



## Pro Bono Practices and Opportunities in Malta<sup>1</sup>

### INTRODUCTION

The provision of pro bono legal services is less common in Malta than it is in the United States. There is, however, a publicly funded legal aid scheme for those unable to afford a lawyer which allows for free representation in civil, administrative or criminal proceedings. Before engaging in a detailed analysis of such state funded legal services and pro bono opportunities in Malta, a brief overview of the Maltese legal system is necessary.

### OVERVIEW OF THE LEGAL SYSTEM

The Maltese legal system, like Malta itself, has seen a good deal of change throughout its history. Maltese law has historically been influenced by Roman, French and British colonial law.<sup>2</sup> In 1964 Malta enacted its first Constitution based on British constitutional principles. Ten years later, in 1974, Malta adopted a new Constitution and declared itself a Republic with a President as its head of state. The Maltese legal system has since developed into a legal order utilizing elements from both common law and continental law. With Malta's accession to the European Union in 2004, the legal system has further developed to incorporate European Union law in domestic legislation.<sup>3</sup>

#### The Justice System

##### Constitution and Governing Laws

Malta has a written constitution from which it derives its constitutional principles.<sup>4</sup> This is the supreme law of the State defining, among other things, the organs of the State and their functions together with a set of fundamental human rights recognized by the State.<sup>5</sup> These rights are influenced by the European Convention for Human Rights to which Malta is a signatory.<sup>6</sup> Article 39 of the Constitution entitled "Provisions to Secure Protection of Law" provides for a right to legal assistance.

All laws are passed by Parliament which is comprised of the President of the Republic and the House of Representatives.<sup>7</sup> As a hierarchy, the 542 chapters (to date) of the Laws of Malta emanate from and are

---

<sup>1</sup> This chapter was drafted with the support of CSB Advocates (previously known as Zammit & Associates Advocates, The Penthouse, Tower Business Centre, Tower Street, Swatar, BKR 4013, Malta, EU available at (<http://www.csb-advocates.com/contact-us>) (last visited on September 4, 2015).

<sup>2</sup> See generally J. J. Cremona, THE MALTESE CONSTITUTION AND CONSTITUTIONAL HISTORY SINCE 1813 (Malta Publishers Enterprises Group) (1994).

<sup>3</sup> Treaty of Accession, Apr. 16, 2003, available at [http://www.europarl.europa.eu/enlargement\\_new/treaty/default\\_en.htm](http://www.europarl.europa.eu/enlargement_new/treaty/default_en.htm) (last visited on September 4, 2015) (entered into force on May 1, 2004).

<sup>4</sup> MALTA CONST., Sept. 21, 1964, available at <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8566&l=1> (last visited on September 4, 2015).

<sup>5</sup> See id. at ch. IV-VIII.

<sup>6</sup> See Convention for the Protection of Human Rights and Fundamental Freedoms, COUNCIL OF EUROPE, for a list of signatory countries, available at <http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=005&CM=&DF=&CL=ENG> (last visited on September 4, 2015).

<sup>7</sup> Composition of Parliament, OFFICIAL WEBSITE OF THE MALTESE PARLIAMENT, available at <http://www.parliament.mt/compositionofparliament?l=1> (last visited on September 4, 2015).

subject to the Constitution.<sup>8</sup> Each chapter tackles a specific area of law and is often supplemented by “subsidiary legislation” containing more specific rules and/or regulations.<sup>9</sup> Parliament may delegate the power to adopt such regulations to Ministers, allowing them to pass subsidiary legislation which is subject to Parliamentary review for the sake of adhering to or creating policies issued by the Executive as a whole.<sup>10</sup> This system has proven invaluable for the purpose of harmonization of domestic legislation with certain European Union directives and regulations.

## The Courts

### Levels, Relevant Types, and Locations

The judiciary system in Malta is a two-tier system that is divided into Superior and Inferior courts.<sup>11</sup> The Maltese judiciary does not apply the doctrine of precedent which exists under the Common Law system. In practice however, previous judgments have persuasive power but are not binding.

