

Standing and operational space of non-governmental organisations (NGOs) in contributing to respecting and promoting fundamental rights in EU Member States

Malta 2017

Contractor's name: ADITUS Foundation

Author(s) name: Dr. Neil Falzon Reviewed

by: Dr. David Zammit

DISCLAIMER: This document was commissioned under contract as background material for a comparative analysis by the European Union Agency for Fundamental Rights (FRA) for the report 'Challenges facing civil society organisations working on human rights in the EU'. The information and views contained in the document do not necessarily reflect the views or the official position of FRA. The document is made publicly available for transparency and information purposes only and does not constitute legal advice or legal opinion.

Table of contents

1	Regulatory environment for the work of non-governmental organisations	3
2	EU Member State government funding for non-governmental organisations – trends and developments 2011-2016	6
2.1	Overall amount of government funding.....	6
2.2	Distribution of government funding	9
2.3	Restrictions (or other changes) on NGO funding from other sources	10
3	Access to the decision-making process for non-governmental organisations working on fundamental rights.....	10

1 Regulatory environment for the work of non-governmental organisations

Title of legislation and reference	Topic (please make reference to categories A-F see guidelines)	Effect on civil society (positive or negative) Please include reference to source of information
<p>1. Voluntary Organisations (Amendment) Bill, 2016, available at http://socialdialogue.gov.mt/en/Public_Consultations/MSDC/Pages/Consultations/2016_MSDC_VOA.aspx. The bill has not yet been presented to parliament as the responsible ministry is in the process of analysing the feedback it received in the public consultation held between April and July 2016.</p>	C	No information available. ¹
<p>2. Media and Defamation Bill, presented to the House of Representatives on 10 October 2016, available at http://www.parliament.mt/file.aspx?f=60440. This is not yet adopted and is still under discussion in parliament.</p>	A, F	<p>Mixed, yet generally negative.</p> <p>1. Comments made by the Head of Department of Media and Communications, faculty of Media and Knowledge Sciences, University of Malta. The comments were made on his Facebook page on 16 February 2017:</p>

¹ Email request was sent to the Ministry for Social Dialogue, Consumer Affairs and Civil Liberties, asking for the feedback received during the public consultation.

		<p>https://www.facebook.com/gorg.mallia?fref=ts. Dr. Mallia welcomed the bill's removal of criminal libel, but was strongly critical of the bill's requirement for newspaper and website editors to register with a Media Registrar.</p> <p>2. Statement by the Malta Information Technology Law Association (MITLA): http://www.mitla.org.mt/blog/2017/02/16/proposed-defamation-laws-serious-threat-internet-freedoms/. In its statement, the MITLA also criticised the registration requirement, viewing it as "direct curtailment to freedom of speech online."</p> <p>3. Editorial of the Malta Independent, 19 February 2017, http://www.independent.com.mt/articles/2017-02-19/newspaper-leader/Editorial-Government-jumps-the-gun-on-internet-freedoms-6736170599. The newspaper also criticised the registration requirement, welcoming the bill's removal of criminal libel.</p>
--	--	--

<p>3. Voluntary Organisations (Annual Returns and Annual Accounts) Regulations, Legal Notice 379 of 2012, available at http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lp&itemid=24019&l=1.</p>	<p>C</p>	<p>No commentary found,² yet the Malta LGBTIQ Rights Movement (MGRM)³ commented that the reporting requirements stipulated in the law are feasible and promote accountability within the sector. MGRM noted concerns regarding the capacity of the Commissioner for Voluntary Organisations to process in a timely manner all the annual returns received from the sector.</p> <p>A certificate of compliance issued by the Commissioner is often a requirement for access to funding. Furthermore, some non-governmental organisations (NGOs) might not be aware of the details of the legislation and might struggle to abide by its provisions where administrative resources are limited.</p> <p>The regulations complement the Voluntary Organisations Act by establishing the procedure, templates and details voluntary organisations need to abide by in terms of financial management. The regulations provide</p>
---	----------	---

² Queries were sent to three voluntary organisations: SOS Malta, Victim Support Malta and Malta LGBTIQ Rights Movement. No replies yet received from SOS Malta and Victim Support Malta.

³ Comments provided via email on 11 April 2017, MGRM coordinator.

		<p>details regarding the annual return to be compiled by voluntary organisations, setting thresholds that define the nature of financial reporting obligations according to annual revenue.</p> <p>The regulations also regulate reporting on other issues, such as changes in administrators and in statutes.</p> <p>The Commissioner for Voluntary Organisations is empowered by the regulations to take action against voluntary organisations that default in their reporting obligations.</p>
--	--	--

2 EU Member State government funding for non-governmental organisations – trends and developments 2011-2016

2.1 Overall amount of government funding

NGOs have access to various funding programmes, created for general purposes and not specifically for NGOs operating in the area of fundamental rights.

The Malta Council for the Voluntary Sector (MCVS), an entity established in the national law regulating the voluntary sector with the function of representing the sector in relations with government entities,⁴ manages a number of funding programmes for NGOs: the Voluntary Organisations

⁴ The Malta Council for the Voluntary Sector is established in Article 35 of the Voluntary Organisations Act, Chapter 492 of the Laws of Malta, 2007, <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8958&l=1>.

