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#rolreport2025

LIBERTIES

RULE OF LAW REPORT

2025



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MALTA

FOREWORD

This country report is part of the Liberties Rule of Law Report 2025, which is the sixth annual report on the state of rule of law in the European Union (EU) published by the Civil Liberties Union for Europe (Liberties). Liberties is a non-governmental organisation (NGO) promoting the civil liberties of everyone in the EU, and it is built on a network of national civil liberties NGOs from across the EU. Currently, we have member organisations in Belgium, Bulgaria, the Czech Republic, Croatia, Estonia, France, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Malta, the Netherlands, Poland, Romania, Slovakia, Slovenia, Spain and Sweden, as well as a contributing partner organisation in Greece.

Liberties, together with its members and partner organisations, carries out advocacy, campaigning and public education activities to explain what the rule of law is, what the EU and national governments are doing to protect or harm it, and gathers public support to press leaders at EU and national level to fully respect, promote and protect our basic rights and values.

The 2025 report was drafted by Liberties and its member and partner organisations, and it covers the situation during 2024. It is a ‘shadow report’ to the European Commission’s annual rule of law audit. As such, its purpose is to provide the European Commission with reliable information and analysis from the ground to feed its own rule of law reports, and to provide an independent analysis of the state of the rule of law in the EU in its own right.

Liberties’ report represents the most in-depth reporting exercise carried out to date by an NGO network to map developments in a wide range of areas connected to the rule of law in the EU. The 2025 report includes 21 country reports that follow a common structure, mirroring and expanding on the priority areas and indicators identified by the European Commission for its annual rule of law monitoring cycle. Over forty member and local partner organisations contributed to the compilation of these country reports.

[Download the full Liberties Rule of Law Report 2025 here.](#)

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MALTA

ABOUT THE AUTHORS

The Daphne Caruana Galizia Foundation



The Daphne Caruana Galizia Foundation was established in Malta following the tragic assassination of investigative journalist Daphne Caruana Galizia in 2017. The Foundation is dedicated to seeking justice for Daphne, ensuring her investigative work continues, and advocating for press freedom and accountability.

KEY CONCERNS

Justice System

The justice system in Malta remains heavily burdened with inefficiencies resulting in severe delays. Key roles remain politicised. Increased transparency in key processes is required. Regulation of certain key players within the justice system is needed. Access to justice stands to be improved.

There has been no progress in involving the judiciary in appointing a Chief Justice. Lack of resources remains a problem.¹ Investigations into corruption remain inefficient with limited success.² There have been no formal steps toward establishing a National Human Rights Institution (NHRI),³ nor have there been steps toward a framework for public participation in the legislative process.

Anti-Corruption Framework

Throughout 2024, the government continued to delay the implementation of the Public Inquiry recommendations into Daphne Caruana Galizia's assassination, as well as recommendations from the European Commission's Rule of Law Report, the Venice Commission, and GRECO related to fighting corruption in Malta.

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

- 1 As at 1 October 2024 150 trials by jury were awaiting a start date & 1700 magisterial inquiries were currently pending; Matthew Agius, *Chief Justice expresses concern at lack of specialised court staff*, Malta Today, 1 October 2024, https://www.maltatoday.com.mt/news/national/131493/chief_justice_expresses_concern_at_lack_of_specialised_court_staff.
- 2 Sean Montebello, *Anti-corruption commission investigations 'under-resourced' raising questions on effectiveness*, *The Shift News*, 25 November 2023, <https://theshiftnews.com/2023/11/25/anti-corruption-commission-investigations-under-resourced-raising-questions-on-effectiveness/>; Judge Emeritus Lawrence Quintano reappointed as Chair of Permanent Commission Against Corruption, *The Malta Independent*, 15 July 2024, <https://www.independent.com.mt/articles/2024-07-15/local-news/Judge-Emeritus-Lawrence-Quintano-reappointed-as-Chair-of-Permanent-Commission-Against-Corruption-6736262746>; Statistics published in September 2024 show 1625 pending magisterial inquiries & 62 pending money laundering cases, Court Services Agency, Criminal Courts and Tribunals Directorate, <https://courts.gov.mt/wp-content/uploads/2024/10/09.-Statistika-Settembru-2024-Qrati-Kriminali.pdf>.
- 3 ENNHRI, *The state of the rule of law in the European Union, Reports from National Human Rights Institutions Malta*, 2024 https://ennhri.org/wp-content/uploads/2024/04/Malta_Country-Report_Rule-of-Law-2024.pdf.

Media Environment and Media Freedom

In practice, there has been little progress in the area of media freedom. There are a number of shortcomings in Malta's transposition of the Anti-SLAPP Directive. The recommendations of the public inquiry into Daphne Caruana Galizia's death continue to be ignored. A lack of access to information continues to be an obstacle for journalists.

There has been no adoption of safeguards to improve the working environment of journalists, apart from the inadequate transposition of the EU Anti-SLAPP Directive. Access to information and documents is still difficult for journalists, who are often denied access to information by government entities.

Checks and Balances

While, on paper, Malta has some checks and balances in place, many do not enable real action against or accountability for instances of wrongdoing. The government has ignored a number of recommendations made in this regard.

There has been no progress concerning the establishment of an NRHI in line with the Paris Principles. Despite the commitments declared in Malta's 2023 Rule of Law Submissions, no laws have been tabled in Parliament. There have been no developments since our previous Rule of Law Submission, and no laws have been enacted in this regard in the 10 years since the launch of the reform in 2014.

Civic Space

Civic space in Malta has become more vibrant and proactive on environmental issues, social justice, media freedom, corruption, and women's rights following the assassination of Daphne Caruana Galizia. The strength of numerous grassroots activist groups led to several resignations in government in 2019 and after that.

There is very little information available regarding the success of recommendation implementations. What we do know is that government officials continue to label anti-corruption journalists and activists as enemies of the state. This, in turn, negatively impacts public trust in independent media and civil society.

Disregard of Human Rights Obligations and Other Systemic Issues Affecting the Rule of Law Environment

There have been no initiatives to foster a culture of rule of law by the government or its agencies. A number of CSOs have rule-of-law projects relating to access to justice, independence of the judiciary, safeguarding the media and access to fundamental rights, yet implementation continues to be a problem.

While the Ministry of Justice set up a 'Justice Form' through the Open Government Partnership action plan aimed at improving dialogue with civil society, this turned out to be a waste for civil society organisations involved. Dialogue and consultation with

the government on actions to strengthen the rule of law continue to be weak.

State of play (versus 2024)

- Justice system
- Anti-corruption framework
- Media Environment and Media Freedom
- Checks and balances
- Civic Space
- Human Rights

Legend

Regression



No progress



Progress



JUSTICE SYSTEM –

Key recommendations

It is essential that the systemic state failures identified by the public inquiry into the assassination of Daphne Caruana Galizia and all the recommendations, including those concerning the rule of law and organised crime, are effectively addressed. In the interests of transparency and effectiveness, independent technical studies and a transparent process of structured public consultation need to precede the drafting of legislation based on the recommendations of the public inquiry, and the legislation itself needs to be submitted to parliamentary scrutiny before its enactment. For this reason, we cannot limit the issues around justice in Malta to three key recommendations. Listed below are examples of how justice can be strengthened in Malta:

- *Introduce or amend legislation to ensure that key offices, such as that of the Chief Justice, the Police Commissioner, the Attorney General, and the judiciary, are fully depoliticised.*
- *Introduce legislation for the better regulation of members of the legal profession, court experts and interpreters.*
- *The Ministry for Justice should take concrete steps to ensure the comprehensive and timely digitisation of the court system.*

Judicial independence

Appointment and selection of judges, prosecutors and court presidents

Judges and magistrates are appointed by the President of Malta acting on the advice of the Judicial Appointments Committee,⁴ which is

composed of: the Chief Justice presiding over the Committee, two members elected for four years from among judges, a member elected for four years by the magistrates, the Auditor General, the Ombudsman, and the President of the Chamber of Advocates. The Committee also has a secretary who is appointed by the Minister for Justice.⁵

4 Judiciary Malta, The Judiciary, <https://judiciary.mt/en/the-judiciary/#:~:text=Members%20of%20the%20Judiciary%20are%20appointed%20by%20the%20President%20of,of%20the%20Constitution%20of%20Malta.>

5 Judiciary Malta, The Judicial Appointments Committee <https://judiciary.mt/en/the-judicial-appointments-committee/>.

The appointment system for judges and magistrates remains politicised in that the President (who is in turn appointed by Parliament) continues to be responsible for appointments.

Despite calls by the Venice Commission⁶ and civil society⁷ for increased transparency within the judicial appointment system, information relating to candidates applying for judicial positions, the number of applications received, shortlisted candidates, appointment criteria, ranking systems, etc. remains unavailable to the public.

The Chief Justice is appointed by the President of the Republic acting in accordance with a resolution of the House of Representatives supported by the votes of not less than two-thirds of all the members of the House.⁸ Despite a specific recommendation to this effect from the European Commission in its 2024 Rule of Law Report,⁹ there has still been no move to depoliticise the appointment of the Chief Justice.

The Attorney General (public prosecutor) is appointed by the President on the advice of the Prime Minister,¹⁰ and this role is thus highly politicised.

Irremovability of judges; including transfers, dismissal and retirement regime of judges, court presidents and prosecutors

Judges enjoy security of tenure, meaning that a judge may be removed from office only by a decision made by the Commission for the Administration of Justice, which may be appealed by the judge before the Constitutional Court. The Constitution provides for a compulsory retirement age for judges (including the Chief Justice). This age is currently set at 65 years but can be extended to 68 years.¹¹

Disciplinary procedures in relation to members of the judiciary can only be initiated by the Chief Justice or the Minister for Justice. They are carried out by the Committee for Judges and Magistrates (composed of selected

6 Council of Europe, Venice Commission, Malta, Opinion On Ten Acts And Bills Implementing Legislative Proposals Subject Of Opinion CDL-AD(2020)006, 8 October 2020, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2020\)019](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2020)019).

7 aditus & Daphne Caruana Galizia Foundation, Submission to UN Special Rapporteur on independence of judges & lawyers, 29 January 2024, <https://aditus.org.mt/aditus-the-daphne-caruana-galizia-foundation-submission-to-the-un-special-rapporteur-on-the-independence-of-judges-and-lawyers-2024/>; aditus foundation & The Daphne Caruana Galizia Foundation, 2023 Rule of Law Report, Joint Submission, <https://aditus.org.mt/Publications/2023ruleoflawreportsubmission.pdf>.

8 Judiciary Malta, Chief Justice, <https://judiciary.mt/en/the-chief-justice/>.

9 European Commission, 2024 Rule of Law Report, 24 July 2024, https://commission.europa.eu/publications/2024-rule-law-report-communication-and-country-chapters_en.

10 Cap 90 Laws of Malta, Attorney General Ordinance, <https://legislation.mt/eli/cap/90/eng>.

11 Judiciary Malta, Judges, <https://judiciary.mt/en/the-judges/>.

members of the judiciary).¹² Disciplinary procedures concerning the Chief Justice can only be initiated by the Minister for Justice, not judicial peers.

The limitations posed by the fact that only the Chief Justice or Minister for Justice may initiate disciplinary procedures against members of the judiciary are apparent in the case of a magistrate who breached procedure by reportedly taking case files home, causing undue delays in court proceedings. The Minister did not ask the Commission for the Administration of Justice to investigate this misbehavior and consequently, no disciplinary action was taken.¹³

The Attorney General can only be removed from office by the President supported by the votes of at least two-thirds of all the members of the House of Representatives on the grounds of proven inability to perform the functions of office or proven misbehavior.¹⁴

Removal of members of tribunals or quasi-judicial bodies is usually the prerogative of the President acting on the advice of the Prime

Minister. There is no right of appeal from removal nor oversight from the Chief Justice or the Committee for Judges and Magistrates. These board members are not bound by any code of ethics or disciplinary proceedings.

We strongly urge the Commission to recommend:

- depoliticising the appointment system for judges and magistrates, including for the Chief Justice,
- increasing transparency within the judicial appointment system,
- depoliticising the appointment of the Attorney General,
- a change in procedure before the Committee for Judges and Magistrates which allows any member of the judiciary to initiate disciplinary procedures,
- the strengthening of the removal procedure for members of tribunals,

12 Judiciary Malta, Disciplinary Procedures of the Judiciary, <https://judiciary.mt/en/disciplinary-proceedings-of-the-judiciary/>.

13 Kurt Sansone, *Justice Minister miffed but does not use power to request probe into 'irresponsible' magistrate*, 20 October 2024, https://www.maltatoday.com.mt/news/national/131835/justice_minister_miffed_but_does_not_use_power_to_request_probe_into_irresponsible_magistrate.

14 ACT No. XLV of 2020, 7 August 2020, <https://legislation.mt/eli/act/2020/45/eng/pdf> ; Kyle Patrick Camilleri, *PN does not exclude filing impeachment motion against Attorney General*, 8 October 2023, <https://www.independent.com.mt/articles/2023-10-08/local-news/PN-does-not-exclude-filing-impeachment-motion-against-Attorney-General-6736255438>.

- that members of tribunals are made subject to the judicial code of ethics.¹⁵

Promotion of judges and prosecutors

There is no publicly available information on the promotion of judges and prosecutors. Consequently, judicial or administrative review of any decision in this regard is not possible.

Article 101A(13) of the Constitution grants the President, on advice of the Chief Justice, the power to decide on the subrogation of judges and magistrates and to the assignment of duties of judges and magistrates.¹⁶

The Judiciary Malta website states that the President of Malta assigns to each of the judges and magistrates the court or the section of the court in which he shall ordinarily reside, acting on the recommendation of the Chief Justice. Where more than one judge or magistrate is assigned to a court or a section of the court, the Chief Justice shall assign the duties to the judges and magistrates as he deems most appropriate. If the Chief Justice fails to make such a recommendation, the President of the Republic shall act on the advice of the Minister for Justice.¹⁷ The exact procedure adopted is unclear.

Prosecutors are regulated by a collective agreement which is not in the public domain, and therefore we cannot comment on procedures for promotion. The Internal Guidelines for Prosecutors are not public.¹⁸

We strongly urge the Commission to recommend:

- transparency as to the procedures adopted for the promotion of both judges and prosecutors,
- transparency as to the procedures adopted concerning prosecutors.

Allocation of cases in courts

The Chief Justice decides on the distribution of duties in general between judges, and the Court registrar assigns cases to the judges as directed by the Chief Justice.¹⁹

If any dispute arises as to whether a case or other judicial act is to be assigned to one judge or to another judge sitting in the same court or in the same chamber or section of a court, or when a dispute arises as to which chamber or section of a court is to deal with a particular case or a particular judicial act, the matter is referred to the Chief Justice who shall, in camera, determine the judge or chamber or

15 JudiciaryMalta, Code of Ethics for the Judiciary, <https://judiciary.mt/en/code-of-ethics-for-the-judiciary/>.

16 Constitution of Malta, <https://legislation.mt/eli/const/eng>.

17 Judiciary Malta, Chief Justice, <https://judiciary.mt/en/the-chief-justice/>.

18 Office of the Attorney General, Guidelines, <https://attorneygeneral.mt/guidelines/>.

19 Cap 12 Laws of Malta, Code of Organisation and Civil Procedure, article 11(3).

section to which the case or judicial act shall be assigned.²⁰

With regard to tribunals and quasi-judicial tribunals, there is no standard procedure, and generally, the boards regulate the procedure to be adopted themselves, including the allocation of cases. In most cases, these rules and procedures are not public.

We strongly urge the Commission to recommend:

- transparency regarding rules and procedures applicable to tribunals and quasi-judicial tribunals

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

The Commission for the Administration of Justice (CAJ) is composed of the President, the Chief Justice who shall be Deputy Chairman and (b) two members elected for four years by the judges from among themselves; (c) two members elected for four years by the magistrates from among themselves; (d) two members appointed for four years: one by the

Prime Minister and the other by the Leader of the Opposition; and (e) the President of the Chamber of Advocates.²¹ It is not clear why there are two representatives appointed by the Prime Minister and the opposition, respectively, as this leads to unnecessary politicisation of the CAJ.

The CAJ has jurisdiction over the workings of the courts and the behaviour of judges, magistrates, lawyers and legal procurators. It has no jurisdiction over adjudicators who sit on tribunals, commissioners for justice, mediators, and arbitrators.²²

Dr. Pawlu Lia was appointed by disgraced former Prime Minister Joseph Muscat as the government's representative on the CAJ. There have been calls from civil society to remove him from this position, which is beset with conflicts of interest. Most notably, Dr. Pawlu Lia continues to practice law (appearing before the same magistrates and judges which the CAJ is supposed to discipline). Moreover, he is Muscat's long-standing legal counsel, as well as the former father-in-law of practicing magistrate, Nadia Lia.²³

The names of the elected members of the judiciary who sit on the Commission are not public, therefore it is unclear whether Dr. Lia

20 Cap 12 Laws of Malta, Code of Organisation and Civil Procedure, article 11(9).

21 JudiciaryMalta, Commission for the Administration of Justice, <https://judiciary.mt/en/the-commission-for-the-administration-of-justice/>.

22 Constitution of Malta, Article 101A(11), <https://legislation.mt/eli/const/eng>.

23 Matthew Vella, *No room for Muscat lawyer on judicial watchdog, Repubblika tells PM*, *Malta Today*, 21 September 2022, https://www.maltatoday.com.mt/news/national/118865/no_room_for_muscat_lawyer_on_judicial_watchdog_repubblika_tells_pm.

continues to sit on the Commission, although it is highly likely and has been reported as such in the press in 2024.²⁴

The Committee for Judges and Magistrates is a sub-committee of the CAJ tasked with judicial discipline. It consists of three members of the judiciary who are not members of the CAJ and who shall be elected from amongst judges and magistrates. In disciplinary proceedings against a magistrate two of the three members shall be magistrates and in the case of disciplinary proceedings against a judge two of the three members shall be judges.²⁵

Disciplinary proceedings against a judge or a magistrate shall be commenced upon a complaint made to the Committee by the Chief Justice or by the Minister responsible for justice, for breach of the provisions of the Code of Ethics for Members of the Judiciary or of similarly promulgated code or disciplinary rules for members of the judiciary.²⁶

Therefore, proceedings can only start with the Chief Justice or the Minister's action. This is problematic as the initiation of proceedings rests solely on the discretion of two persons – one an elected politician and the other appointed by an elected politician.

The judiciary website provides limited information about the possibility of a complaint to the CAJ being filed by a member of the public.²⁷

No public information exists regarding the number of complaints received by the CAJ, the number of complaints investigated, or the number of complaints referred to the Committee for Judges and Magistrates by the Chief Justice and/or the Minister for Justice.

We strongly urge the Commission to recommend:

- a change in the composition of the CAJ in order for this body to become fully depoliticised,
- that the method for the public to file complaints to the CAJ be modernised, better publicised and made more accessible,
- to ensure the publication of annual reports by the CAJ including statistical data about complaints received and action.

24 The Shift, *Justice Minister silent on fraud charges faced by Commissioner Alessandro Lia*, <https://theshiftnews.com/2024/09/18/justice-minister-silent-on-fraud-charges-faced-by-commissioner-alessandro-lia/>.

25 Constitution of Malta, Article 101B(1), <https://legislation.mt/eli/const/eng>.

26 Constitution of Malta, Article 101B(5), <https://legislation.mt/eli/const/eng>.

27 Judiciary Malta, FAQs, <https://judiciary.mt/en/frequently-asked-questions/>.

Accountability of judges and prosecutors, including disciplinary regime and bodies and ethical rules, judicial immunity and criminal liability of judges

There is no publicly available information about any disciplinary procedures the CAJ or the Committee for Judges and Magistrates have carried out regarding members of the judiciary.