The courts are mainly divided between the civil jurisdiction and the criminal jurisdiction with the former holding jurisdiction over commercial matters.<sup>12</sup> These two jurisdictions, in turn, are divided into different tiers of courts. In all cases, persons may either represent themselves<sup>13</sup> or have a lawyer appear and litigate on their behalf.

The civil jurisdiction is comprised of both superior and inferior jurisdictions.<sup>14</sup> The superior jurisdiction is the Constitutional Court,<sup>15</sup> which, amongst other things, hears cases relating to the interpretation of the Constitution or the validity of laws, as well as appeals on alleged breaches of fundamental human rights. The inferior civil jurisdiction comprises the Court of Magistrates (in Malta or in Gozo) and the Small Claims Tribunal.<sup>16</sup> The Small Claims Tribunal hears cases pertaining to property disputes valued less than €3,494.06;<sup>17</sup> the Magistrates’ Court hears cases pertaining to property valued less than €11,646.87; while the First Hall Civil Court hears cases pertaining to property valued in excess of €11,646.87.<sup>18</sup>

The Criminal Courts handle criminal matters that exceed the competence of the Court of Magistrates, either in terms of potential punishment or sanction. The Court of Magistrates is responsible for addressing the inquiry stage of criminal cases as well as trying cases below a certain threshold of punishment as

<sup>8</sup> CONST., supra n.4 at art. 6 (“... , if any other law is inconsistent with this Constitution, this Constitution shall prevail and the other law shall, to the extent of the inconsistency, be void.”).

<sup>9</sup> See Laws of Malta, OFFICIAL WEBSITE OF THE MALTESE MINISTRY OF JUSTICE, CULTURE AND LOCAL GOVERNMENT, [www.justiceservices.gov.mt/LOM.aspx?pageid=24](http://www.justiceservices.gov.mt/LOM.aspx?pageid=24) (last visited on September 4, 2015).

<sup>10</sup> Id.

<sup>11</sup> EUROPEAN JUDICIAL NETWORK, Legal Professions: Malta, [http://ec.europa.eu/civiljustice/legal\\_prof/legal\\_prof\\_mlt\\_en.htm](http://ec.europa.eu/civiljustice/legal_prof/legal_prof_mlt_en.htm) (last visited on September 4, 2015).

<sup>12</sup> See PORTAL OF THE JUDICIARY OF MALTA, The Courts, for an overview of the Maltese judiciary, <http://www.judiciarymalta.gov.mt/the-courts> (last visited on September 4, 2015).

<sup>13</sup> This practice is heavily discouraged but still allowed by procedures both in civil and criminal courts.

<sup>14</sup> CODE OF ORGANIZATION AND CIVIL PROCEDURE [CCOP], ch. 12.

<sup>15</sup> See Malta Judiciary, [www.judiciarymalta.gov.mt/constitutional-court](http://www.judiciarymalta.gov.mt/constitutional-court) (last visited on September 4, 2015).

<sup>16</sup> Id.

<sup>17</sup> Small Claims Tribunal Act, ch. 380 (Malta).

<sup>18</sup> CCOP, ch. 12.



provided by law.<sup>19</sup> The prosecution in such cases is conducted by the police and the office of the Attorney General.<sup>20</sup>

### Appointed vs. Elected Judges

Superior Courts are presided over by Judges and the Inferior Courts are presided over by Magistrates. Judges and Magistrates are appointed by the President of Malta acting in accordance with the advice of the Prime Minister. In practice, the Prime Minister often confers with the Minister responsible for Justice, Culture and Local Government and the Cabinet. By tradition, the Minister responsible for Justice also confers with the Chief Justice on proposed appointments to the Bench of Judges and the Bench of Magistrates. The Prime Minister may also request the advice of the Commission for the Administration of Justice on any appointment to be made to either Bench. Judges enjoy security of tenure and can only be removed from office for proved misbehavior or proved inability to perform their functions. The eligibility criterion for Judges is 12 years of legal practice (as a Magistrate or an attorney), and for Magistrates seven years of legal practice.

