



MINLEX - Malta Country Report

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This project has received funding from the European Commission under Contract n° SI 2.717317



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1. MALTA

1.1. Summary of findings

Malta's minerals industry is dominated by the extraction of limestone for use in construction. Other minerals, such as phosphate and salt, are not considered economically viable or feasible for environmentally-friendly extraction. The industry is characterised by a relatively large number of private operators. The establishment of the Malta Planning Authority (1992) meant more control of the industry.

In Malta, the NEEI sector focuses on the quarrying of Lower Globigerina Limestone (commonly referred to as soft stone) and Coralline Limestone (or hard stone). **The authorities do not provide a license for exploration but only for exploitation. Malta has a centralised permitting regime and licensing is handled exclusively at the national level.** Companies need to express their interest by applying for a land use permit with the Planning Authority (PA). The PA consults the Environment and Resources Authority (ERA), the Malta Resources Authority (MRA) and the Agency for Energy and Water as the main Consultees including the other statutory Consultees in Schedule 3 of L.N. 162 of 2016 Development Planning Act (Cap. 552). ERA and MRA may only issue their respective permits and licences, once the development consent is issued through the development planning permit.

The site to be used for extraction is also subject to the approval of a development permit by the Planning Authority. Other entities consulted during the process are the Superintendence for Cultural Heritage and the Regulator for Energy and Water Services. The sector is therefore mainly regulated by the laws establishing the MRA (Act 423), the Environment Protection Act (Chapter 549) and specifically the Waste Management (Management of Waste from Extractive Industries and Backfilling) Regulations 2009, the Waste Regulations 2011, the Development Planning Act (Chapter 552), and the Cultural Heritage Act (Chapter 445). Legislation of indirect importance to which such applications and operations might be subject to includes the Land Acquisition Ordinance (Chapter 88), the Strategic Environmental Assessment Regulations (Legal Notice 418 of 2005), and the Continental Shelf Act (Chapter 194).

No relevant court cases concerning the quarrying (exploration and exploitation) of hard or soft stone (limestone) in Malta have occurred in the last twenty years.

Only cases of appeal brought before the Environment and Planning Review Tribunal (currently under Act V of 2016 Environment and Planning Review Tribunal Act, 2016 and formerly part of MEPA) could be of minor interest. During the period 2013 to 2015, just over 50 licenses were either issued or, in the vast majority of cases (91 %), were renewed for the operation of soft or hard stone exploitation. 61 % of all quarry licenses were issued or renewed for soft stone exploitation, while the remaining 39 % licensed hard stone exploitation. No information could be obtained on permitting success rates.

1.2. General introduction

Malta is a republic and a member of the European Union (EU). The capital of Malta is Valletta and the country has a population of around 430,000 with almost 5% of non-native residents. Malta has Maltese and English as its two official languages. Malta is situated in the central Mediterranean, some 100 kilometres to the south of Sicily.

The President of the Republic occupies a largely ceremonial role for a five-year term and is appointed by Parliament with a simple majority vote. Malta has a parliamentary system and public administration closely modelled on the Westminster system. The unicameral House of Representatives is elected every five years and is made up of 69 members of parliament. Parliament enacts laws, approves the government budget and scrutinises government operations.

Malta's economy is heavily reliant on foreign trade, manufacturing (mainly electronics and pharmaceuticals) and tourism. The economy has diversified over the last twenty-five years with an expanding services industry especially in the sectors of financial services and the i-gaming sector.

The Maltese Islands are comprised largely of marine sedimentary rocks, mainly Tertiary Limestone. In summary, the geological succession on the Islands runs as follows:

- Upper Coralline Limestone
- Greensand
- Blue Clay
- Globigerina Limestone
 - Upper Globigerina Limestone
 - Middle Globigerina Limestone
 - Lower Globigerina Limestone
- Lower Coralline Limestone

The Lower Coralline Limestone provides for hard stone quarries. The Lower Globigerina Limestone has provided the stone used in the soft stone industry. The clays and the sands have not been exploited to any significant degree. Blue Clays have an important role in creating perched aquifers as they form an impervious base to the water-bearing Greensand and Upper Coralline Limestone. In Malta, non-energy sector related mineral extraction focuses on the quarrying of Lower Globigerina Limestone (commonly referred to as soft stone) and Coralline Limestone (or hard stone).

The minerals industry in Malta is dominated by the extraction of limestone for use in construction. Other minerals, such as the phosphate resource and salt, are not considered economically viable or environmentally feasible. The industry is characterised by a relatively large number of operators that underwent a low level of comprehensive controls. Following the establishment of the Malta Environment and Planning Authority in 1992, this has been addressed.