Despite several calls for action to be taken against Magistrate Nadine Lia and her former husband Alessandro Lia (a lawyer and Commissioner for Justice) due to pending criminal charges against both,²⁸ Magistrate Lia retains her position within the judiciary. It is to be noted that Alessandro Lia's father likely still sits on the CAJ. There is no publicly available information of any disciplinary action having been carried out in relation to Magistrate Lia.

In September 2024, a magistrate ordered the Police Commissioner to initiate criminal

proceedings against the Commissioner for Justice Alessandro Lia after declaring that there is enough evidence to suggest that he is complicit in fraud and the making of false declarations.²⁹ There are reports of a reluctance on the part of the police to charge Mr. Lia.³⁰ To date, Lia retains his post and the Minister for Justice has not made public mention of any planned disciplinary action.³¹

During a case before the Constitutional Court, a lawyer accused a sitting magistrate of exerting undue pressure on his client outside the court.³² There is no publicly available information of any disciplinary investigations having been carried out.

There have been several instances of prosecutors moving from the Attorney General's office to the private defence of the accused, as reported by the Aditus Foundation in their 2024 submission.³³ The proposals, resulting from an independent inquiry into the case

28 The Shift, *Pressure mounts as Justice Commissioner faces charges of aggravated grievous bodily harm*, 18 July 2023, <https://theshiftnews.com/2023/07/18/pressure-mounts-as-justice-commissioner-faces-charges-of-aggravated-grievous-bodily-harm/>.

29 Miguel Azzopardi, *Magistrate orders criminal proceedings against Justice Commissioner*, *Newsbook*, 16 September 2024, <https://newsbook.com.mt/en/magistrate-orders-criminal-proceedings-against-justice-commissioner>.

30 Mark Camilleri, *A reluctance by the Police to charge Alessandro Lia: Pawlu Lia's son*, *The Maltese Herald*, 14 October 2024, <https://themalteseherald.com/2024/10/14/a-reluctance-by-the-police-to-charge-alessandro-lia-pawlu-liason/>.

31 The Shift, *Justice Minister silent on fraud charges faced by Commissioner Alessandro Lia*, 18 September 2024, <https://theshiftnews.com/2024/09/18/justice-minister-silent-on-fraud-charges-faced-by-commissioner-alessandro-lia/>.

32 Matthew Xuereb, *Lawyer recounts how magistrate exerted 'pressure' on client*, *Times of Malta*, 23 November 2013, <https://timesofmalta.com/article/lawyer-recounts-magistrate-exerted-pressure-client.1068945>.

33 aditus, *2024 Rule of Law Submission Malta*, January 2024, <https://aditus.org.mt/wp-content/uploads/2024/01/2024-Rule-of-Law-Submission.pdf>.

of Charles Mercieca (who had resigned from the AG's office and appeared in court as the defence counsel of a suspected murderer the next day),³⁴ suggest that public prosecutors should be barred from appearing for persons or companies against whom proceedings were instituted during their period of employment.³⁵ They have not been taken up. It should be noted that this same lawyer was later charged with attempted bribery of a journalist, but was acquitted on a technicality.³⁶ There is no publicly available information of any disciplinary measures having been taken against the lawyer involved and he continues to practise law at the time of writing.³⁷

We urge the Commission to recommend to the Maltese government:

- to make public the number of proceedings or investigations carried out annually in relation to members of the judiciary,
- to take heed of the findings and recommendations of the independent inquiry in

relation to all prosecution lawyers, current and future, moving to criminal defence – including by imposing a cooling-off period – in order to avoid conflict of interest.

Remuneration/bonuses for judges and prosecutors

Salaries for the Chief Justice, the judiciary, the Attorney General and the State Advocate are prescribed by law.

Independence/autonomy of the prosecution service

We underscore the importance of an independent prosecution service, which is a key element for the maintenance of judicial independence.

Despite some reforms being made in 2019, in practice the appointment of the Attorney General still remains under the control of the Prime Minister.³⁸ The appointment criterion for the Attorney General remains only that of being qualified for appointment as a judge of

34 Ivan Martin, *Lawyer with state prosecutor joins Yorgen Fenech defence team*, *Malta Independent*, 6 May 2020, <https://timesofmalta.com/article/state-prosecutor-joins-yorgen-fenech-defence-team.790394>.

35 Kevin Schembri Orland, *Inquiry into Charles Mercieca recommends new safeguards; 'does not appear he accessed Fenech's file*, *Malta Independent*, 11 June 2020, <https://www.independent.com.mt/articles/2020-06-11/local-news/Issue-whether-Mercieca-broke-criminal-code-or-code-of-ethics-beyond-scope-of-inquiry-6736224099>.

36 Matthew Agius, *Yorgen Fenech lawyers' acquittal over bribery charges confirmed on appeal*, *Malta Today*, 23 March 2023, https://www.maltatoday.com.mt/news/court_and_police/121955/yorgen_fenech_lawyers_acquittal_over_bribery_charges_confirmed_on_appeal.

37 Malta Independent, *Yorgen Fenech renews bail request, citing legal time limits*, 6 December 2024, <https://www.independent.com.mt/articles/2024-12-06/local-news/Yorgen-Fenech-renews-bail-request-citing-legal-time-limits-6736266340>.

38 Cap 90 Laws of Malta, Attorney General Ordinance, Article 2(2)(a), <https://legislation.mt/eli/cap/90/eng>.

the Superior Courts.³⁹ Whilst the new procedures for the appointment of the Attorney General see the setting up of the Appointment Commission, the members of the Commission are handpicked by the Minister for Justice as persons who “in his opinion are respected and trusted by the public and are technically qualified to examine whether candidates for the office of Attorney General have the appropriate qualifications and other merit and suitability”.⁴⁰ The law provides no definition of ‘technically qualified’ or any guidance or criteria for someone to be considered ‘respected and trusted by the public’, leaving much to the Minister’s discretion.

The removal of the Attorney General by a two-thirds majority in Parliament,⁴¹ as with the State Advocate, is inadequate. In fact, the Venice Commission recommends that there be

established an expert body or an appeal to the Constitutional Court against the decision for removal before Parliament takes a final decision by a two-thirds majority.⁴²

The method of appointment of the Police Commissioner remains highly politicised, with the Prime Minister selecting a Police Commissioner from a shortlist prepared by the Public Service Commission, the members of which are in turn appointed by the Prime Minister.⁴³ There remains considerable room for improvement,⁴⁴ as shown by the public outcry following the repeat appointment of Angelo Gafa’ for a second four-year term as Malta’s Police Commissioner.⁴⁵ Gafa’ faced several calls for resignation during his previous term for failure to investigate serious crime. Notably, he had refused to investigate the government’s fraudulent hospitals’ deal with Steward⁴⁶ which has

39 Constitution of Malta, Article 91(2), <https://legislation.mt/eli/const/eng>.

40 Cap 90 Laws of Malta, Attorney General Ordinance, Article 2(2)(a), <https://legislation.mt/eli/cap/90/eng>.

41 Constitution of Malta, Article 91(5) Constitution, <https://legislation.mt/eli/const/eng>.

42 aditus, *Venice Commission: regrets that 6 Bills adopted before opinion could be finalised, before it could engage with the national stakeholders*, 30 August 2021, <https://aditus.org.mt/venice-commission-regrets-that-6-bills-adopted-before-opinion-could-be-finalised-before-it-could-engage-with-the-national-stakeholders/>.

43 Public Services Commission, *About the Commission*, <https://psc.gov.mt/en/about-the-commission/#:~:text=The%20Commission%20consists%20of%20a,the%20Leader%20of%20the%20Opposition>.

44 Mario Xuereb, *PN wants police chief appointed by two-thirds, with constitutional protections*, *Time of Malta*, 8 July 2024, <https://timesofmalta.com/article/pn-police-commissioner-appointment-two-thirds-constitution-proposal.1095050>.

45 Malta Independent, *Gafa’ appointment as police commissioner extended for four more years*, 30 June 2024, <https://www.independent.com.mt/articles/2024-06-30/local-news/Gafa-appointment-as-police-commissioner-extended-for-four-more-years-6736262365>; The Shift, *Angelo Gafa’ doubles his income as allowances surpass his salary*, 16 October 2024, <https://theshiftnews.com/2024/10/16/angelo-gafa-doubles-his-income-as-allowances-surpass-his-salary/>.

46 Matthew Vella, *Grech: Gafa’ refusing to carry out independent criminal investigation into Vitals collusion*, 28 October 2023, https://www.maltatoday.com.mt/news/national/125722/grech_gaf_refusing_to_carry_out_independent_criminal_investigation_into_vitals_collusion.

now, thanks to the conclusion of a magisterial inquiry commenced by NGO Repubblika, seen former Prime Minister Joseph Muscat and several members of his cabinet charged with serious crimes.⁴⁷ The opposition has presented a draft law in Parliament seeking to ensure police commissioners are appointed by the President with a two-thirds majority of votes within the House of Representatives, thereby guaranteeing the office holder's security of tenure. It also seeks to entrench this revised method of appointment into the Constitution, to prevent any current or future government from reverting to the existing selection process through a simple majority vote.⁴⁸

We urge the Commission to recommend:

- the introduction of an appointments procedure for the Attorney General that is depoliticised and includes cooperation between various state organs and in which advice on the professional qualification of candidates should be taken from relevant experts including the legal community and civil society, as suggested by the Venice Commission,

- bringing the removal procedure for the Attorney General in line with the recommendations of the Venice Commission,
- the depoliticisation of the appointment procedure for the role of police commissioner.

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

The Chamber of Advocates is run by private lawyers on a voluntary basis. It is funded through annual membership fees and remuneration from activities and seminars.⁴⁹ No public funding is assigned to the Bar and consequently it lacks fulltime board members and sufficient employees to be able to function sustainably.

To date Maltese legal professionals remain generally unregulated, bar a few haphazard provisions in the law⁵⁰ and the Code of Ethics published by the Chamber of Advocates.⁵¹

The Chamber of Advocates has lobbied for an adequate law governing the legal profession for several years. An act amending existing

47 Malta Independent, *Leaked documents reveal Steward Health Care's alleged €1 million bribery fund linked to government*, 1 December 2024, <https://www.independent.com.mt/articles/2024-12-01/local-news/Leaked-documents-reveal-Steward-Health-Care-s-alleged-1-million-bribery-fund-linked-to-government-6736266199>.

48 Mario Xuereb, *PN wants police chief appointed by two-thirds, with constitutional protections*, *Times of Malta*, 8 July 2024, <https://timesofmalta.com/article/pn-police-commissioner-appointment-two-thirds-constitution-proposal.1095050>.

49 Chamber of Advocates Malta, *About Us*, <https://www.avukati.org/about-us/>.

50 Cap 369 Laws of Malta, *Commission for the Administration of Justice*, <https://legislation.mt/eli/cap/369/eng>; Cap 12 Laws of Malta, *Code of Organisation and Civil Procedure*, <https://legislation.mt/eli/cap/12/eng/pdf>.

51 Chamber of Advocates, *Code of Ethics*, <https://www.avukati.org/download/code-of-ethics/>.

legislation relating to the profession came into force in 2021,⁵² however an amendment bill was presented just weeks later. This bill was met with disdain from the Chamber of Advocates which declared that the fact that the bill “proposes to amend and even delete a number of provisions introduced... only a few weeks ago... is ample evidence of the absence of any well thought-out and considered strategy to regulate the profession”.⁵³ The bill was consequently scrapped.⁵⁴

In October 2023 the Chamber of Advocates presented its ‘Justice 2030’ proposals aimed at improving the justice system. A year later, no progress has been registered to that end.⁵⁵

We urge the Commission to recommend:

- the enactment of a comprehensive Lawyers Act regulating the legal profession,

taking heed of the Chamber’s Justice 2030 proposals,

- access to funds and/or HR support (such as seconded public servants) to the Chamber of Advocates in order to increase capacity.

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

The most concerning developments are repeated attempts on the part of the Prime Minister to violate the principle of separation of powers through his attacks on the judiciary. For instance, in a press conference, the Prime Minister heavily criticised the conclusions of a magisterial inquiry calling for charges to be issued against former Prime Minister and Labour leader Joseph Muscat, drawing condemnation from NGOs and student bodies.⁵⁶

52 ACT No. XIX of 2021, AN ACT to amend legislation regulating the legal profession, 20 April 2021, <https://legislation.mt/eli/act/2021/19/eng>.

53 Chamber of Advocates, *Communication to all members of the legal profession*, 10 June 2021, <https://www.avukati.org/2021/06/10/communication-by-the-chamber-of-advocates-to-all-members-of-the-legal-profession/>.

54 Sabrina Zammit, *Bill amending legal profession scrapped*, as government and Chamber discuss changes, 20 February 2022, <https://www.independent.com.mt/articles/2022-02-20/local-news/Bill-amending-legal-profession-scrapped-as-government-and-Chamber-discuss-changes-6736240764>.

55 Isaac Saliba, *Malta needs to regulate Lawyers and introduce Lawyers Act, Chamber of Advocates President says*, Malta Independent, 1 October 2024, <https://www.independent.com.mt/articles/2024-10-01/local-news/Malta-needs-to-regulate-Lawyers-and-introduce-Lawyers-Act-Chamber-of-Advocates-President-says-6736264547>.

56 Jurgen Balzan, *Chamber of Advocates president reiterates that attacks on judiciary are ‘unacceptable’*, Newsbook, 10 May 2024, <https://newsbook.com.mt/en/chamber-of-advocates-president-reiterates-that-attacks-on-judiciary-are-unacceptable/>; The Shift, *Aditus ‘strongly condemns’ PM’s ‘blatant attack’ on judiciary, journalists*, 7 May 2024 <https://theshiftnews.com/2024/05/07/aditus-strongly-condemns-pms-blatant-attack-on-judiciary-journalists/>; The Malta Independent, *Law Students’ Society condemns Prime Minister’s ‘unwarranted attacks on the judiciary’*, 30 May 2024, <https://www.independent.com.mt/articles/2024-04-30/local-news/Law-Students-Society-condemns-Prime-Minister-s-unwarranted-attacks-on-the-judiciary-6736260673>.

Quality of justice

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

Legal aid

At the end of 2023 a new system of legal aid panels was set up whereby lawyers appointed as legal aid lawyers are placed on panels depending on legal expertise,⁵⁷ which is a positive development, however much remains to be done to make the system more accessible and improve the quality of service.

Legal aid access in civil cases is subject to a means and merits test. In order to qualify for legal aid a person must not possess property of any sort with a net value of €13,000 or more, and one's yearly income must not be more than the national minimum wage, which is currently set at approximately €11,100.⁵⁸ This threshold has been consistently criticised by civil society organisations as being too low, thereby potentially excluding persons who, despite exceeding these criteria, still do not

have the means to retain a lawyer. The minimum threshold should be increased to take into account the increased market value of property and increased cost of living, especially in relation to individuals with families and older people who, although they may own property, do not have sufficient disposable income to be able to retain a lawyer.⁵⁹

It is also noteworthy that the Legal Aid Malta website⁶⁰ does not provide information on the thresholds mentioned above on any of its publicly accessible pages, including on the Legal Aid Malta Brochure.⁶¹ Furthermore, at the time of writing, the legal aid application feature on the website is not functioning.

The merits test requires individuals to show that they have a *probalis causa litigandi* – 'probable cause to litigate', that is, a plausible legal basis for the case. The criteria adopted in this assessment are not found in the law or in any guidelines. In many cases, this means that individuals who are otherwise eligible are often denied access to pre-litigation advice or assistance.⁶²

57 Government Gazette, No. 1784 Code Of Organization And Civil Procedure (CAP. 12), Appointment of Legal Aid Lawyers and Procurators, 22 December 2023, <https://www.parlament.mt/media/127471/03468.pdf>.

58 Cap 12 Laws of Malta, Article 912, Code of Organisation and Civil Procedure, <https://legislation.mt/eli/cap/12/eng/pdf>.

59 aditus, Input Paper on Access to Justice, 5 December 2023, <https://aditus.org.mt/published-input-paper-on-access-to-justice/#:~:text=The%20strengthening%20Access%20to%20Justice,that%20they%20have%20been%20violated.>

60 Legal Aid Malta, Home, <https://legalaidmalta.gov.mt/en/>.

61 Legal Aid Malta, Resources, <https://legalaidmalta.gov.mt/en/resources/#LegalAidBrochures>.

62 aditus, Input paper on Access to Justice, 5 December 2023, <https://aditus.org.mt/published-input-paper-on-access-to-justice/#:~:text=The%20strengthening%20Access%20to%20Justice,that%20they%20have%20been%20violated.>

It should be noted that legal aid should in principle be available to any person irrespective of nationality or residence status, however application for legal aid via the website requires a Maltese or EU e-ID. This results in an obstruction to access by persons who do not possess a residence card.⁶³

Furthermore, although social workers and lawyers can refer clients via the online system, this also must be done with the professional's personal E-ID since legal entities (such as NGOs, law firms etc.) do not possess an E-ID. This can give rise to problems in terms of continuity and data protection.

A recent news report relating to a specific criminal case highlighted the relatively common occurrence of legal aid lawyers failing to appear for court sittings without due notice.⁶⁴ We are not aware of any disciplinary action being taken against the lawyer in the aforementioned particular case, and, contrary to the principles of a fair trial, the sitting was allowed to continue. See also the case of *Feilazoo v*

Malta regarding access to legal aid in prison and in detention.⁶⁵

As noted by the Commission in its 2024 EU Justice Scoreboard, Malta is one of only six Member States in which legal aid beneficiaries are not automatically exempt from paying court fees.⁶⁶

Interpreting

Interpreters are assigned by the Court through a list of court interpreters.⁶⁷ There is no official designation of 'court interpreter' and most carry out ad hoc interpreting work if and when needed. Furthermore, the actual function of court interpreters is not regulated by legal norms, although references to the right to interpreters are provided for in criminal legislation. Some languages such as Bengali, Urdu, Hindi, Tagalog and Tigrinya are not listed. This is concerning as a high number of Indians, Pakistanis and Filipinos reside in Malta. There is no automatic right of the defendant to object to any particular interpreter if they have

63 Legal Aid Malta, Civil Legal Aid Cases, <https://legalaidmalta.gov.mt/en/services/civil-legal-aid-cases/>.

64 Edwina Brincat, *Marsa murder: Accused complains about absence of his lawyer*, *Times of Malta*, 8 January 2024, <https://timesofmalta.com/article/marsa-murder-accused-complains-absence-lawyer.1077003>.

65 ECHR, March 2021, *Feilazoo v Malta*, Para 58 & 128-130, <https://hudoc.echr.coe.int/fre#%7B%22itemid%22:%5B%22001-208447%22>.

66 European Commission, the 2024 EU Justice Scoreboard, https://commission.europa.eu/document/download/84aa3726-82d7-4401-98c1-fee04a7d2dd6_en?filename=2024%20EU%20Justice%20Scoreboard.pdf.

67 Malta Law Courts, List of Court Interpreters, <https://courts.gov.mt/wp-content/uploads/2022/07/translatorList.pdf>.

reservations. This has caused some problems during criminal proceedings.⁶⁸

Legal fees

In January 2023, the Minister for Home Affairs introduced fees, through a legal notice, for the filing of appeals from decisions on the issuance of residence permits (€45), visa (€120) and for matters of carrier liability (€120) for the first time.⁶⁹ This can be obstructive for people with low income.

