



Quality in Gender+ Equality Policies

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List of Acronyms

CAW	Commission for the Advancement of Women
CEDAW	Convention on the Elimination of All forms of discrimination Against Women
CoE	Council of Europe
DWIS	Department for Women in Society
EC	European Communities
ECICW	European Centre of the International Council of Women
ECJ	European Court of Justice
EIRA	Employment and Industrial Relations Act
EMWA	Equality for Men and Women Act
ETC	Employment & Training Corporation
EU	European Union
EWL	European Women's Lobby
FWE	Foundation for Women Entrepreneurs Malta
ICW	International Council of Women
MAWB	Malta Association of Women in Business
MCESD	Malta Council for Economic & Social Development
MCWO	Malta Confederation of Women's Organisations
MFSS	Ministry for the Family and Social Solidarity
MGRM	Malta Gay Rights Movement
MNE	National Implementing Measure
NAP	National Action Plan
NCPE	National Commission for the Promotion of Equality
NCW	National Council of Women
NEAP	National Employment Action Plan
NSO	National Statistics Office
UN	United Nations

1. 'Deficiencies, deviations and inconsistencies in EU and Member State's gender+ equality laws'

1.1 Gender+ equality legislation

Please summarise the key developments, with dates, in gender equality law as provided by the governmental gender equality unit, i.e. list the legislation that the gender equality unit (or equivalent governmental body) name as (gender+) equality legislation. If important legislation seem to have been omitted by the authority, please comment on this.

Below I will include the list of (gender+) equality legislation that can be found on the website of The National Commission for the Promotion of Equality (NCPE).¹ I have compared this list with the list of gender equality laws that can be found on the website of the MFSS (Ministry of the Family and Social Solidarity, as this is the Ministry that is responsible for equality issues).² Remarkably, the lists provided by NCPE and the MFSS do not show any overlap, except for the Equality for Men and Women Act (EMWA) and the Equal Treatment of Persons Order. The legislation listed by MFSS is marked in the table with an asterisk (*). Since the lists also include some wide-ranging legislation (like the criminal code and the constitution), only the main provisions, as far as they relate to (gender+) equality aspects, will be described.

Legislation	Year	Main provision(s)
Criminal Code (Chapter 9)*	1854, last amended in 2007	Sections on 'Crimes against the Peace and Honour of Families and against Morals' (subtitle II of Title VII 'of crimes affecting the good order of families') and on 'crimes against the person' (title VIII) cover rape and violent indecent assault, crimes against the person, private violence, abduction, and defilement of minors, pornography, prostitution and trafficking in women. Article 82A criminalises incitement to racial hatred.
The Constitution of Malta ³ (Chapter 1)	1964	The principles of equality of treatment and non-discrimination are laid down in Article 45 (this article was amended in 1974 and 1991). This article provides protection from discrimination on the basis of race, place of origin, political opinions, colour, creed (faith/belief/religion) and sex. It also provides that no law shall make any provision that is discriminatory either of itself or in its effect and that no person shall be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the functions of any public office or any public authority
Data Protection Act (Chapter 440) *	2002	Protection of individuals against the violation of their privacy by the processing of personal data ⁴
The Employment and Industrial Relations Act (EIRA) (Chapter 452)	2002	Protection against discrimination related to employment (see my remarks on applicability of anti-discrimination provisions to public sector and public service employees under 1.4). "discriminatory treatment" in this Act means: "any distinction, exclusion or restriction which is not justifiable in a democratic society including discrimination made on the basis of marital status, pregnancy or potential pregnancy, sex, colour, disability, religious conviction, political opinion or membership in a trade union or in an employers' association" (definitions in article 2(1)). Defines Industrial Tribunal as the entity responsible for hearing and deciding cases of alleged discrimination, breaches of the principle of work of equal value and victimisation or harassment cases. Covers new ground with respect to promoting a work/life balance in the private sector as well as in public

¹ <http://www.equality.gov.mt/page.asp?p=8656&l=1> accessed on 11-01-2007

² Website: <http://www.mfss.gov.mt> accessed on 11-01-2007

³ I assume that the Constitution is included here to refer to the 1991 amendment to the equality/anti-discrimination clause in line with the ratification of the UN Convention on the Elimination of all Forms of Discrimination against Women.

⁴ I cannot see why this Act is included by the Ministry for the Family and Social Solidarity on the list of equality legislation.

		corporations. Provides for the issuing of Legal Notices on family-friendly measures such as maternity and paternal leave as well as leave for urgent family reasons. Includes a provision on equal pay. Primarily designed to ratify certain international instruments and to allow Malta to implement the EU acquis on labour legislation ⁵
The Equality for Men and Women Act (Chapter 456) *	2003	Defines direct and indirect discrimination. Includes provisions on the illegality for banks and financial institutions to discriminate against any person on the basis of sex, on fair compensation entitlement for participation of spouses in the activities of a self-employed partner, on sexual harassment at the place of work. Prohibits discrimination in employment. Prohibits gender discrimination with regards to access to all types of vocational guidance and training. Prohibits the publishing/display of discriminatory advertisements. Establishes the National Commission for the Promotion of Equality for Men and Women
Protection of Maternity (Employment) Regulations (Legal Notice 439, subsidiary legislation to the EIRA)	2003	The pregnant employee has the right to an uninterrupted period of 14 weeks that can be availed of 6 weeks compulsorily immediately after the date of confinement, 4 weeks immediately before and the remaining balance to be availed of either before or after. Also provides for the protection of maternity rights during maternity leave, protects against unfair dismissal, facilitates improvements in the safety and health of pregnant employees and employees who have recently given birth and those breast feeding. ⁶
Parental Leave Entitlement Regulations (Legal Notice 225, subsidiary legislation to the EIRA)	2003	Minimum requirements to facilitate reconciliation of parental and work responsibilities for working parents. Establishes the right of male and female workers to be granted unpaid parental leave on the grounds of birth, adoption or legal custody of a child to enable them to take care of that child for a period of three months until the child has attained the age of eight years. Also provides for right to return to same job, entitlement of employees during parental leave, unfair dismissal and some related matters. ⁷
Urgent Family Leave Regulations (Legal Notice 296, subsidiary legislation to the EIRA)	2003	Employees are entitled to time off from work in cases of sickness, accidents, births and deaths of immediate family members, no advance notification is needed for urgent leave, the employer is bound to grant a minimum total of 15 paid hours per year to each employee (to be deducted from vacation leave entitlement). ⁸
Tax Credit (Women Returning to Employment) Regulations (Legal Notice 110, subsidiary legislation to the Income Tax Act)	2005	Women returning to employment will get an Lm700 (around 1627 euro's) tax credit. Women can benefit from this measure if they have been absent from the labour market for at least 5 years and have been in employment for at least 24 consecutive months prior to leaving the labour market.
Equal Treatment in Occupational Social Security Schemes Regulations (Legal Notice 317 of 2005) *	2005	Equal treatment for men and women in occupational social security schemes. To give effect to the relevant provisions of Council Directive 86/378/EEC, as amended by Council Directive 96/97/EC.

⁵ Darmanin, Mary. 2006. Gender equality in Malta: a southern European perspective. In *Scottish Affairs*, 56: 69-87

⁶ Department for Women in society. 2004. Annual report 2003. Malta: Ministry for social policy.

⁷ ILO Natlex

⁸ ETC (Employment and Training Corporation). 2005. Gender equality action plan 2005-2007.

<http://etc.gov.mt/docs/Gender%20Equality%20Action%20Plan%202005-2007.pdf>

Part-time Employees Regulations (Legal Notice 427 of 2002, as amended by Legal Notice 140 of 2007, subsidiary legislation to EIRA)	2002, amended in 2007	Provisions on equal treatment of part-time workers and for improvement of quality of part-time work. Part-time employees (minimum of 20 hours a week and having part-time work as the principal employment) are entitled to pro rate leave entitlements and benefits. Legal notice 140 abolishes the 20 hours/week threshold for receiving pro-rata benefits.
Equal Treatment of Persons Order (Legal Notice 85, subsidiary legislation to the European Union Act, amended by Legal Notice 267 of 2007) *	2007	Prohibits discrimination on the basis of racial and/or ethnic origin in the provision of social security, health care, social advantages, education, and in the access and supply of goods and services and appoints the NCPE as the entity responsible for reviewing the working of the provisions of this Legal Notice.

COMMENT: in addition to the list above there are several pieces of legislation that that could be regarded as (gender+) equality relevant legislation, but which are not mentioned by the NCPE or by the MFSS. The additional list below is mainly based on the issue history report on Malta (deliverable 19):

European Convention Act	1987, amended in 2002 and 2006)	Includes provisions that provide for the substantive articles of the European Convention for the Protection of Human Rights and Fundamental Freedoms to become and be enforceable as part of the Law of Malta.
Employment and Industrial Relations interpretation order (Legal Notice 297. subsidiary legislation to the EIRA)	2003	In determining whether any treatment is treatment that is justified in a democratic society, the Industrial Tribunal shall take into account provisions of any directive or regulation issued by the institutions of the European Union relating to discrimination and particularly Council Directive 2000/43/EC and Council Directive 2000/78/EC prohibiting discrimination on the basis of religion or belief, disability, age, sexual orientations, race or ethnic origin (see my remarks on applicability of anti-discrimination provisions to public sector and public service employees under 1.4).
Domestic Violence Act (chapter 481)	2005	Defines domestic violence, establishes a Commission on Domestic Violence, and lays down what facilities need to be in place (e.g. preventive, therapeutic and treatment programmes for victims and perpetrators of domestic violence, public help-line facilities, expertise, shelters, and collection of data) and makes amendments to the Criminal code and to the Civil Code.
Equal Treatment in Employment Regulations (Legal Notice 461, as amended by Legal Notices 53 and 338 and 427 of 2007 and 137 of 2008. Subsidiary legislation to the EIRA)	2004, amended in 2007	Gives effect to provisions of Council Directives 76/207/EEC, 2000/78/EC, 2000/43/EC, 2002/73/EC and 2006/54/EC. The purpose of these regulations is to put into effect the principle of equal treatment in relation to employment by laying down minimum requirements to combat discriminatory treatment on the grounds of religion or religious belief, disability, age, sex, sexual orientation, and racial or ethnic origin.
Equal Treatment in Self-Employment and Occupation Order (Legal Notice 86. Subsidiary legislation to the European Union Act (chapter 460)	2007	Further implements the provisions of Directives 2000/43/EC and 2000/78/EC. Extends applicability of provisions of the Equal Treatment in Employment Regulations (legal notice 461) to the self-employment where it regards conditions for access to self-employment or to occupation.

Minimum special leave entitlement regulations (Legal Notice 432, subsidiary to EIRA)	2007	Lays down minimum entitlements to sick leave, birth leave, bereavement leave, marriage leave, injury leave and leave for jury service. 1 day paid paternity leave is granted by this Legal Notice. Provisions apply to full-time employees
Protection of Maternity (Employment) (Amendment) Regulations (Legal Notice 431, subsidiary to EIRA).	2007	Extends paid maternity leave from 13 to 14 weeks
Parental Leave Entitlement (Amendment) Regulations (Legal Notice 430 of 2007, subsidiary to EIRA)	2007	Makes some small amendments to regulations 5 and 7 of the 2003 parental leave entitlement regulations.
Extension of Applicability to Service with Government (Parental Leave Entitlement Regulations and Urgent Family Leave Regulations) Regulations (Legal Notice 433 of 2007, subsidiary to EIRA)	2007	Extends the applicability of the parental leave entitlement regulations (2003) and the urgent family leaves regulations (2003) to service with government.
Extension of Applicability to Service with Government (Part-Time Employees) Regulations (Legal Notice 46 of 2007, subsidiary to EIRA)	2007	Extends the applicability of the part-time Employees regulations (Legal Notice 427 of 2002, as amended by Legal Notice 140 of 2007) to service with government

1.2 EU Policy and Member State Law: Comparisons and Struggles ⁹

Have there been disputes in your country over significant parts of EU Directives on gender?

Are there significant parts of EU Directives on gender equality that have not been implemented into national law? If some aspects are not transposed, what are they? Have there been disputes (1995-2007) between the EU and the country over transposition? Or within the country over this process? Or where local/national groups have gone direct to the EU? If so, what is the location of the dispute (e.g. intervention by Commission, Court of Justice; national court)? What was the outcome?

All these questions are very difficult to answer exactly, because the transposition process is so complex. EU Directives are transposed into member state legislation in very different ways using different procedures and different terminology and legal frames too. The aim is to collect all the information that is available already for your country in the table below, using secondary literature.

Please fill in one table for each significant issue,

Please consider the following examples: include if relevant; omit if not; add any others that are relevant in your country. Examples: equal pay & equal treatment; sexual harassment & discrimination; equality bodies; civil society involvement; parental leave and the organisation of working time (example provided).¹⁰

⁹ Directives: http://ec.europa.eu/employment_social/gender_equality/legislation/legalacts_en.html

ECJ cases: http://ec.europa.eu/employment_social/gender_equality/legislation/case_law_en.html; More info on transposition: http://ec.europa.eu/employment_social/fundamental_rights/policy/aneval/legnet_en.htm#comp.

¹⁰ Other gender+ equality related directives you might want to consider include: Directive 75/117/EEC on the principle of equal pay for men and women; Directive 79/7/EEC on the principle of equal treatment for men and women in social security; Directive 86/378/EEC on principle of equal treatment for men and women in occupational social security schemes; Directive 86/613/EEC on equal treatment between self employed men and women; Directive 92/85/EEC on the safety and health at work of pregnant workers and workers; Directive 97/80/EC on the burden of proof in cases of discrimination based on sex; Directive 2000/78 on equal treatment in employment and occupation.

The transposition processes of EU-Directives into national law and the infringement procedures started by the European Commission are neither always transparent nor is all relevant information easily accessible by the public. Therefore, we cannot guarantee that the tables below provide a complete overview.

Issue	Equal Pay & Equal Treatment Directives considered are: 1975/117/EEC, 79/7/EEC, 86/613/EEC, 96/97/EC (amending 86/378/EEC), 2000/43/EC, 2000/78/EC, 2002/73/EC (amending 76/207/EEC), 2004/113/EC, 2006/54/EC
Has law been passed or changed prior to the Directive	NO
Legislation transposing Directive	<ul style="list-style-type: none"> • 2002 Employment and Industrial Relations Act (transposes provisions of several directives) • 2003 The Equality for Men and Women Act (transposes provisions of several directives) • 2003 Employment and Industrial Relations interpretation order (refers to both Directive 2000/78/EC and 2000/43/EC) • 2004 (Legal Notice 461) and 2007 (amendments of 2004 one: Legal notice 53 of 2007 and 338 of 2007)) Equal Treatment in Employment Regulations (transposes provisions of 76/207/EEC, 2000/78/EC, 2000/43/EC, 2002/73/EC and 2006/54/EC) • 2005 Equal Treatment in Occupational Social Security Schemes Regulations (transposes provisions of 96/97/EC amending 86/378/EEC) • 2007 (legal Notice 85 and its amendment no. 267) Equal Treatment of Persons Order (transposes provisions of 2000/43/EC) • 2007 Extension of Applicability to Service with Government (Equal Treatment in Employment) Regulations • 2007 Equal Treatment in Self-Employment and Occupation Order (transposes provisions of 2000/43/EC and 2000/78/EC and possibly also of 86/613/EEC)
Does the country claim to have transposed the Directive?	<p>1975/117/EEC: the government has communicated a national implementing measure (MNE) to the European Commission regarding this Directive (MNE: Employment and Industrial Relations Act).¹¹</p> <p>79/7/EEC: the government has communicated a national implementing measure to the European Commission regarding this Directive.¹²</p> <p>86/613/EEC: the government has communicated a national implementing measure (MNE) to the European Commission regarding this Directive. (MNE: Equality for Men and Women Act).¹³</p> <p>96/97/EC (amending 86/378/EEC): the government has communicated a national implementing measure (MNE) to the European Commission regarding this Directive. (MNE: 2005 Equal Treatment in Occupational Social Security Schemes Regulations).¹⁴</p> <p>2000/43/EC: the government has communicated a national implementing measure (MNE) to the European Commission regarding this Directive. (MNE: several of the legislative pieces listed in above cell).¹⁵</p>

¹¹ Source EUR-lex: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:71975L0117:EN:NOT> . Accessed on 29 May 2008. The fact that there is such a reference does not necessarily mean that these measures are really in line with EU-Directives.

¹² Source EUR-lex: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:71979L0007:EN:NOT> . Accessed on 29 May 2008. The fact that there is such a reference does not necessarily mean that these measures are really in line with EU-Directives.

¹³ Source EUR-lex: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:71986L0613:EN:NOT> . Accessed on 29 May 2008. The fact that there is such a reference does not necessarily mean that these measures are really in line with EU-Directives.

¹⁴ Source EUR-lex: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:71996L0097:EN:NOT> . Accessed on 29 May 2008. The fact that there is such a reference does not necessarily mean that these measures are really in line with EU-Directives.

¹⁵ Source EUR-lex: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:72000L0043:EN:NOT> . Accessed on 29 May 2008. The fact that there is such a reference does not necessarily mean that these measures are really in line with EU-Directives.

	<p>2000/78/EC: the government has communicated a national implementing measure (MNE) to the European Commission regarding this Directive. (MNE: several of the legislative pieces listed in above cell).¹⁶</p> <p>2002/73/EC (amending 76/207/EEC): the government has communicated a national implementing measure (MNE) to the European Commission regarding this Directive. (MNE: several of the legislative pieces listed in above cell).¹⁷</p> <p>2004/113/EC: Currently Malta does not have legislation on equal treatment on basis of sex regarding goods and services. And it seems that it does not claim so either, as Malta has not communicated any national implementing measure to the European Commission so far.¹⁸ Until very recently, Malta did have legislation on equal treatment on basis of race/ethnicity regarding goods and services (Equal Treatment of Persons Order).</p> <p>2006/54/EC: the government has communicated a national implementing measure (MNE) to the European Commission regarding this Directive. (MNE: Legal Notice 338 of 2007 Equal Treatment in Employment (Amendment) (No. 2) Regulations).¹⁹</p>
<p>Significant provisions that are mentioned by experts or political actors as not being transposed</p>	<p>Since this group of Directives cover so many provisions it is impossible to provide any exhaustive answer to this question. The amended Equal Treatment in Employment Regulations (2004 and amended twice in 2007) seem to be more comprehensive than similar provisions that were already included in the Equality and Employment Act and as such these regulations transpose certain provisions that were not (adequately) transposed before. On the issue of equal pay, equal treatment in social security and equal treatment of men and women in an activity (Directive 86/613/EEC), the Employment and Industrial Relations Act, the 2005 Equal Treatment in Occupational Social Security Schemes Regulations, and the Equality Between Men and Women Act constitute the main transposing legislation.</p> <p>Critical remarks from experts:</p> <p><u>1975/117/EC</u>: in the EIRA a definition of 'work of equal value' is missing and in the EMWA article 4 that relates to discrimination in employment, equal pay is not explicitly referred to, and thus it remains to be seen whether it will be interpreted as extending to discrimination in pay.²⁰</p> <p><u>79/7 and 86/378 and 96/97 (amending 86/378)</u>: in the Bulletin of Legal issues in Gender Equality of 2004, Xuereb states that although Malta has declared to implement these Directives by means of amending the Social Security Act by 2002, no efforts have been made to implement the directives. The social security act uses terms like 'men' or 'head of household' in certain contexts and 'women' or 'wife' in other contexts, which provides space for different treatment. The Act does not mention gender equality anywhere. The pension age for men and women is not equal and wives forfeit their entitlement to age pension as a pension is payable to her husband. This last aspect was changed by the 2006 social security Act amendment law. Gradual equalisation of pension schemes is introduced and another salient change is the two-year credits for social security contribution per child. The credits are received on the condition that the parent returns to work for an equivalent period as that of his/her absence from work.²¹</p> <p><u>76/207 (amended by 2002/73)</u>: EIRA does not make explicit reference to indirect discrimination (however needed to comply with the 2002/73 version), whereas EMWA does. There appears to be need for some change in legislation on the definitional side if legislation is to be fully in line with new version 2002/73, both as</p>

¹⁶ Source EUR-lex: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:72000L0078:EN:NOT> Accessed on 29 May 2008. The fact that there is such a reference does not necessarily mean that these measures are really in line with EU-Directives.

¹⁷ Source EUR-lex: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:72002L0073:EN:NOT> Accessed on 29 May 2008. The fact that there is such a reference does not necessarily mean that these measures are really in line with EU-Directives.

¹⁸ EUR-lex: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:72004L0113:EN:NOT> (accessed on 29 May 2008)

¹⁹ Source EUR-lex: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:72006L0054:EN:NOT> . Accessed on 29 May 2008. The fact that there is such a reference does not necessarily mean that these measures are really in line with EU-Directives.

