

Contribution to European Commission's Rule of Law report

2025



UNITED NATIONS
HUMAN RIGHTS
Regional Office Europe

RULE OF LAW & HUMAN RIGHTS

The 'rule of law' is a concept at the heart of the United Nations' mission. It refers to a principle of governance which is consistent with international human rights standards ([S/2004/616](#)). There is no rule of law within societies if human rights are not protected and human rights cannot be protected in societies without a strong rule of law. This interlinkage is reiterated by the UN Secretary-General in his [New Vision for the Rule of Law](#): *"Human rights and the rule of law are mutually reinforcing – the advancement of the rule of law is essential for the protection of all human rights, and human rights are central to the rule of law."*

The Office of the UN High Commissioner for Human Rights (OHCHR), also known as UN Human Rights Office, is mandated by the UN General Assembly to promote and protect the enjoyment and full realization, by all people, of all human rights. As part of its mandate, OHCHR works to mainstream human rights to strengthen the rule of law ([Management Plan 2024 - 2027](#)).

Established in 2009, OHCHR Regional Office for Europe (ROE) aims to advance the protection and promotion of human rights in the European Union and its member States. ROE works to mainstream international human rights standards to strengthen the rule of law in the EU by engaging in and contributing to the European Commission's Rule of Law Report. ROE furthermore promotes the UN human rights mechanisms and processes by giving their work visibility at the regional level.

OHCHR ROE'S CONTRIBUTION

The contribution by OHCHR Regional Office for Europe (ROE) is grounded in the Universal Declaration of Human Rights and nine international human rights treaties:

- International Covenant on Civil and Political Rights (ICCPR)
- International Covenant on Economic, Social and Cultural Rights (ICESCR)
- International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- Convention on the Rights of the Child (CAT)
- Convention on the Rights of Persons with Disabilities (CERD)
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW)
- International Convention for the Protection of All Persons from Enforced Disappearance (CPED)

The current submission consists of a compilation of findings and recommendations contained in reports of UN international human rights mechanisms including human rights treaty bodies, special procedures and the Universal Periodic Review of the UN Human Rights Council. It also includes statements and reports by the UN High Commissioner for Human Rights and his Office.

UN HUMAN RIGHTS MECHANISM

Each of the nine international human rights treaties creates a **human rights treaty body or committee of independent experts** to monitor the implementation of the provisions of the treaty. With the support from OHCHR, the treaty bodies:

- consider reports submitted by State parties detailing how they are implementing the treaty;
- adopt general comments interpreting the treaty provisions, and organize discussions on themes related to the treaties; and
- consider complaints (communications) from individuals alleging that their rights have been violated by a State party, provided that the State has accepted the complaints procedure.

The **UN Human Rights Council (HRC)** is a subsidiary body of the UN General Assembly and the main intergovernmental body within the UN responsible for human rights. It meets at the UN Office at Geneva in three regular sessions each year, and may convene special sessions to respond to urgent human rights situations. The HRC benefits from substantive, technical, and secretariat support from OHCHR.

The **special procedures of the UN Human Rights Council** are independent human rights experts with mandates to report and advise on human rights from a thematic or country-specific perspective. As of November 2024, there are 46 thematic and 14 country mandates. With the support of OHCHR, special procedures undertake country visits, act on individual cases of alleged violations and concerns of a broader nature by sending communications (letters of allegation) to States and other entities; contribute to the development of international human rights standards; and engage in advocacy.

The **Universal Periodic Review (UPR) of the UN Human Rights Council** is a State-led mechanism that conducts a peer review of the human rights situation of each UN Member State once every 4.5 years. It is carried out by the UPR Working Group of the Human Rights Council. In each review, the State under review reports on the actions it has taken to improve its human rights situation and overcome challenges to the enjoyment of human rights. It also receives recommendations from UN Member States for improvement. In addition to the national reports of States under review, the UPR is informed by compilations of stakeholder information and UN system reports.

