



Quality in Gender+ Equality Policies

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List of Abbreviations

CAW	Commission for the Advancement of Women
CEDAW	Convention on the Elimination of All forms of discrimination Against Women
CoE	Council of Europe
CSC	Civil Society Committee
DWIS	Department for Women in Society
EC	European Communities
ECHR	European Convention on Human Rights
ECOSOC	Economic and Social Council
EIRA	Employment and Industrial Relations Act
EMWA	Equality for Men and Women Act
EOA	Equal Opportunities (Persons with Disability) Act
ESF	European Social Fund
ETC	Employment & Training Corporation
EU	European Union
EWL	European Women's Lobby
GWU	General Workers Union
ILO	International Labour Organisation
KNPD	Commission on Persons with Disability
MAWB	Malta Association of Women in Business
MCESD	Malta Council for Economic & Social Development
MCWO	Malta Confederation of Women's Organizations
MFSS	Ministry for the Family and Social Solidarity
MGRM	Malta Gay Rights Movement
NAP	National Action Plan
NCPE	National Commission for the Promotion of Equality
NCW	National Council of Women
NGO	Non Governmental Organisation
NSO	National Statistics Office
OPM	Office of the Prime Minister
UHM	Union Haddiema Maghqudin
UN	United Nations
UNDP	United Nations Development Programme
WHO	World Health Organization

1 General gender+ equality policies history

1.1 General timing and content of (gender) equality laws and policies

1.1.1 Gender Equality

For Malta gender issues and gender equality policies are fairly recent. Although women were allowed to vote as of 1947, gender equality was only put on the political agenda in the late eighties. During the national election of 1987 the Maltese political parties for the first time committed themselves to women's equality. This can be deduced from their speeches and their political manifesto's (Miceli, 1994).

First landmarks

It was during the 1987-1992 administration that the first legislative steps were taken. The Constitution was amended to include a prohibition on sex discrimination in Article 45. However, according to the National Commission for the promotion of Equality (NCPE, for more information on this commission see section 2 below), this initial step to amend the Maltese Constitution has afterwards been consistently interpreted as applicable solely to the relationship between the State and the individual. 1989 was an important year for Malta with regard to gender equality. During this year both the advisory body on gender equality policies entitled 'the Commission for the Advancement of Women', the executive Department for Equal Status of Women (in 1999 renamed into 'Department for Women in Society') and a Circular on sex equality by the Office of the Prime Minister (OPM circular no 133/89) that states that equality between men and women should become "an integral part of our culture" were initiated. These initiatives were not a consequence of international influence. In March 1991, the Government of Malta acceded to the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Following the accession, Government departments and semi-governmental organisations were entrusted with the responsibility for implementing the articles of the Convention that fall under their jurisdiction. This was spelled out in Circular no 66/91 by the Office of the Prime Minister dated August 1991 (website ministry MFSS, text on NCPE). The first step that was taken to give support to many of the Convention's articles was the amendment to the Constitution to include the equal right of men and women to enjoy all economic, cultural, civil and political rights (press release CEDAW, WOM/1456, 2004). Another landmark that should be mentioned is the changes made in the civil code, particularly in areas which affect family life. In 1993 the Code

¹ This report is based on the study of literature, direct analyses of policy documents and twelve 1-2 hour interviews with experts of which eleven took place in Malta in the period 19-21 June and one was carried out by telephone on the 25th of June. What is written in this report is solely the responsibility of the author and not of the respondents. The text has not been approved or sanctioned by the respondents. In the annex to this report a list of the names and affiliations of the respondents is included.

was amended to remove discrimination against women in marriage. The undisputed decision makes authority formerly vested in the husband as head of the family appertain to both partners; spouses now have equal rights and responsibilities, joint responsibility for children and can jointly administer any property acquired during marriage. Although developments took place before the start of the QUING research period (1995-2007), the fastest developments seem to have taken place since the EU accession process started.

Gender mainstreaming

Inspired by the 1995 Beijing Platform for action (which Malta signed), the Maltese Government started to implement gender mainstreaming as the main strategic objective to achieve gender equality. During a meeting held on the 8th March 1999 the Cabinet affirmed its commitment to promote gender equality and to adopt the strategy of gender mainstreaming for the achievement of de facto equality for Maltese women. It also approved recommendations made by the Minister for Social Policy for the initiation of concrete action. Following the Cabinet's re-endorsement of gender mainstreaming, the Minister for Social Policy entrusted the national machinery with the task of identifying the methods, mechanisms and tools for the integration of a gender perspective throughout the Public Service, (that is, each Ministry, department and public entity), and to draw up a plan of action for its implementation (Callus and Camilleri, 2000). In 2000, a Circular by the Office of the Prime Minister (OPM circular no 24/2000) on gender mainstreaming was published. During the same year this circular was followed by a manual for action on gender mainstreaming in Malta's public service (Callus and Camilleri, 2000). According to Callus and Camilleri, the Maltese government had already endorsed a form of gender mainstreaming before the Beijing Conference; the Circular 133/89 called for integrating women's concerns in all policies and specifically states that women's issues are to be given due consideration in the drafting of legislation and implementation of government policies. It also recommends that before the drafting of any of the laws, the gender implications of the law should be discussed with the national women's machinery (Callus and Camilleri, 2000). However, endorsing the integration of women's issues by means of a circular does not necessarily mean that the strategy is being implemented in practice.

Equality for Men and Women Act

In the issue specific chapters on non-employment, intimate citizenship and gender-based violence, the (legislative) measures the Maltese government has taken in these fields during the period 1995-2007 and how these measures connect to gender equality issues will be described. In this section I focus only on the general gender (+) equality laws and policies. Next to the three OPM Circulars and the amendment to the constitution and civil code mentioned above, the single most important legislative piece to discuss here is the Equality for Men and Women Act that entered into force in December 2003.

The Act is meant to provide a sound basis for ensuring equality between men and women in all sectors of Maltese society. It is meant to ensure the necessary legal machinery to address all cases of discrimination between women and men in all sectors of Maltese

society (website ministry MFSS, text on NCPE). It covers various provisions including: a definition of what constitutes direct and indirect discrimination, the illegality for banks and financial institutions to discriminate against any person on the basis of sex, discrimination in employment, fair compensation entitlement for participation of spouses in the activities of a self-employed partner, prohibition of gender discrimination with regards to access to all types of vocational guidance and training, sexual harassment at the place of work, prohibition to publish/ display discriminatory advertisements and the establishment of the National Commission for the Promotion of Equality for Men and Women. The provisions relating to the issues of non-employment, intimate citizenship and gender-based violence, such as article 4 on discrimination in employment and article 9 on sexual harassment, will be described in the issue-specific chapters.

