

ANTI-CORRUPTION HELPDESK

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MALTA: OVERVIEW OF CORRUPTION AND ANTI-CORRUPTION

QUERY

Can you please provide an overview of corruption and anti-corruption efforts in Malta, with a particular focus on money laundering and details of any investigations related to the Panama Papers?

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SUMMARY

Malta's strategic geo-political location, along with its stable economy and skilled workforce has enabled it to establish itself as a successful financial centre. However, patronage and clientelism in the form of '[korruzjoni](#)' and '[klientelizmu](#)' persist. Despite having substantial legal mechanisms in place, Malta has been rocked with [a number of corruption scandals](#) in the recent years, which has "[tarnished](#)" its incumbent presidency of the Council of Europe.

Notable integrity challenges include procurement irregularities, unresolved conflicts of interest among serving government ministers, and the revolving door between the island state's close-knit political and business class. Malta is also the only country in the European Union to have an incumbent minister named in the Panama Papers revelations in 2016.



Author(s):

Kaunain Rahman Transparency International,
tihelpdesk@transparency.org

Reviewer(s):

Matthew Jenkins, Transparency International

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1. OVERVIEW OF CORRUPTION IN MALTA

Background

Malta's long [history of colonial](#) rule came to an end with its independence from the United Kingdom in 1964, and the founding of the Republic of Malta ten years later (BBC 2016). Located south of Sicily between Europe and North Africa in the heart of the Mediterranean, it occupies a [strategic geopolitical position](#), which has fostered its development as a significant trading post, and it remains a leading centre for container and freight transhipment (BBC 2016; The European 2013). Malta's accession to the European Union in 2004 and the Eurozone in 2008, coupled with its stable economy and skilled workforce have [proven crucial](#) to its development as a fast-growing financial and business centre (Euro Challenge 2016).

Malta serves as a [gateway](#) to the EU for non-EU financial services firms and industries, particularly those from the Arab world. Despite the international economic turmoil, its banking sector [withstood](#) the 2008 financial crisis relatively well, and the Maltese government is promoting the island's recovery by targeting manufacturing, new investment projects and privatising shipyards (The European 2013; Euro Challenge 2016). The country's high dependence on tourism as well as on energy and food imports nonetheless renders it vulnerable to swings in the global economy (Euro challenge 2016).

[Maltese citizens enjoy](#) free and fair elections, the country's courts protect political and civil liberties, and the country has a pluralistic media landscape. However, Malta has the distinction of being the only European state with only two political parties represented in parliament. While this setup provides for political stability, observers note that the system of proportional representation within a two-party structure has nurtured clientelism, as canvassing and fundraising for political candidates is often regarded as an [investment](#) for favours and preferences in the future (Bertelsmann Stiftung 2015; Marmarà 2005).

The Maltese system also places a great deal of power in the hands of the executive; the prime minister has sole responsibility for the appointment of justices, and while the Constitutional Court may declare a law invalid, it has no powers to revoke those laws (Bertelsmann Stiftung 2015).

In 2015, Joseph Muscat, the incumbent Prime Minister from the Labour Party, signed a [joint statement](#) with Transparency International during the Commonwealth Heads of Government Meeting (CHOGM) in Malta, which sought to put the fight against corruption at the heart of the Commonwealth agenda. However, the surfacing of various scandals and corruption allegations has "[cast a shadow over the island's first presidency of the Council of the EU](#)," a rotating position lasting six months which Malta assumed on the 1st of January 2017 (Cooper and Smith-Meyer 2017; Ganado 2017).

Extent of corruption

The severity of corruption in Malta is exemplified by the fact that, according to a recent report commissioned by the European Parliament, the country [lost](#) at least 11.67% of its gross domestic product (approximately \$1.25 billion) to corruption every year between 1995 and 2014 (Grech 2016a).

International indices suggest that while widespread corruption is of increasing concern among Maltese citizens, this has not prevented the country from improving its image as a competitive economy.

When the 2015 edition of the Corruption Perceptions Index (CPI) recorded a gradual improvement over the previous year, Prime Minister Muscat was quick to claim that this constituted "proof that the government is factually fighting corruption" (Debono 2017; TVM 2016). Unfortunately for him, the 2016 edition of the CPI shows that perceptions of corruption in Malta rose last year in the wake of a series of scandals and the country has fallen to an [all-time low](#) of 47th position (Transparency International 2016; Malta Independent 2017).

The ramifications of the Panama Papers revelations,¹ which implicated some prominent Maltese public

¹ The Panama Papers are a leak of 11.5m files from the database of the world's fourth-biggest offshore law firm, Mossack Fonseca. The records were obtained from an anonymous source by the German newspaper Süddeutsche Zeitung, which shared them with

the International Consortium of Investigative Journalists (ICIJ). The ICIJ then shared them with an extensive network of international partners, including the Guardian and the BBC (Harding 2016).

figures, may go some way to explaining Malta's "[corruption nosedive](#)." Corruption is clearly of great concern to ordinary people; one recent survey found that corruption is second only to traffic in citizens' list of grievances (Debono 2017). This disquiet with levels of corruption was also reflected in the 2013 [Eurobarometer Survey](#), according to which 83% of respondents felt corruption to be a widespread problem in Malta and 29% said that it affects their daily lives, slightly higher than the EU averages of 76% and 26% respectively (European Commission 2014; Group of States Against Corruption 2015).