²⁰ Peter G. Xuereb, national expert for Malta to the Commission's Network of legal experts in the fields of employment, social affairs and equality between men and women, in : Bulletin of legal issues in gender equality, issue 2004/1

²¹ Peter G. Xuereb, national expert for Malta to the Commission's Network of legal experts in the fields of employment, social affairs and equality between men and women, in : Bulletin of legal issues in gender equality, issue 2004/1 and issue 2006/3

	regards indirect discrimination and as regards harassment and sexual harassment. ²² <i>Directive 86/613</i> : In EMWA 'employment' is defined as 'any gainful activity including self-employment'. However, most of the provisions of this Act subsequently deal with unlawful acts of 'employers'. Nevertheless, the Act does contain certain provisions purporting to implement this Directive. Like article 6 (1) on banks/financial institutions/insurance companies. ²³
Important differences between law and Directive now?	
What is claimed to be better in law and since when?	
Content of dispute(s) + date	ECJ cases: No ECJ cases Infringement procedures: <i>2000/78/EC</i> : in 2006, the Commission started an infringement procedure against Malta. In January 2008, a reasoned opinion was sent to the Maltese government. The opinion was sent for the following reasons: <ul style="list-style-type: none"> • The ban on discrimination does not cover access to self-employment or occupation • Protection against victimisation in the public sector does not cover discrimination on grounds of age or sexual orientation.²⁴ Public sector is broader than public service (the 2007 Extension of Applicability of the Equal Treatment in Employment Regulations to Service with Government does only cover the public service and not the public sector, see section 1.4 of this report) Lower-level disputes: see section 1.4 of this report on the struggle of Malta Gay Rights Movement to get the government to transpose Directive 2000/78/EC adequately into national law.
Has any other inequality been part of the transposition disputes? Which inequality axis?	<i>2000/78/EC infringement procedure</i> : age and sexual orientation <i>2000/78/EC Maltese transposition process in general</i> : in each case sexual orientation (see section 1.4 below)
Parties to the dispute	<i>2000/78/EC infringement procedure</i> : European Commission and Maltese government <i>2000/78/EC 'lower level dispute'</i> : Maltese government and the Malta Gay Rights Movement (MGRM). MGRM involved the European Commission (see section 1.4) which subsequently put pressure on the Maltese government
Location or arena	<i>2000/78/EC infringement procedure</i> : still in infringement stage, not (yet) brought to Court <i>2000/78/EC 'lower level dispute'</i> : Foremost battled out in the governmental arena (not so much in the public arena)

²² Peter G. Xuereb, national expert for Malta to the Commission's Network of legal experts in the fields of employment, social affairs and equality between men and women, in : Bulletin of legal issues in gender equality, issue 2005/1

²³ Peter G. Xuereb, national expert for Malta to the Commission's Network of legal experts in the fields of employment, social affairs and equality between men and women, in : Bulletin of legal issues in gender equality, issue 2005/2

²⁴ Rapid press releases, accessed on 28 May 2008:

<http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/08/68&format=HTML&aged=1&language=EN&guiLanguage=en>

<p>Outcome of the dispute</p>	<p><i>2000/78/EC infringement procedure</i>: Is to be seen <i>2000/78/EC 'lower level dispute'</i>: hard to tell what was the exact reason for the government to implement new legal measures that were meant to better comply with the Directive, but in any case the government eventually softened its position when it published Legal Notice 297 of 2003: The Employment and Industrial Relations act Interpretation Order. This Legal Notice instructed the Industrial Tribunal to take into account the provisions of the Directive when applying the anti-discrimination provisions of the Employment and Industrial Relations Act. This Interpretation Order referred to sexual orientation as a protected ground, but is still deemed insufficient by both MGRM and the European Commission, on grounds of legal certainty. In October 2004, the government published further regulations through Legal Notice 461 of 2004: The Equal Treatment in Employment Regulations. These regulations adopted a 'cut and paste' approach to implementation, practically reproducing the provisions of the Directive 2000/78/EC. ²⁵</p>
<p>Civil society engagement</p>	<p>In each case: Malta Gay Rights Movement, see also section 1.3</p>

<p>Issue</p>	<p>(Sexual) harassment/ burden of proof in (sex) discrimination cases Considered are: <u>(Sexual) harassment</u>: 2002/73/EC provisions that relate to (sexual) harassment; (in the later Directives 2004/113/EC and 2006/54/EC similar provisions on (sexual) harassment are repeated) 2000/43/EC and 2000/78/EC provisions that relate to harassment provisions. <u>Burden of proof in discrimination cases</u>: 97/80/EC on the burden of proof in cases of discrimination based on sex (burden of proof in cases of sex discrimination provisions similar to this Directives are found in Directives 2004/113/EC and 2006/54/113); 2000/43/EC and 2000/78/EC on burden of proof (article 8 and 10 respectively)</p>
<p>Has law been passed or changed prior to the Directive</p>	<p>NO</p>
<p>Legislation transposing Directive</p>	<ul style="list-style-type: none"> • <u>2003 The Equality for Men and Women Act (2002/73/EC</u>: Act contains provisions on sexual harassment (not on 'harassment'). Employer and any person responsible for any work place, educational establishment or entity providing vocational training or guidance or for any establishment at which goods, services or accommodation facilities are offered to the public are obliged to suppress sexual harassment. Sexual harassment is not explicitly defined as a form of (sex) discrimination in this Act. It is considered to be an 'unlawful activity'. Definition of sexual harassment is not identical to the one in the Directives, but resembles it to a large extent. Next, it is unlawful to treat persons so subjected or requested less favourably by reason of such persons' rejection of or submission to such subjection or request. 97/80/EC on burden of proof: in article 19(2) it is decided that: "In any [legal] proceedings [under sub article (1)] it shall be sufficient for the plaintiff to prove that he or she has been treated less favourably on the basis of sex or because of family responsibilities and it shall be incumbent on the defendant to prove that such less favourable treatment was justified in accordance with the provisions of this Act."²⁶ This article seems to diverge from the wording of the burden of proof provisions in directives. • <u>2002 (December) Employment and Industrial Relations Act (2002/73/EC</u>: includes certain provisions on harassment and sexual harassment deciding that harassment is unlawful and is a form of sexual discrimination. Partly overlaps with text of Equality Act, while exact wording differs now and then. The Act

²⁵ Malta Gay Rights Movement. 2007. 'Council directive 2000/78/EC and sexual orientation discrimination – the transposition process in Malta'. Internal paper sent to me by representative of Malta Gay Rights Movement.

²⁶ Words were put in bold by the author of this text (not like this in Act)

	<p>speaks not only about sexual harassment, but also about harassment. Harassment is taken to be form of sex discrimination (the equal treatment in employment regulations below were made under this Act)</p> <ul style="list-style-type: none"> • <u>2004/2007 Equal Treatment in Employment Regulations (2000/43/EC and 2000/78/EC</u>: discriminatory treatment on one of the grounds - religion or religious belief, disability, age, sex, sexual orientation, and racial or ethnic origin- includes harassment and sexual harassment. The definition of what is (sexual) harassment sticks very close to the exact wording of the Directives. Considering the burden of proof: the Equal Treatment in Employment regulations stick very close to the exact wording of Directives, by laying down that: "In any [legal] proceedings [mentioned in sub regulations (1) and (2)], where persons who consider themselves wronged because the principle of equal treatment has not been applied to them establish, before the Court or Industrial Tribunal, facts from which it may be presumed that there has been direct or indirect discrimination, it shall be for the defendant to prove that there has been no breach of the principle of equal treatment on the hearing of the complaint, and the Court or Industrial Tribunal shall uphold the complaint if the defendant does not prove that he did not commit that unlawful act." (Article 10(3))
<p>Does the country claim to have transposed the Directive?</p>	<p><u>Burden of proof</u>: the government has communicated a national implementing measure to the European Commission regarding Directive 97/80/EC.²⁷ <u>(Sexual) harassment</u>: Looking at whether the government has communicated national implementing measures does not say that much, because the relevant Directives cover more than harassment.</p>
<p>Significant provisions that are mentioned by experts or political actors as not being transposed</p>	<p>My own findings: <u>Equality Act on harassment</u>: Sexual harassment is not explicitly defined as a form of (sex) discrimination in this Act. The text of the Act seems to imply that sexual harassment and discrimination are separate unlawful activities; by stating things such as 'if it is found that such sexual harassment or discrimination did in fact take place'. The definition of sexual harassment is not identical to the definition in the Directives, but resembles it to a large extent. <u>Equality Act on burden of proof</u>: This article seems to diverge from the wording of the burden of proof provisions in the directives; it asks the plaintiff to prove that he/she has been treated less favourably, while the Directive only demand that the plaintiff has to establish facts from which it may be presumed that there has been direct or indirect discrimination. <u>Equal Treatment in Employment Regulations on burden of proof</u>: burden of proof fully transposed (on paper at least), because copied from Directive. <u>Equal Treatment in Employment Regulations on (sexual) harassment</u>: employment regulations on paper fully transpose Directives because the regulations are copied from Directives.</p> <p>Since the Equal Treatment in Employment Regulations also cover 'sex' as a discrimination ground, it seems that certain problems/absences (in the wording) of provisions on sexual harassment and burden of proof in the Equality for Men and Women Act and in the Employment and Industrial Relations Act, have now been solved.</p> <p>Other critical remarks by experts of political actors: <u>76/207 (amended by 2002/73)</u>: There appears to be a need for some change in legislation on the definitional side if legislation is to be fully in line with new version 2002/73, both as regards indirect discrimination and as regards harassment and sexual harassment.²⁸ <u>Directive 97/80</u>: In the EIRA there are only some hints of implementation of this directive, and in the EMWA, the article that comes most close to shifting the burden</p>

²⁷ Source EUR-lex: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:71997L0080:EN:NOT> . Accessed on 29 May 2008. The fact that there is such a reference does not necessarily mean that these measures are really in line with EU-Directives.

²⁸ Peter G. Xuereb, national expert for Malta to the Commission's Network of legal experts in the fields of employment, social affairs and equality between men and women, in : Bulletin of legal issues in gender equality, issue 2005/1

	of proof from plaintiff to accused/defendant, does not seem to totally comply with the Directive; it is asked from the plaintiff to prove that he/she has been treated less favourable on the basis of sex or family responsibilities, while it seems that the Directive merely requires that the plaintiff has to establish facts from which it may be presumed that there has been direct or indirect discrimination. Depending on the case-law that is starting to develop now it is to be seen whether Malta complies or not. ²⁹
Important differences between law and Directive now?	Burden of proof: NO (sexual) harassment: NO
What is claimed to be better in law and since when?	
Content of dispute(s) + date	ECJ cases: No ECJ cases Infringement procedures: <i>2000/78/EC:</i> in 2006 the Commission has started an infringement procedure against Malta. In January 2008 a reasoned opinion was sent to the Maltese government. The opinion was sent for the following reasons: <ul style="list-style-type: none"> • The ban on discrimination does not cover access to self-employment or occupation • Protection against victimisation in the public sector does not cover discrimination on grounds of age or sexual orientation.³⁰ Public sector is broader than public service (the 2007 Extension of Applicability of the Equal Treatment in Employment Regulations to Service with Government does only cover public service and not public sector, see on this division also section 1.4 of this report) Lower-level disputes: see section 1.4 of this report on the struggle of Malta Gay Rights Movement to get the government to transpose Directive 2000/78/EC adequately in national law.
Has any other inequality been part of the transposition disputes? Which inequality axis?	<i>2000/78/EC infringement procedure:</i> age and sexual orientation <i>2000/78/EC 'lower level dispute':</i> in each case sexual orientation
Parties to the dispute	<i>2000/78/EC infringement procedure:</i> European Commission and Maltese government <i>2000/78/EC 'lower level dispute':</i> Malta government and the Malta Gay Rights Movement (MGRM). MGRM involved the European Commission (see section 1.4) who put pressure on Maltese government subsequently
Location or arena	<i>2000/78/EC infringement procedure:</i> still in infringement stage, not (yet) brought to Court <i>2000/78/EC 'lower level dispute':</i> Foremost battled out in governmental arena (not so much public arena)
Outcome of the dispute	<i>2000/78/EC infringement procedure:</i> Is to be seen <i>2000/78/EC 'lower level dispute':</i> hard to tell what was the exact reason for the government to implement new legal measures that were meant to better comply with the Directive, but in any case, the government eventually softened its position

²⁹ Peter G. Xuereb, national expert for Malta to the Commission's Network of legal experts in the fields of employment, social affairs and equality between men and women, in : Bulletin of legal issues in gender equality, issue 2005/1

³⁰ Rapid press releases, accessed on 28 May 2008:
<http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/08/68&format=HTML&aged=1&language=EN&guiLanguage=en>

	when it published Legal Notice 297 of 2003: The Employment and Industrial Relations act Interpretation Order. This Legal Notice instructed the Industrial Tribunal to take into account the provisions of the Directive when applying the anti-discrimination provisions of the Employment and Industrial Relations Act. This Interpretation Order referred to sexual orientation as a protected ground, but is still deemed insufficient by both MGRM and the European Commission, on grounds of legal certainty. In October 2004, the government published further regulations through Legal Notice 461 of 2004: The Equal Treatment in Employment Regulations. These regulations adopted a 'cut and paste' approach to implementation, practically reproducing the provisions of the Directive 2000/78/EC. ³¹
Civil society engagement	In each case: Malta Gay Rights Movement

Issue	Parental/maternity leave Directives considered: 96/34/EC (parental leave), 92/85/EEC (maternity leave)
Has law been passed or changed prior to the Directive	NO
Legislation transposing Directive	<ul style="list-style-type: none"> • 2002 Employment and Industrial Relations Act (both 96/34/EC and 92/85/EEC, but in reality the regulations mentioned below implement the 'promises' in this Act) • 2003 Parental Leave Entitlement Regulations (96/34/EC) as amended by legal notices 427 and 430 of 2007 • 2003 Urgent Family Leave Regulations (96/34/EC) • 2003 Protection of Maternity (Employment) Regulations as amended by Legal Notices 3 of 2004, and 427 and 431 of 2007 (implementing 92/85/EEC). • 2007 Extension of Applicability to Service with Government (Parental Leave Entitlement Regulations and Urgent Family Leave Regulations) Regulations (legal notice 433) <p>Part-timers:</p> <ul style="list-style-type: none"> • L.N. 46 of 2007 EMPLOYMENT AND INDUSTRIAL RELATIONS ACT (CAP. 452) Extension of Applicability to Service with Government (Part-Time Employees) Regulations, 2007 • L.N. 140 of 2007 EMPLOYMENT AND INDUSTRIAL RELATIONS ACT, 2002 (CAP. 452) Part-Time Employees (Amendment) Regulations, 2007
Does the country claim to have transposed the Directive?	
Significant provisions that are mentioned by experts or political actors as not being transposed	<i>96/34/EC</i> : national expert to the Commission's Network of legal experts in the fields of employment, social affairs and equality between men and women is a bit critical, pointing towards some minimal interpretations of the Directive and to a minimal fine for breaching the regulations, which he feels will not be an effective deterrent. ³²
Important differences between law and Directive now?	<i>Maternity leave</i> : no important differences since 2007. With the 2007 Protection of Maternity (Employment) (Amendment) Regulations the 13 weeks paid maternity leave and 1 week unpaid were changed into 14 weeks paid (uninterrupted period, to start at minimum 4 weeks before expected date of childbirth)

³¹ Malta Gay Rights Movement. 2007. 'Council directive 2000/78/EC and sexual orientation discrimination – the transposition process in Malta'. Internal paper sent to me by representative of Malta Gay Rights Movement.

³² Peter G. Xuereb, national expert for Malta to the Commission's Network of legal experts in the fields of employment, social affairs and equality between men and women, in : Bulletin of legal issues in gender equality, issue 2005/2

	<p><u>Parental leave:</u> different regulations for private and public sector. Private sector seems to conform to the Directive: 3 months per child to be availed of in one month pieces. Unpaid. Non-transferable. Until child is eight years old. Employee has to be in employment for same employer for 12 months. In public sector: One year per child. Parents can utilise one time 3, 6, 9 or 12 months. Outstanding leave is lost. Unpaid. Until child is 6 years old. If parents both work in public sector: together one year. Can be shared once. So, if both parents work in public sector the right to parental leave is transferable which seems to be in contradiction with the Directive. However, recently legal notice 433 extends the applicability of the parental leave regulation to the public service, so supposedly this is solved now.</p>
What is claimed to be better in law and since when?	
Content of dispute(s) + date	<p>ECJ cases: no Infringement procedures: on the website of European Commission's Secretariat General decisions on infringement procedures can be searched for starting from March 2002. For Malta, which became an EU member in 2004, this is sufficient. No infringement procedures relating to one of these Directives is reported.</p>
Has any other inequality been part of the transposition disputes? Which inequality axis?	-
Parties to the dispute	
Location or arena	-
Outcome of the dispute	-
Civil society engagement	-

Issue	<p>Organisation of working time (Part time working) Directive considered: 97/81/EC (part-time work Directive)</p>
Has law been passed or changed prior to the Directive	<p>Possibly the following 1996 Part-time Employment National Standard Order (Legal Notice 61) already regulated <i>certain</i> aspects that were included in Directive 97/81/EC. It provided for a pro rata portion of the minimum entitlement of vacation leave, sick leave, birth leave, bereavement leave, marriage leave and injury leave to part-time employees whose part-time employment is their principle work and who do not work less than twenty hours per week. Made under the Conditions of Employment (Regulation) Act (Cap. 135). This order was repealed when the Part-time Employees Regulations were adopted in 2002 (and amended in 2007)</p>
Legislation transposing Directive	<ul style="list-style-type: none"> • 2002 Part-time Employees Regulations and its 2007 amendment (transposes 97/81/EC). The 2007 amendment abolished the 20 hours threshold that existed for being eligible for pro-rata benefits/leave. • 2007 Extension of Applicability to Service with Government (Part-Time Employees) Regulations (Legal Notice 46 of 2007, subsidiary to EIRA)
Does the country claim to have transposed the Directive?	

Significant provisions that are mentioned by experts or political actors as not being transposed	
Important differences between law and Directive now?	No important differences, especially not since the 2007 amendment. However, until the 2007 amendment (abolishing the 20-hours threshold for benefits) Malta used a possibility for derogating from the principle of non-discrimination which was allowed by the Directive (make access of part-time workers to particular working conditions dependent on a certain minimum amount of working time).
What is claimed to be better in law and since when?	
Content of dispute(s) + date	ECJ cases: No ECJ cases Infringement procedures: no infringement procedures
Has any other inequality been part of the transposition disputes? Which inequality axis?	
Parties to the dispute	
Location or arena	
Outcome of the dispute	
Civil society engagement	Women's organisations (like NCW and MCWO) have pressurised the government to abolish the 20-hours threshold. This happened with the 2007 amendment.

Issue	Equality Bodies Directives considered are: 2000/43/EC (article 13) 2002/73/EC (article 8a), 2004/113/EC (article 12), 2006/54/EC (article 20)
Has law been passed or changed prior to the Directive	NO
Legislation transposing Directives	<ul style="list-style-type: none"> • 2003 The Equality for Men and Women Act (provisions of 2002/73/EC are transposed; Act sets up the National Commission for the Promotion of Equality Between Men and Women, NCPE) • 2007 Equal Treatment of Persons Order (Legal Notice 85, subsidiary legislation to the European Union Act, amended by Legal Notice 267 of 2007): Prohibits discrimination on the basis of racial and/or ethnic origin in the provision of social security, health care, social advantages, education and in the access and supply of goods and services and appoints the NCPE as the entity responsible for reviewing the working of the provisions of this Legal Notice.
Does the country claim to have transposed the Directive?	

Significant provisions that are mentioned by experts or political actors as not being transposed	
Important differences between law and Directive now?	2004/113/EC: no attempt to transpose the provisions requiring an equality body to monitor equal treatment in goods and services has taken place in Malta; Malta does not have legislation on equal treatment on basis of sex in field of goods and services.
What is claimed to be better in law and since when?	
Content of dispute(s) + date	ECJ cases: No ECJ cases Infringement procedures: no
Has any other inequality been part of the transposition disputes? Which inequality axis?	
Parties to the dispute	
Location or arena	
Outcome of the dispute	
Civil society engagement	The transition from the old machinery (CAW/DWIS; see section 3 for more info) was quite abrupt and went together with a likewise abrupt change in personnel. It has met with resistance from people working for the old machinery and some women organisations expressed critical remarks when they took part in the consultation round regarding the Equality For Men and Women Bill. Foremost, their critic with regard to setting up of NCPE concerned the mixing of different functions in one and the same body (see for section 3 on machinery for more info).

Issue	NGO/civil society dialogue Directives considered: 2000/43/EC (articles 11 and 12), 2000/78/EC (articles 13 and 14), 2002/73/EC (article 8b and c), 2004/113/EC (article 11), 2006/54/EC (articles 21 and 22).
Has law been passed or changed prior to the Directive	NO
Legislation transposing Directive	The 2003 Equality for Men and Women Act lists the functions/tasks of the NCPE, one of them is to keep direct and continuous contact with local and foreign bodies working in the field of equality issues, and with other groups, agencies or individuals as the need arises (article 12(1)). This is however a quite indirect and weak translation of provisions on civil society dialogue in EU-Directives. In practice, Malta started civil society consultation because of EU policy and EU Directives. Gender experts and women organisations were critical about the consultation that took place in the context of the Equality for Men and Women Bill. There was only a very quick consultation. In three weeks time one had to come up with a reaction. Writing a good commentary on such a Bill (allowing you to compare with other European bills/legislation on gender equality, doing some research and discuss about the details of the Bill together with lawyers and social workers) was almost impossible. In the end, the government adopted some of the recommendations made by women's groups.

	<p>NGOs are presently not regulated by any legislation in Malta. Currently, the government (Ministry for the Family and Social Solidarity) is preparing legislation that should provide a legal basis for NGOs. At this moment all NGO's have the status of foundation or voluntary organisation. The proposed new legal basis would, among other things, enable NGOs to apply for EU funding, which they currently cannot apply for because of they lack such status. In July 2005 the White Paper titled 'Strengthening the Voluntary Sector' (Ministry for the Family and Social Solidarity, 2005) was issued. Women's organisations in particular have offered input to governmental discussions and lobbied government. In the introduction of the white paper, reference is made to the importance that the EU attaches to dialogue and cooperation with civil society. The White Paper and the attached draft legislation propose a framework that will help NGOs to play a bigger role in society</p>
Does the country claim to have transposed the Directive?	-
Significant provisions that are mentioned by experts or political actors as not being transposed	-
Important differences between law and Directive now?	-
What is claimed to be better in law and since when?	-
Content of dispute(s) + date	<p>ECJ cases: No ECJ cases Infringement procedures: no</p>
Has any other inequality been part of the transposition disputes? Which inequality axis?	-
Parties to the dispute	-
Location or arena	-
Outcome of the dispute	-
Civil society engagement	<p>Women's organisations Malta Gay Rights Movement</p>

1.3 Do any aspects of domestic gender equality law surpass (are better, more extensive, or more developed than) or earlier than EU law?

	EU			Country		
	Provision	Year	Notes	Provision	Year	Notes
Maternity	14 weeks	1996	Pay must not be less than wage during sickness leave.	Private and public sector: 14 weeks	2007 ³³ (Was 13 paid and one unpaid since 2003 and was 13 weeks paid since 1981. Both for public and private sector)	14 weeks paid (full wage). In case of 'special maternity leave' (in case of health risk) pay is equivalent to the rate of sickness benefit.
Paternity	Optional	1995		Private sector: 1 day Public sector: 2 days	2007 ³⁴ 2007 ³⁵ (introduced for whole public sector, it applied already since 1979 to public service)	Paid (full wage) Paid (full wage), to be taken within 15 days of birth
Parental	3 months	1996	Unpaid	Private sector: 3 months full-time per child to be availed of in one-month pieces. Public sector: One year per child. Parents can utilize one time 3, 6, 9 or 12 months. Outstanding leave is lost. Also grants a career break of 5 years.	2003 ³⁶ 2007 ³⁷ (introduced for whole public sector, it applied since 1996 to public service). 2007 ³⁸ (introduced for whole public sector. For public service already since 2005).	Unpaid. Non-transferable. Until child is eight years old. Employee has to be in employment with same employer for 12 months. Unpaid until child is 6 years old. If parents both work in public service: together one year. Can be shared once.

³³ Legal Notice 431 of 2007. Protection of Maternity (Employment) (Amendment) Regulations

³⁴ Legal Notice 432 of 2007. Minimum Special Leave Entitlement Regulations

³⁵ Budget speech 2007

³⁶ Legal Notice 255 of 2003. Parental Leave Entitlement Regulations

Duty on all public bodies to promote GE	No	2004	Mainstreaming required by 2006	YES/NO (not a duty and not laid down in legislation, but see notes)		In 2000 two government documents were published on GM in the public sector. ³⁹ In these documents it is stated that GM as a strategy should be implemented over a period of 5 years starting from 2000 and that all public officials in all government parts should be made accountable for implementation of GM. ⁴⁰
Equalities body (employment)	Yes	2002		YES	2004	NCPE
Equalities body (goods & services)	Yes	2004		NO (gender/sex) YES (race/ethnicity).	-	NCPE's primary task is to monitor the implementation of the EMWA (and to investigate complaints about this). Goods and services are not covered by this Act. In the field of race/ethnicity the NCPE's task is inter alia to ensure that no discrimination on ground of race takes place in the provision of goods and services.
Equalities body for promotion	Yes	2006		YES	2004 2001	NCPE (all fields) ETC gender unit (employment field) Only NCPE's promotion tasks have legal basis in the EMWA.

³⁷ Budget speech 2007

³⁸ Budget speech 2007

³⁹ Circular no. 24 (2000) by the Office of the Prime Minister on gender mainstreaming. And: Callus, Angela and Miriam Camilleri. 2000. Gender mainstreaming in the Malta Public Service. A manual for action. Malta: Commission for the Advancement of Women, Government Printing Press.

⁴⁰ Such intention on paper does however not say anything about the de facto implementation of GM.