## The Practice of Law

### Education

A person can only practice in the Law Courts after successfully attaining the academic title of LL.D (Doctor of Laws) following a six-year course qualification and then sitting for the public warrant examination successfully.<sup>21</sup> Although one is technically a lawyer in Malta after attaining the LL.D, the law requires that a person possess a government-issued Warrant in order to attain the Right of Audience in the Law Courts and to represent clients.<sup>22</sup> Such a Warrant can only be obtained following a one-year traineeship at the office of a practitioner and/or of a superior court.<sup>23</sup> Such training can be pursued after having obtained the LL.D (or equivalent degree of another EU Member State) or alternatively at any time after the start of the last academic year of the LL.D course of the University of Malta. In Malta, warranted lawyers are permitted to plead before the courts, including the Superior Courts.

### Demographics

The legal profession in Malta is regulated by a single bar association known as the Chamber of Advocates. Currently, there are 875 lawyers registered with the Maltese Chamber of Advocates.<sup>24</sup> While this number provides a general idea of the number of lawyers in Malta, it fails to account for all of them, as membership with the Chamber of Advocates is optional.<sup>25</sup>

---

<sup>19</sup> See CRIMINAL CODE, ch. 9, article 370.

<sup>20</sup> Id.

<sup>21</sup> CCOP, ch. 12.

<sup>22</sup> Id.

<sup>23</sup> The complete list of conditions are set out in Article 81 of the Code of Organization and Civil Procedure (hereinafter "COCP").

<sup>24</sup> See Lawyer Search, MALTA CHAMBER OF ADVOCATES, [http://www.avukati.org/chamberofadvocates/lawyer\\_search.aspx](http://www.avukati.org/chamberofadvocates/lawyer_search.aspx) (last visited on September 4, 2015) for a complete list of lawyers.

<sup>25</sup> Malta Chamber of Advocates represents a fraction of the advocates admitted to the Bar of Malta. It is a voluntary non-political non-governmental organization funded by the fees payable by members and by funds raised from the activities it organizes, and it is recognized as the consultative and participatory representative of advocates in matters related to the organization and administration of justice. See MALTA CHAMBER OF ADVOCATES, About Us, <http://www.avukati.org/chamberofadvocates/content.aspx?id=29020> (last visited on September 4, 2015), for a description of services.



## Legal Regulation of Lawyers

Lawyers in Malta and the services they provide are regulated by various sources. The Maltese 'Chamber of Advocates' has issued an extensive *Code of Ethics*<sup>26</sup> to guide lawyers in their practice. Further, lawyers are subject to the Commission for the Administration of Justice – Committee for Advocates and Legal Procurators for disciplinary matters.<sup>27</sup>

## LEGAL RESOURCES FOR INDIGENT PERSONS AND ENTITIES

### The Right to Legal Assistance

Legal aid is funded by the State and provided through the Legal Aid Office situated at the Law Courts in Valletta. The right to legal assistance is provided for in the Constitution of Malta under Article 39, stipulating the right to “Provisions to Secure Protection of Law.” The right to legal assistance applies to both civil and criminal proceedings.

#### In Civil Proceedings

Article 911 of the COCP provides that a person wishing to benefit from Legal Aid is required to apply to the First Hall of the Civil Court. The COCP, in this respect, refers to this office as the “Advocate for Legal Aid.”<sup>28</sup> The COCP also provides that a request for a legal aid lawyer may be done verbally to the Advocate for Legal Aid at the legal aid office in the courts.<sup>29</sup>

#### In Criminal Proceedings

Every person charged with a criminal offence shall be permitted to defend himself in person or by a legal representative. A person who cannot afford to pay for such legal representation, as is reasonably required by the circumstances of his case, shall be entitled to have such representation at the public's expense.

