

Franet National contribution to the Fundamental Rights Report 2024

Malta

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1. Impact of the cost-of-living crisis and rising poverty in the EU

1.1. Legal measures impacting on vulnerabilities of persons affected by the rising costs of living and energy.

In the 2023 Budget¹ the Minister for Finance announced a cost-of-living adjustment (COLA) of €9.90 per week. This was a substantial increase from the 2022 COLA which stood at €1.75 per week². This increase was also reflected in the national standard minimum wage, which now stands at €192.73 per week, up from 182.83 in 2022³. The employer is under a legal obligation to pay the COLA and full-time employees are entitled to the full increase, while a part-time employee is entitled to a pro rata increase in proportion to the hours worked⁴. However, some sectors felt that the increase in COLA without any further measures to increase productivity runs the risk of having a prolonged inflation problem and at worst a recession⁵. This adjustment was granted to all employees, as well as persons on social benefits. In December 2023 a grant of €150 was paid out to those employees whose basic pay does not exceed €20,000⁶.

Post-secondary students and university students' stipends were also increase on a pro-rata basis⁷. Students receive maintenance grants in order to support post-secondary and tertiary education. This grant includes an initial grant for post-secondary students, a one-time grant to first year tertiary students, a stipend paid every four weeks, a supplementary allowance for students facing specific disadvantages, a single parents'

¹ Malta, Minister For Finance and Employment, [Budget Speech 2023](#), 24th October 2022.

² Malta, [Wage Increase \(Employees\) National Standard Order](#), S.L. 452.128.

³ Malta, [National Minimum Wage National Standard Order](#), S.L. 452.129.

⁴ Malta, Department for Industrial and Employment, [Wages](#).

⁵ Malta, Malta Chamber of Commerce, [Curb Inflation, Increase Competitiveness & Productivity](#), 17th October 2023.

⁶ Malta, Minister For Finance and Employment, [Budget Speech 2024](#), 30th October 2023.

⁷ Malta, [Students Maintenance Grants Regulations](#), S.L.605.06.

grant, a summer special stipend and top-up stipends⁸. Furthermore, the state will provide €10,000 per year to heads of State primary and secondary schools to spend on food and other basic resources, such as uniforms, stationery and extracurricular activities, for vulnerable students coming from disadvantaged family backgrounds⁹.

Furthermore, pensioners were granted an additional €2.40, to a total of €12.50 COLA per week. The non-taxable pension threshold for pensioners was also increased to €14,968 from €14,318 For basis year 2023¹⁰.

In order to satisfy the aims of Child Guarantee, the Budget also announced an increase of €90 for each child in the children's allowance paid to parents.

In order to absorb the rising cost of international transport, the Government announced a rent subsidy to businesses of up to €50,000 per year for the first three years out of a period of 6 years¹¹. This scheme will run for a maximum of six years.

These increases and measures were applied as from the 1st January 2023.

1.2. Policy measures impacting on vulnerabilities of persons affected by the rising costs of living and energy.

In the 2023 Budget Speech the Minister for Finance stated that Malta was the “*only country where electricity and fuel prices did not increase*” as a consequence of the Russian invasion of Ukraine¹². To this end, Malta froze electricity and fuel prices by providing subsidies to Enemalta, the main energy services provider in Malta, and Enemed, the state-owned company responsible for the importation, distribution and

⁸Malta, Ministry for Social Policy and Children's Rights, [National Action Plan for a Child Guarantee \(2022 – 2030\)](#), 2022.

⁹Malta, Ministry for Social Policy and Children's Rights, [National Action Plan for a Child Guarantee \(2022 – 2030\)](#), 2022.

¹⁰ Malta, Minister For Finance and Employment, [Budget Speech 2023](#), 24th October 2022.

¹¹ Malta, Minister For Finance and Employment, [Budget Speech 2023](#), 24th October 2022. Information also provided by the Maltese Ministry for the Environment, Energy and Enterprise via email dated 16th November 2023.

¹² Malta, Minister For Finance and Employment, [Budget Speech 2023](#), 24th October 2022.

wholesale of petroleum products. The subsidies were reported to have compensated for losses incurred by the price freeze¹³.

The Minister stated that one of the five guiding principles of the Budget was the Government's social conscience which aimed not to burden low-income families with high electricity bills. Similarly, in order to promote its second principle of economic stability, the Government also announced that it was to support businesses with their energy bills. This was carried out through the absorption of the rise in energy costs by the Government by allocating over €600 million in the field of energy and cereals, with the aim of also keeping down the rising cost of living¹⁴.