Gender pay audits	Not specified			NO (in the sense that this is not included in law, but see notes) YES (they are being executed, irregularly).	-	Very recently a gender pay review was published by NCPE (2006); however no legal obligation to execute gender pay audits is in place.
Gender Equality plan (employment)	Yes	2002/2006		YES	2004 2007	NCPE's Strategic Policy Directions 2004-2006 (see 'plans and programmes' below). Employment only: ETC's 'Gender Equality Action Plan 2007-2008. Promoting equal opportunities in the labour market.
Requires NGO dialogue to be encouraged	Yes/no	2002	Dialogue	YES	2003	According to Provision (e) of article 12 of the EMWA the NCPE has a function to : "keep direct and continuous contact with local and foreign bodies working in the field of equality issues, and with other groups, agencies or individuals as the need arises".
Positive action measures	Yes/no	1975	Allowed, not required	YES	2007	Allowed, not required.
Public bodies to promote racial equality				YES	2007, Equal Treatment of Persons Order	Not a duty on all public bodies to promote racial equality, but NCPE is entity responsible for reviewing the working of this Order that prohibits discrimination on basis of race.

If there are no sanctions for violating the law, please state this						In Equality for men and women Act, sanction is included in case somebody is found guilty on sexual harassment. Regarding the remaining provisions one can file complaint with NCPE or/and go to Industrial Tribunal.
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1.4 Equality law on intersecting inequalities

Prohibition of discriminatory treatment is provided for in general and specific laws. The Constitution and the European Convention Act include a general prohibition of discrimination. The specific laws are of a much more recent date. The constitution of Malta includes anti-discrimination provisions (article 45, dated 1964 and amended in 1974 and in 1991) which are directly applicable. However, the constitution has only vertical effect, which means that the anti-discrimination provisions can only be enforced against the State and not against private actors.⁴¹ Only a limited number of grounds are covered: race, place of origin, political opinions, colour, creed and sex. Despite the fact that race, colour and place of origin are covered, the word ‘ethnicity’ is not explicitly mentioned. The same goes for ‘religion’ (‘creed’ is explicitly mentioned). Moreover, disability, sexual orientation, age and marital status are not recognised as (prohibited) grounds of discrimination. That is why I will only make reference to the specific laws below.

Another thing that should be pointed out here is that the anti-discrimination legislation that applies to *public service* (employment with government) might differ in Malta from the *private sector* and *public sector* (i.e. not employment with government, but with public entities in which the government has a major shareholding).⁴²

According to Article 48 of the Employment and Industrial Relations Act, the Prime Minister has the power to prescribe by regulations the applicability of any article or sub-article of Title I (Employment Relations) and of Title II (Industrial Relations) of the Employment and Industrial Relations Act to service with the government (i.e. public service). This means that the EIRA applies to the whole of the public sector, and those provisions, when so prescribed by regulations, as indicated at Article 48, are applied also to the public service. Several provisions by means of regulations have been extended to the Public Service (employment with government) lately, such as:

- Legal notice 54 of 2007: extends applicability of The Equal Treatment in Employment Regulations (Legal Notice 461 of 2004) to public service.
- Legal Notice 46 of 2007: extends the applicability of all Part-time employees Regulations made subsidiary to EIRA to the public service
- Legal Notice 433 of 2007 Extension of Applicability to Service with Government (Parental Leave Entitlement Regulations and Urgent Family Leave Regulations) Regulations

Regarding family friendly provisions the public service is in practically all aspects far more generous than the provisions made in the EIRA or subsidiary to the EIRA.

The other conditions of service in the EIRA are in most cases already applicable to public service employees through the Public Service Management Code (PSMC)⁴³ and in the separate Collective Agreements of different classes of employees. In many cases, the PSMC provides for better conditions than those laid down in EIRA. The Public Service has long held a policy of non-discrimination regardless of whether the regulations of EIRA applied or not:

⁴¹ Ellul, Tonio. 2007. Report on measures to combat discrimination. Directives 2000/43/EC en 2000/78/EC. Country report Malta. Report drafted for the European Network of Legal Experts in the non-discrimination field, . http://ec.europa.eu/employment_social/fundamental_rights/pdf/legnet/mtrep07_en.pdf page 5-6

⁴² The information on differences in anti-discrimination/ equality legislation between private sector, public sector and public service have been obtained by means of email conversation with Ms Caruana Colombo (Director of employee relations at the Management and Personnel Office at the Office of Prime Minister).

⁴³ <http://www.mpo.gov.mt/downloads/psmc-revised.pdf> 8th edition, May 2007, accessed on 18 February 2008

- Section 7.1.3 states that public business should be conducted with efficiency, excellence, fairness, impartiality and integrity. This requires a policy of non-discrimination.
- Section 7.1.3.4 is more specific and states that public officers should not harass or discriminate in work practices on the grounds of sex, marital status, pregnancy, age, race, colour, nationality, physical or intellectual impairment, sexual preference, or religious, political or other convictions/allegiances when dealing with their colleagues and members of the public.
- A policy of equality of opportunity regarding gender is included in Section 1.1.9 of the PSMC.

In answering the questions below I will only take into account the 'normal' legislation of Malta (that is, the legislation applying to private sector and public sector) assuming that the anti-discrimination regulations that apply to the public service will be just as extensive.

- **Is discrimination on the grounds of ethnicity/'race' illegal** YES
 - **When was this law introduced?** Legal Notice 461⁴⁴ of 2004 (amended in 2007 and 2008) and Legal Notice 85 of 2007. However, the Employment and Industrial Relations Act prohibited discrimination in employment on the ground of 'colour' in 2002 (but 2004 legal notice is more extensive).
 - **Is this restricted to employment related issues?** NO legal notice 461 is, but legal notice 85 moves beyond
 - **Does it include the sale and supply of services?** YES legal notice 85 of 2007 includes exact provision 3(1)(h) of Directive 2000/43: access to and supply of goods and services which are available to the public, including housing
 - **What disputes if any took place during its introduction?** None

Comment:

Legal Notice 461: Equal Treatment in Employment Regulations (subsidiary law to EIRA)

Legal Notice 85: Equal Treatment of Persons Order (subsidiary law to the European Union Act)

- **Is discrimination on the grounds of religion illegal** YES
 - **When was this law introduced?** Employment and Industrial Relations Act of 2002 (religious conviction) and extended protection in Legal Notice 461 of 2004 (amended in 2007 and 2008)
 - **Is this restricted to employment related issues?** YES
 - **Does it include the sale and supply of services?** NO
 - **What disputes if any took place present during its introduction?** None
- **Is discrimination on the grounds of sexual orientation illegal** YES
 - **When was this law introduced?** Legal Notice 461 of 2004 (sexual orientation was not mentioned as a ground in anti-discrimination provisions of Employment and Industrial Relations Act of 2002)
 - **Is this restricted to employment related issues?** YES
 - **Does it include the sale and supply of services?** NO
 - **What disputes if any took place during introduction of these laws?** No 'high level' disputes, but dispute that was limited to only most directly involved actors, dispute battled out mainly in governmental arena and not in public arena:

The Malta Gay Rights Movement (MGRM) has written an internal paper on the transposition process of Directive 2000/78/EC in Malta which provides insight into the occurrence of disputes: In the period of public consultation that followed to the publication of the white papers (December 2001) on the future Employment and Industrialisation Act. The MGRM submitted a position paper in which it notes that the draft bills does not explicitly ban sexual orientation discrimination, does not contain provisions on indirect discrimination and harassment, and that no provision is made for the shift in the burden of proof or the obligation on trade unions not to discriminate. When, in April 2002, the new bill was tabled in Parliament it contained a provision on discrimination between classes of employees which made references to 'sexual preference', but the general anti-discrimination provisions did not address sexual orientation discrimination, and in general the bill fell far short of adequately transposing the Directive. When the resulting Employment and Industrial Relations Act was adopted in Parliament, the above-mentioned reference to sexual preference was removed. The position under the Act was that sexual

⁴⁴ The purpose of these regulations is to put into effect the principle of equal treatment in relation to employment by laying down minimum requirements to combat discriminatory treatment on the grounds of religion or religious belief, disability, age, sex, sexual orientation, and racial or ethnic origin.

orientation was not mentioned as a protected ground, no provision was made for the ban on harassment (other than that which is sexual in nature), no obligations were imposed on trade unions or professional organisations not to discriminate and no provision was made for the shift in the burden of proof. In July 2002, the MGRM held a meeting with officials of the European Commission's Directorate-General for Enlargement in which they expressed their concerns. This meeting was a turning point in that soon thereafter the Commission was putting more pressure on the local authorities to implement the Directive. In May 2003 the Director-General for Employment and Social Affairs, Odile Quintin, visited Malta. During her stay, she identified the anti-discrimination legislation of the EU as one of the areas in which a lot of work still needed to be done in Malta. The Maltese government eventually softened its position when it published Legal Notice 297 of 2003: The Employment and Industrial Relations act Interpretation Order. This Legal Notice instructed the Industrial Tribunal to take into account the provisions of the Directive when applying the anti-discrimination provisions of the Employment and Industrial Relations Act. Even though this Interpretation Order referred to sexual orientation as a protected ground, it was still deemed insufficient by both MGRM and the European Commission, on grounds of legal certainty. When Malta joined the EU in May 2004, the position was still far from adequate: most of the protections in the Directive were not transposed. In fact, in its final report on Malta prior to accession, the Commission had recognised that enhanced efforts were required in the implementation of the anti-discrimination acquis. In October 2004, the government published further regulations through Legal Notice 461 of 2004: The Equal Treatment in Employment Regulations. These regulations adopted a 'cut and paste' approach to implementation, practically reproducing the provisions of the Directive 2000/78/EC. They constituted the most comprehensive implementation of the Directive to date.⁴⁵

- Is discrimination on the grounds of disability illegal
 - When was this law introduced? Equal Opportunities (Persons with Disability) Act of 2000. Disability also included in legal Notice 461 of 2004. The 2000 Act moves beyond employment.
 - Is this restricted to employment related issues? NO, the 2000 Act moves beyond employment (education, access to premises and facilities, provision of goods-facilities-services. Accommodation)
 - Does it include the sale and supply of services? YES, the 2000 Act (provision of goods, facilities and services)
 - What disputes if any took place during introduction of these laws? None
- Is discrimination on the grounds of age illegal
 - When was this law introduced? Legal notice 461 of 2004
 - Is this restricted to employment related issues? YES
 - Does it include the sale and supply of services? NO
 - What disputes if any took place during introduction of these laws? None
- Is discrimination on the grounds of marital status illegal?
 - When was this law introduced? Employment and Industrial Relations Act 2002 (EIRA)⁴⁶. Marital status is not included as a discrimination ground in legal notice 461. The Equality for Men and Women Act of 2003 (EMWA) prohibits discrimination on the basis of *family responsibilities*.
 - Is this restricted to employment related issues? YES (EIRA). The EMWA hardly goes beyond employment. It covers discrimination in employment (e.g. working conditions and manage the work, give promotions, distribute tasks, offer training opportunities, and discriminatory advertisements), it covers discrimination by banks and financial institutions, it includes some provisions on participation of spouses in the activities of a self-employed partner, and it covers discrimination in vocational training and guidance.
 - Does it include the sale and supply of services? NO
 - What disputes if any took place during introduction of these laws? None

⁴⁵ Malta Gay Rights Movement. 2007. 'Council directive 2000/78/EC and sexual orientation discrimination – the transposition process in Malta'. Internal paper sent to me by representative of Malta Gay Rights Movement.

⁴⁶ Part IV (articles 26 to 32) is on protection against discrimination related to employment. In article 2(1) a definition of "discriminatory treatment" is given. It means: "any distinction, exclusion or restriction which is not justifiable in a democratic society including discrimination made on the basis of **marital status, pregnancy or potential pregnancy**, sex, colour, disability, religious conviction, political opinion or membership in a trade union or in an employers' association" (bold added).

- Are there further legal issues, especially disputed legal issues, concerning the intersection of equalities with gender that are relevant? NO

2. Plans and programmes

Two types of national gender equality plans are considered here. The first set of questions concerns plans specific to the country. (Please include not only if they are called 'national gender equality plans' or but also if they are just a sub-section of a larger national development plan.) The second set of questions refers to the National Reform Programmes for employment and National Reports (National Action Plans) on Strategies for social inclusion and social protection that the EU requires annually from each Member State.

2.1 National gender equality plans

2.1.1 Is there a national gender equality plan? Or a gender equality component of a national development plan.

YES.

- 1) The NCPE has published a document titled 'Strategic Policy Directions 2004-2006'⁴⁷. However, one can wonder whether this document can be labelled a real '*national gender equality plan*' since this is not a policy plan that is (published by and) presented by the government (in broad) to the Parliament. Further, no new document on the policy directions for the years following 2006 has been published. In absence of such a 'real' (and up to date!) national policy plan, I still think it to be important to refer to this document here. In February, a conference has taken place during which NCPE's new strategies for the coming year were presented. However, the document is not yet publicly available on NCPE's website.
 - 2) The ETC's Gender Unit (ETC is an officially appointed body placed under the Ministry for Education, Youth and Employment) has published its third Gender Equality Action Plan on the promotion of equal opportunities in the labour market for the years 2007-2008.⁴⁸ Again, one can wonder if this document can be labelled a real 'national gender equality plan', because it is not a plan that has been (published by and) presented by the government (in broad) to Parliament. In absence of such a 'real' national policy plan, I still think it to be important to refer to this document here.
- o If yes please name and describe very briefly the range of issues that it covers (in particular, how far beyond employment does it go?).
- 1) NCPE Strategic Policy Directions 2004-2006: The document is very short in length (2,5 pages in total), which means that it does not elaborate much on the contents. The recommendations/aims covered by this document are split up in two categories. The first one is on 'promoting gender equality in economic life'. The recommended measures display a broad approach to employment (e.g. also focus on work/family life balance, childcare facilities, protecting the interests of men and women managing the home and family without earning an income). The second category of measures focus on 'promoting gender equality in representation and civil life'. These recommendations/aims clearly move beyond employment and relate to gender mainstreaming; gender representation at executive, decision-making and representational levels in political parties/trade unions/other social partners; gender awareness in education/research/services; encouraging NGO's to promote gender; and changing gender roles and eliminating gender stereotypes.
 - 2) ETC Gender Unit Gender Equality Plan 2007-2008: the document specifically focuses on gender equality in employment, however quite a broad approach to employment is taken (for example measures to target the prevailing culture and mentality regarding gender roles). Next to deciding what the priority target groups are and what actions will be taken by NCPE, the action plan brings together a lot of information on recent changes in national legislation, good practices in other EU member states, EU and other international publications of interest, local publications and reports of interest and so on. It also includes recommendations suggested during consultation meetings that fall outside the direct remit of ETC.
- o Is the focus restricted to non-discrimination?
- 1) NCPE Strategic Policy Directions 2004-2006: No, the plan moves beyond non-discrimination/equal treatment. For example, in the paragraph on 'promoting gender equality in economic life' the provision and access to affordable and reliable childcare is

⁴⁷ Document can be downloaded from: http://www.equality.gov.mt/filebank/imagebank/wordbank/strategic_policies.pdf, accessed on 22 January 2007

⁴⁸ Document is currently not yet available at the site of ETC's gender unit: <http://www.etc.gov.mt/site/page.aspx?pageid=2113> accessed on 22 January 2007

one of the objectives mentioned. Other examples in place are 'sensitising and encouraging employers and employees to work on work/life balance for both sexes' and 'promoting entrepreneurship and self-employment opportunities for women'. An example of moving beyond mere non-discrimination/equal treatment taken from paragraph on 'promoting gender equality in representation and civil life': Promoting change of gender roles and eliminating stereotypes through educational and media campaigns based on the local cultural context.

- 2) ETC Gender Unit Gender Equality Plan 2007-2008: No, the plan moves beyond anti-discrimination. It, for example, speaks about changing the prevailing culture and mentality regarding gender roles.
- [Is there reference to gender mainstreaming?](#)
 - 1) NCPE Strategic Policy Directions 2004-2006: yes, in the introduction section it is stated that: "the changes in policy concept has now shifted from one based on women's rights, to focussing on gender mainstreaming and equality of opportunity between men and women." And one of the recommendations proposed in the category 'promoting gender equality in representation and civil life' is: "Reinforcing gender mainstreaming, and awareness in all policy-making exercises and at all levels of government and private enterprise that it must be taken seriously".
 - 2) ETC Gender Unit gender equality Plan 2007-2008: the words 'gender mainstreaming' are used once when announcing the publishing of four studies by the NCPE in the framework of the ESF funded project 'Gender mainstreaming: the way forward'. But no reference to gender mainstreaming in the proposed actions.
 - [Are there named policy instruments and/ institutions, if so what?](#)
 - 1) NCPE Strategic Policy Directions 2004-2006: Hardly. There is no mentioning of specific (gender) policy instruments (such as: gender budgeting, gender pay audits, monitoring reports, gender impact assessments, and gender segregated statistics). Vague terms such as 'sensitising', 'encouraging' and 'promoting' are used often, but also some more specific policy actions are asked for, such as 'reviewing of income tax and social benefits to reduce disincentives for women entering labour market'; 'reviewing of national insurance provisions to benefit married women who are main breadwinners'. Responsible actors/institutions usually stay unmentioned, but political parties, trade unions and other social partners are called upon to have measures inbuilt in their statutes/regulations to ensure adequate gender representation.
 - 2) ETC Gender Unit Gender Equality Plan 2007-2008: Yes, this action plan is clearer on policy instruments used than the NCPEs. It is, for example recommended that gender audits and gender budgeting are carried out on government spending, that a national after-school hours activity scheme will be implemented and disseminated, that an Equality Ombudsperson should be set up to deal with equality issues in public sector, that goods practices of employers making use of alternative work arrangements should be shared, and that research should be carried out. Responsible institutions/actors are in some cases the ETC itself; in other cases (recommendation that move beyond ETC's remit) they are usually not explicitly mentioned.
 - [Are there indicators and statistics to evaluate the policies?](#)
 - 1) NCPE Strategic Policy Directions 2004-2006: NO
 - 2) ETC Gender Unit Gender Equality Plan 2007-2008: The document does not set concrete targets and does not mention indicators or statistics to be used to evaluate policies. However, the document includes a section that provides an overview of the progress in the labour market in last 6 years from a gendered perspective. Statistics are included on the female and male employment rates, on age distribution of employed women, on part-time and self-employment rates, on numbers of hours worked and on females in top management positions.
 - [Is there reference to EU targets \(European Employment Strategy targets: Lisbon \(2000\) female employment rate of 60% by 2010; Barcelona \(2002\) provision of childcare by 2010 to at least 90% of children between 3 years old and the mandatory school age and at least 33% of children under 3 years of age\)? \(Add age here\)](#)
 - 1) NCPE Strategic Policy Directions 2004-2006: NO

- 2) ETC Gender Unit Gender Equality Plan 2007-2008: One reference to EU Lisbon female employment rate target. In the annex on international publications of interest, the priority areas which need special attention according to the European Commission's Roadmap for Equality Between Women and Men 2006-2010 are summarised. One of them is: "achieving the 2010 Lisbon targets for employment (female employment rate 60%)".

2.1.2 Is gender equality integrated with other equalities in a national plan?

If yes please name and describe very briefly the range of issues that it covers, in particular, how far beyond employment does it go? Is it framed by equality or by diversity or both or a similar goal (e.g. equal opportunities)? If so, please specify.

NO

2.1.3 Is there a gender equality (or similar) plan in the area of gender based violence

NO, Malta has a Commission on Domestic Violence (that was set up by means of the Domestic Violence Act in 2006) and one of its functions as specified in the Act is: developing a comprehensive plan for a multi disciplinary approach of active prevention and early intervention. So far, the Commission has not published such a plan. In its annual report on period March 2006-February 2007 the Commission says to be working on the development of a National Action Plan on Domestic Violence. The Council of Europe's blueprint for the campaign to eliminate violence against women is considered as the major foundation for this plan.⁴⁹ In Malta's plans on social inclusion (required by the EU) some references to domestic violence are included, but no substantial attention is paid to gender based violence.

If yes please name the plan. Does it cover?

- o Domestic violence and violence in partnerships -----
- o Sexual assault/violence and rape -----
- o Sexual harassment and stalking -----
- o Trafficking and prostitution -----
- o Forced marriage, honour crimes and FGM -----

Does the plan include?

- o named policy instruments and/or institutions, if so what; -----
- o Indicators and statistics to evaluate the policies, if so which? -----

2.2 EU required National Reform Programme (National Action Plan) for Employment

- o Does the EU required National Reform Programme for employment (in which one of the ten guidelines concerns gender mainstreaming) includes a significant set of actions concerning gender equality? If so, what are these?

I will answer this question using the most recent Maltese National Reform Programme, which is the 2007 one, titled:

Malta's National Reform Programme 2005-2008. Annual Progress Report 2007. 70 pages⁵⁰

The words '*gender equality*' are never explicitly and jointly mentioned in this report. The report does refer to *gender* and *women* (and men) and to *females* (and males) and includes several gender equality related actions. In the 2-page political summary of the report, it is stated that: "A key challenge for Malta is to increase the overall female participation rate in employment. Though it is acknowledged that reaching the target of 40% by 2010 is demanding, Government is nonetheless committed to register improvements in this regard."⁵¹ Correspondingly, the majority of the gender equality related actions are targeted at increasing the female employment rate.

The report includes a paragraph on 'country specific recommendations' in which the recommendations of the European Commission are repeated. Two recommendations were made and one of them is: "step up efforts to attract more people into the labour market, particularly women, intensify efforts to tackle undeclared work and implement changes to the tax and benefit system to make working more attractive."⁵² In the framework of this recommendation, a list of various policy actions is included (page 11-12) by means of which the government hopes to reach a 40% female participation rate in 2010. The list also includes legislative changes going back to 2005. The list

⁴⁹ Commission on Domestic Violence. Annual report March 2006-February 2007.

http://mfss.gov.mt/documents/family/domestic_violence_annual_2006_en.pdf

⁵⁰ http://ec.europa.eu/growthandjobs/pdf/nrp2007/MT_nrp_en.pdf accessed on 22 January 2007

⁵¹ Ibid. page 2

⁵² Ibid. page 7

includes actions in the field of taxation provisions (women returning to employment benefit; amendment to part-time work regulations; revision of income tax bands; recognition of men/women working within a family business for receiving social benefits; change in computation system of social security contributions for part-time employment);, in the field of family friendly measures (change of social security Act providing for 2-years of child-minding national insurance credits per child until child is 6 years; promotion of childcare services with the aim of raising awareness about benefits of quality childcare); and in the field of (curbing) undeclared work (among other things: training courses specifically aimed at job seekers; referral to job opportunities; long term unemployed exercise aimed at making them more employable; literacy programmes; actions to fight illegal employment; publicity campaign; compulsory active labour measures for the registered unemployed).

Other – sometimes fairly indirect – references to gender equality related activities are:

- In the framework of efforts taken in ICT-field the report mentions that this can lead to improved participation in the work-force by specific target groups such as women. But nothing more specific than this is being said about this.
- In the chapter on 'employment' one of the measures listed to increase the overall employment rate is to review the tax and pension systems to encourage female participation. In the same chapter, a paragraph is included titled 'increasing female participation' (pages 50-52). The same measures, except for the ones on curbing undeclared work, as already listed on page 11-12 (see above) are listed here, while some extra explanation is added. However, several 'new' measures are included: firstly, the Maltese government is intending to increase *paid* maternity leave from thirteen to fourteen weeks as of January 2008. Secondly, measures having to do with childcare services, namely parents using childcare facilities are now able to deduct Lm400 (approximately 925 Euros) from the taxable amount to compensate for part of the expenses incurred in licensed child care services. Furthermore, in cases where employees receive payment from their employer for expenses related to childcare services, such payments shall no longer be considered as fringe benefits and will therefore no longer be taxable. In those cases where employers pay their employees for expenses related to childcare services, such expenses are considered as business costs and are therefore deductible from taxable income. Moreover, in ensuring the provision of good quality childcare services, in July 2006 the Government published standards for childcare facilities. Finally, an improvement grant to help existing childcare facilities to meet the established standards was also launched.

