

INDEPENDENT REPORTING MECHANISM (IRM):

# MALTA PROGRESS REPORT 2015–2017

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First Progress Report





# INDEPENDENT REPORTING MECHANISM (IRM): MALTA PROGRESS REPORT 2015-2017



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# EXECUTIVE SUMMARY

## INDEPENDENT REPORTING MECHANISM (IRM): MALTA PROGRESS REPORT 2015-2017

**The majority of Malta's five commitments were not relevant to OGP values. Overall, the action plan lacked specificity and ambition for making government more open. To make the next action plan more ambitious, the government could seek diverse input while developing the action plan and set up a multi-stakeholder forum for consultation.**

The Open Government Partnership (OGP) is a voluntary international initiative that aims to secure commitments from governments to their citizenry, to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance. Malta began participating in OGP in August 2011. The Independent Reporting Mechanism (IRM) carries out a biannual review of the activities of each country that participates in OGP.

The Ministry for Social Dialogue, Consumer Affairs and Civil Liberties (MSDC) is responsible for OGP in Malta, primarily since its responsibilities include dialogue with CSOs. MSDC's OGP leadership is acknowledged by other public entities, yet there is no national legal authority for this responsibility.

Malta lacks a permanent multi-stakeholder forum actively overseeing the development and implementation of the action plan.

### OGP PROCESS

Countries participating in the OGP follow a process for consultation during development of their OGP action plan and during implementation.

During the first action plan cycle, OGP found the country acted contrary to the OGP process as the country had not made progress on any of its commitments. The government had also not published a self-assessment report.

A small group of CSOs was involved in the early stages of drafting the second national action plan in Malta. Selected government entities provided useful feedback on pre-determined priorities. However, consultations were not organised online and, excepting initial consultation with CSOs during the drafting process, the government held no further consultations.

On 12 December 2016, Malta published a draft self-assessment report, inviting feedback from the public. The report was presented to OGP on 24 January 2017.

*This report was prepared by Dr. Neil Falzon in an independent capacity.*

### AT A GLANCE

PARTICIPATING SINCE: 2011  
NUMBER OF COMMITMENTS: 5

#### LEVEL OF COMPLETION

COMPLETED:	0 of 5
SUBSTANTIAL:	1 of 5
LIMITED:	3 of 5
NOT STARTED:	1 of 5

#### COMMITMENT EMPHASIS

ACCESS TO INFORMATION:	2 of 5
CIVIC PARTICIPATION:	1 of 5
PUBLIC ACCOUNTABILITY:	0 of 5
TECH & INNOVATION FOR TRANSPARENCY & ACCOUNTABILITY:	0 of 5

#### COMMITMENTS THAT ARE

CLEARLY RELEVANT TO AN OGP VALUE:	2 of 5
OF TRANSFORMATIVE POTENTIAL IMPACT:	0 of 5
SUBSTANTIALLY OR COMPLETELY IMPLEMENTED:	1 of 5

**ALL THREE (★): 0**

## COMMITMENT IMPLEMENTATION

As part of OGP participation, countries make commitments in a two-year action plan. The Malta action plan contains five commitments. The following tables summarize each commitment's level of completion, potential impact, whether it falls within Malta's planned schedule and the key next steps for the commitment in future OGP action plans. Similar commitments have been grouped and re-ordered for easier comprehension.

Note that IRM updated the star criteria in early 2015 in order to raise the standard for model OGP commitments. Under these criteria, commitments must be highly specific, relevant to OGP values, of transformative potential impact, and substantially completed or complete.

Malta did not receive any starred commitments due to both a lack of relevance to OGP values, and a lack of specificity in most commitments.

**Table 1 | Assessment of Progress by Commitment**

COMMITMENT SHORT NAME	POTENTIAL IMPACT				LEVEL OF COMPLETION			
	NONE	MINOR	MODERATE	TRANSFORMATIVE	NOT STARTED	LIMITED	SUBSTANTIAL	COMPLETE
<b>Theme 1: Improving public services</b>								
<b>1. Participation of women in the public service</b>								
1.1 Family-friendly measures								
1.2 Childcare centres								
1.3 Strategic leadership skills								
<b>2. Training and knowledge sharing amongst public service employees</b>								
2.1 Centre for Development Research and Training								
2.2 Ongoing training for middle and top managers								
<b>3. E-services online</b>								
3.1 Mobile technologies								
3.2 Online authentication mechanism								
3.3 Increase online service uptake								

COMMITMENT SHORT NAME	POTENTIAL IMPACT				LEVEL OF COMPLETION			
	NONE	MINOR	MODERATE	TRANSFORMATIVE	NOT STARTED	LIMITED	SUBSTANTIAL	COMPLETE
<b>Theme 2: Improving public integrity</b>								
<b>4. Public access to information</b>								
4.1 Periodic information updates								
4.2 Department contact points								
4.3 Central access platform								
<b>5. Social dialogue</b>								
5.1 Workshops and further collaboration								
5.2 Portal awareness raising								

**Table 2 | Summary of Progress by Commitment**

NAME OF COMMITMENT	SUMMARY
<p><b>1. Participation of women in the public service</b></p> <ul style="list-style-type: none"> <li>• OGP value relevance: Unclear</li> <li>• Potential impact: Minor</li> <li>• Completion: Limited</li> </ul>	<p>This commitment seeks to address participation of women in the civil service by tackling the challenges of balancing family and work obligations. It seeks to do this by introducing family-friendly measures including reduced working hours and strategic leadership training. There is no publicly available information on the activities undertaken for introducing family-friendly measures or strategic leadership skills during the period under review. Government did, however, set up several childcare centres. Given that the commitment is not clearly relevant to OGP values, IRM researchers recommend refraining from carrying this commitment over to the next national action plan.</p>
<p><b>2. Training and knowledge sharing amongst public service employees</b></p> <ul style="list-style-type: none"> <li>• OGP value relevance: Unclear</li> <li>• Potential impact: Minor</li> <li>• Completion: Not started</li> </ul>	<p>This commitment seeks to improve public services through increased training for public officials. As written, the commitment does not entail any element that could be relevant to open government. Due to limited access to relevant information, the researcher was unable to assess implementation. Should the government carry this commitment forward, the IRM researcher recommends government clarify its relevance to OGP values. Government could, for instance, specify training content that is relevant to improving access to information, civic participation, and public accountability.</p>
<p><b>3. E-services online</b></p> <ul style="list-style-type: none"> <li>• OGP value relevance: Unclear</li> <li>• Potential impact: Minor</li> <li>• Completion: Substantial</li> </ul>	<p>Through this commitment, Malta aims to improve eGovernment service delivery. This commitment is part of an existing long-term strategy and its implementation was underway before the action plan was adopted. Steps taken by the government include the creation of mobile applications and overhauling the electronic ID system. This commitment lacked clear relevance to OGP values and could be omitted from the next action plan.</p>
<p><b>4. Public access to information</b></p> <ul style="list-style-type: none"> <li>• OGP value relevance: Clear</li> <li>• Potential impact: Minor</li> <li>• Completion: Limited</li> </ul>	<p>This commitment is intended to increase effective public access to government information by regularly publishing online information on government services and activities. While the majority of websites contained recent news update, the availability of policy documentation was sparse and difficult to locate. If this commitment is to be carried forward to the next national action plan, the government could specify the type of information to be published by government.</p>
<p><b>5. Social dialogue</b></p> <ul style="list-style-type: none"> <li>• OGP value relevance: Clear</li> <li>• Potential impact: Minor</li> <li>• Completion: Not started</li> </ul>	<p>This commitment seeks to increase dialogue with civil society through the use of a public consultation platform established by the government. On this platform, individuals and organisations could comment on proposed legislation, policies and other issues of national significance. The commitment had not started by the midterm. To achieve the platform's full potential, the researcher recommends streamlining online consultation formats and increased public awareness activities to encourage the portal's use.</p>

## RECOMMENDATIONS

The IRM researcher recommends that the government strengthen the OGP process by creating a multi-stakeholder forum for discussing and evaluating OGP commitments. At the policy level, appointments of 'persons of trust' should be made more transparent and accountable by reforming recruitment and appointment procedures in the public service.

Beginning in 2014, all OGP IRM reports include five key recommendations about the next OGP action planning cycle. Governments participating in OGP will be required to respond to these key recommendations in their annual self-assessments. These recommendations follow the 'SMART' logic; they are Specific, Measurable, Answerable, Relevant, and Timebound. Given these findings, the IRM researcher presents the following key recommendations:

### Top Five "SMART" Recommendations

- 1** Malta should establish a multi-stakeholder forum that will play a leading role in consultations during the national action plan formulation, implementation and monitoring.
- 2** To improve the relevance and ambition of commitments, MSDC could organise government-wide consultations on the new action plan and seek additional diverse input from the public and civil society.
- 3** In the next action plan, MSDC could adopt a public consultation policy that revises methodology to ensure public input is sought at the earliest stages of policy development.
- 4** To increase public sector transparency and accountability, the next action plan should commit to developing an online platform that provides complete information relating to the recruitment and appointment procedures in the public service.
- 5** The Ministry of Finance should commit to increased transparency of public procurement and public asset management by adding simplified, user-friendly components to the current website, and establishing a schedule for regular publication of data.

## ELIGIBILITY REQUIREMENTS:

To participate in OGP, governments must demonstrate commitment to open government by meeting minimum criteria on key dimensions of open government. Third-party indicators are used to determine country progress on each of the dimensions. For more information, see Section VII on eligibility requirements at the end of this report or visit: [bit.ly/1929F11](http://bit.ly/1929F11).



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The Open Government Partnership (OGP) aims to secure concrete commitments from governments to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance. OGP's Independent Reporting Mechanism (IRM) assesses development and implementation of national action plans to foster dialogue among stakeholders and improve accountability.

# I | NATIONAL PARTICIPATION IN OGP

## 1.1 HISTORY OF OGP PARTICIPATION

The Open Government Partnership (OGP) is a voluntary, multi-stakeholder international initiative that aims to secure concrete commitments from governments to their citizenry to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance. OGP provides an international forum for dialogue and sharing among governments, civil society organisations, and the private sector, all of which contribute to a common pursuit of open government.

Malta began its formal participation in August 2011, when the Honourable Chris Said, Parliamentary Secretary for Consumers, Fair Competition, Local Councils and Public Dialogue, confirmed Malta's intention to participate in the initiative.<sup>1</sup>

In order to participate in OGP, governments must exhibit a demonstrated commitment to open government by meeting a set of (minimum) performance criteria on key dimensions of open government that are particularly consequential for increasing government responsiveness, for strengthening citizen engagement, and for fighting corruption. Objective, third party indicators are used to determine the extent of country progress on each of the dimensions. See Section VII: Eligibility Requirements for more details.

All OGP-participating governments develop OGP action plans that elaborate concrete commitments over an initial two-year period. Action plans should set out governments' OGP commitments, which move government practice beyond the status quo. These commitments may build on existing efforts, identify new steps to complete on-going reforms, or initiate action in an entirely new area.