However, the European Commission opinion on Malta's Draft Budgetary Plan recommended that Malta winds down energy support measures and that in the event that there are further energy price increases then support should be targeted towards vulnerable households and firms. The Commission noted that instead of winding down energy support measures, Malta planned to increase them further in 2024¹⁵.

1.3. Promising Practice

Table 1 – Promising practice

Promising practice	
Title (original language)	N/A
Title (EN)	
Organisation (original language)	
Organisation (EN)	
Government / Civil society	

¹³ International Monetary Fund (2023), [Malta - Selected Issues](#), IMF Country Report No. 23/79, 8th February 2023.

¹⁴ Malta, Minister For Finance and Employment, [Budget Speech 2023](#), 24th October 2022.

¹⁵ European Commission (2023), [Commission Opinion of 21.11.2023 on the Draft Budgetary Plan of Malta](#), C(2023) 9516 final, Brussels 21st November 2023.

Promising practice	
Funding body	
Reference (incl. URL, where available)	
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	
Type of initiative	
Main target group	
Indicate level of implementation: Local/Regional/National	
Brief description (max. 1000 chars)	
Highlight any element of the actions that is transferable (max. 500 chars)	
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	
Give reasons why you consider the practice as having concrete measurable impact	
Give reasons why you consider the practice as transferable to other settings and/or Member States?	

Promising practice	
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice	
Explain, if applicable, how the practice provides for review and assessment	

2. Threats to democratic values - Protecting civic space, strengthening meaningful participation and the rights to freedom of association, peaceful assembly and expression

2.1. Major threats to democracy as reflected in national legal and political developments and the discourse at national level.

Table 2 – Challenges

Based on a scan of legislative and policy and other developments and the public discourse please identify **three major challenges** to democracy emerged in the course of 2023.

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
Attacks and threats to the safety of civil society organisations, human rights defenders and journalists	

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
Legal and administrative constraints, harassment, intimidation, and reprisals against civil society organisations, human rights defenders (including SLAPPs - strategic lawsuits against public participation)	
Lack of media freedom a/o media pluralism; disinformation (incl. online)	
Foreign interference	
Lack of (processes for) transparent, accountable, democratic and pluralistic participation in law and policymaking; incl. access to information	<p>The lack of legal procedures for public participation continues to be of concern and the introduction of a framework for public participation in the legislative process was one of the European Commission's recommendations in its 2023 Rule of Law Report¹⁶. There are no legal provisions relating to the obligation to consult or to notify the public before or during the legislative process in Malta. Furthermore, the increased use of legal notices reduces transparency and scrutiny of the public. This is due to the fact that tabled legal notices do not have to pass through the same steps parliamentary process that primary legislation goes through.</p> <p>Whilst the lack of legal procedures for public participation applies across the board, a few instances in 2022 and continuing into 2023 illustrate the existing challenges. The Government continued to resist calls for transparency and consultations with the public, specifically NGOs during the</p>

¹⁶ European Commission (2023), [2023 Rule of Law Report - Country Chapter Malta](#), SWD(2023) 818 final, Brussels 5th July 2023.

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
	<p>legislative process. In 2022, the government tabled the proposed Media Reform Bill¹⁷ to parliament despite widespread criticism from journalists, academics and international press freedom organisations on the lack of public consultation¹⁸. This was also highlighted by the Council of Europe (CoE) Commissioner for Human Rights Dunja Mijatović¹⁹. Calls for the publication of report of the Committee of Experts on Media²⁰ tasked with the aim of analysing the journalism and media sector in Malta continued in 2023²¹.</p> <p>In 2023 CoE Commissioner for Human Rights Dunja Mijatović again expressed concern on the content of the Bill, and that it was not “<i>subject to the transparent and thorough consultation</i>”²². Of particular concern were the proposed provisions in the Bill that sought to address Strategic Lawsuits Against Public Participation (SLAPPs). They were held to be inadequate to address the threats that they pose to freedom of expression, media freedom and, more broadly, to the foundations of democracy and the rule of law. On the same day Ms. Mijatović urged the Speaker and the Members of the House of Parliament to refrain from adopting the proposed legislative amendments and instead engage in a substantive, inclusive and transparent consultation with civil society,</p>

¹⁷Malta, [Bill No. 19, Protection of the Media and Journalists \(Various Laws\) \(Amendment\) Bill](#), 2022.

