2018 A new quest for land: Malta's solar farms set to cover an area as large as 94 football grounds
<https://www.southeusummit.com/europe/malta/malta-develops-massive-projects-to-secure-its-energy-future/>
 The Malta Independent 27/08/2018 Bins for waste separation being distributed to households nationwide
 Times of Malta 22/03/2019 'We take water for granted'
<https://era.org.mt/en/Pages/EIA.aspx>
 The 2nd Water Catchment Management Plan for the Malta Water Catchment District 2015 – 2021
<https://www.energywateragency.gov.mt/news/water-management-framework-malta/>
 Times of Malta 25/10/2019 PA asks public how it should revise its ODZ policy
https://ec.europa.eu/eurostat/statistics-explained/index.php/Land_cover_statistics#Land_cover_in_the_EU_Member_States
 Malta Today 28/01/2019 Building mad: Record-breaking 13,000 permits issued by PA
 TVM 04/04/2016 Split of MEPA into two independent authorities comes into effect
 Times of Malta 12/07/2015 MEPA split: 'We're all in for a rough ride'
 National Environment Policy 2012 p.76-77
 Malta's National Biodiversity Strategy and Action Plan (2012-2020)
https://msdec.gov.mt/en/Ambjent_Malta/Pages/home.aspx
 Malta Today 22/03/19 Malta still refuses to ratify European Convention that could protect its threatened landscapes
 Times of Malta 26/01/20 Malta must pay Estonia E2 million to reach renewable energy targets

Global Environmental Protection

Global
 Environmental
 Policy
 Score: 6

Malta's small size has traditionally hindered it from being a key player in international global policy forums. Nonetheless, since independence, it has been influential in the Law of the Sea and was instrumental in the adoption of the Protection of Global Climate for Present and Future Generations of Mankind resolution, which gave rise to the United Nations Framework Convention on Climate Change and the Kyoto Protocol in 1988. Moreover, Malta has played a dynamic role in efforts to meet climate resolutions agreed to in Copenhagen in 2009 with former U.N. Secretary-General Ban Ki-moon describing Malta as a key player in the efforts to "seal the deal."

Malta is party to a large number of multilateral environment agreements. As an EU member state, Malta is bound by the obligations of the EU's extensive environmental acquis. When Malta joined the European Union, it adopted some 200 environmental laws, which are now part of the overall Maltese legal framework. Malta has attempted to play a part in formulating a Mediterranean strategy for sustainable development. Nonetheless, the island fell eight places in the United Nations Sustainable Development Goals ranking in 2018.

In the run-up to the Paris Summit on Climate Change, Malta's prime minister hosted a special session on Climate for Leaders during the 2015 Commonwealth Heads of Government Meeting (CHOGM) in Malta. More than a quarter of the 2015 CHOGM participants attended the Paris Summit and the 2015 CHOGM was used as a forum within which support was consolidated. In 2016, Malta became one of the first countries to complete domestic preparations for the ratification of the Paris Agreement and subsequently deposited its Instrument of Ratification to the United Nations together with other EU member states.

In October 2017, Malta hosted the EU's Our Ocean Conference. The conference led to the adoption of 437 tangible and measurable commitments, among other deliverables. The Ocean Tracker (an interactive map that follows over €10 billion in commitments made by governments, businesses and NGOs), which was recently launched at the EU level, was one of the commitments made during this conference. However, Malta remains an insignificant, if active, player in global environmental protection.

In October 2019, Malta's parliament resolved to give greater emphasis to international action on climate change.

Citation:

Times of Malta 12/12/2008 U.N. Secretary-General recalls Malta's climate change initiative

<http://www.un.org/apps/news/story.asp?NewsID=30544&Cr=Somali&Cr1=#.WBT4qf195PY>

Newsbook 11/10/2018 Malta falls 8 places in U.N. Sustainable Development Goals ranking

The Malta Independent 07/09/2015 CHOGM 2015 to give final push to Paris climate change Summit – Environment Minister

The Malta Independent 30/09/2016 Malta among first countries to finalize preparations for ratification of Paris Agreement

<http://ourocean2017.org/>

European Commission Press Releases 22/10/2019 EU makes 22 new commitments for clean, healthy and safe oceans and launches The Ocean Tracker

Quality of Democracy

Electoral Processes

Candidacy
Procedures
Score: 9

Elections are regulated by the constitution and the General Elections Act. Malta uses a single transferable vote (STV) system. Candidates can stand either as independents or as members of a political party. Parties can field as many candidates as they wish, and candidates may choose to stand in two electoral districts. If elected in both districts, a candidate will cede their second seat. The vacated seat is then assigned to the candidate with the most second preference votes on the ballot. The system allows for a diversity of candidates and restrictions are minimal, though legal restrictions based on residency, certain official functions and court judgments exist. There have been persistent calls for electoral-system reform on the basis of several issues. These include the lack of an official national minimum threshold; the fact that candidates are listed alphabetically, giving an advantage to certain candidates; the lack of correctives to encourage the election of female candidates; and the fact that multiple candidates from the same party can be elected in the same district, placing too much power in the hands of canvassers. The present electoral law does not allow coalitions of parties to contest elections formally, but does not prevent parties from arriving at pre-election agreements regarding future coalitions. Recent provisions ensure greater proportionality; however, the reality is that this has only increased the dominance of the two main parties. Each of the two main parties receive €100,000 annually, which may be used for campaigning. There has been increased calls to ban party funding from the private sector and replace it with a more developed system of state funding. Meetings of the electoral commission are closed and there is an absence of representatives from non-parliamentary parties. On the issue of equal gender representation, the government has appointed a commission to study the issue, and new gender-parity laws are now in the pipeline.

Citation:

Malta Today 05/07/17 Now is the time for Electoral reform

OSCE/ODIHR (2017) Election Assessment Mission Final Report – Malta

Lejn Rappreżentanza Ugwali – Kummissjoni Mahtur mill-Prim Ministru ta' Malta, OPM.

Media Access
Score: 5

Malta has both state and private media. The Maltese constitution provides for a Broadcasting Authority (BA). Owing to its composition and appointment

procedure, the BA is not perceived as an independent regulator. Its job is to supervise broadcasting and ensure impartiality. However, the BA focuses on the PBS (public broadcasting service) and not private outlets. It also does not monitor campaign coverage but rather acts on complaints. During elections, the BA provides for equal time for the two major political parties on state television on its own political debate programs as well as airtime for political advertising. The 2018 Media Monitor assigned the country's media a risk score of just 25% in terms of the media and democratic electoral processes, thus emphasizing that different political actors were represented fairly, as mandated by law. Reporters Without Borders' 2019 World Press Freedom Index relegated Malta to 77th place, down 12 places from the previous report. However, opinion pieces in the Times of Malta and Malta Today, two of the island's main newspapers, as well as the Institute of Maltese Journalists, were critical of the negative ranking. However, smaller parties or independent candidates do not receive equal treatment by the state-owned media. In the 2017 elections, the small parties were not able to participate in the main pre-election debates on the PBS; several formal complaints were filed by the smaller parties. The PBS management is appointed by government, which is said to negatively impact its independence. The fault lies with the two main parties, as they alone can change the BA's constitutional status. However, complaints to the broadcasting watchdog have become negligible. There is no law that makes government office incompatible with media ownership; both parties own media outlets, giving them an advantage over smaller parties. The 2017 Media Monitor notes that Malta is the only EU country where political parties have such extensive media ownership. The BA and the Press Act require party-run media to allow for a right of reply to an aggrieved party or individual. Access to newspapers becomes increasingly restricted at election time; unrestricted access is obtainable at a cost.

Due to increased competition and the proliferation of privately owned radio and television stations and online news outlets all candidates can now access time in the media to present their views, albeit at a cost. However, the 2017 OSCE election assessment mission report stated that independent candidates and small parties enjoyed little visibility outside of social media.

Citation:

<http://www.ba-malta.org/prdetails?id=246>

Social Media during the 2013 General Election in Malta. Department of Information Malta
www.consilium.europa.eu/media/.../1-st-panel-oswald-main-slide-speaker...

Sammut, C (2007) Malta and the Media Landscape

Monitoring Media Pluralism in Europe: Country Report Malta 2018

2019 World Press Freedom Index: Reporters without Borders

Times of Malta 28/04/19 Reporters without Arguments. Mark Anthony Falzon

Malta Today 22/04/19 Reporters without Brain cells Raphael Vassallo

Voting and
Registration
Rights
Score: 9

Malta's electoral laws are effective and impartial, and are controlled by a constitutionally-designated electoral commission. While there is no legal obligation to vote, turnout at general elections is high at over 90%. Maltese law states that any individual sentenced to a minimum prison term of one year cannot vote in elections. In the absence of postal or electronic voting mechanisms, residency qualifications are an obstacle to voting since voters are required to physically cast their ballots in Malta. However, since the 1980s, Maltese living abroad have been able to avail themselves of subsidized travel for voting purposes, since overseas Maltese cannot as yet vote at embassies, though this capability is being discussed. Amendments to the Electoral Law in 2018 lowered the voting age to 16, making Malta the second country where this has happened. Other changes have helped patients cast their votes during a hospital stay. Notwithstanding, legislation must be harmonized to ensure full voting rights for individuals with mental disabilities. Residents who are not citizens may not vote in national elections, yet in line with EU law, they may participate in local or European Parliament elections. There have been requests for better and more timely information for EU citizens exercising their right to vote. Third-country immigrants and refugees do not have the right to vote. Recommendations have been made to increase transparency in the system. These include a secrecy mechanism for assisted voters as well as laws enabling international observers to examine the election process, the setting of deadlines and publishing of all records of complaint. Malta has now shifted from a manual to an electronic ballot-counting system, which was used for first time in the European and local council elections of May 2019

Citation:

http://www.timesofmalta.com/article_s/view/20130115/elections-news/ad-on-voting-rights-for-maltese-abroad-party-financing.453281

<http://www.timesofmalta.com/articles/view/20130220/local/Should-prisoners-in-Malta-be-allowed-election-vote-.458430>

Should Migrants have the Right to Vote? Times of Malta 23/06/14

<https://www.timesofmalta.com/articles/view/20171015/local/counting-halls-electronic-voting-and-legal-changes-on-electoral.660402>

<https://www.timesofmalta.com/articles/view/20180305/local/16-year-olds-granted-the-vote-in-national-elections.672453>

Times of Malta 19/11/18 Government considering ways for Maltese abroad to vote in embassies

Malta Today 02/12/18 Labour ministers shoot down voting right proposal for non-EU nationals

Malta Today 13/11/18 Voting counting hall transformed as electronic system in place for European elections

https://en.wikipedia.org/wiki/Voting_age#Malta

Malta Independent 26/03/19 PD requests extension of voter registration period

Party Financing
Score: 4

Malta passed its first party-financing law in July 2015, which requires that political parties should be subject to international standards of accounting and auditing; cannot accept donations from companies associated with the government; cannot accept donations from entities, foundations, trusts and nominees whose beneficiaries are unknown; donations in excess of €7,000 must be recorded online and reported to the Electoral Commission; and

donations from individuals must be capped at €25,000. As a consequence of this legislation, political parties have been required since 2016 to publish details on the financing of their electoral campaigns. However, the effectiveness of this legislation has been challenged by the Nationalist Party (PN), which has pursued various schemes intended to bring down its considerable debt. The Electoral Commission lacks the power to ensure compliance since it is unable to control sources of income beyond donations. Other flaws of the new legislation include the absence of a requirement to use a designated bank account or to disclose donations to entities owned by political parties as well as an excessive disclosure threshold, a failure to cap spending at €2 million, and a lack of detailed and timely reporting. It has also been noted that there is insufficient harmonization of the regulations relating to the Financing of Political Parties Act (FPPA) and General Elections Act, raising concerns over which act would take legal precedence. The role of the Electoral Commission as the appropriate body to act as investigator and adjudicator with regard to the FPPA has also been undermined by a Constitutional Court ruling stating that this concentration of authority breaches Article 6 of the European Convention. As a consequence, the precise role of the party-financing watchdog currently remains uncertain, and the Act urgently needs to be revised.

Citation:

<http://www.timesofmalta.com/articles/view/20150721/local/pns-conditional-yes-to-party-funding-bill.577469>

http://www.maltatoday.com.mt/news/national/55315/party_financing_bill_passes_into_law_both_parties_vote_in_favour#.ViNkq34rKM8

Party Financing a lost opportunity Malta Today 23/07/2015

<http://www.timesofmalta.com/articles/view/20160917/local/pn-refusing-to-disclose-cedoli-scheme-donor-details.625240>

<http://www.timesofmalta.com/articles/view/20160911/local/cedoli-make-3m-as-pn-prepares-for-an-election.624637>

tvm.com.mt 09/12/15 Malta off GRECO blacklist thanks to legislation on party financing

Times of Malta 07/11/17 Four Electoral Commission Members opted not to apply party financing law fearing human rights breach.

