

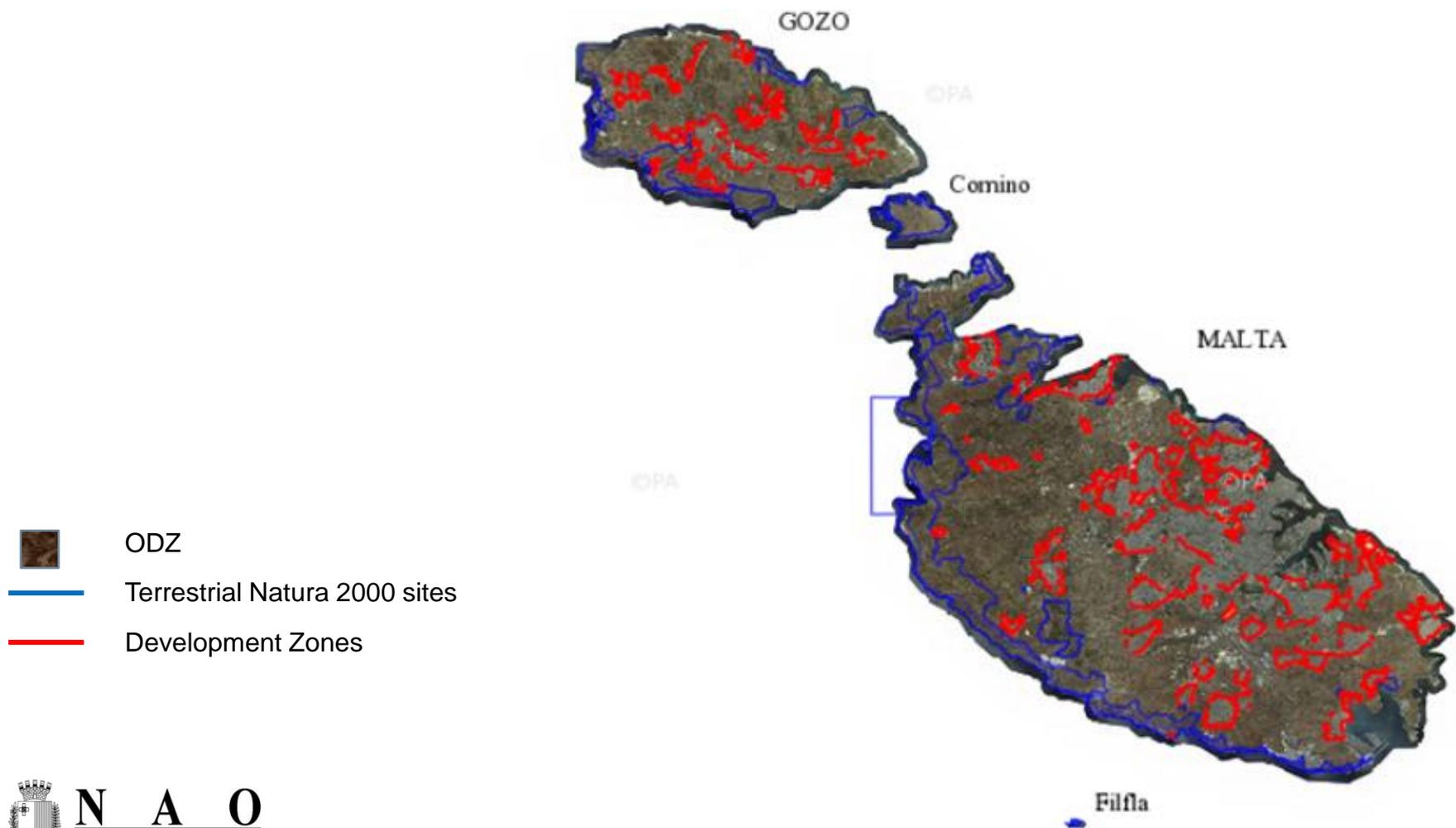
Enforcement Action by MEPA within the Outside Development Zone

EUROSAI WGEA, Tirana
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Discussion outline

- Land scarcity
- Environmental risks
- Audit objectives and methodology
- Detecting irregularities within ODZ
- Processing enforcement notices
- Implementation of enforcement decisions
- Overall conclusions
- Progress registered between 2013 and 2017

ODZ and Terrestrial Natura 2000 sites



-  ODZ
-  Terrestrial Natura 2000 sites
-  Development Zones

Land scarcity (1 of 2)

- Malta's geographical size implies land scarcity
- Malta is the most densely populated country in the EU and one of the most dense in the world
 - Population density of 1,562 people / km²
- Increase in property cost per square meter when compared to 2002 prices

	2002	2009	2012	2013
Malta	1	1.9	1.8	1.9
Gozo	1	2	2.09	2.18

- ODZ land is cheaper than Development Zones and is thus more attractive for speculative purposes

Land scarcity (2 of 2)

- Infrastructural development is seen as a major contributor to economic growth
- Use of agricultural related developments as an antecedent for additional structures
- Dumping of inert material on virgin garigue



