

Navigating the Rule of Law Report

A Training Session for Effective Contributions by Civil Society

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Presentation Overview



Introduction: Aims &
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Training



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Introduction: Aims & Objectives of Training

Aims

SOS Malta are implementing this training as part of the Citizens Lab project funded through the EEA Grants & Norway Grants:

- to equip civil society with a deeper understanding of the annual EC Rule of Law report;
- to support in the preparation of submissions to the report;
- to draw up a methodology enabling VOs to consolidate their individual reports into one final submission.

How:

aditus was contracted to:

- Provide civil society with necessary knowledge through the training;
- Provide a written guidance document that can be used as a reference;
- Provide a methodology that can be used by civil society.

aditus
foundation

We **monitor**, **report** and **act** on access to human rights in Malta.

Our mission is to promote a society where all persons are able to **access** and **enjoy** all their fundamental human rights.

Where this is not possible, **access to justice** and remedies should be provided.

- Commentaries on Bills
- Proposals for new legislation
- Shadow Reports, e.g Commission RoL report
- Research and advocacy on policy and practice
- Capacity-building and awareness-raising
- Legal aid and strategic litigation



What Is the EC Rule of Law Report & the Role of Civil Society

But what exactly do we mean by the Rule of Law?

Abstract and theoretical



Simple and practical concept



The term “rule of law” comprises a set of principles which dictate that **NO ONE** - including governments, politicians or lawmakers- is above the law.



This broadly translates into 4 guiding principles:

1. The first principle is **Accountability**
2. The second principle is that **Laws must be Just**
3. Thirdly, the **Government should be open**
4. Lastly, but no less important is that **Justice should be Accessible and Impartial**

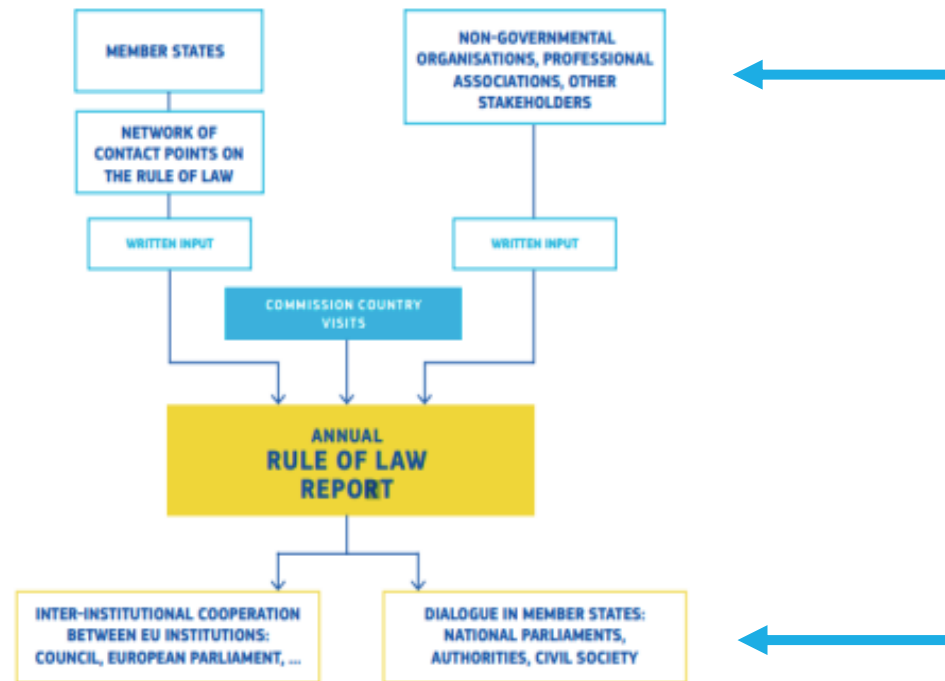
EC Rule of Law



- The rule of law is one of the fundamental values upon which the EU is built
- The European Commission is responsible for guaranteeing the respect of the rule of law across the EU
- the annual rule of law cycle is one such tool, which involves dialogue with national stakeholders, such as yourself

Member State + stakeholder involvement

HOW THE EUROPEAN RULE OF LAW MECHANISM WORKS:



Justice



Independence of Tribunals:
migrants, refugees, also planning,
freedom of information & data
protection, prisoners

Quality of Justice: legal aid, costs,
language issues.