How does the Act define what constitutes direct and indirect discrimination on the basis of sex? Sub-article 3 of article 2 defines what is seen as cases of discrimination. This sub-article is not only about discrimination *on the basis of sex* but also about discrimination *on the basis of family responsibilities*. According to article 2(3), discrimination based on sex or because of family responsibilities is:

- (a) The giving of less favourable treatment, directly or indirectly, to men and women on the basis of their sex or because of family responsibilities;
- (b) Treating a woman less favourably for reasons of actual or potential pregnancy or childbirth;
- (c) Treating men and women less favourably on the basis of parenthood, family responsibility or for some other reason related to sex;
- (d) Any treatment based on a provision, criterion or practice which disadvantages a substantially higher proportion of members of one sex unless that provision, criterion or practice is appropriate and necessary and can be justified by objective factors unrelated to sex.

(Equality for Men and Women Act, 2003)

It is provision (d) that defines indirect discrimination. This definition is (almost) literally taken from Council Directive 97/80/EC article 2 which states that indirect discrimination occurs “where an apparently neutral provision, criterion or practice disadvantages a substantially higher proportion of the members of one sex unless that provision, criterion or practice is appropriate and necessary and can be justified by objective factors unrelated to sex.”

The preparation of the Act, initially established with the assistance of the United Nations Development Programme (UNDP), had already started in 1997 when an appointed local committee of experts began to review the Maltese legislation to give an overview of the situation and to prepare proposals and suggestions regarding the legal amendments for the establishment of practical structures of redress to ensure that women enjoy full equality with men before the law. The Committee submitted its report to both the Minister for Social Policy and the Commission for the Advancement of Women in July 1999. Several attempts were made to identify a foreign consultant who would draft the legislation. However, in the end it was decided that a local drafter would be identified through a call for quotations. Dr. Ruth Farrugia applied and was accepted to undertake this assignment. After the Bill (2002) was approved by the Cabinet it was published as a White paper for wider consultation among the

different sectors of Maltese society (NCPE annual reports 2000, 2001, 2002, and 2003). The Act entered into force in December 2003.

National Action Programmes

In its 'strategic policy directions 2004-2006' the NCPE underlines that the EU accession process has highlighted and accelerated the need for legislation and policies to address particular issues that are hampering the promotion of equality; namely, the low participation rate of Maltese women in the labour market when compared to the EU average as well as the very low rate of women in decision-making and representative positions, thus affecting the true democratisation of society. Hence their policy directions are split into a section on 'promoting gender equality in economic life' and one on 'promoting gender equality in representation and civil life'.

Measures that need to be taken to promote gender equality in economic life are:

- a) Providing access to affordable and reliable child care facilities;
- b) Sensitising and encouraging employers and employees to work on work/life balance for both sexes, with reduced hours, job sharing, career breaks, teleworking, and other conditions that offer more flexibility and increased employment opportunities to both men and women;
- c) Promoting lifelong learning and training opportunities;
- d) Encouraging corporate sensibility and realisation of financial worth of loyal female employees;
- e) Reviewing income tax and social benefits to reduce disincentives for women entering labour market;
- f) Reviewing NI provisions (particularly retirement pensions) to benefit married women who are main breadwinners;
- g) Promoting entrepreneurship and self-employment opportunities for women;
- h) 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.

Measures that need to be taken to promote gender equality in representation and civil life are:

- a) 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;
- b) Political parties, trade unions and other social partners should have measures inbuilt in their statutes/regulations to ensure adequate gender representation at executive, decision making and representational levels;
- c) Tackling gender awareness in such areas as university courses, scientific research, medical and other services;
- d) Encouraging NGOs to promote gender equality through their activities
- e) Promoting change of gender roles and eliminating stereotypes through educational and media campaigns based on the local cultural context.

(NCPE, Strategic Policy Directions 2004-2006).

In order to identify shifts in section 1.3 below it is also relevant to recall the priorities for action 1997-2000 that the predecessor of the NCPE, the Commission for the

Advancement for Women, launched after the Beijing World Conference on Women /Platform for Action. These were:

- The mainstreaming of gender equality in all sectors of Maltese society, through the strengthening of the national machinery, education and training on gender equality, and co-ordination with media professionals.
- The increase in the representation of women in decision-making, giving women a more effective voice in Parliament, local councils, political parties, trade unions, public boards and committees, Government delegations, the public service, the judiciary, and in education, employment, health and the economy.
- The reconciliation of family, work and civic responsibilities, through equal opportunities in employment and greater co-ordination between employees, trade unions and NGOs.
- The elimination of violence against women, particularly domestic violence.
- Assisting women to overcome social problems, particularly single parent families, and women with problems related to drugs, alcohol and gambling.
- Continuation of the process of legislative reforms in order to ensure the elimination of gender discrimination.
- Equal access to education and training, with particular reference to the areas of new technologies, and to the mainstreaming of gender equality through the education system.
- Improvement in women's health by giving adequate attention to issues related to women's health such as breast cancer, mental and emotional health and occupational health and safety.
- Co-operation with international organisations, through the effective implementation of international conventions that promote the advancement of women and which have been ratified by the Government of Malta, together with the implementation of the Platform for Action adopted at the Beijing World Conference, and the Plan of Action on Women and Development of the Commonwealth Secretariat, approved in Malta in 1995.
- The implementation, monitoring, and evaluation of the Programme for Action 1997-2000.

(Combined first, second and third national periodic report by Malta to CEDAW, 2002)

The period 2001-2003 is not covered by any action plan. In their periodic report to CEDAW (2002), the government states that the national machinery is in the process of developing a new action plan for the period 2001-2005. This action plan did not materialize, possibly due to the fact that an institutional shift took place at the end of 2003. The NCPE was set up and the former WIS and CAW disappeared. For the period 2007 onwards no new action plan by the NCPE has yet been published. Nevertheless, the ETC (Employment and Training Corporation, part of the Maltese Government) did publish a gender equality action Plan 2005-2007 as a follow up to its first gender equality action plan 2003-2004. However, these action plans are necessarily limited to the promotion of equal opportunities in the Maltese labour market (and will thus be discussed in the issue-specific chapter on non-employment). In February 2007 the NCPE had its annual conference. The executive director of the NCPE (Sina Bugeja) held a presentation which made it clear that at this moment 'family friendly measures' is a top priority in Malta in the field of gender equality.

1.1.2 Other (in)equalities

In general, 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. This lack of attention and awareness is visible in Maltese legislation (the Equality act does not display any awareness of multiple discrimination; only in the field of disability does Malta have a specific Act), in the research conducted and in the lack of public debate. When attention is occasionally paid to issues relating to multiple discrimination and intersectionality then 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: the Commission on Persons with Disability (KNPD), the Jesuit Refugee Service and the NCPE. The NCPE led project should include all grounds of discrimination.