Article 570 of the Criminal Code provides for the same protection to be afforded in criminal cases as in civil cases and cross-references to Article 911 of the COCP in this regard (as the COCP is more comprehensive regarding conditions and appointment of legal aid lawyers). It remains the prerogative of the First Hall of the Civil Court to approve the application for legal aid. The same prerogative is vested in the Court of Magistrates when the case falls under the criminal jurisdiction.<sup>30</sup>

### State-Subsidized Legal Aid

#### Eligibility Criteria

According to Article 912 of the COCP, a person may gain access to legal aid by means of a:

- Declaration on oath that the person applying for legal aid genuinely believes that he or she has an interest in the case whether as plaintiff or defendant.

---

<sup>26</sup> CODE OF ETHICS AND CONDUCT FOR ADVOCATES, available at <http://www.snapadministration.com/snapdatafiles/files/chamberofadvocates/633057714342187500.pdf> (last visited on September 4, 2015).

<sup>27</sup> See PORTAL OF THE JUDICIARY OF MALTA, Commission for the Administration of Justice, for further information on the Commission for the Administration of Justice, <http://www.judiciarymalta.gov.mt/commission-for-the> (last visited on September 4, 2015).

<sup>28</sup> COCP, art. 911(6) (“In this Code or in any other law includes any other lawyer, officer or public officer designated by the Minister responsible for justice to perform, under the guidance of the Advocate for Legal Aid, any function pertaining to the Advocate of Legal Aid or to the administration of the benefit of legal aid.”).

<sup>29</sup> COCP, art. 911(2).

<sup>30</sup> CRIMINAL CODE, art. 570(4).

- Confirmation on oath that the applicant for legal aid does not possess any property with a value equal to or in excess of €6,988.12. Furthermore, the applicant must not be earning more than the minimum wage, which in 2015, was set to be (in whole-time weekly rates): for 18 years and over €166.26; 17 years €159.48; and under 17 years €156.64. The Minister of Justice reserves the right to change the property value from time to time as he may deem necessary. Furthermore, the calculation process does not consider the principal residence of the applicant or any property, immovable or movable, which forms part of the subject matter of the court proceedings.

The Criminal Code does not make reference to how one may be granted access to a legal aid lawyer. However, reference is made to the application to the Advocate for Legal Aid, which is regulated by the COCP.<sup>31</sup> This effectively means that the same tests applied in the COCP are also applied in criminal cases.

Maltese law specifically states that a company registered under the Companies Act is not entitled to legal aid under any circumstance.<sup>32</sup> Under the system of legal aid, there is no distinction between a Maltese citizen or a foreign national. As long as the case is in the Maltese court system, any financially eligible individual may be entitled to legal aid, regardless of citizenship. It is to be noted that a person applying will not be able to select which lawyer from the Register for Legal Aid may represent them. This decision remains in the hands of the civil courts as the legal aid lawyers work on a rotation system on a fixed roster.

## Mandatory assignments to Legal Aid Matters

In order to provide legal aid, a warranted lawyer must first be added to the Register of Legal Aid. The salary for legal aid lawyers is set out in Chapter 497 of the Public Administration Act as salary scale 10.<sup>33</sup> Assignments are voluntary, which means that there can be no mandatory assignments on legal aid matters, even during the legal training.

### Unmet Needs and Access Analysis

Analyses regarding unmet needs under the legal aid system in Malta are ongoing. In 2014 a Legal Aid Agency was set up to provide administrative support in relation to, *inter alia*, procedures or measures on legal aid concerning; the nomination of advocates for legal aid in the court of criminal jurisdiction, in adoption or guardianship proceedings or in any other court relating to proceedings concerning minors; the benefit of legal aid in cross-border disputes; and the admission to sue and defend with the benefit of legal aid. In addition, the Agency has been entrusted to carry out studies and appoint competent individuals in order to improve and reform the system of legal aid; to monitor the functioning system of legal aid; and to function as an agency for the provision and reform of legal aid or other forms of legal assistance.<sup>34</sup>

### Alternative Dispute Resolution

#### Mediation and Arbitration

Maltese law also provides for Alternative Dispute Resolution. With respect to arbitration, the Malta Arbitration Centre (MAC) was set up to encourage individuals to make use of domestic arbitration and international commercial arbitration. The MAC is governed by a board of Governors duly appointed by the

<sup>31</sup> Id.