Corruption: integrity of the public
sector, transparency of lobbying

Media: independence of regulatory
authorities (BA), safeguards
against gov interference &
transparency (advertising)

Journalism: protection & safety,
access to information

Civil Society Space: participation
in law making, laws regulating
your work

These issues and their connection with the rule of law

concern all NGOs
(even if not under all thematic areas)

1. Accountability: anti-corruption NGOs, environmental NGOs, strategic litigation NGOs, professional bodies, academia, journalists, media NGOs

2. Laws must be Just: All NGOs should be included in law-making consultations, academia

3. Justice should be Accessible and Impartial: NGOs involved in human rights, in social issues & vulnerable groups, academia

4. Government should be open: journalists, media NGOs, anti-corruption NGOs



The Pillars of the Report

The targeted stakeholder consultation:

Submission of written information on 4 main pillars

- i. Justice system
- ii. Anti-corruption Framework
- iii. Media pluralism and media freedom
- iv. Other institutional issues related to checks and balances



Other institutional issues related to checks and balances /1

The process for preparing and enacting laws

Framework, policy and use of impact assessments and evidence-based policy-making, public consultations and transparency and quality of the legislative process;

Regime for constitutional review of laws.

Independent authorities

Independence, resources, capacity and powers of NHRIs, ombudsman, of equality bodies and of supreme audit institutions;

Statistics/reports concerning the follow-up of recommendations by those institutions in the past two years.

Accessibility and judicial review of administrative decisions

Transparency of administrative decisions and sanctions (incl. publication and collection of related data);

Judicial review of administrative decisions: description of the general regime;

Follow-up by the State to final court decisions, as well as available remedies in case of non-implementation.

Other institutional issues related to checks and balances /2

The enabling framework for civil society

Measures regarding the framework for CSOs and human rights defenders (e.g. legal framework & practice incl. registration and dissolution rules);

Rules and practices having an impact on the effective operation and safety of CSOs: protection from attacks, intimidation, legal threats incl. SLAPPs, negative narratives / smear campaigns, measures capable of affecting public perception of CSOs;

Organisation of financial support for CSO (e.g. framework to ensure access to funding, financial viability, taxation/incentive/donation systems, measures to ensure fair distribution of funding);

Rules and practices on the participation of CSOs in the decision-making process (e.g. measures re dialogue between authorities and civil society, participation of civil society in policy development & decision-making, consultations).

Initiatives to foster a rule of law culture

Measures to foster a rule of law culture (e.g. debates in national parliaments, public info campaigns on rule of law issues, CSO initiatives).

Justice system

Independence

Appointment and selection of judges, prosecutors and court presidents;

Irremovability of judges & prosecutors; including transfers, dismissal and retirement regimes

Promotion of judges and prosecutors;

Significant developments affecting the perception of the independence of the judiciary.

Quality of justice

Accessibility of courts (e.g. court/legal fees, legal aid, language);

Resources of the judiciary (human/financial/material);

Digitalisation (use of digital technology);

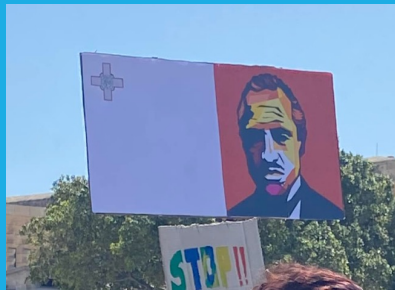
Geographical distribution and number of courts/jurisdictions and their specialisation, in particular specific courts to deal with fraud and corruption cases.

Efficiency of the justice systems

Length of proceedings.



Anti- corruption Framework



Institutional framework to fight against corruption (prevention, investigation prosecution)

Changes: authorities in charge of prevention, detection, investigation, prosecution of corruption;

Changes: resources allocated to each of these authorities (human, financial, legal, and technical);

Safeguards for the functional independence of these authorities.

