

**OLA**  
**(Observatory on Local Autonomy)**

**Local Governance in the Member States of European Union**

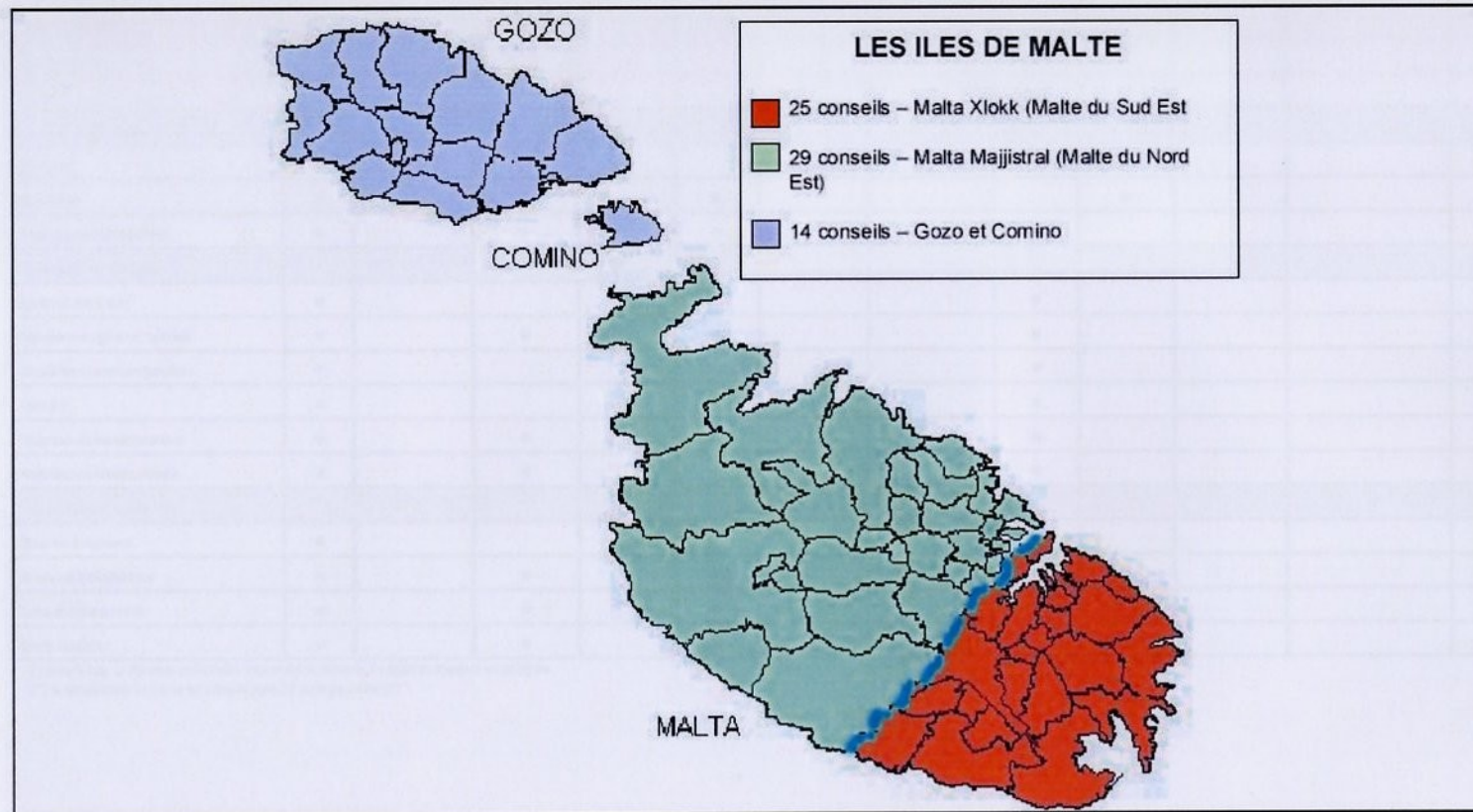
**Local autonomy in Malta**

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Malte  
Structure territoriale



Malta is a small island state measuring 316 square kilometres with a population of 405,165 (July 2009 estimates).<sup>1</sup> Independence was obtained from the British in 1964 after more than one and a half centuries of colonization. On 21<sup>st</sup> September 1964 the Malta Independence Act 1964, a statute of the UK Parliament, provided for the cessation of all responsibility of the UK government for the affairs of Malta, and the Constitution of Malta came into being. Malta became a constitutional monarchy, and from 1974 a Republic within the Commonwealth, with a unicameral parliament and adopting the principle of proportional representation using the single transferable vote. In 2004 Malta became the smallest new member of the European Union and in 2008 it adopted the Euro as its national currency.