Occasionally in policy documents such as the 'National action plan on poverty and social exclusion 2004-2006' and the 'National action plan on social protection and social inclusion 2006-2008' there is mention of specific intersectional categories. However this is not part of a general/integral policy. More information on discrimination in Malta's constitution and on the other grounds of discrimination is presented below.

General – Discrimination in the Constitution of Malta

Ellul provides some information on the general legal framework on protection against discrimination and the promotion of equality in the Constitution of Malta in the Malta country report drafted for the 'European Network of Legal Experts in the Non-discrimination Field' on measures to combat discrimination in the framework of EU Directives 2000/43/EC and 2000/78/EC. (Ellul, 2005)

Article 45 of the Constitution provides for the protection from discrimination on the basis of race, place of origin, political opinions, colour, creed or sex. The Maltese Courts have held that if there is any other consideration upon which the discrimination is based, besides those mentioned, such discrimination will not be deemed unconstitutional. The Maltese Constitution does not mention the words 'ethnic origin' in Article 45, however one could argue that this may be implied with the words 'race' and 'place of origin'. So far, no cases have been brought before the Maltese Courts wherein it was attempted to interpret the terms 'race' and 'place of origin' as including ethnic origin as well. In part, this omission is remedied by the European Convention Act of 1987, since a person who alleges that he has been deprived of the enjoyment of his/her fundamental rights and freedoms provided for in the Convention on grounds of discrimination may apply to the Maltese Courts for redress. Because the grounds for non-discrimination under Article 14 of the European Convention for Human Rights are merely illustrative, proceedings in respect of alleged discrimination can be instituted on a wider range of grounds than those that could be invoked under Article 45 of the Constitution of Malta (Ellul, 2005, page 4).

Chapter II of the Maltese Constitution lays down a number of principles that according to Article 21 of the Constitution of Malta are not judicially enforceable. These principles cover the right to, and the protection of, work; the right to free education in State schools; the equal rights of men and women; and the right to social assistance and insurance. However, Chapter IV of the Constitution on the other hand, provides for those Fundamental Rights and Freedoms of the Individual in respect of which an aggrieved person may apply to the Court for redress. Article 32 provides that “every person in Malta is entitled to the fundamental rights and freedoms of the individual, that is to say, the right, whatever his race, place of origin, political opinions, colour, creed or sex” subject to the respect of the rights and freedoms of others (Ellul, 2005, page 4)

Sexual orientation

Attard (2005) and Carla Camilleri (2005) and the Malta Gay Rights Movement (2003) all point to the fact that Maltese legislation regarding sexual orientation discrimination is limited only to those fields on which EU Directives exist (Employment). Outside the reach of these Directives, no other legislation to protect homosexuals from discrimination exists. According to Attard, Malta’s accession to the European Union has undoubtedly given a huge impetus to the introduction of equal opportunities legislation and policies. In the context of sexual orientation discrimination, it has resulted in the enactment of the first anti-discrimination measures in the field of employment due to Malta’s obligations under Directive 2000/78/EC. According to Carla Camilleri it is not very surprising that although Malta has implemented the Employment Equality Directive (2000/78/EC) in national law, it does not have any other legislation that recognizes other familial and socio-economic rights for homosexuals that go beyond employment. She argues that this is customary in predominantly religious countries such as Malta (as well as for example in Cyprus and Poland) where homophobic statements by church leaders are common and where the church holds considerable political power. According to the Malta Gay Rights Movement (2003,) in areas beyond the reach of the EU Directive 2000/78/EC discrimination is reflected in the lack of legal recognition of gay and lesbian couples, the heterosexism that permeates every aspect of the educational system, and in the lack of political will shown by authorities in the fight against discrimination.

Disability

In October 2000 the Equal Opportunities (Persons with Disability) Act entered into force (http://docs.justice.gov.mt/lom/legislation/english/leg/vol_13/chapt413.pdf) The Equal Opportunities (Persons with Disability) Act (EOA) has two aims. First, it introduces new measures which seek to end the discrimination disabled people confront in everyday life; the EOA safeguards the civil rights of disabled people in the following key areas: employment, education, goods and services, accommodation, access, and insurance. Secondly, it grants a legal status to the National Commission for Persons with Disability, making it responsible for the implementation of the EOA. Since 1969 (and last amended in 1995), Malta also has had the Persons with Disability (Employment) Act (http://docs.justice.gov.mt/lom/legislation/english/leg/vol_5/chapt210.pdf) to provide for the

employment of persons with disability and for related matters. However, it is not entirely clear how this Act relates to the more recent Equal Opportunities (Persons with Disability) Act, which also covers the field of Employment.

Race/ethnicity, religion, disability, age, sexual orientation

The Equal Treatment in employment regulations (Legal Notice 461 of 2004 , subsidiary legislation to the Employment and Industrial Relations Act and amended by Legal Notices 57 and 338 of 2007 <http://docs.justice.gov.mt/lom/Legislation/English/SubLeg/452/95.pdf>) implement EU Directives 2000/78/EC and 2000/43/EC and make provisions to combat discriminatory treatment (direct and indirect) on the grounds of religion or religious belief, sex, disability, age, sexual orientation, and racial or ethnic origin in relation to employment by laying down minimum requirements.

1.2 Relationship of country (gender) equality policies to EU and CEDAW

1.2.1 EU

In general one can state that the EU had a major impact on developments in the field of gender equality policies during the period 1995-2007. Maltese experts feel that because of the accession process and the subsequent membership of Malta to the EU the issue of gender equality has become a legitimate issue to talk about within the political arena and broader society. Moreover, on several occasions it has been proved that the Maltese government is very sensitive to pressure via EU-channels, especially in the field of non-employment. Legal notice 140 of 2007 and the introduction of legal notice 461 of 2004 (implementing directives 2000/43/EC and 2000/78/EC) are exemplary. Since the EU gender equality acquis is predominantly allocated in the field of employment related issues, this means that the impact of the EU is mostly felt within the QUING field of non-employment. It is mostly in this field that Malta has had to comply with the EU gender related acquis. As a consequence and despite the fact that the EU has heightened the overall awareness and legitimization of the issue of gender in Malta, the whole EU accession process and membership seem to have had a narrowing effect on Malta's gender equality policies. Issues outside work and employment acquired a second-rate status. Another difficulty, probably due to the quite recent accession to the EU, is that expertise within the civil service is not yet on the level that is needed to make implementation of the EU gender acquis that has been transposed into Maltese domestic law successful. Thus, there seem to be disparities between the pace at which Malta has to comply with EU policy in the field of gender equality and the level of awareness and acceptance of these issues.