Procedural Obligation under Article 460 Code of Organisation and Civil Procedure (COCP)

Art 460 of the COCP⁷⁰ obliges any person filing a suit against the government, on pain of nullity, to serve a judicial letter to the government

10 days before in which the party's claims are defined. There are a few exceptions in the law to this general rule, such as in cases relating to breaches of fundamental rights in the Constitution. This rule had been applied rigorously in favour of the government, which had the effect of limiting individual use of all remedies available under the law. A Constitutional Court judgement in 2020 held that this provision was unconstitutional due to the nullification of the suit if the procedure is not followed.⁷¹ In spite of this, Article 460 is still being utilised as a preliminary mechanism to quash cases instituted against the state before they even begin. There have been calls to amend this Article.⁷² In October 2024 the Chief Justice himself declared that when the Constitutional Court orders that a law be changed, this must happen without prevarication by the legislature.⁷³

68 Nicole Meilak, *Interpretation muddles leaves Paceville murder hearing postponed*, *MaltaToday*, 19 January 2023, https://www.maltatoday.com.mt/news/court_and_police/120820/interpretation_muddle_leaves_paceville_murder_hearing_postponed; Monique Agius, *El Hiblu: Defence seeks change in interpreter saying translation is not loyal to what is being said*, *Newsbook*, 25 May 2021, <https://newsbook.com.mt/en/el-hiblu-defence-seeks-change-in-interpreter-saying-translation-is-not-loyal-to-what-is-being-said/>; Matthew Agius, *Lawyer slams justice system after bail request filed two days ago only reaches court*, *MaltaToday*, 22 June 2023, https://www.maltatoday.com.mt/news/court_and_police/123597/lawyer_slams_justice_system_after_bail_request_filed_two_days_ago_only_reaches_court_on_thursday.

69 Legal Notice 1 of 2023, Immigration (Amendment) Regulations, 2023, <https://legislation.mt/eli/ln/2023/1/eng>.

70 Cap 12 Laws of Malta, Code of Organisation and Civil Procedure, <https://legislation.mt/eli/cap/12/eng/pdf>.

71 Clement Mifsud-Bonnici, Nigel Vella Micallef, *Malta Court removes Government litigation privilege in judicial review cases*, *Ganado Advocates*, <https://ganado.com/insights/publications/malta-court-removes-government-litigation-privilege-in-judicial-review-cases/>.

72 Andrew Drago, *Appell lil-Le iżlatur L-artikolu 460 tal-Kapitolu 12 tal-Li ijjiet ta' Malta*, *GHSL*, 17 October 2022, <https://www.ghsl.org/wp-content/uploads/2022/10/article-460-appell-lil-legislatur.pdf>.

73 Matthew Agius, *Chief Justice expresses concern at lack of specialised court staff*, *Malta Today*, 1 October 2024, https://www.maltatoday.com.mt/news/national/131493/chief_justice_expresses_concern_at_lack_of_specialised_court_staff.

Rightful defendant

Delays in cases relating to actions against the government have been blamed on unclear provisions and case-law on who is the rightful defendant under Maltese law. The Court of Appeal has suggested that only one entity should be sued in all actions against the government.⁷⁴

With respect to legal aid we urge the Commission to recommend:

- making legal aid accessible to all, irrespective of residence status or the possession of an identity document,
- increase in the financial thresholds for eligibility for legal aid & widen the merit test for eligibility for legal aid to include pre-litigation advice,
- ensure continuous training for legal aid lawyers,
- ensure a quick and effective method of filing complaints and starting disciplinary proceedings against legal aid lawyers who fail to appear for hearings,
- ensure that court sittings are suspended if legal aid lawyers do not show,

- ensure that the Legal Aid Agency publishes the list of legal aid lawyers and their contact details, statistics and an annual report on its activities.

With respect to interpreting we urge the Commission to recommend:

- introducing legislation on the regulation and function of interpreters in Court, including provisions allowing for the replacement of an interpreter at the reasonable request of the client,
- offering mandatory training to interpreters on interpreting in a court setting.

We also urge the Commission to recommend the following:

- an amendment to be made to article 460 of the COCP to reflect the decision of the constitutional court decision of 2020,
- an amendment to the law to establish that only one entity be sued in all actions against the government.

⁷⁴ Malcolm Mifsud, *Court of Appeal wants a one stop shop for when people sue the government*, *Malta Today*, 2 November 2023, https://www.maltatoday.com.mt/comment/law_report/125761/court_of_appeal_wants_a_one_stop_shop_for_when_people_sue_the_government.

Resources of the judiciary (human/financial/material)

In the Chief Justice's speech to mark the beginning of the forensic year – 1 October 2024, the day when the work of the courts officially begins – he expressed deep concern at the current lack of specialised court staff and repeated his plea for a dedicated building for inquiring magistrates. He called for stronger administrative and professional support systems in every area, in particular the Gozo courts. He also stressed the importance of having highly trained specialised clerks, messengers, court assistants, transcribers and deputy registrars. He furthermore recommended that a cohort of judges be appointed solely to preside over trials by jury, as well as a reclassification of the crimes that can be decided by juries and those which can be heard by a judge alone, in order to meet today's needs. While inviting the Minister to appoint two more magistrates to handle non-criminal cases, The Chief Justice also pointed out that this would create problems as to where to fit them in the already crowded court building.⁷⁵

Therefore there is a dissonance between high expenditure and the further deterioration of the efficiency of the justice system and the concerning lack of resources.⁷⁶ It cannot be said that the latter two issues have been addressed over the course of 2024.

We urge the Commission to recommend proper and effective assignment of resources to the judicial system.

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

The annual budget allocated to the Judicial Studies Committee remains unchanged at €50,000.⁷⁷

There are no legal requirements for judges (or lawyers) to carry out professional development training in order to retain their position or license. Lawyers and other legal professionals are not required to carry out any continuing professional development training, a direct result of the lack of a comprehensive law governing the legal profession.

75 Matthew Agius, *Chief Justice expresses concern at lack of specialised court staff*, *Malta Today*, 1 October 2024, https://www.maltatoday.com.mt/news/national/131493/chief_justice_expresses_concern_at_lack_of_specialised_court_staff.

76 Malta Independent, *Government says there has been continuous and unprecedented investment in the courts*, 5 September 2024, <https://www.independent.com.mt/articles/2024-09-05/local-news/Government-says-there-has-been-continuous-and-unprecedented-investment-in-the-courts-6736263953>; Times of Malta, *PN demands government action to address huge caseload before the courts*, 1 October 2024, <https://timesofmalta.com/article/pn-demands-government-action-address-huge-caseload-courts.1098840>.

77 Ministry for Justice, *Financial Abstract*, <https://finance.gov.mt/wp-content/uploads/2024/02/fe24-24-Justice.pdf>.

We strongly urge the Commission to recommend:

- the introduction of mandatory training hours for all legal professionals as a condition for retaining their professional licenses,
- the introduction of mandatory training for all members of the judiciary, including members of tribunals.

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

The government allocated €3,227,000 in 2023 and a further €5,200,000 in 2024,⁷⁸ through EU funds, towards the digitisation of the justice system. Yet legal practitioners in Malta still lack the digital tools necessary to ensure efficiency.

General civil cases and constitutional cases cannot be filed online.⁷⁹ In order to file a case online, the legal practitioner must use their personal E-ID with their personal (not professional) information, such as home address, date and place of birth. This creates privacy issues

and issues of continuity in cases of a change of legal representative.

From the information available, the new court information management system has not yet been opened nor has the introduction of e-signatures for court documents begun. There is no possibility for a lawyer, client, or other involved party to file a notice online that they are unable to attend a sitting. Some documents, such as magisterial inquiry reports, need to be physically authenticated page by page by the inquiring magistrate. Documents filed online should become immediately effective as any delays could prejudice the outcome of a case, however, lawyers have reported that their online filings have sometimes still gotten lost.

The Chamber of Advocates President Peter Fenech stated that Malta is behind in terms of the digitisation of the court system and noted that the committee responsible for leading this process has yet to meet. He complained that there is no information on what progress, if any, has been made by this committee.⁸⁰

78 Ministry of Finance, The Budget 2024, <https://finance.gov.mt/budget24/>; European Commission, Digitalisation of civil proceedings and criminal judicial acts, https://commission.europa.eu/projects/digitalisation-civil-proceedings-and-criminal-judicial-acts_en.

79 eCourts, Submission of Acts, <https://ecourts.gov.mt/onlineservices/JForms/Index?;FormJurisdictionId=1>.

80 Matthew Farrugia, 'It's time to regulate lawyers' – Chamber of Advocates president tells lawmakers, *Malta Today*, 1 October 2024, https://www.maltatoday.com.mt/news/national/131494/its_time_to_regulate_lawyers_chamber_of_advocates_president_tells_lawmakers.

We therefore urge the Commission to recommend:

- timely and comprehensive implementation of Malta's justice system digitisation strategy including meaningful stakeholder engagement,
- the timely publication of reports of the Digital Justice Strategy Steering Committee on the progress of implementation.⁸¹

Other

The system through which the court appoints experts to give opinions on particular aspects of proceedings requires reform. There currently exists no college from which experts may be appointed, and no regulations establishing the necessary qualifications for such experts or disciplinary measures to which they may be subject in the event of misconduct. This often results in a perceived lack of independence and/or competence of court experts, further eroding public trust in the judicial system. In October

the Chief Justice noted that the absence of guidance in the law on the capping of experts' remuneration was being used unfairly to attack evidence in court.⁸²

Fairness and efficiency of the justice system

Length of proceedings

There has been no progress in reducing the length of court proceedings. These continue to be inordinately lengthy, which seriously threatens the rights of the most vulnerable to access the courts and right wrongs that they may have suffered. Malta has remained anchored at the bottom of an EU leaderboard showing the average time that a court takes to decide a case instituted against the government.⁸³

For example, one case we are assisting with relating to the violent death of a man in police custody⁸⁴ has been pending before the Constitutional Court since 2012.⁸⁵

81 Digital Justice Strategy Malta 2022 - 2027, The Digital Justice Strategy Committee, <https://digitaljustice.gov.mt/the-digital-justice-strategy-committee/>.

82 Matthew Agius, *Chief Justice expresses concern at lack of specialised court staff*, *Malta Today*, 1 October 2024, https://www.maltatoday.com.mt/news/national/131493/chief_justice_expresses_concern_at_lack_of_specialised_court_staff.

83 Daniel Ellul, *Justice delayed...Malta still at the bottom of EU scoreboard*, *Times of Malta*, 11 June 2024, <https://timesofmalta.com/article/justice-delayedmalta-still-bottom-eu-scoreboard.1093818>.

84 Matthew Agius, *Mamadou Kamara's murder: migrant repeatedly kicked as he tried to stand up*, *Malta Today*, 14 March 2017, https://www.maltatoday.com.mt/news/court_and_police/75315/mamadou_kamaras_murder_migrant_repeatedly_kicked_as_he_tried_to_stand_up.

85 Case 290 / 2012 - AGIUS MARY NOE vs ID-DIRETTUR TAR-REGISTRU PUBBLIKU ET., <https://ecourts.gov.mt/onlineservices/CivilCases/Detail/285217#>.

Magisterial inquiries, intended to gather evidence relating to serious crime, are also often extremely lengthy. This is detrimental to the results of the inquiry since evidence and witness testimony can be lost along the way. In 2023 it was reported that 1,700 magisterial inquiries are pending, one since 1979.⁸⁶ Statistics show that as of September 2024, 1625 magisterial inquiries were pending.⁸⁷

Malta failed to provide responses to questions relating to the length of proceedings in the questionnaire presented by the European Commission for the Efficiency of Justice, stating that “[i]t is presently not possible to derive this data from the case management system, and despite the fact that data is available, one has to go through the cases on a case-by-case basis”.⁸⁸

In the last examination by the Committee of Ministers of three cases decided by the ECtHR regarding the length of judicial proceedings in Malta, it was noted that “[i]n the *Spiteri* case, it is a matter of concern that the criminal proceedings against the applicant, which had been initiated more than 16 years ago (in May 2008)

are still pending to date... no information has been provided about procedural acts ordered or undertaken in the last seven years from the moment of the applicant’s extradition to Malta in 2017. No measures foreseen were reported with a view to accelerating or finalising these proceedings”.⁸⁹ Moreover, it was reported that “[i]nformation is also awaited in the *Tonna and Others* case on the status of the compensation proceedings resulting from land expropriation initiated more than 18 years ago (i.e., the proceedings started in 2006 and the European Court found a violation of the reasonable time requirement starting as of 2011)”.⁹⁰

The Committee of Ministers went on to state that “[t]he statistical data provided by the authorities show a mixed picture...[f]or other courts, such as the Court of Magistrates and the Constitutional Court, the situation... seems to have worsened in recent years, as acknowledged by the authorities. This is a matter of concern and shows that... the problem of length of criminal proceedings persists in the Maltese system as a whole and therefore there is a need for further measures... to ensure a more efficient adjudication of cases”.⁹¹

86 Matthew Xuereb, *Nearly 1,700 magisterial inquiries are pending, one since 1979*, *Times of Malta*, 27 April 2023, <https://timesofmalta.com/article/nearly-1700-magisterial-inquiries-pending-one-since-1979.1027874>.

87 Court Services Agency, Criminal Courts and Tribunals Directorate, <https://courts.gov.mt/wp-content/uploads/2024/10/09.-Statistika-Settembru-2024-Qrati-Kriminali.pdf>.

88 Council of Europe, European Commission for the Efficiency of Justice, *Evaluation of the judicial systems 2024 (data 2022)* <https://rm.coe.int/malta-2024-2022-/1680b1f6dc>.

89 Department for the Execution of Judgments of the UHCR, HUDOC EXEC Search, <https://hudoc.exec.coe.int/eng#%7B%22execidentifier%22:%5B%22004-55613%22%7D>.

90 Ibid.

91 Ibid.

Execution of judgments

In his yearly address, the Chief Justice stated that public authorities should “clearly and unequivocally” respect and support the courts by ensuring that court decisions and orders are not hampered, defied, or ignored.⁹² “I need not speak more clearly about this,” said the Chief Justice, making specific reference to “orders by the Constitutional Court to effect changes to the laws”.⁹³

There are several judgments of the ECtHR in relation to the execution of which Malta is under ongoing supervision by the Committee of Ministers. The main issues reported are degrading treatment, length of proceedings, protection of private and family life, and protection of property.⁹⁴ Concerning the issue of the length of proceedings, the Committee “noted with concern that the criminal proceedings are still pending in the *Spiteri* case;

noted further the absence of information as concerns the *Tonna and Others* case; called on the Maltese authorities to swiftly finalise the proceedings in the *Spiteri* case and to submit information on the current stage of the proceedings in the *Tonna and Others* case”.⁹⁵

Respect for fair trial standards including in the context of pre-trial detention

In January 2024, Parliament voted to extend the legal pre-trial detention period from a maximum of 48 hours to a maximum of 96 hours in certain cases.⁹⁶

It is to be noted that the detention regime of migrants in Malta has been repeatedly and harshly criticised by the European Court of Human Rights, most recently in the case of *J.B. and Others v. Malta* relating to the treatment of vulnerable children in detention.⁹⁷

92 Edwina Brincat, *Chief justice urges public authorities to unequivocally respect court orders*, 1 October 2024, <https://timesofmalta.com/article/chief-justice-urges-public-authorities-respect-court-orders.1098844>.

93 Edwina Brincat, *Chief justice urges public authorities to unequivocally respect court orders*, 1 October 2024, <https://timesofmalta.com/article/chief-justice-urges-public-authorities-respect-court-orders.1098844>.

94 Council of Europe, Department for the Execution of Judgements of the European Court of Human Rights, Pending Cases, Main Cases under Supervision, <https://www.coe.int/en/web/execution/malta>.

95 Department for the Execution of Judgments of the UHCR, HUDOC EXEC Search, <https://hudoc.exec.coe.int/eng#%7B%22execidentifier%22:%5B%22004-55613%22%5D%7D>.

96 Malta Independent, *Parliament votes to extend pre-trial arrest period for serious crime by 48 hours*, 30 January 2024, <https://www.independent.com.mt/articles/2024-01-30/local/Parliament-votes-to-extend-pre-trial-arrest-period-for-serious-crime-by-48-hours-6736258211>.

97 Neil Falzon, aditus, *The European Court of Human Rights blasts Malta's detention regime (again)*, 22 October 2024, <https://aditus.org.mt/the-european-court-of-human-rights-blasts-maltas-detention-regime-again/>; Mark Said, *An indictment of the Maltese government*, *Malta Today*, 21 November 2024, https://www.maltatoday.com.mt/comment/blogs/132373/an_indictment_of_the_maltese_government.

Rules on withdrawal and recusal of judges and their application in practice

The Code of Civil Procedure lists the circumstances under which a member of the judiciary should not preside over a civil or criminal case, including in all instances of presumed bias, partiality or lack of independence.

Article 734(1)(d) of the Code of Organization and Civil Procedure provides that a judge may be challenged or abstain from sitting in a cause (1) if he had given advice, pleaded or written on the cause or on any other matter connected therewith or dependant thereon; or (2) when he has previously taken cognizance of and expressed himself on the same merits of that cause when sitting as a judge in the court of voluntary jurisdiction.

This has at times been interpreted by the court strictly, as in the case of *Mary Grace D'Amato v Luqa D' Amato et*,⁹⁸ however, eminent jurist Giovanni Bonello opined that “[o]verriding that list is the constitutional imperative that all people in Malta must receive a fair hearing by an independent and

impartial tribunal. Any circumstance that puts their independence or impartiality in doubt, whether listed or not, compels the judge to drop the case ...”⁹⁹

In 2022, civil society group *Repubblika* filed an application calling on the courts to order the Police Commissioner to prosecute *Pilatus Bank* following the conclusion of a magisterial inquiry that found evidence of money laundering and criminal association, among other crimes. The NGO insisted the presiding magistrate recuse herself from the case because of her familial ties to Dr. Pawlu Lia, legal counsel for former Prime Minister Joseph Muscat, and previously, for the latter’s former Chief of Staff, Keith Schembri.¹⁰⁰ Schembri was reportedly implicated in the conclusions of the magisterial inquiry, which has not been made public.

In addition, *Repubblika* claimed that during her time as a practicing lawyer, the magistrate had publicly defended former Prime Minister Joseph Muscat and his administration, shedding doubt on her impartiality in a case involving the same.¹⁰¹ The Magistrate

98 Malcolm Mifsud, *Strict interpretation of the law when challenging a judge*, *Malta Today*, 6 April 2023, https://www.maltatoday.com/mt/comment/law_report/122155/strict_interpretation_of_the_law_when_challenging_a_judge.

99 Times of Malta, *Editorial: Recusal in the spirit of the law*, 15 September 2022 <https://timesofmalta.com/article/recusal-spirit-law.980840>.

100 Edwina Brincat, *Repubblika to take recusal case to ECHR after losing appeal*, *Times of Malta*, 31 May 2023, <https://timesofmalta.com/article/magistrate-nadine-lia-hear-repubblika-pilatus-case-ngo-loses-appeal.1034972>.

101 Times of Malta, *Recusal in the spirit of the law*, 15 September 2022, <https://timesofmalta.com/article/recusal-spirit-law.980840>.

however refused to recuse herself and went on to hear the case.¹⁰²

In a ruling given on 13 May 2024, the judge presiding over the civil court (family section) recognised “that it is particularly odious that the question of a judge’s recusal is left to the judgment of the same judge whose recusal is being sought. Such a determination ought to be made by a different judge, however, the current legal system in Malta does not permit this. The Court notes furthermore that the law does not even permit an appeal from a decision regarding recusal, albeit there are other remedies at the disposal of the parties”.¹⁰³

Quality and accessibility of court decisions

There have been reports that the principle of the right to be forgotten is being abused in

such a way that judgments are being removed from the online court system, unlawfully restricting access to information relating to court proceedings.¹⁰⁴

Magisterial inquiry reports are often treated with utmost secrecy, so that even the person(s) filing the initial complaint leading to the inquiry, or victims or family members of victims of crime, are not provided with a copy. This makes it difficult for interested persons to access important information about investigations into serious crime.¹⁰⁵

Other

In the *Global Rule of Law Index* published by the World Justice Project, Malta’s score decreased in the categories of absence of corruption, constraints on government powers, regulatory enforcement, and criminal justice.¹⁰⁶

102 Edwina Brincat, *Repubblika to take recusal case to ECHR after losing appeal*, *Times of Malta*, 31 May 2023, <https://timesofmalta.com/article/magistrate-nadine-lia-hear-repubblika-pilatus-case-ngo-loses-appeal.1034972>.