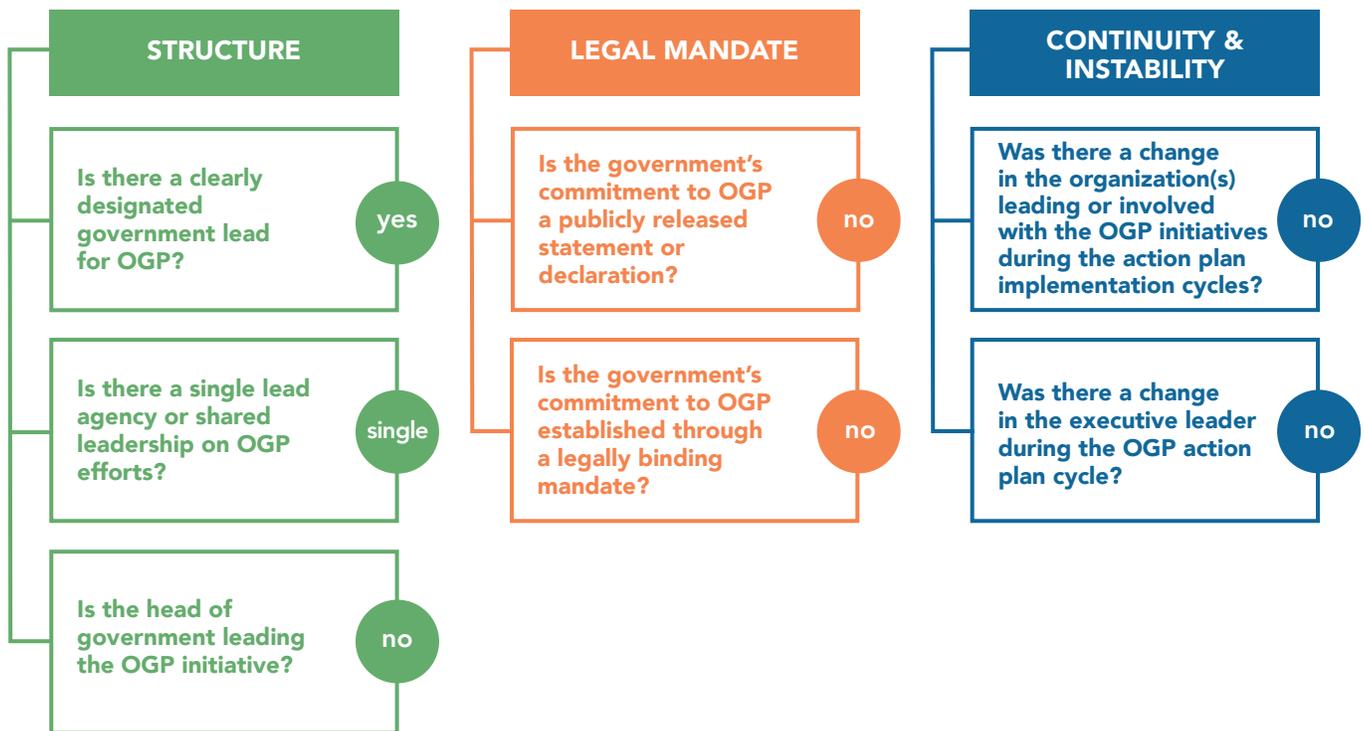
Malta developed its first national action plan for 2012-2013, followed by a second national action plan covering 2015 to 2017.<sup>2</sup> Neither a self-assessment report nor an IRM report was written on Malta's first national action plan. This midterm progress report covers the first year of implementation of the current action plan, from July 2015 through to June 2016.

Beginning in 2015, the IRM also publishes an end-of-term report on the final status at the end of the action plan's two-year period. Any activities or progress made after the first year of implementation, 2016, will be assessed in the end-of-term report.

On 12 December 2016, Malta published a draft self-assessment report and invited public feedback.<sup>3</sup> The report was presented to OGP on 24 January 2017.

In order to meet OGP requirements, the IRM has partnered with Dr. Neil Falzon, who evaluated the development and implementation of Malta's second action plan. It is the aim of IRM to inform on-going dialogue around the development and implementation of future commitments in each OGP-participating country. Methods and sources are discussed in Methodology and Sources (Section VI) in this report.

**Table 1.1 | OGP Leadership in Malta**



## 1.2 OGP LEADERSHIP IN MALTA

This subsection describes the OGP leadership and institutional context for OGP in Malta. Table 1.1 summarizes this structure while the narrative section below provides additional detail.

As head of Malta's Executive branch of Government, the Office of the Prime Minister leads a Cabinet of fifteen ministries. The lead entity for coordinating OGP-related affairs is the Ministry for Social Dialogue, Consumer Affairs and Civil Liberties (MSDC). Other ministries, departments and agencies are responsible for various specific commitments. Within MSDC, the Ministry's highest public official – the Permanent Secretary, holds direct OGP responsibility. The Permanent Secretary has delegated daily OGP affairs to the Director of the Policy Development and Programme Implementation Directorate, who is directly supported by at least one administrative staff member and two research analysts.

MSDC's portfolio includes several areas of responsibility, including industrial relations, equality and non-discrimination, data protection, public consultations, and freedom of information. Housing OGP under this ministry seems appropriate, as it is an institution that was established and operates with a view toward crosscutting inter-ministerial and inter-agency dialogue.

Given that MSDC is specifically responsible for social dialogue, MSDC may be more effective than other ministries in its engagement with other government entities as well as with civil society organisations. In fact, MSDC often engages in public consultation processes, as well as in formal and informal dialogue initiatives with civil society.

Despite MSDC's potential, the Ministry lacks legal authority over entities falling outside its areas of responsibility.

Placing OGP coordination directly under the responsibility of the Permanent Secretary strengthens its position within MSDC and consequently, the Government. However, while several public agencies fall within MSDC's area of responsibility, it remains a small ministry.<sup>4</sup> MSDC is one of Malta's smallest ministries in terms of human and financial resources.<sup>5</sup> The number of working hours specifically allocated to OGP is unclear. Furthermore, within the Ministry's relatively small annual budget, there

is no explicit funding allocated to OGP.<sup>6</sup> Similarly, there is no indication of budgetary allocations made in other ministries overseeing OGP commitments.

OGP's formal position within MSDC is not defined in any legal or publicly available official document, yet the government reiterated that it remains bound to the OGP initiative through its 2011 commitment declaration.<sup>7</sup>

**Table 1.2 | Participation in OGP by Government Institutions<sup>8</sup>**

HOW DID INSTITUTIONS PARTICIPATE?		MINISTRIES, DEPARTMENTS, AND AGENCIES	LEGISLATIVE	JUDICIARY (INCLUDING QUASI JUDICIAL AGENCIES)	OTHER, INCLUDING CONSTITUTIONAL, INDEPENDENT, OR AUTONOMOUS BODIES	SUBNATIONAL GOVERNMENTS
Consult <sup>9</sup>	Number	11	0	0	3	0
	Which ones?	See endnote <sup>10</sup>			Malta Council for the Voluntary Sector (MCVS) Office of the Commissioner for Voluntary Organisations (CVO) Malta Council for Economic and Social Development (MCESD) <sup>11</sup>	
Propose <sup>12</sup>	Number	8	0	0	1	0
	Which ones?	See endnote <sup>13</sup>			MCESD	
Implement <sup>14</sup>	Number	4	0	0	0	0
	Which ones?	MFSS CDRT MITA MSDC				

## 1.3 INSTITUTIONAL PARTICIPATION IN OGP

This subsection describes government (state) institutions were involved at various stages in OGP. The next section will describe which non-governmental organizations were involved in OGP.

MSDC consulted with government entities following preliminary consultations with civil society organisations (CSOs), explained further below. MSDC did not conduct a comprehensive and government-wide consultation. Instead, it consulted only those government entities that were likely to be involved in implementing commitments that had been already drafted by MSDC in cooperation with CSOs.

In this way, MSDC resulted in seeking feedback from government entities that would validate and reassess the input provided by the civil society organisations. As shown in Table 1.2, MSDC chose to consult public entities that were directly linked with the pre-identified commitments, focusing on those entities

that would eventually be responsible for commitment implementation. The consultation sought more detailed and specific feedback, particularly on implementation challenges. All entities ultimately charged with implementation were included in the consultation process and provided feedback.<sup>15</sup> This targeted approach omitted other governmental entities that could have provided general feedback and suggestions on implementation support or potential impacts.

Additionally, Table 1.2 shows that, while consultation focused on a select group of ministries and departments within the executive branch of government, it excluded the legislative and judicial branches. Although MSDC also did not include any of the 68 local councils in the consultation process, the Local Councils' Association (LCA) was included as the body representing all local councils.

A more inclusive consultation of all government entities and branches could have produced stronger and further-reaching commitments.

<sup>1</sup> Hon. Chris Said (Parliamentary Secretary for Consumers, Fair Competition, Local Councils and Public Dialogue) letter to Open Government Co-Chairs, 10 Aug. 2011, <http://www.opengovpartnership.org/country/malta>.

<sup>2</sup> Both national action plans are available online at "Malta: Action Plans," Open Government Partnership, <http://www.opengovpartnership.org/country/malta/action-plan>.

<sup>3</sup> "Open Government Partnership Mid-Term Self-Assessment for the 2nd National Action Plan (2015 – 2017)," The Ministry for Social Dialogue, Consumer Affairs and Civil Liberties, 12 Dec. 2016, <http://bit.ly/2ptXsyw>.

<sup>4</sup> See MSDC's organisational structure and staff members at "Ministry for Social Dialogue, Consumer Affairs and Civil Liberties - Organisational Structure," Ministry for Social Dialogue, Consumer Affairs and Civil Liberties, 2016, <http://bit.ly/2pqqxZL>.

<sup>5</sup> Myrna Azzopardi (Research Analyst within the Policy Development and Programme Implementation Directorate at the Ministry for Social Dialogue, Consumer Affairs and Civil Liberties) email to NAME, DATE.

<sup>6</sup> The 2016 budget as well as Ministry-specific financial allocations can be accessed at <http://bit.ly/2qg1dWe>.

<sup>7</sup> Brian Farrugia, Email correspondence, March 20, 2017.

<sup>8</sup> Brian Farrugia (Director Policy Development and Programme Implementation Directorate within MSDC) interview by Dr. Neil Falzon, IRM Researcher, 23 August 2016.

<sup>9</sup> These institutions were invited to or observed the development of the action plan, but may or may not be responsible for commitments in the action plan.

<sup>10</sup> Ministry for the Family and Social Solidarity (MFSS), Ministry for Education and Employment (MEDE), Office of the Prime Minister (OPM), Centre for Development Research and Training (CDRT), Malta Information Technology Agency (MITA), Department of Information (DOI), Ministry for Social Dialogue, Consumer Affairs and Civil Liberties (MSDC), Public Administration Human Resources Office (PAHRO).

<sup>11</sup> MCESD is included in this column since it is a public body and because MSDC identified MCESD as falling under its consultation with government entities. However, MSDC's consultation with MCESD was directed towards its Civil Society Committee. Therefore, although MCESD is included in this column, details on this aspect of the consultation are being included under Section 2.1 below.

<sup>12</sup> These institutions proposed commitments for inclusion in the action plan.

<sup>13</sup> MFSS, MEDE, OPM, CDRT, MITA, DOI, MCESD, MSDC.

<sup>14</sup> These institutions are responsible for implementing commitments in the action plan whether or not they proposed those commitments.

<sup>15</sup> Farrugia. The feedback is not publicly available.

# II | NATIONAL OGP PROCESS

The action plan was drafted by the Ministry for Social Dialogue, Consumer Affairs and Civil Liberties (MSDC) following consultations with select CSOs. The consultation process was not open to a broad range of stakeholders. Beyond this first consultation, no other multi-stakeholder consultation occurred during the reporting period.

Countries participating in OGP follow a set of requirements for consultation during development, implementation and review of their OGP action plan. Table

2.1 summarizes Malta's performance during the 2015-2017 action plan.

**Table 2.1 | National OGP Process**

KEY STEPS FOLLOWED <span>1 of 7</span>			
BEFORE	<b>1</b> TIMELINE PROCESS & AVAILABILITY	<b>2</b> ADVANCE NOTICE	<b>3</b> AWARENESS RAISING
	Timeline and process available prior to consultation 	Advance notice of consultation 	Government carried out awareness-raising activities 
	<b>4</b> MULTIPLE CHANNELS	<b>5</b> DOCUMENTATION & FEEDBACK	
	Consultations held online 	Summary of comments provided 	
Consultations held in person 			
DURING	<b>6</b> REGULAR MULTISTAKEHOLDER FORUM		
	Did a forum exist? 	Did it meet regularly? 	
AFTER	<b>7</b> GOVERNMENT SELF-ASSESSMENT REPORT		
	Annual self-assessment report published 	Two-week public comment period on report 	
	Report available in English and administrative language 	Report responds to key IRM recommendations 	

The IRM has adopted the International Association for Public Participation (IAP2) Scale of participation in OGP. The table below shows the level of public influence on the action plan. From left to right, features of participation are cumulative. In the spirit of OGP, most countries should aspire for “collaborative.” (OGP countries are generally not expected to reach “empower.”)