¹⁸ Article 19, [Malta: Comprehensive reforms still needed to protect journalists](#), July 2022; European Federation of Journalists (EFJ), [Malta: Government must withdraw the media bills until formal public consultation](#), October 2022.

¹⁹Commissioner for Human Rights, [Malta should strengthen the protection of the media and access to information, in line with international standards](#), CommHR/DM/sf 032-2022, Strasbourg, 6th October 2022.

²⁰ Malta, Government of Malta, [Establishment of a Committee of Experts On Media](#), January 2022.

²¹European Federation of Journalists (EFJ), [Malta: Government must publish Committee of Experts on Media report](#), October 2022.

²² Commissioner for Human Rights, [Letter to the Prime Minister of Malta](#), Ref: CommHR/DM/sf 028-2023, Strasbourg, 26th September 2023.

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
	<p>academia, the media and interested citizens on the improvements that these legal changes need²³.</p> <p>The request to pause the hurried passing of a Bill pending in Parliament was echoed in a press release issued by the Voice for Choice, a pro-choice coalition calling for the decriminalisation of abortion, in June of 2023 when last minute amendments to a Bill relating to abortion were presented²⁴. Again, Commissioner for Human Rights Mijatović tweeted and urged Maltese parliamentarians to pause the examination of Bill 28 and to engage in further consultations to avoid steps backwards²⁵.</p> <p>Bill 28 was first tabled in November 2022 and allowed for the decriminalisation of abortion when the termination is aimed at protecting the health of a pregnant woman²⁶. The Bill was seemingly shelved until the Government presented substantial new amendments at Committee Stage on the 26th June 2023 which were eventually approved two-days later on the 28th June 2023²⁷. The Act, in its final form, was largely seen as a step backwards by NGOs that advocate for abortion rights for all²⁸.</p> <p>In the same letters that addressed the Media Reform Bill, CoE Commissioner for Human Rights Mijatović also highlighted the</p>

²³Commissioner for Human Rights, [Letter to the Speaker of the House of the Parliament](#), Ref: CommHR/DM/sf 029-2023, Strasbourg, 26th September 2023.

²⁴Malta, Voice For Choice, [Press Release 23.06.2023: Bill 28 has become a law that may kill women](#), June 2023.

²⁵ Commissioner for Human Rights, [Tweet Urging Maltese Parliamentarians](#), Strasbourg 28th June 2023.

²⁶Malta, [Bill 28, AN ACT to further amend the Criminal Code](#), CAP. 9, 2022.

²⁷ Malta, [Bill 28](#), Parliament of Malta; [Act No. XXII of 2023](#), 28th June 2023.

²⁸ Amnesty International, [Malta: Lives put at risk as parliament waters down bill seeking to partially decriminalize abortion](#), 28 June 2023; International Planned Parenthood Federation, [Sickening new Maltese law is step backwards that will kill women](#), 30th June 2023; Center for Reproductive Rights, [Malta's Amended Abortion Law Will Not Protect Women's Health and Lives](#), , 28th June 2023.

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
	<p>continuing instances of denial of access to information under the Freedom of Information Act²⁹ (FOIA). The Commissioner noted that this situation was suggesting a pattern of unwarranted secrecy within state institutions regarding information that could be of significant public interest and urged for an independent and comprehensive review of the implementation of the FIOA³⁰. This problem is illustrated through 40 legal challenges³¹ being faced by The Shift News, an independent investigative online news platform. In this instance 40 Freedom of Information requests filed by the editor of The Shift News were subsequently challenged in court by the government. All of the 18 appeals that have been decided by the Civil Court have been decided in favour of The Shift, whilst the other remain pending³². These cases resulted</p>

²⁹Malta, [Freedom of Information Act](#), CAP 496 of the Laws of Malta.

³⁰ Commissioner for Human Rights, [Letter to the Prime Minister of Malta](#), Ref: CommHR/DM/sf 028-2023, Strasbourg, 26th September 2023, Commissioner for Human Rights, [Letter to the Speaker of the House of the Parliament](#), Ref: CommHR/DM/sf 029-2023, Strasbourg, 26th September 2023.

³¹Malta, The Shift News, [The Shift wins 4 more FOI appeals filed by the government to deny information](#), 16th September 2023.