The Maltese political model is based on a unitary system, highly centralized with power located at the centre. Power rests primarily with the Prime Minister and his cabinet. Central Government consists of a number of Ministries. Their number and their combination of competencies have tended to change over time. Presently there are nine ministries.<sup>2</sup> Central Government is presently organized around a two- tier structure with ministers and parliamentary secretaries at the political level and Permanent Secretaries, Director Generals, and Directors at the administrative level.

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<sup>1</sup> <https://www.cia.gov/cia/publications/factbook/print/mt.html> -

<sup>2</sup> Office of the Prime Minister, Ministry of Foreign Affairs, Ministry for Gozo, Ministry for Infrastructure, Transport and Communication, Ministry for Resources and Rural Affairs, Ministry for Education, Culture, Youth and Sport, Ministry for Social Policy, Ministry for Finance the Economy and Investment, Ministry for Justice and Home Affairs.

The island population until recently was fairly homogenous with no distinctive ethnic or cultural variations; therefore no federal arrangements were deemed necessary. Since the island is small there was also no need felt to establish local governance. The one exception was the island of Gozo, its geographic distance from Malta necessitating separate administrative arrangements for public distribution of resources, though decisions continued to be made at the centre. The Gozo Civic Council was established as a statutory local government in 1961, elections followed on 4<sup>th</sup> June and the Council held its first formal meeting on 4<sup>th</sup> July 1961.<sup>3</sup> This legal arrangement however was repealed in 1973.<sup>4</sup> Though a ministry for Gozo was established on 14<sup>th</sup> May 1987 decision-making continued to be centralized.

In 1993 with the priority of EU membership in mind the Local Councils Act (Act XV of 1993) today referred to as chapter 363 of the Laws of Malta was enacted setting up 67 later 68 local councils. The Act is modeled on the Charter of Local Self-Government of the Council of Europe (1993). Local councils fall under the remit of the Department of Local Government (Office of the Prime Minister) which was set up with the aim of, inter alia, exercising general administrative supervision of the activities of Local Councils. The Department exercises co-ordination, guidance, support and supervisory roles over local councils. A two-tiered system of government was then established, though devolution remained administrative and decision-making was retained by the centre.

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<sup>3</sup> Bezzina, J., (2005) *Gozo's Government: The Autonomy of the Island Through History*, Gozo Local Councils Association, Gozo p97

<sup>4</sup> For a discussion on the decision of the Gozo Civil Council see Bezzina (2005) pp111-117

Under the Local Councils Act it is provided that: "The Council shall be a statutory local government authority having a distinct legal personality and capable of entering into contracts, of suing and being sued, and of doing all such things and entering into such transactions as are incidental or conducive to the exercise and performance of its functions as are allowed under the Act." The Mayor is the political head of the Council and up till 2008 was elected by the councilors.<sup>5</sup> However, since the amendment of 2009 to the Local Council Act, a mayor has been elected from the voters because s/he must obtain the highest number of votes in the first count amongst the candidates of the political party which at such election obtained the absolute majority of councilors in such election. The Mayor however can only exercise "certain functions on behalf of the State" if an agreement is made with a particular government organisation/authority to perform functions which are exclusively the competence of central government or pertaining to that particular authority. Such functions can only be exercised under the direct supervision and responsibility of the competent authority and after obtaining approval from the Minister responsible for Local Councils. His or her role includes chairing council meetings and she/he is also responsible for supervising municipal activities. She/he is supported in these tasks by the Executive Secretary who is appointed by the deliberative council, following consultation with the Department of Local Government. Hired on a three year contractual basis he/she can only be removed from office or suspended with ministerial approval. He/she is responsible for the executive, administrative and financial management of the local council.<sup>6</sup>

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<sup>5</sup> The 2005 local Council Act amendments changed certain election procedures and the conditions of the vote of no confidence for the mayor. He can now be removed from office by a vote supported by at least one third of councilors as opposed to the absolute majority required before 2005.

<sup>6</sup> DEXIA Sub National Governments in the EU, December 2008, p.471

Local government at its inception was characterized primarily by the slow decentralization of administrative functions. For this purpose the island was divided into 68 administrative units, the largest local council being B'Kara with 22,000 inhabitants and the smallest Mdina with 349. The number of councilors vary with the size of the population, the smallest number being 5 the largest being 13. Councils are elected every three years by the local inhabitants using the same method of election as that for the members of the House of Representatives and Maltese Members of the European Parliament : proportional representation and the single transferable vote. The first elections took place in 1993/94. Each year a third of Malta's Councils are elected, although the law was changed in 2009 to provide that from 2022 onwards the election of councilors is to be held every four years whilst in the period 2009 to 2021 these elections will be held first every two years then every three years. The opposition viewed the whole process as costly and uncalled for in the light of Malta's size, and originally the Malta Labour Party called for a boycott of local party elections. It ultimately fielded its own candidates under the category of independents, and then in later elections under the umbrella of the Party. Through a number of amendments made to the Local Councils Act the responsibilities of local government however has grown and it has now acquired legislative and judicial powers.<sup>7</sup>

Local councils are now empowered to make bye-laws and to take decisions that affect their community.<sup>8</sup> Councils may make, amend or revoke bye laws for the purpose of carrying out their functions and for the prevention and suppression of nuisances. By means of Act No XII of 1995 (amending the Commissioners for Justice Act), the

<sup>7</sup> Refer to the website of the Maltese Ministry of Justice and Home Affairs since Local government falls under its remit.