<sup>32</sup> COCP, art. 926.

<sup>33</sup> Government salary scales are updated every five years and issued by the Government of Malta. Currently, an Advocate for Legal Aid qualifies for a scale 10 salary under the Third Schedule of Chapter 487 (Public Administration Act). This schedule expands on Article 27 of the Act. See Public Administration Act, ch. 487.

<sup>34</sup> Legal Aid Agency (Establishment) Order; 2014, Legal Notice 414 of 2014, available at <http://justiceservices.gov.mt/DownloadDocument.aspx?app=lp&itemid=26497&l=1> (last visited on September 4, 2015).



President of Malta. However, the Arbitration Act (Cap. 387) does not provide for the provision of Legal Aid in relation to arbitration.

With respect to mediation, the Malta Mediation Centre was set up under the Mediation Act, 2004 (Cap. 474). The Mediation Centre was introduced within the Maltese legal system to provide mediation services in civil, social, family, commercial, and industrial matters, however no provision is made for Legal Aid lawyers. In family mediation, the parties have two options. They may either choose a mediator from an accredited list, with costs, or ask the Court Registrar to appoint a mediator of its choice from an accredited list, however the cost is not borne by the parties but by the court itself.

### Ombudsman

The Ombudsman in Malta is an independent Officer of Parliament appointed by the President of the Republic.<sup>35</sup> The Ombudsman's mandate is to investigate any action taken by or on behalf of the public administration. The Ombudsman may conduct any such investigation *ex officio* or on the written complaint of any person having an interest who claims to have been aggrieved by any action, provided the complaint is not the subject-matter of proceedings pending in a court or other tribunal. Complaints can be lodged in the form of a letter, online, or by email.<sup>36</sup> The Ombudsman charges no fees for his services. When the investigation shows that the complaint is justified, he may issue a recommendation addressed to the public service at issue, recommending that a complainant be given adequate redress.

## PRO BONO ASSISTANCE

While not entirely absent from the Maltese legal practice, pro bono work is not that common in Malta. This is mainly due to the generally well-developed of legal aid system. This explains why pro bono work in Malta has not yet been regulated. However, as such it is not a new concept within the Maltese legal community. Often questions have arisen in the past with respect to the type of lawyers that are able to offer pro bono services, specifically whether or not non-warranted lawyers should be allowed to provide pro bono services and legal advice.

### Pro bono Opportunities

#### Private Attorneys

Private firms are not obliged to do or report any of their pro bono work.

#### Law Firm Pro bono Programs

Some law firms have been known to perform pro bono work, including, but not limited to, authoring numerous publications addressing a variety of social issues including human rights, unemployment, and social security. This practice is more common for law firms rather than individual lawyers who are sole practitioners.<sup>37</sup> There are currently no main clearinghouses dealing in pro bono work in Malta, and no information has been published regarding the pro bono work of law firms or the degree or frequency of such activities.

---

<sup>35</sup> See the Ombudsman Act No XXI of 1995 as amended by Act XVI of 1997; Legal Notices 425 of 2007 and 105 of 2008; and Act XVII of 2010, available at <http://www.ombudsman.org.mt/wp-content/uploads/2013/11/Ombudsman-Act.pdf> (last visited on September 4, 2015).

<sup>36</sup> Complaint form available here <http://www.ombudsman.org.mt/making-a-complaint/> (last visited on September 4, 2015).

<sup>37</sup> See indicative list of law firms offering pro bono legal advice, e.g., Fenech & Fenech (<http://www.fenechlaw.com/pro-bono-csr>) (last visited on September 4, 2015); Dorda Brugger Jordis (<http://www.dbj.at/en/about-us/pro-bono>).