103 CIVIL COURT (FAMILY SECTION) THE HON. MADAM JUSTICE JACQUELINE PADOVANI GRIMA LL.D., LL.M. (IMLI) Today, 13th May 2024 Sworn Application no. : 161/2023 JPG; see also Matthew Xuereb, *Group of lawyers demand changes to judiciary recusal system*, *Times of Malta*, 9 July 2023, <https://timesofmalta.com/article/group-lawyers-demand-changes-judiciary-recusal-system.1042394>.

104 Maria Pace, *IT lawyers are concerned over arbitrary way online judgments are being removed*, *Malta Today*, 16 March 2018, https://www.maltatoday.com.mt/news/national/85352/it_lawyers_are_concerned_over_arbitrary_way_online_judgments_are_being_removed.

105 Matthew Vella, Nicole Meilak, *Updated | Attorney General denies Repubblika access to Vitals magisterial inquiry*, 6 May 2024, https://www.maltatoday.com.mt/news/court_and_police/129024/repubblika_demands_access_to_vitals_magisterial_inquiry_in_letter_to_courts1.

106 World Justice Project, WPJ Rule of Law Index, <https://worldjusticeproject.org/rule-of-law-index/global>; Jessica Arena, *Malta ranks 30th on global rule of law index*, 30 October 2024, <https://timesofmalta.com/article/malta-ranks-30th-global-rule-law-index.1100279>.

Recently, a failure by the Attorney General to quantify assets in an asset freezing order, as required by recently introduced legislation, resulted in the complete cancellation of that freezing order over the assets of the suspected murder mastermind in the assassination of Daphne Caruana Galizia. The changes to the legislation introducing this requirement to quantify assets were criticised by the opposition as being rushed and likely to weaken institutions, benefitting only criminals.¹⁰⁷

There have been instances of evidence in criminal cases suspiciously disappearing. For instance, in the case of a former parish priest charged with fraud, misappropriation and money laundering, among the items confiscated by the police was his laptop. However, a court expert informed Magistrate Rachel Montebello that it could not be found in the room where exhibits are kept.¹⁰⁸ A phone

owned by Keith Schembri, disgraced former Prime Minister Joseph Muscat's Chief of Staff who is currently facing criminal charges, went missing for weeks only to be found in a separate file.¹⁰⁹

In a recent Facebook post, the Prime Minister stated that he has “asked the Justice Minister to finalise a reform of magisterial inquiries without delay” to curb what he considers to be “abuse”.¹¹⁰ The magisterial inquiry system could benefit from reform in certain aspects (refer to ‘Key Recommendations’ in Checks and Balances section), however, it is concerning that, following this statement by the Prime Minister, Minister Owen Bonnici suggested that private citizens should be restricted from directly requesting magisterial inquiries. Such a measure would effectively strip citizens of a crucial legal recourse for investigating potential criminal activities, especially in

107 Malta Independent, *Freezing order on Yorgen Fenech assets lifted; PN says minister, AG should resign*, 28 October 2024, <https://www.independent.com.mt/articles/2024-10-28/local-news/Freezing-order-on-Yorgen-Fenech-assets-lifted-PN-says-minister-AG-should-resign-6736265280>.

108 Matthew Xueren, *Fr Luke Seguna claims court has breached his rights by losing his laptop*, 23 February 2024, <https://timesofmalta.com/article/fr-luke-seguna-claims-court-breached-rights-losing-laptop.1085548>.

109 Edwina Brincat, *Schembri's phone found in evidence bag as last sealed by expert, court confirms*, *Times of Malta*, 23 February 2024, <https://timesofmalta.com/article/schembri-phone-found-evidence-bag-last-sealed-expert-court-confirms.1081770>.

110 Daniel Ellul, *PM reacts to Jason Azzopardi claims by ordering reform of magisterial inquiries*, *Times of Malta*, 15 December 2024, <https://timesofmalta.com/article/robert-abela-jason-azzopardi-reform-magisterial-inquiries.1102507>; Jurgen Balzan, *Owen Bonnici suggests limiting citizens' right to initiate magisterial inquiries*, *Newsbook*, 16 December 2024, https://newsbook.com.mt/en/owen-bonnici-suggests-limiting-citizens-right-to-initiate-magisterial-inquiries/?_gl=1*1n7xl56*_up*MQ.

cases where official investigations appear compromised or delayed.¹¹¹ In recent years, this legal recourse has led to the investigation of major corruption scandals in Malta

where the police have failed to act, as in the case of Eletrogas¹¹² and the Vitals/Steward Health Care hospitals case.¹¹³

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- 111 Daniel Ellul, *PM reacts to Jason Azzopardi claims by ordering reform of magisterial inquiries*, *Times of Malta*, 15 December 2024, <https://timesofmalta.com/article/robert-abela-jason-azzopardi-reform-magisterial-inquiries.1102507>; Jurgen Balzan, *Owen Bonnici suggests limiting citizens' right to initiate magisterial inquiries*, *Newsbook*, 16 December 2024, https://newsbook.com.mt/en/owen-bonnici-suggests-limiting-citizens-right-to-initiate-magisterial-inquiries/?_gl=1*1n7xl56*_up*MQ.
- 112 Jennifer Rankin, *Criminal charges recommended in Malta government corruption inquiry*, *The Guardian*, 5 June 2024, <https://www.theguardian.com/world/article/2024/jun/05/criminal-charges-recommended-in-malta-government-corruption-inquiry>.
- 113 Edwina Brincat, *Repubblika head explains calls for hospitals inquiry, suspicion cast on Muscat*, *Times of Malta*, 27 September 2023, <https://timesofmalta.com/article/repubblika-head-explains-calls-hospitals-inquiry.1057525>.

ANTI-CORRUPTION FRAMEWORK -

Key recommendations

- *Revise the Attorney General law to fully implement the recommendations of the Venice Commission regarding the full control of the investigation of serious crimes together with the police as well as to initiate an investigation directly. This has only been partially implemented. Full implementation is vital.*
- *Introduce the crime of obstruction of justice in criminal law to include appropriate sentences which also cover attempted perversion of justice. This recommendation has not yet been implemented.*
- *Legislative provisions, including in the Code of Ethics, are required to safeguard against improper conduct of public officials in the execution of their duties. This has not yet been implemented. OECD reports¹¹⁴ on the lobbying framework and standards in public life have not been acted upon, despite a formal recommendation made by the Commissioner for Standards in Public Life under Article 13(1)(f) of the Standards in Public Life Act (letter¹¹⁵ to the PM, 11 July 2022).*

Levels of corruption

Malta's Corrupt Hospitals Deal

There has been a long list of criminal charges brought against individuals and companies¹¹⁶ for money laundering, corruption, bribery and fraud related to the deal that former Prime

Minister Joseph Muscat and his government sealed with Vitals Global Healthcare to run three public hospitals. During the case, it emerged that the police did not investigate evidence before prosecutors filed charges. The court heard that the Attorney General and Commissioner of Police instructed the Police Inspector not to carry out any investigations of

114 Commissioner for Standards in Public Life, OECD presents recommendations on integrity standards in Malta, 11 June 2022, <https://standardscommissioner.mt/oecd-presents-recommendations-on-integrity-standards-in-malta/>.

115 Commissioner for Standards in Public Life, Letter to the Speaker of the House of Representatives, 19 September 2024, <https://standardscommissioner.mt/other-documents/>.

116 Mark Lawrence Zammit, James Cummings, *Who's who, The people and businesses facing charges linked to hospitals deal*, *Times of Malta*, 8 May 2024, <https://timesofmalta.com/article/who-who-the-people-businesses-facing-charges-linked-hospitals-deal.1092082>.

his own. The Inspector had, in fact, done the bare minimum, risking the sabotage of Malta's biggest corruption case yet. Such charges were only possible because the civil society organisation Repubblika filed a second request¹¹⁷ for an inquiry in 2019 after the police did not investigate.

The State Advocate said he did not¹¹⁸ have the power to recoup funds that were lost in the Vitals deal, however following an appeal¹¹⁹ by the opposition, the court ruled that the State Advocate was empowered to act independently and recover the €400 million of public money that was lost.

Daphne Caruana Galizia's murder criminal case

A top prison officer, Svetlana Muscat,¹²⁰ who had the position as Head of Strategy at Corradino Correctional Facility (Malta's main prison), allegedly facilitated illicit meetings in her prison office for the alleged mastermind in Daphne Caruana Galizia's murder, an inmate of the facility. Although she has been put on

forced leave, she was cleared of any criminal charges. According to prison regulations, all visits to prisoners must take place in approved visiting areas. Visits must also be monitored by CCTV cameras, save for conjugal visits. Muscat's appointment appeared to violate Council of Europe prison rules,¹²¹ particularly Rules 76 and 77 on the need for prison staff to be carefully selected, properly trained, and have the professional capacity and personal suitability for their role. Muscat's LinkedIn profile showed that her longest professional experience was as a producer and presenter at ONE Productions Ltd (the Labour Party's broadcasting media) and as a ministerial aide. Her appointment highlights the lack of meritocracy in the public service, which is eroding good governance and enabling corruption.

117 Caroline Muscat, *Repubblika files new request for an inquiry into Vitals Global Healthcare deal*, *The Shift News*, 4 October 2019, <https://theshiftnews.com/2019/10/04/repubblika-files-new-request-for-an-inquiry-into-vitals-global-healthcare-deal/>.

118 Edwina Brincat, *State Advocate says he's not empowered to act to recoup Vitals funds*, *Times of Malta*, 4 November 2024, <https://timesofmalta.com/article/state-advocate-says-empowered-act-recoup-vitals-funds.1100550>.

119 Edwina Brincat, *State Advocate can act independently to recover hospital funds, court declares*, *Times of Malta*, 2 December 2024, <https://timesofmalta.com/article/state-advocate-act-independently-recover-hospital-funds.1101861>.

120 Mark Lawrence Zammit, *Top prison official suspended over alleged Yorgen Fenech meeting*, *Times of Malta*, 25 June 2024, <https://timesofmalta.com/article/top-prison-official-suspended-alleged-yorgen-fenech-meeting.1094456>.

121 Council of Europe, *Guidance Document on European prison Rules*, 2023, <https://edoc.coe.int/en/european-prison-reform/11595-guidance-document-on-the-european-prison-rules.html>.

Nepotism and Abuse of Power

Last month, Parliament's Standards Commissioner concluded¹²² that Minister Clayton Bartolo and Minister Clint Camilleri abused their power by giving Bartolo's then-girlfriend, Amanda Muscat, who he later married, a job as a ministry policy consultant. She was Bartolo's secretary at the time. In 2021, she was transferred to Minister Camilleri's ministry and given a pay rise of €68,000 a year – yet she continued to work as Bartolo's secretary throughout. Her salary included a €20,000 'expertise allowance'. The Standards Commissioner found no evidence of Muscat doing consultancy work for either ministry. Prime Minister Robert Abela asked both ministers to issue an apology but continued to reiterate that they would keep their ministerial positions. Minister Bartolo's resignation¹²³ only came after pressure from civil society and University of Malta student organisations.

Political Finance

Malta has a significant transparency deficit when it comes to political finance, increasing the risks of money laundering and corruption, as well as abuse of power and political favors. The Daphne Caruana Galizia Foundation, together with Transparency International, conducted a study¹²⁴ on political finance in Malta from 2016 until 2019, where we found¹²⁵ that the source of 99% of the finances of Malta's two largest political parties remains undisclosed to the public and known only to the political parties themselves. A second investigation by Follow the Money¹²⁶ was done to cover the years 2020 until 2022, which led to the same statistic, making it impossible for journalists to trace the funding and identify the biggest donors to the parties. Political financing in Malta comes only from the private sector since the state does not provide financial support to political parties. This increases the risk that politicians disproportionately favor wealthy individuals or corporate entities. Without public knowledge of a donor's identity, the interested parties

122 Sarah Carabott, *Watch: PM says Clayton Bartolo's apology over girlfriend scandal is sufficient*, *Times of Malta*, 7 November 2024, <https://timesofmalta.com/article/pm-says-clayton-bartolo-apology-girlfriend-scandal-sufficient.1100703>.

123 Bertrand Borg, *Clayton Bartolo resigns as Tourism Minister as second scandal emerges*, *Times of Malta*, 26 November 2024, <https://timesofmalta.com/article/clayton-bartolo-resigns-tourism-minister-following-jobs-scandal.1101565>.

124 The Daphne Caruana Galizia Foundation and Transparency International, *Integrity Watch Malta: Political donations*, December 2023, <https://iw.daphne.foundation/>.

125 Ana Tortell, *Millions in unattributed donations: New database of Malta's political party funds launched*, 21 December 2023, <https://lovinmalta.com/malta/millions-in-unattributed-donations-new-database-of-maltas-political-party-funds-launched/>.

126 Nicole Meilak, *We don't know where 99% of political party donations come from*, *Malta Today*, 2 June 2024, https://www.maltatoday.com.mt/news/ewropej/129501/we_dont_know_where_99_of_political_party_donations_come_from.

could gain significant influence over political decisions without any oversight or public scrutiny, weakening the integrity of the democratic process.

This is all the more alarming when, regardless of Malta's seemingly adequate legislation on political parties' audited accounts, both of Malta's largest political parties, year after year, fail to submit their audited accounts to the Commission. The last submitted¹²⁷ audited accounts of Partit Nazzjonalista¹²⁸ was in 2019. The last submitted audited accounts of Partit Laburista was in 2022.

While the Electoral Commission is empowered to act on wrongdoing by political parties, it chooses not to do anything to ensure transparency and the rule of law in political party financing.

Golden Passports Scandal

Questions continued to be raised on the 'due diligence' process conducted by the Community Malta Agency prior to the acquisition of a Maltese and European passport.

A 24-year-old Russian, Semen Kuksov, who became a Maltese citizen, ran a "professional banking service for criminals across the world"

as part of a billion-dollar money laundering network, the National Crime Agency in the UK has said.¹²⁹ He was jailed in the UK this year for five years. Semen Kuksov's father also bought a Maltese passport. Following an investigation by The Daphne Caruana Galizia Foundation, Semen Kuksov's Maltese passport was revoked.

Alleged fraud at Identity Malta

This year, a magisterial inquiry was launched into Malta's identity data regulator filed by a former opposition MP over allegedly fraudulently issuing identity cards for foreign nationals.

Framework to prevent corruption

Integrity framework including incompatibility rules (e.g.: revolving doors)

There are close ties between the government and businesses, across the board: in Malta, many businesses that deal with government contracts or regulations are often led by individuals who have close ties to political parties. For example, former ministers, top officials, or political advisers may take up senior roles in private companies once they leave public office, particularly in sectors such as construction,

127 Daniel Ellul, *Labour doubled election spend, PN still to file its accounts and donations list*, *Times of Malta*, 15 October 2023, <https://timesofmalta.com/article/labour-doubled-election-spend-pn-still-file-accounts-donations-list.1061244>.

128 Daniel Ellul, Mark Lawrence Zammit, *PN financial reports for 2021 and 2022 remain unpublished*, *Times of Malta*, 13 January 2024, <https://timesofmalta.com/article/pn-financial-reports-2021-2022-remain-unpublished.1077771>.

129 Joanna Demarco, Jacob Borg, *'Maltese' Russian jailed in UK over scheme to launder 14 million*, *Times of Malta*, 22 April 2024, <https://timesofmalta.com/article/maltese-russian-jailed-uk-scheme-laundry-14-million.1091337>.

energy, or finance — sectors that are often the focus of government policy decisions.

In 2020 a lawyer working with the AG whilst that office was prosecuting the Caruana Galizia Murder case, left his position and went directly to work with the defense team on this case.¹³⁰ Consequently, some changes were made to the code of ethics for lawyers working at the AG office, however, the changes did not include a ‘cooling-off period’, and did not apply to current employees.

As previously mentioned, there is a deficit in transparency in all public sectors, with many FOI requests dragging on for 12 months or more. There is very little transparency in political finance, as explained above.

Rules on conflict of interest in the public sector remain weak, and so is enforcement. In December, an independent candidate asked the Auditor General to investigate how a thirty-year-old lawyer close to the Prime Minister has been awarded eleven separate jobs in the public sector.¹³¹

In 2021, the NGO Repubblika published¹³² a report on recommendations to ensure safety and whistleblower protections for individuals

and NGOs, however, none of these recommendations were implemented.

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

The sectors with the high risk of corruption are:

- Public healthcare
- Land administration
- Construction
- Public procurement
- Financial services
- Online gambling
- Energy

130 Ivan Martin, *Lawyer with state prosecutor joins Yorgen Fenech defense team*, *Times of Malta*, 6 May 2020, <https://timesofmalta.com/article/state-prosecutor-joins-yorgen-fenech-defence-team.790394>.

131 *Times of Malta*, *Investigation requested into government’s granting of 11 jobs to Abela lawyer*, 11 December 2024, <https://timesofmalta.com/article/investigation-requested-government-granting-11-jobs-abela-lawyer.1102285>.

132 Repubblika, *Protecting Whistleblowers in Malta*, 15 November 2022, <https://whistleblowingnetwork.org/WIN/media/pdfs/WB-ram-final-with-WIN-addition.pdf>.

We encourage the Commission to make the following recommendations to the Government of Malta:

- Criminalise abuse of office by public officials or by those in charge of a public service to ensure accountability for those in power who do not work for the good of the country. This will strengthen integrity and increase public trust.
- Improve the system of verification and collection of data of asset and interest declarations of MPs, by establishing a system of electronic submission and extending it to persons of trust – an OECD¹³³ recommendation from 2022 that was never implemented.
- The Freedom of Information Act (Chapter 496) needs to be updated to limit the instances where public administration may arbitrarily refuse to provide information that is of public interest and to which the public has a right. This is another recommendation from the public inquiry board yet to be implemented.
- Introduce ‘Unexplained Wealth Orders’ to fight financial crime, including bribery and corruption. This should be implemented

through public consultation and recommendations from experts.

- Increase training and resources (human and financial) to the Police and Attorney General’s office to ensure they are well equipped to investigate high-level corruption and can confidently defend such cases in court against the top criminal lawyers defending criminals.
- Reduce the threshold of anonymous donations to political parties to ensure a well-informed public and increase public trust in political parties. This will also reduce the risk of political favors and influence from the private sector.

Investigation and prosecution of corruption

Criminalisation of corruption and related offences

Legislation requiring the quantification of assets in the case of asset freezing orders has been introduced by legal notice,¹³⁴ by-passing Parliament. It has been met with criticism by the legal community on the grounds that such a requirement only serves to favor the accused.¹³⁵

133 OECD, Improving the Integrity and Transparency Framework for Elected and Appointed Officials, 27 October 2023, https://www.oecd-ilibrary.org/governance/public-integrity-in-malta_c39511b6-en.

134 Government Gazette of Malta, VI of 2024 – Various Laws relating to Proceeds of Crime (Amendment) Act, 9 February 2024, <https://legislation.mt/eli/act/2024/6/eng>.

135 Sean Montebello, *PN calls for reining-in of government’s proposed asset freeze law changes*, *The Shift*, 16 January 2024, <https://theshiftnews.com/2024/01/16/pn-calls-for-reigning-in-of-governments-proposed-asset-freeze-law-changes/>.