<https://www.timesofmalta.com/articles/view/20170708/opinion/Sound-party-finances.652699>

<https://www.timesofmalta.com/articles/view/20170312/editorial/time-to-clean-up-party-funding.642120>

<https://www.timesofmalta.com/articles/view/20180510/local/pn-appeals-party-funding-investigation-decision.678761>

Malta Today -8/10/12 Constitutional Court finds for PN in party financing case

Times of Malta 14/10/18 State of limbo looming for party financing watchdog

The Malta Independent 05/06/19 PD Warns of dormant financing of Political Parties Act

Popular Decision-Making
Score: 3

The constitution of Malta allows for three types of referendums: constitutional, consultative and abrogative. None of these types however fulfill the criteria for popular decision-making defined by the SGI. However, Malta has had several consultative referendums, the most recent being a 2015 referendum seeking to end spring hunting. In the latter case, the referendum was triggered by a citizens' initiative. Some local councils have also resorted to referendums, but while this may influence central government decisions, they are not binding.

Citation:

http://www.maltatoday.com.mt/lifestyle/environment/38168/spring_hunting_referendum_is_revolutionary#.ViNoVn4rKM8

The Constitution of Malta

<http://www.timesofmalta.com/articles/view/20140330/local/-Spring-hunting-in-dustbin-of-history-.512723>

<http://www.timesofmalta.com/articles/view/20140328/local/signatures-for-referendum-to-abolish-spring-hunting-presented-to.512579>

<http://www.timesofmalta.com/articles/view/20160710/letters/Perseverance-and-tenacity.618307>

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Access to Information

Media Freedom
Score: 6

Private media operates free from government interference. Mechanisms exist to ensure that state media operate independently from government interference; since 2014, we have witnessed further progress on this issue. While the prime minister appoints all the directors of the State Media Board, as well as all the members of its editorial board, complaints of bias against the state broadcaster have dwindled. In Malta, media independence more generally is influenced by who owns a given media outlet, as well as the source of its revenues. In many cases, media organizations depend on commercial and public expenditures for these revenues. Furthermore, journalists in all media often display a clear party preference close to that of the media organization's owner, whether the outlet is owned by a party or not. This, rather than government interference, is the primary reason that Malta's media suffers from a lack of public trust. In a 2016 European Commission report on media pluralism, 76% of respondents stated that the media provides a diversity of views and opinions, but only 28% thought that the media provided information free from political or commercial pressure. In the same survey, 44% believed that the media provided trustworthy information, with the lowest scores assigned to newspapers and social media. Only 39% viewed the national regulator as being free and independent. Freedom House's Freedom of the Press report 2017 gave Malta a score of 23/100 (with zero indicating the maximum amount of freedom). The 2017 Media Monitor ranked Malta as a medium-risk country with regard to political-independence indicators and regulatory safeguards, with three indicators assigned a high level of risk: the political independence of the media, editorial autonomy, and independence of public sector media governance and funding. Malta's ranking in the 2019 World Press Freedom Index fell to 77th place due to the government's failure to launch a public inquiry into the murder of journalist Daphne Caruana Galizia, the failure to withdraw approximately 30 pending posthumous civil defamation cases against the Caruana Galizia family, and the incidence of local strategic lawsuits against public participation (SLAPP) laws, which can be used to muzzle the media. In the time since the ranking, the

Caruana Galizia inquiry has been set up, although the government has argued that its first priority was to ensure that the judicial process against three persons accused of her murder would not be tainted by the inquiry.

Recent amendments to the press laws have abolished criminal libel, introduced the concept of mediation, and banned the filing of multiple libel lawsuits based on the same journalistic report. Other proposed reforms include the elimination of defamation of the president as a sanctionable offense, a cap on libel damages (including a clause stating that courts need to take into account the impact that financial damages may have on a media outlet) and a voluntary registration process for media outlets. The OSCE welcomed the changes, but offered additional recommendations, noting that a more balanced approach is needed with regard to the defense of truth.

Although state and party-related activities dominate the media, the reality of media diversity and a recent increase in competition ensure that the system is essentially pluralist, and that a range of opinions remain available. Online news outlets have added to this pluralism.

Citation:

Journalists' institute calls for reform of libel laws. Times of Malta 18/07/2015

Cabinet mulls brave new defamation law. Malta Today 11/11/2015

<http://www.timesofmalta.com/articles/view/20161001/local/institute-of-maltese-journalists-calls-for-decriminalization-of-libel.626631>

<http://www.timesofmalta.com/articles/view/20160713/local/justice-minister.618702>

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<https://rsf.org/en/ranking>

Standard Eurobarometre 84 Autumn 2015

Malta Today 29/11/17 OSCE analysis of Malta's upcoming media law

Legal analysis of the draft law of the Republic of Malta to provide for the updating of the regulation of media and defamation matters and for matters consequential or ancillary thereto, Commissioned by the office of the OSCE Representative on freedom of the media from Dr. Joan Barata November 2017

Draft law of the Republic of Malta to provide for the updating of the regulation of media and defamation matters and for matters consequential or ancillary thereto 2017

Special Eurobarometer 452. Media Pluralism and Democracy November 2017

World press freedom index of reporters without borders 2018

Media Pluralism
Score: 6

Maltese media outlets, including visual media, electronic media and print publications, are primarily owned by a mix of actors: political parties, the Catholic Church, private entrepreneurs and the General Workers' Union (GWU), a major left-leaning trade union. Thus, Malta's media landscape reflects a plurality of ownership. Pluralism of opinion within the media depends entirely on the willingness of owners to allow the publication or dissemination of opposing viewpoints or dissent from current orthodoxy. The state media has expanded the range of viewpoints presented, and has had few legal cases brought against it in recent years, a significant change. The state fulfills its obligations better now than in the past. However, competition for

market share has forced privately owned and politically owned media alike to publish dissenting opinions more often. The 2017 report on media pluralism in Malta by the Center for Media Pluralism and Media Freedom (CMPF) at the European University Institute, assigned the country a medium score in terms of basic protection of journalists against violence. This score was primarily associated with the murder of a journalist (Daphne Caruana Galizia) in 2017. The report stated that, “The highest-scoring risk indicators are: political independence of media, in particular of public-service media; commercial and owner influence over editorial content; cross-media concentration of ownership; access to media for minorities and for people with disabilities; and media literacy. Editorial autonomy seems not to be well protected, either from political or commercial influences. However, media ownership is quite transparent.” Malta scored well in terms protecting the freedom of expression; yet here too the country’s ranking fell, again primarily due to Caruana Galizia’s murder and the mistaken claim that no action was being taken to solve the murder. The report pointed out that Malta is the only EU country where the two major political parties own television and radio stations as well as newspapers. According to the Media Pluralism Monitor 2016, media ownership is transparent but data on revenues are not available. Most of the risk-increasing factors relate to the lack of data on the media market, lack of protection for and self-regulation by journalists, and the lack of a media-literacy policy. In a 2016 European Commission report on media pluralism, 76% of respondents stated that the media provide a diversity of views and opinions, 48% thought the media was more free and independent than five years ago; Malta showed the most improved score over the past five years in both cases. Notwithstanding, only 28% thought that the media provided information free from political or commercial pressure.

Citation:

<http://www.timesofmalta.com/article s/view/20130428/opinion/Making-PBS- a-fit-national-entity.467423>

<http://www.timesofmalta.com/articles/vie w/20130423/local/new-pbs-chairman-t hanks-the-pm.466622>

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Media Pluralism in Malta, A Test Implementation of the Media Pluralism Monitor 2015

Media Pluralism in Malta, A Test Implementation of the Media Pluralism Monitor 2016

Media Pluralism in Malta, A Test Implementation of the Media Pluralism Monitor 2017

Malta today 31/12/2019 One TV Chairman Jason Micallef opposes scrapping political party media

Access to
Government
Information
Score: 4

The Freedom of Information Act was passed in 2008 and only came into force in September 2012. Since this time journalists have had better access to information from government bodies. However, exemptions compromise the bulk of the legislation. Under Article 5(4), no Maltese citizen is entitled to apply to view documents held by the Electoral Commission, the Employment Commission, the Public Service Commission, the Office of the Attorney General, the National Audit Office, the Security Service, the Ombudsman Office and the Broadcasting Authority, when the latter is exercising its

constitutional function. Under Article 3, only Maltese and EU nationals who have been resident in Malta for a minimum of five years may access information. The prime minister also holds the power to overrule the Information and Data Protection commissioner, despite the latter's declaration that a request for information should be approved. Moreover, there are a number of laws that still contain secrecy provisions to which the act does not apply. While this may be justified in some cases, it might undermine the essential workings of the act, as it could be in the political interest of the prime minister to suppress the publication of documents, which might embarrass or undermine his administration. The act does not meet the standards of the Council of Europe's Convention on Access to Official Documents. The 2017 Media Pluralism Monitor assigned Malta a 56% risk rating in this area. The report stated that this rating was in part a result of the weakness of legislation protecting whistleblowers, since the law offers no protection if such individuals fail to try internal reporting procedures first, or if they report to the press or other media. Between 2015 and 2017, government ministries received 402 requests under the Freedom of Information Act from media houses and members of the public. A total of 54% of these requests were upheld in full or in part.

Citation:

Aquilina, K, Information Freedom at Last. Times of Malta, 22/08/12
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 In spite of fines ministry offers no reply to Times FOI request Times of Malta 9/5/2015
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 Times of Malta 27/08/16 Has the Freedom of information Act worked?
 Times of Malta 30/11/17 Over 400 Freedom of information requests in 3 years
 Malta Independent 26/08/19 Freedom of information act: pulling off the cloak of secrecy
 Malta Independent 17/10/19 Freedom of information: Transparency needed
 The State's Duty to Inform, Edited by the Parliamentary Ombudsman Malta 2015

Civil Rights and Political Liberties

Civil Rights
 Score: 7

The state generally respects human rights, and human rights are subject to judicial protection. Malta affords the highest possible level of protection to civil and political human rights, as enshrined in Chapter 4 of the constitution. These rights are legally enforceable before the courts, and the sphere of rights enjoyed by individuals has expanded greatly since independence, thanks to decisions by the Constitutional Court and the European Court of Human Rights. Delays in the administration of justice have often been the cause of complaints, but recent court reforms have improved matters. A recent landmark Constitutional Court ruling declared that two statements made by the accused when his lawyer was not present were inadmissible, and were thus

expunged from the record; this reinforced the principle that a lawyer must be present at all times when an accused person is being questioned. A new section in the superior court of appeal has been created with the aim of increasing the system's efficiency and effectiveness. The extension of rights to members of the LGBT community has improved civil-rights protections. For the third year running, the country has retained its place at the top of the European index that assesses rights granted to LGBTIQ persons in 49 countries. An increased focus on gender equality has improved matters considerably as has the transposition into domestic law of the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (Istanbul Convention). There has been a similar development regarding disabled persons in Malta, and a national disabilities strategy is being finalized. A 2018 report by the Aditus Foundation, a human-rights organization, noted further reforms concerning the civil rights of immigrants and asylum-seekers, including the removal of automatic detention (though these gains were eroded somewhat with the increased number of asylum-seekers in 2019), a shift to open reception centers and a more efficient processing system, improved rights by applicants to access their own files, and better family reunification measures. Moreover, a relatively high number of asylum-seekers have been accorded humanitarian protection status. However, the rate of recognition for actual refugee status remains low. Better access to housing and support for migrants to integrate with the community needs to be made available. A recent report highlighted the right to marry, as migrants who do not have residency permits face a number of barriers when wishing to marry. In May 2019, the U.N. Commissioner for Human Rights chastised Malta for the decision to charge three migrants, two of whom were minors, with terrorist charges stemming from an incident on a commercial ship carrying a hundred rescued people. Exploitation of refugees by commercial interests remains a challenge. A Human Rights and Equality Commissioner has been appointed, and a new integration policy launched in 2019 ratified the relevant conventions on statelessness. The violation of the rights of prisoners confined in overcrowded and substandard conditions has also been noted. With regard to gender issues, the Council of Europe's commissioner for human rights has noted the introduction of the morning-after pill, but has also called for the decriminalization of abortion in Malta. The latter issue remains very divisive. The U.N. Committee for the Rights of the Child has recommended that Malta's marriage law be amended to forbid people under 18 from getting married. Freedom in the World 2019 allocated Malta a score of one out of seven, with one being the best score in terms of civil liberties. Shortcomings cited included the degree of government influence over state media, the vulnerability of and hostility toward irregular migrants, and the continued prevalence of domestic violence.

