



Public Consultation Submissions & Responses

Intent and Objectives: Consultation on the of the Aarhus Convention National
Implementation Report 2025

February 2025

Environment & Resources Authority



CONSULTATION FEEDBACK

Ref No.	Name of Stakeholder / Date	Comments Received	Response / Remarks
1	Emanuel Agius 20/12/2024	<p>Noise reports from arterial roads, industrial estates, construction factories, fireworks, church bells in Decibals according to international standards should be available in the annual report.</p> <p>We need to know what is generating most noise pollution in the island.</p>	<p>ERA recognises that environmental noise is a concern and consequently implements relevant EU and national regulations related to environmental noise. Within the scope of the Environmental Noise Directive, environmental noise relates to noise sources which originate from designated major roads, railways or aircraft transport sources and major industries. It applies to built-up areas, public parks or other quiet areas in an agglomeration, in quiet areas in open country, near schools, hospitals and other noise-sensitive buildings and areas. The Environmental Noise Directive does not cover workplace noise, neighbourhood noise, construction noise, entertainment noise, noise nuisance, fireworks noise, consumer product noise and noise transmission between dwellings.</p> <p>Environmental noise data and strategic noise maps are published periodically and focus on main arterial roads and specific noise sources.</p> <p>For more information on noise assessments, you may refer to ERA's published reports: https://era.org.mt/topic/environmental-noise/</p>

2	Anonymous 23/01/2025	Rats are coming from my neighbors flat and entering my kitchen	It is recommended to report this issue to the Environmental Health Directorate within the Superintendence of Public Health, which oversees pest control and public hygiene regulations as they may provide further guidance.
3	Dr Suzanne Maas Friends of the Earth Malta 07/02/2025	<p>Obstacles and Issues with regards the different pillars of the Convention Pillar 1: Access to Environmental Information</p> <p>1. Lack of data on the environment or else environmental data is not available to the public</p> <p>a. Information on land use is still not publicly available. NGOs and citizens have to ask for each specific piece of land at the Lands Authority. However, such land might be the responsibility of another entity (like school grounds are under the Ministry of Education etc) so this all lengthens the process even more.</p> <p>2. Lack of a Central, User-Friendly Data Portal</p> <p>a. Although ERA hosts data on its website, there is no single, user-friendly portal for all environmental data. Data often appears fragmented across different agencies (e.g., TM, PA, ERA, Lands Authority, NSO) and mostly in non-user-friendly formats (e.g. PDFs rather than open data formats). An example of a local user-friendly information that presents data related to air pollution is pollution.mt, which is a website that was actually created by a private individual and not a public authority.</p>	<p>Land ownership and use data is managed by multiple authorities, including the Lands Authority, Planning Authority (PA), and sectoral ministries.</p> <p>For environmental aspects, ERA provides information on land-related classifications, such as environmental designations and protected sites, through MEPS and other tools available on ERA website.</p> <p>The Reform of the Land Registration System: 2025-2035 issued for public consultation in 2024 may also help in this regard.</p> <p>Environmental data is held by multiple agencies, as different authorities manage different aspects (e.g., transport emissions by TM, land use by PA, and air quality by ERA).</p> <p>It is worth noting that pollution.mt acquires data from ERA's monitoring stations. ERA provides a national air quality index, which is available on its website ¹(main page), providing information on</p>