## Non-Governmental Organizations (NGOs)

The most common example of pro bono legal services offered in Malta involves NGOs and asylum seekers. Refugee and immigration matters are pervasive in Malta given the country's geographic location.<sup>38</sup> NGOs that offer pro bono services in these matters include, the Jesuit Refugee Service (JRS),<sup>39</sup> Aditus Foundation<sup>40</sup> and the UN Refugee Agency's refugee services.<sup>41</sup> The Agency for the Welfare of Asylum Seekers - a department of the Ministry of Home Affairs – also assists in the provision of pro bono services by acting as facilitator with all NGOs and public entities to ensure that national obligations to refugees and asylum seekers are accessible.<sup>42</sup>

## University Legal Clinics and Law Students

The Faculty of Laws of the University of Malta offers law students two study units - "*Advocacy Skills 1 - Lectures and Role Plays*" and "*Advocacy Skills 2 – Practicum*" - that aim to introduce legal clinics within the syllabus. These study units provide law students with the opportunity to assist consumers or asylum seekers by providing pro bono legal support.<sup>43</sup>

## Historic Development and Current State of Pro bono

### Historic Development and the Current State of Pro bono

Historically, large scale pro bono activity in Malta has never really developed. This is mainly due to the fact that most law firms are relatively small, that Malta has a well-developed system of legal aid for both civil and criminal proceedings and significant legal aid is being provided by non-profit organizations, especially in the area of asylum and immigration law. Therefore, pro bono work, when performed, is mainly carried out on an individual lawyer basis, despite the establishment of some pro bono programs by larger law firms in recent years.

## Laws and Regulations Impacting Pro bono

There are no specific rules that provide a framework for pro bono representation in Malta. However, the general rules regulating attorney conduct naturally also apply to pro bono services. For instance, the Chamber of Advocates regulations on advertising are relatively strict, as lawyers are prohibited from identifying clients they have worked with and generally may not advertise their services commercially.<sup>44</sup> This may discourage commercial law firms from providing pro bono services by limiting the law firms' ability to approach potential indigent clients.

---

<sup>38</sup> As of Dec. 2014, according to the UNHCR representation in Malta, there were 6,095 refugees, and 178 asylum-seekers residing in Malta. See 2015 UNHCR Subregional Operations Profile, THE UN REFUGEE AGENCY IN MALTA, available at <http://www.unhcr.org/pages/49e48eba6.html> #MTAVA (last visited on September 4, 2015).

<sup>39</sup> See generally JESUIT REFUGEE SERVICE, <http://jrsusa.org/> (last visited on September 4, 2015).

<sup>40</sup> See generally MALTA PRO BONO DIRECTORY <http://www.refugeelegalaidinformation.org/malta-pro-bono-directory> (last visited on September 4, 2015).

<sup>41</sup> See generally THE UN REFUGEE AGENCY IN MALTA, <http://www.unhcr.org/mt/> (last visited on September 4, 2015).

<sup>42</sup> See generally AGENCY FOR THE WELFARE OF ASYLUM SEEKERS, <http://homeaffairs.gov.mt/en/MHAS-Departments/awas/Pages/AWAS.aspx> (last visited on September 4, 2015).

<sup>43</sup> See <http://www.ghsl.org/~leyigzur/upload/pages/Microsoft%20Word%20-%20Law%20Clinics.doc.pdf> (last visited on September 4, 2015).

<sup>44</sup> See CHAMBER OF ADVOCATES, Guidelines for advertising, available at <http://www.avukati.org/downloads.aspx> (last visited on September 4, 2015).



## “Loser Pays” Statute

One problem facing the pro bono practice is a “Loser Pays” statute which may be a deterrent for law firms wanting to represent indigent clients in court.<sup>45</sup>

## Statutorily Mandated Minimum Legal Fee Schedule

The fees payable to legal practitioners for the purpose of activities carried out in the Law Courts are provided for in the Code of Organization and Civil Procedure (hereinafter “COCP” - Chapter 12 of the Laws of Malta) in its Schedule A, Tariff E.<sup>46</sup> It should be noted that these fees are limited to court expenses and do not include compensation for, among others things, the preparation of a case or the research involved. Furthermore, the Chamber of Advocates has issued guidelines for legal fees as a general indication of tariffs charged for out-of-court services.<sup>47</sup> These tariffs make no exceptions for legal aid cases.

