

## Malta Legal Framework Analysis: Key Highlights

This one-pager aims to provide a brief overview of the most notable features of Malta's national cooperative legal framework, based on the work of the national legal expert.

Cooperatives in Malta are primarily regulated by the 2001 Co-operative Societies Act [Chapter 442 of the Laws of Malta] ('the Act'). There are no specific laws applicable to any particular sector of cooperatives, but other legal instruments do refer to cooperatives. For example, according to Article 20 of the Constitution of Malta: "*The State recognises the social function of co-operatives and shall encourage their development*". Article 12(1)(q) of the Income Tax Act [Chapter 123 of the Laws of Malta] also notably exempts the income of cooperatives from payment of income tax.

The ICA Principles are explicitly referred to in Section 21(2) of the Act. However, a further subsection (3) states that these principles are not directly enforceable in any court or tribunal but shall be adhered to in the interpretation and of the Act and any regulations made under it.

**Cooperative Friendliness:** Maltese cooperative legislation can be considered to be friendly towards cooperatives to a significant degree. There are no precise legal obstacles deriving from specific regulations or other sources of law which hinder the advance and promotion of the cooperative movement in Malta. Unfortunately, promotion of cooperative societies is a function largely left to the societies themselves which, due to limited budgets, fail to really promote the cooperative movement in Malta. There are hardly any incentives for cooperatives in existing legislation other than the exemption of cooperatives from the income tax.

**Key recommendations for improvement:** The national expert supports reforms which would allow limited liability companies to set up or join cooperatives as members, arguing that the cooperative movement in Malta would benefit from experience and investment from these businesses. Another recommendation is simplifying the procedural requirements which cooperatives need to follow in order to change their statutes. The national expert further highlights Section 17 of the CCF regulations which result in 5% of a cooperative's surplus being administered by a committee made up of a majority of Government nominated individuals. A return to the situation prior to 2016, where cooperatives had full control of the funds they contributed to the CCF, is therefore recommended. Finally, it is recommended that provisions covering dissolution and amalgamations of cooperatives be reformed as they are currently rather concise.

**Conclusions:** Although the Act adequately caters for the proper functioning of cooperatives in Malta and provides a certain level of flexibility, the national expert believes that a number of areas for potential amendment remain that could encourage the development of cooperatives.