¹ <https://era.org.mt/air-quality-widget/>

		<ul style="list-style-type: none"> b. Delays or difficulty in obtaining real-time data c. Recent example: For several months air pollution monitoring data was down/not updated on ERA’s website. While technical issues occur and maintenance down-time is normal, this should be restructured to a couple of days and not lengthy periods of time, such as months. 	<p>air quality, which is accessible and easy to understand by the general public.</p> <p>While technical issues sometimes cause delays, ERA aims to minimize disruptions and ensure real-time data is available as soon as possible.</p>
		<p>3. Freedom of Information Challenges</p> <ul style="list-style-type: none"> a. Some environmental data should be proactively disclosed under this convention but in practice, the public and NGOs still have to rely on FOI to obtain environmental information that isn’t readily available. b. Delays of rejections in FOI requests mean that critical information is not disclosed, going against the rights of this convention. It also makes it harder and more resource-intensive to track whether the government is following environmental regulation. c. Recent Example: Several NGOs filed a FOI request after ERA’s refusal to publish a visitor Carrying Capacity Assessment for Comino¹. <p>¹https://www.independent.com.mt/articles/2024-05-25/local-news/Environmental-NGOs-to-challengeERA-s-refusal-to-publish-Carrying-Capacity-Assessment-for-Comino-6736261432</p>	<p>ERA is committed to proactively share environmental information both in line with the Freedom of Access to Information on the Environment Regulations (S.L. 549.39) which implements the Aarhus Convention, and in line with the Freedom of Information Act (Cap. 496). However, certain data may be confidential and therefore cannot be disseminated by virtue of the law.</p> <p>More details regarding FOI requests can be found in: https://era.org.mt/access-to-information/</p>
		<p>4. Information on Offenders</p> <ul style="list-style-type: none"> a. There is limited visibility with regards to reported infractions and offences which will not help to engage the public in the long term. For example, citizens can report issues via tools like the ‘Clean and Upkeep’ app but there is no transparent mechanism that then informs them on the status or outcome of their report (such as if a fine was issued, if remedial action was taken, or if the case was dismissed). b. The public only gets to know about non-compliance of companies or individuals if the case reaches the courts or if it is specifically covered and reported by the media. This makes 	<p>ERA ensures that offenders are held accountable through the appropriate compliance and enforcement actions, as necessary. Detailed information on Orders issued by the Authority is made publicly available on ERA website. For cases that proceed to legal proceedings, information is also accessible through the Court and Tribunal registers and media coverage.</p> <p>The ERA is continuously working on strengthening its systems for reported environmental violations</p>

		<p>it harder for the public and NGOs to track offenders or to verify if the offenses were effectively addressed.</p> <p>c. Despite technological advances, ERA uses a very basic system to flag repeat offenders, and the sharing of information across different departments or ministries remains fragmented.</p>	<p>and to improve transparency, whilst ensuring the privacy of the persons and ensuring data protection laws are not breached.</p>
		<p>Pillar 2: Public Participation in Decision-Making</p> <p>1. Issues for NGO in the process of consultation</p> <p>a. NGOs are consulted too late in the policy or project cycle (when decisions have already been practically taken) and the consultation period is considered as a tick-off exercise rather than a meaningful process of potential change and enhancement. This limits the scope for any real changes based on feedback or feedback being taken onboard properly</p> <p>b. Moreover, the consultation periods are short and do not give adequate time for meaningful discussion with the public or for proper contribution by the NGOs themselves, especially considering that most eNGOs have limited human resources or work solely on a volunteer basis. There should be clear standards for minimum consultation period (eg. 12 weeks).</p> <p>c. Recent Example: In the case of the National Energy and Climate Plan (NECP) eNGOs were only consulted at the last stages, after publicly calling out the government for the complete lack of public consultation², leaving little room to influence final policy and disrespecting the EU guidelines on the NECPs, which dictates “early and effective” public consultation. These examples lead members of the public and NGOs to believe that many such projects are fait accompli, done deals that stand above the law and will be pushed through, regardless of what feedback might be provided during the public consultation phase or appeal process, if such mandatory requirements are even met.</p>	<p>Comments have been noted. ERA endeavours to actively engage NGOs during relevant public consultations on environmental policy, such as through consultation meetings or mailshots, while public consultations are always made available online and disseminated through social media. Almost all policies or legislations are issued for public consultation in line with the obligations of the Environment Protection Act (Cap. 549). In line with Article 51 of the Act, policies are published for public consultation in at least two stages, and a minimum period of 6 weeks is stipulated. Certain EU Directives also mandate other public consultations. In terms of legislation, Article 55 of the Act stipulates a minimum public consultation period of 4 weeks. ERA reviews all submissions received and publishes public submissions and responses reports once the policy is adopted. Furthermore, it is also being highlighted that NGOs also have a representative on ERAs board.</p> <p>Regulations related to EIAs and Environmental Permits also include appropriate timeframes for public consultations.</p>