In recent years, States have established **National Mechanisms for Implementation, Reporting and Follow-up (NMIRF)**, some of whom with the technical assistance of UN Office of the High Commissioner for Human Rights (OHCHR). This mechanism, which is often based within the ministry of foreign affairs, has a mandate which includes following-up on all treaty body obligations, UPR recommendations, as well as recommendations from other international and regional human rights mechanisms, and generally works closely with government ministries, national human rights institutions and civil society organizations. (See: [National Mechanisms for Reporting and Follow-up: A Study of State engagement with International Human Rights Mechanisms](#); [A Practical Guide to Effective State Engagement with International Human Rights Mechanisms](#))

The **Office of the UN High Commissioner for Human Rights (OHCHR)** also known as **UN Human Rights Office** is the main human rights entity of the UN to protect and promote all human rights for everyone everywhere. The High Commissioner for Human Rights leads OHCHR. He is the principal human rights official of the United Nations.

INSIDE THE CONTRIBUTION MALTA

- Period of contribution: January - December 2024
- Contents of contribution:
 - The Human Rights Committee (CCPR) adopted its concluding observation on Malta on 18 July 2024 and the report ([CCPR/C/MLT/CO/3](#)) was published on 5 August 2024.
 - The UPR of Malta was held at its 45th session (from 22 January 2024 to 2 February 2024) and the outcome report was adopted ([A/HRC/56/17](#)) at the 56th session of the UN Human Rights Council (18 June - 12 July 2024). See [matrix of recommendations](#).
 - The Working Group on discrimination against women and girls visited Malta from 26 June to 7 July 2023. At the end of the visit, the Special Rapporteur shared a preliminary statement and subsequently, presented a report ([A/HRC/56/51/Add.2](#)) at the 56th session of the UN Human Rights Council (18 June - 12 July 2024).
- Forthcoming relevant information (January - May 2025): N/A
- Resources:
 - [Rule of Law in Europe | OHCHR](#)
 - OHCHR country page - [Malta](#)
 - Universal Periodic Review - [Malta](#)
 - [Universal Human Rights Index \(UHRI\)](#) allows you to explore over 230.000 observations and recommendations made by the international human rights protection system (treaty bodies, special procedures and the Universal Periodic Review)

Pillar I: JUSTICE SYSTEM

There is no true respect for the rule of law without a judicial power guaranteeing compliance therewith. Judges guarantee compliance with laws and with it the reality of democratic coexistence. The duty to promote equality among all persons, especially to ensure that everyone has the right to access justice on an equal basis with others, rests with the judiciary. Guaranteeing access to justice is indispensable to democratic governance and the rule of law, as well as to combating inequality and exclusion.

Respecting the rule of law through fostering the separation of powers and the independence of justice ensures protection of human rights. The judiciary is the ultimate guarantors of human rights. However, at the same time, judges, prosecutors and lawyers are subject to attacks and violations of their rights, including threats, intimidation, external interference in conducting their professional activities, arbitrary detention, prosecution, and killings. These attacks threaten the impartiality and independence of the judiciary and the legal profession and in turn, deter their role as guarantors of human rights and the rule of law.

For more info:

- [Basic Principles on the Independence of the Judiciary](#)
- [Human rights in the administration of justice: a manual on human rights for judges, prosecutors and lawyers](#)
- [International principles and guidelines on access to justice for persons with disabilities](#)

- [General Recommendation No. 33 on women's access to justice \(CEDAW/C/GC/33\)](#)
- [Special Rapporteur on the independence of judges and lawyers](#)

Independence and impartiality of the judiciary

- The Human Rights Committee notes the Constitutional amendment through Act No. XLIII of 2020, empowering the Judicial Appointments Committee to assume the previous role of the Prime Minister to advise the President on judicial appointments. The Committee also notes that, following the findings of the European Commission for Democracy through Law, the State party undertook measures to reform the composition of the Judicial Appointments Committee by removing the role of the Attorney-General and to reform the Chief Justice appointment procedure. The Committee regrets, however, the lack of information on any additional steps taken to guarantee the independence and impartiality of the judiciary, including in relation to the composition of the Judicial Appointments Committee and on its decision-making procedure. ([CCPR/C/MLT/CO/3, para. 26](#))
- The Human Rights Committee recommends that the State party take additional steps, in line with the recommendations of the European Commission for Democracy through Law to guarantee the independence and impartiality of the judiciary, including legislative measures to review the composition of the Judicial Appointments Committee and its decision-making procedure. The Committee also recommends that the State party engage in meaningful consultations with relevant stakeholders, including the judiciary, the prosecution service and civil society, to ensure that the reforms are comprehensive and effective. The State party should also ensure that the procedures for the selection, appointment, promotion, suspension, transfer, removal and disciplining of judges comply with the Covenant and relevant international standards, including the Basic Principles on the Independence of the Judiciary. ([CCPR/C/MLT/CO/3, para. 27](#))