Allegations of corruption at the highest levels of Maltese public life are common, not without justification as the subsequent section on political corruption attests. The opposition has accused the current government of "[institutional corruption](#)" and claimed that "lack of any transparency [is] the order of the day" (Malta Today 2015).

Corrupt practices are not limited to those at the top, however. In 2014, it emerged that employees at Enemalta, the state-owned energy company, had been taking bribes from hundreds of ordinary customers in return for tampering with energy meters to lower the customers' electricity bills. The government response was to offer amnesty to consumers who admitted to being involved, and cases were filed against the who did not take up the amnesty bargain (Freedom House 2015).

Despite such practices, business surveys attest to Malta's increasing popularity as an "[EU-based financial centre](#)" (The European 2013). The country climbed eight places in the latest [Global Competitiveness Report](#) to 40th (out of 140 countries), as well as rising from 94th in 2015 to 76th in 2017 (out of 190 countries) in the World Bank's [Ease of Doing Business rankings](#) (The Global Competitiveness Report 2016; Doing Business 2017).

The 2014 [World Governance Indicators](#) likewise show Malta performing relatively well. The country scores 86 on voice and accountability, 89 on political stability and absence of violence, 81 on government effectiveness, 83 on regulatory quality, 86 on the rule of law, and 79 on control of corruption (percentile rank – 0 corresponds to lowest rank, and 100 corresponds to highest rank). Finally, [Freedom House](#)'s 2015 and 2016 report on 'Freedom in the World' awards Malta the top score in all three assessed areas of freedom,

civil liberties, and political rights (WGI 2014; Freedom House 2015, 2016).

Forms of corruption

Political Corruption

Being a parliamentary republic, Malta's [law-making authority](#) is vested in the House of Representatives, with a unicameral parliament elected for a five-year term (Group of States Against Corruption 2015). The most recent national election in 2013 saw Joseph Muscat's Labour Party (PL) unseat the Nationalist Party (PN), which had been in power for 15 years (Freedom House 2015).

A report in 2015 by the Council of Europe deemed parliamentarians in Malta to be "[part-time legislators](#)" who maintain their private practices despite the acute potential for conflicts of interest given the "personal and professional network and business links built across Malta" (Group of States Against Corruption 2015). In the current parliament, most MPs have more than one source of remuneration paid from public taxes, further exacerbating these integrity risks (Muscat 2015). For instance, it emerged in 2015 that the deputy leader of the ruling Labour Party, Toni Abela, had continued operating his private legal practice, and [was awarded several contracts worth nearly €100,000](#) to provide legal advice to the Transport Ministry, the Oil Exploration Department and the Social Solidarity Ministry (Muscat 2015). Chris Cardona, the Economy Minister, even hired his business partner, Mario Azzopardi, as his chief of staff, later [denying](#) that this breached the ministerial code of ethics (Muscat 2015).

Ministers are able to act in these ways with relative impunity, as despite although the 1994 Code of Ethics for Ministers, Parliamentary Secretaries and Parliamentary Assistants prohibits Ministers from pursuing any secondary employment, [no sanctions](#) for violating conflicts of interest provisions are specified (EuroPam 2017).

Furthermore, the [House of Representatives' Code of Ethics](#) is 20 years old and lacks clear provisions on third party contacts, misuse of confidential information, as well as misuse of public resources – money, offices, equipment, facilities, staff, and so on. Moreover, several of its provisions remain ambiguous in their wording about their application. For example, [gift giving](#) is not allowed, however, what constitutes a gift

is not specified (Parlament Ta' Malta 1995; Group of States Against Corruption 2015).

The phenomenon of the “revolving door” between the public and the private sector is a serious concern. A prominent example is the case of former [PN minister Dali](#) who in 1990 granted disputed land in Qormi to Marvosin winemakers to set up a brewery on a non-revisable basis. In 2004, after the publication of a report into these dealings by the National Audit Office, Dali (who had by then resigned as foreign minister over travel bookings made through businesses in which his daughters were involved) became chairman and managing director of Marsovin. Subsequently, Marvosin redeemed the ground rent and became the legal owner of the land by paying a meagre \$500,000 (Camilleri 2017a).

Konrad Mizzi, the [former health and energy](#) minister of the Labour government has also the dubious distinction of featuring prominently in a number of corruption scandals (Ariès and Paravicini 2016). Soon after the elections 2013, his wife Sai Mizzi Liang was [directly appointed](#) as Malta Enterprise's envoy to China for a monthly remuneration of \$13,700 per month without being able to provide any tangible evidence to justify her salary (Muscat 2015). Mizzi also cropped up in a [scam](#) involving ministers in his then health department selling EU medical visas. Recently, Mizzi was among those named in the 2016 Panama Papers (Martin 2016; Ariès and Paravicini 2016).

