

ESCE

Electoral System Change in Europe since 1945



Electoral System Change in Europe since 1945: Malta

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Section 1: Overview of Maltese Electoral System Changes since 1945

The PR-STV system used by Malta today is nearly identical to the electoral system that was adopted in the 1921 constitution. Malta became an independent sovereign state in 1964. However, independence did not lead to any change in the electoral system that Malta had used to elect its Members of Parliament while a part of the British Empire.

While PR-STV has remained constant as the Maltese electoral system throughout the period studied in this project, the system has been somewhat amended. The principal alteration of the 1921 system was adopted due to circumstances which arose in 1981, when the National Party won the absolute majority of the first preference vote but the Labour Party won the majority of seats in Parliament. The Labour Party went into government and National Party MPs refused to take their seats, giving rise to a constitutional crisis. This crisis led to the introduction in 1987 of a clause in the constitution stating that a party winning an absolute majority of first preference votes would be guaranteed to have a majority of seats in parliament through the provision, if necessary, of bonus top up seats. This provision was refined in subsequent amendments in 1996 and 2007.

It is important to note that Maltese electoral law is not only governed by the General Elections Act of 1991 but also by the Constitution of Malta itself.

Section 2: Relevant Electoral System changes in Malta since 1945

**Table 1. Summary of Maltese Electoral Laws and Amendments since 1962**

Law	Amendment	Date of enactment	Location	Relevant For research
The Malta Independence Order of 1964: Part VI		21.9.1964	http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8566&l=1	
Act IV of 1987			(We have not yet tracked down a copy of this.)	Yes
Act XXI of 1991		21.9.1991	http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8824&l=1	No significant change, but this sets out the basic framework still in force
	Act XXIV of 1995	12.9.1995	http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lp&itemid=22624&l=1	
	Act XI of 1996	2.4.1996	http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lp&itemid=21668&l=1	yes (const. am. relating to following)
	Act XV of 1996	2.7.1996	http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lp&itemid=21672&l=1	yes
	Legal Notice 178 of 1996		http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lp&itemid=22416&l=1	yes (clarification of previous)
	Act VI of 2001	23.2.2001	http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lp&itemid=16336&l=1	
	Act XVI of 2002	6.8.2002	http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lp&itemid=16529&l=1	
	Act XXI of 2007	28.9.2007	http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lp&itemid=18445&l=1	yes
	Legal Notice 425 of 2007		http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lp&itemid=20417&l=1	
	Act VII of 2009	12.5.2009	http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lp&itemid=20088&l=1	



Section 3: Details of previous electoral systems and electoral system changes.

3.1 The Electoral System of 1964

As noted above, the electoral system in place at the time of independence in 1964 was PR-STV. The Maltese parliament was unicameral and the term lasted four years (extended in 1966 to five years). It was elected by universal suffrage from 10 electoral districts using proportional representation by the single transferable vote system. The House of Representatives consisted of 50 members but could increase to 51 if the speaker was elected from outside the house. Qualification of voters remained the same: 21 years of age and a resident of Malta for a year, having been so a year prior to the election.

In detail:

Assembly Size and District Magnitude

The size of the legislature has gradually increased over the years: the House of Representatives is now more than 50 per cent bigger than it was in the early post-war years. None of the individual changes since independence, however, meets the 20 per cent threshold for significance used here. The changes are summarized in Table 2.

**Table 2. District list and magnitude**

Elections	Name of the district	Magnitude	Assembly size
1947–55	1 to 8	5	40
1962–66	1 to 10	5	50
1971	1,4,5,6,10	5	55
	2,3,7,8,9	6	
1976–81	1 to 13	5	65
1987–	1 to 13	5	65+*

*

Since 1987, top-up seats have been available to ensure that the national result in terms of seats reflects the national result in terms of votes (see below for details of the changing ways in which this has been done). In fact, there were 4 top-up seats in each of the elections of 1987, 1996, and 2008. There have been no top-up seats at any other elections.

Source: www.maltadata.com

Nature of votes that can be cast.

Voters rank candidates in order of preference. They may express as many or as few preferences as they wish and may move between parties as they wish. On the ballot paper, candidates are grouped by party and, within party, listed alphabetically.

Party threshold.

None

*Allocation of seats to parties and candidates at the lower tier.*

Seats are awarded to candidates on the basis of their individual vote shares using the Droop quota. If insufficient seats are filled from first preferences, votes are transferred from bottom-placed candidates and surplus votes are transferred from winning candidates until all the seats have been filled.

Allocation of seats in the upper tier.

n/a

3.2 Reform of 1970

In 1974 Malta became a Republic, through Act LVII of 1974. A few important electoral reforms were also introduced during this period of change. It was enshrined in the constitution that Malta was to be divisible into a minimum of 9 electoral districts and a maximum of 13 electoral districts with each district electing 5 members to the House of Representatives. The electoral boundaries are reviewed by parliament .Thus the maximum number of representatives is 65 while the minimum is 45. Originally the number of members, specified in the constitution itself was of 50 members later increased to 65 courtesy of Act XXVI of 1970.

3.3 Reform of 1987

An important event in Maltese electoral history occurred in 1981. This election brought with it a perverse result by which the National Party (PN), who had obtained an absolute majority of valid votes at the 1st count, ended up with a minority of seats in Parliament. Since the constitution spoke only of a majority of seats, the Maltese Labour Party (MLP) ended up governing even though in reality they did not have the absolute majority of the valid votes at the 1st count.

Thus, in 1987, an amendment was enacted through Act IV of 1987 which stated that any party that gets an absolute majority of valid votes at the 1st count is guaranteed an absolute majority (of one seat) in parliament. Thus now if a party won an absolute majority of votes but not an absolute majority of seats, a number of seats are added to



this party's total in order to give a majority of one seat. The allocation of additional seats is to be made on the basis of the highest and next highest number of votes obtained by the non-elected candidate or candidates of the party concerned at the last count, irrespective of electoral divisions.

3.4 Reform of 1996

Later it was realised that the 1987 amendment did not cater for a situation where neither of the two elected parties obtain more than 50% of all valid first count votes. Thus, it is possible to have a situation where a party obtains a relative majority of valid votes at the 1st count but obtains fewer parliamentary seats than the other party. Thus the corrective mechanism introduced through the 1987 amendment was extended to situations where neither party obtained an absolute majority. This was done through the enactment of Act XI of 1996.

3.5 Reform of 2007

One final electoral reform occurred in 2007. This once more dealt with the allocation of seats to parties on the basis of national first preference % totals. In 2007 through Act XXI, it was established that the winning margin in an election was to be reflected in the margin of seats obtained. Thus if one obtained a majority of 10,000 votes but only a majority of 1 seat, additional seats are added to reflect the winning margin. This is also done vice versa when the winning margin is of 3,000 voted however the margin in the seats is much more than the margin of votes. Here seats are added to the opposition party so as to reflect the margin of defeat.

This reform broadened the principle that the nationwide result should reflect nationwide vote totals from the specific requirement that the national vote winner should win in terms of seats to a general requirement of proportionality. It creates the possibility that many more seats than in the past might be filled through these mechanisms. The first election under these rules was held in 2008, when 4 additional seats were created. This was in fact the same number as in the elections of 1987 and 1996.

The precise mechanisms for determining the number of seats to be allocated are complex. The text of the law itself provides a series of worked examples.



Appendix

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