While these tariffs are exclusive of the 18% Value Added Tax (“VAT”) that applies to legal services work, VAT in Malta is charged on the applicable fee.<sup>48</sup> Therefore, a lawyer who performs pro bono work is by definition working for free and no VAT is charged as no applicable fee exists. As a result, the current VAT scheme does help facilitate pro bono work.

Finally, there can be no agreements giving a lawyer a percentage of the amount won when a case has been pleaded successfully under Maltese law. Any such agreement would fall within the ambit of an agreement *quotae litis*, which is explicitly prohibited by the COCP.<sup>49</sup> In some cases, this ban could be considered a barrier to the provision of pro bono services.

## Socio-Cultural Barriers to Pro bono or Participation in the Formal Legal System

Unlike law firms in the US and the rest of the EU, Maltese firms do not focus on pro bono as part of their services due, in large part, to the existence of an advanced legal aid system. Pro bono is not ingrained within the traditional Maltese legal system, and is not regulated. Instead, pro bono work in Malta is more often done on a purely voluntary basis through NGOs. The Chamber of Advocates could arguably adopt a more pro-active stance in the promotion of pro bono activities among firms.

## Pro bono Resources

### Entities Engaged in Pro bono

Currently, there are no such resources other than those mentioned above. Moreover, there is no public statistic available with respect to the successful pleas by legal aid lawyers, nor in respect to what kind of disputes are handled by legal aid lawyers.

---

<sup>45</sup> See Legal Aid – Malta, available at [http://ec.europa.eu/civiljustice/legal\\_aid/legal\\_aid\\_mlt\\_en.htm](http://ec.europa.eu/civiljustice/legal_aid/legal_aid_mlt_en.htm) (last visited on September 4, 2015).

<sup>46</sup> EUROPEAN E-JUSTICE, Regulatory Framework Governing Fees of Legal Professions: Malta, available at [https://e-justice.europa.eu/content\\_costs\\_of\\_proceedings-37-mt-en.do?member=1](https://e-justice.europa.eu/content_costs_of_proceedings-37-mt-en.do?member=1) (last visited on September 4, 2015).

<sup>47</sup> Guidelines on Fees to be Charged by Advocates for Services Rendered, MALTA CHAMBER OF ADVOCATES, available at [http://www.avukati.org/chamberofadvocates/common/file\\_provider.aspx?id=633509679584440000](http://www.avukati.org/chamberofadvocates/common/file_provider.aspx?id=633509679584440000) (last visited on September 4, 2015).

<sup>48</sup> Value Added Tax Act, available at <http://justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8872&I=> (last visited on September 4, 2015).

<sup>49</sup> COCP, art. 83 (“Advocates shall not, either directly or indirectly, enter into or make any agreement or stipulation *quotae litis*”).





## CONCLUSION

In Malta, because of the characteristics of the legal market and the absence of a well-established pro bono culture, there is limited pro bono activity. Nevertheless, in view of Malta's particular geographic position, there is an ongoing need for both publicly funded legal aid schemes and pro bono work to assist the numerous immigrants and/or asylum-seekers Malta receives.

While non-profit organizations are active in these fields and do offer considerable legal assistance, larger law firms are given no particular incentives to engage in pro bono services. On an individual level, pro bono work is provided only on a voluntary basis by lawyers. As a result, there is still significant room for developing corporate initiatives and enhancing the provision of free legal services to those in need.

September 2015

Pro Bono Practices and Opportunities in Malta

This memorandum was prepared by **Latham & Watkins LLP** for the **Pro Bono Institute**. This memorandum and the information it contains is not legal advice and does not create an attorney-client relationship. While great care was taken to provide current and accurate information, the Pro Bono Institute and Latham & Watkins LLP are not responsible for inaccuracies in the text.