In 2023, the Council of Europe said that Malta still lacks the tools to sanction its MPs and was urged to improve on transparency. There have been no developments in this regard.¹³⁶

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

Lack of training and resources represent one of the biggest obstacles in investigating and prosecuting high-level corruption.

While salaries of the Malta Police Force have increased this year, the increase is not close enough to attract the quality police officers the country needs to investigate high-level corruption. The Prime Minister's unwillingness to invest in the police force has drastically increased resignations in the force, consequently reducing the effectiveness of investigating high-level corruption cases. The current salary of a police officer is advertised as €20,439,¹³⁷ while that of a lawyer in the Attorney General's office is advertised as €27,178.77.¹³⁸

136 Times of Malta, *Malta still lacking the tools to sanction its MPs, Council of Europe says*, 6 June 2023, <https://timesofmalta.com/article/malta-still-lacking-tools-sanction-mps-council-europe-says.1035962>.

137 Government Gazette, *Vacancy Details Police Constable* 22 November 2024, <https://recruitment.gov.mt/en/job/25b100a9734>.

138 Government Gazette, *Vacancy Details, Junior Legal Officer*, 14 April 2023, <https://recruitment.gov.mt/en/job/9e-6f08a6787>.

MEDIA ENVIRONMENT AND MEDIA FREEDOM

Key recommendations

Rule of law is essential to creating an healthy environment for public interest journalism, as the public inquiry into Daphne Caruana Galizia's assassination has shown. It is essential that the systemic state failures identified by the inquiry and all the recommendations, including those concerning the rule of law and organised crime, are effectively addressed to ensure journalists can do their work safely. In the interests of transparency and effectiveness, independent technical studies and a transparent process of structured public consultation need to precede the drafting of legislation based on the recommendations of the public inquiry, and the legislation itself needs to be submitted to parliamentary scrutiny before its enactment. For this reason, we cannot limit the issues around media freedom in Malta to three key recommendations. What is listed below are examples of how media freedom can be strengthened in Malta.

- **Repeal the provision in the current Media and Defamation Act that obliges a defendant's heirs to pay damages in inherited cases that are still active.** This can be done with immediate effect through a Parliamentary motion supported by a majority vote.
- **Reform Malta's Freedom of Information Act** to ensure the right of access to information of public interest held by public authorities, so that government entities cannot simply reject requests for information on arbitrary grounds and so that the process is not so protracted that timely reporting and journalists' ability to do their work are constantly undermined. Amend the law to include the media (and civil society) as bearers of a legitimate interest when it comes to access to the Ultimate Beneficial Owners register, as the current legislative framework, under which many requests for access have already been refused, are contrary to the currently applicable EU law and the ECJ ruling *WM (C-37/20) and Sovim SA (C-601/20) v Luxembourg Business Registers*.
- Introduce or contemplate the formulation of **proper engagement and coordination mechanisms with civil society and media organisations regarding the operation of early-warning and rapid-response mechanisms** (hotlines, online platforms or 24-hour emergency contact points) to ensure that journalists and other media actors have immediate access to and are aware of protective measures when they are threatened.¹³⁹

139 OSCE Representative on the Freedom of the Media, *Legal analysis on the draft laws of Malta to implement various measures for the protection of the media and of journalists*, OSCE, February 2022, <https://www.osce.org/files/f/documents/f/e/518019.pdf>.

- As systemic risk needs to be addressed by systemic solutions, **create and maintain an ad hoc structure within the Malta Police Force that identifies points of failure within the force that place journalists at risk**, e.g. a lack of swift action after a journalist exposes high-level corruption and other serious crimes increases that journalist's risk.¹⁴⁰ The formal structure within the police (VIP protection unit) tasked with identifying persons – not just journalists – who are exposed to real and imminent risks to life needs to be strengthened along the lines recommended by the office of the OSCE Representative on the Freedom of the Media:

*Introduce or contemplate the formulation of proper engagement and coordination mechanisms with civil society and media organizations regarding the operation of early-warning and rapid-response mechanisms (hotlines, online platforms or 24-hour emergency contact points) to ensure that journalists and other media actors have immediate access to and are aware of protective measures when they are threatened.*¹⁴¹

In the same vein, it is recommended that the proposal calls for the set up of protocols and training programmes for State authorities responsible for the protection of journalists and other media actors.

Media and telecommunications authorities and bodies

Independence, enforcement powers and adequacy of resources of media and telecommunication authorities and bodies

The public broadcaster, PBS, has lost a total of €5 million over the last ten years despite being given €40 million in direct subsidies over

the same period, excluding millions given in state advertising. An analysis of PBS's audited financial statements by *The Shift News* that was published in 2024 shows that the state entity registered massive losses in seven out of the ten audited years, despite the Labour Party government doubling its annual subsidies from €3 million in 2013 to €6 million in 2022.¹⁴² A National Audit Office report found that PBS registered losses across the board and suffers

140 OSCE Representative on the Freedom of the Media, *Legal analysis on the draft laws of Malta to implement various measures for the protection of the media and of journalists*, OSCE, February 2022, <https://www.osce.org/files/f/documents/f/e/518019.pdf>.

141 Ibid.

142 The Shift Team, *State broadcaster loses €5 million in 10 years despite €40 million in subsidies*, 29 February 2024, <https://theshiftnews.com/2024/02/29/state-broadcaster-loses-e5-million-in-10-years-despite-e40-million-in-subsidies/>.

from maladministration, a lack of transparency, and a total lack of proper procedures.¹⁴³ The audit found that, despite an annual government subsidy of €6 million and registering a revenue of €7.5 million from commercial ads, the broadcaster is losing money in every division except radio. There are no published audited accounts on PBS's website beyond 2020.

The independence of PBS is questionable, as it often acts as a propaganda machine for the government, frequently omitting news stories that do not suit the government's agenda. In May 2024, the Civil Court, in its constitutional jurisdiction, ordered the Broadcasting Authority and PBS to pay a €2,000 fine each, after it found them guilty of violating the fundamental rights of the Nationalist Party. In October 2024, the audio from the broadcast of the Finance Minister's speech on the national budget broadcast was muted for a full 10 minutes before the stream was suspended altogether after activists stormed parliament

and interrupted the Finance Minister in the first few minutes of his *Budget 2025* speech.¹⁴⁴ In November 2024, a member of PBS's board of directors, in his other government-paid job as Communications Director at the Water Services Corporation (WSC), instructed his team to remove an opposition MP from an image posted on the public entity's social media channels.¹⁴⁵

In November 2024, PBS was fined twice by the Broadcasting Authority after airing budget-related spots on consecutive days without the necessary regulatory approval, to the favor of the party in government.¹⁴⁶

A possible case of conflict of interest was quickly brushed off by the Broadcasting Authority (BA) in January 2024, after the BA fined a radio station that had declared it would censor a right-wing politician, Normal Lowell. The BA's secretary was involved in the political party that the politician forms part of.¹⁴⁷

143 The Shift Team, *NAO: State broadcaster loses money across the board, despite €6 million in annual subsidies*, 19 December 2023, <https://theshiftnews.com/2023/12/19/nao-state-broadcaster-loses-money-across-the-board-despite-e6-million-in-annual-subsidies/>.

144 Karl Azzopardi, *[WATCH] Graffiti stage protest in Strangers' Gallery as Budget is interrupted*, *MaltaToday*, 28 October 2024, https://www.maltatoday.com.mt/news/budget-2025/132011/watch_graffitti_stage_protest_in_strangers_gallery_as_budget_is_interrupted.

145 The Shift Team, *PBS director behind censorship of Opposition MP*, 27 November 2024, <https://theshiftnews.com/2024/11/27/pbs-director-behind-censorship-of-opposition-mp/>.

146 Times of Malta, *PBS fined €9,320 for airing of 'political' budget spots*, 8 November 2024, <https://timesofmalta.com/article/pbs-fined-9320-airing-political-budget-spots.1100711>.

147 Tim Diacono, *Broadcasting Authority Dismisses Secretary Conflict Of Interest Concerns Amid Imperium Europa Link*, 26 January 2024, <https://lovinmalta.com/news/broadcasting-authority-dismisses-secretary-conflict-of-interest-concerns-amid-imperium-europa-link/>.

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

The Public Broadcasting Services (PBS), Malta's public broadcaster, is a government-owned company. The Board of Directors of PBS is appointed by the government and is mainly answerable to the relevant minister. The appointment of the editorial board and board of directors of PBS is detailed in the National Broadcasting Policy that has not been updated since April 2004.¹⁴⁸ The role of PBS's editorial board has been called into question on a number of occasions for its lack of intervention on important issues and the need for its existence has been questioned.¹⁴⁹

Appointment procedures of PBS are opaque, with no public calls being issued for three new high-ranking appointments in September 2024, namely the roles of CEO, non-executive chairperson, and chairperson of the editorial board. It is difficult to get any information about the running of PBS, and there seems to be no clear process on how officials are appointed or dismissed.

In September 2024, the CEO and, simultaneously, Executive Chairman of PBS, Mark Sammut, was dismissed, with no information given by the authorities. Sammut's dual role had been criticised for providing him with two separate salaries, totaling more than €130,000 per year, including €8,666 per board meeting, and for having other ties to and roles within state entities. Those ties include the chairmanship of a state-owned 'phantom' airline company registered in 2018 to give a false impression that the national airline, Air Malta, was turning a profit, as well as multiple direct orders from the Ministry of Health for services from his IT business, worth tens of thousands of euros annually. On the contrary, calls for lower-ranking jobs are issued on PBS's website.¹⁵⁰

According to the Constitution, members are appointed by the President following their nomination by the Prime Minister. The BA, although it is the broadcasting regulator, fails to comply with its own constitutional and legal obligations. Two members are nominated by the government and another two by the opposition. The Chair is appointed by the President on the advice of the Prime Minister after consulting the opposition. Appointees are

148 Parliament (Malta), Document tabled in the House of Parliament during Sitting Number 192 of the 28th of October 2014 by the Minister for Home Affairs and National Security (Dokument imqiegħed fuq il-Mejda tal-Kamra tad-Deputati fis-Seduta Numru 192 tat-28 ta' Ottubru 2014 mill-Ministru għall-Intern u s-Sigurtà Nazzjonali), P.L. 3470, 28 October 2014, <https://parlament.mt/media/77214/03470.pdf>.

149 Neville Borg, *Changes to media impartiality laws 'could impact Church stations'*, 7 March 2023, <https://timesofmalta.com/articles/view/changes-media-impartiality-laws-could-impact-church-stations.1017714>.

150 Matthew Farrugia, *Government announces three appointments within PBS*, 18 September 2024, https://www.malta-today.com.mt/news/national/131270/government_announces_three_appointments_within_pbs.

affiliated with the party appointing them and are perceived as being loyal to that party. There is no consultation with civil society. The two main parties own their own broadcast, print, and online media channels to promote their messages. The BA interprets the concept of impartiality as the political party media balancing out each other. This reasoning is flawed. A civil court case challenging the imbalance is still underway. Meanwhile, the BA fails to act as an impartial balance between the two main parties, as confirmed by a court judgment that found the BA failed to maintain impartiality.¹⁵¹

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

The Institute of Maltese Journalists (IGM), founded in 1989, is the only nationwide association of journalists. It does not function as a union and not all practicing journalists are members. Members of the Malta Sports Journalists Association are automatically members of the IGM. The Executive Council of the IGM takes up their positions on a voluntary basis and includes journalists who are politically affiliated, often leading to criticism that their work can be viewed more as propaganda rather than journalism.

The IGM is a member of the European Federation of Journalists and the International Federation of Journalists. The IGM is open

to state-affiliated, independent and freelance journalists across the country.

The declared objectives are to:

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

According to the organisation's website, its greatest achievement is its contribution to the Malta Press Act, ensuring the inclusion of 'confidentiality of the source', 'qualified privilege', 'the right for information' and 'the right of reply'. The IGM contributed towards the Prime Minister freezing the draft media reform legislation initiated without public consultation by threatening to pull out of the reform process.¹⁵²

The Prime Minister appointed the IGM president and Secretary to the Committee of Experts on Media Reform tasked with providing recommendations on improving the government's three proposed bills on media reform. The Committee disbanded after 18 months and submitting the report to the

151 Edwina Brincat, *Court upholds PN cases against PBS, Broadcasting Authority*, 27 February 2023, <https://timesofmalta.com/articles/view/court-confirms-judgement-pn-case-pbs-broadcasting-authority.1016157>.

152 Times of Malta, *PM agrees to freeze media reform for consultation*, 13 October 2022, <https://timesofmalta.com/article/pm-agrees-freeze-media-reform-consultation.987416>.

government in June 2023. The members of the Committee, including four IGM members, refused to publish the report. The claim that they were bound by non-disclosure agreements is false, as no such agreements existed. In any case, any NDAs would not be enforceable after the Committee was disbanded.¹⁵³ The Media Reform Initiative criticised the Committee of Experts' attempt at protecting people's right to freedom of expression.¹⁵⁴

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

The under-resourced IGM has increased its public support for journalists, recently

calling out the Prime Minister's hostile remarks towards journalists for being unacceptable in a democratic society. The PM accused some journalists of working for the so-called 'establishment' and implied they are enemies of the state.¹⁵⁵

The IGM is moving towards the creation of a media council, with the guidance of the European Federation of Journalists and support from the Media Councils in the Digital Age (MCDA) project. We do not have any information on the model and financing structure of the proposed media council, which, we understand, has reached an advanced stage.

Pluralism and concentration

None of the provisions from the European Media Freedom Act was included in Malta's Media Freedom Act, which is concerning given that the deadline for implementation is August 2025.

153 Monique Agius, *Government unveils media reform proposals but rules out public consultation*, *Newsbook*, 28 September 2022, <https://newsbook.com.mt/en/government-unveils-media-reform-proposals-but-rules-out-public-consultation/>.

154 Matthew Vella, *Press reform critics say Committee proposals weak on PBS and SLAPP*, *Malta Today*, 28 October 2023, https://www.maltatoday.com.mt/news/national/125715/press_reform_critics_say_committee_proposals_weak_on_pbs_and_slapp.

155 Mapping Media Freedom, *PM Abela accuses reporters of acting for 'the establishment'*, 6 May 2024, <https://www.mapmf.org/alert/31502>.

Rules governing and safeguarding the pluralistic media market, and their application (including regulating mergers, acquisitions and other ownership changes)

The public broadcaster, PBS, is not impartial. Outside of regular news bulletins, which are heavily slanted towards the party in government, current affairs coverage is limited. Minority political voices have little access to what is meant to be a pluralist channel. In the lead-up to the MEP elections, Malta's most popular independent candidate, Arnold Cassola, was excluded from key broadcast debates ahead of the elections, as scheduled by the Broadcasting Authority board, which is made up of nominees from the major political factions, the Nationalist Party (PN) and the Labour Party (PL). While PL and PN are slated to participate in five debates, Cassola, alongside other independent candidates, was only offered the opportunity to engage with fellow independents. Despite being granted five minutes to speak independently, Cassola was not allocated any TV spots.¹⁵⁶

The broadcasting spectrum is largely dominated by the two main political parties. Political-party-owned stations are still not subject to the Broadcasting Act's provisions on impartiality. Local newsroom *Lovin Malta* filed a court case to make the Broadcasting Act

cover party-owned stations and to determine whether propaganda on political party TV stations should be declared unconstitutional.¹⁵⁷ The Constitution obliges the Broadcasting Authority to ensure that TV stations preserve due impartiality in matters of political or industrial controversy "as much as possible". It also obliges the BA to ensure that broadcasting facilities and time are fairly apportioned between people belonging to different political parties. However, the Broadcasting Act of 1991 includes a loophole that allows the BA to circumvent this requirement when regulating political party media, allowing the authority to monitor impartiality among private TV stations "by looking at the general output of current affairs programmes across all licensees as a whole". The case is still pending.

Fairness and transparency of licencing procedures (including allocation of licences, fines and penalties)

The BA regulates all content on radio and TV that originates from Malta and is tasked with issuing broadcasting licencing under conditions the BA deems fit.

156 Jurgen Balzan, *Arnold Cassola excluded from TV political debates*, *Newsbook*, 16 April 2024, <https://newsbook.com.mt/en/arnold-cassola-excluded-from-tv-political-debates/>.

157 Julian Bonnici, *Lovin Malta Files Historic Case To Declare Propaganda By Political Party Stations Unconstitutional*, *Lovin Malta*, 1 February 2021, <https://lovinmalta.com/news/lovin-malta-files-historic-case-to-declare-propaganda-by-political-party-stations-unconstitutional/>.

The BA is authorised to issue the following licences:

- For nationwide radio and TV broadcasting services, a prospective broadcaster must first be assigned a channel by one of two commercial service providers, Melita or GO plc, and then apply to the BA for a licence. Applications for a nationwide sound broadcasting licence must be accompanied by a non-refundable fee of €5,823. The annual licence fee payable to the BA is €11,646.
 - For digital radio broadcasting service, a prospective applicant must first be assigned a new channel by the licensed digital radio broadcasting service provider Digi B Network Limited, and then apply to the BA for a broadcast licence and pay a fee of €1,160. An annual licence fee is also applicable. Unless a licence is lawfully terminated or abridged, it is valid for up to four years and is renewable every four years for a fee of €3,000.
 - For community radio stations, the prospective licensee must first obtain a frequency allocation from the Malta Communications Authority (MCA). Applications for a community sound broadcasting licence (including for one-off events) must be accompanied by a non-refundable application fee of €116. The annual fee payable to the BA for a community sound broadcasting licence is €349; for community sound broadcasting services for one-off events, it is €116 per event.
- For a nationwide teleshopping broadcasting service, a prospective applicant must first make arrangements with Melita or GO, the two incumbent cable TV distribution networks, for the provision of a new teleshopping channel.
 - For a satellite television broadcasting service, a prospective applicant must first submit an application for a Satellite Earth Station Licence with the MCA. The applicable licence fees are:
 - for each station, for the transmission of communications, depending on the radio frequency bandwidth:
 - a) stations using up to 10MHz radio frequency bandwidth, per 1MHz radio frequency bandwidth, the fee is €650 p.a.,
 - b) stations using more than 10MHz radio frequency bandwidth, annual fee is €6,500.
 - and each station, for the transmission of communications, used for any event:
 - a) of 30 days or part thereof, per 1MHz radio frequency bandwidth, the fee is €110,
 - b) exceeding 30 days or part thereof, the monthly fee, per 1MHz radio frequency bandwidth, is €110.

As soon as the uplink services are approved by the MCA, an application for a licence for

a satellite television broadcasting service may then be submitted.¹⁵⁸

Other

Taxpayer-funded subsidies are distributed through an opaque process involving media owners and the central government. A new lobby group, the Association of Media Owners (AMO), was announced right at the end of 2023, set up to “protect and promote” the interests of its members.¹⁵⁹ The purpose of the association, it says, is to ensure that any legislation enacted, or regulations issued by the government or authorities, will not endanger the prosperity or impair the welfare of its members. However, this has created a situation where, through its media platform, the government can influence decisions before it has to deal with any demands. Its primary aim is to seek

funding and financial assistance for the local print and digital media industry, including via national and European institutions. Other independent media houses were excluded from joining this association due to its exclusionary criteria. The criteria for membership of the association is “full-time newsroom of at least seven journalists and three media workers”.¹⁶⁰ That excludes smaller outlets like *The Shift News* and *Critical Angle Project*.¹⁶¹ Other independent media houses were not even consulted in the setting-up process of the association.¹⁶² The Institute of Maltese Journalists said the newly formed association should not exclude other newsrooms and journalists.¹⁶³ Additionally, this association includes the media branches of the two major political parties in Malta. This puts the government on both sides of the negotiating table and puts non-party-owned media

158 GVZH Advocates, *In brief: media law and regulation in Malta*, Lexology, 13 June 2023, <https://www.lexology.com/library/detail.aspx?g=0803daea-1beb-461a-8641-c5ea879208ec>.