³² Malta, 150/2022, Of Appeal (Civil, Inferior), Muscat Caroline Vs Ministeru Ghas-Solidarjeta U Gustizzja Socjali, Il-Familja, 15th September 2023; Malta, 149/2022, Of Appeal (Civil, Inferior), Muscat Caroline Vs Ministeru Ghal Finanzi U Xoghol, 15th September 2023; Malta, 151/2022 of Appeal (Civil, Inferior), Muscat Caroline Vs Ministeru Ghall-Ekonomija U L-Industrija 15th September 2023; 1 Malta, 45/2022, Of Appeal (Civil, Inferior), Muscat Caroline Vs Il-Korp Tal-Pulizija Ta' Malta, 15th September 2023; Malta, 147/2022, Of Appeal (Civil, Inferior) Muscat Caroline Vs Ministeru Ghall-Intern, Sigurta Nazzjonali U Infurzar, 12th July 2023; Malta, 146/2022, Of Appeal (Civil, Inferior) Muscat Caroline Vs Ministeru Ghal Ambjent, It-Tibdil Fil-Klima U L-Ippjanar, 12th July 2023; Malta, 199/2022, Of Appeal (Civil, Inferior) Muscat Caroline Vs L-Awtorita' Tal-Ippjanar, 17th May 2023; Malta, 148/2022 Of Appeal (Civil, Inferior) Muscat Caroline Vs National Development & Social Fund, 19th April 2023; Malta, 83/2022, Of Appeal (Civil, Inferior) Muscat Caroline Vs National Statistics Office, 15th March 2023; Malta, 124/2022 Of Appeal (Civil, Inferior) Muscat Caroline Vs Ministeru Ghall-Ghawdex, 15th March 2023; Malta, 89/2022, Of Appeal (Civil, Inferior) Muscat Caroline Vs Wasteserv Malta Ltd, 15th March 2023; Malta, 125/2022, Of Appeal (Civil, Inferior), Muscat Caroline Vs Ministry For Social Accomodation, 15th March 2023; Malta, 126/2022, Of Appeal (Civil, Inferior) Muscat Caroline

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
	<p>in Malta having the highest number of SLAPPs per capita in 2022³³.</p> <p>In the same sectors where there is a lack of transparency in law making, such as the media and sexual and reproductive health, an intimidating and hostile atmosphere for activists and civil society was reported. Here again, the Human Rights Commissioner talks of state authorities fostering a hostile climate for journalists and media professionals and the UN Working Group on Discrimination against Women and Girls of the intimidating and sometimes violent environment for women activists working on sexual and reproductive health³⁴.</p>
Lack of election integrity (incl. electoral process, political campaigning and party financing)	<p>In October 2023 the European Parliament approved a Resolution on the Rule of Law in Malta by 437 votes to 14, and 66 abstentions.³⁵ The Resolution makes reference to a benefits-for-votes scandal, revealed in 2023, involving the buying of votes of government supporters, enticing them using forged official documents, including fake medical certificates. This racket began in 2019, and several</p>

Vs Ministru Ghat-Turizmu U L-Protezzjoni Tal-Konsumatur, 15th March 2023; Malta, 127/2022, Of Appeal (Civil, Inferior) Muscat Caroline Vs Ministry For Energy, Enterprise And Sustainable Development, 15th March 2023; Malta, 71/2022, Of Appeal (Civil, Inferior), Muscat Caroline Vs Awtorita' Tad-Djar, 15th March 2023; Malta, 123/2022, Of Appeal (Civil, Inferior) Muscat Caroline Vs Armed Forces Of Malta, 15th March 2023; Malta, 69/2022, Of Appeal (Civil, Inferior) Muscat Caroline Vs Resource, Recovery And Recycling Agency, 22nd February 2023; Malta, 72/2022, Of Appeal (Civil, Inferior), Muscat Caroline Vs Malta Film Commission, 22nd February 2023.

³³Coalition Against SLAPPs in Europe (CASE), [SLAPPs: Increasingly Threatening Democracy in Europe – A 2023 Report Update](#), July 2023.

³⁴Commissioner for Human Rights, [Letter to the Prime Minister of Malta](#), Ref: CommHR/DM/sf 028-2023, Strasbourg, 26th September 2023; UN Working Group on discrimination against women and girls, [Strong progress but patriarchal culture still holding women back](#), 7th July 2023.

³⁵European Parliament, [European Parliament Resolution on the rule of law in Malta: six years after the assassination of Daphne Caruana Galizia, and the need to protect journalists](#) (2023/2901(RSP), P9 TA(2023)0374, 19th October 2023.

