

COUNTRY REPORT: MALTA

The year 2014 was particularly intensive for environmental and resource management in Malta, both on the horizontal level and the sectoral level. On the other hand there were no particular new developments on the legislative front, although intensive work was carried out to revise existing legislation. Most legislative activity in fact involved amendments to existing legal instruments. Intensive work was dedicated towards drafting new legislation on noise regulation and climate change, as well as revising existing development planning plans. Sectoral issues continued to be further developed and intensified.

Horizontal Measures

Institutional Organisation

At present the Ministry responsible for sustainable development, the Environment and Climate Change (MSDEC) is working upon the necessary administrative and legal requirements to demerge the environmental directorate from the planning directorate at the Malta Environment and Planning Authority (MEPA). The demerger process entails the setting up of the new Development Planning Authority (DPA) and the Environment and Resources Authority (ERA) as two separate and autonomous authorities, one responsible for the environment and resources, and the other responsible for planning and development.

The original merger between environment and planning development into the single authority MEPA occurred in 2001. It was criticised by various environmental non-governmental organisations and developers alike for being neither balanced nor practical. However some, including the government at that time, insisted that integration of the two inter-related government functions would facilitate sustainable development. The contentious debate as to whether the merger was effective or not continued throughout the subsequent years. As the prevailing opinion seemed skeptical about its functionality, the demerger was one of the major issues the government in office proposed in its electoral manifesto and started to work upon as soon as it was elected in 2013.

The Government explained that its intention for the demerger was to give priority to the environment and strengthen its autonomy. The demerger process seeks to restructure the existing institutional set up at MEPA, whose operational functions and responsibilities are

currently carried out by the work of four main structures, namely: the Chairman's office, The Chief Executive Officer, the Planning Directorate, the Environment Directorate and the Enforcement Directorate.

The whole process is subject to stakeholder consultation to ensure that the final outcome achieves the desired result of having two entities that are efficient and effective in delivering their regulatory role in what are two very important sectors for society's well-being. In March 2014, the Government (in collaboration with MEPA) finalized two consultation documents with the key features that will characterize the setting up of the new Development Planning Authority (DPA) and the Environment and Resources Authority (ERA). The consultation document, circulated for public consultation, includes over 100 proposals based on electoral pledges together with extensive hours of dialogue carried out with various stakeholders and the public over the past months.

Although nothing is concluded as yet, the two authorities would have separate Boards that would mainly inherit the split functions of MEPA's Chairman's Office and provide the framework within which the respective separate Boards of the DPA and ERA would operate, together with any Commissions and Committees the two authorities would establish. The two authorities would also have a secretariat each, to serve as the point of reference for issuing and communicating decisions, and in this context would remain the primary point of contact for ministries, departments and agencies as well as the general public. Due to the MEPA being the focal point to the Aarhus Convention, the two authorities would both inherit this function of following *the Aarhus* principles and provide for a communications, public participation and review/complaints office as an integral part of their set up.

It appears that the two authorities would each have a Chief Executive Officer who would be responsible for the implementation of the objectives of the respective authorities and for their overall supervision and control. Together with other directors, the CEOs of the DPA and the ERAs would constitute the executive arm of the two authorities and would develop the necessary strategies for the implementation of the objectives of their respective authority.

The DPA would continue to process development applications and would be responsible for their enforcement, as well as planning, policy development, transport planning and research related thereto. On the other hand, the ERA would advise Government on environmental standards and policies, draw up plans and provide a licensing regime to safeguard and monitor the environment and control the activities having an environmental impact. Since the

main regulatory provisions for environment protection and management are found in subsidiary legislation, the changes to the parent *Act for ERA* will not be extensive. The focus will be more on effective implementation, and hence on the need to establish strong operational processes and procedures and to enhance the current legislative framework to provide clear direction and intent.

Both authorities would have an Enforcement Directorate which would support each authority in exercising Direct Action, general enforcement, surveillance as well as actions that are necessary to ensure compliance with the building development permits (in the case of the DPA) and to protect the environment to help achieve a sustainable environmental improvement (in the case of ERA).

It is not yet clear which authority would house MEPA's current Information Technology, as well as Mapping and Land-surveying data. Nor is it clear how the existing boards and committees, which provide strategic guidance for the Directorates under MEPA would be split amongst the two authorities to ensure the organizations fulfil their respective functions and responsibilities efficiently and effectively, in line with their legal obligations.