Project Scheme (VOPS),⁵ the Small Initiative Support Scheme (SIS),⁶ and the Civil Society Fund (CSF).⁷ The table below provides the amounts disbursed for each of these funds:⁸

	VOPS (also NGO Fund until 2015)	SIS Scheme	CSF
2011	1,471,900	Not yet established.	Managed by the Ministry for Social Dialogue, Consumer Affairs and Civil Liberties (MSDC).
2012	2,402,900	59,621.33	Managed by MSDC.
2013	3,095,560	57,818	Managed by MSDC.
2014	1,930,600	59,836.5	50,939.55
2015	1,075,000	68,494.88	120,486
2016	682,329.49	99,809	91,524.60

Without access to official information providing an explanation, it is not clear why the amounts provided under the VOPS scheme were reduced starting in 2013. The table seems to suggest a relationship between the handing over of CSF responsibility from MSDC to the MCVS, and the drop in funds made available through VOPS, yet official information is needed to confirm this relationship. Towards the end of 2015, MSDC and the Ministry for the Family and Social Solidarity (MFSS) and the Ministry for Finance agreed that a specific number of NGOs, previously enjoying funds under the VOPS scheme, would enter a service provision agreement with MFSS for 2016, a practice referred to below.

The National Youth Agency, *Aġenzija Żgħażaġħ*, runs the A4U Scheme, targeting youth groups of youth organisations with assistance for projects up to a maximum of € 1,500.

Arts Council Malta provides funds to culture of arts NGOs or to projects having an artistic theme. NGOs implementing projects on fundamental rights issues are also eligible to apply for Arts Council funds as long as they fulfil the main requirement of including an artistic element in the project. For example, the Creative Communities Fund, established in 2015,

⁵ For more information, see: <http://vofunding.org.mt/funds/1>. This was formerly known as the NGO Fund, managed by the Ministry for Social Dialogue, Consumer Affairs and Civil Liberties.

⁶ For more information, see: <http://vofunding.org.mt/funds/2>.

⁷ For more information, see: <http://maltacvs.org/civil-society-fund/>.

⁸ Information provided by the Malta Council for the Voluntary Sector, 24 February 2017.

provided around € 150,000 in 2015 and around € 75,000 in 2016, and included projects having a fundamental rights theme amongst its beneficiaries.⁹ Furthermore, in 2016, a new scheme was announced where the private sector may claim donations made to cultural NGOs at 150 % of the donated amount – therefore limitedly applicable to NGOs operating in fundamental rights.¹⁰

The Ministry for Foreign Affairs operates a fund for NGOs providing overseas development aid, disbursing the following amounts: € 245,000 (2011), € 363,047 (2012), € 278,656 (2013), € 247,775 (2014), € 235,199 (2015) and € 222,770 (2016).¹¹ The Ministry for Sustainable Development, the Environment and Climate Change announced in 2016 the creation of a € 50,000 fund for NGOs involved in environmental protection.¹² To assist NGOs in fulfilling the co-financing obligations related to EU funds, the Ministry for Social Dialogue, Consumer Affairs and Civil Liberties operates a NGO Co-Financing Fund.¹³

Together with the above mentioned funds, some NGOs have entered into service provision agreements with ministries or government departments. Information on the details of these agreements is not readily publicly available.¹⁴ Examples include an agreement between the Ministry for Home Affairs and National Security and the Malta Emigrants' Commission for € 400,000, and an agreement between the Ministry for the Family and Social Solidarity and the Malta LGBTIQ Rights Movement for € 135,000.¹⁵

⁹ Information available on the Arts Council Malta, Creative Communities page, <http://www.maltaculture.com/funds/creative-communities>.

¹⁰ Donations (Sports and Culture) (Amendment) Rules, Legal Notice 147 of 2016, available at [http://www.maltaculture.com/files/uploads/misc/L.N.%20147%20of%202016%20-%20Amendment%20\(to%20123.102\).pdf](http://www.maltaculture.com/files/uploads/misc/L.N.%20147%20of%202016%20-%20Amendment%20(to%20123.102).pdf).

¹¹ Information available here: <http://vofunding.org.mt/funds/6>. Information on the amounts was provided by the Development Unit within the Directorate International Development, Economic Affairs and European Institutions within the Ministry for Foreign Affairs on 1 March 2017.

¹² MaltaToday, *Green NGOs to get collective €50,000 in government funds*, 12 September 2016, available at <http://www.maltatoday.com.mt/news/national/69495/green-ngos-to-get-collective-50000-in-government-funds#.WLBekxAfRTY>.

¹³ Information available here: <http://socialdialogue.gov.mt/en/Pages/DPPI/NGO-Co-Financing-Funds.aspx>. Details on the amounts disbursed through this fund have been requested from the Ministry for Social Dialogue, Consumer Affairs and Civil Liberties.