		<p>2 https://foemalta.org/press-releases/necp-pr/ and https://foemalta.org/blog/necp-feedback/ and https://timesofmalta.com/article/no-public-consultation-malta-climate-energy-plans-deadlineooms.1094268</p>	<p>All public consultation exercises are published on the Government's main portal for public consultations. (https://www.gov.mt/en/publicconsultation/).</p>
		<p>2. Environmental Impact Assessments (EIA)</p> <ol style="list-style-type: none"> a. ERA decides that an EIA is not required for projects with significant potential impact which raises concerns on the transparency and legitimacy of the process. There should be detailed justifications whenever authorities decide that an EIA is not required, and these reasons must also be shared to the citizens via public consultation. The current trend is to reduce the size of projects to fit within the limits which exclude them from requiring an EIA. This salami slicing approach is even being used by the government when it comes to road building. b. FoEM has already previously recommended the appointment of independent monitors/auditors who can verify that the EIA was carried out properly and that the resulting measures have the intended effect. c. EIAs tend to be too narrow in scope, focusing on immediate local impacts but fail to examine broader implications such as climate change, biodiversity, energy use and waste. d. Once a permit is granted, developers should hold public meetings to explain the EIA outcomes and planned mitigation measures. e. Recent Example: The proposed new road to Smart City: ERA decided that an EIA is not required³, despite the take up of nearly 6,000m² of agricultural land. Moreover, the project will create induced car demand, further promoting car dependence. 	<p>ERA follows the national EIA regulations which transpose the EU EIA Directive. EIA screening is required for projects which fall within the scope of Schedule I of the EIA Regulations. This Schedule includes a list of projects, split under Category I and Category II. Category I projects require an EIA, whereas projects falling under Category II require detailed EIA screening. An EIA is not required where proposals are not expected to have a significant effect on the environment. The EIA screening document would include a detailed assessment of the likely environmental impacts. Such screening documents are made publicly available on the ERA website https://era.org.mt/era-topic-categories/eia-projects/</p> <p>If the public has concerns about specific projects, formal objections during the development permitting process can be submitted. As part of the aspects that need to be assessed in an EIA and included in an EIA report, Schedule IV of the EIA Regulations includes: (i) biodiversity and ecology, including but not limited to species and habitats protected under other legislation; and (ii) climate and environmental dynamics</p>

		<p>3 ERA does not object to new Smart City link roadMaltaTodayhttps://www.maltatoday.com.mt › townscapes › era_doe...</p>	<p>(including greenhouse gas emissions, and considerations relevant to climate change adaptation). EIA Reports are also to include estimates of emissions, including waste and energy demand and use.</p>
		<p>3. Strategic Environmental Assessments (SEA) and Social Impact Assessments (SIA)</p> <ul style="list-style-type: none"> a. Larger projects may warrant an SEA or an SIA, yet the criteria for requiring these assessments remain unclear and inconsistently applied. b. Similarly, for broader plans or policies, the Strategic Environmental Assessment is treated as a mere formality, with limited stakeholder engagement and minimal updates to incorporate any feedback received from NGOs. 	<p>The SEA process, which in Malta is overseen by the SEA Focal Point, applies to Plans and Programmes (not projects) and a wide perspective in its applicability in Malta is adopted to include also strategies and policies. The criteria for assessing whether an SEA is required, are set by the pertinent legislation, S.L. 549.61 and a screening process is also required in this regard. SEAs are conducted by the Responsible Authorities, whereby the Designated Authorities and the public are given the opportunity to provide their comments/suggestions for due consideration and inclusion as necessary. The SEA Focal Point, as the Competent Authority, provides guidance and acts as an oversight mechanism during the SEA process.</p> <p>The national competent authority for the implementation of the Strategic Environmental Assessment Regulations is the SEA Focal Point.</p> <p>Regarding Social Impact Assessments (SIAs), these may be requested, if required by policy, as part of the development permitting process, led by the Planning Authority.</p>