Green Public Procurement

Work also continued by the National Green Public Procurement Task Force within MSDEC on the implementation of the National Action Plan for Green Public Procurement (GPP) which the government adopted in 2011. The Plan establishes GPP targets for 18 product and service groups and proposes a series of measures for their attainment. Apart from MSDEC the following entities are also represented on the Task Force:

- The Malta Environment and Planning Authority
- The Malta Council for Science and Technology
- The Department of Contracts
- The Malta Enterprise
- The National Statistics Office
- The Malta Competition and Consumer Affairs Authority
- The Local Government Department

The main aim of this Task Force is to ensure that the GPP enables the public sector to obtain the best value for money and procure low-carbon, environmentally-friendly goods, works and services. It therefore represents an efficient use of public finances and promotes environmental improvement. It also represents a business opportunity for the suppliers of

goods and services, enhancing opportunities for the growing market for environmentally-positive products and services. Implementation of GPP has been identified amongst the priority actions of the National Environment Policy, where the level of GPP in terms of value and number of tenders is projected to reach 50% of public procurement by 2015.

Sectoral Measures

Air Quality

MEPA continued with its review and assessment of air quality, particularly to make sure that the air quality objectives stipulated by law are achieved. When MEPA finds any places where the objectives are not likely to be achieved, it declares the area in question as being in need of continued Air Quality Management. Due to non-compliance with PM₁₀ thresholds, MEPA has continued the process of drafting a holistic air quality plan for the Maltese Islands. This is proving to be a rather lengthy process that was launched following the public consultation exercise in May 2009. Major developments until now have focused on the transport sector, as national monitoring data identifies this sector as the major contributor to air pollution (mainly from exhaust emissions, tyre and break abrasion and the re-suspension of dust that had previously settled on the roads). Consequently, MEPA (in conjunction with Malta Transport Authority (ADT)) has continued to work on a holistic Air Quality Plan for the Maltese Islands that includes and proposes traffic measures as part of this holistic Air Quality Plan for the Maltese Islands.

Furthermore work has intensified in the proposed Air Quality Plan for the Maltese Islands on outline policy measures to address other man-made pollution sources, namely the sectors of power generation, construction and small industry. This document will also include the MEPA/ADT approved traffic measures and the suggestions it received from the first phase of public consultation. Policies and measures are not only necessary from the point of view of local air quality, but also in respect of national emissions. The National Emission Ceilings (NEC) Directive (2001/81/EC) sets out national emission ceilings for sulphur dioxide, nitrogen oxides, ammonia and non-methane volatile organic compounds in kilotonnes of pollutant to be achieved by Malta by 2010. The environmental objectives of the NEC Directive are to combat acidification, eutrophication and ground-level ozone. The policies and measures necessary to implement this directive are strongly linked to plans and programmes to reduce air pollution in specific areas, especially where exceeded limits are recorded.

Biological Diversity

MEPA has continued to implement various measures with the aim to prevent and mitigate negative impacts on biodiversity following progress over the last few years in enacting a comprehensive legal framework and in establishing an ecological network of protected areas, with the aim of safeguarding biodiversity. The Maltese Islands boast a diverse range of flora and fauna, especially when considering the relatively small land area, the limited number of habitat types and the intense human pressure as one of the most densely populated states in the world. Malta's biodiversity shares affinities with other areas of the Mediterranean, not only in view of its central position, but also in view of historical land bridges.

The state of knowledge of species occurring in the Maltese Islands has been overall stable over the years; nevertheless, a number of new records have been published while others await publication. Various species are protected on a national or international level, noting that several native species are threatened and/or endemic. Indeed, Malta has progressed with protecting various habitats and species of importance, especially in recent years, mostly through the enactment of legislation and establishment of an ecological network of protected areas. Various terrestrial and marine habitats of importance are known from the Maltese Islands, some of which are particularly unique. As a result, MEPA's Environment Directorate has continued to be actively involved in compiling databases in the compilation of the National Database on Biodiversity, as well as a separate database on Alien Species in the Maltese Islands. Data is also collated in databases specifically designed for reporting obligations. These are prepared by institutions such as the Council of Europe and the European Commission. In this respect, one can mention the Natura 2000 database and HABIDES (a database provided in 2009 to report derogations under the European Commission Habitats and Wild Birds Directives).

