

## Malta 2025

### Information from: Office of the Parliamentary Ombudsman

## Independence, effectiveness, resilience and establishment of NHRIs

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### International accreditation status and SCA recommendations

In the past years, national, regional and international stakeholders have called on Malta to establish a NHRI. This recommendation has featured prominently during the Universal Periodic Review of Malta. On July 2019, the Bill on the Human Rights and Equality Commission was presented to the Maltese Parliament, which would establish an NHRI. ENNHRI, alongside civil society organisations and other actors, has supported the establishment of a Maltese NHRI and advised national actors in their efforts. Prior to the submission of the bill to Parliament, the Council of Europe's Venice Commission published its [Opinion](#) on the draft bill.

On the 20 February 2022, Parliament was dissolved, and Malta went to a General Election. This fact had the legal consequence that all bills that were pending before Parliament prior to the General Election, including the Equality Bill and the Human Rights and Equality Commission Bill, lapsed. Before the current Parliament, there are to date no bills relating to equality and human rights.

In February 2024, the Office of the Parliamentary Ombudsman of Malta joined ENNHRI. In doing so the institution is committed to taking proactive steps towards accreditation as an NHRI compliant with the Paris Principles. In the following months, the Office of the Ombudsman significantly intensified its efforts to establish a fully-fledged NHRI in Malta. The Office of the Ombudsman proposed to the Malta Government how to integrate NHRI functions within its existing framework, regulated by the Ombudsman Act 1995, suggesting an extension of its current mandate to encompass a broader spectrum of human rights responsibilities. ENNHRI provided technical support to the Office of the Ombudsman on the institution's founding legislation and compliance with the Paris Principles.

To streamline the legislative process, in October 2024, the Office of the Ombudsman drafted a new, comprehensive Ombudsman Bill aimed at expanding its existing mandate, in compliance with the UN Paris Principles. The Bill was subsequently presented to the Prime Minister of Malta for consideration in November 2024.

Further detail on the proposal by the Office of the Ombudsman is included below.

ENNHRI is closely monitoring developments in the country and stands ready to support its member institution as well as to provide its expertise on the establishment and accreditation of NHRIs to relevant stakeholders in Malta.

## **Follow-up to international and European actors' recommendations on NHRIs and relevant developments**

### **The establishment of the National Human Rights Institution in Malta**

The [2024 Rule of Law Report](#) by the European Commission highlighted the fact that there was no progress in the establishment of a National Human Rights Institution (NHRI) in Malta. The 2023 report had already stressed on the need for Malta to establish such an institution in line with the UN Paris Principles.

The Office of the Ombudsman has long advocated in favour of the establishment of an NHRI in Malta. The Office has also made its position clear in the sense that its house is in order to become the NHRI for Malta should its [present mandate](#) be extended by legislation.

In November 2023, the Office of the Ombudsman submitted a clear proposal to the Prime Minister with its credentials. The proposal outlined the benefits of using the existing institutional framework, thereby avoiding the need for a separate institution to serve as the NHRI for Malta.

The existing infrastructure, experienced staff, and established procedures of the Office already provide a solid foundation for a broader human rights mandate. This reachable approach would enable the swift implementation of NHRI functions while reinforcing public trust through the Ombudsman's already proven and respected role.

The Prime Minister was quick to refer the proposal for further discussion to the Parliamentary Secretary for Reforms and Equality.

A meeting was held in February 2024, where the Ombudsman explained the rationale behind the proposal.

Unfortunately, the meeting was completely inconclusive in the sense that the Parliamentary Secretary stated that the Government was still exploring the best way forward and had not adopted a definitive position.

To date, no developments have been made public from the side of the Executive on this matter.

## **European Network of National Human Rights Institutions (ENNHRI) Associate Membership**

In February 2024, the Office of the Ombudsman submitted a formal application for Associate Member Status of the European Network of National Human Rights Institutions (ENNHRI).

In the application, the Office stated that, given the lack of progress on establishing a standalone NHRI after the dissolution of Parliament in 2022, it had again proposed integrating NHRI functions within the already functionally present Ombudsman structure.

The ENNHRI board officially accepted the application, and the Office of the Ombudsman became an Associate Member of ENNHRI.

Following its acceptance as an Associate Member of ENNHRI, the Office sought assistance from ENNHRI itself, in an effort to review the Ombudsman Act to ensure full alignment with the Paris Principles.

Between April and May 2024, ENNHRI conducted a detailed review, identifying key areas for improvement, including:

- Expanding the mandate to include promoting and protecting human rights.
- Strengthening the selection and appointment process to ensure transparency and pluralism.
- Enhancing the Office's independence and securing adequate resources.
- Engaging more actively with civil society.

### **A proposal for a new Ombudsman Bill**

In response to these findings, the Ombudsman drafted a new fully-fledged Ombudsman Bill rather than resort to fragmented and piecemeal amendments to the present law.

In October 2024, the draft Bill was forwarded to ENNHRI for further review. In that same month, during the ENNHRI General Assembly, the Ombudsman participated in a parallel meeting with ENNHRI representatives to discuss the proposed Bill and explore potential improvements.

ENNHRI commended the efforts of the Office to align with the Paris Principles its wish for an extended mandate as an NHRI and noted that significant amendments to the draft proposal had been introduced to support this mandate, including:

- A broad human rights remit, covering the protection and promotion of human rights through awareness-raising, education, advising on national legislation, and reporting on the national human rights

situation.

- A comprehensive definition of human rights, incorporating rights set out in international, regional, and domestic instruments, as well as those recognised by national and international courts.
- Strengthening the Ombudsman’s authority to follow up on recommendations made to national authorities.
- Reinforcing the Ombudsman’s independence by expressly stating that the Ombudsman shall not be subject to direction from any other person or authority.