The importance of the EU in the field of gender equality is underlined in many texts which explain or describe the context in which Maltese legislation relating to gender equality has been initiated, in which reference is made to the EU gender equality acquis and/or to specific EU directives or Treaty articles. This seems especially true in the NCPE-era. To give a few examples: In the information text on the NCPE and the Equality for Men and Woman

Act that can be found on the website of the Ministry for the Family and Social Solidarity (the ministry that is in charge of gender equality policies) reference is made to the long standing commitment of the EU to promoting gender equality. Before any further information is given on the Equality for Men and Women Act, the EU's legal framework in this field is described and it is stated that the Act covers all the aspects included in the EU's legal framework in order to bring Malta in line with the EU acquis. The NCPE's strategic policy directions for the years 2004-2006 make it clear that the EU has accelerated the need for legislation and policies to address certain issues in the field of gender equality, of which the most pressing seems to be the low labour participation rate of Maltese women (Darmanin, 2006).

Malta became an EU-member in May 2004. As from the year 2000, Malta had been a candidate country receiving technical and financial support for the transposition of the Community acquis (European Commission Representation in Malta, history 1964-2004). Apart from the amendment of the Constitution to prohibit gender discrimination, the two circulars by the Office of the Prime Minister (133/89 on sex equality and 66/91 connected to the accession of Malta to the CEDAW Convention) and some changes in the civil code to give both partners in marriage equal say access to and say in economic and other decision-making, all other laws/legislation/policy seems to originate from during the accession period (2000-2004) or during EU membership (from May 2004). In the State of the Art report I already noted that (except for one) none of the titles date from before 1999 and that it seems likely that the process of becoming a member of the EU gave a huge impetus towards writing on gender related issues. I further stated that the distribution of studies that are included in the state of the art report across the three issues (non-employment, intimate citizenship and gendered violence) is very uneven. Most of the studies found relate to the issue of non-employment, whereas only a few were found that relate to the other two issues. This could very well be connected to the fact that the current EU (gender equality) acquis in large part consists of regulations/directives relating to the issue of non-employment.

I also reviewed the official documents by the European Commission and the European Parliament regarding the accession of Malta. Several times the issue of gender equality/equal treatment between men and women and anti-discrimination is mentioned in the 2003 'Comprehensive monitoring report on Malta's preparations for membership' by the European Commission (European Commission, 2003). According to the European Commission in Malta (in the year 2003), further alignment was still needed on equal treatment in matters of occupational social security schemes. The pension age for female and male civil servants had still to be equalised, given that the pension scheme constitutes pay within the meaning of the Treaty and EC case law. Furthermore, in the field of social protection, the activities of the National Commission for Persons with Disability needed to be further developed in order to ensure the enforcement of the various provisions of the Equal Opportunities Act. And concerning anti-discrimination, Malta had not transposed the non-employment aspects of the Race Directive (2000/43/EC) in 2003. Adjustments were also needed to ensure the full transposition of the Directive on equal treatment in employment (2000/78/EC). Moreover, the Equality Body required by the acquis needed to be established (this happened in 2004 when the NCPE was set up). Finally, steps needed to be taken to increase the percentage of people in employment, especially for women and older workers. However, the chapter on social policy and employment of the monitoring report concludes by

stating that 'Malta is essentially meeting the commitments and requirements arising from the accession negotiations in the areas of labour law, equal treatment of women and men, social dialogue, employment policy, social inclusion and social protection and is expected to be in a position to implement this acquis from accession. Alignment with specific aspects of the acquis in the fields of labour law and equal treatment of women and men as well as strengthening of the relevant implementing structures should be pursued' and with regard to anti-discrimination it states that 'enhanced efforts are required in order to ensure full transposition and implementation of the anti-discrimination acquis' (both on page 33, source: http://www.forummalta.gov.mt/Portals/FME/Documents/monitoring_report_2003.doc)

1.2.2 CEDAW

Malta ratified the CEDAW Convention in 1991, making reservations on the following articles: 11, 13, 15 and 16. In July 2004 the first Maltese report to the CEDAW Committee was considered. This was a combined first, second and third periodic report submitted in 2002. Sina Bugeja, the executive Director of the NCPE introduced the report to the Committee. She explained the reservations that Malta had made on various articles as follows: Regarding article 11, the Government interpreted paragraph 1 as not precluding prohibitions, restrictions or conditions on the employment of women in certain areas where that was considered necessary or desirable to protect the health and safety of women or the human foetus. With regard to article 13, the Government reserved the right to continue to apply its tax legislation, which deemed in certain circumstances the income of a married woman to be the income of her husband and as such taxable. The Government reserved the right to apply its social security legislation which, in specific circumstances, made certain benefits payable to the head of the household (presumed to be the husband). Concerning article 15 and property law, she said the Government reserved the right to apply present legislation until such time as the law was reformed. The Government did not consider itself bound by article 16 in so far as it might be interpreted as imposing an obligation on Malta to legalize abortion (press release, CEDAW, WOM/1456, 2004).

However, some of the reservations have already been superseded by changes in legislation made after 1991. Since the Constitution was amended in 1993 to include a prohibition on sex discrimination (article 45), discriminatory legislation has gradually been brought in line with the constitution. Discriminatory provisions have been removed from the Income Tax Act and married women can now opt to be treated as individuals for income tax purposes or alternatively choose to sign the form together with their husbands. Furthermore the Social Security Act has been amended. 'Head of household' is now not automatically deemed to be the husband (questionnaire to the DAW on the implementation of the Beijing Platform for action, 2000). Following the 1996 amendment, the Director of Social Security had the right to designate the official head of household (consideration of the combined initial, second and third periodic reports of Malta, CEDAW/C/SR.663, 2004)

In the aftermath of the consideration of Malta's report a press release was published in which the Committee urges Malta to implement the Convention into Domestic Law. Relating back to the previous section on the EU, in the press release it is stated that one

expert pointed out that European Union legislation and acts are far more limited in scope than the CEDAW Convention (press release, CEDAW, WOM/1456, 2004). In response, Sine Bugeja stated that international treaties did not automatically become part of Maltese law, and that the Convention could not be invoked before the Maltese courts. Malta's constitutional system is modelled on the UK's model and also follows this system in relation to international treaties. Their dualist system in matters of international law means that international treaties in Malta are not self-executing. For international obligation to be given the force of law domestically, they have to be incorporated into domestic legislation. Since Maltese domestic law is in line with the CEDAW provisions (the Committee members do not agree with this judging from the general comments and questions on the Malta report relating to the articles of the Convention) incorporating the Convention into domestic law would be tantamount to replicating provisions in existing legislation (Consideration of the combined initial, second and third periodic reports of Malta, CEDAW/C/SR.663, 2004 + press release WOM/1460).