Mineral ownership

As defined in the Land Acquisition Ordinance and by the Police Licenses Regulations onshore mineral resources (soft or hard stone and or any derivative) belong to the landowner. Offshore mineral resources belong to the state according to the Continental Shelf Act 2014 (Art. 3).

1.3. Legislation governing mineral exploration and extraction

The mineral extraction sector is mainly regulated by the laws establishing the MRA (Chapter 423), the Environment Protection Act (Chapter 549) [and specifically the Waste Management Regulations, the Development Planning Act (Chapter 552) when it comes to mineral extraction, extensions to existing quarries and rehabilitation of disused quarries] and the Cultural Heritage Act (Chapter 445). Legislation of indirect importance to which such applications and operations might be subject to includes the Land Acquisition Ordinance (Chapter 88), the Strategic Environmental Assessment Regulations (Legal Notice 497/2010) and the Continental Shelf Act (Chapter 194).

Table 1: Malta. Legislation relevant to exploration and extraction permitting.

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
mining, minerals management, technical safety, concession	MT-L1	Act XXIII of 2009 - Malta Resources Authority Act (Chapter 423)	http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lo m&itemid=8889&l=1	N	N	N	Y	N	N	N	Y	Regulatory functions of Authority
	MT-L2	ACT VII of 2016 - Development Planning Act (Chapter 552)	http://justiceservices.gov.mt/DownloadDocument.aspx?app=lp&itemid=27291&l=1	Y	Y	N	Y	Y	N	N	Y	None
	MT-L3	ACT No. XXVIII of 2014 - Continental	http://www.justiceservices.gov.mt/DownloadD	N	N	Y	Y	N	N	N	Y	None

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
		Shelf Act (Chapter 194)	ocument.aspx?app=lo m&itemid=8706									
environment	MT-L4	Act I of 2016 - Environment Protection Act (Chapter 549)	http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lo m&itemid=12446&l=1	Y	N	Y	Y	Y	N	N	Y	None
	MT-L5	S.L.549.63 - Waste Regulations	http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lo m&itemid=11514&l=1	Y	N	Y	Y	Y	N	N	Y	General management of waste
	MT-L6	S.L. 549.77 – Industrial Emissions (Integrated Pollution Prevention & Control) Regulations	http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lo m&itemid=11531&l=	N	N	N	Y	Y	N	N	Y	None
	MT-L7	S.L. 549.46 Environmental Impact Assessment Regulations 2007	http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lo m&itemid=11556&l=1	N	N	N	Y	Y	N	N	Y	None
	MT-L8	L.N. 497 of 2010 - Strategic Environmental	http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lp& itemid=21574&l=1	N	N	Y	Y	Y	N	N	Y	

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
		Assessment Regulations¹										
	MT-L9	(S.L. 435.82 - Management of Waste from Extractive Industries and Backfilling) Regulations 2009	http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lo m&itemid=10927&l=1	Y	N	N	Y	Y	N	N	Y	Management of Waste
nature conservation, forestry	MT-L10	S.L. 549.44- Flora, Fauna and Natural Habitats Protection Regulations 2006	http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lo m&itemid=11550&l=1	Y	N	Y	Y	Y	Y	Y	Y	None

¹ SEA applicable only if the form part of a National Plan/Programme. For single project NO answer would apply.

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
water management	MT-L11	L.N. 345 of 2015 – Water Policy Framework Regulations	http://justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=12384&l=1	N	N	Y	Y	N	N	N	Y	
land use planning, spatial development, soil management	MT-L2	ACT VII of 2016 - Development Planning Act (Chapter 552)	http://justiceservices.gov.mt/DownloadDocument.aspx?app=lp&itemid=27291&l=1	Y	N	N	Y	Y	N	N	Y	
	MT-L12	Ordinance XL of 1935, as amended by Ordinances: III and XIII of 1936, VI of 1937, X of 1945, XLV of 1946, XXXI of 1947 and V of 1949; Act XXVII of 1956; Ordinances: IV of 1961	http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8632	N	N	N	Y	N	N	N	Y	

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
		and XI of 1962; Legal Notice 4 of 1963; Acts: XIV and XXXI of 1966, XXIX of 1969, XXXIII of 1971, LVIII of 1974 and IV of 1975; Legal Notice 148 of 1975; Acts: XVII of 1979, XLIX of 1981, XI of 1989, VIII of 1990, XIX of 1993, XXXIV of 1995, VI of 2001, XI of 2002, III and XVII of 2004, and I and III of 2006; Legal Notices 181 of 2006 and 408 of 2007; and Acts XXI of 2009 and V of 2011 - Land Acquisition Ordinance (Chapter 88); Fertile Soil (Preservation) Act, Rural Development Programme 2014-2020 and soil management practices outlined in CoGAP										