A further suspect practice is the direct appointment of 542 people to so-called “[positions of trust](#)” which do not follow standard and open recruitment procedures, and provide ample opportunity for nepotism, patronage and clientelism. These positions range from cleaners and drivers to appointments on company boards and government authorities and job descriptions usually merely stipulate that the employee must “do what is necessary.” Both the Office of the Ombudsman and the Public Service Commission have ruled such appointments unconstitutional, but as yet no remedial action appears to have been taken (Muscat 2015).

There is a lack of transparency and accountability in political financing, although this has been partially addressed by the 2015 Financing of Political Parties Act. Until this act came into force, Malta [lacked](#) accounting provisions for political parties and electoral

campaigns (European Commission 2014). Even now, there are no limits on the amount parties or candidates may spend, and parties are not obliged to always disclose the identity of a political donor (EuroPAM 2017).

Some observers note that financial support to political candidates is often regarded [as an investment to be rewarded](#) with favours once the candidate is in office (Marmarà 2005). In addition, the Electoral Commission is composed of members nominated by the two political parties and is generally perceived as lacking independence (European Commission 2014).

Malta fares poorly in [EuroPAM's](#) 2016 Public Accountability Mechanism assessment, scoring 24 on political financing, 17 for financial disclosure, and 14 for conflict of interest, for which the European averages are 67, 50 and 41 respectively (EuroPAM 2017). It should come as no surprise, therefore, that 47% of [respondents surveyed](#) by *The Malta Independent* in 2016 believe that the government is corrupt (Grech 2016b).

Corruption in Business

The major obstacles affecting businesses in Malta are favouritism in the government bureaucracy and the country's [shadow economy](#), which comprises of nearly a quarter of the entire market (Camilleri 2011). Clientelism and patronage in the form of '[korruzjoni](#)' (corruption) and '[klientelizmu](#)' (clientelism), (Mitchell 2002) are particularly problematic, as such [connections](#) between the local elite and political figures undermine fair competition (GAN Business Anti-corruption 2016; Global Competitiveness Report 2016).

While half of the companies [believe](#) that corruption is pervasive in both national and local authorities (GAN Business Anti-corruption 2016), surveys demonstrate that citizens also feel businesspeople to be culpable; 51% of Maltese reportedly view corruption as the most [negative effect](#) of private companies on society (Debono 2013).

According to the 2016 World Bank's [Doing Business Report](#), starting a business in Malta requires nine procedures, takes 26 days, and costs 12.3% of income per capita (Doing Business 2017). A minimum paid-in capital of 1.3% of revenue per capita is also legally mandatory. Globally, Malta stands at 132 in the ranking of 190 economies on the ease of starting a business (Doing Business 2017).

TRACE Matrix measures business bribery risk based on evaluations of four domains including business interactions with the government, anti-bribery laws and enforcement, government and civil service transparency and capacity for civil society oversight. Its 2016 report rates Malta with an [overall risk score](#) of 56 and classifies it as having a moderate level of risk for companies in the marketplace.

There have been some notable cases of private sector corruption involving Maltese businesses over the past several years.

A Maltese hedge fund, Exante Ltd, is believed to have reaped \$24.5 million from 2010 to 2015 through its [participation](#) in an international cyber-fraud securities trading ring. Hackers furnished Exante with confidential earnings information for numerous publicly traded companies, stolen from at least two newswire services before this data was published. American investigators allege that the Maltese company then allegedly used that stolen information to trade securities and reap "[ill-gotten gains](#)" (Lindsay 2015).

According to the Italian authorities, four other Maltese companies are [implicated](#) in a 'gigantic fraud' which resulted in €130 million being illicitly collected in value added tax credits and the production of almost €1 billion in false invoices (Malta Independent 2016). The perpetrators managed to circumvent intra-EU VAT agreements by setting up sham vendors who would issue false invoices including VAT, and gather tax credits for the bogus buyer of goods. However, the transactions only existed on paper and no goods were exchanged in reality. A criminal group from Vicenza ran the scam and divided up profit among the companies involved. All of suspects are Italian in the investigation that has been ongoing since 2013, and the identity of the Maltese companies has not been revealed (Malta Independent 2016).

Illicit Financial Flows

Malta's strategic geographic location positions it a [transit point](#) for narcotics and human trafficking to Europe. Transfers of money generated from illicit activity in foreign jurisdictions to Maltese bank accounts constitute a notable volume of laundered funds. These violations are typically associated with investment scams, and tax/value added tax fraud (Know Your Country 2017).