		<p>4. Strengthening ERA's (and other relevant public authorities') role</p> <ol style="list-style-type: none"> a. All ERA and PA boards and appeals bodies should have 50% of their members appointed by NGOs. b. Although ERA can impose environmental conditions on developments, PA can still override ERA's recommendations. c. ERA should have sufficient resources to monitor, enforce, and follow up on EIA measures. Suggestions include an additional project-based fee that would help fund ERA's oversight and the reinvesting of penalties from non-compliance back into enforcement capacity. d. Recent Example: NGOs and residents have been complaining and protesting against the emissions from a local Bitmac Plant for years. However, ERA insists it lacks legal authority to take action⁴. While a law has been drafted to improve this, it remains pending⁵. <p>⁴ https://timesofmalta.com/article/ngo-demands-action-bitmac-plant-emissions.1060539</p> <p>⁵ https://timesofmalta.com/article/plans-extend-era-permit-rules-asphalt-cement-chemicalfactories.1085257</p>	<ol style="list-style-type: none"> a. The composition of the mentioned Boards is enshrined in legislation. b. Both Authorities have different functions at law. ERA, as a statutory consultee in the development planning process provides environmental recommendations, but ultimately the final decisions rest with the Planning Authority (PA), as the entity responsible for planning use. ERA continues to advocate for stronger integration of environmental conditions in planning decisions. c. ERA agrees that adequate resources are essential for effective monitoring and enforcement and the proposal to reinvest penalties from non-compliance into enforcement efforts is being noted for further consideration. d. With regards to the Bitmac plant, ERA is aware of public concerns and has been working within its legal remit to address them.
		<p>Pillar 3: Access to Justice in Environmental Matters</p> <p>1. Proposed Changes to Magisterial Inquiries</p> <ol style="list-style-type: none"> a. FoEM opposes the government's recently proposed legal reforms to the magisterial inquiry process. These changes would severely erode citizens' and civil society's ability to request investigations into alleged wrongdoing (including 	<p>ERA is not responsible for proposing or enacting legal reforms to the magisterial inquiry process. However, ERA recognises the importance of access to justice in environmental matters as outlined under Pillar 3 of the Aarhus Convention, and trusts that any legislative changes will remain consistent with Malta's international obligations.</p>

		<p>environmental crimes and corruption). This would in turn result in less action being taken⁶.</p> <p>b. The proposed reforms appear to raise the threshold of evidence a citizen must present before an inquiry is even considered, effectively shifting investigative burdens onto the public. The proposed bill weakens the rights under Pillar 3 of the Aarhus Convention and could place Malta in further non-compliance of its treaty obligations.</p> <p>⁶ https://www.independent.com.mt/articles/2025-01-29/local-news/Organisations-ask-government-topublish-White-Paper-on-proposed-magisterial-inquiry-law-changes-6736267516</p>	
		<p>2. High costs to challenge authorities</p> <p>a. Environmental NGOs face prohibitive legal costs when seeking to challenge environmentally harmful decisions. Under Maltese law, the losing party in litigation may also be required to pay for the winning party's costs, creating a strong financial deterrent in accessing justice.</p> <p>b. Legal Aid is not available for eNGOs. Legal aid in Malta is only available to natural persons (individuals), not to legal persons (such as associations or NGOs) despite the fact that NGOs often litigate in the public interest. This exclusion contradicts the Aarhus Convention, which calls on contracting parties to reduce financial and other barriers to access to justice in environmental matters. It also runs counter to Article 47(3) of the EU Charter of Fundamental Rights, which mandates legal aid to ensure effective access to the courts for those lacking sufficient resources.</p>	<p>While broader issues related to legal aid and litigation costs are beyond ERA's control, it is worth noting that litigation costs for challenging ERA decisions before the Environment and Planning Review Tribunal (EPRT) are minimal. As established in the Environment and Planning Appeals (Fees) Regulations (S.L. 551.01), the maximum fee to challenge an ERA decision is €200, and filing of all acts before the EPRT is free of charge. These provisions help support the principles of the Aarhus Convention by facilitating affordable access to justice in environmental matters.</p>
		<p>4. Judges' and Magistrates' Environmental Knowledge</p> <p>a. There is currently no structured curriculum locally for legal practitioners on environmental law. At a university bachelor's degree level, environmental law is an optional elective, and there is no dedicated post-graduate degree available locally. As a result, unless legal professionals pursue specialized postgraduate studies abroad or devote their final thesis</p>	<p>While the development of legal curricula and postgraduate programs is beyond ERA's remit, it is worth noting that the Environment and Planning Review Tribunal (EPRT) is a specialised Tribunal, composed of members with expertise in environmental matters. This ensures that environmental cases are handled by individuals</p>