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
	<p>Government MPs were implicated³⁶. It was also reported that the racket targeted disgruntled voters a year before the 2022 general elections which saw the governing party win another mandate³⁷.</p> <p>Another vote-buying scandal was revealed a few weeks later which centered around a driving licence racket and involved the ex-Transport Minister (now Minister for Foreign Affairs) and high-ranking government officials in the Prime Ministers office amongst others³⁸. This racket started in 2018 and seemed to have continued for a number of years. The Transport Malta director who was involved was finally charged in 2022.</p> <p>No members of parliament have been charged or prosecuted in relation to both scandals. The European Parliament in the above-mentioned Resolution also expressed shocked at Prime Minister Abela's downplaying acts of institutionalised corruption³⁹. The same resolution makes reference to another scandal which revealed that databases held by the governing party on the population's voting preferences was used to recruit government leaning individuals to the public service⁴⁰. It finally calls on the Commission to take seriously the culture of impunity in Malta and push for a prompt return to respect for democracy and the rule of law.</p>

³⁶ Malta, Times of Malta, [Revealed: Ex-Labour MP Silvio Grixti at centre of 'huge' benefit fraud racket](#), 3rd September 2023.

³⁷ Malta, Times of Malta, ['I got €450 a month in exchange for my vote and a kickback'](#), 10th September 2023.

³⁸ Malta, Times of Malta, [Driving licence scandal: 'I want to win his vote,' OPM official told Mansueto](#), 1st October 2023.

³⁹ Malta, Times of Malta, [Abela on driving tests scandal: 'It's the way the political system works'](#), 3rd October 2023. In a similar vein, the Minister for Social Policy played down the benefits-for-votes scandal MaltaToday, [160 cases do not translate into 40,000 votes' - Falzon denies benefits fraud was linked to votes](#), 23rd September, 2023.

⁴⁰ Malta, The Shift, [Data leak used to select only Labour-voting public service job applicants](#), 30th May 2023.

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
	<p>The lack of public funding of political parties was held to be an underlying cause of corruption in Malta⁴¹. Whilst the European Commission also reported that there were indications of major Maltese political parties bypassing rules of party financing⁴². Concerns on party financing were raised by the OSCE after the 2022 national elections and they include high thresholds for mandatory disclosure, delayed publication of parties' financial reports, and the limited enforcement of political finance regulation by the Electoral Commission⁴³.</p> <p>In June 2023 GRECO published its Second Addendum to the Second Compliance Report on Malta relating to an evaluation of the progress on outstanding recommendations⁴⁴. GRECO considers that the recommendation of a thorough review of the 1995 Code of Ethics for Members of Parliament and the Standing Orders has not been implemented by Malta. It felt that there was need to improve provisions relating to integrity, ethics, financial and activity declarations and conflicts of interest. However, 7 years after the Fourth Evaluation Report there had been no tangible progress.</p> <p>Furthermore, the recommendation to ensure appropriate supervision and enforcement of (i) the rules on the declaration of assets, financial interests and outside activities, and (ii) the standards of ethics and conflicts of interest provisions applicable to members of parliament was felt to have only been partly implemented. GRECO felt that the sanctions</p>

⁴¹Malta, Repubblika, SOS Malta, Daphne Caruana Galizia Foundation and PEN Malta, [Aide Memoire For Meeting with Commissioner Didier Reynders](#), 28th April 2023.

⁴²European Commission (2023), [2023 Rule of Law Report - Country Chapter Malta](#), Brussels, 5th July 2023.

⁴³Organization for Security and Co-operation (2022), ODIHR Election Expert Team Final Report on [Republic of Malta - Early Parliamentary Elections – 26th March 2022](#), Warsaw, 14th July 2022.

⁴⁴Group of States against Corruption (GRECO), [Second Addendum to the Second Compliance Report Malta](#), GrecoRC4(2022)22-Final-eng-2ndAdd2ndComplianceReport-Malta-PUBLIC, 6th June 2023.

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
	<p>contained in the Standards in Public Life Act⁴⁵ were not effective, proportionate nor dissuasive enough. GRECO did not consider that “reputational damage” type sanctions contained in the Standards in Public Life Act were sufficient. Lastly it found that although the Parliamentary Commissioner for Standards’ new advisory function was welcomed, there was no progress relating to awareness-raising activities for members of Parliament, or other activities related to the prevention of corruption and the promotion of integrity within Parliament⁴⁶. It was suggested that awareness activities were needed in relation to ethics, conflicts of interest, acceptance of gifts, honoraria, hospitality and other advantages, outside employment and activities, declarations of financial/activity interests.</p> <p>It should also be noted that the Standards in Public Life Act was amended in February 2023 to modify the procedure for the appointment of the Commissioner for Standards in Public Life⁴⁷. Following a deadlock in the approval of the Government nominee for the post, the amendment introduced a simple majority procedure should the two-thirds majority required in law is not achieved in the first voting round. However, the new procedure was deemed concerning and not to reflect international standards promoting the inclusion of parliamentary minorities in the appointment of key figures responsible for public integrity⁴⁸.</p>

⁴⁵Malta, [Standards in Public Life](#), CAP 570 of the Laws of Malta.