Apart from references to gender equality related *policy actions*, reference is made at several places to how Malta is doing (compared to the other EU member states) concerning the gender pay gap, training and education of women, developments in female employment rate. These statements are usually supported by gender segregated statistics.

No explicit reference is made to the concept of '*gender mainstreaming*' (although the measures mentioned above can be regarded as gender mainstreaming attempts). Reference is made to mainstreaming and impact assessment, when the document speaks about the so-called 'Legal Notice Checklist'. Each draft of subsidiary legislation (read: legal notices) has to be accompanied with a completed Checklist which covers aspect having to do with general aspects, drafting exercise, impact and outcomes. However, no mentioning at all is made of taking into consideration gender aspects/impact of draft subsidiary legislation.

- Did the EU appointed National Expert (part of the EU Network of Experts on Gender and Employment and Social Inclusion) made (have) critical or positive comments on the gender equality dimension of the member state's programme? If so, what are these?

Jill Rubery, Damian Grimshaw, Hugo Figueiredo, Mark Smith, Rory Donnelly. 2005. *The National Reform Programme 2005 and the gender aspects of the European Employment Strategy. The coordinators' synthesis report prepared for the Equality Unit, European Commission. Final Report.* EU expert group on Gender, Social Inclusion and Employment (EGGSIE). Manchester: European Work and Employment Research Centre (EWERC, University of Manchester. 275 pages.⁵³

The National Expert for Malta is Roselyn Borg.

⁵³ http://ec.europa.eu/employment_social/gender_equality/docs/2006/final_nrp_synthesis_2005_en.pdf accessed on 28 January 2008

In this EGGsIE synthesis report, the following summarising comments are made on the gender equality dimension of Malta's National Reform Programme (2005):

- Regarding the visibility of gender in the NRP it is stated that references to gender mainstreaming are very limited, that the use of gender disaggregated data is limited and that fewer gender specific policies are mentioned as compared to 2004 (some have been omitted from the NRP). Overall gender is less visible in comparison to the previous year.
- Concerning the extent of gender mainstreaming in the NRP, the national expert states that the policy response on gender was limited to employment and not all (national) measures are included. A comprehensive analysis on gender is not in place due to the lack of a specific guideline on gender.
- The expert's summary assessment of the NRP from a gender perspective is: "Gender mainstreaming is not seen throughout the NRP for Malta. The only gender focus is found in the section dealing with employment and even here the statistics provided and the measures and information given are not comprehensive from a gender perspective. The most positive aspect is the family friendly measures that are mentioned but even these do not cover all the obstacles women face. The NRP lacks a focus and there are no policies to encourage men to make use of entitlements such as parental leave. Pre- and after school childcare also needs to be harmonised with working hours and while the NRP mentions disincentives for females, particularly for part-timers, these issues are not addressed."⁵⁴

Apart from these summarising comments, there are more detailed comments on Malta to be found, such as that: the NRP does not mention or evaluate the impact of the new equality body (National Commission for the Promotion of Equality Between Men and Women); Malta fails to suggest a remedy for the disincentives of part-time work in the current social security contribution system; Malta lacks equal pay policies; measures and incentives aimed at encouraging teleworking, flexitime and other flexible work arrangements that will enhance work-family balance are seen as positive developments; gender specific measures regarding employment targets and policies are presented in very general terms; the measures targeting the unemployed and the inactive lack a gender dimension; besides mothers, no attention is paid to young and old women when the NRP focuses gender mainstreaming in lifecycles policies; when the NRP refers to promoting work-life balance it falls short of detail especially when it comes to the divide between public sector and private sector policies; attention is paid to quality child care, but that specific plans or targets regarding quantity or affordability are lacking; and the NRP lacks an explicit consideration of guideline 19 on inclusive labour markets.

- o Did the EU Commission's response to the National Reform Programme for employment include recommendations on gender equality? If so, what were these?

Since I have used the most recent Maltese national reform programme progress report (of the year 2007) to answer the first part of section 2.2, I will now use the 2007 Commission's assessment of the same progress report:

European Commission. *Assessments of National Reform Programmes for Growth and Jobs. Malta*. December 2007. 8 pages.⁵⁵

In this report the Commission makes two *country specific recommendations* of which one has a gender dimension, namely: "it is recommended that Malta steps up efforts to attract more people into the labour market, particularly women and older workers; maintain efforts to tackle undeclared work and take further action on the benefit system to make declared work more attractive" (page 7).

The same recommendation was included in the Commission's response to the 2006 Maltese progress report.

In the *assessment* part of the report, the Commission comments on Malta's target of a 40% female employment rate by 2010 which according to the Commission seems too low. Furthermore, employment among older workers remains a problem and is especially problematic for older women. Moreover, Malta is implementing fiscal measures, measures aimed at an increased use of childcare services and the provision of training to attract more people, in particular women, into the labour market. However, according to the Commission "To increase the effectiveness it seems that the implementation of some measures could be extended. In addition, more could be done to improve the match between labour supply and demand and the Implementation Report does not set out any

⁵⁴ Ibid. page 218. accessed on 28 January 2008

⁵⁵ http://ec.europa.eu/growthandjobs/pdf/european-dimension-200712-annual-progress-report/200712-annual-progress-report-MT_en.pdf accessed on 28 January 2008.

changes to the benefit system” (page 5). Finally, the Commission notes that measures to make work pay, especially for women, are limited.

2.3 EU required National Reports (National Action Plans) on Strategies for Social Protection and Social Inclusion

- o Does the EU required National Report on Strategies for Social Inclusion include a significant set of actions concerning gender equality, including gender-based violence? If so, what are these?

National Report on Strategies for Social Protection and Social Inclusion 2006-2008. September 2006. Malta's national report. 236 pages.⁵⁶

The report consists of the main body text (covering 60 pages) and of numerous annexes (covering around 180 pages).

Main text

The main text consists of three parts: 1) national action plan on social inclusion; 2) national strategy report on pensions; 3) national strategies for health and long-term care. Within each of these overarching themes, several policy directions are identified. For social inclusion: a) empowering social cohesion; b) building stronger communities; c) strengthening the voluntary sector; d) networking the social welfare sector. For pensions: a) adequacy; b) sustainability; and c) modernisation. For health and long term care: a) enhancing equity in access to care; b) promoting quality and excellence; c) improving governance to safeguard sustainability.

Within the three parts, no paragraphs are included that specifically focus on gender equality related aspects. References to gender (equality) are scattered throughout the main text. Nowhere more than one or two sentences are dedicated to it. While the document refers several times to statistics that are related to gender equality (such as: the small gender pay gap, the low female labour market participation that can negatively impact on women's pension entitlements later in life, a positive trend in female older workers, lowest share of single parent households of all member states) only a few gender equality related policy actions are mentioned in the main text. These range from general goal-like statements (without mentioning how one is actually going to reach the goal) to somewhat more specific policy actions (this is what we are going to do in near future). In the part on the national action plan on social inclusion:

- Attract more women back to labour market
- Increase labour market participation/employment rate of women
- Offering equal opportunities by operating and extending employment schemes
- Provision of more flexible and adaptable forms of work organisation such as parental leave, optional reduced hours and tele-working to promote work-life balance. Greater balancing of family and work life is seen as a way to increase female labour participation
- Promote early education and child care centres (also linked to general objective of increasing overall employment rate)

In the part on the national strategy report on pensions:

- A change that will be implemented based on the proposals set out in the Final Report on Pension Reform is the gradual increase in retirement age to 65 for both genders (current retirement age for women is 60, for men it is 61)
- Introduce credits for parents who stop working to raise children and for those who wish to study during their working life, so as not to be penalised pension-wise. This policy action is repeated three times in the main text and explicitly linked to greater participation of women.

No focus on gender in the part on health and long term care.

Overall, attention to gender is present, but not very substantial. Where there is a focus on gender the stress is on increasing the labour market participation of women. The target groups that seem to receive the most attention in the social inclusion part of the report are children and youth.

Some references to previous actions taken in the field of **gender based violence** are included (awareness raising campaign and the Domestic Violence Act) and it is stated that: “The consideration of primary prevention measures focusing on educational programmes aimed at fostering healthy social relationships and aimed at minimizing gender-related violence/discrimination, and

⁵⁶ http://ec.europa.eu/employment_social/spsi/docs/social_inclusion/2006/nap/malta_en.pdf accessed on 28 January 2008

violence/discrimination motivated by homophobia and xenophobia shall be a priority over the two-year period in question" (page 22, part on social inclusion). Nothing else on gender based violence.

A few references to **gender mainstreaming** can be found:

- In the framework of the more general undertaking of mainstreaming 'vulnerable groups' reference is made to the necessity of 'furthering gender mainstreaming' (page 10)
- It is stated that community based services promote gender mainstreaming and lead to greater individual empowerment and participation. Because of these positive effects Malta will develop more community based resource and empowerment centres (page 25)
- The report states that consultation in the process of formulating the report on inclusion identified a number of legislative and policy lacunae, among which the need to strengthen gender mainstreaming (page 27, chapter on social inclusion, policy focus a)

Annexes

It is interesting to note one of the annexes (annex 1.2a) lists of the target groups of this national plan (consisting of vulnerable persons). They are divided into 9 categories: children, young persons, families and other significant relationships, domestic violence, addictive behaviour, disability, mental health, older persons and irregular migration. Each of these categories includes numerous specific target groups.

Although 'women' do not make up one of the main categories of vulnerable people, they are 'represented' in the following categories: **domestic violence** (women asylum seekers, women who are inactive, women in need of child care, women victims of multiple discrimination, women who are not financially independent, women addicts, women in need of shelter or security, women going through court proceedings, women in need of legal aid, lesbian women as victims of domestic violence), **addictive behaviour** (pregnant users, female users with children, mother of new born babies and their babies), **irregular immigration** (pregnant women, single women, single mothers). In other categories ostensibly gender-neutral categories, but known to be gendered, are listed such as lone parents (category 'families) and single parents (category 'mental health). The main text, however, does not pay any specific attention to these target groups (only the single parents are mentioned). It states that the "policy priorities cut across diverse risk-of-poverty population groups. All measures and initiatives indicated in this part of the document have been planned out and designed in the best interest of all vulnerable persons".⁵⁷

Annex 2.3 (initiatives: national action plan on inclusion 2006-2008) lists projects in progress that are funded by local funds or by ESF and lists projects that still await approval for EU funding. From the 250 listed projects a small part (around 20) somehow relate to gender equality or domestic violence.

- o [Did the EU Expert Group on Gender, Social Inclusion and Employment have critical or positive comments on the gender equality dimension of the report \(including gender-based violence\)? If so, what are these?](#)

EGGSIE Synthesis report:

European Commission. 2006. *Gender inequalities in the risks of poverty and social exclusion for disadvantaged groups in thirty European countries*. Brussels: European Commission, Expert Group on Gender, Social Inclusion and Employment (EGGSIE).⁵⁸

The national EGGSIE expert for Malta (Roselyn Borg) indicates that the disadvantaged groups on which the Maltese national report (2004-2006) focuses are the long-term unemployed and/or inactive women, lone parents, trafficking and prostitution of women, and domestic violence.

In the EGGSIE-report chapter on long-term unemployment and inactivity Malta is described as 1) being in need of more flexible, family-oriented patterns of employment so that particularly returning mothers and early retirees are better able to participate on the labour market. On the issue of part-time work this needs to be accompanied with social security reform as to prevent this form of employment to be penalised, since the social security contributions by part-time employees are high and the entitlements to future benefits are low. On the issue of childcare, it is emphasised by the Maltese expert that more extensive and affordable childcare is needed. 2) As needing a more evenly distribution of household labour between women and men. The Maltese expert argues that initiatives are needed to encourage and empower men to contribute more to domestic work.

⁵⁷ Ibid. Page 18. accessed on 22 January 2008

⁵⁸ http://ec.europa.eu/employment_social/publications/2006/ke7606201_en.pdf accessed on 6 February 2008

In the EGGSI-report chapter on lone parents the Maltese expert suggests changes to the tax-benefit system to create better incentives and support for lone parents to participate in labour market. She also identifies a need to improve labour market incomes of lone parents through policies such as special training provision.

In the Chapter on domestic violence, human trafficking and prostitution the national expert states that there is growing awareness of the problem of domestic violence in Malta within government and NGO's, including the Catholic Church, and that some services have developed. Besides, it is being stated that the fact that divorce is illegal and separation or annulment can take years to decide and are expensive make it difficult to leave a violent marriage. The infrastructure to support victims of domestic violence is inadequate according to the expert. Regarding domestic violence legislation the expert states that a domestic violence bill is being debated (in the meantime the Domestic Violence Act has been adopted in Malta) which includes some positive measures having been influenced by the NGO National Council of Women. A critical point is whether it will be implemented effectively. Regarding prostitution and trafficking Malta is primarily a destination country. The expert states that some very modest initiatives have been taken. Malta has signed various international conventions and protocols but implementation of these is very limited and few measures have been introduced to prevent the problem or support the victims. The National Council of Women has been raising awareness and promoting zero tolerance and is trying to set up a national campaign.

Overall, not so much critical or positive comments *on the gender dimensions of the national Maltese report* can be found. Personally, I feel that this is not one of the purposes of this EGGSI synthesis report. The report gathers information from the national report (and compares) and the national experts mainly add some critical remarks about what are positive developments and about changes that are needed. This is a different approach than is the case for the EGGSI synthesis report on the National Reform Program (discussed under 2.2)

- o [Did the EU Commission's response to the National Report on Strategies for Social Protection and Social Inclusion include recommendations on gender equality \(including gender based violence\)? If so, what were these?](#)

The English version of Malta's country profile (EU Commissions response to Malta's National Report on Strategies for Social Protection and Social Inclusion 2006-2008) is included in the joint country profiles report which gathers all national country profiles translated to English:

Commission of the European Communities. *Joint report on social protection and social inclusion. Country profiles*. February 2007. Brussels: Commission of the European Communities. Chapter on Malta: pages 154-162⁵⁹

The EC's response to Malta's national report does include some recommendations and some positive/critical comments on gender equality:

- A positive comment is that the strategy makes an important contribution to the promotion of women's participation in employment with comprehensive measures.
- At the same time, the Commission thinks the report is not very clear on detailed ways of tackling the different challenges; specific targets and indicators are not included. There is a long list of initiatives in the annexes. However, a clear link between the national report and the different projects as specified in the annex is missing. In this framework, the Commission states that very little account has been taken of gender issues in the single projects that are included in the annex.
- The gradual increase of the retirement age for both genders and the introduction of pension credits for periods of childcare are positively evaluated as contributing to gender equality
- One of the recommendations at the end of the country profile ('challenges ahead') is to raise the employment rate, particularly that of women, in order to improve social cohesion and reduce inactivity and exclusion.

The EC's response to Malta's national report does not include any recommendations concerning gender-based violence.

⁵⁹ http://ec.europa.eu/employment_social/spsi/docs/social_inclusion/2007/joint_report/country_profiles_en.pdf accessed on 6 February 2008

2.4 EU funding

- o Does the EU provide funding in your country that has / has had a significant gender impact?⁶⁰

It is difficult to assess whether ESF and ERDF funds has had a *significant* gendered impact in Malta. However, the NCPE greatly depends on funding from these funds in order to carry out most of its projects and research and in this sense it certainly has an impact.

- o Structural funds to consider include the European Social Fund⁶¹ and the European Regional Development Funds.⁶² If yes, how much and over what period of time?

In Malta's National Strategic Reference Framework (NSRF) (2007-2013)⁶³ and in a fact sheet on cohesion policy Malta⁶⁴ one can find the objectives under Programme I (Cohesion Fund and European Regional Development Funds ERDF) and Programme II (European Social Fund) and the allocated amount of money for these funds for this period (total and annually).

ERDF 2007-2013: 444 million Euros in total

ESF 2007-2013: 112 million Euros in total

Cohesion Fund 2007-2013: 284 million Euros in total

The money is invested in 4 objectives (sustaining a growing knowledge-based competitive economy, improving Malta's attractiveness and the quality of life, investing in human capital, and addressing Gozo's regional distinctiveness). The objective 'investing in human capital' falls under the ESF (Programme II) and seems, judging from the detailed description of the objectives⁶⁵, most relevant for gender equality. Mentioning is made of increasing the female employment rate by supporting women in re-entering the labour market and in improving their career prospects, by improving different forms of work organisation that provide an acceptable balance between work and family life, and by promoting child care facilities. Lone parents should have access to education and training and to sustainable employment opportunities.

The NSRF report does not explicitly indicate how much money will be allocated to which of the four objectives. However, it does include an overview of co-financing money that will be spent out of the national budget to different sectors during the programming period 2007-2013 and another overview that indicates how much money will be spent to these sectors if one adds the EU funding to the co-financing of Malta's government. One of the sectors is 'child minding/gender equality'. National co-financing of this sector in 2007-2013 will be 182.000 Euros (against 5000 Euros in 2004-2005). Raised with EU funding this sector will receive 1,102 million Euros for period 2007-2013. This means that EU funding will be 920.000 Euros. The amount of 1,102 million Euros is 0,7% of the total budget (EU funding+ co-financing). However, it is quite possible that parts of the budget allocated to other sectors (notably education and training) will also be on gender equality related projects.

The Maltese national report on Strategies for Social Protection and Social Inclusion 2006-2008 has an annex which indicates which ESF/EQUAL/ERDF are in progress at the moment of writing and which are still awaiting approval for funding.⁶⁶ No indication is provided of the amount of money involved in each project. I will very shortly list projects that have a gender equality dimension below:

In progress:

- National campaign promoting the benefits of quality childcare (Ministry for Education, Youth and Employment)
- Project aiming at increasing female participation through childcare services at the workplace (Ministry of Education, Youth and Employment)
- Lone parents pilot project to co-ordinate the provision and purchase of services to enable 12 lone mothers to train and work
- Gender Mainstreaming – The Way Forward (National Commission for the Promotion of Equality for Men and Women). Research into the introduction of family-friendly
- Measures at the workplace; a gender pay review; a tracer study to follow the career path and conditions of work of graduates in the labour force; a teleworking pilot project; a National

⁶⁰ The following link may serve as a useful starting point (see drop-down menus along the top of the page and links on the left hand side): http://ec.europa.eu/regional_policy/policy/history/index_en.htm

⁶¹ http://ec.europa.eu/regional_policy/funds/fse/index_en.htm

⁶² http://ec.europa.eu/regional_policy/funds/feder/index_en.htm

⁶³ <http://www.mfin.gov.mt/image.aspx?site=MFIN&ref=NSRF%20-%20English> accessed on 6 February 2008

⁶⁴ http://ec.europa.eu/regional_policy/atlas2007/fiche/mt_en.pdf accessed on 6 February 2008

⁶⁵ <http://www.mfin.gov.mt/image.aspx?site=MFIN&ref=NSRF%20-%20English> pages 73-93, accessed on 6 February 2008

⁶⁶ http://ec.europa.eu/employment_social/spsi/docs/social_inclusion/2006/nap/malta_en.pdf annex 2.3, pages 131-200

Media Campaign on the Act for the Promotion of Equality for Men and Women to inform the public regarding the Act and thus safeguard the right to equal opportunities.

- Project aimed to encourage entrepreneurship among unemployed in Malta with special focus on vulnerable groups, especially women
- Project 'promoting equal opportunities through empowerment' aiming at helping to reconcile work and family life (National Commission for the Promotion of Equality)

Awaiting approval for ESF/ERDF/EQUAL funding:

- Project ESF31. Programme providing for a traineeship for 60 women returnees, the employability of 10 lone mothers, a redeployment scheme and basic employment training for 250 school leavers. (Ministry for Education, Youth and Employment)
- Work rehabilitation of persons on invalidity pension or social assistance targeted at increasing the employment of vulnerable groups amongst them females and older persons.
- Project 'Diversity: knowledge and understanding' (National Commission for the Promotion of Equality) aimed at developing knowledge and understanding on the six equality grounds.
- Project 'Equal access to entrepreneurship- the way forward' (National Commission for the Promotion of Equality). Intends to implement a scheme which is aimed at improving and facilitating entrepreneurship for women.
- Extension of GHABEX shelter for victims of domestic violence
- Lone parents empowerment project

- o If yes, comment upon the extent to which gender was mainstreamed in associated plans and programmes (e.g. the National Development Plans for 2000-2006)?

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3. Governmental Machinery for Equality

Provide a summary of the history of governmental machinery for equality provided in the issue history D11, up-dated if appropriate. In particular, consider if there have been any developments in the relationship between the gender machinery and other equalities machinery (e.g. proposed mergers). (Approx. 250 words)

From scientific literature it appears that a powerful government machinery for gender equality (usually) consists of the following four components: 1) minister or state secretary who is responsible for emancipation policy; 2) a supporting civil servants policy unit within the national government bureaucracy (usually within a 'regular' ministry) which develops emancipation policy, coordinates it and monitors its implementation; 3) a political advisory body which may have as members representatives of women's groups, of government, of social partners and gender experts; 4) a juridical Commission that monitors the compliance with equal treatment law.⁶⁷ In Malta anno 2008, all four of these components do not exist (separately).

The gender equality (independent/semi) governmental body is the National Commission for the Promotion of Equality for Men and Women (NCPE), which was set up by the Equality for Men and Women Act (2003). The overall responsibility for policies in the area of (gender) equality lies with the Minister for the Family & Social Solidarity (MFSS) (presence of component 1). The NCPE is located outside the government, but reports back to this Minister. Before 2004 (and since 1989) the Commission for the Advancement of Women (CAW) and the Department for Women in Society (DWIS) together made up the gender equality machinery. The relationship between those two bodies was as follows: the DWIS was responsible for the execution of government policy on gender equality, while the CAW acted as the advisory body to the government on gender issues. The former DWIS and CAW were located *within* the government (the then Ministry for Social Policy), while the current NCPE is to act as an autonomous/independent body (although being appointed and partly funded by the Minister of MFSS). Within the MFSS no (gender) equality policy unit/department exists (absence of a separate component 2). The institutional shift from DWIS/CAW to NCPE constituted an abrupt change in machinery, causing a complete discontinuation in personnel. It seems that certain functions of the gender machinery components 2 and 3 and 4 are mixed within one and the same body (NCPE). Regarding component 2: the NCPE may develop policy in the field of gender equality and it monitors its implementation. However, it has no coordinating tasks (this is also difficult since it is not located within government). Regarding component 3: the NCPE acts as an advisory body towards the government and the Commissions' members come from civil society and/or government and/or are considered to be experts. Regarding component 4: The NCPE also has semi-judicial tasks (investigating complaints about discrimination).