Justice system - efficiency

- During the Fourth Universal Periodic Review ([A/HRC/56/17](#)), Malta supported recommendations on efficiency of judicial system:
 - Take measures to increase the efficiency of the judicial system in order to ensure court procedures in a timely manner
 - Pursue efforts to use modern technologies in the administration of justice to expedite trials, by allocating sufficient financial and human resources

Pillar II: ANTI-CORRUPTION

Corruption has a destructive effect on State institutions and it undermines the functioning and legitimacy of institutions and processes, the rule of law and ultimately the State itself. In particular, corruption effects on the capacity of States to respect, protect and fulfil human rights particularly of those persons and groups in situation of vulnerability and marginalization.

Corruption pose a major challenge to many societies as they divert public revenues and cripple public budgets that should provide healthcare, housing, education, and other essential services, they undermine States' ability to meet their minimum core obligations and their pre-existing legal obligations to maximize all available resources to respect, protect and fulfil human rights.

For more info:

- [Corruption and human rights | OHCHR](#)
- [OHCHR Key messages on the negative impact of corruption in the enjoyment of human rights](#)

Institutional framework capacity to fight against corruption

- During the Fourth Universal Periodic Review ([A/HRC/56/17](#)), Malta supported a recommendation on eradicating corruption:
 - Continue with initiatives aimed at combating and eradicating corruption, including the investigation of all cases and the prosecution of all persons considered liable.
- During the Fourth Universal Periodic Review ([A/HRC/56/17](#)), Malta noted a recommendation:
 - Introduce legislation imposing criminal and administrative responsibility for abuse of power for those in public office, as well as for obstruction of justice

Prevention - specific measures to enhance transparency, integrity and accountability in sectors with high-risks of corruption and whistle-blower protection

- The Human Rights Committee appreciates the adoption of the Protection of the Whistleblower (Amendment) Act of 2021. The Committee notes the decision of the Attorney General in April 2024 to bring criminal charges against each of the individuals identified by the magisterial inquiry on the agreement among current and former public officials to privatize three public hospitals. While noting that between 2020 and 2024, 24 corruption cases involving public officials were investigated and prosecuted, the Committee is concerned that only three of the cases concerned public officials elected to high-level positions. The Committee regrets the lack of specific information on the number of cases and their outcomes, including the convictions and penalties, and on the measures taken to guarantee the independent and impartial investigation and prosecution of all cases of corruption, including cases concerning public officials accused of high-level corruption (arts. 2 and 25). ([CCPR/C/MLT/CO/3, para. 10](#))
- The State party should take legislative and institutional measures to guarantee the protection of whistleblowers, in law and in practice, to ensure the independence, effectiveness, transparency and accountability of all anti-corruption bodies and to guarantee the prompt and timely investigation of all complaints of corruption, including those concerning high-level public officials accused of high-level corruption, to ensure that perpetrators are prosecuted and, if convicted, punished with sanctions appropriate for the seriousness of the offence. ([CCPR/C/MLT/CO/3, para. 11](#))

Pillar III: MEDIA FREEDOM

Free, independent, plural and diverse media are a core component of the right to freedom of expression, a cornerstone of democratic societies and plays an essential role in strengthening the rule of law. Journalists and the media are crucial to ensure transparency and accountability for public and governmental authorities.