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
transportation, construction, catastrophe protection, police, military		No laws of relevance identified										
culture heritage	MT-L13	ACT VI of 2002, as amended by Acts XVIII of 2002, II of 2005 and XXXII of 2007; Legal Notice 426 of 2007; and Act XXIII of 2009 - Cultural Heritage Act (Chapter 445)	http://www.justiceservices.gov.mt/downloaddocument.aspx?app=lom&itemid=8911&l=1	N	N	Y	Y	N	N	N	Y	
public administration, court procedures		No laws of relevance identified										

1.4. Authorities governing mineral exploration and extraction

The entities involved in the permitting process are the Malta Resources Authority (MRA), the Environment and Resources Authority (ERA), the Planning Authority (PA), the Superintendence of Cultural Heritage (SCH) and the Energy and Water Agency (EWA).

The MRA regulates water, energy and mineral resources, to promote energy efficiency and the use of renewable energy, and is also responsible for oil exploration and climate change. The ERA is responsible for all the thematic environmental areas including waste, water, air quality, biodiversity and nature protection, environmental noise, radiation, marine, genetically modified organisms, biosafety, and environmental assessment. The ERA is a statutory consultee on applications for development planning permits. As part of the consultation process, ERA screens development proposals in terms of their potential environmental impacts and makes recommendations in order to avoid or mitigate impacts which may have adverse impacts. Such proposals may also qualify for more detailed environmental assessments, such as an Environmental Impact Assessment (EIA) in accordance with the EIA Regulations (S.L. 549.46) and an Appropriate Assessment (AA) in accordance with the Flora, Fauna and Natural Habitats Regulations (S.L. 549.44).

The PA is tasked with a national sustainable land use planning system and is responsible for the planning application process and procedures. The SCH is entrusted with the protection and accessibility of Malta's cultural heritage. The EWA is tasked with formulating and implementing Government's national policies in the energy and water sectors, aimed at ensuring security, sustainability and affordability of energy and water supply in Malta.

Table 2: Malta. Relevant authorities in exploration and extraction permitting.

	Code	Name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
					exploration	extraction	post extraction		
First instance permitting (local, regional, central, national)	MT-E01	Malta Resources Authority (MRA)	Millennia, 2nd Floor, Aldo Moro Road, Marsa MRS 9065, Malta Website: www.mra.org.mt	Issuing of Quarry License	Y	Y	Y	Malta Resources Authority Act (2000) http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lp&itemid=26179&id=1	

	MT-E02	Environment & Resources Authority (ERA)	Hexagon House, Spencer Hill, Marsa MRS 1441, Malta Website: www.era.org.mt	Issuing of Environmental Permit covering industrial operations and areas protected as Natura 2000. ERA is also a statutory consultee on development planning application and is the competent authority for EIAs	N	Y	Y	Environment Protection Act (2016) http://justiceservices.gov.mt/DownloadDocument.aspx?app=lp&itemid=27255&l=1	
	MT-E03	Planning Authority (PA)	Office Addresses: St Francis Ravelin, Floriana FRN1230, Malta / Sir Luigi Camilleri Street, Victoria VCT 2700, Gozo, Malta Postal Address: P.O. Box 200, Marsa MRS1000, Malta Website: www.pa.org.mt	Issuing of Development Permit	Y	Y	N	Development Planning Act 2016 and Environment and Planning Review Tribunal Act 2016	
	MT-E04	Superintendence of Cultural Heritage (SCH)	173, St Christopher Street, Valletta www.culturalheritage.gov.mt	Protection of cultural heritage sites or items	Y	Y	N	Cultural Heritage Act (2002) http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8911&l=1	

	MT-E05	Energy and Water Agency (EWA)	WSC, Qormi Road, Luqa LQA 9043 energywateragency.org.mt	Protection of water aquifer and sustainable management of water resources	Y	Y	N	Environment Protection Act (2016) http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=12446&l=1	
	MT-E06	Transport Malta (TM)	Malta Transport Centre, Marsa MRS 1917 www.transport.gov.mt	Consulted on the impact of the "project" on traffic management				Authority for Transport in Malta Act (2010) http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8965	
	MT-E07	Regulator for Energy and Water Services (REWS)	Millennia, 2nd Floor, Aldo Moro Road, Marsa MRS 9065 www.rews.org.mt	Consulted on issues related to fuel storages (if any)				Regulator for Energy and Water Services Act (2015) http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=12346&l=1	
Second instance permitting (regional, central, national)	No second-instance permitting authorities identified								

Court jurisdiction	Not identified
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1.5. Licensing procedures for exploration and extraction

Summary of all the different permitting procedures

In Malta, non-energy sector related mineral extraction focuses on the quarrying of Lower Globigerina Limestone (commonly referred to as soft stone) and Coralline Limestone (or hard stone). The authorities do not provide separate licenses for exploration and exploitation. Companies need apply for a land use permit from the Planning Authority. The Planning Authority consults with ERA, MRA, Agency for Energy and Water and other entities as required by L.N.162 of 2016 Development Planning Act (Cap. 552) as part of the planning process of the application.