It is being envisaged that the NCPE will in the future be broadened to cover discrimination on all the grounds stipulated in the Treaty of Amsterdam (sexual orientation, age, disability, race/ethnicity and religion). Very recently, the NCPE's remit has been widened to include discrimination on basis of race (in specific fields). Legal Notice 85 of 2007 (Equal Treatment of Persons Order) prohibits discrimination on the basis of racial and/or ethnic origin discrimination in the provision of goods and services. It appoints the NCPE as the entity responsible for reviewing the working of its provisions. It is quite possible that this is a first step in a process in which Malta will work towards one single equality body covering all grounds of discrimination covered by the Amsterdam Treaty. With the widening of NCPE's remit its name has shortened to 'National Commission for the Promotion of Equality' (omitting 'for men and women')

Malta never had a separate minister on women's issues. For a very short period, when the Labour Party was in government from 1996-1998, a parliamentary secretary for women's rights was established within the Office of the Prime Minister (a parliamentary secretary is the equivalent of a junior minister).

Do any or all of these forms of gender machinery exist in the country, and if so what are they called (fill in their name in original language and translated to English)?

- o governmental (civil servants and ministers in central government); NO

Malta currently (see above for history) neither has a separate State Secretary or Minister nor a ministerial department that has gender equality as sole responsibility/issue field. The Minister for the Family and Social Solidarity, Mrs. Dolores Cristina, is responsible for 'equality issues' next to numerous other issue fields such as pensions, housing, family, children and social benefits.⁶⁸ The

⁶⁷ Outshoorn, J. 2007. Instituties voor emancipatiebeleid. Nederland in een internationale context. [Gender equality institutions. The Netherlands in an international context]. Den Haag: Visitatie Commissie Emancipatie. <http://www.visitatiecommissie-emancipatie.nl/uploads/images/248/VCE0714-RapportOutshoorn-metbrief.pdf>

⁶⁸ Website of the Ministry: <http://www.mfss.gov.mt>

NCPE (established in 2004) is a semi-state body.⁶⁹ It is intended by law to act autonomously, as it is declared to have a legal personality separate from government. While the DWIS and CAW that made up the former gender machinery could not operate autonomously (without prior approval by Ministry and Office of Prime Minister) the advantage was that as a government department the DWIS was an insider and was invited to important (cabinet) meetings.

- o enforcement and/or monitoring agency (e.g. equality authority, ombudsperson); YES

National Commission for the Promotion of Equality (since 2004)⁷⁰

- o special legal apparatus (e.g. special courts, mediation or arbitration bodies for employment or domestic violence); YES

Industrial Tribunal: set up by virtue of the Employment and Industrial Relations Act (2002). This is the entity responsible for hearing and deciding cases of alleged discrimination breaches of the principle of work of equal value, and victimisation or harassment cases. Legal notice 297 (2003) establishes that the Industrial Tribunal shall take into account provisions of any directive or regulation issued by the institutions of the European Union relating to discrimination and particularly Council Directive 2000/43/EC of 29 June 2000 and Council Directive 2000/78/EC of 27 November 2000 prohibiting discrimination on the basis of religion or belief, disability, age, sexual orientations, race or ethnic origin. No specialist domestic violence court exists in Malta.

- o Body for consultation / dialogue with women's NGOs, or with NGOs representing other axes of inequality. NO/YES: not one appointed women's organisation with consultative status, but women groups are represented in the NCPE and in the civil society committee of the Malta Council for Economic & Social Development (MCESD).

Two umbrella organisations representing women and women's organisations exist in Malta. The National Council of Women (NCW)⁷¹ was established immediately following Malta's independence from the UK (1964). In September 2004 another umbrella women's organisation was set up, the Malta Confederation of Women's Organisations (MCWO).⁷² Neither the NCW nor the MCWO give their views directly to the government. And they do not have a formal consultative status with the government. The NCPE (autonomous government gender equality machinery) is meant to alert the government on women's issues. The president of NCW is also a commission member of NCPE, so indirectly women's NGO's are consulted by means of representation of women's organisations in the NCPE. Furthermore, Malta has a Council for Economic & Social Development (MCESD), which is a consultative and advisory body to Government on issues relating to the sustainable economic and social development of Malta that provides a forum for consultation and social dialogue between social partners and, where necessary, with civil society organisations. It has a Civil Society Committee and in this Committee the NCW is represented. NGO's representing other axes of inequality that are also represented in the Civil Society Committee are the National Youth Council (age) and the Alliance of Pensioner's Organisations (age). Part of this civil society committee consists of independent government (advisory) commissions, namely the NCPE (gender), the National Council for the Elderly (age), the National Commission Persons with Disability (disability), and the Family Commission. It is remarkable that the Malta Gay Rights Movement is not represented in this Committee.

- o Other, for example, Parliamentary Committees

Malta has a Standing Committee on Social Affairs which deals with all matters having to do with social policy (including equality issues), but has no Committee with a more specific focus on gender equality issues.

Other:

Bodies that could be counted as other/additional gender equality machinery apart from the official gender equality body mentioned above (NCPE) operate in certain specific issue areas. In the area of employment the Employment and Training Corporation (ETC) has a Gender Unit since 2001.⁷³ The ETC is a semi-state body appointed by the Minister of Education, Youth and Employment. Its gender unit strives to improve the situation of equality between men and women at the workplace and to increase female labour market participation. Since its establishment, it has published three gender equality action plans to promote equal opportunities in the labour market. Other initiatives include training sessions, research projects and media campaigns. In the field of gender based violence a Domestic Violence Unit and Perpetrator Services (since 1994, providing services for victims and perpetrators) and a Commission on Domestic Violence (since 2006) operate.⁷⁴ The function of the

⁶⁹ Website of the NCPE: <http://www.equality.gov.mt/page.asp?p=8527&l=1>

⁷⁰ Website of the NCPE: <http://www.equality.gov.mt/page.asp?p=8527&l=1>

⁷¹ Website of NCW: <http://www.ncwmalta.com/index.htm>

⁷² The MCWO does not have its own website yet

⁷³ Website: <http://www.etc.gov.mt/site/page.aspx?pageid=2113>

⁷⁴ Website: http://www2.appogg.gov.mt/adultandfamily_domesticviolenceservices.asp

Commission is to advise the Minister for the Family and Social Solidarity on all aspects of domestic violence. This Commission is a semi-state body.⁷⁵

Answering the following list of questions may require mention of any or all of these types of institution: some apply to one kind more than another.

The nature of the institution

- Is there gender machinery that meets the minimum legal requirements of the EU?
 - A body for the promotion, analysis, monitoring and support of equal treatment of all persons without discrimination on the grounds of sex: YES (the NCPE)
 - providing independent assistance to victims of discrimination in pursuing their complaints about discrimination; YES (the NCPE)
 - conducting independent surveys concerning discrimination; YES (the NCPE), with minor reservation (see notes below)
 - publishing independent reports; YES (the NCPE), with minor reservation (see notes below)
 - Making recommendations on any issue relating to such discrimination. YES (the NCPE)

Looking at article 12(1) that lists the tasks of the NCPE and article 17 (complaints and investigation) of the Equality for Men and Women Act⁷⁶ I am inclined to answering yes to all the above. However, after taking another close look at the articles (and comparing them with the minimum legal requirements as quoted above) I feel that some (minor) reservations should be made.

Regarding conducting independent surveys and publishing independent reports concerning discrimination: the tasks that refer to doing research are either limited to the provisions of the Equality for Men and Women Act (article 12(1)g “to carry out general investigations with a view to determine whether the provisions of this Act are being complied with” and article 17(1) “The Commissioner may initiate investigations on any matter involving an act or omission that is allegedly unlawful under the provisions of this Act”), or limited to what is asked for by the Minister (article 12(1)i “to inquire into and advise or make determinations on any matter relating to equality between men and women as may be referred to it by the Minister”). In the provisions on the setting up of the NCPE the word ‘independent’ is never mentioned. However, the task described in 12(1)f “to work towards the elimination of discrimination between men and women” can be read as legitimising the conducting and publishing of independent surveys/research. Also in practice, the NCPE does conduct independent surveys and publish them.

- Is there gender machinery that meets the ‘Paris Principles’?
 - independence guaranteed by a constitutional or legislative framework, Autonomy from government; PARTLY (the NCPE)

Article 12(2) of EMWA establishes that the NCPE shall have a legal personality separate from that of the government. However, the NCPE is appointed by the Prime Minister (article 11(2): “All the members of the Commission shall be appointed by the Prime Minister from among such persons appearing to him to be best suited to deal with issues of equality for men and women, and, or, administrative issues connected therewith”). Also, the Commission needs approval from the Minister when hiring new/extra staff (article 13(3): “The Commission may, after consultations with the Minister and subject to the approval of such Minister as to their number, remuneration and terms and conditions of service, appoint such officers as it deems fit”). Besides, it receives funding allocated to it by the Minister and for receiving this funding it has to submit a business/budget plan at the end of each financial year to the Minister that covers the proposed activities for the following financial year and is to be approved by the Minister. Finally, the last function of the NCPE as laid down in EMWA is “to perform such other function as may be assigned by this or any other Act or such other functions as may be assigned by the Minister”. Especially the fact that the Minister can assign the NCPE with other functions without this having to be legally established seems questionable in this regard. All in all, I feel that these four things can possibly interfere with the autonomy of the NCPE.

- pluralism including pluralism of composition; YES

Yes, but only as far as it concerns the gender/sex of the members of the NCPE. The chairperson can be male or female; the other six members must include at least three women (EMWA, article 11(1)). The members have to be suited to deal with equality for men and women issues (EMWA, article 11(2)). Regarding ‘pluralism’ more generally one of the functions of the NCPE as laid down in EMWA

⁷⁵ Website: <http://domesticviolence.gov.mt>

⁷⁶ <http://www.equality.gov.mt/filebank/imagebank/wordbank/chapt456.pdf>

is to “keep direct and continuous contact with local and foreign bodies in the field of equality issues and with other groups, agencies and individuals as the need arises” (article 12(1)e)

- a broad mandate; YES
- adequate powers of investigation; YES
- sufficient resources; NO

From the annual reports of the NCPE, it can be concluded that the government’s allocation of resources has increased each year (from 169.000 Euros in 2004, to 176.000 in 2005, to 235.000 in 2006). Despite this increase, in each of these annual reports the NCPE expresses that they have to work under financial constraints. This was also expressed by several of the experts that I have interviewed in preparation of the Issue History (see annex 1 to the Issue History Report on Malta, Deliverable 19).

- Is there gender machinery that meets the further requirements of the UN Platform for Action?
 - Responsibility vested at the level of a Cabinet minister. YES responsibility for equality issues (broadly formulated) vested at the level of Minister for the Family and Social Solidarity. But:

Malta does not have a gender equality machinery as defined by the Platform for Action, that is: a central policy- coordinating unit *inside* government. The NCPE is a semi-state body that is to act as an entity autonomous from government, while being dependent on government for its funding and staffing and for appointing its members. The Minister for the Family and Social Solidarity bears responsibility for (coordination of) equality issues, however lacking a (gender) equality department within the Ministry, I doubt whether this particular requirement of the UN Platform for Action is adequately met.

- Develop indicators and statistics to monitor policy NO systemic monitoring or development of indicators by the NCPE. In the ETC’s gender unit’s Gender Equality in Employment Policy Plans, gender disaggregated statistics are included as to monitor the effects of policy/legislation.
- How close to the centre of power (e.g. Prime Minister or other) is the governmental machinery located?
 - centre of power/ PM’s office
 - Other powerful department.
 - Other department

Malta does not have a gender equality machinery located *inside* a government department. While the political responsibility for gender equality issues is vested at the level of the Minister for Social Solidarity and the Family, only semi-state/autonomous government bodies, which are not located inside government department, but are attached to Ministries as autonomous commissions exist. The official government equality machinery being the NCPE which is attached to Ministry for Social Solidarity and the Family, but the Gender Unit of the ETC attached to the Minister of Education, Youth and Employment and the Domestic Violence Commission attached to the Ministry for Social Solidarity and the Family can also be mentioned here.

- Would any of the bodies be described as following a ‘feminist’ agenda?
 - Briefly explain the reasoning behind your answer.
 - If yes, then indicate which vision of gender equality (equality through sameness, equal valuation of different contributions, or transformation) fits best.

Yes, the NCPE and the ETC Gender Unit can be described as following a feminist agenda (although they will not use the word ‘feminist’ to typify their agenda) in that these organisations are active in doing research on gender equality related issues in which a specific focus is on women’s (in)equality, on giving training on the basis of this research, and on making recommendations to amend legislation/make new policy on the basis of this research. A good example is an ongoing NCPE project that is financed through ESF named “The Gender Aspect from a Legal Perspective” which aims to increase the participation and advancement of women in the labour market primarily through the correction of structural barriers in a number of Codes and Acts in Maltese Legislation that are hindering women from entering, staying and/or advancing in the labour market, due to inequalities that may exist within the employment legal framework as well as that governing civil and family life. It complements the research activity through the provision of training and dissemination of the results. The study leads to the development of recommendations for the amendment of Maltese legislation in line with the principle of gender mainstreaming.

Equality through sameness seems the dominant approach for both large parts of their work/agenda focuses on equal treatment/sameness on the labour market (for a big part this focus and approach seems to be dictated by the EU gender equality agenda). However, looking at the NCPE’s strategic policy directions and the different projects that the NCPE is and has been involved in , the

other two approaches can be identified as well. The equal valuation of different contributions/special treatment approach can, for example, be recognised in the NCPE plea for “protecting the interests of women and men who manage homes and family but have no earned income, leading to serious gaps in pension entitlements and social benefits” and in its attention for increased childcare facilities. The ETC Gender Unit organises some training specifically targeted at (certain groups of) women and is actively involved in enhancing childcare provision. The transformation approach is visible in the NCPE’s strategic policy direction “Promoting change of gender roles and eliminating stereotypes through educational and media campaigns based on the local cultural context” and in several of its projects. The ETC’s Gender Unit took part in the “Modern Men in an Enlarged Europe: Developing Innovative Gender Equality Strategies” and has organised an awareness raising campaign on parental leave targeting fathers within this framework. The fact that traditional views on gender/cultural barriers to gender equality are still quite strong in Malta might make a focus on transformation inescapable?

- Are there other policy groups relevant to gender equality that are embedded in particular departments, but which are not usually known as gender machinery e.g. domestic violence group within the home affairs or justice department? If yes, when was it set up, what does it do, what are its resources?

See above:

- ETC Gender Unit (set up 2001), falls under responsibility of Ministry for Education, Youth and Employment⁷⁷
- Domestic Violence Commission (set up 2006), falls under responsibility of Ministry for the Family and Social Solidarity (MFSS)⁷⁸
- Domestic Violence Unit (1994, providing services to victims) and Perpetrator Services (since 1999, providing services for perpetrators), part of the welfare provision department APPOGG (is the central national agency for children and families in need) within MFSS⁷⁹
- Are there any special legal institutions such as special courts to assist the implementation of gender equality laws e.g. employment tribunals, domestic violence courts?

See above: Industrial Tribunal

Dedicated to gender or integrated with other equalities?

- Is the gender equality body (enforcement or monitoring agency) integrated with machinery for other equalities issues (if so which) or for human rights? EXTENSION OF WORKING FIELD, NO INSTITUTIONAL INTEGRATION

NCPE’s remit has been widened to include race. Legal Notice 85 of 2007 (Equal Treatment of Persons Order) prohibits discrimination on the basis of racial and/or ethnic origin discrimination in the provision of goods and services. It appoints the NCPE as the entity responsible for reviewing the working of its provisions. However, no *integration* of machinery has taken place since no machinery on race/ethnicity existed before. The tasks of the NCPE in field of race/ethnicity are limited as compared to its tasks regarding combating any form of discrimination on basis of sex/family responsibilities.

- When did this happen? Extension of tasks NCPE: 2007
- Was the change controversial (who fought whom, allied to whom)? NO
- Is the division of responsibilities by function or by strand? Not sure, because widening of NCPE’s remit took place only recently. However, I guess that it will be by function.
- Is there a separate mechanism for consulting civil society by strand, including women? I do not think so
- Does the equality body actively engage with the issue of intersecting inequalities (e.g. gender and ethnicity, gender and disability)? If yes, please specify the intersections that are taken into account. NO, not actively.

The fact that the NCPE’s remit recently has been widened to include race/ethnicity on the basis of Legal Notice 85 of 2007 (Equal Treatment of Persons Order) might lead to increased attention for the intersection of gender with race. However, it is more likely that gender and race will be regarded as separate discrimination grounds next to each other. The NCPE did receive some training on multiple discrimination in the past, but during several interviews I have held in Malta with experts in the field of Maltese gender equality policy (June 2007) it was underlined that hardly any expertise on intersecting inequalities (or on race as a ground of discrimination as such) is present as of yet within the NCPE. Further, the change is so recent that not a lot of activity could have taken place on the

⁷⁷ Website: <http://www.etc.gov.mt/site/page.aspx?pageid=2113>

⁷⁸ Website: <http://domesticviolence.gov.mt>

⁷⁹ Website: http://www2.appogg.gov.mt/adultandfamily_domesticviolenceservices.asp

intersection of race/ethnicity and gender anyway. During the NCPE's fourth annual conference (held in February 2008) a 'Racial and Ethnic Origin Equality Manual-Toolkit' was launched.⁸⁰ The toolkit does, however, not make any reference to race/ethnicity intersecting with other inequalities. Furthermore, in the framework of the EU's "Year of Equal Opportunities for All" a project called 'Mosaic-One in Diversity' is being led by the NCPE. The project comprises nine civil society partners to highlight the six grounds of discrimination as recognised by the European Union (however no civil society organisation on race/ethnicity or on religion/belief; NCW and MCWO both represented).⁸¹ At the end of 2007 'train the trainers' workshops were organised within the context of Mosaic-One. From the training programme it can be concluded that the six ground of discrimination are only dealt with individually/next to each other and no attention is paid to intersections.⁸²

- If the gender equality body is not integrated with machinery for other equality issues, does the gender equality body and any other single strand equality body actively engage with the issue of intersecting inequalities? If yes, please specify the intersections that are taken into account by each of the equality bodies. NO

In general, one can say that there is a lack of attention and awareness in Malta regarding class, sexual orientation, race/ethnicity, religion, age and how these intersect with gender (in)equality. When attention is occasionally being paid to issues relating to multiple discrimination and intersectionality this is EU-driven. For example, in the context of the Year of Equal Opportunities For All, there is the incentive to do something with such issues on a project basis. In this framework, three projects have received funding, namely the Commission on Persons with Disability (KNPD), the Jesuit Refugee Service and the NCPE. The NCPE lead project should include all grounds of discrimination. However, the NCPE and the KNPD (also a semi-government body like the NCPE and the only other single strand non civil society equality body in Malta) do not actively engage with the intersection of gender/disability.

Relationship of machinery with civil society

- Are there procedures for the consultation of women's groups in civil society by the gender or equalities machinery?
 - If so, are they routinised or occasional?

I don't think that the NCPE has any routinised/systematic/standard procedure for the consultation of women's groups in society. However, as was mentioned before, the National Council of Women is represented on the NCPE (the vice-president of the NCW, Grace Attard, is a member of the Commission).

⁸⁰ <http://www.equality.gov.mt/page.asp?p=8655&l=1> (NCPE's website, accessed on 20 June 2008) and http://www.equality.gov.mt/filebank/Racial%20and%20Ethnic%20Origin%20Equality%20Manual_Toolkit.pdf (the toolkit document)

⁸¹ Mosaic project's website: <http://www.mosaic.gov.mt/homeb>

⁸² <http://www.mosaic.gov.mt/training?l=1>

4. Policy summary questions

4.1 Non-employment

- **Is the tax system household based or individualised?** Household based (Tax Income Act, article 49)
- **Is the benefit system household based or individualised?** Household based
- **How long is it legitimate for lone parents not to be in paid work? (I.e. at what age does the youngest child reach before parent is required to be available for employment and benefit stops)?** Until child reaches the age of 18 (Social security Act)
- **Are there active labour market programmes (i.e. programmes to help people who are out of labour market back into paid employment, including training and job placement schemes) for lone parents?** YES there are specific schemes targeting lone parents. Some were funded by the ESF Social funds, whilst others were ETC initiatives.⁸³
- **Are there active labour market programmes for women who are returning to employment after lengthy period of time out of the labour market?** Yes the ETC has specific training courses for such women as well as schemes that provide 'on the job' training.⁸⁴
- **Are there active labour market programmes for any other category of citizens, and if so which categories?** Yes there are special schemes for persons over 40, ex drug addicts, ex convicts, persons with disabilities and a scheme for very long term unemployed persons.⁸⁵
- **What is the minimum amount of childcare that is provided by the state? (e.g. number of hours, no. of weeks per annum)** Childcare facilities, childcare policies, childcare legislation (absent in Malta) as well as the societal acceptance of bringing children to childcare centres (instead of mother or grandparents taking care) and the trust in childcare facilities are all still in an early stage of development. Malta does not have law on childcare. There are only 'National Standards for Child Day Care Facilities' published by the Ministry for the Family and Social Solidarity in 2006. It is however policy and not law and focuses on children's well-being and quality of the service but not on issues such as on funding, fees and opening hours. In Malta, childcare centres are for 0-3 year olds, kindergarten for 3-5 (operates during school hours from 8.30 to 13.30). Letting your child attend kindergarten is free. The childcare centres can decide for themselves which opening hours to operate. Some are only open during the morning. Besides not having very family-friendly opening hours, childcare centres are generally rather expensive. Sometimes the expenses would be so high that it is not very attractive anymore for mothers to go to work. The childcare fees are not salary dependent. These things are not regulated by the government (but see below 'how childcare is financed' for some recent changes).
 - **Childcare: care (under 3 years) --**
 - **Childcare: pre-primary education (3 yrs- school age)** Children 2 years 9 months to 5 years of age can attend kindergartens for free during school days.⁸⁶
 - **What is the predominant form of childcare provision? I.e. public, private or mixed.** Predominantly private, but the government has recently become more involved in the provision of childcare centres within schools and other public employment places.⁸⁷ The situation in the middle of 2007 is that there are 3 public childcare centres and 20-30 private ones.⁸⁸
 - **How is childcare financed (e.g. by public funds, privately or mixed)?** Until very recently there was no public/government financing of childcare, it was totally private, but there were some changes introduced by means of the budget speech 2007. The government will allow parents to deduct 930 Euros from the taxable income to make good for part of the expenses incurred **in licensed** childcare services.⁸⁹ In July 2006 the Ministry for the Family and Social Solidarity published 'National Standards for Child Day Care Facilities'. Childcare centres will be provisionally registered at the Department for Social Welfare Standards when there are clear indications that they are in a position to fulfil these standards.⁹⁰ Many of Maltese childcare centres are now seeking to become licensed in order to conform to the regulations and to be able to issue receipts to parents so that they can claim the €930 deduction from tax.⁹¹ The

⁸³ Source: email conversation with Anna Borg, senior executive of ETC's Gender Unit

⁸⁴ Source: email conversation with Anna Borg, senior executive of ETC's Gender Unit

⁸⁵ Source: email conversation with Anna Borg, senior executive of ETC's Gender Unit

⁸⁶ Source: email conversation with Anna Borg, senior executive of ETC's Gender Unit

⁸⁷ Source: email conversation with Anna Borg, senior executive of ETC's Gender Unit

⁸⁸ Source: interview with Anna Borg senior executive of ETC's Gender Unit, June 2007

⁸⁹ Ministry of Finance. 2006. Budget speech 2007. http://www.mfin.gov.mt/image.aspx?site=MFIN&ref=2007_speech_en

⁹⁰ <http://www.childcaremalta.org/etc/home.aspx> accessed on 25 February 2008

⁹¹ Source: email conversation with Anna Borg, senior executive of ETC's Gender Unit

government financially supports childcare centres wanting to meet the established standards. In those cases where employers compensate their employees for expenses related to childcare services, such expenses are considered as business costs and are therefore deductible from taxable income.