Maltese citizens could also invoke the European Convention on Human Rights in Maltese courts, along with the right to petition the European court. However, the adoption of the ECHR into Maltese law (European Convention Act, 1987 and amended in 2002 and 2006) had been the exception, not the rule (Press release WOM/1460). Answering a Committee member's question on whether the national report to CEDAW had been formally adopted by government and submitted to Parliament, the delegation of Malta stated that the government had not deemed this necessary since the domestic legislation had already been rigorously screened by the EU and necessary amendments ensuring gender equality had been made. The Maltese government firmly believes that no discriminatory legislation remains (consideration of the combined initial, second and third periodic reports of Malta, CEDAW/C/SR.663, 2004). In her concluding comments, the chairperson emphasises that despite the fact that the commitments to the European Union have a higher priority for Malta, the Convention is legally binding on all state parties and the Committee hoped that Malta would incorporate its provisions in domestic law.

1.3 Major controversies, shifts, and competition between different inequalities

Since the attention and awareness with regard to multiple discrimination/intersectionality issues is rather low in Malta, one cannot yet speak of any real competition between different inequalities. In section 2, when the equality machinery is discussed, it will become clear that Malta does not have a single equality body. It only has a body on disability (KNPD) and one on gender (NCPE). The KNPD has much longer history than the NCPE and is a stronger commission in terms of staffing and funding. However the two bodies do not cooperate much. The NCPE has very recently witnessed a widening of its remit to include 'race'. This might lead in the future to 'race' and 'gender' competing for funding/staffing etc.

In section 1.2.1 on the EU it has already been stated that accession to the EU seems to have brought about a narrowing of gender equality policies, focussing primarily on work and employment related issues and only secondarily on other gender equality issues.

The government and the NCPE claim that a shift has taken place from a gender equality approach that was based exclusively on women's rights, to one that is focused on gender mainstreaming based on a status of equality in opportunity between men and women. OPM Circular 24/2000 on gender mainstreaming describes and sanctions this development (website text ministry MFSS on NCPE and strategic policy directions of NCPE for 2004-2006). However, it is questionable whether this is a real shift in practice or whether it is only a mere rhetorical shift.

From a rhetorical point of view this shift is at least illustrated by changes in the naming of gender equality machinery. The Department of Women in Society (DWIS) and the Commission on the Advancement of Women both carried a reference to only women in their name, while the successor of these two institutions, the National Commission for the Promotion of Equality for Men and Women, refers to both women *and* men. It is remarkable that lately it seems that the addition 'for men and women' is being used to a lesser extent. Even on the NCPE's own website there is reference to the 'National Commission for the Promotion of Equality'. However, the original name as envisaged by the Equality for Men and Women Act is 'National Commission for the Promotion of Equality *for Men and Women*'. This change in the naming of the Commission is possibly connected to the fact that there are plans to broaden the field of operation of the NCPE to include the other grounds of discrimination stipulated in the Treaty of Amsterdam (sexual orientation, age, disability, race/ethnicity and religion). For further information on this, please see section 2.1.2.

If we compare the content of the two action programmes produced by the national machineries quoted in section 1.1.1, it can be noted that the NCPE program (2004-2006) makes an explicit distinction between priorities that relate to gender equality *in economic life* and priorities that relate to gender equality *in representation and civil life*. The number of priorities in the economic field is higher than in the combined representation and civil life areas. In the CAW action programme 1997-2000, only one of the priorities is directly related to gender equality in economic life, namely the priority on reconciliation of family, work and civic responsibilities. Also one priority is dedicated to the increase in representation of women in decision-making. The majority of other priorities in this programme are priorities about prerequisites for the development of gender equality policies, aiming at further development of the national gender equality machinery, education and training on gender equality, a continuation of the process to give women *de jure* equal rights to men by removing discriminatory provisions from national law and through the implementation of international conventions and gender mainstreaming. These are, more or less, all conditions that have to be in place before one really can focus on realizing *de facto* equality in society. In the NCPE programme the importance of the EU in the field is explicitly expressed and this may be one reason explaining the priority attached to economic priorities. Although certain points also seem to have been based upon certain critical remarks Malta received in 2004 (before this action programme was developed) from the CEDAW Committee in reaction to their combined first, second and third national report (for example economic priorities a) and e) and f) and h)). On the whole, the representation and civil life priorities are somewhat more general than the economic one.

A further difference is that while the CAW programme (1997-2000) prioritises the elimination of violence against women (especially domestic violence), the NCPE programme

makes no mention whatsoever of violence against women. A difference is also found in the form of the action programmes. While the CAW program works out every individual priority into goals and strategies, the NCPE programme (at least the one that is publicly accessible) merely lists the priorities without providing any further explanation. The two programmes have in common that they do not conceptualise the issues of gender equality as a consequence of the imbalance of *power* between women and men. They seem devoid of notions of structural power inequalities. Also striking is the wording of economic priority d) of the NCPE programme: “Encouraging corporate sensibility and realisation of financial worth of *loyal* female Employees” (italics added).

Regarding legislation, though the Equality between Men and Women Act of 2003 is important in itself, the introduction of this Act is not regarded as a significant turning point or shift overall. This is partly due to the lack of power of the NCPE and partly because of gaps and neglected issues in the Act. Two other important Acts (important in the field of gender equality though located in the specific issue studies within QUING) were enforced during the period 1995-2007: the Domestic Violence Act of 2006 and the Employment and Industrial Relations Act (EIRA) of 2002. Regarding the Domestic Violence Act, the same feeling seems to prevail; that although the Act in itself means a step forward, it is regarded as insufficiently far reaching and as installing a weak Commission to advise and monitor it. Since the EIRA's focus is much broader than the other aforementioned acts, the main goal served by this act in terms of gender equality is that it started implementing part of the EU gender acquis.

2 History of the development of (gender) equality machinery in government

2.1 Gender equality machinery

The general gender equality body in government in Malta is the National Commission for the Promotion of Equality (for Men and Women) (NCPE) as of 2004. The overall responsibility for policies in the area of gender equality lies with the Minister for the Family and Social Solidarity (In 2004 the Ministry of Social Policy was renamed the 'Ministry for the Family and Social Solidarity'). 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 Commission for the Advancement of Women (CAW) acted as the *advisory* body to the government on gender issues. On the website of the Ministry for the Family and Social Solidarity it is stated that the previous Commission for the Advancement of Women has become the national machinery (in the form of the NCPE) that will act as the national focal point on gender issues. The Department for Women in Society is being absorbed by the NCPE's structure eliminating possible areas of overlap and duplication. The former DWIS and CAW were located within the government (Ministry of Social Policy), while the NCPE is - in accordance with the Equality for Men and Women Act of 2003 which set up the NCPE - supposed to act as an autonomous commission. However, the NCPE is being appointed by the Minister for the Family and Social Solidarity (and not by Parliament for example). The institutional shift from DWIS/CAW to NCPE was an abrupt change in machinery, causing a complete discontinuation in terms of personnel.

