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National legislation

Malta

This page provides information on the legal system in Malta.

Sources of law

Acts of Parliament (Primary Legislation);
Regulations, Rules, Orders, Bylaws (Subsidiary Legislation); and
EU Law including decisions of the ECJ.

The Constitution is the basic source of national law and stipulates that laws are passed by Parliament in the form of Acts of Parliament, but that Parliament may delegate legislative powers to other bodies (i.e. ministers, authorities, public bodies etc.) which are empowered to make subsidiary legislation within the sphere of authority delegated to them by an Act of Parliament.

The national legal order must also be viewed in the context of EU legislation, and especially the Treaty of Accession.

In Malta, there is no judge made law: The Court interprets the law as contained in the various enactments. This does not mean however that judicial precedents are not authoritative. In fact judges as a general rule do not depart from a well settled principle established by case law, if not for grave reason. It is also the practice in the Inferior Courts to follow the principle laid down on points of law by a Superior Court.

Types of legal instruments - description

International treaties may also form part of Malta's domestic legislation.

The European Convention on Human Rights

By virtue of an Act of the Maltese Parliament, Act XIV of 1987, the European Convention of Human Rights was incorporated into Maltese law. No law in Malta may be inconsistent with the rights and freedoms set out in the Convention. The power of review is vested in the Courts.

Hierarchy of norms

At national level, the Constitution is the supreme law of the land, followed by Acts of Parliament, followed by subsidiary legislation. However, as noted above, the Treaty of Accession and EU regulations are legally binding and operative in Malta, as in all Member States, and must be taken into account along with EU law in general.

Institutional framework

Institutions responsible for the adoption of legal rules

In essence, a system of checks and balances between the legislature, executive and judiciary is followed. While the three pillars exercise legislative, executive and judicial powers in their own sphere, the system of checks and balances, which Malta inherited from English principles of the rule of law, allows smooth operation of the legal system in Malta.

Decision - making process

Malta follows the British parliamentary system, which is not surprising following 180 years of British rule. A minister proposes a draft law, which is then published in the Gazette for a first reading to be given in Parliament. Depending on the importance of the law in question a white paper may or may not be published beforehand. The House of Representatives then forms a committee and, after a second reading where members of Parliament are given the opportunity to comment in general terms on the particular piece of legislation in question, the Committee Stage examines each and every article in detail and proposes any amendments. When the Committee Stage is completed the Bill is sent back to Parliament for a final third reading, is subsequently given assent to by the President of the Republic and then becomes law.

The general rule is that a law enters into force on the date of publication, unless specifically stated in the law itself that the minister concerned may bring the law (or part of the law) into force on a different date.

Legal databases

National Legislative Database: [Laws of Malta](#) – Legal Services

The service gives free access to:

All national main and subsidiary legislation;
Legal publications including acts, bills, legal notices and by laws.

Related Links

[Laws of Malta](#)

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