For more info:

- [OHCHR and the safety of journalists and the issue of impunity](#)
- [Special Rapporteur on freedom of opinion and expression](#)
- [General comment No.34 on Article 19: Freedoms of opinion and expression \(CCPR/C/GC/34\)](#)

Framework for journalists' protection, transparency and access to documents

- During the Fourth Universal Periodic Review ([A/HRC/56/17](#)), Malta supported several recommendations on the freedom of expression and the press:
 - Take all measures necessary to guarantee the full exercise of freedom of expression and of the press, as provided for by its own Constitution, in particular to ensure the protection of journalists (Switzerland);
 - Adopt thorough and effective measures and legislative reforms to bolster the safety of journalists and reinforce freedom of expression, including through the establishment of an independent oversight body dedicated to monitoring, addressing and preventing threats and attacks against journalists (Brazil);
 - Finalize legislative measures aimed at ensuring protection of journalists and media professionals (Albania);
 - Ensure the full implementation of the media law reform project to better protect journalists (France);
 - Adopt further legislation in the area of protection of journalists and media freedom (Slovakia);
 - Engage with authorities, media professionals and civil society to create an enabling environment for investigative journalists and open reporting (United States of America);
 - Guarantee freedom of expression and the press, adopting measures to prevent that judicial actions against journalists inhibit them from carrying out their work independently and impartially (Chile);
 - Take additional measures to strengthen the independence and freedom of the press and reinforce the
 - Advance work on ensuring the effective safety of journalists and guarantee proper and impartial
 - Consider taking a further measure to strengthen the protection of journalists and bring to justice perpetrators of crimes against them (Italy);
 - Take further steps to establish a conducive environment for media pluralism and independence, including by assessing the appointment system of the Broadcasting Authority to ensure its independence (Czechia);
 - Take all necessary steps to guarantee the right to freedom of expression and the safety of journalists and media workers (Norway);
 - Ensure the freedom of expression and of the media, ensuring journalists are able to protect their sources (Russian Federation);
 - Keep up the efforts to safeguard the right to freedom of expression, privacy and media freedom, by further strengthening the independence of the media (Greece);
 - Take concrete steps to ensure a safe working environment for journalists, including by ensuring editorial independence for public media organizations (Kingdom of the Netherlands);
 - Carry out the necessary measures to improve the work environment and protection of journalists (Spain);
 - Continue efforts to ensure the safety of journalists and media freedom (State of Palestine);
 - Take steps to further increase the protection of journalists from threats, attacks, reprisals or strategic lawsuits against public participation (Austria);
 - Investigate and prosecute cases of intimidation and violence against journalists, and enact reforms that
 - Implement robust measures to improve media safety in line with the full recommendations of the 2021 independent public inquiry (Ireland);

Framework for journalists' protection – assassination of the journalist, Daphne Caruana Galizia

- During the Fourth Universal Periodic Review ([A/HRC/56/17](#)), Malta supported several recommendations on the freedom of expression and the press:
 - Identify all those involved in the assassination of the journalist Daphne Caruana Galizia and ensure no impunity for this crime, as previously recommended (Slovenia);
 - Investigate effectively the murder of journalist Daphne Caruana Galizia (Russian Federation);
 - Implement the recommendations of the public inquiry report into Daphne Caruana Galizia's murder (United States of America);
 - Review progress against all the recommendations of the public inquiry into the murder of Daphne Caruana Galizia to make clear what the next steps will be (United Kingdom of Great Britain and Northern Ireland);

- Related to the assassination of the journalist, Daphne Caruana Galizia, Malta explained that:
 - To date all suspected persons in the murder of Daphne Caruana Galizia, were charged in Court. Three have already been sentenced: one for 15 years imprisonment whilst two others were jailed for 40 years each.
 - The 2021 report of the Public Inquiry into the murder of Daphne Caruana Galizia, outlined two recommendations to the Police, namely (1) to increase police awareness of the role of journalists in society and (2) to establish a dedicated unit within the Malta Police Force (MPF) dealing with the protection of journalists. The Malta Police engaged with foreign counterparts, particularly the UK National Crime Agency who provided training and assisted in the development of a Standard Operating Procedure titled Managing and Responding to Threats to Life which has been in place for the past two years.
 - Moreover, since November 2021, the Malta Police incorporated media relations training within its in-service training, in collaboration with the Institute for Maltese Journalists. The aim is to enhance awareness amongst police officers on the role and work of Journalists and Media Actors, and measures that can be taken to enhance the protection of their rights. These weekly sessions seek to highlight the risks to journalists and problems they encounter in their work, as well as the potential threats and attacks they face, both in a physical and digital space. The aim of this continuous joint training program is to improve police-media relations through the upholding of police values, particularly accountability, fairness, openness, and respect.