In Malta's gender equality history there was only a Minister or State Secretary on women's issues for a very short period. Also for a short period (when the labour party came to government in 1996) there was a parliamentary Secretariat for Women's rights in the Office of the Prime Minister. In completing the picture of Malta's gender equality machinery, mention should be made of the focal points for gender in the government departments. In all government departments and corporations gender focal points have been appointed since 1991 (established by OPM Circular 66/91). They are supposed to include in their department's annual report a section on progress concerning initiatives that were taken regarding gender equality. By means of workshops held at several points in time for these focal points, they received instruction on how to draw up these reports (Department Equal Status of Women, annual report 1997). Some annual reports by the equality machinery mention how many of these reports are received. It can be concluded that only a selection of the gender focal points actually wrote such a section. The gender focal point has been strengthened; now each Ministry also has a Gender Committee that is supposed to consider gender mainstreaming. In such a Committee, representatives from different departments within the Ministry are members.

In the Equality for Men and Women Act the functions of the NCPE are listed in article 12(1). These are:

1. To identify, establish and update all policies directly or indirectly related to issues of equality between men and women;
2. To identify the needs of persons who are disadvantaged by reasons of their sex and to take such steps within its power and to propose appropriate measures in order to cater for such needs in the widest manner possible;
3. To monitor the implementation of national policies with respect to the promotion of equality between men and women;
4. To liaise between and ensure the necessary co-ordination between government departments and other agencies in the implementation of measures, services or initiatives proposed by Government or the Commission from time to time;
5. 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;
6. To work towards the elimination of discrimination between men and women;
7. To carry out general investigations with a view to determine whether the provisions of this Act are being complied with;
8. To investigate complains of a more particular or individual character to determine whether the provisions of this Act are being contravened with respect to the complainant and, where deemed appropriate, to mediate with regard to such complaints;
9. 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 responsible for Social Policy;
10. To provide, where and as appropriate, assistance to persons suffering from discrimination in enforcing their rights under this Act;
11. To keep under review the working of this Act, and where deemed required, at the request of the Minister responsible for Social Policy or otherwise, submit proposals for its amendment or substitution;
12. 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 responsible for Social Policy.

In certain specific issue fields there are bodies that may be counted as parts of the gender equality machinery. In the area of employment, the Employment and Training Corporation (ETC) has a gender Unit. The ETC falls under the Ministry of Education, Youth and Employment. The Unit strives to work in the area of gender and employment to improve the situation of equality between men and women in the workplace and increase female labour market participation. This is done through a number of initiatives and projects. Among these one finds a number of training sessions, research projects and media campaigns. The ETC gender Unit occasionally works together with the NCPE. In the field of gender based violence a Domestic Violence Unit (DVU) and a Commission on Domestic Violence operate. When the Domestic Violence Act entered into force (2006), the Commission on Domestic Violence was founded as decided by article 3 of this Act. The Domestic Violence Unit was set up in

1994. The issue of domestic violence falls within the responsibility of the Minister of The Family and Social Solidarity. The members of the Domestic Violence Commission are appointed by the Minister for Social Policy. The function of the Commission is to advise the Minister on all aspects of domestic violence. The Act lists the most relevant aspects on which the Commission is to advise.

2.2 Government institutions for other (in)equalities

The National Commission Persons with Disability (KNPD) was established in November 1987 through a parliamentary statement by the Hon Dr Louis Galea, Minister for Social Policy. Thus, the KNPD existed long before the NCPE (and also before the DWIS and CAW). The NCPE was set up by using a similar organizational 'blueprint' or structure as the KNPD. The KNPD is charged with the promotion of equality of opportunity of disabled persons and with implementing the Equal Opportunities (persons with disability) Act. The Equal Opportunity Compliance Unit investigates allegations of discrimination on the basis of disability. Further responsibilities of the Commission are outlined in the Equal Opportunities (Persons with disability) Act of 2000.

As yet there is no designated body in Malta to address the issue of multiple discrimination. According to Xuereb, the government has proposed a single National Commission for Equality (Xuereb, 2005). It is being envisaged that the NCPE will be broadened in the future to include not only discrimination based on sex and family responsibilities in all sectors and at all levels of Maltese society, but also the other grounds stipulated in the Treaty of Amsterdam (sexual orientation, age, disability, race/ethnicity and religion). Changing the NCPE into a single body covering *all grounds* of discrimination has not yet occurred though very recently the 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 in the provision of goods and services. The Legal Notice appoints the NCPE as the entity responsible for reviewing the working of the provisions of this Legal Notice. The legal notice was adopted with the aim to implement certain provisions of Directive 2000/43/EC. It is quite possible that this is the first step in the process of forming one single equality body covering all grounds of discrimination. The impact of this change on the tasks and resources of the NCPE is not yet clear. Also, the NCPE at this moment does not have any expertise in the field of race.

In conclusion, Malta does not have a single overarching equality body. It has the NCPE that until recently only covered gender, but in future will also cover discrimination on the basis of race (in certain specified areas). There is also the KNPD covering disability. There are no bodies that cover the other (in)equality grounds such as sexual orientation. Cooperation between NCPE and KNPD has thus far been minimal.

2.3 Position of the (gender) equality machinery in government

Although the Equality between Men and Women Act of 2003 does provide the new equality machinery (NCPE) with a legal basis (which was not previously the case), it is quite difficult to establish whether the gender equality machinery in the form of NCPE is now stronger compared to the former structure of the executive Department for Women in Society and the advisory Commission for the Advancement of Women. While the DWIS and CAW could not operate autonomously (without prior approval by Ministry and OPM) the advantage was that as a government department the DWIS was an insider and was invited to important (cabinet) meetings. The structure of the NCPE provides for more independence from the government. The National Commission for the Promotion of Equality for Men and Women is clearly intended by law to act autonomously, as it is declared to have a legal personality separate from Government. However, for funding and staffing it is dependent on the government and the Commissioners are still political appointees (appointed by the Minister for the Family and Social Solidarity). Moreover, the Equality for Men and Women Act of 2003 envisages close co-operation between the Commission and the Government. Article 12 (1)(l) of the Act states that the Commission shall “perform such other functions as may be assigned by this or any other Act or such other function as may be assigned by the Minister”.

Compared to the Commission on persons with disability, the NCPE receives much less funding and staffing. This makes it necessary to get as much additional EU funding as possible. From the annual reports of the previous body, the DWIS, one can conclude that they were also understaffed/ underfunded. The fact that the NCPE is now able to apply for a lot of EU funding for projects may thus be seen as an advantage not available to the DWIS. However, some experts feel that EU funding for projects is not soul-saving; the NCPE can only hire extra staff for the duration of projects but they actually need more permanent staff to fulfil their tasks (like handling complaints). Also some experts feel that EU money is not always money well spent because projects are being funded that are not always the most useful ones in that they are judged to add little to what is already known. A last notable problem related to the functioning of the NCPE is the scarcity of suitable, qualified human resources (Xuereb, 2005)

2.4 Malta's Women's Movement and NGO's

The first women's movement in Malta dates from 1944. It was called 'Women of Malta Association' and it disappeared after two years when they realised their aim of attaining a legal right for women to vote and be elected. It was only in 1964, immediately following Malta's independence from the UK, that the National Council of Women (NCW) was set up. This is the only women's group that survives until today. In the meantime women's organizations have risen sporadically only to disappear again quietly (a few of those are mentioned in the issue histories on the three issues). This left the NCW standing alone as an umbrella organization (Camilleri-Cassar, 2005) until September 2004 when another umbrella

women's organization was set up, the Malta Confederation of Women's Organizations (MCWO). As a full member they represent Malta in the European Women's Lobby.