- **Is the pension age the same for women and men? If so, since when?** The Social Security (Amendment) (No. 2) Act of 7 December 2006⁹² introduces important changes in the pension scheme. The pension age will be gradually (depending on date of birth) equalised at 65 years for both men and women. The pension age was previously 60 for women and 61 for men:

In the case of a man born on or before the 31st December 1951, the pension age shall be sixty one years, For women the equivalent pension age will be 60 years. In the case of a person born during the calendar years 1952 to 1955, the pension age shall be sixty two years; in the case of a person born during the calendar years 1956 to 1958, the pension age shall be sixty three years; in the case of a person born during the calendar years 1959 to 1961, pension age shall be sixty four years.

4.2 Intimate citizenship

- **Is abortion legal? If so, in what year did this happen?** Under the Criminal Code of Malta (Chapter 9 of the Laws of Malta), abortion is prohibited in all circumstances. It is unclear whether an abortion could be legally performed in Malta to save the life of a pregnant woman under general criminal law principles of necessity. Specific provisions allowing an abortion to be performed for this purpose were removed from the Code in 1981.⁹³ The Dutch NGO 'Women on Waves' places Malta in the category of 'most restrictive abortion laws' in the world (for Europe only Ireland is also placed in this category).⁹⁴
- **Up to which week of pregnancy is abortion legal?** ---
- **Are there any other conditions? If so, what are these (e.g. consent of doctor/s, counselling)?** --
- **How many abortions are carried out per year (select most recent year where data available. If illegal, approximately how many women travel to access abortion services in another country)?**

Data available from year 1991, here I only quote the data from most recent years (2005).⁹⁵ The data include legal reported abortions abroad. The data derive mainly from the UK Department of Health "Abortion Statistics: Legal abortions carried out under the 1967 Abortion Act in England and Wales, 2005," (<http://www.dh.gov.uk/assetRoot/04/13/68/59/04136859.pdf>), hence they might not be totally representative. The 'Women on Waves' website⁹⁶, for example, refers Maltese women to abortion clinics in UK, but also in Belgium, Italy and the Netherlands. It can thus be expected that women do not solely go to UK. The figures are probably somewhat higher in reality.

Year	Live births	Abortions obtained abroad	Total abortions	Abortion %
2005	3857	54	54	1,4 %

- **Are there any restrictions on abortion for certain categories of people? (e.g. age, nationality)** --
- **Is a marriage a state based contract, religious contract or both?** IT IS STATE BASED OR RELIGIOUS

Malta distinguishes between 'civil marriages' on the one hand and 'religious/Catholic/canonical marriages' on the other hand. A special section of the Marriage Act (chapter 255) is on Catholic marriages. In this section it is decided (among other things) that a Catholic marriage celebrated in accordance with the norms and formalities established by Canon Law is recognised and has the same civil effects as a marriage celebrated in accordance with the norms and formalities of the Marriage Act (article 21(1)). It is stated in the preliminary articles of the Marriages Act (article 2(2)) that (except where it is otherwise expressly provided) all the provisions of this Act shall apply to all marriages whether contracted in a civil or in a religious form. Attached to the Act is an agreement between the Holy See and Malta on the recognition of civil effects to canonical marriages and to decisions of ecclesiastical authorities and tribunals about canonical marriages. Canonical marriages have to be registered in a public marriage registry.

⁹² <http://www.doi.gov.mt/EN/parliamentacts/2006/ActXIX.pdf> accessed on 18 February 2008

⁹³ www.un.org/esa/population/publications/abortion/doc/malta.doc accessed on 18 February 2008

⁹⁴ <http://www.womenonwaves.org/index.php> accessed on 18 February 2008

⁹⁵ Source of data on legal reported induced abortions abroad: <http://www.johnstonsarchive.net/policy/abortion/ab-malta.html> accessed on 18 February 2008

⁹⁶ <http://www.womenonwaves.org/index.php> accessed on 18 February 2008

- Is divorce legal and what are the conditions for divorcing (e.g. is mutual consent necessary / sufficient)? Divorce is not legal in Malta. By means of article 33 of the Marriage Act *foreign* divorces are recognised if the decision is given by a competent court of the country in which either of the parties to the proceedings is domiciled or a citizen.
- If divorce is not legal, what are the conditions for separation or annulment?

SEPERATION

Spouses who intend to separate legally have two options: they may opt for a consensual separation (by agreement of both parties with the approval of the Family Court) or for a contentious separation (where the separation is contested between the parties and the Court decides on all issues involved and in particular with regard to the responsibility for the breakdown of the marriage). Separation on demand of one spouse against the other (contentious separation) can only take place on any of the grounds specified in the law (Articles 35-66 of the Civil Code – Chap 16, Laws of Malta) which are⁹⁷:

- Adultery on the part of the other spouse
- Excesses, cruelty, threats or grievous injury on the part of the other spouse or against any of his/her children
- The spouses cannot reasonably be expected to live together as the marriage has irretrievably broken down provided that 4 years have expired from the date of marriage
- If for two years or more one of the spouses shall have deserted the other without good grounds.

When there is an application for personal (contentious) separation and domestic violence is involved the case is appointed for hearing within four days and the Civil Code may issue Protection and Treatment Orders during these suits for separation (amendments to Civil Code by Domestic Violence Act 2005).

The spouse who is not at fault retains every right and benefit which he/she acquires from the other spouse. On the other hand, the spouse against whom the separation is pronounced shall not be relieved from the obligation of supplying maintenance to the other spouse where according to the court decree or judgement maintenance is due.⁹⁸

These conditions do not apply for separation by mutual consent of the spouses.

In case of demand for both consensual and contentious separations, the couple must go through the process of mediation, which is offered by the State free of charge, unless the couple opts to go to private mediators. The mediator's role is to attempt to reconcile the parties. If this proves futile, the mediator encourages the couple to settle for a consensual separation. In the event that even this is unsuccessful, then the mediator requests the court to authorise that mediation comes to an end.⁹⁹

ANNULMENT

Marriage can only be annulled under certain circumstances as specified in the Marriage Act.¹⁰⁰

- Marriage contracted by parties under the age of 16;
- if the parties who are subject to paternal authority or to tutorship do not have the consent of the person exercising such authority or of the tutor, as the case may be, and do not have the authorisation of the court of voluntary jurisdiction;
- if either of the parties are infirm of mind, whether interdicted or not;
- if the parties are related within the forbidden degrees;
- the formalities which should precede and concerning the marriage specified in the Marriage Act have not been completed or adhered to;
- if at the time of the marriage one of the parties was already bound by a previous marriage;
- the parties are not of different sexes;
- if the marriage was not consummated;
- if the consent of either of the parties is extorted by violence, physical or moral, or fear;
- if the consent of either of the parties is excluded by error on the identity of the other party;
- if the consent of either of the parties is extorted by fraud about some quality of the other party which could of its nature seriously disrupt matrimonial life;
- if the consent of either of the parties is vitiated by a serious defect of discretion of judgement on the matrimonial life, or on its essential rights and duties, or by a serious psychological anomaly which makes it impossible for that party to fulfil the essential obligations of marriage;
- if either of the parties is impotent, whether such impotence is absolute or relative, but only if such impotence is antecedent to the marriage;

⁹⁷ http://ec.europa.eu/civiljustice/divorce/divorce_mlt_en.htm, accessed on 24 February 2008

⁹⁸ http://ec.europa.eu/civiljustice/divorce/divorce_mlt_en.htm, accessed on 24 February 2008

⁹⁹ http://ec.europa.eu/civiljustice/divorce/divorce_mlt_en.htm, accessed on 24 February 2008

¹⁰⁰ http://ec.europa.eu/civiljustice/divorce/divorce_mlt_en.htm, accessed on 24 February 2008

- if the consent of either of the parties is vitiated by the positive exclusion of marriage itself, or of any one or more of the essential elements of matrimonial life, or of the right to the conjugal act;
- if either of the parties subjects his/her consent to a condition referring to the future;
- if either of the parties, did not have at the time of contracting marriage, even on account of a transient cause, sufficient powers of intellect or volition to elicit matrimonial consent.

- Are there any restrictions to marriage other than the sex of the partners (e.g. nationality, country of origin)?

Age (not below 16)

Infirmity of mind

Marriage within prohibited degrees of relatives (not allowed)

Marriage with person who is bound by previous marriage (not allowed)

- Are civil partnerships/civil unions/gay marriage legal and if so, are the legal rights the same as for heterosexual marriage? Consider the following (Yes/no+year when introduced) NO, NOT LEGAL

Does it extend to?

- Survivors' benefits in pensions? ---
- Adoption rights? ---
- Parental leave? ---
- Assisted reproduction? ---
- Family reunification – have partners the right to settle and be employed in the country where their partners live? ---

Number of registered civil partnerships, annually and in total?

4.3 Gender-based violence

- Has there been a national survey on gender based violence? When was the most recent one carried out? NO, the National Statistics Office (NSO) only conducted a survey in 2003 on people's attitudes regarding domestic violence.¹⁰¹

Additional: In Malta domestic violence receives most attention within the broader issue of gender-based violence. It seems that violence against women is often limited or equated to domestic violence. Only in the very first years that attention was paid to gender-based violence (pre 1995), the issue was approached under the heading 'violence against women' and included more than domestic violence alone. Several of the forms of violence included in list below are not politicised (yet) such as honour crimes, FGM, forced marriage, and stalking. When working on the Issue History for Malta (D19), nothing was found on these issues.

Does it include?

- Domestic violence and violence in partnerships?
- Sexual assault/violence and rape?
- Sexual harassment and stalking?
- Trafficking
- Prostitution?
- Forced marriage?
- Honour crimes?
- FGM?

4.3.1 Domestic violence

What legal devices are available to prevent domestic violence? Do they target perpetrators and/or victims? (Yes/no +year when introduced). Devices could for instance include:

The Domestic Violence Act introduced the possibility for the Courts to issue 'protection orders' (may be issued when a person is charged or accused before Court), 'restraining orders' (may be issued together with any punishment when passing the judgement against the accused), and 'treatment orders' (see explanation under 'state funded perpetrator programs'). It is important to note that these are all criminal law devices and not civil law (in countries like Netherlands (probably from 2008), Belgium, Austria restraining orders can be issued by police in crisis situations).

- Restraining orders? YES, 2005, Domestic Violence Act (amendments introduced to criminal code), targeted at perpetrator/'the accused'

¹⁰¹ Source: email conversation with Marcelline Naudi, chairperson of the Commission on Domestic Violence, dated 25 February 2008

- **Non-molestation orders?** Can be part of a protection or restraining orders, 2005, Domestic Violence Act (amendments introduced to criminal code), targeted at perpetrator/'the accused'
- **occupation orders** Can be part of a protection or restraining order, 2005, Domestic Violence Act (amendments introduced to criminal code), targeted at perpetrator/'the accused'
- **State funded perpetrator programs?** YES, state funded programs targeted at perpetrators exist since 1999. Besides, the Domestic Violence Act makes possible the issuing of a so-called 'Treatment Order'. If the person accused has not been found guilty by the Court, such order may only be issued with the consent of the accused. However, when found guilty, a treatment order may be issued with or without the consent of the convicted person.
- **Other (devices)?** The Domestic Violence Act empowers the police to prosecute domestic violence offences without the victim having to lodge a formal complaint with the police. However, when proceedings relating to domestic violence offences are instigated, the alleged victim may request the Court to stop the proceedings against the alleged perpetrator. This is regarded by many as a major pitfall of this provision.

Lacking a national survey, it is difficult to answer the questions below. I have only managed to find two biennial reports (2002-2003 and 2004-2005) of APPOGG (Central National Agency for Children and Families in Need, a part of Ministry for the Family and Social Solidarity). APPOGG includes a Domestic Violence Unit and data on the number of cases referred to the Domestic Violence Unit are included in these biennial reports.¹⁰² I have also found country reports for the years 1999-2006 on human rights practices in Malta at the site of the U.S. Department of State. These documents report the number of domestic violence reports received by the police. However, only absolute numbers are reported, there are no prevalence rates. Moreover, I am not sure what the quality of these reports is and what the exact source of data is.¹⁰³ The National Statistics Office occasionally makes available justice and crime statistics on its website¹⁰⁴, but 'domestic violence' does not exist as a crime category. Categories in which cases of domestic violence might be included are: 'sexual offences', 'against morals of the family', 'threats and private violence'. Data from the police on rape, domestic violence and sexual assault are not publicly available. A written approval by the police commissioner is required to obtain such data.¹⁰⁵

All in all, on the basis of the documents just mentioned it is impossible to answer most of the questions below. The questions on prevalence are difficult to answer, because I lack data of the total estimated number of domestic violence incidents. The Commission on Domestic Violence is planning a prevalence survey to try to gauge the extent of the problem, but are still awaiting confirmation of funding to enable them to do this.¹⁰⁶

The other questions are also difficult, since not a lot of these data seem to be publicly available. According to Marceline Naudi, chairperson of the Commission on Domestic Violence, the statistics that are available in Malta on domestic violence/gender based violence refer solely to people who have come forward and taken some form of action, i.e. reported to police, or sought help from social workers.¹⁰⁷

- **What is the prevalence of domestic violence against women, in one year? (from the survey)** No data
- **What is the life time prevalence of domestic violence against women? (from the survey)** No data
- **What is the number of incidents of domestic violence against women, in one year (from the survey)** No data
- **What is the number of incidents of domestic violence reported to the police (annual)? (If not available, say so)**

1999: 263 reports (January-September)

2000: 235 reports (January-June)

2001: 185 reports (January-December)

2002: 202 reports (January-December)

¹⁰²Biennial report 2002-2003: http://www2.appogg.gov.mt/pdf/information/reports_biennial20022003.pdf

Biennial report 2004-2005: only hard copy, website link does not work

¹⁰³ <http://www.state.gov/g/drl/rls/hrrpt/> accessed on 25 February 2008

¹⁰⁴ Included in the 'abstract of statistics 2000' documents is a chapter on 'justice and crime',

http://www.nso.gov.mt/statdoc/document_file.aspx?id=111 No other similar documents for more recent years are available on website of NSO.

¹⁰⁵ Source: email conversation with Marceline Naudi, chairperson of the Commission on Domestic Violence, dated 27 February 2008

¹⁰⁶ Source: email conversation with Marceline Naudi, chairperson of the Commission on Domestic Violence, dated 25 February 2008

¹⁰⁷ Source: email conversation with Marceline Naudi, chairperson of the Commission on Domestic Violence, dated 25 February 2008

2003: 260 reports (January-November)

2004: 233 reports (January-November)

2005: 208 reports (January-November)

2006: 194 reports (January-August)

(Source: Country reports on Human Rights Practices in Malta, US Department of State¹⁰⁸)

- [What is the number of domestic violence convictions in the courts? \(If not available say so\)](#) Not publicly available
- [What is the attrition rate for domestic violence in the criminal justice system \(convictions as % of reports to police\)? \(if not available say so\)](#) Not publicly available
- [If there is any information on the previous questions broken down by age, class, sexual orientation, race/ethnicity etc, give it here too.](#) Given the fact that (publicly available) statistics are scarce and surveys are lacking, I presume: NO

4.3.2 Rape & Sexual assault

[When was marital rape criminalized?](#)

Until the Domestic Violence Act (2005) the Maltese law treated spousal rape in the same manner as other forms of rape. The 1994 National Report on Women in Malta that was written in preparation for the UN Fourth World Conference on Women in Beijing states that “as far back as the 19th century the Courts, in 1854, stated that the section on rape [in Criminal Code] can also be applied when rape occurs between spouses”. The Domestic Violence Act amended the Criminal Code.¹⁰⁹ When violence involves elements that make it ‘domestic’, the relative offence is aggravated. Rape and sexual assault in marriage constitute the offences ‘rape’ and ‘violent indecent assault’ which are aggravated and thus subject to harsher punishment when committed by spouses.¹¹⁰

[What is the number of annually reported incidents to the police?](#)

Again: data from the police on rape, domestic violence and sexual assault are not publicly available. A written approval by the police commissioner is required to obtain such data.¹¹¹ I did find data for some pre-QUING years. They are included in the Maltese National Report on Women that was written in preparation of Beijing 1995.¹¹²

year	No. cases reported to police
1980	-
1985	1
1990	4
1991	5
1992	5
1993	5

In a document by the National Statistics Office the number of people tried and results of proceedings for rape for the years 1996-2000 are recorded. Solely in the year 1998 one person (a male) was convicted and imprisoned. Other years are empty.¹¹³

[What is the attrition rate for rape in the criminal justice system \(convictions as % of reports to police\)? \(If not available say so\)](#) Not (publicly) available¹¹⁴

[What is required for an act to be considered to be rape, e.g.:](#)

- [lack of consent \(since when\)](#) NO, no mentioning of this in Criminal Code

¹⁰⁸ <http://www.state.gov/g/drl/rls/hrrpt/> accessed on 25 February 2008

¹⁰⁹ Commission for the Advancement of Women. 1994. National report on women in Malta. In preparation for the United Nations Fourth World Conference on Women Beijing 1995. Malta: Commission for the advancement of women. 67 pages.

¹¹⁰ Council of Europe, Legislation in the member states of the Council of Europe in the field of violence against women, volume II: Italy to United Kingdom, p. 59-65 (chapter on Malta), January 2007

http://www.coe.int/t/e/human_rights/equality/PDF_EG_2007_1_vol2_E.pdf

and:

Roberta Lepre (member of Commission on Domestic Violence). 2006. Domestic Violence: recent legislative developments.

http://mfss.gov.mt/documents/family/domestic_violence_legislation.pdf accessed on 25 February 2008

¹¹¹ Source: email conversation with Marceline Naudi, chairperson of the Commission on Domestic Violence, dated 27 February 2008

¹¹² Commission for the Advancement of Women. 1994. National report on women in Malta. In preparation for the United Nations Fourth World Conference on Women Beijing 1995. Malta: Commission for the advancement of women. 67 pages

¹¹³ NSO. 2003. abstracts of statistics 2000, http://www.nso.gov.mt/statdoc/document_file.aspx?id=111

¹¹⁴ In the framework of a research report on rape cases attrition rates in Europe that was done by the Rape Crisis Network Europe in 2003 (<http://www.rcne.com/downloads/RepsPubs/Attritn.pdf>) Malta did send back one of the questionnaires, but did not provide any attrition rate data.

- **Physical resistance? (since when)** NO focus is on violence used by offender, not on physical resistance of victim
- **Other?** Violence used by offender

Is any characteristic of victim or perpetrator considered relevant (e.g. age, sex), and if so which characteristic? YES

The punishment is increased by one degree in each of the following cases (article 202 of Criminal Code):

- (a) When the offender has availed himself of his capacity of public officer, or when the offender is a servant of the injured party, with salary or other remuneration;
- (b) When the crime is committed by any ascendant, tutor, or institutor on any person under eighteen years of age;
- (c) When the crime is committed on any prisoner by the person charged with the custody or conveyance of such prisoner;
- (d) When the offender has, in the commission of the crime, been aided by one or more persons;
- (e) When the offender has, in the commission of the crime, made use of any arms proper;
- (f) When the person on whom the crime is committed, or any other person who has come to the assistance of that person, has sustained any bodily harm;
- (g) When the person carnally known has not completed the age of nine years;
- (h) When the crime is committed on the person of:
 - (i) The spouse; or
 - (ii) The brother or sister; or
 - (iii) A natural ascendant or descendant; or
 - (iv) Another person having or having had a child in common with the offender; or
 - (v) Another person living in the same household as the offender or who had lived with the offender within a period of one year preceding the offence; or
 - (vi) Another person who is or had been formally or informally engaged with a view to get married; or
 - (vii) Other persons who are related to each other by consanguinity or affinity up to the third degree inclusively;

Provided that in this paragraph "spouse" includes the person whose marriage with the offender has been dissolved or declared null;

- (i) When the crime is committed in the presence of, or within hearing distance of a minor.

4.3.3 Trafficking for sexual exploitation

- **Has the government signed and ratified the CoE convention on human trafficking (date)** YES

Council of Europe Convention on Action against Trafficking in Human Beings:

Malta signed on 16/5/2005, ratified on 30/1/2008 and it will enter into force on 1/5/2008

- **Is trafficking primarily seen as a problem of the sending or the receiving country?**

I am not sure about this, because no policy reports are in place on trafficking and the issue is only recently beginning to appear on the agenda. Before 2002 no specific prohibition of trafficking was included in Criminal Code, in 2002 article 248 on trafficking was added to the Criminal Code.

The government does not provide social services to victims of trafficking. They do, however occasionally refer victims to the social and housing services that are available to victims of domestic violence.¹¹⁵

- **Are women victims of trafficking, when identified as such, given temporary/permanent residence permits? How long? (date)**

I doubt whether any regulation on this exists (yet) in Malta, but see previous answer. Sometimes they make use of domestic violence social and housing services. The Immigration Act makes no mentioning of victims of trafficking whatsoever. This Act states that persons are 'prohibited' immigrants on certain conditions; one of them is being a prostitute (article 5). On residence permits the Act states that "the Minister may issue, subject to such conditions as he may deem proper to establish, a residence permit to any person who makes an application for retirement, settlement or an indefinite stay in Malta" (article 7).

4.3.4 Intersections

Have specialised policies and practices on gender based violence that address gender as intersecting with race/ethnicity, class, sexual orientation been developed by:

- **Police?** NO
- **NGOs?** NO

¹¹⁵ Malta Country report on Human rights practices 2006. <http://www.state.gov/g/drl/rls/hrrpt/2006/78827.htm>

- Local Authorities / government? NO
- Other?

4.3.5 Service provision

- Are there refuges and/or sexual assault centres? (dates) YES there are several shelters for women and their children who suffered from domestic violence.
- How many are there? At least 4 (Dar Merhba Bik, Dar Qalb ta' Gesu`, Ghabex and Dar Tereza Spinelli)
- When was the first set up? The first one was set up by the religious order of the Good Shepherd Sisters in 1980 (Merhba Bik).
- Are they state funded, to what extent? The state (Domestic violence unit, APPOGG, Ministry for the Family and Social Solidarity) runs one emergency shelter since 2000. The other shelters are partly funded by the state.

CIVIL SOCIETY AND ENGAGEMENT IN POLICY MAKING

5. Political system

5.1 Is the state unitary or federal? UNITARY

If federal, are key gender+ equality decisions made at national or provincial/local level?

5.2 To what extent and how are social partners (employers & trade unions/capital & labour) integrated in policy decisions?

The Malta Council for Economic and Social Development (MCESD) is a tripartite forum comprising trade unions, employers' organisations and the Government. Its aims are:

- To promote social dialogue and consensus amongst the social partners and, where necessary, with other organisations in civil society; and
- To submit recommendations to the Government on national economic and social issues.

The Council can submit recommendations or express an opinion either on the Government's request or on its own initiative.

The MCESD was established under the Malta Council for Economic and Social Development Act 2001, which aimed to build on the experiences gained since 1989 with the non-statutory Malta Council for Economic Development.

A standing Civil Society Committee representing Maltese civil society was also established through this same Act. It consists of the chairpersons of civil society organisations. The chairperson of NCPE is also member.¹¹⁶

This means that there is a consultation body in which the social partners meet. However, no legally binding decision making processes are in place (no institutional incorporation of social partners in policy making). The Council solely is an advisory body.