**Table 2.2 | Level of Public Input**



## 2.1 ACTION PLAN DEVELOPMENT

Prior to the consultation, MSDC did not publicise the timeline or process for the action plan development. No awareness-raising activities took place.

The stakeholder consultation involved a limited group of civil society organisations (CSOs) and was not an open and advertised process. Consulted stakeholders were given information on the OGP process, including its timelines, in the meeting described below.

MSDC consultation with CSOs was facilitated through the Civil Society Committee within the Malta Council for

Economic and Social Development (MCESD).<sup>1</sup> MCESD is a statutory body, with a civil society component, that advises the government on social and economic issues and is independent of OGP.<sup>2</sup> The Civil Society Committee was established within MCESD in 2012.<sup>3</sup>

The Civil Society Committee is required to meet at least once monthly and consists of up to twelve members, representing twelve social sectors: consumer affairs; health; elderly and pensioners; gender equality; professions; youth and students; sports; agriculture, rural and fisheries; environmental protection and improvement, including the protection

of animals, culture, arts and national heritage; persons with disability; education, social and community advancement; local councils; voluntary organisations not active in these sectors.

Membership in the Committee involves a nomination and election process. CSOs interested in participating in MCESD's operations, including nominations and elections to the Civil Society Committee, are required to express their interest in writing to the MCESD, and will then be added to MCESD's Register of Voluntary Organisations.<sup>4</sup> Such participation is open to all CSOs registered with the Commissioner for Voluntary Organisations, the national public entity responsible for registering and regulating CSOs and their operations.<sup>5</sup>

Communication from the Committee is only received by those CSOs who are part of the MCESD's Register of Voluntary Organisations. CSOs not included on this Register are not privy to newsletters, consultations or discussions being held within the Committee.

The OGP consultation occurred during a regularly scheduled Committee meeting. Mr. John Aquilina, Managing Consultant within the Management Efficiency Unit of the Office of the Prime Minister, delivered a presentation on OGP during the 24 March 2015 meeting.<sup>6</sup> The IRM researcher requested the list of participants from MCESD but the list was not provided.<sup>7</sup> The presentation focused on OGP values and processes, as well as Malta's participation. Following the presentation, MSDC explained OGP's five grand challenges. MSDC invited the organisations to rank these challenges in order of importance, offer measures that might address these challenges and identify best practices implemented in other countries. In facilitation of this feedback, MSDC distributed document templates identifying these three requests.<sup>8</sup> The CSOs were given three weeks to present their feedback with a deadline of 15 April 2015.

According to MSDC, six organisations provided feedback, although they did not all complete each question.<sup>9</sup> Following this consultation, MSDC processed and tabulated the feedback, forming the basis for its consultation with government entities, described in Section I.2. The three questions and the five grand challenges were not published on MSDC's or MCESD's websites and no public call for input was issued. The results from this CSO consultation were not made publicly available, either individually or in summary.

Furthermore, although the CSO members of the Civil Society Committee act in a representative capacity, the IRM researcher found no evidence that these Committee CSOs disseminated the three questions and five grand challenges to other, non-consulted organisations. MCESD conducted no further consultation on the development of the action plan.

MSDC drafted the commitments following this consultation process, however, CSOs were not invited to comment on the final text of the commitments. The CSOs interviewed by the researcher for the purposes of this report were overall sceptical about the commitments, describing them as "bread and butter," and not tackling the national priorities.<sup>10</sup>

## 2.2 ONGOING MULTI-STAKEHOLDER FORUM

As part of their participation in OGP, governments commit to identify a forum to enable regular multi-stakeholder consultation on OGP implementation; this can be an existing entity or a new one. This section summarizes that information.

There is no public multi-stakeholder forum on the implementation of the action plan.<sup>11</sup>

## 2.3 SELF-ASSESSMENT

The OGP Articles of Governance require that participating countries publish a self-assessment report three months after the end of the first year of implementation. The self-assessment report must be made available for public comments for a two-week period. This section assesses compliance with these requirements and the quality of the report.

Malta published its self-assessment report on 12 December 2016, inviting public feedback for a two-week period (until 26 December).<sup>12</sup> The report was presented to OGP on 24 January 2017.

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<sup>1</sup> See more information at <http://www.mcesd.org.mt/>.

<sup>2</sup> "Malta Council for Economic and Social Development Act," Article 3, Chapter 431 of the Laws of Malta, 2001, <http://bit.ly/2qffZ2o>.

<sup>3</sup> "Malta Council for Economic and Social Development Act," (Civil Society Committee) Regulations, Legal Notice 206 of 2012, <http://bit.ly/2pdCXpg>.

<sup>4</sup> The Register is available here: <http://bit.ly/2qf2IAy>.

<sup>5</sup> See "Commissioner for Voluntary Organisations," Office of the Commissioner for Voluntary Organisations, 2015, <http://bit.ly/2puao7B>.

<sup>6</sup> Brian Farrugia (Director Policy Development and Programme Implementation Directorate within MSDC) interview by Dr. Neil Falzon, IRM Researcher on 23 August 2016. The meeting is also listed on the web page of the Civil Society Committee meetings, at <http://bit.ly/2pujVWz>.

<sup>7</sup> Generally, Civil Society Committee Members at the time were: Association for Consumer Rights Malta, National Association of Pensioners, Malta Confederation of Women's Organisations, Malta Federation of Professional Associations, JCI Malta, Touring Club Mata, Malta Organic Agriculture Movement, Din I-Art Helwa, Malta Federation of Organisations Persons with Disabilities, John XXIII Peace Lab, Local Councils' Association and St. John Rescue Corps.

<sup>8</sup> Although these templates and the stakeholder responses are not available online, MSDC shared the documents with the researcher. The three questions are included on page 15 of the national action plan.

<sup>9</sup> The six contributing organisations were the National Council of Women, the National Association of Pensioners, the Down Syndrome Association, the Association of Physiotherapists and Din I-Art Helwa.

<sup>10</sup> The CSOs interviewed by the researcher were not part of the group of CSOs consulted by MSDC for the drafting of the action plan.

<sup>11</sup> In addition to desk research and CSO consultation, the researcher requested MSDC to provide information regarding the multi-stakeholder forum but MSDC did not provide this information.

<sup>12</sup> The document and consultation questions can be found at <http://bit.ly/2ptXsyw>.

# III | COMMITMENTS

All OGP-participating governments develop OGP action plans that include concrete commitments over a two-year period. Governments begin their OGP action plans by sharing existing efforts related to open government, including specific strategies and ongoing programs.

Commitments should be appropriate to each country's unique circumstances and challenges. OGP commitments should also be relevant to OGP values laid out in the OGP Articles of Governance and Open Government Declaration signed by all OGP-participating countries.

## WHAT MAKES A GOOD COMMITMENT?

Recognizing that achieving open government commitments often involves a multiyear process, governments should attach time frames and benchmarks to their commitments that indicate what is to be accomplished each year, whenever possible. This report details each of the commitments the country included in its action plan, and analyses them for their first year of implementation.

While most indicators used to assess each commitment are self-explanatory, a number deserve further explanation.

- Specificity: The IRM researcher first assesses the level of specificity and measurability with which each commitment or action was framed. The options are:
  - High (Commitment language provides clear, verifiable activities and measurable deliverables for achievement of the commitment's objective)
  - Medium (Commitment language describes activity that is objectively verifiable and includes deliverables, but these deliverables are not clearly measurable or relevant to the achievement of the commitment's objective)
  - Low (Commitment language describes activity that can be construed as verifiable but requires some interpretation on the part of the reader to identify what the activity sets out to do and determine what the deliverables would be)
- None (Commitment language contains no measurable activity, deliverables or milestones)
- Relevance: The IRM researcher evaluates each commitment for its relevance to OGP values. Based on a close reading of the commitment text as stated in the action plan, the guiding questions to determine the relevance of the commitment to OGP values are:
  - Access to Information: Will government disclose more information or improve quality of the information disclosed to the public?
  - Civic Participation: Will government create or improve opportunities or capabilities for the public to inform or influence decisions?
  - Public Accountability: Will government create or improve opportunities to hold officials answerable to their actions?
  - Technology & Innovation for Transparency and Accountability: Will technological innovation be used in conjunction with one of the other three OGP values to advance either transparency or accountability?<sup>1</sup>
- Potential impact: The IRM is tasked with assessing the potential impact of the commitment, if completed. The IRM researcher uses the text from the action plan to:
  - Identify the social, economic, political, or environmental problem;
  - Establish the status quo at the outset of the action plan and;
  - Assess the degree to which the commitment, if implemented, would impact performance and tackle the problem.
- Starred commitments are considered exemplary OGP commitments. In order to receive a star, a commitment must meet several criteria:
  - It must be specific enough that a judgment can be made about its potential impact. Starred commitments will have "medium" or "high" specificity.

- o The commitment's language should make clear its relevance to opening government. Specifically, it must relate to at least one of the OGP values of Access to Information, Civic Participation, or Public Accountability.
- o The commitment would have a "transformative" potential impact if completely implemented.<sup>2</sup>
- o Finally, the commitment must see significant progress during the action plan implementation period, receiving an assessment of "substantial" or "complete" implementation.

Based on these criteria, Malta's action plan contained no starred commitments.

Finally, the tables in this section present an excerpt of the wealth of data the IRM collects during its progress reporting process. For the full dataset for Malta and all OGP-participating countries, see the OGP Explorer.<sup>3</sup>

## GENERAL OVERVIEW OF THE COMMITMENTS

Malta's national action plan contained five commitments. Three of them were not clearly relevant to OGP values. Out of the two clearly relevant commitments, one sought to improve public access to government information through regular updates of government websites. Another commitment sought to improve usage of the online public consultations portal.

Overall, the commitments largely represented ongoing activities or existing projects implemented by various public entities.

<sup>1</sup> IRM Procedures Manual. Available at: <http://bit.ly/2pdJlwl>.

<sup>2</sup> The International Experts Panel changed this criterion in 2015. For more information, see "IRM to Raise the Bar for Model Commitments in OGP," Independent Reporting Mechanism, OGP, 6 May 2015, <http://www.opengovpartnership.org/node/5919>.

<sup>3</sup> [bit.ly/1KE2Wll](http://bit.ly/1KE2Wll)

# THEME 1. IMPROVING PUBLIC SERVICES

## 1 | PARTICIPATION OF WOMEN IN THE PUBLIC SERVICE

### Commitment Text:

The overall objective is to increase the participation of women in the public service by focusing on more family friendly measures and work life balance initiatives.

### Milestones:

Wider availability of family-friendly measures (such as tele-working, reduced hours, job sharing, compressed working week and flexible work schedules).

Set up childcare centre/s in those area/s where there is high concentration of public service and public sector offices thus facilitating access between working mothers and their children example, in Valletta.

Intensify/redesign training in strategic leadership skills to empower women to take up challenging and decision making positions within the public service/public sector but also helps them devise better balance between their work demands and family responsibilities.

### Responsible institution:

Ministry for the Family and Social Solidarity

### Supporting institution(s):

Office of the Prime Minister, Ministry for Education and Employment, Ministry for Social Dialogue, Consumer Affairs and Civil Liberties.