159 Times of Malta, *Media owners join forces to set up association*, 30 December 2023, <https://timesofmalta.com/article/media-owners-join-forces-set-association.1075536>.

160 The Malta Independent, *Media owners join forces to set up Association of Media Owners*, 29 December 2023, <https://www.independent.com.mt/articles/2023-12-29/local-news/Media-owners-join-forces-to-set-up-Association-of-Media-Owners-6736257435>.

161 The Malta Independent, *Media owners join forces to set up Association of Media Owners*, 29 December 2023, <https://www.independent.com.mt/articles/2023-12-29/local-news/Media-owners-join-forces-to-set-up-Association-of-Media-Owners-6736257435>.

162 The Shift Team, *Print newspapers given €150,000 in fresh public funds*, 2 February 2024, <https://theshiftnews.com/2024/02/02/print-newspapers-given-e150000-in-fresh-public-funds/>.

163 Sean Montebello, *Journalists' institute calls for 'wider membership' in media owner's lobby group*, *The Shift*, 20 January 2024, <https://theshiftnews.com/2024/01/20/journalists-institute-calls-for-wider-membership-in-media-owners-lobby-group/>.

in competition with political decision-takers who may be the subject of their reporting.¹⁶⁴

Furthermore, in February 2024, the government handed out €150,000 of public funds to Maltese print newspapers, including those owned by political parties, to help with their financial struggles. While beneficial, digital newsroom *The Shift* noted the government's failure to acknowledge the plight of independent digital newsrooms, including *The Shift News*, *Lovin Malta*, and *Newsbook*, shutting them out of every funding scheme despite having larger audiences than print newspapers.¹⁶⁵

Furthermore, publicly funded advertising is distributed through an opaque process. There are no measures in place to ensure that the distribution is fair, equitable, non-discriminatory, transparent, and independent of the central government.

Non-party-owned media have said that the business and editorial decision-making processes are separate. For example, the *Times of Malta* insists that its newsroom and its commercial arm are separate.¹⁶⁶ Allied Newspapers Ltd, which publishes *Times of Malta*, said:

“Allied Newspapers Limited is the only media company in Malta that boasts a unique structure where its editorial platform and the content it produces operate independently and without interference from the company’s management... The company’s participation in this association will, therefore, have absolutely no impact on Times of Malta’s journalism. Furthermore, editorial is free to scrutinise the operations of the new association, as is the case with all other local organisations.”¹⁶⁷

However, reliance on public funding and the lack of transparency in the process of allocating such funding raises questions about the viability of independent voices in the long run.

164 Arnold Cassola, *Opinion: The worries about the new Association of Media Owners, The Shift*, 13 January 2024, <https://theshiftnews.com/2024/01/13/opinion-the-worries-about-the-new-association-of-media-owners/>.

165 The Shift Team, *Print newspapers given €150,000 in fresh public funds*, 2 February 2024, <https://theshiftnews.com/2024/02/02/print-newspapers-given-e150000-in-fresh-public-funds/>.

166 Julian Delia, *Times of Malta’s editor-in-chief responds to this website’s questions about the media owners’ association*, Critical Angle Project, 17 January 2024, <https://cap.mt/2024/01/17/times-of-maltas-editor-in-chief-responds-to-this-websites-questions-about-the-media-owners-association/>.

167 Times of Malta, *Media owners join forces to set up association*, 30 December 2023, <https://timesofmalta.com/article/media-owners-join-forces-set-association.1075536>.

Transparency of media ownership

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

The government has not made any attempt to create a more fair and transparent environment in the allocation of state advertising and continues to ignore the proposals made by the Commissioner of Standards in Public Life in 2021.¹⁶⁸ Information about the allocation of indirect state subsidies for media outlets by the government, in the form of advertising or sponsorship, is not publicly available and no legislation regulates the process.

During October and November 2022, the government budgeted and spent €115,000 in advertisements over a period of three weeks but did not provide any additional information about how the money was spent or which newsrooms it was allocated to, despite requests from journalists.¹⁶⁹

The lack of transparency and due process according to pre-set criteria means that the

government can allocate public funds preferentially to favored media outlets, such as media that are owned by the governing party, when allocating funds for state advertising. For example, 18 ministers and parliamentary secretaries were paid €16,700 in public funds for advertisements in a single edition of governing-party-owned Sunday newspaper *Kulhadd* in January 2022.¹⁷⁰

Independent newsrooms, like *The Shift News*, *Times of Malta*, *MaltaToday*, *The Malta Independent*, operate in a financially precarious environment and rely heavily on advertising. As public authorities, including the government, are among the main advertising clients for nationwide media organisations, the government could apply pressure directly by withholding campaign budgets that are integral to keeping the newsrooms afloat.

This financial hold on media organisations through advertising can be seen as an ‘iron fist in a velvet glove’ and can lead to journalists and their newsrooms being subjected to commercial or political influence.¹⁷¹

168 Commissioner for Standards in Public Life, *Guidelines on Government Advertising and Promotional Material*, 2 August 2021, <https://standardscommissioner.mt/wp-content/uploads/guidelines-government-advertising-promotional-material.pdf>.

169 Sarah Carabott, *Government spent at least €115,000 in 3 weeks to promote budget measures*, 1 December 2022, <https://timesofmalta.com/article/government-spent-least-115000-promote-budget-measures.998361>.

170 Tim Diacono, *Transparent State Advertising A Step Closer For Malta As European Commission Adopts ‘Media Freedom Act’*, *Lovin Malta*, 17 September 2022, <https://lovinmalta.com/media/transparent-state-advertising-a-step-closer-for-malta-as-european-commission-adopts-media-freedom-act/>.

171 Louiselle Vassallo, *Monitoring Media Pluralism in the Digital Era*, Centre for Media Pluralism and Media Freedom, June 2023, <https://theshiftnews.com/wp-content/uploads/2023/06/Monitoring-Media-Pluralism-in-the-Digital-Era-Malta-2023-Report.pdf>.

Rules governing transparency of media ownership and public availability of media ownership information, and their application

There are no specific legal obligations for media companies to publish their ownership structures on their website or in documents that are easily accessible to the public. However, all companies in Malta are obliged to submit a Memorandum of Association with the Registrar of Companies which will display the details of the company shareholders on the Malta Business Registry website.¹⁷²

Concerning the cross-ownership of media, there are currently no rules in place to limit the extent of media ownership by one owner. Nevertheless, the Broadcasting Act imposes some restrictions on the private industry with regard to media concentration, only for radio and television services and not for other media such as the press and the new media. It is pertinent to note that both of the largest cable TV providers in Malta are owned and controlled by non-Maltese interests.¹⁷³

Other

The structure and control of the media in Malta is bound to the socio-political situation in the country, according to the country report on Media Ownership Monitor. Seven out of 15

registered printed news outlets are politically controlled or controlled by political affiliations such as labour unions (In-Nazzjon, L-Orizzont, Kullhadd, Il-Mument, It-Torċa and Illum) or to the Catholic Church (Il-Leġen). In the case of broadcast media, each party has its own channel (television and radio), namely the Labour Party controls One Radio and One TV, while the Nationalist Party has Net Radio and Net TV. The Catholic Church does not own a television station, but it does own a radio station (103 Malta's Heart) and an electronic media outlet (*Newsbook*). A large proportion of independent media is privately owned and the largest among these (and the largest overall in terms of market shares) are legacy outlets, including *Times of Malta* and *the Malta Independent*.

Public service media

As mentioned previously, the provisions of the European Media Freedom Act have not yet been implemented.

Independence of public service media from governmental interference

The different categories of media are as follows:

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

172 Euromedia Ownership Monitor, *Malta: News media outlets and owners*, September 2023, <https://media-ownership.eu/findings/countries/malta/>.

173 GVZH Advocates, *In brief: media law and regulation in Malta*, Lexology, <https://www.lexology.com/library/detail.aspx?g=0803daea-1beb-461a-8641-c5ea879208ec>.

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- Public service media:

Members of editorial and directorial boards are all politically appointed, creating an absolute lack of editorial independence.
 - Private and owned by political parties:

Closer to propaganda editorial and operational decisions are taken depending on what works for the party.
 - Private and owned by private companies/foundations:

Owned and managed by persons whose income is derived from government consultancies. Saviour Balzan, who owns the *MaltaToday* news platform, also dabbles in public relations consultancies for government ministries and agencies.¹⁷⁴ He also does marketing consultancies for businessmen and companies that his own newsrooms investigate.¹⁷⁵ This is the result of a lack of regulation in the area of media financing and state advertising. In September 2024, Balzan and Gozo Minister Clint Camilleri renewed a contract relating to the publication of the online newspaper *Gozo Today*. According to this contract, a copy of which has been obtained by the media, Saviour Balzan “must conform with whatever instruction is issued by the minister”.¹⁷⁶ This opens doors for government and private influence in editorial decisions.
- Non-broadcast news media can be categorised into 3 types:
- Public service media:

Members of editorial and directorial boards are all politically appointed, creating an absolute lack of editorial and operational independence.
 - Party-owned media:

Closer to propaganda editorial and operational decisions are taken depending on what works for the party. The party agenda has a strong influence on its news content and discussion programmes.
 - Privately owned media:

Government-affiliated private owners: The owner of *MaltaToday*, Saviour Balzan, was a consultant to the Justice Minister while serving as a member of the media experts

174 Elizabeth De Gaetano, *IDPC tribunal rules in favour of the Shift, throws out remaining FOI appeals*, *The Shift*, 12 December 2023, <https://theshiftnews.com/2023/12/12/idpc-tribunal-rules-in-favour-of-the-shift-throws-out-remaining-foi-appeals/>.

175 The Shift Team, *Saviour Balzan got direct order to market Film Commissioner Johann Grech*, 21 February 2024, <https://theshiftnews.com/2024/02/21/saviour-balzan-got-direct-order-to-market-film-commissioner-johann-grech/>.

176 Caroline Muscat, *Saviour Balzan obliged to promote Gozo Minister in new deal*, 15 December 2024, <https://theshiftnews.com/2024/12/15/saviour-balzan-obliged-to-promote-gozo-minister-in-new-deal/>.

committee and a media campaign consultant and communications strategy adviser to the same minister.¹⁷⁷

There has been lack of progress in enhancing independent governance and editorial independence of public service media (PBS).

Editorial standards (including diversity and non-discrimination)

The editorial line of PBS is not free of political interference, with much of the reporting done being tinged with a bias towards the party in government. The reporting frequently lacks depth, with articles sometimes being one or two sentences long. Important news stories are sometimes pushed to the bottom of the news website, and headlines are often chosen in a way that does not put the government in a bad light.

Financing (including transparency of financing)

As noted in the above section ‘Independence, enforcement powers and adequacy of resources of media and telecommunication authorities and bodies’, PBS has lost a total of €5 million over the last ten years despite being given €40 million in direct subsidies over the same period, excluding millions given in state advertising.

An analysis of PBS’s audited financial statements between 2013 and 2022 shows that the state entity registered massive losses in seven out of the last ten audited years, despite the Labour Party government doubling its annual subsidies from €3 million in 2013 to €6 million in 2022.¹⁷⁸ A National Audit Office report found that PBS registered losses across the board and suffers from maladministration, a lack of transparency, and a total lack of proper procedures. The audit found that, despite an annual government subsidy of €6 million and despite registering a revenue of €7.5 million from commercial ads, the broadcaster is losing money in every division except radio.

A Freedom of Information (FOI) request has revealed that PBS is irregularly using millions of state subsidies to fund its newsroom, even though the National Broadcasting Authority prohibits this. For two years, the independent outlet *The Shift News* has been asking how PBS has been using the €6.5 million in annual funding it receives. The FOI request revealed that PBS has been abusing millions of public funds, irregularly using state subsidies. PBS management allocated some €1.1 million to the TVM newsroom to produce its daily news bulletins, which is clearly prohibited, according to the National Broadcasting Policy. The law states, “government will not be directly subsidising these (news) transmissions, and

177 The Shift Team, *Balzan was justice ministry paid adviser while on media experts committee*, 7 March 2023, <https://theshiftnews.com/2023/03/07/balzan-was-justice-ministry-paid-adviser-while-on-media-experts-committee/>.

178 The Shift Team, *State broadcaster loses €5 million in 10 years despite €40 million in subsidies*, 29 February 2024, <https://theshiftnews.com/2024/02/29/state-broadcaster-loses-e5-million-in-10-years-despite-e40-million-in-subsidies/>.

PBS is expected to cover related costs from advertising revenue”.¹⁷⁹ The National Broadcasting Policy, which dictates how PBS should use some €6.5 million in annual subsidies, (better known as a Public Service Obligation (PSO)), dictates that news bulletins should be free from government subsidies to be as independent as possible from government interventions to control the agenda.

Other

A radio station was fined for not giving a platform to a far-right party member. The member has been convicted of inciting racial hatred by the local courts.¹⁸⁰

Online media

Impact on media of online content regulation rules (including content removal obligations, liability rules)

Copyright laws are being used maliciously to take down articles that put individuals in a bad light. In May 2024, *Times of Malta* reported that many articles about alleged fraudster and former Vitals Healthcare CEO Ram Tumuluri

on websites of Maltese news outlets had been de-indexed from Google with bogus copyright claims.¹⁸¹ This means that when searching for a name or word on Google, the articles mentioning that name or word do not show up. This effectively constitutes censorship, as Google is the primary way in which such articles are discovered in the long term. Some articles are being de-indexed based on false copyright claims. The person(s) reporting the articles appear to be copying and pasting articles on blogs, backdating them, and then making the claim of copyright violation against the news media. Google does not verify the claim properly and as a result, the articles are de-indexed in the majority of cases, which has a chilling effect on press freedom. Reportedly, Google did not contact the affected Maltese news outlets in any way to challenge the claims. Since March 2024, at least 42 complaints have been submitted to Google requesting articles about Tumuluri to be removed from the search engine results.

Take-down requests based on false defamation claims have also become more common. For example, five of 28 take-down requests filed in connection with Daphne Caruana Galizia’s

179 The Shift Team, *PBS using millions of public funds irregularly, two-year FOI battle reveals*, 28 April 2024, <https://theshiftnews.com/2024/04/28/pbs-using-millions-of-public-funds-irregularly-two-year-foi-battle-reveals/>.

180 Sarah Carabot, *RTK fined for refusing to give platform to far-right party in electoral campaign*, *Times of Malta*, 22 August 2024, <https://timesofmalta.com/article/rtk-fined-refusing-give-platform-farright-party-electoral-campaign.1097033>.

181 James Cummings, *Who is trying to bury articles about former Vitals boss Ram Tumuluri?*, *Times of Malta*, 13 May 2024, <https://timesofmalta.com/article/who-trying-bury-articles-former-vitals-boss-ram-tumuluri.1092342>.

blog, Running Commentary, are based on defamation claims.¹⁸²

The right to be forgotten, enshrined in EU law in 2014, is being hijacked by people who want their past buried. If requested, this law dictates that search engines and other directories (such as court judgments) must delete any links to information on an individual, as long as it is ‘inaccurate, inadequate, irrelevant or excessive.’ This ‘delisting’ prevents material from being found through search engines like Google. This is also being applied in the Maltese law courts’ search engine, which is resulting in the state becoming an accomplice *in omerta*, through its censoring of public findings of the criminal court, according to former European Court of Human Rights judge Giovanni Bonello.¹⁸³ Maltese media organisations and NGOs have protested against this legal notice, urging the PM to revoke it.¹⁸⁴ Nothing has since then been done by the authorities.

Google (& other VLOPs TikTok, LinkedIn) will stop serving political advertising on their platforms to users in the EU because of the new regulatory regime on transparency and targeting of political advertising, which will come into force in autumn 2025.¹⁸⁵ According to the *EU Observer*, “the decision could prove deeply consequential for people’s ability to access information online or engage in political discussion”.¹⁸⁶ Several civil society organisations expressed their concern at this development, as according to them it will significantly restrict the access of citizens to diverse political discourse online with consequences on election integrity, freedom of information and freedom of expression.¹⁸⁷ Furthermore, CSO campaigns will be regulated in the same way as those of political parties, impacting the CSOs’ fundraising, advocacy, and audience reach.

Regulation of the online ecosystem is not sufficient, as online newsrooms have become victims of multiple attacks. In June 2024, *MaltaToday*

182 Harvard University, Berkman Klein Center for Internet & Society, Lumen project, https://lumendatabase.org/notices/search?term=daphnecaruanagalizia.com&sort_by=.

183 Yannick Pace, *State An Accomplice In Omerta’ By Applying Right To Be Forgotten To Court Judgments, Former Human Rights Judge Says, Lovin Malta*, 18 July 2021, <https://lovinmalta.com/news/state-an-accomplice-in-omerta-by-applying-right-to-be-forgotten-to-court-judgments-former-human-rights-judge-says/>.

184 Jessica Arena, *Removing online court judgments breaches people’s right to know, media tell PM, Times of Malta*, 2 December 2021, <https://timesofmalta.com/article/removing-online-court-judgements-breaches-peoples-right-to-know-media.918811>.

185 Annette Kroeber-Riel, *An update on political advertising in the European Union*, Google, <https://blog.google/around-the-globe/google-europe/political-advertising-in-eu/>.

186 Eva Simon, *Why we should worry about Google’s stopping serving political advertising in EU*, *EU Observer*, 25 November 2024, <https://euobserver.com/digital/araa195ecc>.

187 LibertiesEU, *Google’s Political Advertising Ban in Europe Will Restrict Political Discourse Online*, Liberties, 11 December 2024, <https://www.liberties.eu/en/stories/google-ad-ban-open-letter/45235>.

and *The Malta Independent* reported that they had become victims of a scam website posing as them in an attempt to deceive individuals with a get-rich-quick scheme.¹⁸⁸ On 6 February 2024, the website of the *Times of Malta* was targeted with a Distributed Denial-of-Service (DDoS) attack, which slowed down the website and made it temporarily inaccessible to readers. According to the newspaper, the motive of the attack was unclear, and no ransom request, data breach, or other threats were reported. Although the newspaper's website has been targeted in the past, this was the largest attack it had experienced so far. *Times of Malta* filed a complaint with the police.¹⁸⁹

Competence and powers of bodies or authorities supervising the online ecosystem, including the digital services coordinators role

Malta has not introduced any new measures to supervise the online ecosystem. In particular, Malta has not taken action on online safety of journalists or protecting female journalists in line with the European Commission's 2021 Journalist Safety Recommendation.

Financing framework (including allocation of advertising revenues, copyright rules)

The allocation of publicly funded advertising is problematic. There is no system in place to ensure that the allocation is fair, equitable, non-discriminatory, transparent and independent of the central government.

Public trust in media

Trust in the media differs from person to person, often depending on one's political affiliation. Independent newsrooms often face comments criticising them for their bias towards a certain political party, normally the party in government, simply when reporting factually on things that put that political party in a negative light.

According to the latest Eurobarometer study, trust in Malta's written press remains the lowest in Europe, 20 percentage points lower than the EU average.¹⁹⁰ The number of people who trust the written press has risen by 12 percentage points since the spring, to 40%. Trust in radio and TV fare better, at 46% and 50%, respectively. The EU counterparts are significantly

188 Karl Azzopardi, *Scam websites posing as MaltaToday, Malta Today*, 26 June 2024, https://www.maltatoday.com.mt/announcements/announcements/129932/scam_websites_posing_as_maltatoday. The Malta Independent, *TMI website spoofed*, 26 June 2024, <https://www.independent.com.mt/articles/2024-06-26/local-news/TMI-website-spoofed-6736262256>.