⁴⁶Group of States against Corruption (GRECO), [Second Addendum to the Second Compliance Report Malta](#), GrecoRC4(2022)22-Final-eng-2ndAdd2ndComplianceReport-Malta-PUBLIC, 6th June 2023.

⁴⁷ Malta, [Act No. II of 2023](#), AN ACT to amend the Standards in Public Life Act, Cap. 570, 3rd February 2023.

⁴⁸European Commission (2023), [2023 Rule of Law Report - Country Chapter Malta](#), Brussels, 5th July 2023.

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
Disproportionate use of law enforcement measures (surveillance, police violence, unlawful arrest etc.)	
Corruption, including misuse of EU funds	
Lack of (effective judicial protection by) independent and impartial courts	
Threats to (the independence of) the fundamental rights institutional landscape (NHRIs, equality bodies, data protection authorities and similar bodies), incl. closure of fundamental rights bodies, legal changes, budget cuts and harassment	
Institutional issues linked to checks and balances (lack of parliamentary oversight, lack of implementation of	In October 2023 the European Parliament approved a Resolution on the Rule of Law in Malta by 437 votes to 14, and 66 abstentions ⁴⁹ . Amongst other things, the resolutions noted that the rule of law is also threatened by the culture of impunity enabled by maintaining a grip on flawed institutional checks and balances that promote political interference and hamper effective enforcement. The resolution also called for

⁴⁹European Parliament, [European Parliament Resolution on the rule of law in Malta: six years after the assassination of Daphne Caruana Galizia, and the need to protect journalists](#) (2023/2901(RSP), P9 TA(2023)0374, 19th October 2023.

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
final court decisions by executive, etc.)	<p>the Government to set up as a matter of priority, the position of the Human Rights and Equality Commissioner in line with the Paris Principles and EU equality <i>acquis</i>. This echoes the Commission’s recommendation to establish a National Human Rights Institution in its 2023 Rule of Law report⁵⁰.</p> <p>In a joint submission to the 4th UPR aditus foundation and Humanists Malta highlighted that when the Maltese Constitutional Court decrees a law to be unconstitutional or breaching the European Convention of Human Rights it has held that this does not apply <i>erga omnes</i>. The Courts hold that it is Parliament’s duty to amend, revoke or modify the law in order to bring it in line with the Constitution. The Constitutional Court is obliged to send any such judgement in Parliament, however there is no obligation on Parliament to amend, revoke or modify the law within a stipulated time-frame. In this regard the Prime Minister may, within the period of 6 months from the judgment, make regulations deleting the relevant instrument or any provision thereof declared to run counter to the Constitution or the European Convention of Human Rights⁵¹.</p> <p>This mechanism was found to be lacking by the Commission in its 2023 Rule of Law report. It is not known if the Prime Minister used any of his prerogative to change these laws or whether there had been any follow-up to any of these judgements. A Parliamentary Question on the number of judgements sent to Parliament by the Courts and the action, if any, taken by the Prime Minister in accordance with the above-mentioned procedure was asked in March 2023⁵². The Ministry for Justice replied that compiling the answer to that question would go above the advisory cost limit. Malta</p>

⁵⁰European Commission (2023), [2023 Rule of Law Report - Country Chapter Malta](#), Brussels, 5th July 2023. Also highlighted in aditus foundation and Humanists Malta, [Joint Submission to the 4th UPR on Malta](#), July 2023.

⁵¹ Malta, Article 242 of the [Code of Organisation and Civil Procedure](#), CAP 12 of the Laws of Malta.

⁵² Malta, [Parliamentary Question 7824: An instrument or any of its provisions that have the force of law go against the Constitution in Malta](#), XIV Legislature, 17th April, 2023.