**Start Date:** 1 January 2015

**End Date:** 31 December 2017

COMMITMENT OVERVIEW	SPECIFICITY				OGP VALUE RELEVANCE (as written)				POTENTIAL IMPACT				ON TIME	COMPLETION			
	None	Low	Medium	High	Access to Information	Civic participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative		Not started	Limited	Substantial	Complete
1. Overall		X			Unclear					X			Yes		X		
1.1. Family friendly measures	X				Unclear				X				No	X			
1.2. Childcare centres		X			Unclear				X				Yes		X		
1.3. Strategic leadership skills	X				Unclear					X			No	X			

## CONTEXT AND OBJECTIVES

This commitment seeks to address the low level of female participation in the public service, on the assumption that such low participation levels are largely due to challenges faced by women in balancing their working and family lives. Through this commitment, Malta aims to introduce measures that primarily address family-related considerations, such as childcare options and working hours, but also the technical capacity of women to hold senior positions within the public service.

Figures for the private sector indicate that Malta has one of the largest gaps in the European Union between male and female employment rates, with the European Commission describing the problem as “particularly challenging.”<sup>1</sup> Furthermore, Malta is listed as one of the Member States where more than 40% of potential female workforce is inactive due to personal and family responsibilities.<sup>2</sup>

Within the public sector, the focus of this commitment, figures from 2010 show women comprise around 41% of civil servants, with 63 women and 239 men holding senior positions.<sup>3</sup> The percentages for 2016 are 49.6% men and 50.4% women.<sup>4</sup>

These statistics demonstrate a steady increase in female employment within the public sector; therefore, the researcher classifies this commitment as part of Malta’s ongoing efforts on this issue.

However, this commitment is not clearly relevant to OGP values, as it has no public-facing element. Although higher numbers of women accessing the public service has the effects of rendering the service more representative of the general population, and possibly of fostering an environment of openness, the interviewed stakeholders commented that this commitment does not improve access to information, does not create mechanisms for better civic participation and does not create opportunities for public accountability.<sup>5</sup>

The commitment addresses some of the personal and family-related challenges faced by women, as identified in the European Commission’s report<sup>6</sup> and in comments by the National Council of Women of Malta.<sup>7</sup> However, as these efforts represent ongoing activities of the government, the commitment will have only a minor impact on open government if fully implemented.

The language of the commitment is relatively vague and lacks specific targets. Two out of three milestones give no measurable targets and the language is broad and generic. The commitment does not state a target number of childcare centres to be established and doesn’t clarify which locations qualify as areas with higher concentrations of public service offices. The commitment does not indicate a target number of women for attending leadership courses and there is little understanding of what is meant by “intensify/redesign training.”

## COMPLETION

There is no publicly available information on activities undertaken for introducing family-friendly measures (Milestone 1) during the period under review. The Permanent Secretary within the Ministry for the Family and Social Solidarity did not provide information on any measures adopted in 2015 or 2016 for public service employees. The researcher also sought information from the Malta Confederation of Women’s Organisations and the National Council of Women, the Council being one of the few CSOs consulted by the Ministry prior to drafting the national action plan.<sup>8</sup> Neither the Council nor the Confederation replied to the researcher’s queries on family-friendly measures for public service employees, levels of female participation in the public service or the effectiveness of family-friendly measures as a tool to increase female participation in the public service.

Regarding the establishment of childcare centres (Milestone 2), 94 childcare centres were registered with Malta’s Free Childcare Scheme at the time of writing the report, while the public entity, Foundation for Educational Services (FES), operated thirteen centres.<sup>9</sup> The 94 centres are not public centres, but privately-owned and operated centres that register with the government-established program. The commitment specifies that childcare centres will be opened in localities with high concentrations of public sector offices, and Valletta is singled out as a primary location. None of the 94 registered centres are located in Valletta, while two (one private and one operated by FES) are located in the neighbouring town of Floriana, a ten-minute walk from Valletta.

There is no publicly available map of public service offices. Focusing on Ministries, instead of all public service offices,

reveals that, of Malta's sixteen Ministries (including the Office of the Prime Minister), only four are located outside Valletta: the Ministry for Education and Employment and the Ministry for Transport and Infrastructure are both located in Floriana, with one childcare centre; the Ministry for Gozo is located in Victoria, Gozo, with no childcare centres; and the Ministry for Sustainable Development, the Environment and Climate Change is located in Santa Venera, with six childcare centres.

There is no publicly available information on the strategic leadership trainings for women. The researcher sent information requests to the Institute for Public Services (formerly known as the Centre for Development Research and Training), which is the main training organisation for public service employees.<sup>10</sup> The researcher requested information on the training activities organised in 2015 and 2016, which specifically addressed women in the public service, as well as information on the course content and levels of participation. No response was provided.

## EARLY RESULTS (IF ANY)

According to official statistics, there has been a steady increase in female participation in the public service since 2014 until the time of this report. However, the researcher is unable to directly contribute this increase to actions taken under this commitment. Despite multiple requests to government officials for interviews, the lack of information on the first and third milestones has prevented the researcher from assessing whether relevant activities have been implemented or led to any immediate results.

## NEXT STEPS

Because the commitment is not clearly relevant to OGP values, the researcher recommends it not be carried forward to the next national action plan.

<sup>1</sup> "European Semester Thematic Fiche: Labour Market Participation of Women," European Commission, 2016, 2, 4, <http://bit.ly/2pumca2>.

<sup>2</sup> "European Semester Thematic Fiche: Labour Market Participation of Women," European Commission, 2016, 2, 4, <http://bit.ly/2pumca2>.

<sup>3</sup> "Public employment – Malta," Eurostat Statistics Explained, 20 Sept. 2016, <http://bit.ly/2oU76Y7>.

<sup>4</sup> Marianne Peplow, (Research and Personnel Systems Directorate, People and Standards Division at the Office of the Prime Minister) email to Dr. Neil Falzon, IRM Researcher on 20 Oct. 2016.

<sup>5</sup> Multi-stakeholder consultation held by the IRM researcher, 17 Nov. 2016. See Section VI for full list of participants.

<sup>6</sup> See footnote 1, above.

<sup>7</sup> "Free Childcare – A Welcome Initiative," National Council of Women of Malta, 5 Mar. 2014, <http://bit.ly/2oGis64>.

<sup>8</sup> See The Malta Confederation of Women's Organisations (MCWO), <http://www.mcwo.net/> and National Council of Women of Malta, <http://www.ncwmalta.com/home?l=1>.

<sup>9</sup> The full list can be found on the website of the Ministry for Education and Employment, <http://bit.ly/2pdSWnb>. FES is a public entity within the Ministry for Education and Employment, providing educational initiatives. For a list of the childcare centres it operates see <http://fes.org.mt/childcare-registration/>.

<sup>10</sup> See "About IPS," 2015, Institute for Public Services, <https://opm.gov.mt/en/IPS/Pages/About-IPS.aspx>.

## 2 | TRAINING AND KNOWLEDGE SHARING AMONGST PUBLIC SERVICE EMPLOYEES

### Commitment Text:

The main objective is to improve public services, strengthen the level of accountability and process of implementing governmental decisions through training and development of public service employees. Specialised training can motivate employees, create a sense of commitment, loyalty and accountability thus ensuring that they are an effective driving force for the government and general public.

### Milestones:

Continue to strengthen the role of the Centre for Development Research and Training (CDRT).

Ensuring that a wider range of middle and top managers receive on-going training.

### Responsible institution:

Office of the Prime Minister – Centre for Development Research and Training

### Supporting institution(s):

None Specified

**Start date:** 1 January 2015

**End date:** 31 December 2017

COMMITMENT OVERVIEW	SPECIFICITY				OGP VALUE RELEVANCE (as written)				POTENTIAL IMPACT				ON TIME	COMPLETION			
	None	Low	Medium	High	Access to Information	Civic participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative		Not started	Limited	Substantial	Complete
<b>2. Overall</b>		X			Unclear					X			No	X			
2.1. Centre for Development Research and Training	X				Unclear				X				No	X			
2.2. Ongoing training for middle and top managers		X			Unclear					X			No	X			

## CONTEXT AND OBJECTIVES

This commitment's overall objective is to improve public services through the training and development of public service employees. However, the commitment does not specify training areas, targets, timelines, or intended results.

As written, this commitment is not clearly relevant to OGP values. Government later specified that the training includes different modules, one of which is for senior and middle managers and covers corporate values, of which ethics is a substantial component.<sup>1</sup> Another module aimed at clerks and principals includes freedom of information and quality of standards.<sup>2</sup> While these trainings might provide an enabling environment for access to information, the trainings are internal-facing and do not involve the release of more or better information, or engage citizens in the process. For these reasons, the commitment was deemed of unclear relevance to OGP values.

As written, the milestones do not provide clear or measurable targets, although the second milestone does indicate training, which may be verified to some extent. However, the target group is not clearly identified. Due to the limited verifiability, as well as its ongoing nature, the researcher marked the second milestone as having a low specificity level. Lack of measurability is an overall limitation with this commitment and its milestones.

In view of the low level of specificity, this commitment's potential impact is minor.

## COMPLETION

In 2016, the Centre for Development Research and Training (CDRT) was renamed the Institute for Public Services (IPS).<sup>3</sup> There is no publicly available information of any activities having been carried out to strengthen the role of this entity in training public servants. The Institute did not respond to information requests sent by the researcher.

## EARLY RESULTS (IF ANY)

Since the commitment doesn't define or specify the planned training, and since no information relating to the milestones was disclosed, it is not possible to identify any early results related to this commitment.

## NEXT STEPS

Despite the above concerns relating to the lack of specificity in the commitment, training public officials is an area that could potentially improve public accountability in Malta. This would require rewording the commitment in a way that clearly specifies training content directly relevant to OGP values. Training themes could include answering access to public information requests, public service ethics and accountability, improving disclosure practices, holding public consultations and participatory policymaking on key decisions.

<sup>1</sup> Brian Farrugia, Email correspondence, March 20, 2017.

<sup>2</sup> Brian Farrugia, Email correspondence, March 20, 2017.

<sup>3</sup> "About IPS," Institute for Public Services, 2015, <https://opm.gov.mt/en/IPS/Pages/About-IPS.aspx>.

## 3 | E-SERVICES ONLINE

### **Commitment Text:**

*MITA and various other Ministries, in charge of eServices, are currently working on the “public Services Online” project. The aim of the project is to research the reasons which are negatively impacting the current take-up of eGovernment services; and to raise awareness with the general public on government’s drive towards simplification of public administration through the availability of eServices, and on the convenience that these eGovernment services provide to citizens. This commitment will enhance the accessibility of such services extending to citizens and businesses from other EU member states and implement initiatives to increase the up-take of online provides and engage citizens and businesses to interact with Government.*

### *Milestones:*

*Deliver transformational eGovernment services to citizens and businesses through active use of mobile technologies.*

*Improve the existing online authentication mechanism, re-engineer to reflect industry trends, and adopt a federated approach.*

*Implement initiatives to increase the up-take of online services and engage citizens and businesses to interact with Government.*

### **Responsible institution:**

Malta Information Technonology Agency (MITA)

### **Supporting institution(s):**

Office of the Prime Minister – Department of Information

**Start date:** 1 January 2015

**End date:** 31 December 2017

COMMITMENT OVERVIEW	SPECIFICITY				OGP VALUE RELEVANCE (as written)				POTENTIAL IMPACT				ON TIME	COMPLETION				
	None	Low	Medium	High	Access to Information	Civic participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative		Not started	Limited	Substantial	Complete	
<b>3. Overall</b>		X			Unclear					X			Yes				X	
3.1. Mobile technologies		X			Unclear					X			Yes				X	
3.2. Online authentication mechanism			X		Unclear					X			Yes				X	
3.3. Increase online service uptake	X				Unclear					X			No	X				

## CONTEXT AND OBJECTIVES

This commitment falls within Malta’s Information Communication Technology (ICT) strategy for 2014 – 2020, established in March 2014 and named Digital Malta. The strategy envisions “a digitally-enabled country empowering its people, communities and entrepreneurs through the intelligent and universal use of ICT.”<sup>1</sup>

In 2016, Malta ranked 11th within the European Union in terms of available digital public services, a drop from 10th place in 2015. Yet despite this high ranking, and a quality of service that is ranked above average for its sophistication, actual public online interaction with government services remains low. In 2015, 28% of internet users engaged with public authorities online, a minor improvement from 27% in 2014. In this context, the European Commission stated, “Malta scores low in making government data available.”<sup>2</sup> Furthermore, EU data for 2015 shows that less than 50% of respondents used the internet to interact with public authorities, and a smaller percentage used the internet to obtain information from public authorities.<sup>3</sup> This has slightly increased in 2016, with around 43.9% of respondents interacting online with public authorities.<sup>4</sup>

The commitment is specifically directed toward increasing public interaction with online public services.