189 Times of Malta, *Times of Malta targeted in major DDoS cyberattack*, 6 February 2024, <https://timesofmalta.com/article/times-malta-targeted-major-ddos-cyberattack.1082274>.

190 Neville Borg, *Most people don't trust political parties or the government: Eurobarometer*, *Times of Malta*, 30 November 2024, <https://timesofmalta.com/article/most-people-don-t-trust-political-parties-government-eurobarometer.1101777>.

higher, at 69% and 62%, respectively. Trust in websites is quite low, at 38%, compared to the European average of 43%. Trust in social networks is significantly lower, at 21%, as opposed to the European average of 31%.

Safety and protection of journalists and other media actors

The Daphne Caruana Galizia Foundation believes that no journalist in Malta is truly protected until all the recommendations of the public inquiry into Daphne's murder are properly addressed. (See 'Recommendations of the Public Inquiry into the Assassination of Daphne Caruana Galizia - the Foundation's position' annexed below). This was also highlighted in the *2024 World Press Freedom Index*, in which Malta ranked quite low – second-to-last in the EU – partially attributable to the failure to implement the recommendations of the public inquiry.¹⁹¹

Frequency of verbal and physical attacks

The Media Freedom Rapid Response (MFRR) monitor, by mid-December 2024, logged 15 alerts from Malta in the current year.¹⁹²

A hostile environment towards journalists continues to be fostered by the party in government, with the Prime Minister and other PL officials attacking journalists simply for doing their job and asking the right questions. In May 2024, Prime Minister Abela accused some journalists and their outlets of working for the so-called 'establishment'. During this period, the Institute of Maltese Journalists felt the need to twice issue a statement to defend the profession, as he was "clearly implying they are enemies of the State and the people".¹⁹³ The IGM urged the Prime Minister not to "imply" that journalists are "enemies of the State" and that Abela should lead by example and "should not instigate hate towards journalists and the media".¹⁹⁴

Abela's words and behaviour quite likely incited others to follow in his footsteps, as former Labour Party Secretary General Jason Micallef targeted an individual journalist in

191 Jessica Arena, *Malta rises up press freedom index, but there's a catch*, *Times of Malta*, 3 May 2024, <https://timesofmalta.com/article/malta-climbs-press-freedom-index-countries-got-worse.1091851>.

192 Media Freedom Rapid Response, <https://www.mfrr.eu/monitor/>.

193 The Malta Independent, *IGM condemns PM's comments implying journalists 'are enemies of the State and of the people'*, 7 May 2024, <https://www.independent.com.mt/articles/2024-05-07/local-news/IGM-condemns-PM-s-comments-implying-journalists-are-enemies-of-the-State-and-of-the-people-6736260868>.

194 The Malta Independent, *TMID Editorial: Instigating hatred against journalists*, 15 May 2024, <https://www.independent.com.mt/articles/2024-05-15/newspaper-leader/TMID-Editorial-Instigating-hatred-against-journalists-6736261112>.

the following days, taking pictures of her personal chats on her open laptop while she was following a press conference, and publishing the image on social media.¹⁹⁵ Micallef claimed that she was given questions to ask by former Nationalist MP Jason Azzopardi and members of NGO Repubblica. The claims were then amplified in the Labour Party's media outlets, which labeled independent media "sabotage groups".¹⁹⁶

In August 2024, former minister Chris Cardona claimed his testimony during a court hearing had been misrepresented.¹⁹⁷ The Institute of Maltese Journalists slammed his "irresponsible comments" saying that "[t]he news reports reflected his testimony and as a former politician, he should know better than sounding the dog whistle to instigate hate against journalists".¹⁹⁸

In May 2024, reporters covering the historic arraignment of former Prime Minister Joseph Muscat and his former associates in connection

with the huge hospital scandal discussed earlier in this report, received insults from hecklers who gathered in support of those charged outside the courthouse. The IGM, while noting the lack of physical incidents involving members of the media, condemned the name-calling of journalists by members of the public.¹⁹⁹ The IGM thanked the Malta Police Force for ensuring that members of the media covering the cases worked in a safe environment and were afforded the utmost protection during their duties.

Smear campaigns

ONE News, the media branch of the party in government, PL, recently singled out a *Times of Malta* journalist by publishing his face in their news bulletin. ONE News was reporting on an article by French news outlet Mediapart about the OCCRP. Mediapart strongly condemned the way ONE News "manipulated" their article, and used its investigation to focus on the investigative journalist.²⁰⁰

195 Jurgen Balzan, *Jason Micallef targets Newsbook journalist in fresh attack on media*, *Newsbook*, 11 May 2024, <https://newsbook.com.mt/en/jason-micallef-targets-newsbook-journalist-in-fresh-attack-on-media/>.

196 Elizabeth De Gaetano, *Attacks on independent media continue despite condemnations*, *The Shift*, 14 May 2024, <https://theshiftnews.com/2024/05/14/attacks-on-independent-media-continue-despite-condemnations/>.

197 Times of Malta, *IGM condemns Chris Cardona's 'irresponsible' criticism of court journalists*, *Times of Malta*, 23 August 2024, <https://timesofmalta.com/article/igm-condemns-chris-cardona-irresponsible-criticism-court-journalists.1097116>.

198 Times of Malta, *IGM condemns Chris Cardona's 'irresponsible' criticism of court journalists*, 23 August 2024, <https://timesofmalta.com/article/igm-condemns-chris-cardona-irresponsible-criticism-court-journalists.1097116>.

199 Times of Malta, *Journalists thank police, condemn name-calling during Vitals case coverage*, 30 May 2024, <https://timesofmalta.com/article/journalists-thank-police-condemn-namecalling-vitals-case-coverage.1093214>.

200 Times of Malta, *French organisation condemns ONE News 'manipulation' to attack Times journalist*, 12 December 2024, <https://timesofmalta.com/article/french-organisation-condemns-one-news-manipulation.1102346>.

Rules and practices guaranteeing journalist's independence and safety

For recommendations on journalists' safety in Malta, see the 'Recommendations of the Public Inquiry into the Assassination of Daphne Caruana Galizia - the Foundation's position', annexed at the end of this report.

Malta has not implemented the European Commission's 2021 Recommendation on the protection, safety and empowerment of journalists.²⁰¹

The government has been promising a media law reform for a number of years. In May 2024, journalists called on the government "to wake up from its slumber" and implement laws that protect the press.²⁰² The government, the IGM said, has sat on the promised media law reform for almost a year.²⁰³ In October of last year, the government said it would issue a White Paper

after the Prime Minister tabled the final report drawn up by a committee of media experts.²⁰⁴ However, there are no indications of the existence of this White Paper.

There is also fear of backsliding in this area after a sitting magistrate and an outgoing governing party (PL) president called for the return of criminal libel and harsher penalties for libel cases.²⁰⁵ While Prime Minister Abela has refused to say whether the removal of criminal libel was a mistake, he called on society to "stand up to" what he called "a small clique of people who pretend to be journalists but aren't", who are abusing the decriminalisation of criminal libel.²⁰⁶ Criminal libel was removed by the Labour government in 2018 as part of a media law reform in the wake of the assassination of Daphne Caruana Galizia. The Institute of Maltese Journalists has urged the government not to turn back the clock,

201 European Commission, *Recommendation on ensuring the protection, safety and empowerment of journalists and other media professionals in the European Union*, European Commission, 16 September 2021, <https://digital-strategy.ec.europa.eu/en/library/recommendation-protection-safety-and-empowerment-journalists>.

202 Times of Malta, *'Wake up and protect journalists': Maltese media urges PM on Press Freedom Day*, 3 May 2024, <https://timesofmalta.com/article/wake-protect-journalists-maltese-media-urges-pm-press-freedom-day.1091856>.

203 Ibid.

204 Times of Malta, *Media reform plan to be opened to consultation as Abela agrees to White Paper*, 2 October 2023, <https://timesofmalta.com/article/media-reform-plan-opened-consultation-abela-agrees-white-paper.1058751>.

205 Matthew Farrugia, *[WATCH] Abela defends libel law reform but warns of abuse by a 'small clique'*, MaltaToday, 17 September 2024, https://www.maltatoday.com.mt/news/national/131251/abela_defends_libel_law_reform_but_warns_of_abuse_by_a_small_clique.

206 Matthew Farrugia, *[WATCH] Abela defends libel law reform but warns of abuse by a 'small clique'*, 17 September 2024, https://www.maltatoday.com.mt/news/national/131251/abela_defends_libel_law_reform_but_warns_of_abuse_by_a_small_clique.

due to its chilling effect on free speech and journalists.²⁰⁷

Law enforcement capacity to ensure journalists' safety and to investigate attacks on journalists and media activists

The report of the public inquiry into Daphne Caruana Galizia's assassination recommends the timely and effective investigation by an ad hoc structure within the police force of the cause of risks to journalists, which has not been implemented, as explained in the 'Recommendations of the Public Inquiry into the Assassination of Daphne Caruana Galizia - the Foundation's position', annexed below. The public inquiry report also recommends that the police should investigate serious allegations reported by journalistic investigations (open source) in a timely manner, however, this recommendation has not been fully implemented. The report also recommends the proper training of the police corps. The abovementioned Foundation's position paper recommends more effective and well-resourced investigative units within the police.

As systemic risk needs to be addressed by systemic solutions, an ad hoc structure within the Malta Police Force should identify points of failure within the force which place journalists

at risk, e.g. a lack of swift action after a journalist exposes high-level corruption and other serious crimes increases that journalist's risk. Currently, a formal structure within the police (VIP protection unit) is tasked with identifying persons – not just journalists – who are exposed to real and imminent risk to life; however, the office of the OSCE Representative on the Freedom of the Media has identified shortcomings.²⁰⁸ The unit needs to include an element tasked with identifying and focusing on journalists who may be at serious risk. It should be able to assess the risk by virtue of the quality of the journalist's investigation, what they are publishing, the effect on the subjects of their reporting, and the potential risks a reaction could generate. Effort needs to be made to build awareness of and trust in the unit among journalists. The unit may serve as a liaison between the police and the journalist, who therefore will feel safe and protected to exercise their duty freely.

Lawsuits and prosecutions against journalists (including SLAPPs) and safeguards against abuse

Nearly 1 in 10 SLAPP cases filed in European courts in 14 years targeted people in Malta, most of whom were journalists, a report by the Coalition Against SLAPPs in Europe (CASE)

207 Times of Malta, *Don't turn the clock on criminal libel, journalists' institute says*, 18 September 2024, <https://timesofmalta.com/article/dont-turn-clock-criminal-libel-journalists-institute-says.1098252>.

208 OSCE Representative on the Freedom of the Media, *Legal analysis on the draft laws of Malta to implement various measures for the protection of the media and of journalists*, OSCE, February 2022, <https://www.osce.org/files/f/documents/f/e/518019.pdf>.

revealed this year.²⁰⁹ Of the 1,049 SLAPP cases filed in the years spanning from 2010 and 2023, a total of 91 (9%) targeted defendants in Malta. Most of these were filed against slain journalist Daphne Caruana Galizia.

Confidentiality and protection of journalistic sources (including whistleblower protection)

Civil society organisation Repubblika issued a report on whistleblower protection in Malta.²¹⁰ In its report, Repubblika notes that since adopting amendments to the Protection of the Whistleblower Act in November 2021, Malta has improved its legal framework. However, the government has ignored several key requirements of the directive and, most seriously, made no attempt to address the core issue and fundamental flaw at the heart of both the original legislation and the law now as it has been amended, the extent of the influence of government on whether a potential witness is granted whistleblower status. According to Repubblika, the failure of Malta to address this fundamental flaw in the legal framework

has led to whistleblower protection experts labeling the transposition law a ‘trojan horse’. Furthermore, it seems clear that any whistleblowers who are perceived as hostile to the government’s interests will not be able to rely on this new law to protect them.

Access to information and public documents

There has been no effort to improve Malta’s Freedom of Information Act, which has long been considered deficient. Government entities frequently limit access to information to journalists with the excuse that they had no such information, which in many cases was found to be untrue by the Data Protection Commissioner. Over 40 legal challenges were initiated by government entities against FOI requests by the newsroom *The Shift*.²¹¹ After two years, *The Shift* won all 40 cases at the Information and Data Protection Commissioner Appeals Tribunal, and 18 cases in court, but ministries and government agencies have yet to provide the information.²¹² UNESCO was the latest in a string of international calls on Malta to

209 Coalition Against SLAPPs in Europe and The Daphne Caruana Galizia Foundation, *A 2024 Report on SLAPPs in Europe: Mapping Trends and Cases*, Coalition Against SLAPPs in Europe, November 2024, https://www.the-case.eu/wp-content/uploads/2024/12/CASE-2024-report-vf_compressed-1.pdf.

210 Repubblika, *Protecting Whistleblowers in Malta: A call for reform to protect truth-sayers and capture wrong-doers*, 15 November 2022, <https://whistleblowingnetwork.org/WIN/media/pdfs/WB-ram-final-with-WIN-addition.pdf>.

211 David Lindsay, *Government launches new attempt to cripple The Shift with FOI appeals*, *The Shift*, 3 August 2022, <https://theshiftnews.com/2022/08/03/government-launches-new-attempt-to-cripple-the-shift-with-foi-appeals/>.

212 Elizabeth De Gaetano, *Government still refusing to detail payments to Saviour Balzan despite The Shift winning all cases*, *The Shift*, 21 January 2024, <https://theshiftnews.com/2024/01/21/government-still-refusing-to-detail-payments-to-saviour-balzan-despite-the-shift-winning-all-cases/>.

reform its FOI law, all of which the government has ignored.²¹³

Journalists are also struggling to obtain information on beneficial owners of companies, as they are consistently denied access to such information, despite showing legitimate interest. This follows a judgment by the European Court of Justice, which ruled that “both the press and civil society organisations that are connected with the prevention and combating of money laundering and terrorist financing have a legitimate interest in accessing information on beneficial ownership”.²¹⁴ In November 2023, one year after this ruling, Transparency International carried out research on how the ruling had affected access to beneficial ownership registers by journalists. Malta is mentioned as having “consistently denied access, even if journalists and civil society demonstrate their legitimate interest”.²¹⁵ This is in clear contravention of the ECJ judgement and of EU law. Changes to the law are urgently needed to include the media and civil society as bearers of legitimate interest with access to the UBO register. The current legislative

framework, under which several requests for access have already been refused, is contrary to the currently applicable EU law and the ECJ judgment. No progress has yet been made in this regard.

Other

There is an ongoing trend of public officials delegitimising media’s democratic role by ignoring media questions and not acting on media reports. In April 2024, Social Policy Minister Michael Falzon refused to reply to a *Times of Malta* journalist’s request for a comment following the revelation that a social benefits fraud racket involved a “person of trust” in his ministry.²¹⁶ On 12 April 2024, Edward Montebello, the Maltese government’s head of communications, reportedly refused to answer *MaltaToday* journalist Matthew Agius’s questions related to the case filed to remove the lead investigator in the murder of Daphne Caruana Galizia from the case. In his email exchange with the journalist and *MaltaToday*’s editor Kurt Sansone, Montebello reportedly dismissed Agius’s questions, ultimately

213 Elizabeth De Gaetano, *UNESCO joins growing list of international organisations calling on Malta to reform its FOI Act*, *The Shift*, 16 March 2024, <https://theshiftnews.com/2024/03/16/unesco-joins-growing-list-of-international-organisations-calling-on-malta-to-reform-its-foi-act/>.

214 CJEU [GC], Judgment of 22 November 2022, WM (C-37/20) and Sovim SA (C-601/20) v Luxembourg Business Registers (Joined Cases C-37/20 and C-601/20), <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:62020CJ0037>.

215 Maira Martini, *EU court ruling on beneficial ownership registers: One year on, need for harmonised approach is clear*, Transparency International, 22 November 2023, <https://www.transparency.org/en/blog/eu-court-ruling-on-beneficial-ownership-registers-legitimate-access>.

216 Mapping Media Freedom, *Social Policy Minister refuses to answer questions about benefits scandal*, 23 April 2024, <https://www.mapmf.org/alert/31462>.

accusing the journalist of “attacking and lying” about him.²¹⁷ Montebello has been criticised several times in the past for his reluctance to answer journalists’ questions and obstructing their work.²¹⁸

In September 2024, the court, citing Article 517 of the Criminal Code, decreed that until the trial of the alleged mastermind of Daphne Caruana’s assassination is concluded, any declaration or public discussion in favor or against the accused is prohibited. The ban does not extend to reports on hearings in open court where media presence is allowed. During a pre-trial hearing on 5 September, the judge had voiced concern about the possible prejudice such comments could cause to Fenech’s trial.²¹⁹

Do you consider the progress of the implementation of the Anti-SLAPP Directive in your country adequate? Have there been any positive developments you could attribute to the Anti-SLAPP Directive?

While Malta transposed the Anti-SLAPP Directive, the law came with a number of limitations that wouldn’t protect most of the SLAPP targets Malta has had until now. These shortcomings include:

- The transposition was by Legal Notice, bypassing Parliamentary scrutiny.
- The published legislation is limited to the minimum standards outlined in the Directive.
- It does not provide protection against domestic SLAPP cases, overlooking the EU Recommendation of 27th April 2022 and the Council of Europe Recommendation of 5th April 2024, setting a negative precedent for other Member States.
- Article 2 of Malta’s anti-SLAPP legislation repurposes the indicative qualities stated in paragraph 4(3) of the EU anti-SLAPP Directive (i.e. the indications of purpose) as being examples of claims which may be unfounded. This could be interpreted by the court as stating the preconditions of early dismissal, rather than the features that enable the court to infer the purpose of the plaintiff.
- The maximum penalty that may be imposed on a plaintiff is capped at €10,000, which would not dissuade a large corporation or wealthy individual, whereas Article 15 of the EU anti-SLAPP Directive requires

217 Mapping Media Freedom, *Government spokesperson refuses to answer questions of MaltaToday journalist*, 12 April 2024, <https://www.mapmf.org/alert/31415>.

218 Mapping Media Freedom, *Government spokesperson refuses to answer questions of MaltaToday journalist*, 12 April 2024, <https://www.mapmf.org/alert/31415>.

219 E. Brincat, *Comments about murder suspect Yorgen Fenech outside court hearings banned*, *Times of Malta*, 20 September 2024, <https://timesofmalta.com/article/comments-murder-suspect-yorgen-fenech-outside-court-hearings-banned.1098303>.

penalties for plaintiffs to be effective, proportionate, and dissuasive.

- No measures have been announced to raise awareness and develop expertise, nor to ensure support is available for targets or to support enhanced monitoring, as provided for in the EU Recommendation.
- No measures have been announced to strengthen anti-SLAPP policy frameworks, as envisaged by the Council of Europe Recommendation.

In August 2024, The Daphne Caruana Galizia Foundation together with a number of civil society organisations wrote to the Prime Minister and Ministry of Justice highlighting these shortcomings, however, we received no response nor were we consulted prior or after transposition.²²⁰ Therefore we feel no progress has been made in terms of protecting journalists and activists in Malta against SLAPPs.

The Institute for Journalists in Malta welcomed the government's transposition of the EU's anti-SLAPP Directive, however, it warned the measure was only part of a much-needed wider reform.²²¹

Any positive developments regarding the application of anti-SLAPP rules for domestic cases, such as transparency, procedural safeguards and remedies

There haven't been any positive developments in this regard.

Malta needs to revise its anti-SLAPP legislation to meet or exceed the human rights standards set by the Council of Europe anti-SLAPP Recommendation, broaden the legislation's scope to cover domestic cases too, and implement the non-legislative measures outlined in the EU anti-SLAPP Recommendation. The process of reforming Malta's anti-SLAPP law could be led by the Ministry of Justice, which was originally tasked with transposing the anti-SLAPP law.