Furthermore, licensing is handled exclusively at the national level. Authorisations and licensing are treated as one procedure for both soft stone and hard stone quarries. There are fundamental differences between the soft stone and hard stone industries. However, their private ownership is an aspect that they share. They are usually run by individual businesses usually comprising single operational units. Many of the hard stone quarries include concrete batching plants and tarmac plants, with some of them being operated by larger industrial concerns.

Permitting procedures for exploration

The control of minerals developments rested with the Police Licensing system through the issue of a trading license. In 1992, when the planning system was introduced a land use permit from PA was required and in 2000 the police quarry trading license was transferred under the responsibility of MRA. Many of Malta's mineral sites are still controlled solely through licences. Many of the operational and restoration standards have not been applied to the older sites.

Quarries that started operating before 1992 had to apply and obtain an environmental permit from ERA (previously the Environment Protection Department). They would then pay a license fee to MRA in accordance with Subsidiary legislation SL128.01 - Police Licenses Regulations Schedule 1 Article 95 (a) and (b)

(<http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=9422>).

New Quarries and or extensions

As outlined in the Strategic Plan for Environment and Development, further mineral extraction should preferably be carried out through extensions of existing quarries provided that there is no unacceptable adverse impact on protected areas and species.

In the case of a new quarry or an extension of an existing one, a "development" permit from the Planning Authority is required. During the permit application phase ERA and the Agency for Energy and Water (responsible for groundwater protection) are consulted together with other regulatory bodies, i.e. Transport Malta, Regulator for Energy and Water Services (REWS) and the Superintendence for Cultural Heritage.

Together with the development permit one needs to obtain an environmental permit (which would also address any requirements in line with S.L. 549.44). A license fee would also need to be paid to MRA, both as indicated above.

Blasting Authorisations (Hard Stone quarries)

Most hard stone quarry operations use explosives to extract the mineral. Authorisation is issued yearly and jointly by ERA and MRA to ensure that operations are within the environmental permit and that the operator has paid the license fee (for management of extractive waste and backfilling of excavation voids).

A copy of the authorisation is sent to the police and army authorities to issue the required explosives and provide the necessary supervision for the use of the explosives. The operator also pays a nominal fee to the police authorities.

All blasting is monitored for vibrations and other such effects. Such monitoring is done by independent third parties (financed by the authorised and licensed quarry operator) and reports submitted to ERA and copies sent to MRA. In the case of MRA the reports are for information purposes only. ERA publishes all blast monitoring reports on its website.

The MRA license does not have any conditions – rights and duties – attached to it. However, in the case of old existing quarries the original police license conditions still apply. Notwithstanding the above when the PA issues a land use permit for a new quarry and or extension of an existing quarry, it lists a number of conditions brought forward by the various regulatory authorities ERA, MRA, EWA, etc. during the consultation phase including other specific land-use conditions.

The MRA license to operate a quarry can be transferred on presentation of formal official documentation indicating the ownership and or responsibility for the operations of the quarry. Transferring the quarry. In most cases the documentation needed would include a contract signed by both parties and a Public Notary or in the case of a transfer due to inheritance an authenticated copy of the will of the deceased owner or a court order. In all cases a clean police conduct certificate is also required.

The MRA license is issued within a few days (normally less than 3 days) after receiving payment from the applicant and being informed that PA and ERA issued their go ahead for quarry activities.

Differences for the different types of mineral deposits

There are no differences as the Malta 's minerals industry mainly extracts limestone. From a waste management perspective, the Environment & Resources Authority's (ERA's) procedures for management of extractive waste and backfilling of excavation voids are also applied in the same way for the different mineral deposits. Differences lie in the regulating of any additional ancillary activities being carried out within the facility.

Public entities involved in the process

Companies need apply for a land use permit from the Planning Authority. The Planning Authority consults with ERA, MRA and The Agency for Energy and Water and other entities as required by L.N.162 of 2016 Development Planning Act (Cap. 552) as part of the planning process of the application.

In the case of Government owned land, expressions of interest will be followed by a public tender in collaboration with the relevant authorities. It is pertinent to note that the licensing being carried out by the ERA from a waste management perspective is not subject to public tender and a formal public expression of interest. The site to be used for extraction is also subject to the approval of a development permit by the Planning Authority. Other entities consulted during the process are the Superintendence for Cultural Heritage and the Regulator for Energy and Water Services.