Citation:

The Malta human rights report 2015 The people for change foundation.
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 Malta Today 25/09/18 New section within appeals court established
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 AIDA Asylum information base: Country report Malta 2017 Aditus
 Times of Malta 12/12/2018 In Malta some rights are more valued than others
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 Aquilina, K., (2018) Human Rights Law Faculty of Law, University of Malta
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Political Liberties
 Score: 7

The constitution of Malta and its chapter on fundamental human rights provide for a broad range of political and civil liberties. The incorporation of the European Convention on Human Rights into the Maltese constitution as well as membership in the European Union has also enhanced political liberties in Malta. The Maltese judiciary serves as the ultimate guarantor of Maltese rights and liberties, and governments respect court decisions. Maltese citizens also have the right to take a case before the European Court of Human Rights (ECHR), and several individuals have done so with success. The Ombudsman also plays a part in the protection of civil liberties. A traditionally clientelistic and partisan approach to politics has in the past hindered the exercise of individual political liberties, although this seems to be less marked today, as the Maltese are strong users of social media, and frequently use these platforms to air their views on political issues. In the World Economic Forum's Global Competitiveness Index 2019, Malta's ranking fell overall, with its poorest ranking assigned for the performance of government institutions. However, there was an improvement in the country's score for transparency of government policymaking. In Freedom House's Freedom in the World 2019 index, Malta's score in terms of political rights was two out of seven, with one being the best score. The report cited a number of problematic

issues, including the difficulties faced by small parties in entering parliament, the shortcomings of the 2015 Financing of Political Parties Act, the shortcomings of the FOI act, the ineffectiveness of measures intended to investigate corruption, the lack of transparency in the allocation and terms of public contracts, and the influence still wielded by powerful economic interest groups in national politics. The 2018 Eurobarometer, in contrast, reported an increased trust in government in 2017 (63%) as compared to 2016 (55%), and 2012 (34%). While the share of people expression trust in the government in 2018 fell to 58%, this remains much higher than the EU average. Excessive delays in the deciding of court cases and the costs of such delays often deter people from seeking legal solutions, although the picture has improved sharply on this issue. The right to a lawyer during police interrogation has now been fully implemented. However, Malta has one of the EU's weakest systems for allocating legal aid, and lawyers appointed under this system have at times been found to have failed to fulfill their duty. Legal aid lawyers are very poorly paid. The current threshold to be eligible for legal aid is also very low. Malta is one of 11 EU countries that do not provide third-country nationals with electoral rights.

Citation:

Migrant Integration Policy Index. <http://www.mipex.eu/malta>
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Non-discrimination
 Score: 5

The Maltese constitution's chapter on fundamental human rights forbids discrimination on the basis of race, religion, gender or politics. Other laws forbid discrimination on the basis of physical disability or handicap. In Malta, the civil courts and the Constitutional Court are staunch defenders of anti-discrimination legislation. Since 2013, the government has strengthened the rights of gay, lesbian and transgender people through the establishment of civil unions and a gender identity act. Malta also has a number of independent commissions to protect the rights of vulnerable groups, such as children and

disabled people. In the last budget, the government increased the fine for employers who discriminate against disabled people. The country has also worked to increase female representation at various levels, although women are still underrepresented in parliament, on state boards and in the workforce compared to most EU states. Malta's rank remains unchanged at 15th place in the EU-28 in a 2019 index published by the European Institute for Gender Equality. In the index, the country scored well in terms of health and monetary resources, but very poorly in terms of women's access to power. A bill on the issue of equality bill is presently making its way through parliament. This act will give legal protection to victims of discrimination, and harmonize equality and non-discrimination laws. It will include gender quotas with regard to parliamentary representation and in the public administration to ensure that at least 40% of positions are held by women. In the workplace, women remain disadvantaged when it comes to earnings and pensions. Discrimination on grounds of political affiliation remains a problem, a direct result of the country's small size, but aggravated by the type of electoral system in place. Aggrieved citizens may take cases to the Constitutional Court, the Employment Commission or the Ombudsman Office, while public servants may also bring a case before the Public Service Commission. Nevertheless, allegations of discrimination on political grounds remain common, although at lower levels than previously. In addition, it has been alleged that many cases of discrimination remain unreported. In 2018, the National Commission for the Promotion of Equality highlighted the discrimination faced by sub-Saharan migrants Malta in accessing employment, in employment itself, in accessing housing and when contacting school authorities as parents.

Citation:

Carabott, S. Expats Petition against Malta Discrimination. Times of Malta 12/04/13

Ellul, T. REPORT ON MEASURES TO COMBAT DISCRIMINATION Directives 2000/43/EC and 2000/78/EC

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Malta is almost half way to gender equality, European Institute for Gender equality 24/06/16

Times of Malta 04/11/17 Women in Malta earn half of what men get

Malta Independent 15/01/18 Discrimination affecting large number of ethnic minorities

European Institute (2019) Gender equality Index

Equity Act 2019 <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lp&itemid=29681&l=1>

Rule of Law

Legal Certainty
Score: 6

Since Malta joined the European Union, the predictability of the majority of decisions made by the executive has steadily improved, with discretionary actions becoming more constrained. Overall, legal certainty is robust, though there continue to be instances where the rule of law is misapplied by state institutions. However, governments do generally respect the principles of legal certainty, and the government administration generally follows legal obligations; the evidence for this comes from the number of court challenges in which government bodies have prevailed. The rule of law is what one might consider a work in progress. The judicial system has been strengthened and more legislation put into place. The Ombuds Office and the National Audit Office (NAO) continue to provide strong oversight over many aspects of public administration. The appointment of a commissioner for standards in public life has already begun to bear fruit.

However, reports from public bodies such as the Ombudsman Office and the National Audit Office demonstrate that government institutions do sometimes make unpredictable decisions, notably in the use of direct orders by ministries in concessions of public land to private business operators and a lack of transparency in the allocation and terms of public contracts. In 2019, the courts ruled that restrictions imposed on the Ombudsman in the investigation of complaints from armed forces personnel were unlawful, thereby extending its jurisdiction. The work of these two offices together have afforded greater transparency in the allocation and terms of public contracts. Parliament is slow to legislate on articles of the law that have been declared unconstitutional and need to be revised. Several laws and practices enacted before EU membership are now in breach of the Maltese constitution or the European Convention on Human Rights, notably in the case of property acquired by the government decades before membership. The government has in some cases made subsidiary law that violates primary law. There is no overarching sentencing policy that ensures legal certainty; instead, sentences that ignore clear provisions in the constitution and which are instead based on other laws still take place. However, the higher courts have become stronger in enforcing constitutional provisions. Since the Maltese legal system does not include the doctrine of judicial precedent, this may also mitigate against legal certainty. The length of court cases also undermines the process. The recent practice of placing members of parliament on regulatory boards is also unconstitutional, and has been condemned by the commissioner for standards in public life. Malta has become the first jurisdiction to provide legal certainty to the cryptocurrency field.

Citation:

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 Grima, J., (2017) Legal Certainty and the Constitution: is Malta ready for the doctrine of Judicial Precedent?

Judicial Review
 Score: 7

Judicial review is exercised through Article 469A of the Code of Organization and Civil Procedure and consists of a constitutional right to petition the courts to inquire into the validity of any administrative act or declare such act null, invalid or without effect. Recourse to judicial review is through the regular courts (i.e., the court of civil jurisdiction) assigned two or three judges or to the Administrative Review Tribunal and must be based on the following: that the act emanates from a public authority that is not authorized to perform it; or that a public authority has failed to observe the principles of natural justice or mandatory procedural requirements in performing the administrative act or in its prior deliberations thereon; or that the administrative act constitutes an abuse of the public authority's power in that it is done for improper purposes or on the basis of irrelevant considerations; or as a catch-all clause, when the administrative act is otherwise contrary to law. Malta has a strong tradition of judicial review, and the courts have traditionally served as a restraint on the government and its administration. A recent court ruling found that the justice minister's orders to clear items memorializing a slain journalist away from a war memorial was in breach of the freedom of expression. Individuals who feel that their human rights have been breached also have recourse to the European Court of Human Rights (ECHR). Fully 90% of the human-rights cases that have been taken up by the ECHR Court have produced rulings that Malta has violated the complainant's human rights; however, a number of these have dealt with property leases and old tenancy laws.

The role of the Office of the Attorney General, which has been controversial since the position's inception in the 1964 constitution, underwent a reform in 2019. Previously, the attorney general was both the state's chief prosecutor and an adviser to the government. Following the reforms, the attorney general

will retain responsibility for prosecutions and criminal matters, but a new state advocate will be responsible for all government advisory and legal representation functions in the field of constitutional civil and administrative law. The opposition did not vote in favor of this act in parliament, objecting to a number of articles including the process of selecting the state advocate. A new state advocate has been appointed under the new legislation after being unanimously recommended by the appointments commission following a public call. The process by which court experts are chosen should also be revised to be more transparent.

Recent judiciary reforms have included the establishment of a commercial section, the reform of the Family Court, and the creation of a new section in the Appeals Court to help speed up case processing.

The 2019 Justice Scoreboard noted that while more cases were being dealt with and the time needed to resolve cases had fallen, the percentage of resolved cases and pending cases remained stable. The report emphasized the lack of internet-based tools for legal-rights education, information on eligibility for legal aid, and information for children. The number of female judges in the court of first instance have increased substantially, but the numbers still remain low for the court of second instance. In a survey, 56% of the public and 62% of firms rated the independence of the courts and the judiciary as good or very good, an improvement relative to 2018. Reasons cited for the lack of independence included pressure from the government, politicians and economic groups. Nonetheless, this is more of a perception than a confirmed statistic. In 2017, no judges were transferred except by decision of the Judiciary Council, and there were no dismissals. The number of serving judges has increased over the last five years. Malta has the EU's fourth-highest rate of judges participating in training activities focused on EU law or the law of another member state. However Malta does not as yet provide training for judges in the areas of IT, judgecraft, ethics, court management or communication with the press. An internal debate is taking place on this latter issue. Measures to deal with court backlogs remain weak. The World Economic Forum's global score board for 2019 states that "the judiciary is fairly independent and efficient and provides strong protection of property rights." On the issue of the independence and impartiality of the judiciary, Malta here achieved a score of 50.4%. The appointment of more judges, improved planning processes and increased use of ICT have had a visible effect on the judicial process. Increased scrutiny of the bench by the Commission for the Administration of Justice should help to increase public confidence in the courts. The number of judges as a percentage of the population remains low, indicating difficulty in finding suitable candidates to take up the post. Online information on published judgments is available, and

enough information is now provided to monitor the stages of a proceeding. Delays and deferments may still lengthen the process, but have diminished in recent years. In 2018, parliament passed a bill to establish a first hall of the civil court in Gozo.

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Appointment of
Justices
Score: 4

Superior Court judges and magistrates are appointed by the president, acting in accordance with the advice of the prime minister. The independence of the judiciary is safeguarded through a number of constitutional provisions, including the security of tenure of judges and magistrates and the inviolability of their salaries. The constitution also states that an appointee must be a law graduate from the University of Malta with no less than 12 years of experience as a practicing lawyer. Magistrates need to be similarly qualified, but are required to have only seven years of experience. Today, all candidates who apply for the post are vetted by the Commission for the Administration of Justice before they can be appointed. However, the lack either of formal calls to fill judicial positions or of a ranking system to assess applicants impedes the process, and the final decision continues to lie with the executive. Numerous bodies have called for further reform. In 2019, the justice minister stated that the government was planning further changes to the process, which would ultimately ensure that the executive was no longer involved in the appointment of judges and magistrates. Instead, a reformed Judicial Appointments Committee would be empowered to act independently in the selection process. However, a number of new judges and magistrates were appointed under the current system in 2019. These appointments have been challenged in court by Repubblika, a civil society organization. The first Hall of the Civil Court has

referred the case to the European Court of Justice, which has been asked to rule on whether the powers accorded to the prime minister in the appointment process are in conformity with European laws. The justice minister appointed in 2020 has stated that the judicial-appointment reforms are imminent. On another issue, a recent law on the suspension of judges has been criticized by the dean of the law faculty at the University of Malta, on the basis that suspended judges have no right to challenge the suspension, and that the removal or dismissal of a judge should not be done by a body that is part of the legislature.

Citation:

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Judicial appointments and the executive: Government cannot continue to delay reform Independent 2/10/2015

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Interview with Professor Kevin Aquilina

Malta Independent 20/01/19 Government will have no say in judicial appointments in upcoming reform – Owen Bonnici

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Times of Malta 25/11/2019 Foundation of Justice system in serious doubt says maltese judge in urgent reference to European Court

Times of Malta 11/02/20 Judiciary reform on the way

Corruption
Prevention
Score: 5

The government generally implements anti-corruption laws effectively. Malta's Criminal Code criminalizes active and passive bribery, extortion, embezzlement, trading in influence, abuse of office, and receiving and offering gifts. The penalty for bribery, whether in the private or public sector, can be up to eight years' imprisonment. Money laundering is criminalized under the Prevention of Money Laundering Act, which stipulates procedures for the investigation and prosecution of money laundering, and establishes the Prevention of Money Laundering and Funding of Terrorism Regulations. Malta has faced various calls for reform in this sector, and the government continues to heed these calls through changes in legislation and strategic plans.

A number of institutions and processes work to prevent corruption. These include the Permanent Commission Against Corruption, the National Audit Office, the Ombuds Office and the Public Service Commission. The judiciary also plays an important part in ensuring accountability. The 2018 Malta

Corruption Report (Business Anti-Corruption portal) states: “The Maltese judiciary carries a low corruption risk for companies. The courts are perceived as independent and the public generally believes that the courts are free from corruption. Businesses report that bribes in return for favorable court decisions are generally rare. Businesses also report confidence in the ability of the police to protect companies from crime and uphold the rule of law.” In 2019 the government appointed a Police Governing Board to assist in reform of the corps, and to extend oversight more generally.