As written, it envisages the creation of new online services and improved existing ones. The commitment does not create opportunities for disclosing government information to the public or creating mechanisms for civic participation. Therefore, this commitment is not clearly relevant to OGP values.

Overall, the commitment is of low specificity, as it does not contain sufficiently specific details about the actual activities and targets for improving online services. The first milestone does not specify which eGovernment services will be targeted or what activities would take place. The second milestone seeks to achieve two measurable targets: the creation of an online authentication mechanism that reflects industry trends and a federated approach to online authentication mechanisms. However, “industry trends” leaves considerable room for interpretation. The third milestone aims to increase online service usage, but it does not provide concrete activities toward this implementation.

If fully implemented, the commitment could have a minor potential impact since its focus on user-friendly technologies (e.g. mobile applications) and uptake-generating initiatives would invite greater engagement between the public and government entities.

## COMPLETION

On a general level, implementation of this commitment is substantial.

In assessing completion levels of the first milestone, the researcher notes MSDC's statement that online services were launched, facilitating the possibility of submitted requests for information under the Freedom of Information Act (FOI).<sup>5</sup> The IRM researcher notes that this statement is not relevant to the first milestone as this relates to mobile technologies and submission of FOI requests via mobile technologies is not possible.<sup>6</sup>

The IRM research notes that the Digital Malta Performance Report for 2015 lists a number of mobile-related achievements relating to applications for calculating customs data, providing case management information within the legal profession, and a fish traceability tool.<sup>7</sup>

The 2016 performance report was unavailable at the time of this report. However, the researcher had access to the 2016 Programme of Initiatives, listing those activities planned for the year.<sup>8</sup> In relation to mobile technologies, these include applications for energy conservation, blood transfusions and updates on the Malta-EU Steering and Action Committee (MEUSAC).

Regarding Milestone 2, the first phase of the eID system overhaul was successfully completed in 2016.<sup>9</sup> MITA clarified that all systems and data were moved onto a new, upgraded platform that offers better performance and stability, with a Single Sign On screen accessible within myGov.mt. Following integration by relevant service providers, this Single Sign On screen promises a harmonised experience with easier access to core functions, thereby providing an overall improved eID Authentication system. Furthermore, MITA confirmed that major service providers and users were unaffected by this move.

With regard to the third milestone, the researcher is unable to assess completion since the activities lack sufficient clarity.

## EARLY RESULTS (IF ANY)

Quantitative analyses of this commitment will be undertaken by Digital Malta as part of its own performance review. At this midterm review, an evaluation of early results is unavailable.

## NEXT STEPS

Due to its lack of clear relevance to OGP values, the researcher recommends either not carrying forward this commitment to the next action plan or carrying it over with substantial amendments. Increasing access to government-held information or public processes through mobile applications will certainly be relevant to OGP values. This relevance could be enhanced if applications provided users with more than mere data access, but also to monitoring tools (such as comparative or tracking options) and the opportunity to effectively interact with public procedures.

<sup>1</sup> See "What is Digital Malta?," Government of Malta, 2016, <http://bit.ly/2pH8HEL>.

<sup>2</sup> "Digital Single Market: Digital Economy & Society: Digital Public Services," European Commission, <http://bit.ly/2qfc069>.

<sup>3</sup> eGovernment in Malta, European Commission, 2015, 5, <http://bit.ly/2pH1yo3>.

<sup>4</sup> European Commission, Digital Single Market, data available at <http://bit.ly/2oF8kaw>.

<sup>5</sup> Freedom of Information Act, Chapter 496 of the Laws of Malta, 31 July 2009, available at <http://bit.ly/1SSK7WM>.

<sup>6</sup> Information on how FOI requests may be made is available at <http://bit.ly/2oGJJAR>.

<sup>7</sup> Digital Malta Performance Report, Digital Malta, Feb. 2016, <http://bit.ly/2oQYC2Y>.

<sup>8</sup> Programme of Initiatives 2016, Digital Malta, Feb. 2016, <http://bit.ly/2oQXU61>.

<sup>9</sup> Representative (MITA's Social Media, PR and Communications representative) email to Dr. Neil Falzon, IRM Researcher on, 11 Oct. 2016.

# THEME 2. IMPROVING PUBLIC INTEGRITY

## 4 | PUBLIC ACCESS TO INFORMATION

### Commitment Text:

The commitment will increase public access to information, by providing the public with up-to-date, comprehensive and meaningful information on Government policies, services and activities as well as on matters of public interest on a constant basis by ensuring government portals are updated periodically.

### Milestones:

Information available on websites will be uploaded periodically.

Ensuring more cooperation between different government departments by nominating a contact point from each department.

Creating easier access to information from a central platform.

### Responsible institution:

Office of the Prime Minister – Centre for Development Research and Training

### Supporting institution(s):

None specified

**Start date:** 1 January 2015

**End date:** 31 December 2017

COMMITMENT OVERVIEW	SPECIFICITY				OGP VALUE RELEVANCE (as written)				POTENTIAL IMPACT				ON TIME	COMPLETION			
	None	Low	Medium	High	Access to Information	Civic participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative		Not started	Limited	Substantial	Complete
<b>4. Overall</b>		X			X					X			Yes		X		
4.1. Periodic information updates		X			X					X			Yes		X		
4.2. Department contact points		X			X				X				No	X			
4.3. Central access platform		X			X				X				No	X			

## CONTEXT AND OBJECTIVES

This commitment's main objective is to improve public access to government information by ensuring that government websites provide updated and accurate information.

The relatively high rate of internet use in Malta offers government the opportunity to increase access to public information.<sup>1</sup> This commitment is directly relevant to OGP's value of access to information. This OGP value specifically mentions improving the *quality* of information. Therefore, the researcher emphasizes the importance of "meaningful" government information and "matters of public interest" as contained in the commitment text.

These same considerations are relevant for assessing the commitment's overall potential impact. Merely uploading public information on government websites will have only a minor impact, and the milestones do not provide sufficient information to ensure the uploaded information is meaningful and relevant to the public interest.

While the first and third milestones are closely related to the above assessment, the second milestone has neither OGP relevance nor any potential impact primarily because it is an inward-looking milestone with no apparent impact on the fulfilment of the commitment's objectives. It is also not specific as to the roles and duties of the "contact points".

The commitment's primary function is to ensure that government websites are updated periodically, thereby increasing public access to government information. While the impact of this activity may be verified – primarily by assessing the regularity of updates across government portals – the commitment provides little information as to the frequency of updates, the nature of information to be shared online (although it does specify access to information, draft legislations, policies and strategies), the relevance to open government of the "contact points," and the specific means by which this newly-shared information will be publically accessible. Given the limited measurability, the commitment has low specificity overall.

## COMPLETION

The first milestone suggests that all government websites will be regularly updated, ensuring they provide the public with relevant, comprehensive information. According to MSDC, monthly meetings are held between Chief Information Officers from all ministries, yet the researcher was unable to ascertain the impact of these meetings on this milestone.<sup>2</sup> The Ministry also stated that the Department of Information<sup>3</sup> regularly contacts individual departments regarding website content updates.

In order to verify this statement and assess completion for this milestone, the researcher accessed the websites of all sixteen ministries in order to determine the most recent update and whether the content was relevant and of general interest. In particular, the researcher searched for pages presenting ministry or government policies and news coverage, as these are the pages that should carry "meaningful" and "public interest" information.

The vast majority of ministry websites had a news section that did in fact provide very recent updates, at times, in same day or subsequent day publications. It is relatively easy to locate these pages as they are generally directly linked on the homepages.

Locating relevant pages for ministry or government policy documents was not as straightforward because no uniform system exists for naming the pages or the relation of the page to parent pages. For example, the Ministry for Education and Employment presents ministry policies on a page entitled "Policy Documentation" under a parent page, "Resources," while the Ministry for Social Dialogue, Consumer Affairs and Civil Liberties locates its "Policy Documents" page under the "Media" parent page.<sup>4</sup> The researcher also found some ministry websites do not feature policy documents, including the Ministry for Transport and Infrastructure, the Ministry for Gozo, the Ministry for Foreign Affairs and the Ministry for Competitiveness and Digital, Maritime and Services Economy.

The researcher noticed inconsistencies in the extent and nature of shared policy documents. Whereas the Ministry for Education and Employment publishes 24 policy documents, the Ministry for Home Affairs and National Security publishes two, the Ministry for Tourism

one, and – as mentioned above – other ministries publish none. Although the researcher cannot provide statistics as to the actual number of policies adopted within each ministry, and thereby calculate what percentage of policies are published online, the quoted figures represent a small fraction of ministry policies.

In relation to the second and third milestones, the researcher sent multiple requests to the Ministry for Social Dialogue, Consumer Affairs and Civil Liberties for further information on the nature of the intended “central platform” as well as on the percentage of government departments that had appointed a “contact point.” The Ministry did not provide the requested information. Without this information, the researcher is unable to assess the completion level for these two milestones.

## EARLY RESULTS (IF ANY)

Based on ministries’ websites, the researcher found this commitment to be more readily embraced by some ministries compared to others, who have yet to see it as an integral part of their operational and communication strategies.

In the absence of information regarding the second and third milestones, the researcher is unable to comment on early results.

## NEXT STEPS

The researcher recommends strengthening the commitment content and carrying it forward into the next action plan. Specifically, the researcher recommends:

- The commitment could be reworded to specify both the kind of information that is to be published on government websites and the manner in which they are to be published. For example, the commitment should establish criteria – or require criteria to be established – that determines what information ought to be published and a uniform publication format and location system for this information on websites. The publication criteria, formatting and location should be made public; and
- The nature of the “central platform” should be clarified in terms of its minimum required content or functionality to ensure a higher level of specificity and measurability.

The researcher also recommends increasing efforts for consistency in implementing this commitment. Specifically, the government might streamline the structure of ministry websites so as to facilitate information accessibility and ensure publication of all policy documents within a clearly-established and uniform timeframe (e.g. within one week of adoption of the policy).

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<sup>1</sup> See the Country Context, below, for details.

<sup>2</sup> Brian Farrugia, Email correspondence, March 20, 2017.

<sup>3</sup> “The Department of Information aims to provide the public with up-to-date, comprehensive and meaningful information on Government policies, services and activities as well as on matters of public interest”, at <http://bit.ly/2oGHodN>.

<sup>4</sup> “Policy Documents,” The Ministry for Social Dialogue, Consumer Affairs and Civil Liberties, 2016, <http://bit.ly/2qgpXxM>; “Policy Documentation,” The Ministry for Education and Employment, 2016, <http://bit.ly/2pdzN4O>.

# 5 | SOCIAL DIALOGUE

## Commitment Text:

The main objective is to improve current public consultation methods in order to encourage more citizens to engage with the government by providing them with a stronger platform where they can voice their opinions and contribute their ideas and opinions. Furthermore, the commitment aims to improve the relationship between civil society and government by ensuring that MCESD is an effective catalyst between the various social partners and the government.

## Milestones:

Organise workshops with civil society organisations across Malta to discuss and develop national issues, and further collaboration with NGOs working in different sectors.

Promoting awareness of government portals which encourage citizens to submit their ideas/opinion.