- Are there legally binding decision making processes similar to the EU framework agreements (e.g. as the Parental Leave Directive)? NO
- Would the political system be possible to describe as corporatist or neocorporatist, where hierarchically ordered trade unions and/or employer and/or other civil society organisations are institutionally incorporated in policy making? NO, Not corporatist or neo-corporatist
- What is the gender composition in the decision making process of agreements made by the social partners (if there are any such agreements)? There is no such agreement

5.3 In which policy environment (ministry) is a decision on the issue predominantly made (for each area: general gender equality policies; non-employment; intimate citizenship; gender-based violence)?

General gender equality policies:

Ministry for the Family and Social Solidarity (MFSS): no specific gender department exists within Ministry, NCPE is appointed by this Minister, but acts autonomously

Office of the Prime Minister (OPM): has at several occasions issued OPM-circulars on general gender equality, for example circular 24/2000 on gender mainstreaming

Non-employment:

Ministry for the Family and Social Solidarity MFSS: among other things this Ministry is responsible for social policy and social security, and (gender) equality policies.

Ministry of Education, Youth and Employment MEYE: among other things, responsible for employment and training, industrial and employment Relations, and occupational health and safety. The Employment and Training Corporation (ETC) (which has a gender unit) and the Industrial Tribunal are appointed by this Ministry.

Intimate Citizenship:

Ministry for the Family and Social Solidarity (MFSS): among other things family policy, child policy and equality policy.

¹¹⁶ Website office of prime minister: <http://www.opm.gov.mt/mcesd.htm>
website of MCESD: <http://www.mcesd.org.mt/>
Malta Council for Economic and Social Development Act:
http://docs.justice.gov.mt/lom/legislation/english/leg/vol_13/chapt431.pdf

Ministry of Health, the Elderly and Community Care (SAHHA): among other things sexual and reproductive health

Ministry for Justice and Home Affairs (MJHA): marriage, separation, partnership, citizenship, immigration

Gender-based violence:

Ministry for the Family and Social Solidarity (MFSS): domestic violence, gender equality issues.

Ministry for Justice and Home Affairs MJHA

5.4 Political cleavages

Is the state consociational or not, i.e. are there major internal divisions (ethnic, language, religion etc) where neither of the groups form a majority while, at the same time, the political regime can be considered to be stable?

NO, non-consociational. Maltese (ethnicity) and Roman Catholic (religion) majority combined with one party rule system.

What are the main existing salient political cleavages within the state, and on what dimension (e.g. language, region, religion, nationality)?

No salient political cleavages

5.5 International obligations and links

When, if at all, was CEDAW signed?

Ratified 8 March 1991¹¹⁷ making reservations on the following articles: 11, 13, 15 and 16.¹¹⁸

Malta has not signed the optional protocol.

When did the country join the EU? 2004

¹¹⁷ See <http://www.un.org/womenwatch/daw/cedaw/states.htm>

¹¹⁸ Malta's reservations can be found on this webpage: <http://www.un.org/womenwatch/daw/cedaw/reservations-country.htm> accessed on 25 February 2008

6. Political Representation

6.1 The development of women's political representation, including:

- **Date of female suffrage** 1947
- **Note any caveats, e.g. age, property qualification, ethnicity, and when removed.** Women got voting rights on the same terms as men in 1947 (one vote for each male/female over 18 years).
- **Date of male suffrage** 1921 (males of 21 or over, being literate or with income of not less than £5 per annum from immovable property or other capital or who paid rent of that amount or over).
- **Use of quotas**
 - **When introduced?** Electoral quotas were introduced by the Labour Party in 1997. However they were short-lived because the party was overthrown within its first two years in office.¹¹⁹ Currently, the Labour Party has a party quota of 20%¹²⁰ Currently, no constitutional Quota for National Parliaments¹²¹ Currently, no election Law Quota or Regulation for National Parliament¹²²
 - **What form e.g. party, electoral, constitutional** see above
- **What is the numerical representation of women in parliament? (over QUING period)**

year	Total N of candidacies		All Candidacies		Male Candidacies		Female Candidacies		% women In parliament
	male	female	Seats won N	Seats Won %	Seats won N	Seats Won %	Seats won N	Seats Won %	
1992	238	8	65	26,4	64	26,9	1	12,5	1,5
1996	230	18	65	26,2	61	26,5	4	22,2	6,2
1998	254	30	65	22,9	59	23,2	6	20,0	9,2
2003	229	18	65	26,3	59	25,4	6	33,33	9,2

Source: www.maltadata.com/winfem.htm

- **Was the increase in women's representation a gradual increase since suffrage, or were there any key turning points? E.g. quotas, 1989.**
No major turning points. There has been a slow increase from 1992 until today, with something of a jump in the 1996 election. There was a peak of 8% women after the election in 1951, but then the representation of women decreased to 2,5%-4,0% where it remained until the election in 1992 when it decreased even further to 1,5%. (See the table above for years after 1992)¹²³
- **Other important developments**

6.2 Political representation for intersecting inequalities:

- **Class (e.g. was male suffrage granted in stages with property qualifications; representation in parliament)** Yes male suffrage was granted in stages with property qualifications. Starting from the property qualification in 1921 and moving towards the 1947 situation (everyone above 18 has one vote)
- **ethnicity/religion (what exclusions and when; numerical representation in parliament)** NO
- **Other important intersecting inequalities, any quotas** NO

6.3 Political parties and gender

- **Does women's political representation vary by Party** NO

¹¹⁹ Camilleri-Cassar, Frances. 2005. Gender equality in Maltese social Policy? Graduate Women and the Male breadwinner model. Luqa: Agenda, Millerhouse. Page 238-239

¹²⁰ Source: <http://www.quotaproject.org/displayCountry.cfm?CountryCode=MT>

¹²¹ Source: <http://www.quotaproject.org/displayCountry.cfm?CountryCode=MT>

¹²² Source: <http://www.quotaproject.org/displayCountry.cfm?CountryCode=MT>

¹²³ Source: www.maltadata.com/winfem.htm

- If so, do these Parties tend to represent different class, ethnic, religious or other interests? The Labour Party mainly represents the working class. The Nationalist party is Christian Democratic.

- What is the current Party / Parties in Government

Current Party in government is the Nationalist Party (Partit Nazzjonalista)

- With which European Parliament political group is this Party / Parties affiliated?¹²⁴ With the European People's Party (EPP)

- What political party / parties have held office during 1995-2007?

1992-1996: Nationalist Party (Christian democratic)

1996-1998: Labour Party

1998- today: Nationalist Party (Christian democratic)

6.4 Representation in government

- What percentage of government Ministers are female? Two female Ministers out of 14 government Ministers and one parliamentary secretary.¹²⁵

- To which Ministries do female ministers belong?

Minister Dolores Cristina (was once active in women's movement): Ministry for the Family and Social Solidarity

Minister Giovanna Debono: Ministry for Gozo

Parliamentary Secretary/Junior Minister Helen D'Amato: Ministry for Elderly and Community Care.

¹²⁴ See list Of EP political groups: http://www.europarl.europa.eu/groups/default_en.htm

¹²⁵ Camilleri-Cassar, Frances. 2005. Gender equality in Maltese social Policy? Graduate Women and the Male breadwinner model. Luqa: Agenda, Millerhouse. Page 236

7. Civil Society

7.1 Gender

Is there one (or more than one) national organisation that coordinates feminist and women's organisations?

YES the National Council of Women (NCW) and the Malta Confederation of Women's Organisations (MCWO)

- **Is this the same as the body which is affiliated to the European Women's Lobby?**
The MCWO is affiliated to the EWL. The NCW does not agree with the pro-abortion stance of the EWL (and consequently is not a member of MCWO)
- **When was it established?**
MCWO in 2004 and the NCW in 1964
- **How many organisations are affiliated to the national body?**
MCWO: 14 organisations (May 2007)
NCW: 23 affiliated organisations (including many catholic organisations, like the Cana Movement and Catholic Women's League).¹²⁶
There are some overlaps in the affiliated organisations.
- **How many women are so coordinated?** NO DATA
- **How many staff work for the organisation (how many paid, how many unpaid)?**
NCW: not clear whether there is staff, and whether this staff is paid or unpaid
MCWO: very young organisation with almost no budget. No staff.
- **What is its budget?** I do not know their exact budgets. The funding women's organisations receive from the government is not transparent and seems to differ between different organisations. From interviews I conducted in Malta (among others with the chairperson of the MCWO and with the Vice-president of the NCW)¹²⁷ it became clear that the NCW and the MCWO do receive some funding from the government. The NCW appears to receive more funding and a premise. The MCWO only receives minimal funding and is still quite sidelined. The fact that it is a young organisation can play a role in this. All in all, the NCW has more secure funding than the MCWO.
- **What is its range of activities (are these in an annual report)?**
MCWO: because it was established fairly recently and is lacking funds, there is no website yet, no annual reports and so on. So it is a bit difficult to trace their activities. However, from the chair of the MCWO, Anna Borg, I received an information sheet. What they are intending to do (according to the sheet) is: to act as a national forum that brings forward concrete recommendations, conclusions and actions; disseminate best practices; contribute towards improvement of national policy on women's issues; improve the cooperation between policy-makers/NGO's/individual members working in field of women issues; raise awareness of women's organisations on European issues; work directly with European institutions; and to keep MCWO members updated on national and EU developments.
NCW: Their mission statement is to "improve the status of women and the well-being of society; to present a broad and comprehensive view of women's opinions on matters of national interest and cultural traditions based on human rights; and to make women more aware not only of their rights but also of their civic, moral, political and social responsibilities to society as a whole". The range of activities to reach this mission mainly comprehend: adopting resolutions at annual general meetings (on its website, the NCW claims that many of these resolution have in fact been incorporated in Maltese law), providing information by means of publishing its own periodical newsletter (il-mara) and through its website, being member of the NCPE, being affiliated to international bodies (International Council of Women (ICW) and the European Centre of International Council of Women (ECICW)), taking part in government consultations and the NCW speaking on national decision-making committees. The NCW also provides training programmes

¹²⁶ http://www.ncwmalta.com/membership_affiliates.asp accessed on 27 February 2008

¹²⁷ Anna Borg for MCWO and Grace Attard for NCW, interview were held on 20 June 2007

for prospective women political candidates, women returning to the labour market and computer literacy classes.

- Does the national body engage with all or only some of our 3 issues?

MCWO: it is too early to say something about this, but it is to be expected that employment related issues will receive most attention.

NCW: most attention definitely to employment related women's issues, some attention to domestic violence, and hardly any attention to intimate citizenship related issues (possibly difficult to engage in because of its Catholic members/affiliated organisations)

It is quite remarkable that the Maltese women's movement currently is hardly active on intimate citizenship issues relating to intimate citizenship were the most important ones during the initial years of the Maltese women's movement (family planning clinics were set up and pro-divorce lobby). The NCW is catholic, and this is particularly visible on intimate citizenship issues like abortion and reproductive rights.. It might be (this is my personal judgement) a strategic choice of the NCW not to distinguish itself on intimate citizenship issues. For a long time, they have been the only umbrella women's organisation and it is possible that not all women feel represented by the NCW on these (intimate citizenship) issues.

All in all, the women's movement hardly engages in issues of intimate citizenship these days. It seems that it is predominantly the male-lobby/anti-church lobby, the church itself who speak up on intimate citizenship issues (next to Malta Gay Rights Movement and Moviment Graffiti).

- Are there national coordinating organisations for feminist/women's activities in: employment/non-employment; gender based violence; and intimate citizenship (if so name them)? There are some national organisations that focus on one of these three issue-areas. However, these are not umbrella organisations representing multiple organisations like the NCW and the MCWO. It is not always clear whether or not they are active in the coordination/organisation of *feminist/women's* activities. They are at least not to be classified as anti-women/anti-feminist.

General gender equality:	National Council of Women (NCW)
(Non-)employment:	Malta Confederation of Women's Organisations (MCWO) Malta Association of Women in Business (MAWB) General workers Union's female works Committee UHM's (Union Haddiema Maghqudin) gender equality committee Foundation for Women Entrepreneurs Malta
Intimate citizenship:	Malta Gay Rights Movement (LGTB rights) Moviment Graffiti (pro-divorce, pro-gay rights)
Gender based violence:	there are some religious organizations that run shelters for domestic violence victims

List the key women's / feminist civil society organisations and their main methods / activities

The key women's/feminist civil society organisations are in fact the umbrella organisations mentioned above. The majority of organisations that they represent are mostly local, do not have their own websites, and mostly are women organisations (not necessarily feminist).

National Council of Women (NCW)¹²⁸

For more information on this organisation, see above.

- Building autonomous institutions NO
- Public protest e.g. demonstrations NO
- Campaigning YES
- lobbying state YES
- service provision YES, TRAINING
- research YES

¹²⁸ NCW website: <http://www.ncwmalta.com/index.htm>

- Are they important or marginal to national politics? Marginal. Malta's women's movement is not really strong, loud, or radical. In a small community like Malta it seems to be difficult to behave differently and organise.
- Are they centralised or dispersed? Both: it is an umbrella organisation with central office

Malta Confederation of Women's Organisations¹²⁹ (MCWO)

It is difficult to answer the questions below, because this organisations has only existed since 2004. However, I still think it should be listed as one of the key women's/feminist civil society organisations, because they DO represent Malta in the EWL and also because Malta does only have a few of these organisations (which kind of automatically makes them 'key').

- Building autonomous institutions NO
- Public protest e.g. demonstrations NO
- Campaigning YES
- lobbying state YES
- service provision NO
- research Currently no money/funding for this
- Are they important or marginal to national politics? Marginal. Malta's women's movement is not really strong, loud, or radical. In a small community like Malta is seems to be difficult to behave differently and organise.
- Are they centralised or dispersed? Both, since it is an umbrella organisation

Women's Study Group (University of Malta): the study group has been set up and meets regularly to discuss various issues related to the politics of gender relations in Malta.

- Building autonomous institutions: NO
- Public protest e.g. demonstrations: NO
- Campaigning: NO
- Lobbying state: YES, the Women's Study Group for example gave recommendations to government on the Equality Between Women and Men Bill.
- service provision: NO
- research: YES
- Are they important or marginal to national politics? marginal
- Are they centralised or dispersed? centralised

Malta Association of Women in Business (MAWB)¹³⁰: association for the promotion of an environment in which women can develop their business and profession.

- Building autonomous institutions: NO
- Public protest e.g. demonstrations: NO
- Campaigning: NO
- lobbying state: YES
- service provision: YES
- research: NO
- Are they important or marginal to national politics? marginal
- Are they centralised or dispersed? centralised

Foundation for Women Entrepreneurs Malta (FWE)¹³¹

The Foundation for Women Entrepreneurs (Malta) was set up for the promotion of opportunities, awareness building, training and research in the field of Women Entrepreneurs and other gender issues in Malta, Europe and the Mediterranean. It believes and aims to realize that all women in Malta have the right to be educated and receive equal opportunities in all aspects of their public and private life.

¹²⁹ No MCWO website yet exists due to lack of resources

¹³⁰ MAWB website: <http://www.mawb.org/>

¹³¹ http://www.women.org.mt/component/option.com_frontpage/Itemid,1/

- Building autonomous institutions YES (It has its own little library)
- Public protest e.g. demonstrations NO
- Campaigning YES
- lobbying state YES
- service provision YES (trainings)
- research NO (but aims to build up training and research infrastructures)
- Are they important or marginal to national politics? marginal
- Are they centralised or dispersed? centralised

List the key anti-feminist organisations and their main methods/ activities?

Church of Malta and Bishops¹³²

As was already mentioned above, compared to the voice/influence of the women's movement the anti-feminist views of Maltese Church and Bishops of Malta potentially have a lot more influence on government policy. Co-operation between state and church is visible in, for example, the church's influence on the direction of social policy in Malta (Camilleri-Cassar, p.245). The state is reluctant to stand up to the church. At the same time, the church's attitude to women is a bit ambivalent. While women's right to public life is acknowledged, the women's role as mothers is exalted in churches and media. Pastoral letters by Maltese bishops stress women's responsibility as wives and mothers while hardly addressing men's involvement as husbands and fathers. The Church also communicates strong messages on intimate citizenship issues such as opposition against contraception, abortion, co-habitation, divorce, civil marriage and same sex marriage (Camilleri-Cassar, p.245). All in all, the church messages and teachings seem to adhere to the ideology of motherhood.

- Building autonomous institutions YES
- Public protest e.g. demonstrations NO
- Campaigning YES
- lobbying state YES
- service provision YES
- research No info
- Are they important or marginal to national politics? important
- Are they centralised or dispersed? centralised

Canam Movement¹³³

Maybe not so much *anti-feminist*, this is a religious pro-life, pro-marriage, pro-family organisation within the Catholic Church of Malta. Its objectives are to help couples prepare for marriage; to help couples or individuals who are facing difficulties in their relationships; to help couples strengthen their marriage and their family.¹³⁴ They give marriage preparation courses, natural family planning courses, and parental skills courses and so on.

- Building autonomous institutions NO
- Public protest e.g. demonstrations NO
- Campaigning NO
- lobbying state NO
- service provision YES
- research NO
- Are they important or marginal to national politics? marginal
- Are they centralised or dispersed? Centralised

The Association for Men's Rights Malta (including the Malta Divorce Movement and the Family Rights Association)¹³⁵

While being pro-divorce and pro-abortion (not particularly anti-feminist) the association takes a quite anti-women stance in that they feel that men are being discriminated against in custody cases, separation/annulment cases, maintenance decrees and in family law in general.

- Building autonomous institutions NO
- Public protest e.g. demonstrations YES, they try but do not often succeed, because according the association it is being boycotted and ignored by most media channels.

¹³² www.maltachurch.org.mt

¹³³ <http://www.canamovement.org/>

¹³⁴ <http://www.canamovement.org/>

¹³⁵ www.mensra.com

- Campaigning YES
- lobbying state YES
- service provision NO
- research NO
- Are they important or marginal to national politics? marginal
- Are they centralised or dispersed? centralised

Malta Unborn Child Movement (MUCM)

This pro-life movement is made up by 44 Maltese organisations, such as the Malta Movement for the Rights, Protection and Development of the Unborn Child; the Gift of Life Malta¹³⁶; the Social Assistance Secretariat (SAS)¹³⁷; and the Malta Midwives Association.¹³⁸ A contemporary important campaign by the movement is to persuade the government, and parliament, to entrench provisions against the introduction of law permitting abortion in the Maltese Constitution.

- Building autonomous institutions NO
- Public protest e.g. demonstrations NO
- Campaigning YES
- lobbying state YES
- service provision YES
- research YES
- Are they important or marginal to national politics? Important, for example two proposals by Malta Pro-Life Movement to include the unborn child in the new laws on the Commissioner for Children in 2003, and on Domestic Violence in 2005 were unanimously accepted by the Maltese Parliament. However, so far the government and the opposition have not managed to find a way to agree on a way forward on the matter of entrenching provisions in the Maltese Constitution against the introduction of law permitting abortion.
- Are they centralised or dispersed? centralised

Are there any men's groups / organisations that are supportive of women's / feminist organisations?

NO

Women's / feminist organisations in civil society

- What are the major distinctions in civil society between different types of organisations/projects e.g. feminist, pro-family etc.?

Feminism has a negative connotation and is not yet accepted and some women refrain from saying they are feminist. Pro-family by contrast is highly respected.

- Do women's organisations actively engage with other intersecting inequalities (in each area?)

NO

- Do they have good alliances with those representing other inequalities or not? (in each area)

NOT SPECIFICALLY

- Are there alliances between women's / feminist organisations and men's groups (if these exist in your country?)

NO

- Are there many organisations of minoritised women? (in each area)

NO

- What links are there with international? / EU level / bilateral bodies? (in each area)

Most (women's) organisations mentioned above have international and/or EU level links.

NCW: affiliated with the ICW and the ECICW.

MCWO: is member of and represents Malta in the EWL.

¹³⁶ <http://www.lifemalta.org/home/>

¹³⁷ <http://www.socialassistance.org/>

¹³⁸ <http://www.internationalmidwives.org/AboutICM/MemberAssociations/MidwivesAssociationofMalta/tabid/428/language/en-US/Default.aspx>

MAWB: The Malta Association of Women in Business is a full member of Les Femmes Chefs d'Entreprises Mondiales (FCEM) since 1992.

FWE: is represented in the board of WINNET Europe (European Association of Women Resource Centers¹³⁹ (founded in 2006).

Maltese Trade Unions: on international level, the GWU is affiliated to the ILO and the ITUC (and also other sector/branch based affiliations) and to the ETUC on European level .

- Is organised feminism engaged with the state, or does it follow an autonomous or separatist agenda building its own institutions? For example, is it invited to report to consultations; does it take money from the state; is it commissioned by the state to undertake specific tasks?
 - Does this vary between issue areas?
 - Has this changed over time?
 - When engaging with the state is a coalition form of organising common or not?

One cannot speak of organised *feminism* in the case of Malta. Having said this, the NCW and the MCWO do take funding from the government and are invited to report to consultations (just like all other civil society organisations who want to report: this is an open call), they are not commissioned by the state to undertake specific tasks. So except for some funding they are not so much engaged with the state. The specific questions asked above do not apply to Malta

- Does it make sense to talk of a 'women's movement' or not?
 - Briefly explain your answer.
YES, but in the conservative way
 - Is there a tendency towards one of the three major visions of gender equality (sameness, equal valuation of difference, transformation)?

SAMENESS

- Is there a preferred model of care work: support for a domestic regime or support for a public (state or market provision) regime?

DOMESTIC REGIME

- How closely aligned is feminism with social democracy? NOT AT ALL
- Notes on the history of the development of gendered or feminist civil society organisations:
 - Is there a history of divisions as to where on a continuum between autonomous or close to state is most appropriate? NO, for long the NCW was the only women's organisation, so one cannot speak of 'divisions'.
 - Does this vary by 4 areas (general, employment, intimate citizenship, and gender based violence)? Not applicable.
 - Is there a history of divisions as to: socialist, radical, liberal? NO, the NCW is the only stable feminist civil society organisation that has survived for long, and it can be labelled liberal.
 - Does this vary by 4 areas? --
 - Is there a history of changing engagement with class, ethnic and religious forces? NO, the NCW can be labelled catholic and middle class
 - Does this vary by 4 areas? Not applicable

- Is feminist research organised in Universities and research institutes?

NO, it is not organised in specific departments or institutes, but is taken up by students when they want to write a dissertation/thesis.

- Are there named centres? NONE
 - If yes, are they important? ----
 - If not, is important feminist research primarily dispersed or mainstreamed?
DISPERSED
- Are there specific positions, funds or journals within the country (or region e.g. Nordic)? NONE
- Is there a national association for women's studies/gender studies? NO – but there is a women's study group within the university

- Are there feminist lawyers' organisations? NO

¹³⁹<http://www.winneteurope.eu/digitalcity/homepage.jsp?dom=AAAABIVV&prt=AAAAUSFB&fmn=AAAAUSFR&men=AAAAOVXB>

- o Are there radical lawyers' organisations that support justice claims for one or more of the inequalities? There is one radical male lawyer who is affiliated with the Association for Men's Rights (anti-feminist)

7.2 Class

A short history of the development of organisations representing class interests.