There is a separate Code of Ethics that applies to ministers, members of parliament and public servants, and a recently appointed Commissioner for Standards in Public Life, whose officeholder is selected by a two-thirds majority vote in parliament, has already produced results. Ministers and members of parliament are also expected to make an annual asset declaration. The Public Accounts Committee of the unicameral House of Representatives can also investigate public-expenditure decisions to ensure that money spent or contracts awarded are transparent and conducted according to law and general financial regulations. However, the functioning of this committee requires review in order to ensure it is satisfying its remit. Internal audit systems can also be found in every department and ministry, but it is difficult to assess their effectiveness.

The government has introduced a number of reform. In 2013, it reduced elected political figures’ ability to evade corruption charges by removing statutes of limitation on such cases, and introduced a more effective Whistleblower Act, although this needs further reforms; in 2016, it passed a law on standards in public life; and in 2018, the government and the opposition agreed on the appointment of the person who will oversee the workings of this law.

Both the National Audit Office and the Ombuds Office are independent, but neither enjoys sufficient legal powers to allow them to follow up their investigations at the judicial level. Whether they should or not is a debatable issue. In 2018, the NAO launched a five-year plan to improve governance across the public service and reduce levels of non-compliance. In 2018, the ombudsman called for greater government transparency and accountability. The latter’s 2017 recommendation that legislation to regulate lobbying be passed has not yet been addressed, though the minister for environment has committed his ministry to setting up a register where all meetings with lobbyists would be registered. The Permanent Commission Against Corruption, established in 1988, has proved ineffective despite having investigated some 300 cases of alleged corruption; none of these cases have been prosecuted. The Public Service Commission, which is tasked with

ensuring fairness in recruitment and promotions in the public service, remains underresourced. However, these institutions along with the recent FOI act allow for greater exposure of corruption.

Conflicts of interest remain common across both parties. The 2018 GAN report states that the public-services sector carries a low corruption risk for businesses operating in Malta, while Malta's land administration suffers from moderate risks of corruption. It additionally says that corruption risks at Malta's border are moderate, but that Malta's public-procurement sector carries a high corruption risk for business. In 2020, the prime minister appointed a committee to review the Vitals hospital deal, which involved the leasing of three government hospitals by an international consortium, in order to ensure it fulfilled public-procurement regulations. Malta's Planning Authority (MEPA) has been under scrutiny for decades due to allegations of corruption and other irregularities in its decision-making process. This situation is exacerbated by the prevalence of the face-to-face relationships common in small countries, and the fact that most of Malta's parliamentarians aside from members of the government serve on a part-time basis, and thus maintain extensive private interests. Many also sit on government boards, a practice which the new commissioner for public standards has deemed to contravene the spirit of the constitution. According to a 2018 report by the European Greens, Malta loses 8.65% of its GDP to corruption. In comparison, the lowest figure in this respect is 0.76% in the Netherlands, while the highest is 15.6%, in Romania. Malta's score in the 2019 Corruption Perceptions Index was 54% (with 100% being the best possible score), reflecting such issues as politically exposed persons' (PEPs) involvement in the Panama papers, the collapse of a Malta-based bank and recent findings linked to the murder of a Maltese journalist. The 2019 GRECO report notes that opinion polls show perceptions of a high level of corruption, and that to date, there has been no visible disciplinary or criminal-justice response to a number of allegations, even though some have been confirmed by subsequent audits by the National Audit Office. The senior officials who have been accused of criminal or ethical misbehavior are still in their positions. Malta clearly lacks an overall strategy and coherent risk-based approach when it comes to integrity standards for government officials. The GRECO report also recommended that measures resolving the legal situation of persons of trust be implemented, that the number of such discretionarily appointed officials be limited to an absolute minimum, that robust and systematic awareness-raising measures be introduced, that the outcomes of public consultations be published, that new procedures for lobbying be introduced, and that the FOI Act be improved.

Citation:

Audit office finds lack of adherence to procurement regulations by the office of the prime minister Times of Malta 14/12 2015

No independent testing of concrete at child development center in Gozo Times of Malta 14/12/2015

Audit office calls for better verification of applications for social assistance Times of Malta 14/12/2015
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<http://www.timesofmalta.com/articles/view/20160510/local/zammit-dimech-cachia-caruana-deny-panama-papers-links.611633>

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The Cost of Corruption across the EU. The Greens/EFA Group 2018

<https://tradingeconomics.com/malta/corruption-index>

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GRECO Report on Malta 2019 <https://rm.coe.int/grecoeval5rep-2018-6-fifth-evaluation-round-preventing-corruption-and-/168093bda3>

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Governance

I. Executive Capacity

Strategic Capacity

Strategic
Planning
Score: 7

Each government ministry has a director and unit responsible for strategy and planning. These are strongest in the Ministry of Finance, the Malta Planning Authority, the Malta Transport Authority, the Ministry of Justice and Home Affairs, and the Education Ministry. However, the number of strategic planning commissions has mushroomed in recent years. In 2015, a new unit focused on information and the implementation of standards was introduced in the office of the prime minister to facilitate coordination between various stakeholders when implementing projects. Strategic planning has been boosted by the government's efforts to reduce public debt. The National Statistics Office has also been reformed. Over the last year, the influence of strategic planning units over fiscal and education policy has increase. A Budget Implementation unit also monitors the implementation of policies with relevance to the budget. In the last year, the Malta Financial Services Authority (MFSA) and the Malta Police Force have been overhauled. A special cabinet committee was set up to review constitutional reform, and a committee composed of representatives from the civil service, the Health Ministry and the Finance Ministry has been set up to review the Vital Hospital deal.

Within ministries, the permanent secretary is responsible for developing strategy, including identifying key performance indicators, and determining timeline and budgets. Strategic plans normally run over three-, four- or five-year cycles and are often developed in the course of consultation with internal and external stakeholders. Internationally recognized benchmarking methodologies are used to track progress. Ministries increasingly employ consultants to produce reports on current policy issues, a practice that may be regarded as forward planning. The Management Efficiency Unit coordinates separate ministry plans and the Malta Information Technology Agency

(MITA), which reviews government IT requirements, also assists. Usually when a policy is to be reformed or updated a strategic plan is released for consultation. It has been proposed that the annual government budget be instead shifted to a multi-year time-frame to ensure a greater degree of continuity and long-term planning.

Citation:

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<https://www.tvn.com.mt/en/news/malta-ghandha-malta-should-have-a-national-strategy-for-sport-by-june-strategija-nazzjonali-ghall-isport-sa-gunju-li-gej/>

Expert Advice
Score: 5

Consultation processes involving academic experts has always been rather intermittent, but since 2013, such experts have been involved in a greater number of areas including family issues, gay rights, care of the elderly, health issues such as diabetes, IT in schools and others. With the exception of standing parliamentary committees, which regularly consult with academic experts, the government tends to consult with outside experts in an issue-based and ad hoc manner. Academic input is at the line ministry level. Policy issues have at times been the focus of studies directly commissioned from faculties, institutes and other bodies. Information required by the government may also be contracted out on an individual basis. Driven particularly by the needs of the country's EU presidency, this process has become more inclusive since 2017, with many academics providing support for government policymaking. Increasingly, international experts are being commissioned to assist government in policy design and decision-making. The president's office has currently opened up the issue of constitutional reform to public consultation, and the public has been requested to send in proposals. As yet it is unclear how these proposals will be dealt with.

In addition, the process of developing important strategic plans and policies is being opened to consultation by stakeholders, including NGOs and the general public. Web-based consultation processes have become more refined, and calls for consultation more frequent. Nonetheless, gaps in the consultation process

remain. In some policy areas, consultation remains sketchy or minimal, while in others, policy areas stakeholders are brought in only at a late stage. Occasionally, experts selected for the consultation process are accused of having conflicts of interest.

Citation:

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<https://www.pa.org.mt/consultation>

Interministerial Coordination

GO Expertise
Score: 5

Government ministries in Malta traditionally enjoy almost complete autonomy in several areas of policy. The government office was primarily tasked with overseeing budgetary matters. Consequently, the fall-out for governments from policy failures has been significant. The present government initially faced the same problems, but in recent years has worked to bring policy under greater central control. Today the Prime Minister's Office (PMO) enjoys greater control mainly through the cabinet, and through the central control of permanent secretaries in ministries. As early as March 2013, the government appointed a minister as part of the PMO to oversee implementation of the government's manifesto and more recently introduced a specific strategy to implement the government's program. This strategy operates on a three-year planning cycle in conjunction with the budgetary cycle implementation program. Ministries have full responsibility for the policy, and draw up action plans that are monitored on a monthly basis by the PMO; areas of concern are flagged and brought to the attention of the public service and cabinet. More resources are being put into building the capacity of the public service through a centrally controlled Institute for Public Service (IPS), which coordinates training at all levels. The PMO has recently demonstrated an improved ability to respond to policy implementation failures. For example, during the period

under review, the PMO heightened its overview of ministries to make up for a number of policy failures that occurred during the previous legislature, although certain ministries still make occasional efforts to evade oversight.

Citation:

Sansone, K Justice to be transferred to OPM – Labor MP is Commissioner Against Bureaucracy Times of Malta 18/06/13
<http://www.timesofmalta.com/articles/view/20151029/local/over-32m-in-government-consultancies-in-one-year.590017>

Line Ministries
 Score: 5

Since 2013, a sustained effort at coordination has been made in the Prime Minister's Office (PMO) and in line ministries. During the period under review, the government established an office within the PMO to coordinate the policies contained in the ruling party's electoral manifesto. In a new review strategy, ministries monitor the outputs of policies previously discussed with the cabinet; the OPM then monitors policies until they are implemented and supports the ministries in their implementation. Coordination meetings are also organized by the OPM bringing together the various ministries. Decisions taken by ministries have more than once been rescinded by the PMO, a practice less common in the past. The PMO may also seek to review its policies with the help of the Management Efficiency Unit and occasionally employs consultants. Cabinet meetings have allowed experts to give direct advice to ministers, a departure from the past. From time to time, cabinet meetings are held in different regions for the purpose of consultations. As a consequence of a number of past policy failures, most policy proposals have since 2017 required cabinet approval, with implementation subsequently monitored. Specialist ad hoc committees and interministerial cabinet committees are set up to facilitate coordination between the PMO and ministries.

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Cabinet
 Committees
 Score: 6

Malta's EU's presidency helped to strengthen and refine Malta's cabinet and ministerial committees. Since the 2017 election, greater stress has been placed on such committees, which report to the cabinet. Most of these committees remain focused on issues that cut across ministerial portfolios, but some ad hoc committees are more focused on single ministerial policies. The new prime minister, who took office in 2020, has advocated for the use of special committees, and immediately set up a special cabinet committee for constitutional reform.

Ministerial
Bureaucracy
Score: 6

Citation:
Harwood Mark, Malta in the European Union 2014 Ashgate, Surrey
<https://www.pressreader.com/>

The effort to enhance collaboration at all levels, reported in the last review period, continues to be strengthened within ministries and across ministries. The government office (GO) has gone to great lengths to enhance ministries' personnel capacities for this purpose. This is done through focused training and targeted recruitment efforts. The GO also collaborates with universities by offering placements and research posts to undergraduates in an attempt to help recruit future top civil servants. These students are placed in sectors where they can build their own managerial capacities, and are offered fast-track employment to senior offices on graduation. In other cases, it is now compulsory for top senior managers to hold post-graduate degrees, and existing personnel are offered bursaries and time off to pursue such qualifications.

In 2017, the first 12 key performance indicators (KPIs) for the public service were put into place. This is a new concept for Malta's public service, and is designed to establish clear objectives that need to be attained within a specific time frame. A "mystery shopper" for government departments was also introduced, with the aim of identifying shortcomings in service delivery and allowing such situations to be remedied.

Citation:
<https://www.pressreader.com/>
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http://www.grtu.org.mt/index.php/publications-resources/publication-after-2010/publications-in-2013/2849-Tackling_bureaucracy

Informal
Coordination
Score: 7

The government tendency toward informal coordination mechanisms has increased since Malta joined the European Union in 2004. Many directives from Brussels cut across departments and ministries, and ministries have to talk to and work more closely together. Preparations for the EU presidency in January 2017 and the actions taken during the presidency itself raised this informal coordination to unprecedented levels. Government longevity has also helped to strengthen this informal consultation process. As senior managers remain in their place, they build networks which they can employ informally. This also applies at ministerial levels. Informal consultation also takes place within party structures, since these are seen as a link to the grassroots level.

Digitalization for
Interministerial
Coordination
Score: 7

The use of digital technologies in Malta has now become widespread both to support interministerial coordination and for client use. The government is determined to make full use of digital technologies, including blockchain. A total of €40 million have been earmarked for the digitalization of public services over the next five years. Individual government ministries can access policies by other ministries that may touch on their own policy formulation, as well as any policies that come from the cabinet.

Each government ministry has its own information management unit (IMU), headed by a chief information officer (CIO). The IMU's primary role is to ensure that the information technology used is aligned with the ministry's strategic priorities. IMUs are also involved in applying government-wide policies, standards and protocols aimed at ensuring that IT systems are mutually compatible and that staff members understand and adhere to government policies and procedures.