Despite its small size and comprehensive anti-money laundering legislations that include a definition of beneficial ownership, Malta [ranked in the top](#) eight EU states with the highest number of offshore entities listed in the Panama Papers leak in 2016 with 714 companies. Former PN minister Ninu Zammit, widely known for being suspended from the party after an exposé of \$3.4 million in his secret Swiss bank account in 2015, along with Malta Football Association president Norman Darmanin Demajo were among those mentioned in the 'Papers' (Times of Malta, 2016).

The most prominent figures to be mentioned were [Keith Schembri](#), the Prime Minister's chief of staff, and [Konrad Mizzi](#), the then health and energy minister, who also happens to be a close ally of Prime Minister Muscat (Cooper and Smith-Meyer 2017). Soon after his ministerial appointment in 2013, Mizzi opened a Panamanian company called Hearnville Inc. Later in 2015, he established an offshore trust in New Zealand listing his wife and two children as beneficiaries. The same trust is also a shareholder in Hearnville. All of the activities were routed through Mossack Fonseca, "[a law firm at the heart of the Panama papers scandal](#)" (Cooper and Smith-Meyer 2017).

Mizzi was the only serving minister in the EU to have been named in the scandal, and the revelations led to widespread street protests. Despite narrowly winning a no-confidence motion and being stripped of his portfolios, Mizzi was not removed from the government. The chairman of the European Parliament's Committee of Inquiry into Money Laundering, Tax Avoidance and Tax Evasion (the PANA Committee) has stated that although Mizzi's case is not entirely clear, "[it looks like money laundering](#)" (Orland 2017). Accusations also arose that the police buried relevant case reports from the Financial Investigation Analysis Unit (FIAU), and both the head of the FIAU and the Police Commissioner resigned during the subsequent imbroglio (Anti-Corruption Digest 2016).

The opposition further alleges that Mizzi took kickbacks from companies involved in privatisation deals including several hospitals and the island's power plant. Such "[messy domestic affairs](#)" suggest the extent to which unethical dealings pervade the highest levels of the Maltese government (Anti-Corruption Digest 2016).

Judicial Corruption

Though nearly half of Maltese citizens believe that bribery and abuse of office [are widespread](#) among judicial officials, almost none of them report to have paid a bribe during interactions with the judiciary (European Commission 2014; GAN Business Anti-corruption Portal 2016).

The Maltese justice system experiences [long](#) delays with dispute resolution taking on average 800 days. Moreover, scandals involving judges have tainted the reputation of the Maltese justice system and have triggered a debate on matters of integrity and accountability in the judiciary (Group of States against Corruption 2015; GAN Business Anti-corruption Portal 2016). In a notable case from 2002 the former Chief Justice and a former judge were both [found guilty](#) of taking bribes in return for lowering a sentence of a convicted drug-trafficker (European Commission 2014).

In a more recent case, [a judge and magistrate refused to resign](#) from the Malta Olympic Committee after the Commission for the Administration of Justice ordered them to do so (European Commission 2014). The incident resulted in a discussion on whether to overhaul the appointment mechanism for judges, whereby the President made the appointments on advice of the Prime Minister, who has a non-binding option to consult the Commission for the Administration of Justice (European Commission 2014).

The Commission for the Holistic Reform of the Justice System ([Reform Commission](#)) recommended the formation of a Judicial Appointment Commission that would advise on the appointments and that promotion of judges be based on qualitative factors of integrity and a public oral and written examination. It also recommended a separate Judicial Discipline Commission that would examine the removal and punishment of the members of the judiciary. These recommendations were met with opposition and criticism from the judiciary citing its infringement on judicial independence (European Commission 2014).

2. SECTORS AFFECTED BY CORRUPTION

² A direct contract is one which is made at the discretion of the Head of the Contracting Authority, taking into consideration the amount involved, the urgency of the procurement, or restrictions of

Procurement

Malta's public procurement sector is a [high risk](#) area for businesses with over [half](#) of the respondents of a European Commission survey saying that they lost out on winning government contracts due to corruption (GAN Business Anti-corruption Portal 2016; European Commission 2016). Corruption in procurement in Malta takes a number of forms, from [tailor-made specifications](#) for particular companies, to collusive bidding, conflicts of interest or unclear selection or evaluation criteria (European Commission 2014).

The most notable case is that of the state oil company Enemalta, which has been under [investigation](#) since 2013 when it came to light that kickbacks were paid to numerous members of the company's procurement committee in exchange for oil contracts. It was revealed that the company Trafigura, who was selling oil to Enemalta, [regularly deposited](#) sums of \$300,000 into committee member Frank Sammut's bank account in Switzerland (Malta Today 2013; GAN Business Anti-corruption Portal 2016). The trials are still ongoing, though Enemalta's former Chief Projects Officer, Ray Ferris, has been acquitted by the courts of all corruption charges related to the case (GAN Business Anti-corruption portal 2016; Times of Malta 2015).