- The Human Rights Committee notes with appreciation the adoption of the Media and Defamation Act in 2018, which decriminalized defamation. The Committee notes the completed and ongoing criminal proceedings concerning the unlawful killing of journalist Daphne Caruana Galizia and the steps taken by the State party to improve the safety of journalists, including the development of standard operating procedures entitled “Managing and responding to threats to life”. The Committee is concerned, however, about reports reflecting an increasingly hostile environment for media workers, journalists and human rights defenders, such as reports of smear campaigns and intimidation, including by means of strategic and unwarranted lawsuits, the non-recognition of non-State issued press cards and surveillance. The Committee is also concerned about the findings of the European Commission in 2023 that media outlets and citizens continued to face obstacles when requesting access to information through the public authorities and the Information and Data Protection Commissioner and about the delays in the review of the Freedom of Information Act of 2008 (art. 19). ([CCPR/C/MLT/CO/3, para. 130](#))

- In accordance with article 19 of the Covenant and the Human Rights Committee's general comment No. 34 (2011) on the freedoms of opinion and expression, the State party should:
 - (a) Ensure the prompt, independent and impartial investigation into all reported cases of violations of freedom of expression, including harassment, threats and violent attacks on journalists, media workers and human rights defenders, prosecute suspected perpetrators and, if found guilty, punish them with appropriate penalties and provide victims with effective remedies;

- (b) Ensure the effective implementation of prevention and response frameworks in order to promote the safety of journalists, media workers and human rights defenders;
- (c) Ensure the independence of regulatory institutions, including the Information and Data Protection Commissioner and the Information and Data Protection Appeals Tribunal, through the effective enforcement of the legal and regulatory framework;
- (d) Ensure that safeguards are in place to prevent the use of strategic and unwarranted lawsuits to unduly target or restrict the activities of civil society organizations, media outlets, journalists and human rights defenders, including those excluded under the legislative measures taken to transpose the directive of the European Parliament on the prevention of strategic litigation against public participation;
- (e) Take all measures necessary to improve the working environment of journalists and guarantee access to information, including the right to promptly appeal negative decisions by the public authorities to the Information and Data Protection Commissioner, the Information and Data Protection Appeals Tribunal and the Court of Appeal. ([CCPR/C/MLT/CO/3, para. 31](#))

Framework for journalists' protection – Freedom of Information Act

- During the Fourth Universal Periodic Review ([A/HRC/56/17](#)), Malta noted a recommendation on guarantee of freedom of press:
 - Continue working on the reform promoted by the Government in 2022 to introduce constitutional changes that guarantee freedom of the press and the reform of the Freedom of Information Act
 - Malta pointed out that freedom of the press is, and has long been, guaranteed in Malta and therefore accepts the part in relation to continue working on the reform. The Maltese Government has tabled three Bills in Parliament aimed at strengthening the fourth pillar of democracy. These Bills will inter alia introduce provisions intended to further protect the democratic way of life and the rule of law; to strengthen the fundamental rights of freedom of expression, privacy and media freedom; and to safeguard journalists and other media professionals against strategic lawsuits against public participation (SLAPP suits). Malta has also already publicly expressed that it will be transposing the recently adopted anti-SLAPP directive to bring these latter-mentioned standards in line with European ones. Malta is also committed to issue a white paper, to offer the opportunity for all stakeholders to further discuss the Media Experts Committee recommendations on the bills tabled by the Government.
- During the Fourth Universal Periodic Review ([A/HRC/56/17](#)), Malta noted a recommendation on Freedom of Information Act and provided explanation:
 - Reform its Freedom of Information Act, as recommended by the United Nations Educational, Scientific and Cultural Organization, to ensure the right to access information of public interest held by public authorities
 - Malta noted that it is committed to continue its reforms in this area and is currently in the process of evaluating any possible legislative changes to be undertaken to the Freedom of Information Act. Moreover, Malta is also investing in a new online Case Management System which will provide a more user-friendly interface for citizen and public officers alike allowing for a smoother experience. A new functionality will also include a direct communication tool (on individual requests) for both parties, doing away with the need to resort to other communication channels that may lengthen the process. It is envisaged that the system will be concluded by end of 2024 and is expected to go live during the first quarter of 2025. Whilst affirming its confidence in the UNESCO recommendations, Malta cannot however fully accept this recommendation unreservedly since it cannot guarantee a priori without discussion that the changes in the field of freedom of information will be limited to, or will be a wholesale transposition of, what was “recommended by UNESCO”.