All CIOs are a part of a CIO Forum chaired by the permanent secretary (strategy and implementation) within the Office of the Prime Minister. Various topics and issues are discussed during the monthly meetings; however, the CIO Forum also serves as a venue in which ideas and projects can be shared across ministries. This serves as a platform for CIOs to unite their efforts toward achieving a digitalized public administration.

In 2017, a total of 21 mobile apps for government services were launched; moreover, the servizz.gov.mt website went live, offering access to about 800 services and the associated forms. The publicservice.gov.mt website was also launched to disseminate information and news about the country's public services. The 2019 Ombudsman report focused on efforts to upgrade this technology in such a way as to facilitate the monitoring of ministries.

Citation:

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<https://economy.gov.mt/en/ministry/The-Parliamentary-Secretary/Pages/Malta-Digital-Economy-Vision.aspx>

Evidence-based Instruments

RIA Application
Score: 6

As it has worked to fulfill its obligations under EU law, Malta's government has been improving and strengthening its regulatory processes. The process has generally been slow, but has gained momentum in recent years. The government has conducted several ad hoc reviews of existing laws and regulations in specific areas aimed at reducing administrative burdens. However, Malta lacks a systematic approach for reviewing whether laws and regulations achieve the intended policy goals, for instance through periodic ex post evaluations. Within the existing framework, the cabinet is required to approve regulatory impact assessments (RIAs) for government notices, regulations and by-laws. This process is detailed in the Small Business Act, Chapter 512 in Maltese law. Recent reports from the EU have continued to confirm steady progress. To ensure that reviews contain sufficient detail, an International Accreditation Forum (IAF) process was introduced. Each ministry is responsible for drawing these up, assisted by their legal offices and program-implementation policy directorates (a unit found in each ministry). Over the past year, as reported by the Principal Permanent Secretary, this process has been strengthened by the recruitment of more trained personnel. However, the Office of the Attorney General, which also has a legislative unit, continues to make a final review when legal issues are under consideration.

Citation:

OECD (2007), "Regulatory Management Capacities of Member States of the EU that Joined the Union on 1 May

2004: Sustaining Regulatory Management Improvements through a Better Regulation Policy," Sigma Papers, No. 42, OECD Publishing. <https://www.mepa.org.mt/permitting-ea-eiaprocess>

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<http://gov.mt/en/Government/Government%20of%20Malta/Ministries%20and%20Entities/Pages/OPM-Portfolio.aspx>

Indicators of Regulator Policy and Governance EUROPE 2019 Malta

<http://www.oecd.org/gov/regulatory-policy/indicators-of-regulatory-policy-and-governance-2019-malta.pdf>

Quality of RIA
Process
Score: 4

Malta's policy on regulatory impact assessments (RIA) is taking slow steps forward. Stakeholder engagement is not required by law when defining a negotiating position for EU directives/regulations, but is required when transposing EU directives. Stakeholder engagement is currently required for all subordinate regulations as part of the RIA process, as well as for some primary laws in selected policy areas. Recent better-regulation initiatives have been targeted at improving the accessibility of the regulatory process, for example through the introduction of a central portal for online consultations. Each online consultation is accompanied by a feedback report that summarizes the views of participants and provides feedback on the comments received. However the transparency of the Maltese regulatory framework could be

further strengthened by making RIAs available for consultations with stakeholders. While consultation remains superficial in some areas, a more sophisticated reaction from the public has led to more robust consultation with stakeholders. Indeed, the number of policies implemented without strong consultation is diminishing rapidly. Previously, consultation prior to implementation was commonly extensive when regulations dealt with economic or labor issues; this practice has now increasingly been extended to social issues. The government has thus increased its consultation frequency and expanded its dissemination of information; nonetheless, in small states such as Malta, truly “independent” bodies are generally absent or rare. Furthermore, civil society groups must become more proactive if they are to help shape policies during the formulation stage.

Consultation activities have been codified to support environmental impact assessments. Guidelines initially allowed for an open, transparent and inclusive consultation process. However, in April 2016, the Planning Authority was separated from the Environmental Authority, a reform that may have confused this process. Critics have also charged that consultation sometimes involves only selected interest groups. Overall, because of the extensive developments taking place in Malta, this area requires serious study. In 2018, stakeholder engagement in the process of developing regulations was on par with the OECD average. In 2020, the government launched a €450,000 project to improve the Environmental Resource Authority’s regulatory process.

Citation:

<http://www.mcesd.org.mt/mcesd/content.aspx?id=101553>

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More development to be included in planning process, Times of Malta 19/04/2016

A Master Plan in Reverse Times of Malta 10/10/2016

Malta Independent 04/02/20 450,000 euro project launched to strengthen ERA regulatory process

Sustainability
Check
Score: 4

Though regulatory impact assessments are a compulsory regulatory tool in Malta, the government is only gradually learning to use this tool. Until recently, sustainability checks were common mostly in areas involving planning and the environment; however, these have now successfully been extended to the economic sphere, as EU and credit-rating reports indicate. Yet

generally speaking, the effectiveness of key regulations and policy initiatives is assessed mainly through Malta's National Reform Program, and the associated annual report that Malta (like all other EU member states) submits to the European Commission. This report is like a progress check, where Malta provides detailed updates relating to its Europe 2020 targets as a result of its policies. These reports include quantitative impact indicators that can illustrate the effectiveness (or failure) of regulatory projects that touch on social, environmental and economic issues. Overall, Malta has made progress in many areas, reaching many targets but lagging behind in others. Some indicators of progress include an increased level of subsidy provided to public transport programs, improved efficiency with the power-generation sector, and a plan for sustainable water use backed by actual budgetary allocations. More importantly, the PMO is currently directing an ambitious ICT project aimed at ensuring that policies and programs can be better assessed for sustainability, and at ensuring more coordination.

Citation:

http://ec.europa.eu/europe2020/making-it-happen/index_en.htm

Quality of Ex
Post Evaluation
Score: 6

In recent years, ex post evaluations have been carried out for most significant policies. Various tools are used, and supported by enhanced digital processes. Improvements in ministerial coordination have also contributed to this development, along with ongoing review by the Office of the Principal Permanent Secretary. A “mystery shopper” for government departments was introduced in 2017, tasked with identifying shortcomings in service delivery so that they could be remedied accordingly. The National Audit Office performs audits to determine whether government entities have adequate systems of internal controls in place, with follow-up audits conducted to determine whether identified weaknesses have been dealt with. The 2018 follow-up audit report paints a mixed picture, with recommended improvements fully or partially implemented in some cases, and no changes made in others. The 2019 OECD report on Regulatory Policy and Governance indicates that Malta is well below the OECD average in terms of the ex post evaluation of regulations. Additionally, Malta has no entity that can take legal or regulatory action against consultants who present flawed reports, or who mislead the Environment and Resources Authority or Planning Authority.

Citation:

Follow Up Reports by the National Audit Office 2018 <http://nao.gov.mt/en/recent-publications>
Malta Today 03/07/2018 Environment Impact Assessments still unregulated after 20 years

Public
Consultation
Score: 6

Societal Consultation

The government has an obligation to consult with the public. In addition, a ministry for dialogue has been established. New policies and legislation must be published for consultation. A formal consultative structure, called the Malta Council for Economic and Social Development, works well in facilitating consultation between business associations, trade unions and government. The government has also setup a separate Council for Economic and Social Development for Gozo and a consultative council for the South of Malta. NGOs concerned with social policy tend to be regularly consulted; however, environmental NGOs are rarely integrated into the policymaking process. The Planning Authority has its own consultation processes, but the views of non-governmental actors are taken into account to only a very questionable extent. Overall, Malta has seen a substantial increase in the number of policy areas open for public consultation. Malta today has a proliferation of NGOs, and increased consultation has created wider scope for them to act. However, greater progress could be achieved if NGOs were to become more professional, and officialdom less sensitive to feedback and more prepared to react to criticism. Nevertheless, the number of consultation processes has multiplied as the government has become more conscious of the need to bring NGOs and the public into the policy-development process. The government has also facilitated the process by engaging in online consultations and creating multiple portals.

In 2019, civil society held numerous protests to make clear its disaffection with government policies and shortcomings. In 2020, the new prime minister is attempting to preempt new demonstrations by promising reforms in a number of policy areas.

Citation:

<http://www.timesofmalta.com/articles/view/20151005/local/second-public-consultation-on-regulation-of-drones.587085>
<http://www.timesofmalta.com/articles/view/20150909/local/policy-launched-to-facilitate-use-of-tables-and-chairs-in-public.583770>
<http://www.timesofmalta.com/articles/view/20150910/local/energy-rules-consultation.583796>
<http://www.timesofmalta.com/articles/view/20151028/local/consultation-document-on-language-policy-for-early-years-launched.589986>
<http://www.timesofmalta.com/articles/view/20150918/local/consultation-document-on-free-access-to-bills-published.584900>
https://meae.gov.mt/en/Public_Consultations/Pages/Home.aspx
<https://www.transport.gov.mt/strategies/public-consultations-2236>
<https://mtip.gov.mt/en/Pages/Public%20Consultations/Public-Consultations.aspx>
<https://family.gov.mt/en/public-consultation-online/Pages/default.aspx>
<http://www.timesofmalta.com/articles/view/20151010/business-news/Final-consultation-on-green-economy.587604>
<http://www.timesofmalta.com/articles/view/20150829/local/white-paper-on-schools-role-in-alleviating-traffic-congestion-launched.582378>
<http://www.timesofmalta.com/articles/view/20150915/local/white-paper-to-reduce-inspections-bureaucracy-launched.584533>

<http://www.timesofmalta.com/articles/view/20160203/local/green-ngos-have-open-invitation.601085>
<http://www.timesofmalta.com/articles/view/20160114/local/700000-scheme-for-ngos-launched.598666>
http://www.maltatoday.com.mt/news/national/69495/green_ngos_to_get_collective_50000_in_government_funds#.We2bzVuCyM8
http://www.maltatoday.com.mt/lifestyle/health/69774/watch_conference_highlights_ngos_contribution_in_health_sector#.We2cCluCyM8
http://www.maltatoday.com.mt/news/national/64883/social_dialogue_minister_stresses_role_of_ngos_in_outreach_programmes#.We2ciluCyM8
 Malta Today 02/01/20 How Civil Society Rocked the establishment in 2019

Policy Communication

Coherent
Communication
Score: 7

The Labor Party, now in government since 2013, has been credited with strong communication strategies under the present leadership, particularly during election campaigns. Once in government it initially adopted normal channels, including the Department of Information, which is the state's primary communication channel, as well as individual ministerial communication channels. However, the run-up to the 2017 EU presidency helped refine the party refine its communication strategy and tools, and it today has a broad strategy which includes an e-government service. Ministers give daily briefings when launching policies and projects. These are normally associated with campaigns that include social media. Overall, this strategy seems to be working well, with the government enjoying unprecedented levels of trust compared to the EU average, though trust ratings dipped slightly in 2019 – to 58% compared to 63% in 2018. However there have been calls for a reform of the public broadcasting service in order to ensure transparency and objectivity.

Citation:

How the Maltese government spend over 2.5 million in social media ads. Malta Today 07/11/17
 Times of Malta 06/11/18 MFSA spends €210,000 for communications advice
<https://timesofmalta.com/articles/view/trust-in-malta-government-is-highest-in-the-eu-survey.697362>
<https://www.independent.com.mt/articles/2019-08-06/local-news/Eurobarometer-58-of-Maltese-trust-the-government-6736211853>
<https://www.independent.com.mt/articles/2018-12-22/local-news/63-of-Maltese-trust-government-Eurobarometer-6736201196>
 Euro -barometer trust ratings 2019

Implementation

Government
Effectiveness
Score: 6

Government efficiency has continued to improve, although strong economic growth and the government's ambitious plans have created challenges for the administration. Central to this improvement has been the Prime Minister's Office and the work of the Principal Permanent Secretary's Office. Policy implementation is measured against agreed upon KPIs and benchmarks, policies are monitored and shortfalls highlighted. Templates are sent out to ministries with deadlines and then assessed and reviewed. Every February, the

first round of audit closing meetings commence. In October 2018, the PMO and the Ministry of Finance stated that 79% of measures announced in the previous year had been successfully implemented. In 2019, this was rated at 74%.

Although problems remain, such as insufficient oversight of service providers and a lack of controls related to personal emoluments, insufficient verification and enforcement procedures, missing documentation, deficiencies in stock management, and a lack of adherence to public-procurement regulations, some improvement has been evident in the quality of implemented projects, especially road works. However, there has also been criticism of the lack of impact assessment reports prior to certain roadwork projects. In 2018, purchases totaling approximately €86 million were made by direct order following approval from the Ministry for Finance. Furthermore, a new act aimed at reforming local councils' performance has been introduced.