Prevention

Measures to enhance integrity in the public sector (revolving doors, codes of conduct);

Transparency of public decision-making: lobbying, asset disclosure rules, gifts policy, party financing;

Measures in place to ensure whistleblower protection and reporting of corruption;

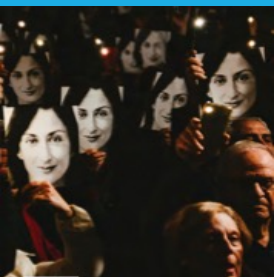
Sectors with high risks of corruption in MT: measures taken for monitoring and prevention (e.g. healthcare, citizen investor schemes, urban planning, disbursement of EU funds).

Repressive measures

Data on the number of investigations, prosecutions, final judgments for corruption offences;

Potential obstacles to investigation and prosecution of criminal sanctions of high-level and complex corruption cases (e.g. procedural rules, statute of limitations, pardoning).

Media pluralism and media freedom



Media authorities

Measures taken to ensure the independence, enforcement powers and adequacy of resources;
Existence and functions of media councils/self-regulatory bodies.

Safeguards government/political interference, transparency/concentration of ownership

Measures taken to ensure the fair and transparent allocation of state advertising;
Safeguards against state/political interference: editorial independence of media, independence of heads of management/governing boards of public service media, plurality of info & opinions;
Transparency of media ownership.

Framework for journalists' protection, transparency and access to documents

Rules and practice guaranteeing journalist's independence & safety (protection of sources/communications);

Access to info/ public documents by [public at large](#) and journalists: procedures, costs/fees, timeframes, review of decisions, execution of decisions, obstacles re classification of info;

Lawsuits (incl. SLAPPs), convictions against journalists, safeguards against manifestly unfounded and abusive lawsuits.



Data Sources and Gathering of Data



CSO submissions should focus on:

- Info re measures taken to implement the recommendations addressed to the Malta in the previous RoL report,
- Other significant developments;
- Inclusion of your own recommendations in your submission, based on the data at hand, can also be impactful;
- the above should focus on developments with regards to the legal and policy frameworks & on implementation, i.e. what is happening in practice.