## Responsible institution:

Ministry for Social Dialogue, Consumer Affairs and Civil Liberties

## Supporting institution(s):

Malta Council for Economic and Social Development (MCESD)

**Start date:** 1 January 2015

**End date:** 31 December 2017

COMMITMENT OVERVIEW	SPECIFICITY				OGP VALUE RELEVANCE (as written)				POTENTIAL IMPACT				ON TIME	COMPLETION			
	None	Low	Medium	High	Access to Information	Civic participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative		Not started	Limited	Substantial	Complete
5. Overall		X			X	X				X			No		X		
5.1. Workshops and further collaboration		X			X	X				X			No		X		
5.2. Portal awareness raising	X					X				X			No	X			

## CONTEXT AND OBJECTIVES

Public consultations on proposed legislation or on policies of national importance are coordinated by MSDC through an online portal specifically created for consultation purposes.<sup>1</sup> Through this portal, 47 consultations were held in 2014, 85 in 2015 and until this report, 84 in 2016. The commitment has two objectives: increase public participation in consultations and strengthen dialogue between CSOs and government.

This commitment is directly linked to improving access to information since it relates to a proactive, low-cost and transparent process of information disclosure. The commitment also seeks to strengthen public participation in decision-making procedures by opening up law and policy formation to interested stakeholders. It is also relevant to the technology and innovation value since it envisages strengthening the existing online portal that will be used as the key vehicle for government consultation with interested stakeholders. All ministries use the online portal; therefore this commitment encourages public officials to engage with the consultation process. However, this latter connection with the OGP value of technology is not present in the milestones, as they do not reference technology.

The researcher notes that since the consultation portal predates the national action plan, the activities proposed by this commitment do not include the portal's actual establishment but rather its enhancement. In fact, the two milestones seek to maximise or complement the portal's effectiveness through the organisation of CSO workshops to discuss issues of national concern and the implementation of awareness-raising activities related to use of the portal.

Overall, the commitment presents a low level of specificity. Although its target is a measurable and quantifiable increase in public participation in consultation processes, as with other commitments, its actual target is unclear in terms of the level of increase. Furthermore, the commitment seeks to ensure MCESD

is an effective catalyst between social partners and government, but offers no specific targets or process. The first milestone has low specificity since it is a measurable target yet very little information is provided in terms of the intended number of workshops, the number and kind of participants or agendas, etc. Finally, the second milestone uses language that is unclear regarding intended actions, targets or measurability.

The consultation portal is already operating and does attract input from interested stakeholders, including CSOs and individuals. Therefore, the potential impact of this commitment would be only minor in increasing usage of the portal for public consultation purposes. Furthermore, the researcher has not found research, analysis or reports on the consultation portal's impact on levels of public participation in national policy or law formation.

In addition, the stakeholders consulted during the focus group criticised the fact that the commitment focuses attention on the role of MCESD in increasing cooperation between government and CSOs. According to the CSOs, this focus seems to grant MCESD an almost exclusive hold over such cooperation, limiting the possibility of CSOs to effectively engage otherwise with government entities.

## COMPLETION

In its midterm self-assessment report, the government reported it organized in October 2015 three seminars on: the role of civil society to economic and social wellbeing; Gozo in Europe and job opportunities and; the role of volunteering in the Gozo identity. According to the report, seminar reports were compiled and published.

Whilst information regarding the organisation of the first seminar was found on the Facebook page of the Civil Society Committee within MCESD,<sup>2</sup> the researcher was unable to locate information regarding the second and third activities. Furthermore, although the government commented that the seminar reports were presented

to MCESD, the Gozo Regional Committee and the Civil Society Committee, the researcher could not trace these documents on either the website of MCESD or any other location.

This commitment, including the two milestones, is therefore assessed as limited. This is largely because the researcher did not find any evidence of MSDC organising CSO workshops or awareness-raising activities. Furthermore, the researcher's queries to MSDC regarding the number of CSO workshops and awareness-raising activities remain unanswered.

## EARLY RESULTS (IF ANY)

The researcher analysed fifteen closed consultations in order to assess their effectiveness in public engagement. Consultations from 2015 and 2016 were selected, with the choice of consultation being a qualified random one since based on an attempt to include consultations led by various ministries and covering a wide range of themes.<sup>3</sup>

The table below provides information on the selected consultations.

CONSULTATION TITLE	LEAD MINISTRY	DURATION	INDIVIDUALS CONTRIBUTING	ORGANISATIONS CONTRIBUTING
Conservation of Wild Birds	Sustainable Development, the Environment and Climate Change	5½ weeks	0	2
Consultation on English Language Teaching (ELT) Council Regulation	Education and Employment	2½ weeks	1	8
Maritime Spatial Planning Regulations	Office of the Prime Minister	2 weeks	1	1
National Transport Strategy 2050 and Transport Master Plan	Transport	4 weeks	0	0
Patient Charter	Health	8¾ weeks	0	0
Digital Games of Skill with Prize	Economy, Investment and Small Business	5½ weeks	2	9
Improving Business Inspections	Office of the Prime Minister	7 weeks	0	6
Towards A Socio-Responsible Construction Industry. The Concept of Introducing 'Skill Cards' in the Construction Industry in Malta	Social Dialogue, Consumer Affairs and Civil Liberties	6¾ weeks	10	8

CONSULTATION TITLE	LEAD MINISTRY	DURATION	INDIVIDUALS CONTRIBUTING	ORGANISATIONS CONTRIBUTING
Mind D Gap: Together we can make a difference	Social Dialogue, Consumer Affairs and Civil Liberties	7½ weeks	7	8
Credit Agreements for Consumers Relating to Residential Immovable Property Regulations	Social Dialogue, Consumer Affairs and Civil Liberties	2 weeks	0	1
A proposal for the introduction of the Jobsplus Act	Education and Employment	6 weeks	2	7
Proposed Legal Reform for the Tourism Industry	Tourism	7½ weeks	15	13
The Commercialisation of Sports Facilities	Education and Employment	8 weeks	5	19
Consultation on draft Dispute Resolution (Procedures) Regulations	Energy and Health	2 weeks	0	0
An Act to Regularise Declared and Registered Cohabitations	Social Dialogue, Consumer Affairs and Civil Liberties	10 weeks	1	5

Given this data, the IRM researcher is able to make a number of observations regarding early results. The researcher is unable to state why some consultations attracted a higher level of participation than others, but reasonable explanations include stakeholder capacity, lack of information and/or awareness, nature of the consultation topic and consultation timeframes. Regardless, there does seem to be engagement of the public with the consultation platform, achieving the commitment's main objective. Although the researcher was not informed by MSDC of any civil society workshops, CSO representatives confirmed that consultation deadlines are not strictly applied and CSOs are often allowed to present feedback after deadlines. CSO representatives also reported occasions when

ministry officials limited consultations to the portal, but contacted CSOs directly to invite their input.<sup>5</sup>

In addition to the above, the researcher also notes that in its report analysing the human rights situation in Malta in 2015, the Platform of Human Rights Organisations in Malta (PHROM) commented on the relationship between CSOs and public entities.<sup>6</sup> PHROM asked its Member Organisations, CSOs operating in the area of human rights, whether public entities regularly consulted with them: eighteen replied yes, three said no and five gave a neutral answer. When asked if these consultations were in-depth and effective, seven respondents replied positively, five negatively and fourteen were unsure. PHROM commented on

the generally positive level of communication between CSOs and government, but also noted the high number of CSOs who were unable to say whether their consultations with public entities were effective.

Possible reasons for this uncertainty, according to PHROM, include a low prioritisation by some CSOs of dialogue with public entities, a consultation approach that is one-sided instead of being a mutual dialogue and limited CSO capacity to follow up and determine the impact of their input.

The IRM researcher notes that the above observations are general and do not directly relate to results from this commitment. As the implementation of this commitment has yet to begin, the IRM researcher emphasizes that the above observations are provided not to comment on early results but rather to provide a baseline of the status quo.

In the absence of clear specific goals, and nature of activities already implemented, the researcher inevitably assesses this commitment as not demonstrating any early results.

## NEXT STEPS

This commitment is certainly the central commitment in Malta's national action plan. Yet the researcher feels it necessary to present recommendations to improve this commitment's implementation and potential impact.

Specifically, the researcher recommends MSDC:

- Write commitments that specify the number of workshops to be organised within implementation periods, the procedures that will be followed in recruiting participants and workshop follow-up processes; and
  - Increase efforts in fulfilling the second milestone, focusing on marginalised or vulnerable communities so as to ensure that public consultations capture diverse voices. Furthermore, these awareness-raising activities should not reflect the milestone's limited audience of "citizens," but could include non-citizens such as EU nationals and migrants living in Malta.
- Revise the overall commitment so that it requires the establishment and publication of a government-wide public consultation policy. This policy will include mandatory details such as: minimum consultation durations; criteria regarding publication and non-publication of stakeholder feedback; follow-up procedures; and consultation formats;

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<sup>1</sup> "Public Consultations Online," The Ministry for Social Dialogue, Consumer Affairs and Civil Liberties, 2016, [www.konsultazzjoni.gov.mt](http://www.konsultazzjoni.gov.mt).

<sup>2</sup> At <https://www.facebook.com/events/512183948957344/>.

<sup>3</sup> The online consultation portal is described below, at page 33.

<sup>4</sup> Information provided by the Platform of Human Rights Organisations in Malta, <http://www.humanrightsplatform.org.mt/>.

<sup>5</sup> *Id.*

<sup>6</sup> *Greener and Cleaner: Annual Human Rights Report 2015*, Platform of Human Rights Organisations in Malta, Apr. 2016, 37-38, <http://bit.ly/2pqRqBk>.

# IV | COUNTRY CONTEXT

Malta adopted instruments regulating issues such as party financing, public procurement and recruitment to public office. Despite these positive developments, reports of lack of transparency and accountability and misuse of public property are frequent. Future action plans could be used for more effective and targeted open government action.

Malta is a small island-state that gained independence in 1964 and joined the European Union in 2004.

Constitutionally, it is a parliamentary democracy led by a Prime Minister. Elections are held every five years and the President of the Republic has limited functions beyond naming the Prime Minister – usually the leader of the majority party – and ceremonial duties. Two political parties, Partit Laburista and Partit Nazzjonalista, dominate Maltese politics and are represented in Parliament, with the smaller Alternattiva Demokratika party also politically active yet not receiving sufficient votes to obtain a seat in Parliament.

Malta has signed and ratified most international and regional human rights instruments that, together with the Constitution and specific legal instruments, provide a robust legal framework protecting human rights.<sup>1</sup> Specifically, the EU Charter of Fundamental Rights requires Member States respect the rights of good administration and access to documents.<sup>2</sup>

Access to government information is a right stipulated in the 2008 Freedom of Information Act. The Act provides the procedure and criteria for requesting access to information and documents held by public authorities.<sup>3</sup> A Freedom of Information Coordinating Unit (FOICU) was established to promote correct implementation of the Act and coordinate freedom of information efforts across public entities.<sup>4</sup> Yet according to a leading Maltese newspaper, the Act has weaknesses in promoting transparency, as the Government relies on the Act's exceptions to deny access to information or documents. The newspaper stated that most of its requests under the Act have been rejected.<sup>5</sup> In a recent interview, the Government's Head of Communications referred to these rejected requests and commented that while most documents should be published, the timing of such publication is a matter for the Government to assess.<sup>6</sup>

Although Malta is the smallest EU Member State, both in terms of its geography and demography, it is the only Member State where the two main political parties own their own television and radio stations, and publish newspapers. Despite a long list of media organisations, experts have expressed concern over the lack of access to media by social and cultural groups, limiting community involvement therein.<sup>7</sup> Malta ranked 46th out of 180 countries in the 2016 World Press Freedom Index, and Reporters without Borders express concern over Malta's defamation legislation whereby media professionals and organisations regularly face either criminal prosecution or high damage costs.<sup>8</sup>

Public procurement is largely based on EU legal standards. Calls for tender and contracts are published online in the Government Gazette and are increasingly moving toward online functionality through Electronic Public Procurement Services (e-PPS), an initiative launched in 2008.<sup>9</sup> E-PPS provides information on open and closed calls for tender through an online management system that seeks to grant access to all stages of the tendering process. Nonetheless, several public entities grant service contracts through direct orders, bypassing the public tender process. The IRM researcher was unable to find comprehensive data indicating the number of such orders or the monetary amounts involved. However, evidence of these orders becomes publicly available after media organisations uncover these contracts and they are confirmed subsequently by the contracting public entity.<sup>10</sup>

With corruption legislation in place and an established Permanent Commission Against Corruption, Malta ranked 37 out of 168 in the Transparency International Corruption Perceptions Index in 2015.<sup>11</sup> However, almost half of surveyed businesses reported they were prevented from winning a public contract due to corruption between

2012 and 2015, referring to political party funding and favouritism as major concerns.<sup>12</sup> A European Parliament report found that Malta annually lost up to €975 million to corruption between 1995 and 2014.<sup>13</sup>

By 2014, the Government introduced a system of online public consultations, managed through a Ministry for Social Dialogue, Consumer Affairs and Civil Liberties (MSDC) portal.<sup>14</sup> The Ministry coordinates public consultations launched by all public entities and opens consultations to interested stakeholders including individuals, the private sector and civil society organisations.