220 The Daphne Caruana Galizia Foundation, *Letter Re: Legal Notice 177 of 2024 Strategic Lawsuits Against Public Participation Order*, 2 August 2024, <https://www.daphne.foundation/documents/letters/letter-on-anti-SLAPP-Directive-transposition.pdf>.

221 Times of Malta, *Anti-SLAPP measures only part of needed reform: journalists' institute*, *Times of Malta*, 1 August 2024, <https://timesofmalta.com/article/antislapp-measures-part-needed-reform-journalists-institute.1096190>.

CHECKS AND BALANCES

Key recommendations

- *Immediately suspend the secretive law reforms on magisterial inquiries and open the process of reform to public consultation to ensure the rights of civil society and private individuals to initiate magisterial inquiries.²²² Implement the repeated recommendations of the European Commission to engage civil society in the legislative process,²²³ including by publishing a white paper outlining the proposed changes and engaging in open dialogue to hear public opinion, prior to parliamentary involvement.*
- *Establish an independent body empowered to initiate a public inquiry in cases of systemic problems affecting public interest.*
- *Extend the Ombudsman's office to include a National Human Rights Institution taking into account the UN Paris Principles.*

Process for preparing and enacting laws

Framework, policy and use of impact assessments, stakeholders/public consultations (particularly consultation of judiciary on judicial reforms), and transparency and quality of the legislative process

The Daphne Caruana Galizia Foundation joined the stakeholders meeting with government agencies to join the Justice Forum, a forum that was set up by the Ministry of

Justice. We joined because we believed in the importance of dialogue and implementation of a number of recommendations that continue to go ignored. This forum was set up as part of the Open Government Partnership Action Plan for 2024. Following a four-hour meeting between civil society organisations and government agencies involved in the forum, it became clear that the government had no intention of committing to the implementation of any recommendation that was put forward. These were the same recommendations that were made by the European Commission, GRECO, Venice

222 *Repubblika condemns government's secrecy in amending law on magisterial inquiries*, *The Malta Independent*, 20 January 2025, <https://www.independent.com.mt/articles/2025-01-20/local-news/Repubblika-condemns-government-s-secrecy-in-amending-law-on-magisterial-inquiries-6736267268>.

223 European Commission, *2024 Rule of Law Report*, 24 July 2024, https://commission.europa.eu/publications/2024-rule-law-report-communication-and-country-chapters_en.

Commission and the board from the public inquiry into Daphne Caruana Galizia's assassination. The Foundation therefore decided to remove itself from the forum when it became clear that the forum was set up to simply create a space for dialogue between civil society and government agencies. This was all the more shocking to civil society organisations when our emails to the Permanent Secretary via this forum were being ignored. Unfortunately, such a forum cannot be successfully set up when it is clear that implementation of recommendations is not on the table.

Legislative processes continue to lack any public consultation. In February of this year, the EU adopted the Anti-SLAPP Directive, and Malta was the first country to transpose that law. However, the draft falls short of securing effective protection for journalists and activists in Malta. It's good to point out that with this new law, Daphne would not have been protected against 90% of the cases she faced because the law only protects journalists in cross-border cases. Prior to the law coming into force, the Foundation was not consulted nor was there any public consultation on the matter.

Currently public consultation and participation is not enshrined in law and is carried out on an ad hoc basis with no guidelines and little transparency. Government has repeatedly and

deliberately excluded any form of public participation from all recent significant legislative amendments. This happens despite the fact that the European Commission has repeatedly recommended the involvement of civil society in the legislative process.²²⁴ The 2024 OSCE Parallel Civil Society Conference, recently held in Malta, also underscored the important role of civil society in promoting peace, security and democratic resilience across the OSCE region.²²⁵

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

Following the EU's adoption of the Anti-SLAPP Directive, the government of Malta quietly and quickly transposed the directive into law in the form of a legal notice without debate in Parliament or any public consultation. The Daphne Caruana Galizia Foundation together with other civil society organisations wrote to the Prime Minister and Minister of Justice, however we got no response.

In a shocking announcement²²⁶ on Facebook, the Prime Minister said that he ordered the Minister of Justice to reform magisterial inquiries to avoid people 'abusing the system'. This

224 European Commission, *2024 Rule of Law Report*, 24 July 2024, https://commission.europa.eu/publications/2024-rule-law-report-communication-and-country-chapters_en.

225 OSCE, *Civil society's role in strengthening resilience highlighted at OSCE Civil Society Conference*, 4 December 2024, <https://www.osce.org/chairpersonship/582166>.

226 Daniel Ellul, *PM reacts to Jason Azzopardi claims by ordering reform of magisterial inquiries*, *Times of Malta*, 15 December 2024, <https://timesofmalta.com/article/robert-abela-jason-azzopardi-reform-magisterial-inquiries.1102507>.

came after a former opposition MP filed²²⁷ an urgent request for a magisterial inquiry into a criminal racket involving the Minister of Gozo and his wife. This is an extremely worrying development since, had it not been for civil society organisations, none of the prosecutions that happened this year into the sale of the three hospitals would have been possible since the police do not always act on complaints they receive due to the lack of experience and resources (this is explained in more detail in the anti-corruption section). Removing another avenue to access justice will further weaken the rule of law in Malta. This is especially true when magistrates can always reject an inquiry if it is believed to lack evidence. This move by the Prime Minister was also criticised by former Labour MEP Cyrus Engerer, who said “dismantling checks and balances is a fast track to unchecked power, corruption, and the erosion of transparency and public trust”.²²⁸

Regime for constitutional review of laws

The Constitution, in Section 116, provides for the possibility of constitutional review of legislation.²²⁹ Malta does have a Law Commissioner,²³⁰ however the remit of this

Commission remit is unclear, and it is not possible to determine the work carried out by it as no annual reports are published.

Independent authorities

While the Commissioner for Standards in Public Life does enjoy independence and neutrality, it is not empowered to act beyond requesting an apology. The result of this shows that even when the Commissioner finds that MPs have behaved unethically, the case gets ‘resolved’ by the Commissioner requesting an apology from the guilty party. This is not a deterrent that strengthens the rule of law. Secondly, the Standards in Public Life Act²³¹ takes a very narrow view of those who fall under the definition of a ‘person of trust’, excluding political appointees and politically exposed persons.

The Information and Data Protection Commissioner also enjoys independence and the resources to do its job, however lacks the power to act when government agencies continue to refuse Freedom of Information requests, even when the IDPC rules that they are duty bound to. The board of the Public Inquiry into Daphne Caruana Galizia’s assassination had

227 Edwina Brincat, *Jason Azzopardi asks magistrate to probe racket in Gozo*, *Times of Malta*, 15 December 2024, <https://timesofmalta.com/article/an-essential-lead-corrupt-end-azzopardi-files-inquiry-gozo-racket.1102488>.

228 Ana Tortell, *A fast track to unchecked power: Reactions to Prime Minister’s vow to reform magisterial inquiry process*, *Lovin Malta*, 15 December 2024, <https://lovinmalta.com/court/a-fast-track-to-unchecked-power-reactions-to-prime-ministers-vow-to-reform-magisterial-inquiry-process/>.

229 The Constitution, Laws of Malta, <https://legislation.mt/eli/const/eng>.

230 Ministry of Justice in Malta, Law Commission, <https://justice.gov.mt/public-bodies/law-commission/>.

231 Commissioner for Standards in Public Life, Annual Report 2023, 5 July 2024, <https://standardscommissioner.mt/wp-content/uploads/annual-report-2023.pdf>.

included a recommendation for the Freedom of Information Act to be updated, yet this is still not done.

The Permanent Commission Against Corruption (PCAC), Judge Lawrence Quintano, was this year approved for a third term, a position he's held since 2014. According to the news reports,²³² since 1988, there has only been one investigation by this office that has seen a prosecution in court, which raises alarms about the effectiveness of this office. Earlier this year, the Minister of Justice announced that the Commissioner's office had received EU funds as part of Malta's Recovery and Resilience Funds to create a digital register of corruption cases for public access, a platform he said would be launched at the end of 2024. This has not yet been launched. Following an FOI request the Daphne Caruana Galizia Foundation sent to the office of the PCAC²³³ to find out how many investigations were initiated and concluded by the office in 2024, and were directed by the FOI officer to the Ministry of Justice. Following this alarming development the Foundation sought clarification as to whether the office of

PCAC is separate from the Ministry of Justice since the law of the PCAC specifically states that information on investigations into corruption should be kept confidential, however, the PCAC confirmed that the office is under the remit of the Ministry of Justice. This weakens the office's position to conduct investigations into government ministers and other public officials.

A report published by the Auditor General²³⁴ found that "improvements to good governance are being hindered by serious issues across certain local and regional councils". At least 11²³⁵ local councils were named and shamed in the report for failing to submit their audited accounts, some for excessive spending and some for insufficient funds to cover their financial deficits.

The appointment of the Police Commissioner should be revised to have a two-thirds majority in parliament because the current process of appointment²³⁶ is riddled with political interference.

232 Jurgen Balzan, *Judge Quintano reappointed to helm anti-corruption commission for the third term*, *Newsbook*, 15 July 2024, <https://newsbook.com.mt/en/judge-quintano-reappointed-to-helm-anti-corruption-commission-for-third-term/>.

233 Office of the Permanent Commission Against Corruption, Freedom of Information contact email, <https://pcac.gov.mt/freedom-of-information/?lang=en>.

234 Jacob Borg, *'Serious issues' hindering good governance improvements- Auditor General*, *Times of Malta*, 16 December 2024, <https://timesofmalta.com/article/serious-issues-hindering-good-governance-improvements-auditor-general.1102538>.

235 National Statistics Office (NAO), *Report by the Auditor General of Public Accounts 202*, December 2024, <https://nao.gov.mt/2024/12/11/report-by-the-auditor-general-on-the-public-accounts-2023/>.

236 Mario Xuereb, *PN wants police chief appointed by two thirds, with constitutional protections*, *Times of Malta*, 8 July 2024, <https://timesofmalta.com/article/pn-police-commissioner-appointment-two-thirds-constitution-proposal.1095050>.

Accessibility and judicial review of administrative decisions

Transparency of administrative decisions and sanctions (including their publication and the availability and publicity of data concerning administrative decisions)

We have encountered situations in which administrative decisions have been taken without being made public. For example, children whose residence status in Malta is unclear are now being denied access to education in public schools. This is reflective of a policy change. However, no notice of this change was made public.

With regards to sanctions, the measures taken by the Commission for the Administration of Justice, and of the committees set up thereunder for the discipline of judges, magistrates and lawyers, for example, are not made public.

Powers accorded to the courts to carry out judicial review (including the scope and suspensive effect of review powers)

The judicial review process as it stands is somewhat restrictive in that it is available only to persons who have a sufficient interest. To date, this has not been interpreted by the courts to include non-governmental organisations.²³⁷ The opposition tabled a bill on Judicial Review

in November 2023 but there have been no developments on this.²³⁸

Implementation by the public administration and State institutions of final court decisions

There is no publicly available information on this and no developments on recommendations in this regard. The Constitutional Court is obliged to deliver a copy of any judgment that declares any law or provision that runs counter to the Constitution or any human right to the Speaker of the House of Representatives. The Prime Minister may, within six months from the date that the judgment becomes *res judicata* and to the extent necessary in his opinion, remove any inconsistency (Article 242(1)).

Electoral framework

Limitations on the right to vote

Migrants in Malta do not have the right to vote or stand as candidates in Maltese elections. Only EU nationals residing in Malta can vote and run for EU parliamentary elections and local council elections. Malta is one of 13 EU Member States that does not grant any electoral rights to migrants residing in the country. A majority of 14 of the 27 EU Member States grant some sort of electoral rights to certain migrants. In the last general election in 2022,

237 Public Interest Litigation Network, Judicial Review, https://www.piln.mt/wp-content/uploads/sites/2/2024/07/24_04_18_Judicial-Review_Final-Letter.pdf.

238 Daniel Ellul, *Opposition bill to make it easier to challenge government decisions in court*, 20 November 2023, <https://timesofmalta.com/article/opposition-bill-make-easier-challenge-government-decisions-court.1068474>.

20%²³⁹ of Malta's residents who did not have citizenship were unable to vote. While attempts to involve migrants in political participation have been made by civil society organisations, they have been repeatedly ignored.

Enabling environment for the exercise of the right to vote: voter registration systems, accessibility of polling stations, remote/e-voting arrangements, threats and intimidation

Malta does not have an e-voting system. Eligible voters need to vote, in person at the polling station closest to where they live. While the government has, in some elections, organised support for eligible voters living abroad to obtain discounted rates on flights during the election weekend. Political parties also keep details of registers on record, such as addresses and phone numbers that send numerous messages and letters asking people to go vote. On some occasions, they also offered transport and assistance with voting for the elderly.

Rules on political advertising and their enforcement

In 2021, the Standards Commissioner issued nine guidelines²⁴⁰ on political advertising which the Prime Minister had vowed²⁴¹ to implement. However, these are yet to be implemented.

Irregularities, fraud and related safeguards, including independence and effectiveness of electoral bodies

The Electoral Commission board is appointed²⁴² by the President by recommendation from the governing party and the opposition. Since recommendations for appointments come from the two biggest political parties, the board is not empowered to act on wrongdoing. Whilst both political parties fail to submit their audited accounts and refuse to make their received donations public, the Electoral Commission refuses to do anything, which boils down to the way the board is appointed.

239 Monique Agius, *Should migrants be given a right to vote*, *Newsbook*, 24 March 2024, <https://newsbook.com.mt/en/should-migrants-be-given-a-right-to-vote/>.

240 Commissioner for Standards in Public Life, Standards Commissioner issues guidelines on government advertising for public consultation purposes, 22 June 2021, <https://standardscommissioner.mt/standards-commissioner-issues-guidelines-on-government-advertising-for-public-consultation-purposes/>.

241 Chris Peregin, *PM Pledges 'Clear Guidelines' On Political Advertising After Damning Standards Commissioner Report*, *Lovin Malta*, 15 April 2021, <https://lovinmalta.com/news/pm-pledges-clear-guidelines-on-political-advertising-after-damning-standards-commissioner-report/>.

242 The Electoral Commission Malta, 'About Us', <https://electoral.gov.mt/electoralcommission>.

Access to balanced and reliable information online and offline during electoral campaign

While there is access to reliable and balanced information during electoral campaigns, political parties counteract that by using their political party TV stations as well as social media platforms to directly communicate with the public, shaping their narratives without

journalistic framing. Individuals frequently inhabit echo chambers, and precision targeting of individuals, based on algorithms that shape users' experiences, may have eroded our critical competencies. There is some hope with the European Media Freedom Act for the situation to change, but implementation at the national level or even a public consultation is yet to be seen.

CIVIC SPACE

Key recommendations

- *The Standards Commissioner's remit to investigate breaches of ethical conduct of members of the House of Representatives and persons of trust should also extend to political appointees. Political appointee Jason Micallef continues to attack anti-corruption activists and journalists with complete impunity.*²⁴³
- *Attacks of any kind on journalists and activists should be appropriately penalised, including through the imposition of disciplinary measures (if carried out by persons holding public office) and criminal punishment (fines and/or imprisonment), depending on the severity of the attack.*

Freedom of association

Financing framework for CSOs, including availability of and access to public funding, rules on fundraising, rules on foreign funding, tax regulations (e.g. tax advantages for organisations with charitable or public benefit status, eligibility to receive donations via citizens' allocation of income tax to charitable causes, eligibility to use public amenities at low or no cost, etc)

Civil society organisations have very little access to public funding in Malta. A Civil Society Fund was set up for voluntary organisations to make use of. The budget of the fund is €150,000, limiting each organisation to apply for a maximum of €6,000, which is also very limited in scope and activities.²⁴⁴

243 Times of Malta, *Jason Micallef accused of instigating hate towards journalists*, 11 May 2024, <https://timesofmalta.com/article/jason-micallef-accuses-journalist-colluding-establishment.1092308>.

244 Ministry for Inclusion and the Voluntary Sector, Malta Council for the Voluntary Sector, *Civil Society Fund 2024*, <https://vofunding.org.mt/funds/164>.

DISREGARD OF HUMAN RIGHTS OBLIGATIONS AND OTHER SYSTEMIC ISSUES AFFECTING THE RULE OF LAW ENVIRONMENT

Key recommendations

- *Government should commit to the implementation in full of recommendations to strengthen rule of law.*
- *More funding should be made available to civil society organisations.*
- *Journalists should be allowed access to prisons and detention centres.*

Systemic human rights violations

Widespread human rights violations and/or persistent protection failures

The European Court of Human Rights had harsh words for Malta's treatment of vulnerable children and expressed grave concern at the lack of justice for victims of human rights violations. There has been no implementation to improve the situation at the detention centres.²⁴⁵

245 Noel Grima, *European Court of Human Rights blasts Malta's detention regime, again*, *The Shift News*, 22 October 2024, <https://theshiftnews.com/2024/10/22/european-court-of-human-rights-blasts-maltas-detention-regime-again/>.

FOSTERING A RULE OF LAW CULTURE

Contribution of civil society and other non-governmental actors

The Daphne Caruana Galizia Foundation

- Contributed to TI's global standards on political finance.²⁴⁶
 - Set up a legal clinic, which has been running successfully for the past three years. This involves a lawyer providing legal support and legal representation to journalists from independent newsrooms in Malta. From May 2022 to May 2023, the Legal Clinic provided support to at least 31 journalists and editors on more than 95 occasions, while from June 2023 to March 2024, it provided support to at least 24 journalists and editors on 151 occasions.
 - Provides training to local journalists by collaborating with international organisations, such as OCCRP, Faktabaari, and others.
- Assists and participates in collaborative investigations, supported by grant partnerships with organisations like OCCRP.²⁴⁷
 - Set up the Public Interest Litigation Network – a network of lawyers in Malta who offer pro bono legal services to victims in cases of public interest, and to deliver broader access to justice in a country where it is lacking. The PILN pushed for and achieved a public inquiry into the death of construction victim Jean Paul Sofia, which found the state responsible for his death.²⁴⁸ PILN lawyers also recently won a freedom of expression case after a comedian was criminally charged for something he said during a comedy show, among other cases.²⁴⁹
 - Co-authored the 2024 SLAPPs report with the Coalition Against SLAPPs in Europe (CASE)

246 Transparency International, *Standards for Integrity in Political Finance: A Global Policy Position*, 2024, https://images.transparencycdn.org/images/Integrity-Standards_English.pdf.

247 The Daphne Caruana Galizia Foundation, *Foundation-OCCRP partnership supports investigative journalism in Malta*, 17 May 2023, <https://www.daphne.foundation/en/2023/05/17/hospitals-investigation>.

248 The Daphne Caruana Galizia Foundation, *Maltese state found responsible for preventable death*, 2 March 2024, <https://www.daphne.foundation/en/2024/03/02/jean-paul-sofia>.

249 PILN, Cases, <https://www.piln.mt/cases-and-campaigns/>.

CONTACTS

The Daphne Caruana Galizia Foundation

The Daphne Caruana Galizia Foundation was established in Malta following the tragic assassination of investigative journalist Daphne Caruana Galizia in 2017. The Foundation is dedicated to seeking justice for Daphne, ensuring her investigative work continues, and advocating for press freedom and accountability.

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The Civil Liberties Union for Europe

The Civil Liberties Union for Europe (Liberties) is a non-governmental organisation promoting the civil liberties of everyone in the European Union. We are headquartered in Berlin and have a presence in Brussels. Liberties is built on a network of 21 national civil liberties NGOs from across the EU.

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