Work also continued on another database which is updated on an annual basis, namely the Common Database on Designated Areas (CDDA), which as the name implies includes a list of all the designated areas in the Maltese Islands. More specifically, this database includes a list of the areas protected or scheduled in view of important habitats and species, and which have been included in national legislation. Work has also continued on implementing the draft National Biodiversity Strategy and Action Plan (NBSAP) for Malta, which defines a comprehensive framework for safeguarding Malta's biodiversity over the period 2012 to 2020, as required by the National Environmental Policy. The main purpose of the NBSAP is to serve as a national policy driver to integrate biodiversity concerns into relevant sectoral or

cross-sectoral plans, programmes and policies, especially those that can have a bearing on Malta's biological and natural resources. Malta has also continued to fulfil commitments made at the tenth meeting of the Conference of the Parties to *the Convention on Biological Diversity (CBD)* in Nagoya to adopt NBSAPs in line with the CBD's Strategic Plan, and to set in parallel appropriate national targets. To ensure continuity this year saw a focus on the NBSAP implementation phase by ensuring the collaboration of all relevant stakeholders to translate into action the NBSAP measures. The NBSAP targets will only be achieved by securing broad participation, ownership, commitment and collective action at the national and local levels. Through its implementation, the NBSAP will help to mainstream efforts to set Malta on the right track to improve the status of its biodiversity and associated ecosystem services, and to strengthen the integration of biodiversity concerns across relevant sectors.

Waste Management

MSDEC and the Environment Protection directorate within MEPA, as the entity responsible for the regulation of all waste management facilities and activities, continued to work on the incorporation of the essential elements of sustainability in waste management policy. This was achieved through a process of strategic waste management planning, ensuring adequate protection of human health and the environment and monitoring of the waste management regulatory regime. Work also continued on updating the Solid Waste Management Strategy for the Maltese Islands and the preparation of detailed implementation plans.

Climate Action

MSDEC and the Climate Action section of the Malta Resources Authority (MRA) spearheaded the interministerial consultations to finalise the Malta position within the context of the Energy and Climate Package of the European Union, agreed by the European Council in the last quarter of 2014. The interdisciplinary approach in conducting these interministerial consultations has paved the way for Malta to embark upon the drafting of its Low Carbon Development Strategy, as well as conduct further work on both the review and implementation of its Mitigation Strategy finalised in 2009, and its Adaptation Strategy concluded in 2012. Given the developments in Climate Action Law and Policy over the last few years in line with *the EU's Climate Action Policy*, MSDEC has carried out the drafting of a Climate Action Bill that has also been published for public consultation, which aims to bestow the necessary regulatory powers on the authorities to ensure compliance with reporting requirements, as well as mitigation and adaptation measures across the public and

private sectors. The Minister responsible for Climate Action will also have enabling legislative powers to issue regulations to draw legally binding measures should the need arise to ensure that all sectors are on board in meeting mitigation and adaptation targets. The Bill also provides for a Climate Fund. It is envisaged that the Bill will be promulgated as law by the second quarter of 2015 at the latest.

Noise Pollution

MSDEC continued to steer the process for the drafting of adequate legislation to address the fragmented regulation of noise pollution and the difficulties which currently lead to severe problems in regulating neighbourhood noise. The process is an intensive and a complex one as there are various authorities which regulate noise in different sectors, and the new draft bill aims to ensure a smoother synergy between different authorities responsible whilst addressing existing gaps in the law. The Bill will aim at providing remedies to secure better compliance without necessarily seeking redress in court.

Conclusion

The implementation of environmental laws and policies remains a challenging issue for Malta, not least due to the multi disciplinary approach in governance that mainstreaming sound environmental management and sustainable development entails. Civil society is becoming more and more active in environmental consultation fora, and social partners such as Trade Unions and the Employers Association as well as representatives of vulnerable groups are becoming more and more proactive in demanding higher environmental standards. The tourism sector is increasingly embracing the eco-tourism approach and the construction industry, although still blamed for the majority of complaints of an environmental nature, has developed a keen interest in green solutions and options to make buildings more energy efficient. The public at large perceives a poor compliance and enforcement track record, which is probably largely due to lack of the required capacity building within the various authorities responsible for aspects of environmental compliance.