Geographic areas covered by the permit

ERA permits are limited to a specific site carrying out management of extractive waste and backfilling of excavation voids, which is delineated by a site boundary on a 2D plan.

Rights and duties of the licensee

The MRA license does not have any conditions – rights and duties – attached to it. However, in the case of old existing quarries the original police license conditions still apply. Notwithstanding the above when the PA issues a land use permit for a new quarry and or extension of an existing quarry, it lists a number of conditions brought forward by the various regulatory authorities ERA, MRA EWA etc., during the consultation phase including other specific land-use conditions.

Whilst ERA's permits are standardised for the sector (exclusive), non-exclusive conditions are included on a case by case basis. ERA permits are not transferable. Rights and duties of the licensee are established through the Environment Protection Act and applicable legislation.

In the case of government owned land, the lessee of any Government owned land that is leased explicitly for the extraction of minerals is to comply at all times with the conditions of the contract of lease. The technical conditions would generally be conditions emanating from the relative license to extract and other relative permits.

The lease of the land is not generally transferable. However, Maltese law provides for possible transfers after obtaining permission from Government. In fact, transfer of license by the MRA is conducted only upon presentation of a contract transferring the quarry. The contract needs to be signed by both parties and a Public Notary.

Time frames

The ERA does not have any established timeframes for the processing of permits issued under the above-mentioned regulations. However, as clarified to the MINLEX team by the ERA, the development planning permit may take longer than 1 year if the proposal is subjected to more detailed environmental studies and assessment procedures such as EIAs.

For the PA, the specific timeframes for a planning permit related to mineral extraction are outlined in the Development Planning (Procedure for Applications and their Determination) Regulations, 2016 (Legal Notice 162 of 2016), whereby they are considered as Schedule 1 Applications (Major Applications) (<http://www.pa.org.mt/file.aspx?f=13458>).

Average length to get an extraction permit

The MRA license is issued within a few days normally less than 3 days, while the development planning permit will take 100 days to be issued, that is the period from the validation of the said application up till the determination of the application by the PA (Article 13 of Legal Notice 162 of 2016).

For ERA permits, each case is different, in that the time taken to grant an ERA environmental permit is dependent on the quality of the submitted application and associated documentation, the development situation on site, and in the case of quarries where mineral extraction is taking place, a valid extraction licence from the MRA.

Main problems related to extraction permits

In the case of ERA's environmental permits (EPs), for certain installations which are dependent on the presence of valid land use permits on site, delays in issuing an environmental permit may be encountered should there be discrepancies in data submitted with the EP application. In the case of Government owned land, from an Estates Management point of view, the main problems are Malta's physical size, depletion of virgin land acreage and environmental issues.

1.6. Court cases on permitting procedures

In Malta, it is not possible to institute court procedures relating to issues of permitting of exploration and extraction of minerals. The only means of redress is outside of court and is within the remit of the Environment and Planning Review Tribunal.

As informed by the Planning Authority, court cases concerning the quarrying (exploration and exploitation) of hard or soft stone (limestone) in Malta involving the Planning Authority are as follows.

1. Civil Court, First Hall - 0710/2004: Ballut Blocks Limited
2. Civil Court, First Hall - 0223/2014: Kunsill Lokali Attard
3. Civil Court, First Hall - 0599/2010: Bonavia Victor Et
4. Of Magistrates, Criminal - II- Pulizija Vs. Charles Polidano
5. Of Magistrates, Criminal - II- Pulizija Vs. Victor Hili
6. Of Magistrates, Criminal - II- Pulizija Vs. Carmel Azzopardi
7. Of Magistrates, Criminal - II- Pulizija Vs. John Mizzi
8. Of Magistrates, Criminal - II- Pulizija Vs. John Attard
9. Of Appeal, Civil Inferior: 0121/2012: Vella Carmelo Pro Et Noe
10. Of Appeal, Civil Inferior: 0162/2012: John Cassar
11. Constitutional: 0059/2007: Salvu Mintoff & Sons Limited
12. Civil First Hall, Constitutional: 0059/2007: Salvu Mintoff & Sons Limited
13. Of Appeal, Civil Inferior: 0191/2012: Vella Brothers & Sons Limited
14. Of Appeal, Civil Inferior: 0001/2015: Fenech Charles
15. Of Appeal, Civil Inferior: 0017/2014: Bugeja Francis

Extensive desk research using the search engine of the Maltese Courts revealed that there are no relevant court cases concerning the quarrying (exploration and exploitation) of hard or soft stone (limestone) in Malta.