¹⁴ Details of this agreement are found in the 2016 national budget under the list of the Ministry's recurrent expenses, Financial Estimates 2016 available at https://mfin.gov.mt/en/The-Budget/Documents/The_Budget_2016/Financial_Estimates_Final_2016.zip.

¹⁵ MaltaToday, *€135,000 in public funds for LGBTIQ support services*, 24 February 2017, available at

It is difficult to say whether, in terms of overall amounts, government funding of NGO activities related to fundamental rights has increased or decreased. This is primarily because of two elements: there is no special funding programme for NGOs or projects on fundamental rights, and it is only very recently that government funding opportunities have started moving towards a more centralised, open and structured format. In relation to the former observation, it is also relevant to note that no observations can be made on the effective accessibility of the funding opportunities listed above since no research has been made, and no research is available on the extent to which the funding programmes are actually accessible to NGOs.

Regarding the move towards a more centralised funds management process, it seems that the Malta Council for the Voluntary Sector (MCVS) seems to be increasing its role as a manager or operator of public funds. It recently established a website providing information of such funds and it also actually manages the application, assessment, disbursement and monitoring procedures for many of these funds.¹⁶

2.2 Distribution of government funding

There seems to be no significant trend in government funding moving towards a preferred sector. Data on the projects and activities funded by the above mentioned funding programmes reveals that the programmes have provided financial support to activities that include service provision, advocacy, research, awareness raising, campaigns, and capacity building.

http://www.maltatoday.com.mt/news/national/74753/135000_in_public_funds_for_lgbtiq_support_services#.WLBRWRAfRTY.

¹⁶ The website can be found here: <http://vofunding.org.mt/>.

2.3 Restrictions (or other changes) on NGO funding from other sources

Research does not reveal restrictions on NGOs seeking or obtaining funding from other sources.

3 Access to the decision-making process for non-governmental organisations working on fundamental rights

Title of legislation/policy	Reference	Short summary (max 500 characters)
Public Consultations Online (website)	http://socialdialogue.gov.mt/en/Public_Consultations/Pages/Home.aspx	<p>The Ministry for Social Dialogue, Consumer Affairs and Civil Liberties (MSDC) established a webpage whereby bills and policies are opened for public consultation. Whilst MSDC hosts the site, each consultation process has a designated responsible ministry, which is responsible for the specific bill or policy.</p> <p>Through the consultation website, the general public – including NGOs and other civil society actors – are invited to provide feedback on the proposed bills or policies. Consultation periods generally last between two weeks and two months.</p> <p>According to the website, public consultations are composed of four stages: open consultation, closed</p>

		<p>consultation, publication of feedback and consultation outcome.¹⁷</p> <p>This consultation process is not contained in any publicly available law or policy.</p> <p>Through this portal, an increased level of visibility is given to legal and policy proposals. The possibility of commenting on the proposals is innovative for the national context as this possibility was only available from the moment bills were presented to parliament for adoption. This latter process was not available for policies having a national impact, and was generally too late for NGOs to be able to react effectively.</p> <p>A full assessment of the impact of this measure would require an exercise comparing bills as presented on the portal and as affected</p>
--	--	---

¹⁷ See this page Ministry for Social Dialogue, Consumer Affairs, Civil Liberties, The Four Stages of the Online Public Consultations, http://socialdialogue.gov.mt/en/Public_Consultations/Pages/OPCStages.aspx.

		by provided input, if at all.
LGBTI Consultative Council	https://socialdialoguecms.gov.mt/en/LGBTI%20Consultative%20Council/Pages/Home.aspx	<p>In May 2013, the Ministry for Social Dialogue, Consumer Affairs and Civil Liberties established this council as 'an advisory body' to the ministry, providing input on legislation, policies and other measures relevant to LGBTI rights. Council members are appointed by the Minister for Civil Liberties.</p> <p>It is composed of persons representing civil society organisations active in the area of LGBTI rights, including NGOs and other entities.¹⁸</p> <p>In July 2015, the council adopted a LGBTIQ Action Plan 2015–2017 containing a list of national action points to be implemented by specific and identified public entities.¹⁹</p> <p>Throughout its work, the council provided</p>

¹⁸ Terms of Reference, available at: <https://socialdialoguecms.gov.mt/en/LGBTI%20Consultative%20Council/Pages/Termini%20ta%E2%80%99%20Referenza.aspx>.

¹⁹ Available at: <https://socialdialogue.gov.mt/en/Documents/LGBTIQ%20Action%20Plan/LGBTI%20Action%20Plan%20lo%20res.pdf>.

		<p>draft legislation to the government and also engaged in discussions on legal proposals, policy issues and practical measures (mostly contained in the action plan referred to above).</p> <p>The Platform of Human Rights Organisations in Malta (PHROM) described the council as a best practice in the area of engagement between governmental and non-governmental entities: "(these initiatives) formalise relations with Government in a manner that ensures structure, sustainability and dialogue."²⁰</p>
--	--	--

²⁰ Platform of Human Rights Organisations in Malta, *Greener and Cleaner: Annual Human Rights Report 2015*, April 2016, p. 26. Available at: <http://humanrightsplatform.org.mt/phromdocuments/2015ahrr.pdf>.