MSDC's consultation portal presents information on the theme, draft legislation, relevant timelines, consultation questions (if any) and often, feedback from stakeholders. The ministry leading the public consultation retains sole discretion whether to publish feedback based on moderator guidelines prepared and distributed by MSDC.<sup>15</sup> According to the guidelines, the lead Ministry may decide not to publish feedback for reasons including endangerment of personal safety or well-being, discriminatory comments or vulgar language or irrelevancy.<sup>16</sup>

According to the National Statistics Office (NSO), internet access is widespread with over 80% of Maltese households and 76% of the total population having internet access.<sup>17</sup> Within this high level, there are variations both between western and northern parts of Malta (only 75% of households on the island of Gozo have internet access) and between age groups, with only 35% of persons aged 65 to 74 having internet access.<sup>18</sup>

In early 2016, the Panama Papers revealed that Konrad Mizzi, former Minister of Energy and Health and Keith Schembri, the Prime Minister's Chief of Staff, used tax consultants to open offshore companies in Panama.<sup>19</sup> Since this announcement, no evidence of tax avoidance or money laundering has been discovered, yet this issue continues to dominate Maltese media. At the time of this report, no significant legal or political action has been taken against either the Minister or the Chief, although the European Parliament has confirmed it will be investigating the Panama Papers revelations, including the Minister's and Chief of Staff's involvement.<sup>20</sup>

Concerns relating to public sector recruitment are another issue relevant to open governance. While Malta's Constitution regulates public service recruitment to guarantee transparency and non-discrimination, several ministries, parliamentary secretariats and government entities bypass these procedures and appoint persons merely on the basis of "trust."<sup>21</sup> At end of 2015, public entities employed over 450 persons in this manner, in positions ranging from cleaning services to high-level officials.<sup>22</sup> As confirmed by the government, this method of appointment is entirely at the discretion of the relevant Minister.<sup>23</sup>

The Office of the Ombudsman and the Public Service Commission, the entity established to oversee and process public service recruitment, both questioned the constitutionality of "trust" recruitments in 2014 and 2012, respectively.<sup>24</sup> Furthermore, media sources report difficulties accessing comprehensive information on these appointments, despite repeated freedom of information requests. In February 2016, the Principal Permanent Secretary, the head of the civil service, stated the government would adopt new rules regulating this method of appointment by the end of 2016.<sup>25</sup>

2016 also saw the adoption of party financing legislation, regulating the nature and size of private donations political parties may receive, and requiring publication by the parties of specific details when donations exceed stipulated thresholds.<sup>26</sup>

## STAKEHOLDER PRIORITIES

The stakeholders consulted by the researcher were in agreement that the action plan lacks ambition insofar as all the commitments represent the "bread and butter" of governance.<sup>27</sup> This comment is particularly directed against the first three commitments as they are either irrelevant or of low relevance to OGP values. Stakeholders are of the opinion that the fourth commitment, while relevant to OGP values, is far too basic and reflects either the low standards currently found in Malta or an elementary understanding of OGP values.

In relation to the final commitment on the public consultations portal, stakeholders welcomed its inclusion in the action plan but criticised its focus on promoting MCESD as the "effective catalyst" between

CSOs and public entities, commenting that MCESD is an exclusive and selective forum that does not represent a broad range of CSO perspectives. Furthermore, stakeholders felt that the consultation portal referenced in the commitment, particularly its methodology whereby consultation is sought only *following* a public entity's drafting of legislation, might not be the most effective tool for strengthening OGP values in Malta.

Stakeholders felt that the next action plan should prioritise the following six themes:

- Increased transparency and professionalism in appointing and recruiting public officials, to ensure these processes are accountable, constitutional and reflective of OGP values. This suggestion was complemented with the idea that public entities could be more effective in reaching out to the private sector in order to learn good practices in terms of policy drafting and recruitment procedures.
- Instilling a sense of "criticality" within Malta's education system. Stakeholders commented on the link between an informed and critical public and expectations of public accountability and transparency.
- Stakeholders expressed concern at the decreasing ability of media to perform its investigative and monitoring functions. Concerns included a lack of access to public information and dismissive attitudes by public officials in relation to media representatives.
- In the context of public consultations, stakeholders commented that the next action plan should seek to revise the present public consultation system since this seems to be based on a ticking-box approach happening once a policy has already been drafted by a public entity. Stakeholders recommended revising this approach to move toward genuine participation at early stages of policy formulation.
- Stakeholders urged increased transparency and accountability in public procurement and sales of government assets, especially in relation to processing and award criteria.
- Finally, stakeholders felt strongly about the need for dedicated space for ongoing, multi-stakeholder dialogue on governance issues.

## SCOPE OF ACTION PLAN IN RELATION TO NATIONAL CONTEXT

The overall assessment of the present action plan is that commitments do not necessarily reflect national priorities, either because they do not relate to OGP values or because they do not address areas of serious concern. Limited access to government-held information, particularly by the media, remains a serious obstacle toward increased transparency and accountability. It also seems to represent one of the underlying concerns expressed by stakeholders in relation to public procurement, management of public assets, public consultations, and access to employment within the public sector. It can be said, therefore, that effective and timely access to relevant information should be at the heart of Malta's action plan and the basis for increased specificity in commitments.

Additionally, attention needs to be given to concerns expressed by stakeholders and by the national media regarding public procurement and direct order procedures. While access to information is a relevant element, there are additional areas that require action to reflect OGP values.

The IRM researcher also supports comments made by the stakeholders in relation to the general lack of public critical thinking and how this has a direct impact on expectations and consequential action vis-à-vis public accountability and governance. Described as "bread and butter," the present commitments might be said to reflect the relatively low expectations by the public of their governing entities. In this regard, it is also noted by the IRM researcher, and by stakeholders, that there is no Malta-based CSO focusing exclusively on themes related to OGP values.

Finally, stakeholders commented that procedures encouraged by OGP have the potential of creating national synergies that are not currently present in Malta. The researcher stresses the need for Malta's next action plan to be truly inclusive in its formation, implementation and monitoring.

- <sup>1</sup> "View the ratification status by country or by treaty," United Nations Human Rights Office of the High Commissioner, <http://bit.ly/2qo6dr3>; "Constitution of Malta," 1964, <http://bit.ly/1Hsz2si>; "European Convention Act, Chapter 319 of the Laws of Malta," 19 Aug. 1987, <http://bit.ly/2pdAyea>.
- <sup>2</sup> Articles 41 and 42 respectively, "Charter of Fundamental Rights of the European Union," Official Journal of the European Union, 26 Oct. 2012, <http://bit.ly/29r7SpZ>.
- <sup>3</sup> "Freedom of Information Act, Chapter 496 of the Laws of Malta," 2008, <http://bit.ly/1SSK7WM>.
- <sup>4</sup> See The Freedom of Information Co-ordinating Unit, <https://secure2.gov.mt/foi/>.
- <sup>5</sup> Jacob Borg, "Government says 'no' to most Times of Malta requests for information," Times of Malta, 11 Jun. 2016, available at <http://bit.ly/2oUFC9t>.
- <sup>6</sup> Kurt Farrugia and Jason Azzopardi, "Has the Freedom of Information Act worked?," Times of Malta, 27 August 2016, available at <http://bit.ly/2oUnN5G>.
- <sup>7</sup> The Department of Information lists fourteen newspapers, ten radio stations, six television channels, and ten electronic news sites. The list is available at <http://bit.ly/2oGuJr3>; Maja Simunjak, "Media Pluralism Monitor 2015– Results: Malta," European University Institute, Oct. 2015, available at <http://bit.ly/2qnVw8b>.
- <sup>8</sup> "2016 World Press Freedom Index," Reporters without Borders, <https://rsf.org/en/ranking>. Reporters without Borders comment that in 2014, lawyers and politicians filed 30 defamation actions. "Malta: Watching their step," 2016, <https://rsf.org/en/malta>.
- <sup>9</sup> "Tenders and Contracts," Government of Malta, 2015, <http://bit.ly/2qgeFcl>.
- <sup>10</sup> Some examples from 2015 and 2016 include: the Malta Financial Services Authority, of about €950,000 for consultancy services ("MFSA issued €950,000 direct order - and that's not including VAT," Times of Malta, 16 May 2016, <http://bit.ly/2pqnocl>); State utilities billing company ARMS Ltd., of €650,000 for legal services (Ivan Camilleri, "€60K direct order for ARMS board member's law firm," Times of Malta, 2 Aug. 2016, <http://bit.ly/2oUj173>); Malta Gaming Authority, of €330,000 for audit service (Jacob Borg, "MGA chairman gives €330,000 in direct orders to former firm," Times of Malta, 6 May 2016, <http://bit.ly/2oQZrZP>); the Office of the Prime Minister, of €35,400 for consultancy services ("€35,400 direct order for consultancy regarding Air Malta approved by the OPM in 2015," The Malta Independent, 31 May 2016, <http://bit.ly/2oJaMJx>); Malta Gaming Authority, of €7,375 for training services ("Bondi given direct-order training contract," Times of Malta, 24 Feb. 2016, <http://bit.ly/2oUaS3R>); Ministry for Justice and Culture, of around €180,000 for various logistical services ("Company gets three contracts by direct order," Times of Malta, 5 May 2015, <http://bit.ly/2pqiwUL>).
- <sup>11</sup> "Malta," Transparency International, 2016, <http://bit.ly/2pGU0RW>. The Criminal Code contains provisions criminalising active and passive bribery, extortion, abuse of office and embezzlement. See also "Malta Corruption Report," GAN Business Anti-Corruption Portal, Dec. 2015, <http://bit.ly/2qg6MnA>. The independent Permanent Commission was established through the Permanent Commission Against Corruption Act of 1988, with the main function of investigating allegations of corruption by public officers. The Act is available at <http://bit.ly/2qnWgtZ>.
- <sup>12</sup> *Businesses' attitudes towards corruption in the EU*, European Commission, Dec. 2015, page 41, <http://bit.ly/2pqBo65>. A useful Malta Factsheet (in English) is also available at <http://bit.ly/2oGnW0p>.
- <sup>13</sup> The Cost of Non-Europe in the area of Organised Crime and Corruption – Annex II: Corruption, European Parliament, Mar. 2016, pages 42-45, <http://bit.ly/1SGcfmy>. See also Helena Grech, "Malta above average EU corruption levels, could be losing hundreds of millions annually – EP study," The Malta Independent, Mar. 27, 2016, <http://bit.ly/2pGv8VJ>.
- <sup>14</sup> The portal can be found here: <http://bit.ly/2oQOmrs>.
- <sup>15</sup> Each consultation page contains a statement to this effect in its footnotes.
- <sup>16</sup> The "Guidelines for Moderators" are not publicly available. MSDC sent to the IRM researcher, clarifying that it is sent to the lead Ministry expert together with all received feedback. Charmaine Grech, (MSDC), email to Dr. Neil Falzon, IRM Researcher, 26 Sept. 2016.
- <sup>17</sup> "Internet access in Malta up in 2015," Times of Malta, 19 Feb. 2016, <http://bit.ly/2pqr65J>.
- <sup>18</sup> "Internet access in Malta up in 2015," Times of Malta, 19 Feb. 2016, <http://bit.ly/2pqr65J>.
- <sup>19</sup> At the time of this report, he is Minister within the Office of the Prime Minister. See <http://bit.ly/2qol3he>.
- <sup>20</sup> "Parliament sets up 'Panama Papers' inquiry committee," European Parliament, 8 Jun. 2016, <http://bit.ly/2puoG8m>.
- <sup>21</sup> Article 110(2)(c) states "in respect of recruitment to public offices from outside the public service, shall, unless such recruitment is made after a public examination advertised in the Gazette, be exercised only through an employment service provided out of public funds which ensures that no distinction, exclusion or preference is made or given in favour or against any person be reason of his political opinion and which provides opportunity for employment solely in the best interests of the public service and of the national generally."
- <sup>22</sup> Kevin Schembri Orland, "Over 450 employed in government positions of trust," The Malta Independent, 20 Dec. 2015, <http://bit.ly/1PjyNTT>.
- <sup>23</sup> Brian Farrugia, Email correspondence, March 20, 2017.
- <sup>24</sup> Public Service Commission, 2015, <http://bit.ly/2pul9Xv>; *Annual Report 2014*, Parliamentary Ombudsman for Administrative Investigations, Dec. 2015, 17, <http://bit.ly/2qeXrPW>; *Annual Report 2012*, Public Service Commission, 21, <http://bit.ly/2oTZV2l>.
- <sup>25</sup> Kurt Sansone, "Persons of trust rules to be clarified," The Times of Malta, 5 Feb. 2016, <http://bit.ly/2oQYdh9>.
- <sup>26</sup> "Financing of Political Parties Act," Chapter 544 of the Laws of Malta, 1 Jan. 2016, <http://bit.ly/2pulvx8>. Freedom House also noted adoption of the Act in its 2016 Freedom in the World Report, available at <https://freedomhouse.org/report/freedom-world/2016/malta>.
- <sup>27</sup> The list of stakeholders is found below, beginning on page 46.