In general, Malta's women's movement is not really strong, loud, or radical. More radical feminist positions are mostly represented by individual researchers, who do not organize themselves as such. In a small community like Malta it seems to be more difficult to behave differently and organize. The NCW is given quite a lot of standing and voice, possibly due to its long existence and the fact that for long periods of time they were the only women's group, but also due to the fact that they are seen as politically close (pro-government) to the Nationalist Party which have been in government during the 1995-2007 period (except for 18 months in 1996-1998). It is also the women's group with the most secure funding. The funding of women's organizations by government is not transparent and seems to vary greatly between different organizations. The Malta Confederation for Women's Movements receives so little funding that they have not yet been able to even set up their own website and have to ask the EU for funding in order to be able to write shadow reports since the Maltese government does not finance such things.

Shifting the attention to NGOs and the broader civil society of Malta, the status of NGOs is rather weak in Malta. At present NGOs are not regulated by any legislation in Malta and all NGOs have the status of foundation or voluntary organization. Legislation is currently being prepared by government (Ministry for the Family and Social Solidarity) that should provide a legal basis for NGOs, providing for rules on accountability and for the setting up of a register of NGOs. This legal basis would, among other things, enable NGOs to apply for EU funding which they cannot apply for currently because they lack such legal status.

In July 2005, the White Paper titled 'Strengthening the Voluntary Sector' (Ministry for the Family and Social Solidarity, 2005) was published. Although the Ministry itself talks about NGOs, the term used in the draft Bill included in this white paper prefers the term 'voluntary organization' over non-governmental organization. Legislation has long been in the pipeline and women's organizations in particular have contributed to government 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 and which encourages public support for them. In Malta, a majority of the existing NGOs are church related and they generally have more funds than non-church affiliated NGOs. It is possible that the new legislation will work out negatively for the church affiliated NGOs; being the biggest fundraisers, they generally do not perform so well on accountability. Under the new law they will have to comply with accountability rules.

In relation to the local gay, lesbian and bisexual (LGB) community, Attard (2005) observes that it is slowly starting to organize itself into a lobby that pushes for legislative changes. A report by the Malta Gay Rights Movement (MGRM) states that it is only recently that the local gay community has started to make its voice heard on a united front, as the tight fist of prejudice starts loosening its grip and gays and lesbians increasingly find courage to talk publicly about their homosexuality.

2.5 Tools or instruments to implement, monitor and evaluate equalities policies

2.5.1 Gender impact assessment/ gender mainstreaming

From 1999 the Maltese government began implementation of gender mainstreaming, along with the necessary prerequisites to this strategy such as the use of gender impact assessments in the policy-making process. In 1999 the first impact assessments were carried out on three bills. One relating to the establishment of the Tourism Authority, one relating to equal opportunities for people with a disability and one relating to the establishment of an occupational health and safety authority (Beijing + 5 questionnaire to DAW on the implementation of Beijing Platform, June 2000). The Beijing + 5 questionnaire to DAW states that gender impact assessment will be further refined to become an integral part of the formulation and analysis of all law, policies, and programmes.

However, what happened after 2000? In November 2000 a rather ambitious manual for action was published on gender mainstreaming in the Malta public service on behalf of the Commission for the Advancement of women (Callus and Camilleri, 2000). One section of this manual contains guidelines on gender impact assessments (only 3 pages). In the manual and in the Circular on gender mainstreaming (No 24/2000), it is decided that gender mainstreaming as a strategy should be implemented over a period of 5 years starting from 2000. The manual for action does not propose any structural measures and monitoring/ follow-up mechanisms to be taken with regard to the instrument of gender impact assessment in this period.

In the document considering Malta's (combined first, second and third) national report to CEDAW (CEDAW, 2004) the Maltese delegation, responding to questions of the Committee, states that "gender mainstreaming targets had *so far* been introduced in *specific ministries*" (p. 3, italics added) and that a series of workshops and trainings on gender mainstreaming and gender impact assessment had been organised for government officials of middle and senior management level. The government had also reiterated its commitment to gender mainstreaming in 1999. One can, however, wonder whether the mere reiterating of commitments by government and the intention on paper (circular on gender mainstreaming no 24/2000 and the manual for action) to make all public officials at all levels and in all government departments and entities accountable for the implementation of gender mainstreaming is sufficient to having the strategy implemented *de facto*.

While in the NCPE's Strategic Policy Directive 2004-2006 one priority is 'the development of structures for the mainstreaming of gender equality in all areas and at all levels of the public administration', there are no mechanisms or measures specified to implement this priority. There has been training on gender impact assessment; however the training does not have a structural but rather an ad hoc character. Moreover, the knowledge received through training is hardly used. The few impact assessments that have been executed were mostly exercises. The Commission on Advancement for Women executed them on their own initiative (Department for Women in Society, annual report 1999). It has not represented the start of structurally using and applying impact assessments.

Recently there has been some important activity with regard to gender impact assessment. At the end of this year a gender audit of Maltese legislation will be finished. The

specific objectives of the audit are: to embed the principle of gender mainstreaming in the selected Codes and Acts of Maltese Legislation (among them social security and taxation, criminal, civil and family legislation); to align Maltese legislation with the principles laid down in the EU Directives; to lay the foundations for an increase in female participation in society in general, particularly in the labour market; and to sensitise legislators, providers of legal services and human resource managers to the principles of gender equality and gender mainstreaming. The audit report will outline improvements that can be effected to the current set of legislation, and will table recommendations for the amendment of the Codes and Acts under review. The audit was commissioned by the NCPE in the framework of the ESF funded project (no. 46) titled 'the gender aspect from a legal perspective'.

2.5.2 Gender budgeting

The term 'gender budgeting' itself is not in use in Maltese documents on gender equality policies. While government officers have received training on gender budgeting in the past, it is not being used in practice.

2.5.3 Monitoring/evaluation

On the national level, the manual for action on gender mainstreaming (Callus and Camilleri, 2000) demands annual monitoring not only by the national machinery but also by every public department/ministry. However, this manual for action is not binding and in that sense it should be analysed whether these proposals for action are really implemented in practice. From the annual reports by the Department Equal Status of Women/ Women in Society, one can deduce that only a selection of the gender focal points actually wrote a gender section in the departments' annual reports; the reports by the gender focal points are also not made public by the gender equality machinery. See also below under 'international reporting/evaluation.