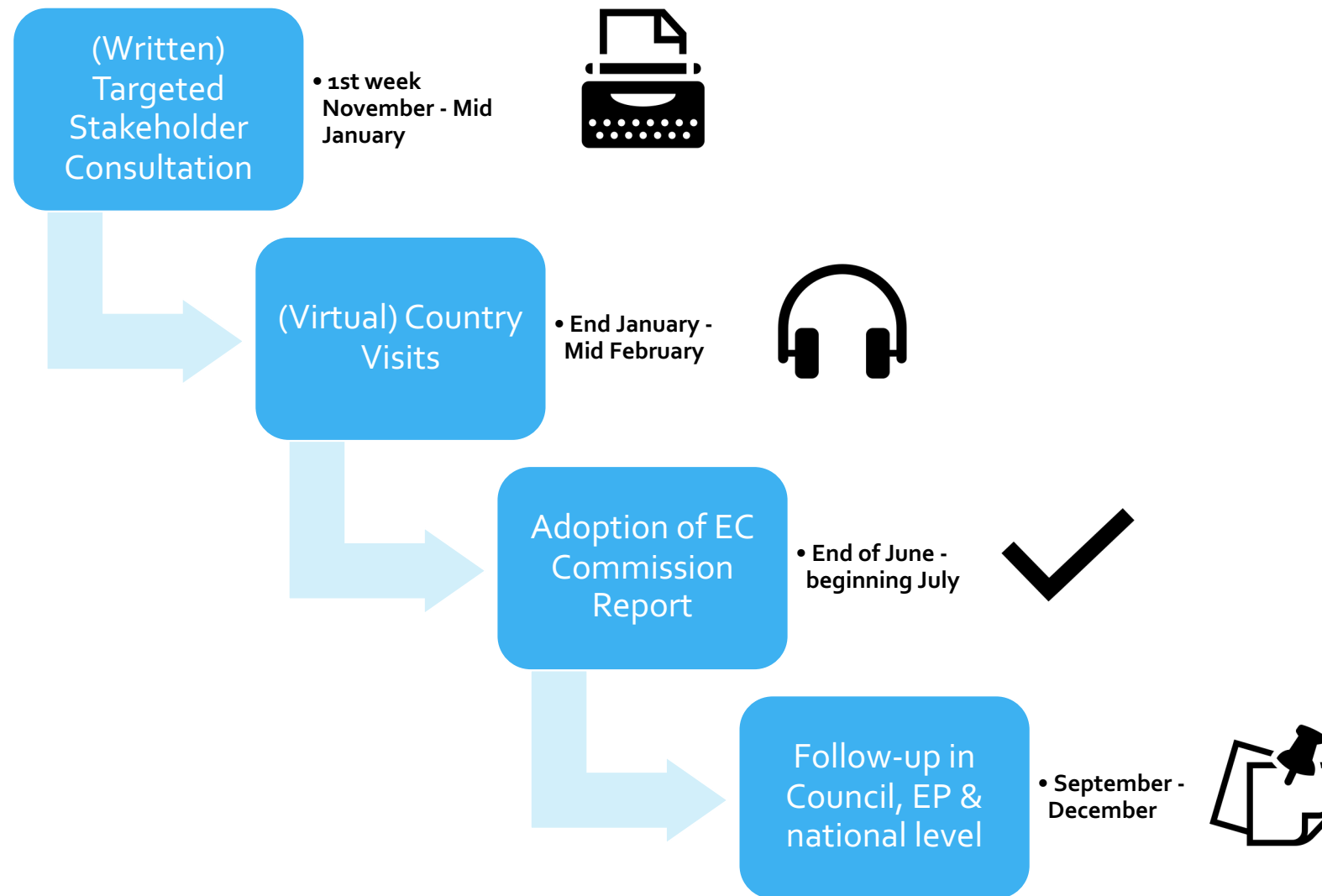
Get Prepared

- I. Define your own research scope: identify the focus of your submission based on your expertise;
- II. Throughout the year try to gather data you think is relevant through FOI Requests or Parliamentary Questions;
- III. Familiarise yourselves with the recommendations from previous EC Rule of law reports. The Commission is interested to see progress or regress over time;
- IV. Gather existing relevant reports, publications and statistics pertaining to the year in question;
- V. Utilize relevant sources such as government publications, academic journals, NGO reports, & international organizations' assessments.



Drafting, Submitting & Stakeholder Meetings

Timelines



I. Justice System

Please provide information on measures taken to follow-up on the recommendations received in the 2023 Report regarding the justice system (if applicable)

5000 character(s) maximum

A. Independence

Appointment and selection of judges, prosecutors and court presidents (incl. judicial review)

(The reference to 'judges' concerns judges at all level and types of courts as well as judges at constitutional courts)

5000 character(s) maximum

Irremovability of judges, including transfers, (incl. as part of judicial map reform), dismissal and retirement regime of judges, court presidents and prosecutors (incl. judicial review)

5000 character(s) maximum

Promotion of judges and prosecutors (incl. judicial review)

5000 character(s) maximum

Allocation of cases in courts

5000 character(s) maximum

Independence (including composition and nomination and dismissal of its members), and powers of the body tasked with safeguarding the independence of the judiciary (e.g. Council for the Judiciary)

5000 character(s) maximum

Accountability of judges and prosecutors, including disciplinary regime and bodies and ethical rules, judicial immunity and criminal/civil (where applicable) liability of judges (incl. judicial review)

5000 character(s) maximum

Remuneration/bonuses/rewards for judges and prosecutors, including observed changes (significant and targeted increase or decrease over the past year), transparency on the system and access to the information

5000 character(s) maximum

Independence/autonomy of the prosecution service

5000 character(s) maximum

Independence of the Bar (chamber/association of lawyers) and of lawyers

5000 character(s) maximum

Significant developments capable of affecting the perception that the general public has of the independence of the judiciary

5000 character(s) maximum

B. Quality of justice

(Under this topic, you are not required to give statistical information but should provide input on the type of information outlined under section 2)

Accessibility of courts (e.g. court/legal fees, legal aid, language)

5000 character(s) maximum

Resources of the judiciary (human/financial/material)

(Material resources refer e.g. to court buildings and other facilities. Financial resources include salaries of staff in courts and prosecution offices.)