Framework for journalists' protection - SLAPPs

- Moreover, the Working Group on discrimination against women and girls expresses concern about restrictions of media freedom and intimidation of journalists in Malta in recent years, with reports of frequent use of strategic lawsuits against public participation to deter or silence journalists. The experts also note with concern that the recommendations of the public inquiry into the 2017 killing of journalist Daphne Caruana Galizia have not yet been fully implemented by the Government. The Working Group is also alarmed at reports of harassment against Galizia's family. ([A/HRC/56/51/Add.2, para. 31](#))

Pillar IV: CHECKS AND BALANCES

Civic space is the environment that enables civil society to play a role in the political, economic and social life of our societies. In particular, civic space allows individuals and groups to contribute to policy-making that affects their lives, including by: (1) accessing information; (2) engaging in dialogue; (3) expressing dissent or disagreement, and (4) joining together to express their views. An open and pluralistic civic space that guarantees freedom of expression and opinion as well as freedom of assembly and association, is a prerequisite for making development and peace sustainable.

For more info:

- [OHCHR and protecting and expanding civic space](#)
- [Special Rapporteur on human rights defenders](#)
- [The Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms](#)

Independent authorities

- The Human Rights Committee notes that the legislation establishing the National Commission for the Promotion of Equality and Human Rights in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) is expected to be enacted in 2025 (art. 2). ([CCPR/C/MLT/CO/3, para. 8](#))
- The State party should expedite the adoption of legislative measures to establish the National Commission for the Promotion of Equality and Human Rights in full compliance with the Paris Principles, setting a clear and specific timeline for its establishment and ensuring the effective participation of civil society. ([CCPR/C/MLT/CO/3, para. 9](#))
- During the Fourth Universal Periodic Review ([A/HRC/56/17](#)), Malta supported recommendations on national human rights institution:
 - Accelerate the establishment of an independent and impartial national human rights institution in line with the Paris Principles (Russian Federation);
 - Establish, in full conformity with the Paris Principles, an independent national human rights institution (Finland);
 - Expedite work on establishing a national human rights institution in compliance with the Paris Principles for the promotion and protection of human rights (India);
 - Ensure progress to establish a national human rights institution in accordance with the Paris Principles (Indonesia);

- Pursue efforts to establish a fully fledged, independent national human rights institution in compliance with the Paris Principles (Montenegro);
 - Continue efforts towards establishing a national human rights institution in line with the Paris Principles (Nepal);
 - Fast-track domestic processes to establish a national human rights institution in accordance with the Paris Principles (Philippines);
 - Conclude the adoption into law of the bill establishing a national human rights institution in accordance with the Paris Principles (Portugal);
 - Continue to undertake efforts to establish a national human rights institution that is in line with the Paris Principles (Timor-Leste);
 - Pursue efforts in finalizing the establishment of a consolidated and impartial national human rights institution (Ukraine);
 - Continue efforts to establish a national human rights institution in accordance with the Paris Principles (Bolivarian Republic of Venezuela);
 - Continue the parliamentary debate regarding the adoption of the law establishing the national human rights institution, also with the involvement of public consultations (Slovakia);
 - Establish a national mechanism for the implementation, reporting and follow-up of human rights recommendations and consider the possibility of receiving cooperation for this purpose (Paraguay);
- During the Fourth Universal Periodic Review ([A/HRC/56/17](#)), Malta provided explanation that:
 - The Equality Bills establishing a NHRI in Malta are currently being reviewed, as the European Commission had issued proposals for the standards of Equality Bodies. These Bills will be subject to a process of public consultation prior to being tabled in Parliament.