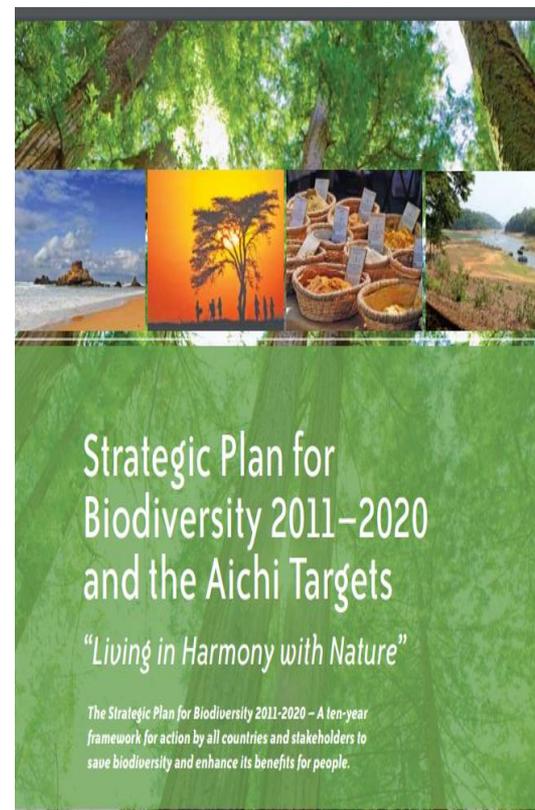
Environmental risks (1 of 2)

- Direct drivers of biodiversity loss that threaten ODZ are:
 - Pollution
 - Over exploitation
 - Land degradation
 - Soil erosion
- These drivers are leading to habitat fragmentation, degradation and destruction
 - An example is the Kaffir fig which is becoming invasive in cliff communities and sand dunes



Environmental risks (2 of 2)

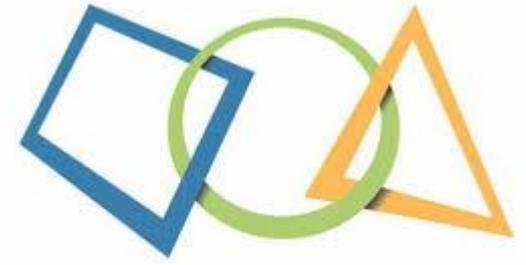
- Malta's obligations to conserve biodiversity, in terms of Aichi targets, also emanate from the Convention for Biological Diversity's Global Strategic Plan 2011 – 2020
- Inadequate progress regarding Aichi Target 5 – The rate of loss of all natural habitats has not decreased below established targets
- Consequently, risks to attaining 2020 targets relating to loss of natural habitats exist.



Audit objectives

- This audit aimed to determine the extent to which the former Malta Environment and Planning Authority's (MEPA's) Enforcement Directorate:
 - developed policies and SOPs to ascertain efficient, consistent and effective execution of the enforcement function;
 - detects irregularities and, issues and processes Enforcement Notices (ENs) expediently as well as effectively; and
 - appropriately implements enforcement decisions, in terms of relevant Direct Action (DA) when necessary, the restoration of the site in question and the recovery of the relative enforcement costs from the contravener.

Methodology



- Interviews with key personnel at MEPA;
- Review of data and other information maintained in manual and electronic Enforcement Case Files; and
- Accompanying MEPA officials during their on-site monitoring of some enforcement cases.

Detecting irregularities within ODZ

- There were no specific plans for MEPA routine surveillance of ODZ
- MEPA's initiatives to detect irregularities tended to be reactive to specific triggering mechanisms (complaints or official enquiries)
- Validation of Planning Applications (PAs) influenced enforcement work prioritization and raises potential conflict of interests
- Delays to inspect sites following Complaints increased environmental risks

Processing Enforcement Notices

- The number of active ODZ Enforcement Notices registered an increasing trend between 2007 and 2012:
 - Legislative requirement that enforcement action extends to all unpermitted development, irrespective of the date that they occurred;
 - Public's increasing environmental and planning awareness; and
 - The Directorate was not able to resolve cases at the same rate that irregularities were being detected and / or reported.
- Delays in the processing of ENs prohibited timely corrective action to restore sites to their 'original' state
- Processing delays prevailed after MEPA 2010 Reform

Implementation of enforcement decisions

- Only a small proportion of cases (464 out of 2,182) were subject to the implementation of enforcement decisions
- The Enforcement Directorate lacks a clear prioritization policy to take further action regarding Executable cases
- Administrative shortcomings weaken the application of the polluter pays principle:
 - €438,329 (around 84 per cent) outstanding DA expenses to be recouped from contraveners, with respect to 176 ODZ DAs taken between 2006 and 2012

Overall conclusions

- A number of planning and environmental irregularities prevail in various ODZ areas
- Enforcement function is still in the process of evolvment
- The processing of many ENs remained outstanding for a substantial period
- The enforcement function was mainly reactive to prevailing circumstances
- Risk analysis techniques to target irregularities were not fully in place
- The enforcement function lacked the adequate level of resources and administrative capacity
- MEPA'S roles related to planning permits and environmental watchdog was, in cases, conducive to potential conflict of interests.

Progress registered between 2013 and 2017

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- The introduction of Daily Fines
 - Self-regulation by contraveners
 - Demerger of MEPA to PA and ERA
 - New ODZ policy
 - ERA needs to be given greater say in planning decisions

Thank you for your attention

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