In terms of keywords relevant for the field, only three could be identified as being of use:

- (1) Barriera (MT: Quarry/Mine)
- (2) Barriera tal-ġebel (MT: Stone quarry/mine)
- (3) Thaffir ta' mini taħt l-art (Excavation of Underground Mines)

A search with other keywords of relevance for the sector, in both English and Maltese, proved fruitless: *exploitation; exploration; extraction; hard stone; limestone; mineral(s); mining; soft stone.*

Only six court cases were returned by the search, dated between 1944 and 1994, and none of which are of relevance for this research.

Consultation with a Senior Associate of a Maltese law firm (Mamo TCV) confirmed that it would be unlikely to identify any court cases or judgements of relevance for the remit of this study. In fact, it was suggested that only cases of appeal brought to the Environment and Planning Review Tribunal (ERA; formerly MEPA) (<https://www.mepa.org.mt/permits-appeals>) could be of interest. It is pertinent to point out, however, that these are sub-judicial matters and not matters of the Courts.

In addition, a review of listings of appeal cases brought to the Tribunal between 2007 and 2014 revealed a total of 19 appeal cases as shown below in Table 3:

Table 3: Malta. Court cases and appeals. 2007-2014.

<u>Appeal No.</u>	<u>Name</u>	<u>File</u>	<u>Location</u>	<u>Date</u>	<u>Description of works</u>
164/2007	Vella Joe	PA 5219/05	Luqa	25.06.2007	R-to construct football pitches in existing quarry
178	Vella Carmelo	PA 6918/07 I/o	Qrendi	01.09.2008	R-To re-activate disturbed part of hard stone quarry outlined in red using cutting machinery or alternatives in a phase program and prepared plan for rehabilitation. Areas to be quarried are A,B,C and D.
87	Camilleri Joe	PA 3564/03	Zurrieq	08.05.2009	R- Hard stone quarry.
278/2009	Bugeja Francis	PA 1517/02	San Lawrenz - Gozo	22.12.2009	B- (against planning gain) - To sanction extension to existing quarry SG2 Tal-Ponta
123/2010	Cassar John	PA 3878/07 I/o	Siggiewi	13.05.2010	R-outline development for the rehabilitation of disused quarry into open storage area
207/2010	Vella Antoine obo Vella Brothers & Sons Limited	PA 6884/07	Siggiewi	28.07.2010	R- Proposed increase in depth (and lateral extension) to existing quarry.
258/2010	Grixti Aldo obo GrixtiMobili	PA 4879/02 I/o	Siggiewi	02.09.2010	R-Reclamation of disused quarry including construction of garages, stores and office; boat park and landscaping works; sanctioning of same
162/2011	Farrugia Paul	PA 4640/08	Mqabba	15.03.2011	R- Construction of 5 garages and one store in quarry as per outline permit PA 7803/05.

<u>Appeal No.</u>	<u>Name</u>	<u>File</u>	<u>Location</u>	<u>Date</u>	<u>Description of works</u>
169/2011	Debono Francis	PA 1517/07	Kirkop	17.03.2011	R- To sanction agricultural buildings which have been constructed in lieu of old pre-68 building in a rehabilitated quarry and proposed modifications to address reasons of refusal in DPAr dated 30th June 2009
174/2011	Abdilla Gaetano	PA 7213/04 l/o	Siggiewi	18.03.2011	R- To extend quarry depth to 190m msl
390/2011	Hili Michael	PA 0914/07	Gharb-Gozo	23.05.2011	R- To sanction differences from permission PA3039/98 including sanctioning of one basement level in disused quarry and using different access.
582/2011	Schembri Charles	PA 4003/08 l/o	Siggiewi	29.07.2011	R-To change use of quarry to olive production centre and visitor's attraction. Application also includes the sanctioning of already built structures and reservoirs.
621/2011	Aquilina Ray obo Madliena Developments Ltd.	PA 3601/08	Ibragg	11.08.2011	R- Sanctioning for excavation of loose fill material, part rock cut of existing quarry, proposed construction of warehouses at new low level.
746/2011	Haber Wenzu	PA 0652/06	Xaghra - Gozo	11.10.2011	R-To sanction the temporary storage (for re-use) in a disused quarry of backfilling material, soil, weathered stone and rubble wall.
834/2011	Cauchi Thomas	PA 1769/10 l/o	Zejtun	02.12.2011	R-To convert existing disused quarry to reservoir to cater for the existing olive grove/vine yard tilled by applicant
281/2012	Falzon Paul obo Tlata Ltd.	PA 6325/01 l/o	Rabat	20.07.2012	R- Use of land for soil sorting to be used in restoration of quarry 32 as per PA recommendations

<u>Appeal No.</u>	<u>Name</u>	<u>File</u>	<u>Location</u>	<u>Date</u>	<u>Description of works</u>
282/2012	Falzon Paul obo Tlata Ltd.	PA 4240/08 l/o	Rabat	20.07.2012	R- Construction of garages / stores and installation of alternative devices in an existing quarry HM 32.
85/2012	Bonello Joseph	Tr.No.145462	Mqabba	08.03.2012	SL-to sanction minor variations from approved PA 5526/09 - additions to approved storage to approved quarry and batching plant activity
400/2012	Deguara Angelo	PA 3432/06 l/o	Iklin	05.12.2012	R- To convert soft stone quarry into an open storage premises, soft landscaping areas and restoring of existing agricultural premises.