# V | GENERAL RECOMMENDATIONS

The recommendations below encompass the main themes identified as priorities by the researcher and stakeholders, focusing on public procurement, recruitment and appointment to public service, public consultations and access to information held by public entities.

The researcher therefore recommends the following:

1. To make the formation, implementation and monitoring of the next action plan more inclusive, MSDC needs to facilitate the creation of a multi-stakeholder forum for discussing and evaluating OGP commitments.

2. MSDC could revise its consultation format to make it more inclusive of diverse perspectives at early stages of action plan development. Inclusion of a more diverse group of government entities and civil society organisations could lead to more ambitious commitments.

**Table 5.1: Top Five SMART Recommendations**

1 MULTI-STAKEHOLDER FORUM	2 INCLUSIVENESS	3 PUBLIC CONSULTATION	4 PUBLIC SECTOR TRANSPARENCY	5 PROCUREMENT TRANSPARENCY
<p>Malta should establish a multi-stakeholder forum that will play a leading role in consultations during the national action plan formation, implementation and monitoring.</p>	<p>To improve the relevance and ambition of commitments, MSDC could make efforts to organise government-wide consultations on the new action plan and seek wider input from the public and civil society.</p>	<p>In the next action plan, MSDC could adopt a public consultation policy that includes a revised methodology ensuring that public input is sought at the earliest stage of policy development.</p>	<p>To increase public sector transparency and accountability, the next action plan should commit to developing an online platform that provides all information relating to recruitment and appointment procedures in the public service.</p>	<p>The Ministry of Finance should commit to increase transparency of public procurement and public asset management by adopting and by, inter alia, adding simplified and more user-friendly components to the current portal, and establishing a schedule for regular publication of data.</p>

# VI | METHODOLOGY AND SOURCES

The IRM midterm report is written by well-respected governance researchers based in each OGP-participating country. All IRM reports undergo a process of quality control to ensure the highest standards of research and due diligence have been applied.

Analysis of progress on OGP action plans is a combination of interviews, desk research, and feedback from nongovernmental stakeholder meetings. The IRM report builds on the findings of the government's own self-assessment report and any other assessments of progress put out by civil society, the private sector, or international organizations.

Each IRM researcher carries out stakeholder meetings to ensure an accurate portrayal of events. Given budgetary and calendar constraints, the IRM cannot consult all interested or affected parties. Consequently, the IRM strives for methodological transparency, and therefore where possible, makes public the process of stakeholder engagement in research (detailed later in this section). In those national contexts where anonymity of informants—governmental or nongovernmental—is required, the IRM reserves the ability to protect the anonymity of informants. Additionally, because of the necessary limitations of the method, the IRM strongly encourages commentary on public drafts of each national document.

Each report undergoes a 4-step review and quality control process:

1. Staff review: IRM staff reviews the report for grammar, readability, content, and adherence to IRM methodology
2. International Experts Panel (IEP) review: IEP reviews the content of the report for rigorous evidence to support findings, evaluates the extent to which the action plan applies OGP values, and provides technical recommendations for improving the implementation of commitments and realization of OGP values through the action plan as a whole
3. Pre-publication review: Government and select civil society organizations are invited to provide comments on content of the draft IRM report
4. Public comment period: The public is invited to provide comments on the content of the draft IRM report

This review process, including the procedure for incorporating comments received, is outlined in greater detail in Section III of the Procedures Manual.<sup>1</sup>

## INTERVIEWS AND FOCUS GROUPS

Each IRM researcher is required to hold at least one public information-gathering event. Care should be taken in inviting stakeholders outside of the “usual suspects” list of invitees already participating in existing processes. Supplementary means may be needed to gather input of stakeholders in a more meaningful way (e.g. online surveys, written responses, follow-up interviews). Additionally, researchers perform specific interviews with responsible agencies when the commitments require more information than provided in the self-assessment or accessible online.

The researcher conducted one stakeholder meeting on 17 November, held at the University of Malta:

- Participants were as follows: Dr. Marie Briguglio (Lecturer in the Faculty of Economics, Management and Accountancy), Dr. Maria Pisani (Lecturer in the Faculty for Social Wellbeing), Dr. Sue Vella (Senior Lecturer in the Faculty for Social Wellbeing) and Mr. Censu Caruana (Assistant Lecturer in the Centre for Environment Education and Research);
- Stakeholders were invited on the basis of their expertise and experiences in governance issues. All stakeholders are academics at the University of Malta, with some of them also active in CSOs concerning human rights, social integration or the environment;

- During the meeting, organised in focus group format, the researcher provided an introduction on OGP and Malta’s national action plan. The five commitments were shared and the participants were invited to comment on the relevance of the commitments to Malta’s national situation. Following this session, participants engaged in an in-depth discussion on governance in Malta, stating their main concerns but also attempting to provide historical, social and political explanations for the current situation. Toward the end of the meeting, stakeholders were invited to provide one or two priority areas they feel ought to be included in Malta’s next action plan.

Together with the stakeholder meeting, the researcher contacted several governmental and nongovernmental stakeholders via email or telephone in order to obtain relevant information. While some contacts replied with requested information, others did not reply.

## ABOUT THE INDEPENDENT REPORTING MECHANISM

The IRM is a key means by which government, civil society, and the private sector can track government development and implementation of OGP action plans on a bi-annual basis. The design of research and quality control of such reports is carried out by the International Experts’ Panel, comprised of experts in transparency, participation, accountability, and social science research methods.

The current membership of the International Experts’ Panel is:

- Hazel Feigenblatt
- Mary Francoli
- Hille Hinsberg
- Anuradha Joshi
- Ernesto Velasco
- Cesar Cruz-Rubio
- Brendan Halloran
- Jeff Lovitt
- Showers Mawowa
- Fredline M’Cormack-Halle

A small staff based in Washington, DC shepherds reports through the IRM process in close coordination with the researcher. Questions and comments about this report can be directed to the staff at [irm@opengovpartnership.org](mailto:irm@opengovpartnership.org).

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<sup>1</sup> IRM Procedures Manual. Available at: <http://bit.ly/2pdJlwl>.

# VII | ELIGIBILITY REQUIREMENTS

In September 2012, OGP decided to begin strongly encouraging participating governments to adopt ambitious commitments in relation to their performance in the OGP eligibility criteria.

The OGP Support Unit collates eligibility criteria on an annual basis. These scores are presented below.<sup>1</sup> When appropriate, the IRM reports will discuss the context surrounding progress or regress on specific criteria in the Country Context section.

**Table 7.1 | Eligibility Annex for Malta**

CRITERIA	2011	CURRENT	CHANGE	EXPLANATION
Budget transparency <sup>2</sup>	N/A	N/A	N/A	4 = Executive's Budget Proposal and Audit Report published 2 = One of two published 0 = Neither published
Access to information <sup>3</sup>	4	4	No change	4 = Access to information (ATI) Law 3 = Constitutional ATI provision 1 = Draft ATI law 0 = No ATI law
Asset Declaration <sup>4</sup>	3	2	↓	4 = Asset disclosure law, data public 2 = Asset disclosure law, no public data 0 = No law
Citizen Engagement (Raw score)	4 (10.00) <sup>5</sup>	4 (10.00) <sup>6</sup>	No change	<i>EIU Citizen Engagement Index raw score:</i> 1 > 0 2 > 2.5 3 > 5 4 > 7.5
<b>Total/Possible (Percent)</b>	11/12 (92%)	10/12 (83%)	↓	75% of possible points to be eligible

<sup>1</sup> For more information, <http://bit.ly/1929F1l>.

<sup>2</sup> For more information, see Table 1 in <http://bit.ly/13LdWoa>. For up-to-date assessments, see <http://www.obstracker.org/>.

<sup>3</sup> The two databases used are Constitutional Provisions at <http://www.right2info.org/constitutional-protections> and Laws and draft laws at <http://www.right2info.org/access-to-information-laws>.

<sup>4</sup> Simeon Djankov, Rafael La Porta, Florencio Lopez-de-Silanes, and Andrei Shleifer, "Disclosure by Politicians," (Tuck School of Business Working Paper 2009-60, 2009), <http://bit.ly/19nDEfK>; Organization for Economic Cooperation and Development (OECD), "Types of Information Decision Makers Are Required to Formally Disclose, and Level Of Transparency," in *Government at a Glance 2009*, (OECD, 2009), <http://bit.ly/13vGtqS>; Ricard Messick, "Income and Asset Disclosure by World Bank Client Countries" (Washington, DC: World Bank, 2009), <http://bit.ly/1clokyf>. For more recent information, see <http://publicofficialsfinancialdisclosure.worldbank.org>. In 2014, the OGP Steering Committee approved a change in the asset disclosure measurement. The existence of a law and de facto public access to the disclosed information replaced the old measures of disclosure by politicians and disclosure of high-level officials. For additional information, see the guidance note on 2014 OGP Eligibility Requirements at <http://bit.ly/1EJLJ4Y>.

<sup>5</sup> "Democracy Index 2010: Democracy in Retreat," The Economist Intelligence Unit (London: Economist, 2010), <http://bit.ly/eLC1rE>.

<sup>6</sup> "Democracy Index 2014: Democracy and its Discontents," The Economist Intelligence Unit (London: Economist, 2014), <http://bit.ly/18kEzCt>.



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