Citation:

Gozo projects lacking good-governance rules Times of Malta 16/12/2015

Briguglio, M An F for Local Councils Times of Malta 12/12/16

Report by the Auditor General Public Accounts 2015

http://www.maltatoday.com.mt/news/national/80417/half_of_nao_recommendations_implemented_auditing_is_not_a_witchhunt#.We2pXVuCyM8

http://www.maltatoday.com.mt/environment/townscapes/79047/no_value_for_money_in_fekruna_bay_expropriation__nao#.We2pt1uCyM8

http://www.maltatoday.com.mt/news/national/79029/labour_urges_pn_to_stop_ignoring_nao_reports_pointing_fingers_at_azzopardi#.We2p4VuCyM8

The following reports are obtained here <http://nao.gov.mt/en/recent-publications>

Performance Audit: An evaluation of the regulatory function of the Office of the Commissioner for Voluntary Organizations –

REPORT BY THE AUDITOR GENERAL ON THE PUBLIC ACCOUNTS 2017 –

An investigation of matters relating to the contracts awarded to ElectroGas Malta Ltd by Enemalta Corporation

Report by the Auditor General on the Workings of Local Government for year 2017 –

Performance Audit: A Strategic Overview on the Department of Fisheries and Aquaculture's Inspectorate Function –

Follow-up Audit: Follow-up Reports, 2018 by the National Audit Office

https://www.maltatoday.com.mt/news/national/97895/74_of_2019_budget_implemented_accountability_exercise_shows#.Xa1uQ5IzaM8

National Audit Office: Report of the Auditor General public accounts committee 2019

Ministerial
Compliance
Score: 6

The cabinet is the most important organizational device at the disposal of the government providing incentives to ensure ministers implement the government's program. Second to this are the weekly meetings of permanent secretaries. Meanwhile, the powers of the Prime Minister's Office have increasingly been used to drive policy implementation. The ministerial secretariat is generally responsible for overseeing the implementation of a program. However, this function has become more centralized; the government can now show how much of its program has been implemented. A yearly report provides details on each budget measure, indicating when it was implemented and by which ministry. A list of unimplemented measures is also

included. In addition, the Management Efficiency Unit in the PMO provides ministries with advice and capacity-building tools. Informal coalitions, for instance between civil society groups, businesses and individual ministries, can drive implementation in certain policy areas, such as the extension of LGBT rights, tourism or the construction sector. The drive to introduce simplification measures across ministries facilitates decentralization (e.g., in recruitment accords), granting ministries greater independence as well as additional incentive to implement policies successfully. Parliamentary committees have also become useful in making policy implementation more efficient, for instance in the area of social affairs; however, bipartisan cooperation is all but absent in every sphere.

Citation:

PM wants powers to appoint ministers who are not MPs Times of Malta 15/02/16

Implementation of government measure 2018 Publicservice.gov.mt

https://www.maltatoday.com.mt/news/national/97895/74_of_2019_budget_implemented_accountability_exercise_shows#.Xa1uQ5IzaM8

Monitoring
Ministries
Score: 6

The Prime Minister's Office (PMO) monitors the implementation activities of most line ministries and the structures for doing so effectively are being continually refined. The PMO has an office dedicated to monitoring which is increasingly fine-tuning the system. The PMO does not have a unit to assess policies in the ministries. Instead, the ministries themselves must do this work according to impact assessment procedures and the policy cycle. If problems surface in a ministry, the PMO steps in to assist. Furthermore, the cabinet office, which is part of the PMO, monitors policy implementation by line ministries, ensuring that they implement the decisions made by the PMO. Many lessons were learned during the Labor Party's first administration (2013 – 2017), and a marked improvement has been evident since that time. Nevertheless, competition between ministries at times hinders or obstructs monitoring efforts.

Citation:

<http://www.timesofmalta.com/articles/view/20151010/local/around-70-per-cent-of-last-budget-measures-implemented-pm.587638>

Bartolo insists that ministries should support each other, pull the same rope Independent 10/06/15

Times of Malta 17/10/18 79% of budget measures implemented

https://www.maltatoday.com.mt/news/national/97895/74_of_2019_budget_implemented_accountability_exercise_shows#.Xa1uQ5IzaM8

Monitoring
Agencies,
Bureaucracies
Score: 5

Malta is a unitary state. As such, monitoring of bureaucratic agencies is undertaken by parliamentary oversight, such as through parliamentary committee sessions, a Parliamentary Public Accounts Committee (PAC), the National Audit Office and the Office of the Ombudsman. In 2018, the Office of the Principal Permanent Secretary committed his office to a review of all cases that had been investigated by the Ombudsman the previous year as a

means of ensuring the rule of law and good governance. The 2017 Ombudsman report emphasized difficulties in receiving timely information, and further indicated problems related to the inappropriate disclosure of government information – specifically problems with binding parties signing government contracts to secrecy, and in areas where essential health and energy services in sectors have been partially or fully privatized. The Department of Local Government assesses the performance of local-government bodies. There is also an internal audit office within ministries. The Prime Minister’s Office, through the Office of the Principal Permanent Secretary, has become more involved in monitoring processes, and positive results are beginning to show. The recruitment of more qualified personnel and the provision of greater amounts of training are also proving effective in this regard, helping to improve monitoring of all sectors. Since 2017, efforts to strengthen this monitoring capacity have increased. Nonetheless, National Audit Office reports still point to some problematic areas.

Citation:

73% of budget measures to be implemented by the end of 2016 Malta chamber of commerce

Task Funding
Score: 5

Task funding remains a contentious issue. Although many new schemes have been put in place, funding remains inadequate. Local councils in Malta are primarily municipal bodies, and cannot raise revenue through local taxes; however, as they are an integral part of the political system, and under party control, they come under pressure to carry out tasks beyond their remit. Nearly all funding for local-government activities comes from the central government, with a small fraction sourced from local traffic fines. The funding formula for local councils is based on geography and population, but – despite legal provisions – local councils run budget deficits, both because of inadequate funding and mismanagement by the councils themselves. At the beginning of 2015, the government launched a fund for local councils’ capital projects however it remains inadequate. Regional committees were generating revenue from contraventions through the local enforcement system, however, this task was taken over by a central government agency in 2014. There has been a steady, though not particularly substantial, increase in the overall budget. In 2018, direct funds allocated by the government to local councils totaled €36.5 million. An additional adjustment fund of €504,782 was created with the intention of remedying imbalances in the distribution of funds. These funds were distributed to 25 local councils that either faced specific exigencies and/or had experienced a decrease in funding as compared to preceding years. Meanwhile, in line with prior years, a further €102,772 was allocated to the Local Councils Association (LCA). As of 2019, the regional committees were allocated a fund containing more than €3 million. These committees have now been relieved of all expenses relating to local tribunals, as these related costs are now borne by the Local Enforcement System Agency (LESA).

Citation:

44 local councils request devolution of government property Malta Today 11/09/2015

Money for local councils Times of Malta 14/02/2015

<http://www.timesofmalta.com/articles/view/20151228/local/councils-shortcoming-identified-by-nao-unacceptable-parliamentary.597069>

<http://www.timesofmalta.com/articles/view/20160706/local/auditor-general-criticises-funding-scheme-as-hasty.617914>

<http://www.timesofmalta.com/articles/view/20160111/opinion/Auditing-local-governance.598374>

<http://www.timesofmalta.com/articles/view/20151226/local/councils-christmas-dinner-bills-give-auditor-a-headache.596707>

Local government culture fund 2018 – 2020

35.5 million budget for 68 local councils in 2017 The Malta Independent 04/07/17

The Independent 12/12/18 A total of 30 local councils benefit from the capital projects fund

Financial Allocations to local councils January -December 2018

Constitutional
Discretion
Score: 3

Local councils have no constitutional right of implementation autonomy, and all their activities and responsibilities are monitored and can be challenged by the Department of Local Government. All by-laws have to be approved by the central government and decisions taken may be rescinded. These constraints are intentional, to prevent local councils from assuming responsibilities independent from the central government or adopting policies which conflict with those of the central government. Consequently, local councils intent on taking decisions that conflict with the central government, for instance in the area of local planning, must resort to sui generis tactics, often working with civil society organizations, in order to support the views of the locality.

National
Standards
Score: 6

The Department of Local Government and the National Audit Office (NAO) work together to ensure that local councils meet basic standards. The former entity is responsible for monitoring and reporting on the performance of individual local councils. Central departments set the benchmarks for services provided by local councils. The NAO independently investigates local council activities both from a purely auditing perspective and from a “value for money” perspective. It is this latter perspective that has by and large driven reform of local councils. The NAO has audited local-government authorities six years in a row. In the last audit, the NAO stated that by mid-October 2019, no reply had been provided by 11 local councils, and that 16% of local councils had not responded to the issues raised by the office. The 2018 report emphasized recurring weaknesses within these councils, including accounting records that were not properly updated, procurement that was not carried out in compliance with regulations, adequate fixed asset registers that were not being maintained, and the lack of statutory documentation on websites. A review of the follow-up actions undertaken by local councils following the previous year’s audits showed that out of more than 1,500 recommendations put forward by local government auditors, only 26% had been implemented. Thus, 71% of recommendations remained completely unaddressed, and 3%

had been only partially implemented. This could be construed as a lack of accountability on the part of these councils. National standards at the local level are also reinforced through the councilors' code of ethics and the Local Councils Association. The ombudsman's office has also suggested the introduction of a commissioner for local government within his office. In 2019, a local-council reform bill was passed seeking to strengthen regional councils, supply them with financial resources and recognize this level of government in the constitution. Furthermore, it would introduce the position of full-time mayors, increase investment in education and training for councilors and staff, introduce so-called "integration programmers," and extend the hours in which local council services were provided.

Citation:

<http://www.timesofmalta.com/articles/view/20151226/local/councils-christmas-dinner-bills-give-auditor-a-headache.596707>

<http://www.timesofmalta.com/articles/view/20160111/opinion/Auditing-local-governance.598374>

<http://www.timesofmalta.com/articles/view/20160706/local/auditor-general-criticises-funding-scheme-as-hasty.617914>

<http://www.timesofmalta.com/articles/view/20151228/local/councils-shortcoming-identified-by-nao-unacceptable-parliamentary.597069>

Report by the auditor general on the workings of local government for the year 2015

White paper on local government 2018

NAO Local Government 2018

Effective
Regulatory
Enforcement
Score: 5

For the most part, government agencies in Malta enforce regulations effectively and without bias. This said, the close personal relationships inevitable on a small island have undoubtedly greased the cogs of the administrative machine in order to facilitate positive outcomes in many cases. Certain powerful interests such as the construction lobby also wield influence over the decision-making process. A number of protests in 2019 expressed civil society anger against government support for development proposals running counter to the vision of a sustainable economy. Finally, the government's reliance on direct orders for large purchases, along with allegations of mismanagement in tendering processes, has left it open to accusations of favoritism. In 2013, the government strengthened the fight against corruption by reducing elected political figures' ability to evade corruption charges, and introduced a more effective Whistleblower Act. The 2017 ombudsman's report cited the need for legislation to regulate lobbying, a practice that can distort fair competition and has been linked to allegations of corruption, as well as the need for individuals to receive correct and timely information on the government's activities in order to ensure transparency and equal treatment before the law. In the 2018 report, the Commissioner for the Environment, probably the ministry overseeing the largest number of controversial issues, stated that 62% of the cases opened that year had been closed during the same year. This was mainly due to the fact that during this year, the majority of government entities reduced their response times to an

acceptable level, while also improving the quality of replies to queries made by the Commissioner. In addition, all government entities replied positively to the rational recommendations issued by Ombudsman's Office. Furthermore, the Commissioner for Standards in Public Life has ruled against the practice of members of parliament sitting on government boards. Judicial reviews and EU Commission investigations have frequently given the lie to accusations of bias or wrongdoing, and the government has strengthened its efforts on several scores. However, as in Iceland and Luxembourg, the country's small size impacts negatively on efforts to ensure bias-free governance.

Citation:

<https://www.timesofmalta.com/articles/view/20181020/local/possibility-of-state-aid-rules-breach-in-db-groups-its-project-raised.692024>

<https://www.timesofmalta.com/articles/view/20181020/local/possibility-of-state-aid-rules-breach-in-db-groups-its-project-raised.692024>

<https://www.timesofmalta.com/articles/view/20181027/local/we-have-nothing-to-hide-nothing-to-fear-on-pembroke-project.692678>

<https://www.timesofmalta.com/articles/view/20180828/local/274-million-svdp-deal-was-never-appealed.687770>

Times of Malta 26/06/19 Our quarrel is not with Sandro Chetcuti

Adaptability

Domestic
Adaptability
Score: 7

The capacity of government structures to adapt to change improved during the period of EU accession and since membership. Malta's preparations for assuming the EU presidency required further adaption to changing scenarios, especially at the ministerial and bureaucratic levels as well as ambassadorial and consulate levels. It also required the expansion and international training of personnel. Consequently, there is greater awareness of the need to respond to international developments. Better coordination among the bureaucracy has also contributed to improvements. Malta is presently updating certain structures with the aim of improving its regulatory and enforcement capabilities, particularly in the areas of finance and environmental protection. Departments are required to submit a strategic plan that is linked to their policy objectives, and which makes a contribution to wider national and corporate programs. On this basis, they are then required to submit a business plan specifying the necessary human and budgetary resources (typically in a two-year rolling plan format). These plans are approved and translated into the organizational leadership-performance plan. These are revised and updated every six months to ensure that they remain relevant and suitable to current conditions.