ENNHRI provided additional technical advice, which the Ombudsman reviewed and adopted where appropriate. These measures are included in the proposed [new Ombudsman Bill](#).

The new Ombudsman Bill was formally presented to the Prime Minister of Malta for his consideration and of the Cabinet of Ministers on the 19 November 2024. The Bill offers a resource-efficient solution for establishing a National Human Rights Institution in Malta. By expanding the existing framework of the Office of the Ombudsman, it seeks to ensure compliance with the Paris Principles while addressing the pressing need for a strong and independent NHRI. This proactive initiative reflects a clear commitment to safeguarding and promoting fundamental human rights and freedoms in Malta. For the record, to date, there has not been an official response from the Prime Minister of Malta. Since no feedback was forthcoming by government by 31 January 2025, the Office of the Ombudsman published the new Ombudsman Bill on [its website on the 1 February 2025](#).

## Regulatory framework

The national regulatory framework applicable to the Office of the Parliamentary Ombudsman has not changed since January 2024 but it should be strengthened.

Malta remains without a National Human Rights Institution (NHRI). Since 2022, no substantive steps have been taken by the Government to strengthen the mandate of any institution to contribute to access to justice for individuals, nor has there been any consultation on the best model to adopt for establishing an NHRI. Furthermore, no bills related to the establishment of an NHRI have been presented in Parliament.

As stated, in November 2024, the Parliamentary Ombudsman, following an extensive review and consultation process, proposed a new Ombudsman Bill to the Government. This proposed legislation seeks to expand the mandate of the Ombudsman to include the promotion and protection of human rights, in alignment with the Paris Principles. The proposal aims to address Malta’s long-standing gap in NHRI compliance by leveraging the existing framework of the

Office of the Ombudsman, ensuring a resource-efficient and practical approach to safeguarding human rights and access to justice. To date, the Government has not provided feedback on this proposal.

## NHRI's recommendations to national authorities

The Office of the Ombudsman in the [2024](#) and [2025](#) made the following key recommendations to strengthen the independence and effectiveness of the institution:

- 1. Expand its mandate to include Human Rights promotion and protection:** Introduce a broader human rights remit for the Ombudsman, enabling activities such as awareness-raising, education, advising on national legislation, and reporting on the state of human rights at the national level.
- 2. Parliamentary oversight of unimplemented Ombudsman recommendations:** Establish an ad hoc Select Committee of Parliament to debate final reports and recommendations submitted by the Ombudsman that remain unimplemented. This mechanism would ensure greater accountability and facilitate the improvement of public administration services by addressing systemic issues highlighted in the Ombudsman's reports.
- 3. Address prescription-related issues and concurrent proceedings:** In the Ombudsplans 2024 and 2025 highlight critical issues concerning the six-month non-renewable time-bar for judicial review of administrative actions against the Government. Unlike other civil actions, these time limits are not subject to legal interruption. Moreover, Maltese law prevents concurrent proceedings before the Ombudsman and judicial or quasi-judicial bodies, with the latter taking precedence. The Office has proposed that these prescription periods be suspended during ongoing Ombudsman investigations. Implementing this reform would improve access to justice, ensuring individuals are not disadvantaged by the time needed to complete investigations and promoting fairness and accountability in public administration.

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## Functioning of justice systems

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Based on the Office of the Ombudsman's human rights monitoring and reporting, the areas in which significant challenges affecting access to justice

and/or effective judicial protection are identified are delays in court proceedings, timely and effective execution of national courts' judgments and the transposition of Protocol No. 12 to the European Convention on Human Rights into National Legislation.

### **The inclusion of Protocol 12 of the European Convention for the Protection of Human Rights and Fundamental Freedoms in the European Convention Act (Chapter 319 of the Laws of Malta)**

The Protocol 12 of the European Convention on Human Rights introduces a general prohibition of discrimination. In the Ombudsplan for 2025, tabled in Parliament on 4 October 2024, the Ombudsman reaffirmed his concern that Protocol No. 12 of the European Convention for the Protection of Human Rights and Fundamental Freedoms was not transposed into the European Convention Act (Chapter 319 of the Laws of Malta) despite that Malta ratified Protocol No. 12 on 8 December 2015, and came into effect on 1 April 2016. This means that although Malta is bound by the Protocol, persons are still unable to seek redress before the Maltese courts and have to proceed directly to the Strasbourg Court.

The failure to incorporate Protocol No. 12 into Chapter 319 is a serious matter. The anomaly was highlighted by the Constitutional Court in May 2023, where it was stated that although Malta had ratified the Protocol, it could not be enforced before the Maltese Courts because it was not included in Chapter 319.

The Office is committed to urging the Government to address this matter without further delay. It is not enough for Malta to ratify Protocol No. 12 without allowing Maltese Courts to hear and rule on lawsuits. The Office reiterates its call for an amendment to Chapter 319 of the Laws of Malta for the inclusion of Protocol No. 12 in the Schedule to the European Convention Act.

Through the appropriate amendment to the European Convention Act persons would have wider access to justice where non-discrimination and equality are concerned.

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## **Media freedom**

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The Ombudsman's current mandate does not include the monitoring or reporting of media-related matters. However, if the Ombudsman is requested

to investigate an administrative act or omission by Government and determines that the decision, recommendation, act, or omission under review:

“(a) appears to have been contrary to law;

(b) was unreasonable, unjust, oppressive, or improperly discriminatory, or was based on a law or practice that may be unreasonable, unjust, oppressive, or improperly discriminatory;

(c) was based wholly or partly on a mistake of law or fact; or

(d) was wrong,”

then the Ombudsman may issue recommendations accordingly.