Source: Extracted from case listings found on <https://www.mepa.org.mt/permit-appeals-received>.

1.7. Success rates of exploration and extraction permits

According to the Malta Resources Authority's (MRA) Annual Reports of 2013, 2014 and 2015², just over 50 licenses per annum were either newly issued or, in the majority of cases, were renewed for the operation of soft or hard stone exploitation in Malta. 61 per cent of all quarry licenses were issued or renewed for soft stone exploitation, whilst the remaining 39 per cent licensed hard stone exploitation.

Table 4: Malta. Quarry licences issued. 2013-2015.

Quarry Licenses Issued						
Year	Hard stone quarries	Soft stone quarries	TOTAL	Of which NEW	Of which RENEWED	TRANSFER
2013	22 (39%)	34 (61%)	56	5 (9%)	51 (91%)	0
2014	22 (39%)	34 (61%)	56	0 (0%)	56 (100%)	0
2015	20 (39%)	32 (61%)	52	1 (2%)	51 (92%)	0

Source: Malta Resources Authority.

During the three years under review, the Authority renewed quarry operating licences after the then Malta Environment and Planning Authority had confirmed which quarries were still considered as active.

The Planning Authority MEPA was the entity responsible for issuing environmental permits to quarries, a process in which the MRA was consulted, ensuring the inclusion of regulatory

² See: <http://mra.org.mt/library/annual-reports/>.

requirements. MRA also collaborated with the MEPA Planning Authority to consult over quarry perimeter extensions or excavation depth increase were requested by operators.

For the renewal of license, operators were asked to submit a level survey scale 1:500 in order to establish the remaining volumes in accordance with the approved depths.

1.8. EU legislation impacting permits and licenses for exploration and extraction

- 1) Does your country have any restrictive regulation on the private or legal entities performing the duties of an exploration or extraction concessioner, operator and/or holder of mineral rights as compared to the Services Directive (2006/123/EC)?

ACT No. XXIII of 2009 (29th December, 2009): to establish general provisions facilitating the exercise of freedom of establishment for service providers and the free movement of services in the internal market and to implement Directive 2006/123/EC. Whilst there are no restrictive regulations on the private or legal entities operating in the hard or soft stone extraction business, in practice, all quarries are managed by Maltese individuals or families, many of which would be holding a license for years.

- 2) Does any of your permitting documentation require the involvement/signature of a geologist or mining engineer? If yes, which are these permits? Does it require a BSc or MSc or PhD or chartered (certified) professional?

No

- 3) Do you have legislation on financial guarantees (with regard to the Extractive Waste Directive, Article 14)? Is the cost calculation of this guarantee done by an independent third party?

No

- 4) Is there a list of inert mine waste published in your country in accordance with Article 1(3) of Comm. Dec. 2009/359/EC?

No list pursuant to the "may" provision laid down in Article 1(3) of Commission Decision 2009/359/EC. Furthermore, the only mineral extracted in the Maltese Islands is limestone and the extractive waste resulting from this activity is classified as inert.

- 5) Do you use the risk assessment of 2009/337/EC Commission Decision of 20 April 2009 on the definition of the criteria for the classification of waste facilities in accordance with Annex III of Directive 2006/21/EC of the European Parliament and of the Council concerning the management of waste from extractive industries for abandoned sites as well?

As the only mineral to be extracted in the Maltese Islands is limestone, the extractive waste resulting from this activity is classified as inert. In this context, there were and are no Category A facilities in Malta as defined by Directive 2006/21/EC on the management of waste from extractive industries and amending Directive 2004/35/EC.

Furthermore, as the extractive waste generated in Malta primarily consists of inert waste as well as unpolluted soil and non-hazardous prospecting waste, for the site where the accumulation or deposit of such waste occurs to be classified as a waste facility as defined in Article 3(15) of Directive 2006/21/EC, such waste would have to be stored for a period of more than three years.

The inert waste generated by local extractive industries, is not stored for more than three years, as such waste is backfilled into the same excavation void or other excavation voids for rehabilitation purposes. In this context, there are no active, closed or abandoned waste facilities in Malta, pursuant to the definition of waste facilities laid down in Directive 2006/21/EC.