Another example of abuse in procurement practices is the recent case of Economy Minister Chris Cardona [awarding](#) a one-year direct contract² with a remuneration of \$25,000 per month to the sons of Cabinet colleague Helena Dalli. Cardona's spokesperson's response was that "as in previous administrations, ministers' relatives are not precluded in any way from doing work for the government" (Camilleri 2017b). Such comments suggest that traditionalist attitudes towards "klientelizmu" identified by Mitchell (2002) remain a feature of Maltese politics.

Some recent e-procurement initiatives have played a role in improving transparency and communication between bidders. Malta has also issued a legal notice stating that companies breaching the public procurement regulations may be blacklisted for up to two years. The government has also set up a financial

choice and availability. The threshold defined for such contracts is where the value meets or exceeds \$5300 but does not exceed \$10,600 (Justice Services 2016).

sanctions tribunal within the Finance Ministry, which shall be responsible for excluding contractors found culpable of corruption practices (GAN Business Anti-Corruption Portal 2016).

Visas

The controversial [Individual Investor Programme](#) (IIP) launched by Malta in 2014 has resulted in more than 700 people gaining passports with access to visa-free travel to 166 countries in exchange for property investments and cash donations to the Maltese government. The programme has provoked widespread criticism from around the EU, with the European Parliament commenting that "EU citizenship should not be for sale at any price" (Cooper 2016).

The "[price of a passport](#)" includes a contribution of \$680,000 to the national development fund, an investment of \$158,000 in government stocks and bonds, along with the owning of property worth at least \$370,000 for a minimum period of one year. While this "[cash for passport](#)" programme mostly caters to citizens from Russia and the Middle East, a similar scheme has been [marketed](#) to Chinese nationals. Known as the Malta Residency & Visa Program, it enables access to the Schengen area in return for a property investment in Malta (Cooper 2016; Cooper and Smith-Meyer 2017).

The integrity risks in such schemes became apparent in 2016 when a Health Ministry official in Muscat's government, Neville Gafa, was [accused](#) of running a medical visa racket taking advantage of an agreement between Libya and Malta (O'Brien 2016).³ A letter between a Libyan national and Gafa was leaked to *The Sunday Times of Malta*, detailing how Gafa was allegedly charging Libyans a \$2,600 monthly fee to secure medical visas, treatment, and accommodation with his total earnings amounting to \$158,000. The whistleblower came forward after the scam fell through with many Libyans providing the cash but not receiving the visas (O'Brien 2016). Alarming, the police sought advice from the Attorney General about whether charges could be brought against the whistleblower, which observers warned would "[push away anyone from considering revealing potentially criminal situations in the future](#)" (Martin 2016b).

³ The agreement stated that Malta would take a certain amount of people injured in hostilities in Libya into its country for treatment (O'Brien 2016)

Sports

Birkirkara FC president Adrian Delia stated in a recent interview that "[statistically Malta is one of the five most corrupt countries in football](#)," adding that the Malta Football Association (MFA) is not doing enough to prevent match fixing (Times of Malta 2017). [Miroslav Kopic](#), the former goalkeeper for Birkirkara FC, is currently under investigation by police on charges of match fixing; in a further bizarre twist, the club's committee allegedly kidnapped him in an attempt to coerce a confession out of him (MaltaToday 2016).

In another incident, the [team manager](#) of Pembroke FC was charged with attempting to bribe Mosta FC players ahead of the match between the teams. The manager has been denied bail as [Magistrate Joe Mifsud](#) upheld that match-fixing damages the social, educational and cultural values reflected by sports (Malta Independent 2017; Times of Malta 2017b).

A draft law to tackle corruption in sports is under consideration and was presented by the Attorney General to a dedicated sports anti-corruption task force. This body comprises representatives from the government, the opposition, the police, the Malta Gaming Authority, and the Malta Football Association.

[Existing legislation dates back](#) to 1970s and is not equipped to counter sports-related corruption that capitalises on online betting platforms and the huge sums of money involved (Menmuir 2017). According to the US Department of State 2016 International Narcotics Control Strategy Report, Malta's [online gaming industry](#) is at risk of turning into a money laundering conduit and a vehicle for organised crime (Know Your Country 2017). The new draft law [imposes](#) harsher sanctions, takes cognisance of new forms of corruption in sport and seeks to create adequate mechanisms to prosecute such criminal cases (Malta Football Association 2017).

3. LEGAL AND INSTITUTIONAL FRAMEWORK

Overview

Malta adopted a [National Anti-Fraud and Corruption Strategy](#) in 2008 with the goal of setting up a normative, institutional and operational framework that adhered to local requirements as well as international commitments. The strategy was prepared by the Ministry of Finance's Financial Management Monitoring Unit and the Internal Audit Investigations Directorate, which also acts as the implementing body for the plan. The policy has four main objectives: capacity building, communication, national coordination, and international cooperation (European Commission 2014).

International conventions

Malta follows a "[dualist system](#),"⁴ as international treaties require being transposed into domestic law, as long as no conflicting national provisions are present. Furthermore, state legislation is interpreted in line with international treaties and European Union Framework decisions (Export.gov 2017).