- o How strong are trade unions? Use the following four measures of trade union strength (Data: European Industrial Relations Observatory Online, national sources)
 - o Density (proportion of workers that are organised). 62-63%.¹⁴⁰
 - o Coverage (what proportion of workers are covered by collective bargaining agreements). No official figures about this, but must be about 50-55 %.¹⁴¹
 - o Centralisation of collective bargaining. Collective bargaining only at enterprise/company level. Purely Anglo Saxon system.¹⁴²
 - o Is there a national body of trade unions;

NO, there is not *one* national body of trade unions. However, there are some trade union federations (Confederation of Malta Trade Unions¹⁴³ and the FORUM). In general, the Maltese trade union movement can be divided in two main camps: the General Workers' Union (GWU) which is not a federation, but a 'normal' trade union, which represents a cross-section of the Maltese workforce and more than 50% of Maltese unionized workers; and the Confederation of Malta Trade Unions (CMTU), which is an umbrella organisation with 11 affiliated trade unions.. The largest union within this confederation is the Union of United Workers (Union Haddiema Maghqudin, UHM), which is a general union of similar proportions to the GWU. Several other unions, which are not part of either the GWU or the CMTU, have recently joined forces by setting up a group, called the FORUM. The CMTU tries to get the other unions to join with the ultimate aim of forming one national trade union council (TUC). So far, such a TUC has not taken shape. The GWU and the FORUM have rejected the CMTU's proposal to form a national trade union council. While both the GWU and the FORUM see the need to set up such a TUC, a main divisive issue among Maltese trade unions is the policy adopted by the two largest trade union organisations (GWU and CMTU including UHM) towards the political parties in government or in opposition. Although none of them professes any official political allegiance, the GWU ideologically sympathises with the Labour Party, while the policies of the CMTU members often converge with those of the Nationalist Party.¹⁴⁴

 - What proportion of TU members and unions are affiliated?

Proportion of TU members: CMTU has 36.000 members, which amounts to roughly 40% of TU members. As 54 % of the TU members are members of the GWU (and not the CMTU), the proportion of TU members affiliated to the FORUM can never be more than 6% (but I do not have any info about what the proportion really is).

Proportion of trade unions: no info available
- o Coordination of collective bargaining. Collective bargaining only at company level
 - Does the national body of trade unions negotiate on behalf of trade unions
There is no national body of trade unions (see above)
 - Can it coerce or discipline member unions to enforce agreement? --
- o Women and trade unions:
 - What percentage of *total* trade union membership (i.e. including unions not affiliated with national body and those that are affiliated) is female? NO DATA
 - How are women organised in trade unions and the central trade union body (e.g. caucuses, separate branches, fully integrated)? In the two main trade

¹⁴⁰ Based on personal communication with Mr. Saviour Rizzo who works at the Centre for Labour Studies (University of Malta) on 10 June 2008

¹⁴¹ Ibid.

¹⁴² Ibid.

¹⁴³ <http://www.cmtu.org.mt/>

¹⁴⁴ European Industrial Relations observatory online: <http://www.eurofound.europa.eu/eiro/2006/05/articles/MT06050191.htm>
Article titled "No agreement on proposal to form trade union council", written by Saviour Rizzo, publication date 18-07-2006.
Anno June 2008, a TUC still has not been set up.

unions (GWU and UHM) there are small committees related to gender. The GWU has a “female works Committee” (which is chaired by the vice president of the GWU Helen Mallia) and the UHM has a “gender equality committee”. The chairperson of UHM’s gender equality committee was also chair person and founding member of the Malta Confederation of Women’s Organisations (MCWO). There are no separate women’s branches in the trade union confederations (CMTU and FORUM).

- **What proportion of women are in the executive of (major) trade unions?** NO DATA
 - **Is gender equality high or low on the bargaining agenda?** The issue is on the agenda of the two largest trade unions (GWU and UHM), but not high on the agenda.
 - **Is it seen as an issue for women, or for all trade unionists?** No info on this
- **How well organised are employers?**
 - **Do they have a single (or more) national organisation?** More than one. There are four national ‘peak’ organisations Malta Employers Association (MEA), the Malta Federation of Industry (FOI), the General Retailers and Traders Union (GRTU), and the Chamber of commerce (COC).¹⁴⁵ There is overlapping membership and the last three mentioned organisations (i.e. all except the MEA) are in a process of merging.¹⁴⁶
 - **Is it powerful or not? E.g. can it control its members?** The peak employers’ organisations suffer from a lack of coordination, which that is why attempts to merge take place. The organisations often act on an individual basis instead of forming a common front.¹⁴⁷
 - **Are they indifferent or hostile to gender equality in the workplace?** They are not hostile to gender equality in the workplace. If they speak in public ‘gender equality’ is on their agenda. In reality, it is not very high on the agenda.¹⁴⁸
 - **Do they oppose the development of gender machinery, gender equality policies and gender equality laws?** No, at least there are no disputes about this.¹⁴⁹ The MEA states in its code of ethics that members are not to discriminate on grounds of sex. The Secretariat General of the MEA is a member of the National Commission for the Promotion of Equality (NCPE) and the MEA is an affiliate to the Malta Confederation of Women’s Organisations (MCWO).
 - **Do they support ‘diversity management’?** (E.g. policies that emphasise the gains associated with the promotion of diversity in the organisation, in contrast to an emphasis on equality / equal opportunities). Diversity hardly features in their speeches and is not on their agenda.¹⁵⁰
 - **Did they lobby for merged rather than separate equalities bodies?** Is not an issue for them.¹⁵¹
 - **Are there tri-partite or corporatist bodies including employers, trade unions and government that make important national decisions?** See question 5.2: the Malta Council for Economic and Social Development (MCESD)
 - **Are women represented in such bodies?** Hardly. One out of the fourteen members of the Council is a woman and one out of fourteen substitute members is a woman.¹⁵²
 - **Are there EU, bilateral or other international level links for either trade union or employer organisations?** YES, all of them (trade unions and employers organisations) have international and European level affiliations.

¹⁴⁵ European Industrial Relations observatory online: <http://www.eurofound.europa.eu/eiro/2003/10/feature/mt0310101f.htm> accessed on 16 June 2008, article titled “employers’ organisations examined, written by Manwel Debono, publication date 09-01-2004

¹⁴⁶ Based on personal communication with Mr. Saviour Rizzo who works at the Centre for Labour Studies (University of Malta) on 10 June 2008

¹⁴⁷ European Industrial Relations observatory online: <http://www.eurofound.europa.eu/eiro/2003/10/feature/mt0310101f.htm> accessed on 16 June 2008, article titled “employers’ organisations examined, written by Manwel Debono, publication date 09-01-2004

¹⁴⁸ Based on personal communication with Mr. Saviour Rizzo who works at the Centre for Labour Studies (University of Malta) on 10 June 2008

¹⁴⁹ Ibid.

¹⁵⁰ Ibid.

¹⁵¹ Ibid.

¹⁵² See the list of council members/substitute members at: <http://www.mcesd.org.mt/page.jsp?id=23&siteid=1> accessed on 16 June 2008

- Are these links important (e.g. in lobbying government at national level) ETUC is important to them

7.3 Other intersecting social inequalities

7.3.1 Ethnicised / racialised groupings

- What is the composition of the national population by ethnicity? The total population of Malta is 404.962. There are only 12,112 non-Maltese inhabitants (3% of total population), which means that the Maltese society can be seen as a homogenous society. More than a third of the non-Maltese are British (1.2% of the total population). Other European nationalities are Italians, French and Germans. Nationalities outside the EU that can be found in small numbers are Libyans, Australians, Americans and Canadians.¹⁵³
- What are considered to be the most important ethnicised, racialised, and linguistic divisions politically (e.g. Roma/non-Roma, Black/White, citizen/migrant, language communities)? None of these divisions is politically very important. If I had to mention one then it would be citizen/migrant, because Malta has had quite an influx of asylum seekers/illegal immigrants in recent years, which gives rise to tensions. Malta has traditionally been a country from which people emigrated, but since the late 20th and the early 21st century emigration has dropped almost to zero.¹⁵⁴
- Is ethnicity considered to be intersected by religion (e.g. Islamic/non-Islamic)? NO
- Prioritise the ones that have been the most important in the development of gender+ equality policies. None have been constitutive or important for development of gender+ equality policies (there is as yet no gender+ equality policy)
- What is the citizenship status of (all or part) of each of the minoritised groups (e.g. do any groups lack the right to political participation, employment, residence, social security benefits, or visit)? When asylum seekers receive refugee status, they have the right to access state education and training, to state medical health care and services as well as to obtaining permission for employment. They enjoy freedom of movement and have same rights as Maltese citizens to the benefits by the Social Security Department. They receive residence permit and travel documents. While refugees (with recognised status) are permitted to work, asylum seekers are not. They usually resort to working in black economy.¹⁵⁵
- In what way are ethnicised and racialised groups organised? What are their main strategies (i.e. Building autonomous institutions, Public protest e.g. demonstrations, campaigning, lobbying state, service provision, research). Two non-governmental organisations provide assistance to refugees/asylum seekers/immigrant (but I don't think it is correct to say that ethnicised/racialised groups are organised in these two NGO's, because these NGO's are mainly service providers): The Emigrants Commission¹⁵⁶ and the Jesuit Refugee Service Malta (JRS).¹⁵⁷ The JRS in Malta seeks to accompany, serve and defend the rights of asylum seekers and forcibly displaced persons who arrive in Malta.
- In what way are women engaged in these organisations? NO DATA, but emigrants Commission is affiliated with the National Council of Women. And the Jesuit Refugee Service pays attention to GBV and the safety of female asylum seekers in detention.
 - Do minoritised women organise separately within or outside of such organisations? NO
 - Are there any groups organised against certain ethnic groups? No info available

7.3.2 Religion/belief/faith

- What is the composition of the national population by religion / faith 98% is Roman Catholic
- What proportion of the population are practising members of an organised religion? 65% of Roman Catholics in Malta are actively practicing members
- What are the main religious organisations? What are their main strategies (i.e. Building autonomous institutions, Public protest e.g. demonstrations, Campaigning, lobbying state, service provision, research) The Church of Malta¹⁵⁸ (The Roman Catholic Apostolic Church)

¹⁵³ http://www.nso.gov.mt/statdoc/document_file.aspx?id=2048

¹⁵⁴ Cutajar, JosAnn. 2007. Maltese In- and Out-Migration Patterns, in: Cassar, George and JosAnn Cutajar (ed.). 2004. *Sociological Aspects of the Maltese Islands*. Indigo Books: Msida. pp. 136-164

¹⁵⁵ Ibid.

¹⁵⁶ <http://www.maltamigration.com/about/mec2.shtml>

¹⁵⁷ <http://www.jrsmalta.org/>

¹⁵⁸ www.maltachurch.org.mt

- **How are women represented or not within them?** NO exact info, but catholic women groups exist, such as the Women's Catholic Action and Catholic Women's League. Some of these catholic women's groups are affiliated to the National Council of Women.
- **Do they oppose gender equality in general and in our three issues?**
 General gender equality: ambivalent position
 Non-employment: ambivalent position
 (While women's right to public life is acknowledged, women's role as mothers is exalted in churches and media. Pastoral letters by Maltese bishops stress women's responsibility as wives and mothers while hardly addressing men's involvement as husbands and fathers.)
 Intimate citizenship: traditional/conservative views
 (The Church also communicates strong messages on intimate citizenship issues such as opposition against contraception, abortion, co-habitation, divorce, civil marriage and same sex marriage).
 Gender based violence: do not oppose gender equality regarding this issue
- **What is their preferred model of womanhood?** Ideology of motherhood (domestic & difference)
- **Do they support the other equalities issues?**
 Sexuality: no
 Disability: yes
 Age: yes
 Ethnicity: yes
- **Are they in alliance with any other inequalities or not?** Many civil society organisations in Malta are church-based or have Catholic foundations. Therefore: on the inequalities 'age' and 'disability' and 'ethnicity' this question can be answered positively (YES).
- **Are there any groups organised against certain religious groups?** There are groups that are critical of the Church, like Malta Gay Rights Movement and the Association for Men's Rights Malta

7.3.3 Sexual orientation

- **Are there gay/lesbian/trans/bisexual/queer organisations?** YES, Malta Gay Rights Movement (MGRM).¹⁵⁹ The MGRM is a socio-political non-governmental organisation which has as its central focus the challenges and rights of the Maltese lesbian, gay, bisexual and transgender (LGBT) community.
- **What are their main strategies?**
 - Building autonomous institutions YES
 - Public protest e.g. demonstrations NO
 - Campaigning YES
 - lobbying state YES
 - service provision YES
 - research YES
- **Do they have a national organisation?** YES (again: MGRM)
- **In what way are women engaged in and represented in these organisations?** No exact information, but women are surely active in this organisation. There is no separate lesbian group within the organisation as far as I know, but they pay attention to women/sexual orientation intersectionality.
- **Do they work in alliance with other inequalities or not?** NO, hardly and if: only on an ad-hoc basis
- **Are there any groups organised against gay / lesbian / trans-people?** YES, no groups are specifically organised against them, but LGTB people in Malta do experience opposition from church/church based organisations.

7.3.4 Disability

- **Are there disability organisations?** YES there is the National Commission for Persons with Disability, but this is a semi-state body, so not really a civil society organisation. However, there is also the Federation of Organisations for People with Disabilities which is an umbrella organisation and foremost provides a means of communication between associations, whose aims are to help persons with disability without interfering in the autonomy of the affiliated associations (questions on strategies, see answers below),.

¹⁵⁹ <http://www.maltagayrights.net/>

- What are their main strategies?
 - Building autonomous institutions NO
 - Public protest e.g. demonstrations NO
 - Campaigning YES
 - lobbying state YES
 - service provision No info available
 - research YES
- In what way are women engaged in and represented in these organisations? NO INFO

7.3.5 Age

- Are there organisations of / for older people? YES, the National Council for the Elderly. This is actually a semi-state body institutionally placed under the Ministry of Health, The Elderly and Community Care. It, however, brings together NGO's that work on a voluntary basis to promote and safeguard the interests of elderly persons. At present, there are 18 associations affiliated. The National Council for the Elderly serves as a bridge between the elderly - whether organised or not - and the Government as well as a bridge to other International organisations for the elderly. All members of the council are volunteers.
- What are their main strategies advising state on policies that affect elderly persons.
- How are women engaged in and represented in these organisations? NO INFO

In each case, are there EU, bilateral or other international links?

- Ethnicity/race: The Emigrants' Commission is an operational partner of the UNHCR Branch Office in Rome. The Jesuit Refugee Service (JRS) is embedded in an international network of JRS organisations.
- Religion/belief: the church has international links.
- Sexual orientation: MGRM has an international office and participates in international networks. The MGRM delegates attend conferences and seminars that focus on LGBT, women, youth, and social exclusion (International Gay Lesbian Youth Organisation, Council of Europe, Youth Express Network, Women from Minorities, Erice, ILGA–Europe, British Council and the European Commission). The MGRM will be hosting the ILGA-Europe 2009 annual conference.
- Disability: NO INFO
- Age: No info what exactly are international links.

7.4 Hotspots and Alliances

Is there a history of controversies or 'hotspots' between certain of the intersecting inequalities, rather than others (if so, which)? For example is gender/religion or sexuality/religion a regular source of controversy? Is this hostility best described as endemic or constant, or as occasional and issue based?

There is a rather latent hot spot between religion (Catholic Church) and sexual orientation, where both representative organisations see themselves as in opposition to each other. In this the Church is more vocal against sexual orientation equality and the MGRM has too little resources to engage in very visible controversies.

Do some organisations representing inequalities often form alliances with each other (if so, which)? For example, feminism and trade unions, or feminism and gay/lesbian groups? Are such alliances best characterised as routine and institutionalised, or as ad hoc and issue based?

NO, at least no routine and institutionalised alliances.

WIDER SOCIAL INSTITUTIONS

8. Wider Social Environment

The wider social environment may be important in explaining the resources, whether economic, organisational or discursive, which are available to the political groups and institutions identified above.

Population, economic development, economic inequality and state welfare

	Country	EU
GDP per capita in PPS (Purchasing Power Standards) in 2006 (Malta Statistical Office)¹⁶⁰	18200	
GDP per capita in PPP in 2007 (CIA world fact book)	23200	
Population size 2006 (Eurostat 2006)	0.4	460
% of workforce in agriculture 2003 (World Bank 2006)	-	
Longevity 2005 (World Bank 2005)	79.5	
Gini (measure of economic inequality) 2005 (Eurostat 2007)	28	
% GDP/gov. expenditure on social expenditure 2003 (OECD 2007)	18.3	
% GDP/gov. expenditure on active labour market policies 2003 (OECD 2007)	-	
% GDP/government expenditure on childcare (forthcoming OECD)	-	
% GDP/Government expenditure on military (World Bank 2005)	0.7	

Gender Regime

		Female	Male
Employment rate (2005, Eurostat)¹⁶¹		33.7	73.8
Unemployment rate (2005, Eurostat)¹⁶²	7.3	9	
Share of women in adult labour force % (2004, UN)¹⁶³		31	
Women's share of part-time employment % (2004, UN)¹⁶⁴		-	
Gender pay gap, unadjusted (gap= difference between average gross hourly earnings of male and female employees given as % of average gross hourly earnings of male paid employees, unadjusted form 2005 Eurostat)¹⁶⁵	4		
School enrolment tertiary % gross (2004, World Development Indicators)¹⁶⁶	26.4	30.3	22.7
Women in Parliament % of parliamentary seats in single or lower chamber occupied by women (UN 2007)¹⁶⁷	9.2		
Women's share of legislators and managers % (UN 2005)¹⁶⁸	20		
% one parent families (dependent children)	-		
Mean age at first marriage (Eurostat, 2003)¹⁶⁹		26.5	29

¹⁶⁰ http://www.nso.gov.mt/statdoc/document_file.aspx?id=2088 page 19, accessed on 12 June 2008

¹⁶¹ Employment rates:

http://epp.eurostat.ec.europa.eu/portal/page?_pageid=1996.39140985&_dad=portal&_schema=PORTAL&screen=detailref&language=en&product=STRIND_EMPLOI&root=STRIND_EMPLOI/emploi/em012

http://epp.eurostat.ec.europa.eu/portal/page?_pageid=1996.39140985&_dad=portal&_schema=PORTAL&screen=detailref&language=en&product=STRIND_EMPLOI&root=STRIND_EMPLOI/emploi/em013

¹⁶² Unemployment rates:

http://epp.eurostat.ec.europa.eu/portal/page?_pageid=1996.39140985&_dad=portal&_schema=PORTAL&screen=detailref&language=en&product=STRIND_EMPLOI&root=STRIND_EMPLOI/emploi/em072

http://epp.eurostat.ec.europa.eu/portal/page?_pageid=1996.39140985&_dad=portal&_schema=PORTAL&screen=detailref&language=en&product=STRIND_EMPLOI&root=STRIND_EMPLOI/emploi/em073

¹⁶³ Share of women in adult labour force: percentage of the economically active who are women:

<http://unstats.un.org/unsd/demographic/products/indwm/tab5a.htm>

¹⁶⁴ Women's share part-time employment:

<http://unstats.un.org/unsd/demographic/products/indwm/tab5b.htm>

¹⁶⁵ Gender pay gap:

http://epp.eurostat.ec.europa.eu/portal/page?_pageid=1996.39140985&_dad=portal&_schema=PORTAL&screen=detailref&language=en&product=STRIND_EMPLOI&root=STRIND_EMPLOI/emploi/em030

¹⁶⁶ World Development Indicators, World Bank (September 2006)

¹⁶⁷ Women in parliament:

<http://unstats.un.org/unsd/demographic/products/indwm/tab6a.htm>

¹⁶⁸ Women's share legislators and managers:

<http://unstats.un.org/unsd/demographic/products/indwm/tab5d.htm>

Marriage rate (2003, UN)¹⁷⁰	5.88		
Divorce rate (2003, UN)¹⁷¹	0		
Fertility rate (2004 , World Development Indicators)¹⁷²	1.4		

¹⁶⁹ Mean age at first marriage:
http://epp.eurostat.ec.europa.eu/portal/page?_pageid=1996,39140985&_dad=portal&_schema=PORTAL&screen=detailref&language=en&product=Yearlies_new_population&root=Yearlies_new_population/C/C1/C13/cab11024

¹⁷⁰ Marriage rate, table 23: <http://unstats.un.org/unsd/demographic/products/dyb/dybsets/2003%20DYB.pdf>

¹⁷¹ Divorce rate:
<http://unstats.un.org/unsd/demographic/products/dyb/DYB2003/Table25.pdf>

¹⁷² World Development Indicators, World Bank (September 2006)

9. SUMMARY

9.1 'Deficiencies, deviations and inconsistencies in EU and MS's gender+ equality laws'

	Fully transposed	Before/ after EU	Year	Less, equal to EU, or beyond	ECJ for CEC/Country	EU references
Issues						
1 Equal pay/equal treatment	NO, at least equal treatment goods and services not transposed	After	Several legislative pieces	less	No (not yet)	Yes, but not always
2 Sexual harassment and discrimination	YES, except in field goods and services	After	2004, Equal Treatment in Employment Regulations	Less (goods and services)	No	Yes, but not always
3 Equality bodies Malta: NCPE	YES	after	2004	equal	no	-
4 NGO/civil society dialogue	Not applicable	after		less	no	-
5 Parental leave	YES	after	2003	Equal (private sector) Beyond (public sector)	no	no
6 Organisation of working time (Part-time work Directive)	YES	after	2002 2007	2002: minimum interpretation (using derogation possibilities) 2007: equal	no	no

9.2 Plans and programmes

National general gender equality plan (current)	Yes			No		
Reference to Lisbon targets	X (ETC Gender Unit Gender Equality Plan 2007-2008)			X (NCPE's plan 2004-2006 - new one announced)		
Reference to Barcelona targets				X (both plans)		
Targets and indicators	None	Weak X	Moderate	Strong		

National plan: Gender-based violence (current)	Yes			No X
Targets and indicators	None	Weak	Moderate	Strong

Focus on gender	No	Yes	Weak	Moderate	Strong
Employment plan (general assessment)		X	X	X	
Social protection and social inclusion plan (general assessment)?		X	X	X	
Reference to gender based violence in social protection and inclusion plan		X	X		

9.3 Gender machineries

National gender machineries	Yes (specify date)		No	Notes
	Gender specific	General equality		
Central government gender equality body with senior minister		X (senior Minister with responsibility for equality issues)	X (government equality body within Ministry)	Among other issues, the Minister of MFSS has equality issues in her portfolio, but no ministerial department for equality issues. NCPE is semi-government body
Independent equality body (research, monitoring, and enforcement)	X			NCPE, in 2007 remit is extended to cover equal treatment in goods and services on basis of race. It is expected that the NCPE remit will be further extended in the future to cover all Amsterdam Treaty grounds of discrimination.
National consultative / representative body linking state and women's NGOs			X	
Any other body / bodies. Please name: 1. ETC gender Unit 2. Commission on Domestic Violence	X (ETC gender unit)			

9.4 Policy

	No -Not at all	Yes / Low	Yes / Moderate	Yes / High
General To what extent is gender mainstreamed throughout policies?		X		
Non-employment (4.1)				
Extent to which mothers can be legitimately non-employed				X
Intimate citizenship (4.2)				
Extent to which women have access to abortion (in country of residence)	X			
Extent to which state policies are highly heteronormative				X
Gender-based violence (4.3)				
Extent to which policies on GBV go beyond domestic violence		X		
Strength, resources and co-ordination of GBV policies		X	X	

9.5 Civil society and state interface

	Not at all	Low	Moderate	High
Strength of national co-ordinating gender equality body (centralisation, co-ordination, representativeness, resources)		X		
Extent to which the women's NGOs participate in policy making		X		
Extent to which women's NGOs are close to state			X	
Extent to which women's NGOs engage with intersecting inequalities	X	X		
Extent to which women's NGOs are state funded		X		
Extent of influence of trade union body on policy making		X		
Extent of power of women within trade union body		X		