In this way, organizations and their mandates are allowed to evolve gradually so as to remain "fit for purpose." In addition, the government of Malta uses a number of structured review processes, including spending reviews (led by the Ministry for Finance), and strategic/operational/capacity reviews carried out

either by the in-house consultancy firm (the Management Efficiency Unit, or MEU) or external consultants. Similarly, there is a structured internal audit program led by the Internal Audit and Investigations Department (IAID). These latter interventions aim to stimulate significant organization change as needed, and generally focus on specific issue areas.

Parliament has also demonstrated a greater willingness to engage with international forums. This has increased the government's capacity to address international issues such as climate change, international financial institutions, security policy and humanitarian crises. The recent decision to provide the parliament with greater autonomy and resources is expected to enhance improvements made over these past four years. Furthermore, a debate has finally begun on whether parliament should become a full-time institution. Indeed, the most sophisticated and complex committee in parliament (with the most subcommittees) is the committee dedicated to foreign policy and European affairs.

International
Coordination
Score: 4

Malta does not have the institutional capacity to actively shape a wide range of international efforts. However, Malta has sought to do this within its immediate Mediterranean region and increasingly within the EU. Since 1975, Malta has been a rapporteur of the U.N. Committee on the Exercise of the Inalienable Rights of the Palestinian People. It continues to support good-governance efforts in Libya and Tunisia and co-operates closely on refugee and migration issues with neighboring countries. Malta accepts more asylum-seekers per capital than almost all other countries and was one of the few EU countries to honor in full the EU relocation program by taking in its full quota. In 2018 and 2019, with the assistance of the EU Commission, Malta coordinated the redistribution of a number of migrants stranded in Mediterranean ports to other EU states, while also taking up part of the relocation quota on its own. During the Commonwealth Heads of Government Meeting hosted in Malta in 2015, the country contributed toward the setting up of a fund to assist small Commonwealth island countries in adapting to climate change and in the fight to eradicate polio. Preliminary discussions also took place in preparation for the climate change summit in Paris. In October 2015, Malta hosted an EU-Africa migration conference, the Valletta Summit on Migration. It has pressed for the implementation of agreements reached at the summit. In December 2015, it facilitated talks between Libya's rival factions in support of a U.N. peace plan. Malta's progress in this sphere has also been demonstrated by its success during the EU presidency. Malta has also contributed to the creation of a strong international regulatory framework for cryptocurrencies. As a net importer of labor, Malta is presently working with governments in the Middle East and North Africa region, focusing initially on Tunisia with the aim of providing employment to skilled Tunisians. In 2019, Malta also increased the financial contribution it makes to support global

issues. In June 2020, Malta will officially launch its bid for a non-permanent seat on the U.N. Security Council for the 2023 – 2024 term.

Citation:
 Galustain, R., Libya Mediation via Malta, Times of Malta 01/11/16
 Malta representative in Palestine visits PLO dignitaries in Ramallah foreignaffairs.gov.mt
 Trade between Malta and Tunisia still below potential Times of Malta 05/01/19

Organizational Reform

Self-monitoring
Score: 6

The government has stepped up its efforts to monitor wide-ranging aspects of government work, especially from within the PMO. The Office of the Principal Permanent Secretary bears primary responsibility for this. However, ministers everywhere seek from time to time to avoid such monitoring; this sometimes becomes evident when the central government fails to respond to questions on some ministry action because the action was taken unilaterally by that ministry. EU supervision of most aspects of governance has also led to a need for greater monitoring; however, Malta has today resolved many of its outstanding issues with the European Commission. The NAO and the Ombudsman also continue to provide essential monitoring functions. In 2019, the government announced the creation of a new entity to monitor public-private partnerships. The PMO is currently overseeing an overhaul of procedures in a number of ministries and public organizations, following recommendations made by Moneyval, the Venice Commission and GRECO.

Citation:
 Over 450 employed in government positions of trust The Malta Independent 20/12/15
 Positions of Trust: A Constitutional quagmire Malta Today 22/06/16
 Unconstitutional Jobs Times of Malta 07/10/16
 The number of people in positions of trust is not excessive Times of Malta 16/03/18
 Public Service Commission Times of Malta 24/01/17
 Government to set up entity overseeing and monitoring public private partnerships Maltachamber.org.mt
 28/01/19
 Times of Malta 17/01/2020 Venice Commission Reforms without delay, Robert Abela

Institutional
Reform
Score: 7

There can be little doubt that the government’s determination to ensure that Malta retains a strong position within the EU structures has had an impact. The administrative service’s strategic capacity has improved greatly, and the continued focus on training and development in collaboration with tertiary institutions is paying dividends. This collaboration has helped place greater focus on what the service needs in terms of human resources and capacity-building. The PMO is currently overseeing an overhaul of procedures in a number of ministries and public organizations, following recommendations made by Moneyval, the Venice Commission and GRECO.

Citation:

<https://publicservice.gov.mt/en/institute/Pages/About/aboutips.aspx>

https://publicservice.gov.mt/en/institute/Documents/IPS_PROSPECTUS.pdf

<https://investinginyourfuture.gov.mt/project/public-administration/developing-the-maltese-public-sector-capacity-to-implement-better-regulation-37060628>

Malta Today 17/01/2020 Rule of Law and good governance are at the top of the country's agenda, Malta PM tells ambassadors

II. Executive Accountability

Citizens' Participatory Competence

Political
Knowledge
Score: 6

A relatively large amount of policy information is made available to citizens, and this information is in general easily accessible. Several channels exist for this purpose. There is a Freedom of Information, but restrictions mean that information requested is not always available. The ministries received 402 requests from media organizations and members of the public between 2015 and 2017. Under the Freedom of Information Act, 54% of these were upheld in part or in full. Access to contracts between government and private investors remains problematic. The National Statistics Office and the Department of Information regularly make information available to citizens, as do the Ombudsman and the National Audit Office. Some of the more complete reports assessing government policy however come from the European Commission. Competition between media outlets has improved public access to information with leading media outlets hosting their own investigative television series. The June 2019 Eurobarometer Survey found that the public's levels of trust in the media were very low, at 24%, but there was also an above-average level of trust in Maltese political institutions, including parliament, the police and the army. This former weakness can be partially attributed to misinformation or a lack of information on key policy areas; the Central Link Project, a controversial road-upgrade project, is one such example. A better informational campaign on the impact of these new roads on the ecosystem was warranted. A 2019 EU Commission paper indicates that percentage of individuals using the internet to interact with government authorities is below the EU average; however, the share of those using it to obtain information is close to the EU average,

Citation:

Maltese more likely to trust government than the media study shows, Times of Malta 02/06/17

Standard Eurobarometre 86 Autumn 2016 Media use in the European Union

Standard Eurobarometre 88 Autumn 2017 Media use in the European Union

Over 400 freedom of information requests in three years. Times of Malta 30/11/17

<https://www.independent.com.mt/articles/2019-02-20/local-news/Maltese-people-trust-political-parties-more-than-the-written-press-Eurobarometer-survey-6736203951>
 Times of Malta 04/09/2019 Central link trees to remain for a little while longer
 European Commission Digital Government Fact sheet 2019 Malta
 European Commission Standard Eurobarometer 91 June 2019

Open
 Government
 Score: 5

Malta provides a mixed picture with regard to open-government issues. Since the country obtained EU membership, governments have found themselves increasingly pressured to provide information through more open and transparent channels. Malta has a Whistleblower Act. The National Statistics Office (NSO), reformed in the late 1990s in response to Malta's EU membership bid, and reformed again in 2015, regularly makes freely accessible information available on various matters. The NSO also responds to researchers and the media seeking access to information relating to a great diversity of subjects. However, the NSO statistics tend to be used by government entities more than by the media or the public. Every ministry, department, public corporation and public sector board must publish annual reports and information on their websites. Hence, a vast quantity of information can be accessed online through government websites or EU portals. Furthermore, as noted elsewhere, information can be obtained under the Freedom of Information Act. However, this remains contested territory. In 2018, there were 367 requests for information, 198 of which received a response and 31 of which were still being processed as of the time of writing. Governments tend to be reluctant to publish public contracts, citing commercial sensitivity. This can be valid in some cases, but is not in others. A recent information request by the parliament was refused, with a response indicating there were insufficient human resources available to collect the data. The data commissioner, who had to adjudicate a case relating to documents pertaining to the Vitals hospital deal, was not allowed to view the documents in question. The new commissioner for standards in public life recently criticized government ministries for inviting only selected journalists to certain public events. However, the evident capacity of hackers to infiltrate government systems should demonstrate that secrecy is no longer an option. In 2017, the Ombudsman reported that the public administration and public authorities generally have a negative attitude toward disclosing information; this remains a challenge today, undermining the overall openness and transparency of the public administration.

Citation:

Ministers should not only invite selected journalists to public events standards commissioner says. Times of Malta 06/02/19
 'Humanly impossible' to establish number of vacant state properties Times of Malta 05/02/19
 2017 Parliamentary Ombudsman Report
 Times of Malta 16/10/19 Court rejects Times request for hospital deal documents
 Ministry of Justice Annual Report 2018

Legislative Actors' Resources

Parliamentary
Resources
Score: 5

The passage of a new act in 2016 giving parliament financial autonomy over its internal budget decisions (the Parliamentary Services Act), and an increase in funding in the 2017 and 2018 budgets, has left members of parliament in Malta with more resources than previously. Members of permanent parliamentary committees enjoy support from newly appointed research officers as well as academics and specialists. Greater participation of members of parliament in international conferences has helped bridge the resource gap, but more is required. These developments have improved the process for evaluating EU legislation and other social issues. Additional resources must be allocated to the parliamentary scrutiny committee dealing with pipeline aquis. Furthermore, despite improvements, legislators have too few resources to support their legislative work. In 2020, the opposition leader made a request for more parliamentary resources. Staff members are too few in number, and fully occupied by their primary duties. Members of parliament do not give up their private professional activities, since their role as legislator is a part-time occupation. This results in constraints on the amount of time dedicated to parliamentary business, and may also produce conflicts of interest. Members of parliament can now be fined for not attending sittings. The prime minister is pushing harder for a switch to a full-time parliament, but this, along with any change to current remuneration levels, would require consensus among a majority of the members of parliament. The practice of back-bench lawmakers sitting on government boards or working in government departments, and large cabinets that include a majority of government-party parliamentarians, also undermines their ability to monitor the government effectively.

Citation:

Camilleri, I. Parliament is out of touch with Brussels. No feedback to Brussels' documents. Times of Malta 14/06/11

Its too early to talk about what is in store for me Times of Malta 11/10/2015

MPs express different opinions on pay rise for politicians, full-time parliament proposals. Malta Today 6/01/2015

<http://www.timesofmalta.com/articles/view/20160111/local/new-law-will-make-parliaments-administration-autonomous-of-the.598431>

Parliamentary service Act Chapter 562 ACTXL11 of 2016

Most PN proposals to improve parliamentary work included in PL manifesto – government Times of Malta 19/08/17

The PN has seven suggestions for a better functioning parliament Times of Malta 18/08/17

Speaker concerned about incomplete security coverage around parliament. Times of Malta 30/11/17

Times of Malta 22/01/2020 Executives dominance of Parliament

Times of Malta 20/01/20 PN requests more parliamentary resources

Obtaining
Documents
Score: 4

Parliamentary committees may request documents from the government, though the government is not obliged to comply. For example, the government could refuse to release documents, because the documents could contain

commercially sensitive information or it is too soon to make the information public. Numerous Ombudsman reports have stressed the need for more openness. The speaker of the house has made a number of rulings on the issue of documents being made available to the house. One avenue for obtaining information is through the NAO, which produces reports following a request from the Parliamentary Accounts Committee. Another is through the parliamentary question and ministerial statement processes.

Citation:

Said Pullicino, J (ed) 2015 The State's Duty to Inform Office of the Parliamentary Ombudsman Annual Report 2015 Parliamentary Ombudsman

How the rule of law is being undermined Times of Malta 23/10/17

Ruling delivered by the speaker following the request for tabling of documents sitting nos 79 6th February 2018/ sitting nos 80 7th February 2018

Summoning
Ministers
Score: 7

A parliamentary committee may call any minister unless precluded from doing so by a vote within the committee. In 2012, the house speaker ruled that committees have the authority to devise their own rules and approved this method. However, since 2013, ministers have freely appeared before various committees to provide explanations or answer questions.

Citation:

<http://www.timesofmalta.com/articles/view/20150824/local/security-committee-to-discuss-visa-scams.581745>

<http://www.timesofmalta.com/articles/view/20160919/local/public-accounts-committee-expected-to-examine-state-hospital-contracts.625475>

<http://www.timesofmalta.com/articles/view/20160118/local/committee-wrapping-up-long-oil-procurement-debate.599271>

Summoning
Experts
Score: 9

Parliamentary committees may summon experts to make presentations or help committees evaluate policies under discussion or shed light on issues under investigation. While the Parliamentary Accounts Committee has long used this process frequently, it has recently become more widespread, with experts being called more frequently before the Social Affairs Committee, the Economic Policy Committee and to a lesser extent the Environmental Committee. However, problems may arise due to the government's reluctance to reveal commercial information, as in case of the hospital management contract.