		<p>project to environmental topics, they typically enter the field with limited exposure to environmental legislation and principles. This gap underscores the need for relevant expertise in environmental cases.</p>	<p>who are well-versed in the relevant legislation and principles. Nonetheless, ERA acknowledges the value of further enhancing environmental law education to support the broader legal community.</p>
		<p>Paragraph 3: Environmental education and awareness raising: “Do environmental non-governmental organizations (NGOs) participate in environmental awareness raising? If so, how do they do this, and what support do they receive from the government to implement such activities?”</p> <p>Friends of the Earth Malta (FoEM) focuses on empowering communities through grassroots education and awareness initiatives that address pressing environmental concerns. Through its activities and events, FoEM helps youths and the wider public adopt sustainable and greener lifestyles, enhancing their understanding of environmental challenges and solutions.</p> <p>FoEM’s efforts are currently structured around four key campaign themes: Climate, Energy and Mobility; Food, Agriculture and Biodiversity; Zero Waste; and Comino.</p> <p>Under these thematic areas, FoEM advocates for policy changes, collaborates with other NGO partners on projects, and encourages individuals to adopt more responsible behaviours. These campaigns also support the conservation of natural habitats, such as Comino, safeguarding it against unsustainable tourism pressures.</p> <p>To reach a broad audience, Friends of the Earth Malta engages with children and young people in schools, colleges, and universities. Beyond educational institutions, FoEM participates in community</p>	<p>We have taken note of your comments and they have been included in the National Implementation Report (NIR 2021 – 2024).</p>

		<p>events, markets, and festivals, setting up informal informational stands and workshops. These interactive setups allow people of all ages and backgrounds to learn about sustainable practices in a relaxed, accessible environment.</p>	
		<p>Paragraph 4: Support for environmental NGOs</p> <ol style="list-style-type: none"> 1. What is the level of complexity of the existing procedures for NGO registration (e.g. registration by a court or an administrative authority, length of procedure, expenses involved, required documentation, need of legal assistance)? 2. Is there an established practice of including NGOs in environmental decision-making structures (committees, etc.)? 3. How do any existing recognition and support measures address local level and grass-roots (community) organizations? 4. Does the government provide financial support to environmental NGOs? <p>FoEM continues to reiterate its sentiments from previous National Implementation Reports' feedback (together with the feedback already listed above); while improvements have been made throughout the past decades, there are many shortcomings which NGOs have been voicing for years on end:</p> <ol style="list-style-type: none"> 1. Funds for NGOs – In the past, funds specifically for environmental NGOs were made available under the MCVS VO Funding portal. These are no longer opening and were of great support. On a general note however, these need to take into account HR costs since most of the VO funding allows for only roughly 15% of HR costs to be covered (when for EU projects this is roughly 40%-60%). 	<p>Comments have been noted. Issues related to funds for NGOS have been submitted for the consideration of the Commissioner for Voluntary Organisations. With respect to amendments to the Constitution, it should be noted that these fall within the competence of Parliament.</p> <p>State of the Environment Reports are required to be published every four years by the Environment Protection Act. Follow-up actions aimed to improve Malta's environment are included in Malta's National Strategy for the Environment and thematic environmental policies and plans.</p>

		<ol style="list-style-type: none"> 2. Operational Grants – Certain entities including trade unions and the (profitmaking) Malta Developers Association receive government funds to aid their day-to-day operations. Meanwhile, eNGOs receive no equivalent stable funding, despite acting in the public interest rather than for profit. 3. EU Funds Co-financing – FoEM finds the support of the Co-Financing Fund for NGOs, which helps cover the national co-financing portion of EU grants, very helpful. However, the current €15,000 cap is often too restrictive, especially for larger multi-year EU projects. 4. Billing in Malta still classifies NGOs as “commercial”. These rates are higher than normal household rates and add unnecessary operational overheads to the organisations. 5. Environmental Protection in the Constitution - Environmental stewardship should be enshrined in Malta’s Constitution, granting all citizens the right of action to sue the Government for inaction or lack of enforcement in environmental matters (e.g., air quality, habitat protection). This measure would ensure clear legal standing for citizens and NGOs alike, strengthening accountability and compliance with environmental obligations. 6. Regular State of the Environment Reports - FoEM calls for consistent publication of the State of the Environment Report, along with transparent follow-up actions. These reports are an essential tool for public awareness and for tracking whether governmental measures are effectively improving environmental conditions. 	
		<p>Paragraph 7: Public participation in international environmental decision-making processes</p> <ol style="list-style-type: none"> 1. Is there a practice of including NGO members in delegations representing the State in international environmental negotiations or in any national-level discussion groups forming the official position for such negotiations? 	<p>Participation in international negotiations is coordinated at the national level, with due consideration to structured engagement as necessary.</p>

		<p>In the past few decades, FoEM has not been involved in any such international process despite being part of the largest environmental network in the world. Any involvement in international environmental decision-making processes was only thanks to the international Friends of the Earth network and the EU Commission.</p>	
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