<http://Mjha.gov.mt/ministry/localgov.html>

<sup>8</sup> Act No XII of 1995 (amending the Commissioners for Justice Act)

Minister responsible for Local Councils may now make "... regulations of general application for the purposes for which a Council may make bye-laws under this Act ..." By means of an amendment to the Referenda Act (effected through Act No VIII of 1996), in certain instances, citizens of a locality may also demand a Referendum in respect of Bye-Laws enacted by Local Councils. The Local Councils (Amendment) Act No XX1 of 1999 was later published. Enacted by Parliament, this Act amended the Local Councils Act (1993) quite considerably. A local enforcement system of local tribunals was also established by Legal Notice 32 of 2000. Local Councils were also given the right to challenge in court any decision which in any way interferes with the free exercise of their powers. On the other hand, since Local Councils are by law statutory authorities having a distinct legal personality, they may be sued by any interested party who feels aggrieved by the actions of a local council.

In 2001 local councils were accorded constitutional recognition and Act No. XIII of 2001 (an Act to amend the Constitution of Malta), was published.<sup>9</sup> With effect from this date, through Article 115A, the Constitution of Malta reads: "The State shall adopt a system of local government whereby the territory of Malta shall be divided into such number of localities as may by law be from time to time determined, each locality to be administered by a Local Council elected by the residents of the locality and established and operating in terms of such law as may from time to time be in force." The Office of the Prime Minister is presently responsible for legal control of local government activities. A monitoring unit has been set up within the Department of Local Government to check compliance with existing laws and more particularly with the Local Councils Act. The Director of local

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<sup>9</sup> Act No. XIII of 2001 (an Act to amend the Constitution of Malta)

government may at any moment require any Executive Secretary to produce accounts and records. By virtue of a legal notice issued in January 2006, council members can now be held personally responsible for fraud.<sup>10</sup>

The role of local government however still remains primarily administrative and includes responsibility for the maintenance of roads, maintenance of parks and gardens, road cleaning, collection of house-hold waste, maintenance of street lighting, administration of public libraries, administration of devolved government property, local enforcement systems, agency agreements; and collection of government trade license fees. Local Councils also have very limited monetary resources primarily a budget which is allocated to them by central government. In 1994 they were allocated 6.3 Million Maltese pounds. In 2007 their allocation had grown to 10.25 million.<sup>11</sup> They are not empowered to collect their own taxes, and they can only raise loans with the agreement of central government. However they have the right to raise funds and they may charge fees for municipal services.

According to the outcome of an EU-wide survey published in Brussels in March 2009, the relevance of local councils in everyday life is not considered to be very important by the overwhelming majority of the Maltese and they believe that national government continues to dominate decision-making and agenda-setting on the island. They are also unclear about the role of local authorities in participating in decision-making at the EU level.<sup>12</sup> Local governance however has undoubtedly increased the transparency of the political forum and has encouraged grass-root participation in the political system. All council-meetings are open to the public and facilities have to be

<sup>10</sup> DEXIA Sub National Governments in the EU, December 2008, p.473.

<sup>11</sup> Ibid under the subheading Department for Local Government

<sup>12</sup> The Role and Impact of Local and Regional Authorities within the EU Euro- barometer 307 2009



provided for media coverage. Citizens may also participate through membership in Committees/Sub-Committees of a Local Council. Members of the locality may also exercise certain rights to call a public consultation meeting and may also put forward suggestions or complaints which must be duly registered in the minutes. In 1994 the Local Council Association (LCA) was set up to represent all councilors. The elected members represent three regions; Gozo, the North-West of Malta and the South East of Malta. The LCA today is represented both on the Council of Europe and The Committee of the Regions (EU).<sup>13</sup>

Devolution of government to the local level has also been matched by a new level of governance at the supranational level acquired by the island's membership of the EU in 2004. Alignment with the *acquis*, and the recognition of the supremacy of EU law has been paralleled by a restructuring of the political system to facilitate communication with different levels of governance. The Office of the Prime Minister is now the leading ministry in co-ordinating national policy in line with supranational demands, though all ministries now have EU units. Now administrative offices have also been opened in Brussels to house representatives of the Maltese government and the Maltese Parliament. Government delegates now staff the various offices of the Commission and are represented in the ministerial committees of the Council, and Maltese MEPs staff the EU Parliamentary Committees.