5000 character(s) maximum

Training of justice professionals (including judges, prosecutors, lawyers, court staff, clerks/trainees)

5000 character(s) maximum

Digitalisation (e.g. use of digital technology, particularly electronic communication tools, within the justice system and with court users, procedural rules, access to judgments online)

Useful tips!

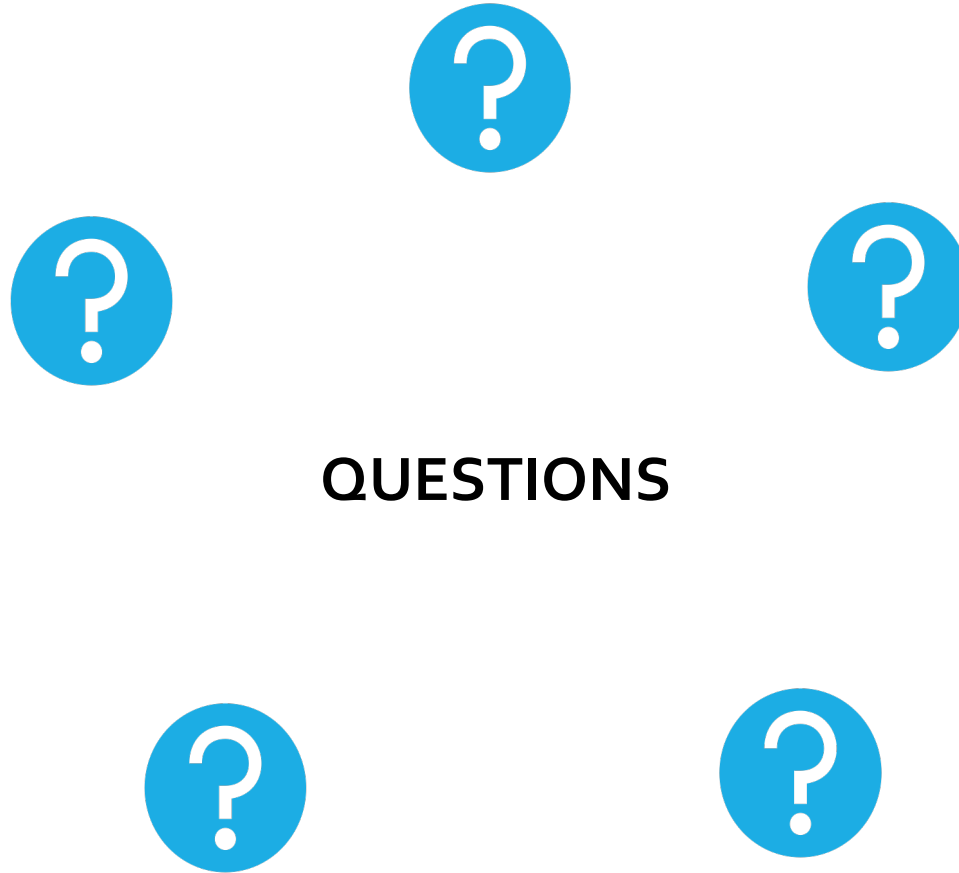


For you

- You can choose whether your submission remains confidential or public.
- You can choose which sections and questions to answer, there is no need to answer all.
- There is a character limit imposed for each question (5000 characters).
- Record data (news, legislation, decisions etc) in one document/file throughout the year.
- Repeating information already submitted previous years to show lack of progress can be impactful.

For others

- Publishing your submission on your website is extremely useful to other NGOs and monitoring bodies.
- Reach out to other NGOs for the possibility of a joint submission with different NGOs or networks contributing to different sections of the report according to expertise.
- Use IT tools, such as google docs to create a joint documents and share information.
- Ask for information/help from other CSOs (aditus, Repubblika)





Many thanks for your attention.



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