Malta signed the United Nations Convention Against Corruption in 2005 and subsequently ratified it in 2008. However, it [has not yet signed](#) the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (Export.gov 2017).

Although not a member of FATF, Malta is a [member](#) of the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) which is a permanent monitoring body of the Council of Europe entrusted with the task of assessing compliance with the key international standards to counter money laundering and the financing of terrorism (Export.gov 2017; Council of Europe 2017).

Domestic legal framework

Multiple specialised acts are in place to prevent and combat various forms of corruption in Malta. The country's [Criminal Code](#) criminalises both active and passive bribery, abuse of office, political corruption, extortion, embezzlement, facilitation payments and

the giving and receiving of 'gifts' (GAN Business Anti-Corruption Portal 2016).

The Council of Europe's Group of States against Corruption (GRECO), which is an associate member of the FATF, completed its fourth evaluation of Malta in the summer of 2015. Following its three previous rounds of evaluation and follow-up compliance review, Malta [introduced](#) a number of legislative measures to combat corruption (Group of States Against Corruption 2015; Export.gov 2017). For example ACT IV of 2013 introduced amendments to the Maltese Criminal Code to revise provisions dealing with [incriminations](#) of bribery and corruption, thereby bringing the Criminal Code into line with GRECO recommendations. ACT IV has provided for more stringent penalties for corruption committed in the public sector and for trading in influence⁵ (Parlament Ta' Malta 2014).

Despite the range of Maltese legislation related to probity and the fight against corruption, GRECO's fourth evaluation found that, [despite the recent changes](#), "the pace given to these changes and their reactive nature have not always provided reassurance to the public that unethical practices are unacceptable and that effective action will be taken to punish transgression...In a small community such as Malta, handling interpersonal relationships and addressing real or potential conflicts of interest are clearly critical challenges" (Export.gov 2017).

Money Laundering

According to Zammit (2009), Malta's [commitment](#) to combatting money laundering is due to the country's interest in shielding its role as a reputable financial services centre. Convictions are, however, few and far between, with only five successful prosecutions for money laundering in 2015 (Financial Intelligence Analysis Unit 2017).

Malta's Anti-Money Laundering framework has its origins in the 1994 Prevention of Money Laundering Act (PMLA). The PMLA lays out the basic legal definitions, as well as procedures for the investigation and prosecution of money laundering offences. It also [requires](#) all financial institutions and other relevant

⁴ For States with a "dualist system", international law is not directly applicable domestically. It must first be translated into national legislation before it can be applied by the national courts (Peace and Justice Initiative 2017).

⁵ Trading in influence is a form of corruption which is difficult to capture and understand. By trading in influence, or influence

peddling referral is being made to: the situation where a person misuses his/her influence over the decision-making process for a third party (person, institution or government) in return for his loyalty, money or any other material or immaterial undue advantage (Christian 2015).

professionals to identify customers, ascertain beneficial owners, carry out due diligence, establish risk-based controls, report suspicious financial activities, safeguard transaction records for at least five years, and appoint a Money Laundering Report Officer (Cauchi 2016).

The PMLA distinguishes between the offence of money laundering and the underlying criminal activity to ensure that, even where a court is not able to establish criminal liability from which the illicit assets is derived, prosecutions for money laundering may still proceed.

In 2008, Malta supplemented the PLMA with the Prevention of Money Laundering and Funding of Terrorism Regulations (PMLFTR), modelled on the European Union's Third Directive on the Prevention of Money Laundering. The PMLFTR adds more detail on the [substantive provisions](#) relating to offences (Zammit 2009). Together these two statutory instruments bring Malta in line with the minimum prevention of money laundering standards implemented at the European level (Zammit 2009). Indeed, a 2008 MONEYVAL report [acknowledged](#) that the Maltese authorities had taken steps to ensure that its anti-money laundering/combating the financing of terrorism (AML/CFT) directives were consistent with recognised international standards and practices (Export.gov 2017).

According to the most recent Mutual Evaluation Report (MER) relating to the [implementation](#) of AML/CFT by FATF, Malta was deemed 'compliant' for 25 and 'largely compliant' for 15 of the 49 FATF recommendations. It was 'partially compliant' for the remaining nine recommendations. Two of the areas that were deemed to be 'partially compliant' relate to suspicious transactions reporting. The other FATF recommendations where Malta is judged to be partially compliant pertain to the freezing and confiscation of assets, DNFBP⁶ regulation, supervision and monitoring, sanctions, guidelines and feedback, and non-profit organisations (MONEYVAL 2015).

⁶ Over the years, the techniques used by money launderers and financial criminals have evolved in response to governmental and institutional countermeasures. In the late 1990s, facing increased anti-money laundering legislation and more advanced AML/CTF procedures in credit and financial institutions, some money launderers resorted to the non-financial sector to conceal their criminal revenues. In response to this trend, the FATF released guidelines on Designated Non-Financial Businesses and

The shortcomings related to the freezing and confiscation of assets have since been addressed through amendments to the PMLA (MONEYVAL 2015). While concerns remain about implementation, the establishment of the Asset Recovery Bureau in 2015 by the Minister of Justice is expected to help mitigate this effectiveness gap by ensuring a centralised unit is responsible for tracing proceeds of crime and identifying, freezing and confiscating such assets (MONEYVAL 2015).