The redistribution of territorial power on the island has had a marked impact on the political mainframe. It has increased transparency and accountability. Resources of a political and monetary nature are now available at the

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<sup>13</sup> Also refer to Attard, N., *The System of Local Government in Malta*, Malta, 2005

EU level as is the collection of information often not available at the local level, for Malta still lacks proper access to information even though it is envisaged that the Freedom of Information Act will be brought fully into force early in 2010.<sup>14</sup> Certain legislative initiatives which had their origins in the EU, for instance the Environmental Protection Act which contains a whole part devoted to right to information, gives members of the public the right to request information from government departments, authorities and public corporations.<sup>15</sup> The effect of these laws are reflected in the more transparent methodology adopted by the Malta Environmental Planning Authority when taking decisions.<sup>16</sup>

New monitoring bodies and technical agencies are in place at the EU and National level. At EU level the Commission and EP, and at the national level the 1995 law<sup>17</sup> establishing the office of the Ombudsman has introduced new routes for dissatisfied citizens to remedy perceived injustices. New levels of governance have also introduced different levels of electoral participation with the result that the previous condition of power accumulating in the hands of one party has been somewhat diffused. This truth is illustrated by the fact that the Malta Labour Party presently holds the majority of seats in the European Parliament and in the 2009 local council election the party obtained a majority of the vote in 23 localities. The ability to vote for different levels of

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<sup>14</sup> A Freedom of Information Act was recently enacted in December 2008 as Act No XV1 of 2008 but it has not yet fully been brought into force. Some provisions were brought into force on 31<sup>st</sup> July 2009 but the law will all come into force at the end of March 2010 (See Office of the Prime Minister Circular No 17/2009 dated 28 October 2009).

<sup>15</sup> Effect has been given to this provision through the freedom of access to information in the local environment regulations which in effect transpose EU directive 90/313/EEC of 1990 on public access to environmental information and The United Nations Economic Commission for Europe adoption on 25 June 1998 of the *Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters*. These have been given effect in Maltese Legislation in the Environment Protection Act, 2001 and the Development Planning Act, 1992 (as amended in 2001)

<sup>16</sup> Aquilina, Kevin. "Freedom of Information in Malta" on line article

<sup>17</sup> Chapter 435 of the Laws of Malta

governance has also contributed somewhat to a slow de-alignment of the party system illustrated by the 9.7% garnered by Professor Arnold Cassola the candidate for the green party in the 2004 EP elections.<sup>18</sup> This phenomenon has also been abetted by the greater coverage given to green parties at the EP level and the easier passage accorded to certain areas of policy including that of environment through the institutions of the EU. However in the 2009 EU elections the small parties, including the green party won an insignificant 5% of the popular vote, with the Green party obtaining only 2% of this vote.

Local councils have now been operating for over fifteen years and have been under scrutiny during 2009 in order to assess their successes and failures and to determine the way forward. There are still those who believe that the island's size makes local government unnecessary and financially prohibitive. This attitude has been reinforced by the introduction of a local warden system which is perceived as primarily aimed at accruing local funds by penalising citizens for a growing number of infringements. Others argue that the politicization of local councils by national parties limits the effectiveness of these organisations for two reasons. Some maintain that decisions at the local level are not taken in the best interests of the locality but rather in the interest of the party at the national level. Others insist that qualified local individuals who have much to contribute to local governance maintain their distance because they do not wish to participate in partisan politics often regarded as a minefield on the island. Participation in local council elections indeed tend to be lower than for national or European elections, and are often regarded as somewhat peripheral by the electorate. In effect however the role of local government is becoming increasingly important on the island to ensure the general health and well-being of the citizen. As former

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<sup>18</sup> [www.doi.gov.mt/EN/elections/default.asp](http://www.doi.gov.mt/EN/elections/default.asp)

Nationalist mayor of Sliema Albert Bonello Dupius pointed out “few in Sliema are better versed than he in the daily complaints of 10th district residents” which focus to a large extent on issues connected with the environment. These include: excessive construction, noise and dust pollution, traffic congestion and parking problems. However Mr Bonello Dupius adds that “it has become apparent that the council itself cannot really do very much about these and other issues” central to the locality since these issues are frequently a result of decisions made at the level of central government.<sup>19</sup> This situation in part however might be eased with the introduction of the Environment Management Construction Site Regulations 2007 which address environmental degradation through appropriate construction management practices that cause the least nuisance to neighbours.

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<sup>19</sup> Vassallo, R. Malta Today 14<sup>th</sup> June 2009