- 6) Has your country applied the waiver of the Landfill Directive paragraph 3 of Article 3: MS may declare at their own option, that the deposit of non-hazardous non-inert mine waste, to be defined by the committee established under Article 17 of this Directive can be exempted from the provisions in Annex I, points 2, 3.1, 3.2 and 3.3 (location screening, multiple barriers, leachate collection)?

Malta has not applied such waiver. However the provision laid down in Council Directive 1999/31/EC (the Landfill Directive) of 26 April 1999, which controls the landfill of waste, was transposed into Maltese law by the Waste Management (Landfill) Regulations as laid down in Subsidiary Legislation 549.29 (<http://justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=11530&l=1>).

- 7) Does a mine operator has to prepare and submit both a general waste management plan and a mine waste management plan as well? To the same or separate authorities?

Hard and soft stone excavation operators have to submit waste management plans. In fact, section 5 of the ERA Environmental Permit for Mineral Extraction and Backfilling demands a waste management plan (vide: [https://era.org.mt/en/Documents/EP%20App%20for%20Extraction%20of%20minerals%20and%20backfilling%20\(1\).pdf](https://era.org.mt/en/Documents/EP%20App%20for%20Extraction%20of%20minerals%20and%20backfilling%20(1).pdf)). More specifically, the applicant is required to provide the following details regarding wastes generated or processed on site:

- *Type of waste*
- *EWC code (from Commission decision 2000/532/EC establishing a list of wastes)*
- *Quantity in terms of maximum site capacity*
- *Method of processing and/or disposal*
- *Method of storage and containment*

The application further stipulates that "all transfers of waste are to be consistent with the requirements of Legal Notice 184 of 2011 as laid down in Subsidiary Legislation 549.63 [authors' note: L.N. 184 of 2011 Environment and Development Planning Act (Cap.504) – the Waste Regulations, 2011: <https://www.mepa.org.mt/file.aspx?f=5955>] as amended, and shall make use of waste carriers registered with the Authority under Legal Notice 106 of 2007 as laid down in Subsidiary Legislation 549.45 [authors' note: L.N. 106 of 2007 Environment Protection Act (CAP. 345) – Waste Management (Activity Registration) Regulations, 2007:

<http://justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=11555&l=1>]. All exports of waste are to follow Regulation (EC) 1013/2006 of the European Parliament and of the Council of 14th June 2006 on shipments of waste and further amendments." Should waste be treated or disposed of on site, the Authority also demands details concerning basic specifications of used equipment, including a designation of the location of the equipment on the site's layout plan.

- 8) Has your national legislation transposed the Accounting Directive (2013/34/EC), with special regards its Art. 41-48 on the extractive industry? Do these rules on financial reporting appear in the concession law or mining act either?

In Malta, the Accounting Directive (2013/34/EC) has been transposed into legislation by means of the General Accounting Principles for Small and Medium-Sized Entities (GAPSME) Legal Notice of 28 August 2015 (Subsidiary Legislation 281.05 Accountancy Profession Regulations) (<http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=12398&l=1>) and the Amendments to the Companies Act (ACT No. XXXI of 2015, to introduce amendments to the Companies Act and to implement Directive

2013/34/EU) (<http://www.parlament.mt/file.aspx?f=54027>). Details regarding the extractive industry are stipulated in the latter.

- 9) Has your national legislation transposed the Transparency Directive (2004/109/EC, 2013/50/EU), especially Article on the extractive industry? Do these rules appear in the concession law or mining act either?

Not yet. A bill has been presented in Parliament in March 2016 entitled "An Act to amend various financial services laws and to provide for matters ancillary or incidental thereto", of which the short title shall be "Various Financial Services Laws (Amendment) Act, 2016", (<http://justiceservices.gov.mt/DownloadDocument.aspx?app=lp&itemid=27443&l=1>) However, the Bill does not foresee the full transposition of the Directive. In fact, it does not mention the extractive industry.

- 10) Does your competent authority ask for or check the CE marks of the exploration or extraction equipments when permitting or when having on-site inspections? Does the mining authority have a regulatory/supervision right in product safety/market surveillance in accordance with Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance?

The authors are not aware that the authorities in charge check for CE marks on the equipment used by limestone extraction companies.

As outlined by the National Market Surveillance Programme for Malta (2010), "Market Surveillance of non-food products in Malta is the responsibility of the Market Surveillance Directorate within the Malta Standards Authority" (www.mccaa.org.mt/loadfile/fdd98ca8-1f11-4741-8a82-0ec55a1e08f9, vide p.3) at present, the authority in charge is the Malta Competition and Consumer Affairs Authority (MCCAA), which is an amalgamation of the MSA with the Consumer and Competition Department and Malta National Laboratory. Whilst there is no mining authority per se in Malta, the MCCAA is generally not in charge of the soft and hard stone extraction industry.