

1. What kind of judicial protection do I have in your country as a victim of business-related human rights violations? Does this protection include compensation?

Any victim of human rights violations, whether those violations are business-related or not, has the right to take action in court to seek redress and compensation.

2. Do you have specific rules for gross human rights violations? Do these rules apply to environmental crimes or severe labour exploitation?

There are no specific rules for gross human rights violations. All cases involving human rights violations are dealt with in the same manner.

3. I am a victim of human rights violation resulting from activities of a European transnational corporation which occurred outside the European Union. Do I have access to the courts in your country if I am not an EU citizen and I don't live in the EU? What are the conditions to claim violation of my rights? Where can I find any additional information?

The law is territorial. An individual must have recourse to private international law to determine the *lex fori*, provided there is no agreement between the parties that prevents the choice of applicable legislation.

4. Can Ombudsman institutions, equality bodies or National Human Rights institutions support victims of business related human rights violations committed by European transnational corporations outside the European Union? Can these bodies investigate my case if I am not an EU citizen and I don't live in the EU? Are there other public services (such as labour or environmental inspectorate) in your country that can investigate my case? Where can I find information about my rights?

The mandate of Malta's Ombudsman, in accordance with Article 64A of the Constitution and the articles of the Ombudsman Act, is 'to investigate actions taken by or on behalf of the Government, or by such other authority, body or person as may be provided by law (including an authority, body or office established by this Constitution), being actions taken in the exercise of their administrative functions'.

In accordance with Article 12(1) of the Ombudsman Act, the Ombudsman's jurisdiction is limited to investigating complaints concerning:

'(a) the Government, including any government department or other authority of the Government, any Minister or Parliamentary Secretary, any public officer and any member or servant of an authority as aforesaid;

(b) any statutory body, and any partnership or other body in which the Government or any one or more of the said bodies aforesaid or any combination thereof has a controlling interest or over which it has effective control, including any director, member, manager or other officer of such body or partnership or of its controlling body (hereinafter collectively referred to as organisation); and

(c) local councils and any committee thereof, mayors, councillors and members of staff of all local councils.'

The Ombudsman has no specific and formal mandate to investigate cases involving violation of or threats to fundamental rights or to provide redress or promote or protect citizens' fundamental rights.

However, the functions set down in Article 22(1) of the Ombudsman Act are sufficiently broad as to permit that institution to become involved without restrictions in the area of human rights, by:

investigating complaints that have a human rights element;

drawing the attention of the authorities to threats to citizens' rights;

in the event of a violation, contributing to resolving the situation by making recommendations to settle the issue fairly and effectively in order to avoid legal proceedings.

The Ombudsman's jurisdiction extends to all persons who consider that they have been aggrieved regardless of their nationality or origin, provided that person has a personal interest in the substance of the complaint. 'Person' here includes both natural and legal persons.

The authorities or institutions that are subject to the Ombudsman's jurisdiction are required to protect human rights and ensure the enforcement thereof.

Consequently, although the Ombudsman's mandate is limited to the Public Authorities, it is possible to take into consideration situations where the victim of a business-related human-rights violation claims that their rights were violated because that public authority or institution failed to provide the person in question with the protection to which they were entitled.

The Ombudsman can investigate any case even if the person making the complaint is not an EU citizen or does not live in the EU, provided the substance of the complaint falls within the Ombudsman's jurisdiction. Moreover, if the substance of the complaint is subject to the jurisdiction of the Ombudsman or of another local or regulatory authority, legal protection is granted to all victims.

Consequently, the Ombudsman's jurisdiction does not depend on the substance of the case or on whether the aggrieved party lives in Malta, but on the alleged failure on the part of the authority that is subject to the Ombudsman's jurisdiction.

Concerning other public services (e.g. employment or environmental) in Malta, there are other public institutions, such as the Department of Industrial and Employment Relations, the Environment and Resources Authority, the Arbitrator for Financial Services and the National Commission for the Promotion of Equality. However, the National Commission for the Promotion of Equality, as the national equality body, may only investigate cases of discrimination and sexual harassment that occur in Malta.

5. Does your country impose obligations on European transnational corporations to establish complaint mechanisms or mediation services for violations resulting from their business activities? Do these obligations apply also to violations that occurred outside the European Union? Who is in charge of monitoring of these activities in your country? Are there public reports available providing information on the functioning of system?

Malta does not impose obligations on European transnational corporations to establish complaint mechanisms or mediation services for violations resulting from business activities. Mediation in Malta takes place in cases in the Family Court or proceedings before the Rent Regulation Board.

6. Do I have specific rights if I am a vulnerable victim seeking remedy for business related human rights violations? Can I have access to legal aid and under which conditions? Which costs will be covered by the legal aid? Do I have access to legal aid under the same conditions if I am not an EU citizen or I don't live in the EU?

If you are a victim of a crime as specified in Cap 539, Article 2 of the Laws of Malta (Victims of Crime Act) or a victim of domestic violence as specified in Cap 581 of the Laws of Malta (Gender-Based Violence and Domestic Violence Act), you are entitled to legal aid. Once the Court issues an order granting legal aid, you will be eligible to receive legal counsel and to be represented in the Court. The Court costs and lawyer's fees will be covered. If you are not an EU

citizen but have status in Malta, you will still be eligible for legal aid. If you are an EU citizen who lives outside the EU, you will still be eligible to be represented in Court in Malta and for legal aid.

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