The enabling framework for civil society – surveillance

- The Human Rights Committee is concerned that the Malta Security Service Act of 1996 permits the Prime Minister to exercise the powers of the Minister responsible for the Security Service (art. 11), to appoint the Commissioner who oversees the Minister responsible for the Security Service (art. 4 (1)) and to hold a seat on the Security Committee (art. 14 (2)), which oversees the expenditures, administration and policies of the Security Service. The Committee is also concerned that, although the Act does not explicitly provide for the interception of online activities, “interception” has been broadly interpreted to include online communication activities. The Committee is concerned that a lack of specificity can result in overly broad interpretations and potentially arbitrary or excessive applications of surveillance powers, infringing on the right to privacy and other fundamental freedoms, without sufficient judicial oversight (art. 17). ([CCPR/C/MLT/CO/3, para. 28](#))
- The State party should take all measures necessary to improve existing safeguards and to ensure that all decisions made by the Minister responsible for the Security Service comply with the principles of legality, proportionality and necessity, including legislative measures to review the powers afforded to the Prime Minister, guarantee independent oversight of the Security Service and ensure that all warrants for surveillance and other intrusive measures are subject to prior authorization by an independent judicial authority. ([CCPR/C/MLT/CO/3, para. 29](#))

The enabling framework for civil society – intimidation and reprisals

- The Working Group on discrimination against women and girls is concerned about the intimidating environment surrounding the debate on sexual and reproductive health rights, and particularly about online and offline attacks against women activists. These include gender-based threats and hate speech on social media, smear campaigns, attempts at blackmail, intimidation, and stigmatization, with

comments such as “Here come the troublemakers”. The experts also heard of one instance of physical attack and two instances of online death threats. ([A/HRC/56/51/Add.2, para 30](#)).

SPECIAL THEME - Freedom of assembly

Freedom of expression and the right to peaceful assembly are fundamental to society – particularly when there is sharp disagreement on major issues. Any restrictions to freedom of expression and right to peaceful assembly must be strictly guided by the principles of legality, necessity and proportionality. These standards must also be applied without discrimination. It must be clear that legitimate exercises of the freedom of expression cannot be conflated with incitement to violence and hatred. The exercise of these rights and freedoms is essential to the functioning of a democratic society and the equitable application of the rule of law.

For more info:

- [OHCHR and protecting and expanding civic space](#)
- [Special Rapporteur on human rights defenders](#)
- [The Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms](#)

- While noting that the Commissioner of Police has permitted spontaneous demonstrations in the past, the Human Rights Committee is concerned about the provisions of the Public Meetings Ordinance of 1931 on the requirements and criminal penalties imposed on individuals exercising their right to peaceful assembly, including the requirement of prior written notice from the Commissioner. In addition to article 15 (2), which provides for the use of force when other efforts of control by the police fail, the Committee is concerned by the lack of legal safeguards for demonstrators against the excessive use of force or reprisals. The Committee is concerned also by the charges made in October 2019 against and the arraignment en masse of migrants held in the Hal Far Reception Centre for their participation in a demonstration regarding their poor living conditions (art. 21). ([CCPR/C/MLT/CO/3, para. 32](#))
- The State party should take the legislative and other measures necessary to ensure a safe and enabling environment in which to exercise the right to peaceful assembly. The State party should also review its legal framework on the right to peaceful assembly, holding consultations with relevant stakeholders, including civil society organizations and human rights experts, so as to guarantee that any restrictions of that right and any use of force comply with the principles of necessity and proportionality. It should improve living conditions for migrants and asylum-seekers held in reception or detention centres, while establishing effective complaint mechanisms and ensuring fair and transparent trials for migrants facing criminal charges in connection with demonstrations, including by providing free legal aid and interpretation services. ([CCPR/C/MLT/CO/3, para. 33](#))