Citation:

Let MPs summon Vitals deal stakeholders. PN tells government, Times of Malta 06/01/1

Standing Orders of the House of Representatives Subsidiary Legislation Constit.02 Article 164

Financial scrutiny of Vitals to remain secret: Request to publish due diligence exercise denied by Data Protection Commissioner, Times of Malta 03/10/18

Task Area
Congruence
Score: 6

There are presently 16 standing committees, several of which are fully congruent with ministerial portfolios. These include health, foreign affairs, environment, economic and financial affairs, and social affairs. The main

monitoring committee is the Public Accounts Committee, which is chaired by a member of the opposition. Since 2016, committees have become more involved in monitoring ministries, though they also retain an advisory role. Ad hoc committees are also established from time to time. The Standing Committee on Foreign and EU Affairs, for example, scrutinizes pipeline aquis; because of the scale of this task, three subcommittees were created: one acting as a clearinghouse, and the other two dealing with the various policy areas in line with ministerial portfolios. This standing committee also works very closely with the other standing committees. In 2018, a new Standing Committee for Standards in Public Life was inaugurated to assist the new commissioner in this area. This figure was empowered to look into breaches of ethics committed by members of parliament and those appointed within the public service on a position-of-trust basis. A new Petitions Committee has also been created. Additionally, a number of joint committees facilitate policy development and implementation across ministries.

Citation:

<http://www.timesofmalta.com/articles/view/20160118/local/committee-wrapping-up-long-oil-procurement-debate.599271>

<http://www.timesofmalta.com/articles/view/20151024/local/zonqor-university-site-selection-to-be-discussed-during-parliament.589443>

<http://www.timesofmalta.com/articles/view/20150724/local/committee-to-consider-whether-gay-men-should-donate-blood.577877>

<http://www.parlament.mt/standing-committees?l=1>

The Parliament of Malta web page

Parliament Annual Report 2016

Media

Media Reporting
Score: 5

Maltese media outlets often publish what can be described as “infotainment,” or sensational or superficial content. Two reasons may explain this: First, in the country’s highly polarized and very small society, media outlets tend to follow their owners’ political lead, which here is often political parties or people with political connections to a political party. Second, the competition for readership and audiences is fierce, and revenue constraints restrict the quality of publications’ output. High-quality analysis of government policies, for example, remains rare. That said, people in Malta today see their national media as being more free and independent, and as providing more diversity of viewpoints, than was the case five years ago. Improvements to the Freedom of Information Act in 2012 have also improved media reporting, though numerous restrictions still exist and newspapers are often unable to obtain relevant data. The 2018 Media Pluralism Monitor has increased the (still medium-) level of risk associated with the country’s media environment, but this is a consequence of the murder of a journalist. Malta is one of the few countries in Europe in which there is no media-literacy policy aimed at giving

citizens the critical skills needed for active participation in the contemporary exchange of information. Foreigners have been allowed to own a broadcasting media license since 2000.

Citation:

Aquilina, K Information Freedom at last, Times of Malta 22/08/12

<https://www.timesofmalta.com/articles/view/20180309/local/maltese-journalists-basic-protection-takes-a-dip-report.672768Media>

Media Pluralism Monitor 2018

Malta Today 06/03/2019 Editors Sound warning over future of the press

Parties and Interest Associations

Intra-party
Decision-Making
Score: 5

Political parties are increasingly coming under pressure to consult beyond party membership. This shift has been driven by voter volatility, with voters less constrained by party loyalties. Recently, the Nationalist Party (PN) decided to open to its members the second phase of voting for the party's leaders. However, these members are only allowed to vote after party delegates have made an initial choice from among the contenders. The result has been the election of a new leader who does not have the support of a number of the old stalwarts of the party. The Labor Party's recent selection of a new leader took place through a vote open to all party members. However, changes to the party structure that resulted in the removal of the secretary-general are said to have weakened the separation between the party in power and in parliament and the grassroots; as a consequence, critics say, there is no internal party figure able to call the party in power to account. In determining their agendas, the parties are consulting more widely with civil society today than previously. This explains the Labor Party's reference to itself as a movement, since it has succeeded in bringing together groups with various identities. This is an approach the Nationalist Party is also attempting to adopt. Party committees collaborate with party leaders to select candidates.

Citation:

Are political parties becoming irrelevant? Malta Today 09/02/16

Replacing political parties. Times of Malta 01/01/18

<https://www.timesofmalta.com/articles/view/20180906/local/labour-approves-first-group-of-euro-parliament-election-candidates.688524>

<https://timesofmalta.com/articles/view/1496-pn-councillors-can-vote-on-delias-leadership.724348>

Loving Malta 06/12/2019 We need a Secretary-General again says Labour veteran Jason Micallef

Association
Competence
(Employers &
Unions)
Score: 7

Economic interest associations have structures capable of formulating relevant public policies. The greater resources commanded by economic interest associations enable them to employ highly qualified personnel and consult qualified academics according to the policy issue involved. The larger trade unions have their own research officers and can also draw on the expertise of the Center for Labor Studies (CLS) at the University of Malta which was

established to facilitate the trade union sector. Trade unions also use existing studies or academic and specialist support. EU support funds and structures such as internship programs have strengthened non-economic interest associations, allowing them to produce detailed research in their area of expertise. However, most NGOs remain reactive rather than proactive. In its 2019 budget, the government has earmarked some financial support for NGOs to help them overcome some of these problems. A number of economic associations have worked proactively in various policy areas such as rent reform, transport reform and constitutional reform.

Citation:

The Maltese Business Observer 25/07/2019 Uncertainty over whether rent reform will bring stability
Times of Malta 03/02/2019 Why an underground metro system would be better than a vehicle tunnel to Gozo

Association
Competence
(Others)
Score: 6

Malta has a large number of non-economic interest associations. Though typically short on resources, they access external support through international membership or regional federations, which helps them, on occasion, to formulate extremely well-informed policy papers. EU funds and other structures (e.g., the internship programs) have also helped them improve their policy capacities. Few organizations employ full-time staff, but many have academics as part of their leadership structure, thereby utilizing their expertise. In some cases, organizations are able to attract research support on a voluntary basis from like-minded academics and other volunteers. Nonetheless, many of them still need to become proactive, rather than reactive to events or government proposals. Having said that, some organizations provide the government with frequent expert support, at times providing resources, support and direction in policy areas in which the government has little internal expertise. This has been the case for migration, asylum, integration and environmental policies, for example. In recent years the number of domestic NGOs has increased rapidly, but most are of an activist bent rather than research-oriented. Extinction Rebellion is one of the most prominent recent additions to the country's landscape.

Independent Supervisory Bodies

Audit Office
Score: 9

The National Audit Office is an independent institution reporting exclusively to parliament, and is charged with scrutinizing the fiscal performance of public administration. Both the auditor general and his or her deputy are appointed by a resolution of the House of Representatives, requires a majority vote of no less than two-thirds of the body's members. The auditor general enjoys constitutional protection and works closely with the Public Accounts Committee. The NAO can open investigations without a prior request by parliament or the prime minister. The office audits all central government

ministries, local governments and EU-funded projects, and publishes special reports on key and often sensitive policy areas. A 2019 report on constitutional reform by the Commissioner for Standards in Public Life recommended that the auditor general, as a designated officer of parliament, should not be additionally designated as a public officer, in order to emphasize his/her independence from the government.

Citation:

<http://www.timesofmalta.com/articles/view/20160202/local/nao-stands-by-its-findings-in-gaffarena-scandal.600970>

<http://www.timesofmalta.com/articles/view/20160627/local/spend-more-on-primary-health-care-nao-urges-government.616991>

<http://www.timesofmalta.com/articles/view/20151110/local/NAO-finds-25-permits-issued-just-before-poll.591562>

Report by the Auditor General on the public accounts 2016

Annual Report on the working of local government 2016

Performance audit: outpatient waiting at Mater Dei hospital

Ombudsman annual report 2016

<https://www.timesofmalta.com/articles/view/20171215/opinion/Eventful-year-for-NAO-Charles-Deguarra.665670>

<https://www.timesofmalta.com/articles/view/20171114/local/most-nao-recommendations-addressed.663116>

<https://www.timesofmalta.com/articles/view/20181008/local/audit-office-adopts-new-strategy-to-improve-governance.691098>

<https://www.independent.com.mt/articles/2018-11-28/local-news/Electrogas-NAO-flags-shortcomings-in-due-diligence-says-Gasol-departure-not-in-line-with-contracts-6736200040>

<https://nao.gov.mt/en/press-releases/4/1230/presentation-of-the-cooperative-audit-report>

Commissioner for standards in public life; Toward Higher Standards in public life October 2019

Ombuds Office
Score: 7

The ombudsman is elected by a two-thirds majority of the House of Representatives, and is held in high esteem by the public. A recent Venice Commission report stated that the institution was independent, autonomous and credible. The appointment of three commissioners (on the environment and planning, health and education) to investigate complaints as well as the office's wide-ranging powers to initiate inquiries considerably increased its standing as a watchdog for good governance. A secondary function of the ombudsman is to act as a catalyst for improving public administration. The ombudsman has stated that in pursuing these initiatives he has generally found collaboration from ministries, government departments and public authorities and that there have even been cases where public authorities have sought his advice. The Ombudsman Office, however, is not empowered to deal with human-rights complaints and its recommendations are not binding. A recent clarification confirmed that the office has jurisdiction over complaints emanating from the armed forces of Malta. In his 2017 report, the ombudsman drew attention to the lack of jurisdiction his office has over privatized entities, particularly in the health and energy sectors, and the need for a remedy. He also drew attention to the problem of obtaining information from government on sensitive issues. In a recent report presented to parliament, the ombudsman reiterated the same issues, while complaining of the lack of respect accorded to office by the public administration. In his 2018 case notes presented to

parliament, he also complained that parliament was failing to act on investigative reports handed over for remedial action. The ombudsman has further recommended that the office be granted a constitutional mandate and be accorded the same protection as that of the auditor general; that parliament be obliged to debate its reports; that a deputy ombudsman be appointed to strengthen the office; and that the remit of the office be extended, allowing it to investigate the public administration's administrative actions, inactions, decisions and processes.

Citation:

Aquilina, K. Strengthening the Ombudsman's office. Times of Malta 14/08/12

On the Strengthening of the Ombudsman Institution: A Proposal by the Office of the Parliamentary Ombudsman January 2014 Ombudsman.org.mt

The Parliamentary Ombudsman The Independent 27/11/2016

Ombudsman against making his own recommendations enforceable by law The Independent 04/01/2016

Parliamentary Ombudsman Annual Report 2016

Parliamentary Ombudsman Annual Report 2018

Ombudsman Case notes 2018 Edition 38

Ombudsman Plan 2020

Data Protection
Authority
Score: 8

Malta has an information and data-protection commissioner who is appointed by the prime minister in consultation with the leader of the opposition and who heads the country's data-protection authority, the IDPC, which is both effective and independent. As of March 2020, the IDPC is comprised of a total of 12 officers, including a commissioner, a deputy commissioner, a head compliance officer, the head of the legal unit, two legal counsels, one legal officer, an executive officer, a senior technical officer, a case officer, an administration and accounts officer, and two general-duty officers. The IDPC is currently recruiting a project administrator to manage an EU project on digital-protection awareness issues. The project will be funded by the European Commission. The IDPC is not subject to the Public Administration Act.

The IDPC website provides information about the protection the office provides in various fields. It also provides assistance to citizens who believe their privacy has been invaded. Malta also abides by EU legislation and decisions by the Advocate General of the European Court in this area, and in May 2018 transposed the EU General Data Protection Regulation (GDPR) into law. Since the law has taken effect, 100 breaches of the data-protection act have been reported, with 17 of these leading to a fine. Maltese courts can also be called upon to adjudicate complaints relating to data privacy infringements. A recent ruling by the Information and Data Protection Appeals Tribunal clarified that the data-protection commissioner has the right to issue enforcement orders when a government ministry fails to issue certain information – in the case under review, information relating to government consultants' contracts. In 2018, the office investigated 76 data-subject

complaints, the largest share of which had to do with the unauthorized disclosure of personal information. The office also received 113 personal-data breach notifications that year. The office can issue fines, reprimands and warnings. As part of its regulatory function, the office is also responsible for the enforcement of the freedom of information legislation. In 2018, 22 complaints were received in this area, primarily from journalists.

Citation:

<https://idpc.org.mt/en/Pages/Home.aspx>

Data Commissioner has right to access contracts of government consultants – appeals tribunal

Economy Minister loses legal challenge. Times of Malta 29/01/19

DLA Piper GDPR data breach survey: February 2019

<https://www.dlapiper.com/en/uk/insights/publications/2019/01/gdpr-data-breach-survey/>

Information and Data Commissioner. Annual Report 2018

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