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
	<p>currently has 15 European Court of Human Rights judgments pending implementation⁵³.</p> <p>Similarly in the beginning of 2023 the then outgoing Ombudsman stated that the provisions of the Ombudsman Act⁵⁴ to turn to parliament for action on its investigations remain a dead letter. The outgoing Ombudsman stated that Parliament ignored all the 35 investigations the Office tabled in the last three years. These investigations were tabled through the Speaker of the House after unsuccessful referrals to the Prime Minister and after the public administration or entity involved would have rejected them or ignored them.⁵⁵ In the 2022 Ombudsman Annual Report, published in 2023, the lack of debate by the Parliamentary House Business Committee of the 2022 and 2023 Ombudsplan was noted⁵⁶.</p> <p>The Standards in Public Life Act was amended in February 2023 to modify the procedure for the appointment of the Commissioner for Standards in Public Life⁵⁷. Following a deadlock in the approval of the Government nominee for the post, the amendment introduced a simple majority procedure should the two-thirds majority required in law is not achieved in the first voting round. However, the new procedure was deemed concerning and not to reflect international standards promoting the inclusion of parliamentary minorities in the appointment of key figures responsible for public integrity⁵⁸.</p>

⁵³European Implementation Network, [Malta](#), last accessed on 16th October 2023.

⁵⁴ Malta, [Ombudsman Act](#), CAP385 of the Laws of Malta.

⁵⁵Malta, Times of Malta, [Ombudsman decries disrespect as parliament ignores all his reports](#), 15th January 2023. See also Malta, Repubblica, SOS Malta, Daphne Caruana Galizia Foundation and PEN Malta, [Aide Memoire For Meeting with Commissioner Didier Reynders](#), 28th April 2023.

⁵⁶Malta, Parliamentary Ombudsman Malta, [Annual Report 2022](#), June 2023.

⁵⁷ Malta, [Act No. II of 2023](#), AN ACT to amend the Standards in Public Life Act, Cap. 570, 3rd February 2023.

⁵⁸European Commission (2023), [2023 Rule of Law Report - Country Chapter Malta](#), Brussels, 5th July 2023.

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
Other major developments threatening democratic values	

2.2. Legislative and policy measures having an impact on the freedom of assembly/association/expression of civil society actors.

three such measures, and in each case the title and date of adoption of the legislative or policy measure, a reference, a brief description of the objective & scope of the measure and a short analysis of its impact (positive or negative) on civic space.

In July 2023, an Artistic Expression (Enhancement) Act was passed⁵⁹. This act introduced a new sub-article (3) of Article 339 of the Criminal Code⁶⁰ and Article 49 of the Electronic Communications Act⁶¹.

Article 339(1) of the Criminal Code lays down a list of acts that are considered to be contraventions in terms of Maltese law. Article 339(1)(e) provides that any person who utters insults or threats not otherwise provided for in the Criminal Code, or on being provoked, carries his insult beyond the limit warranted by the provocation will be guilty of a contravention. The new sub-Article (3) qualifies this offence by stating that Article 339(1)(e) must be interpreted to allow for the freedom of artistic expression and in particular the said paragraph shall not hinder artistic, satirical, comic or cultural expression, of any kind, which does not lead to credible and realistic threats to the personal liberty or security of the complainant or to his property.

Under the Electronic Communications (Regulation) Act the use of an electronic communications network or apparatus (i)to threaten the commission of any crime; (ii)

⁵⁹Malta, [ACT No. XXIX of 2023](#), Artistic Expression (Enhancement) Act, 21st July 2023.

⁶⁰Malta, [Criminal Code](#), CAP 9 of the Laws of Malta.

⁶¹Malta, [Electronic Communications \(Regulations\) Act](#), CAP 399 of the Laws of Malta.

or to blackmail or extort by threatening to accuse or to make a complaint against, or to defame, any person; or (iii) any other improper use thereof is an offence punishable with a maximum fine of €25,000⁶². The new amendment introduced a proviso which states that words or expressions uttered or published on an electronic communications network or apparatus are not an offence if they are uttered or published as part of artistic, satirical, comic or cultural expression and do not lead to credible and realistic threats to the personal liberty or security of any person or to a person's property.

The Act was tabled in Parliament following a number of police complaints filed by a religious group against satirists and artists for a number of public comments. They complaints were followed up by the Police which resulted in a satirist and a comedian being separately charged under the Electronic Equipment Act⁶³. Although generally it was felt that it is a positive move to protect artistic freedom of expression, some commentators felt that the amendment was a populist move and one that could ultimately influence ongoing criminal procedures⁶⁴ or that freedom of expression should always be protected whether artistic or not⁶⁵. A recent controversial judgement saw the Court of Magistrates imposed a €10,000 fine on a young man who posted a distasteful meme targeting persons with a disability⁶⁶.