Satisfied with Malta's progress, in 2015 MONEYVAL approved Malta's request for removal from regular follow-up assessments, and the country will report biannually from now on (Know your country 2017).⁷

Political financing

[Political funding](#) is regulated by the Financing of Political Parties Act 2015 and the Malta Foreign Interference Act 1982. The 2015 law states that donations from foreign interests and in some cases from corporations are prohibited and establishes limits on the amount donors may contribute. However, there are no provisions for the direct or indirect public funding of parties or candidates in Malta. Moreover, although the buying of votes is banned there are no limits on the amount parties or candidates may spend. In addition, even though parties are required to keep accounts, and subject themselves to regular auditing, they are not obligated to disclose financial information about election campaigns and only need to reveal the identity of donors in some instances (EuroPAM 2017).

Financial disclosure and conflict of interest

The head of state is immune from financial disclosure and conflict of interest provisions. Ministers are required to disclose real estate, cash, debts, gifts as well as shares or bonds in public or private companies in line with The [Code of Ethics of Ministers, Parliamentary Secretaries and Parliamentary Assistants](#) (1994). However, there is no monitoring mechanism to ensure compliance with the code of ethics or to verify asset declarations (European Commission 2014). Moreover, the law specifies no penalties for violations of financial disclosure or

Professions (DNFBPs) that have similar potential to financial institutions to be used for money laundering. It was proposed that DNFBPs be subject to AML/CTF regulations in order to prevent criminal activity. (Comply Advantage 2016)

⁷ A country is [only subject](#) to 'Regular follow-up' where the mutual evaluation report shows there are significant deficiencies in the country's AML/CFT system (Council of Europe 2014)

conflict of interest provisions. The financial statements by civil servants are not public, and declarations by Ministers can only be shared by prior authorisation of the Prime Minister. Lastly, there is no specified location where the public could access these statements (EuroPAM 2017).

There are [no regulations specifically related to the revolving door or lobbying](#) in Malta. However, the Code of Ethics does require MPs to declare any connections with entities that may have a direct interest in any legislation being debated in the Parliament (European Commission 2014).

Right to information

The Freedom of Information Act (2009, amended 2012) covers government ministries and departments, the parliament, and the judiciary, although the Attorney General's office is excluded. In practice, however, [bureaucratic](#) barriers often prevent the public from accessing records (European Commission 2014; EuroPAM 2017).

Whistleblowing

Under the Protection of the Whistleblower Act (2013), it is a [criminal offence](#) to victimise a person for having disclosed illegal or corrupt practices. The Act applies to the public sector and to larger private companies with the aim of giving employees the security to report wrongdoing, including their own (European Commission 2014). However, in practice whistleblowers face hostility; as mentioned earlier, the police attempted to bring charges against the whistleblower who exposed an alleged medical visa scam (O'Brien 2016).

Institutional framework

The Maltese Parliament set up a Select Committee on Strengthening Democracy in 2008 to consider transparency and accountability, public financing of political parties, and conflicts of interest of the Members of Parliament, parliamentary secretaries and ministers (European Commission 2014). The Select Committee consists of the Speaker as the Chairman and two members each from the ruling party and the opposition (Parlament Ta' Malta 2017). Its [Interim report](#) in 2013 included a draft bill on the setting up of the office of Commissioner and a Standing Committee on Standards in Public Life.

The national [Ombudsman](#) reports to the House of Representatives but their recommendations are non-

binding. The Ombudsman Act (1995) allows the Ombudsman to appoint [Commissioners for Administrative Investigations](#) who are considered to be Officers of Parliament (Ombudsman 2013).

The Permanent Commission against Corruption ([PCAC](#)) was founded in 1988 via the adoption of its namesake legislation. It is a specialised agency dedicated to the investigation of allegations of corruption, either on its own initiative or on the basis of reports made to it by any person. The PCAC has the power to summon witnesses, request files and seek police assistance when it deems fit, and reports its findings to the Minister for Justice. It also instructs, advises and assists Ministers and government departments on the control of corruption. Its composition includes a Chairman and two other members appointed by the President on the advice of the Prime Minister, after consultation with the Leader of the Opposition. According to the law, in the exercise of its functions the PCAC is not subject to the direction or control of any other person or authority (IAACA 2017). Nonetheless, the PCAC is reportedly alarmingly under-resourced, and as of 2014, *none* of the 425 corruption cases investigated by the PCAC since 1988 had resulted in criminal proceedings in court (European Commission 2014).

The Anti-Fraud and Corruption Unit within the Internal Audit and Investigations Department ([IAID](#)) examines government activities and provides internal financial investigative services. Where a criminal offence is uncovered, the Director of the IAID is obliged to report it to the Attorney General, as it is not empowered to conduct criminal investigations (European Commission 2014; IAID 2017).

The [Economic Crime Unit](#) of the Malta Police Force was set up in 1987 to investigate corruption crimes, which are liable to be prosecuted *ex officio*. The Malta Police Force initiates all prosecutions and the Police Commissioner is responsible for prosecution before the Court of Magistrates, as the Attorney General only prosecutes before the superior courts. The unit also ensures that police officers are subject to disciplinary rules and that a code of ethics applicable to all public officials (European Commission 2014; Pulizija.gov.mt 2017).

The National Audit Office ([NAO](#)) is charged with the promotion of accountability of public officers and to

contribute to better management of public resources. It has access to all documents and records relating to the accounts of the bodies audited. However, like most investigative institutions in Malta, NAO also faces obstacles in collecting evidence such as witness testimony and it often must rely on the police to take corruption allegations forward (European Commission 2014).

The Maltese government established the Financial Intelligence Analysis Unit ([FIAU](#)), under the Prevention of Money Laundering Act. The FIAU is [responsible](#) for the collection, collation, processing, analysis and dissemination of information with a view to combating money laundering and the funding of terrorism. The unit is also responsible for monitoring compliance with the relevant legislative provisions (such as the PMLA) as well as issuing guidelines to curb money laundering (European Commission 2014). In 2015, the FIAU received 281 suspicious transaction reports (STRs) related to 602 natural and legal persons, of whom 70% were non-Maltese nationals or foreign companies. 48% of the STRs came from credit institutions, after which remote gaming companies (11.4%), and investment service licensees (9.3%) were the most common reporting entities. Over the course of 2015, 20 cases were referred to the police for further investigation, around half of which had fraud as the predicate offence. In the same year, the Maltese courts handed down five convictions for money laundering (Financial Intelligence Analysis Unit 2017).

Other stakeholders

Media

Malta's press environment is considered to be free (Freedom House 2015b) and it ranks 46 in the [World Press Freedom Index](#) (RSF 2016). According to the Freedom of the Press Report 2016, Malta's constitution guarantees freedoms of speech and the press, however there exist limitations on these rights, notably laws against "vilification" of or "giving offense" to the Roman Catholic faith, the country's official religion. Maltese law also criminalises obscene speech, acts, and gestures in order to defend public morality (Freedom House 2015b).

Protection of journalistic sources is safeguarded under Article 46 of the Press Act. However, defamation is a criminal offense and civil libel cases are also common,

with news outlets occasionally ordered to pay exorbitant damages. More than 30 defamation actions were filed by lawyers or politicians in 2014, many of these libel cases resulted in fines or jail terms (RSF 2016).

A former editor for *It-Torca* was fined \$6,800 for an image and article, published in 2012, about alleged corruption at Transport Malta chief executive Stanley Portelli's private agency (Freedom House 2015b). Most recently, Malta Independent columnist and blogger Daphne Caruana Galizia had her bank accounts frozen with a precautionary warrant for \$50,000 for publishing a story that Economy Minister Chris Cardona and his consultant Joe Gerada visited a brothel while in Germany on government business (EFJ 2017). This became the [first Maltese case](#) of media violation being [reported](#) to the Council of Europe Platform for the Protection of Journalism, by the European Federation of Journalists (EFJ 2017).

Moreover, despite the Freedom of Information Act, media outlets continue to complain of their requests for information being routinely ignored. All radio and television broadcasts are regulated and monitored by the Maltese Broadcasting Authority whose members are appointed by the president on the advice of the prime minister. This arrangement has been criticised for its potential to exert political influence (Freedom House 2015b).

The island state accommodates at least five daily and two weekly newspapers that are printed in Maltese and English. The two major political parties, labour unions, private businesses, and the Catholic Church have direct stakes in broadcast and print media, many of which enable these outlets to express partisan views openly (Freedom House 2015b).

Civil society

The [right to association](#) is guaranteed by law and is unrestricted in practice (HRR 2014). The National Federation of NGOs (NFNM) seeks to strengthen the role and influence of NGOs by offering support and facilitating communication between NGOs; NFNM is also entrusted with regulating the framework within which NGOs operate. Malta is the only EU member without a local chapter of Transparency International. There are no civil society organisations specifically dedicated to the fight against corruption. However, a blog with the aim of combatting corruption known as

the [Anti-corruption Digest](#) does exist and it regularly publishes articles and opinions on relevant issues (GAN Integrity 2016).

With respect to safeguarding citizens' rights, there are a few relevant civil society organisations. The [Association for Consumer Rights](#) (Malta) aims to act as a pressure group to safeguard the interests of consumers, the [Platform of Human Rights Organisations in Malta](#) (PHROM), and [Jesuits of Malta](#), a Catholic organisation, all work for the betterment of Maltese public life. Though most non-governmental organisations have links to the Catholic faith, various secular groups also exist that promote education.

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