Table 3 – Case law

Case law	
Deciding body (in original language)	Qorti Ċivili Prim'awla (Ġurisdizzjoni Kostituzzjonali)
Deciding body (in English)	Civil First Hall (Constitutional Jurisdiction)
Case number (also European Case Law)	201/20TA ECLI: MT:KOST:2023:143021

⁶² Malta, Article 49 of the [Electronic Communications Act](#), CAP 399 of the Laws of Malta.

⁶³ Malta, [MaltaToday](#), [River of charges: Legal experts insist police obliged to follow up Manché's complaints](#), 18th June 2023.

⁶⁴ Malta, [Malta Independent](#), [Artistic expression: at what cost](#), 16th July 2023.

⁶⁵ Malta, [MaltaToday](#), [What is artistic expression?](#), 27th July 2023.

⁶⁶ Malta, 1/2023 [Police vs Luke Mihalic](#), Court of Magistrates 28th September 2023.

Identifier (ECLI , where applicable)	
Parties	Emanuel Delia v. Byron Camilleri as Minister for Home Affairs Security, Reforms and Equality of Malta, Permanent Secretary in the Ministry of Home Affairs Security, Reforms and Equality of Malta, Alex Dalli Director of Prisons and CEO of Corradino Correctional Services Agency, Principal Immigration Officer, and the State Advocate.
Decision date	11/12/2023
Web link to the decision (if available)	https://ecourts.gov.mt/onlineservices/Judgements/Details?JudgementId=0&CaseJudgementId=143021
Which fundamental freedoms of (peaceful assembly, association and/or expression) were referred to in the case?	Freedom of Expression
Key facts of the case (max. 250 words)	<p>Maltese journalist Emanuel Delia instituted constitutional proceedings where he argued that the refusal to allow access to journalists, such as himself, to immigration detention centers and to Corradino Correctional Facility is a breach of the right to freedom of expression.</p> <p>The Court ruled that journalists, in their role as public watchdogs, must have access to detention centres in which migrants and asylum-seekers are held and to Corradino Correctional Facility, Malta's only adult prison.</p>
The key legal	The Court recognised the public interest value in the reporting from and monitoring of certain locations where vulnerable groups are being

<p>question raised by the Court</p>	<p>held is of paramount importance. The lack of proper access by journalists, NGOs providing services and lawyers results in the Government having absolute monopoly over the type of information, if at all, which is available to the public. As a consequence of this, as pointed out by the Court in this local landmark judgement, the public is denied objective and balanced information on the conditions and treatment of detained migrants and people being held in prisons.</p> <p>However, in addition to looking into the public's right to know, the Court also look into the exercise and content of the right to freedom of expression. It found that the visitor's policies that ournalists had to adhere to when visiting prisons, to be so restrictive as to be described as "<i>suffocating</i>" and "<i>ominous</i>". Such policies dictated how interviews may be carried out and what behaviour and equipment is prohibited. The policies also stated that the visit route would be decided by the authorities and that the visit can be terminated at any point by the authorities. Although the Court recognisied that there is a need for rules, it noted that such rules should not have the effect that journalists had their hands tied and could not effectively carry out the reporting they set out to do.</p> <p>Significantly, the Court held that the right to freedom of expression doesn't only cover the content of such expression but also the method in which such content is recorded or collected. It held that journalists should be allowed to take photographs, record interviews with microphones and also take videos, always whilst respecting detainees and prisoners right to privacy.</p> <p>The Court held that the denial of effective access creates a chilling effect on the carrying out of independent investigations and reporting of incidents in places of detention which the government would prefer to never come to light.</p>
<p>Result of the case in terms of factual outcome, and in terms of assessment of the legal</p>	<p>In terms of factual outcome are difficult to predict due to the fact that the judgment is recent and that the Government has filed an appeal in the Constitutional Court. In spite of the judgment, journalists are still being denied access to detention centres and to prison⁶⁷.</p> <p>The Court however was clear and unequivocal as to the right of journalists have open and effective access to places of detention. This access serves to protect the rights of journalists to carry out their work without restraint, but the right of the public to know. Furthermore, it ensures transparency and the accountability of the Government in relation to human rights standards in Malta.</p>

⁶⁷ Malta, Truth be Told, [Government appeals prisons access decision](#), 8th January 2024.

question raised	
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