2.5.4 Gender segregated statistics

In the manual for action on gender mainstreaming, the prerequisites for successful implementation of the gender mainstreaming strategy are described. One of the prerequisites identified is the availability of sex-disaggregated data and statistics (Callus and Camilleri, 2000, p.10). One proposal for action recommended by the manual is that the National Statistics Office (NSO) publishes annual statistics on women and men in Malta. In addition to those areas currently dealt with by the NSO, the information should also address new spheres, for instance, that of women in decision-making (politics, public service and public bodies). Furthermore, important information in relation to the effective implementation of gender mainstreaming is to be made available to the national machinery on gender equality, by the NSO, and to all government departments/public entities, as necessary (Callus and Camilleri, 2000)

Looking at the 'Malta in figures' publications of the NSO it seems that not all variables are (in the published reports) sex disaggregated. Even on variables that have an obvious

gender dimension, such as 'persons receiving pensions/assistance' or 'social benefits payable under the Social Security Act', the data are not disaggregated by sex (Malta in figures, 2005 http://www.nso.gov.mt/statdoc/document_file.aspx?id=1970). There is no annual statistics report on women and men as proposed by the manual for action on gender mainstreaming, although all data collected by the (NSO) is now gathered according to guidelines issued by Eurostat that are applicable to all EU members. This means that all data is sex-disaggregated. From the annual reports by the gender machinery it is clear that they had pressed for gender disaggregated data for long time. In the end, the NSO changed overnight in order to produce gender segregated statistics to comply with the Eurostat guidelines. In the Beijing + 10 report mention is made of the fact that policy and planning targeting the different sexes and based on sex-disaggregated data is predominant in the education, health, employment and social policy sectors.

2.5.5 International reporting/ evaluation

In 1991 Malta ratified the CEDAW Convention (with reservations on articles 11, 13, 15, and 16). It did not ratify the optional protocol to the convention. The government is supposed to report periodically to the CEDAW Committee (every 4 years) on all measures that were implemented in the previous years in order to comply with the CEDAW Convention. So far, only one combined first, second and third report has been submitted by Malta to the CEDAW Committee in 2002. After its consideration of the Malta report a press release was published in which the Committee urged Malta to incorporate the Convention into domestic law (CEDAW, Press Release WOM/1456, 2004).

The Maltese government answered 2 questionnaires (asked for by DAW) on progress in implementing the Beijing Platform for Action (Beijing plus five in 2000 and Beijing plus 10 in 2004/2005).

Malta has also evaluated its gender equality policies (occasionally) in the framework of the implementation of the Commonwealth's Plan of Action on Gender and Development (1995-2000) and its update (2000-2005) (Answer by Malta to the questionnaire progress on implementation of Beijing platform for action and the commonwealth plan of action on gender and development and its update, 2003).

2.6 The presence or absence of systematic consultation with civil society

Consistent with what has been written in section 2.3, the role of NGOs in Malta is not particularly strong. If the draft Voluntary organizations act is enacted, then this might change in the future. Because of the relevance that the EU attaches to consultation, Malta has been trying to enhance its consultation processes in recent years. However, consultation processes in Malta are not very transparent processes. On white papers there are always consultation rounds. While everybody is free to respond, only some NGOs, experts and professionals are formally asked to provide recommendations and the criteria for their

selection are unclear. Some groups/people respond only through the media. Usually no list of respondents is drawn up and responses are not gathered and published together as a public document. Sometimes the time taken for consultation is so short that it cannot properly be called a consultation process. This was, for example, the case with the Equality between Men and Women Act. Small feminist groups were unable to muster enough power to have their position heard during the brief period allowed for consultation. Only the National Council of Women was able to do so (Darmanin, 2006).

In the Beijing + 5 Report by Malta it is explicitly stated that the role of NGOs in post-Beijing action in Malta has been minimal. The NGOs mostly involved in women's issues are those which provide assistance to the support lines for women and children who are victims of abuse and religious organisations that provide shelter for these victims. The report states that in general there is much scope for further fostering of collaboration between the government and civil society in Malta.

The size of Malta also probably influences consultation processes and the extent to which citizens can express radical voices/positions. Because of Malta's size informal networks between governmental actors and civil society are easily established. This means that consultation in Malta partly takes place via informal channels which cannot be easily traced by researchers. Further, several of the respondents I interviewed mentioned that being radical in such a small country is not very easy because it is impossible to stay anonymous. Despite this fact in Malta there is currently a quite radical group active called 'citizen's for a better environment' which is challenging the Maltese government because they do not agree with the 'sham' consultation processes that take place in Malta. They feel that most of the time many important stakeholders/communities are not heard at all.

Within government some entities/bodies do exist that could be seen as providing an arena for consultation. The Malta Council for Economic and Social Development Act (2001) provides for the setting up of a Civil Society Committee (CSC) within the Malta Council for Economic and Social Development (MCESD). The CSC is made up of a core representation of civil society which must include at least the chairpersons of the following organisations: the Local Councils' Association, the National Youth Council, the National Council for the Elderly, the Consumers' Association, the National Commission for Persons with Disability and the National Council for the Promotion of Equality between men and women (NCPE). Based on recommendations by the CSC, the MCESD approved the inclusion of the following NGOs to sit on the CSC: The Federation of Professional Bodies, The National Council of Women, Alliance of Pensioners' Organizations, a representative of the island of Gozo, and a representative of the Environmental Groups. Other NGOs may be invited to sit on the CSC. To date there are no organisations working for the rights of gay, lesbian or bisexual persons on the CSC. Furthermore, there are various statutory bodies which (though not specifically created to promote social dialogue) contribute towards social dialogue by virtue of their composition. Such bodies are composed of, for example, representatives of government, the employers and the employees (Ellul, 2005)

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1 Non-employment

1.1 Introduction

Within the welfare regime typology, Malta could be typified as an example of a southern model of welfare or 'Latin rim'. State provisions are traditionally marginal, while the family is essential for meeting social needs. The large extent to which one is dependent on the family and especially on women for care is referred to as 'familialism'. The relation between familialism and low female labour participation rates is strong and also relates to the particular historical developments of the Roman Catholic discourses on these matters (Darmanin, 2006).

The vast majority of changes that have taken place during the QUING research period in Malta's gender equality policies are located in the field of (non)employment. Most of these changes seem to have been made in order to comply with international legislation and obligations, primarily from the EU. Whether these changes are actually backed by the cultural and religious beliefs prevailing in Malta is, however, questionable. The influence of the Maltese (state) Church and its teachings and messages on the ideology of motherhood and on women's role in the family are quite strong in the field of social policy, together with traditional male-breadwinner model ideas. Although the Maltese state changes the legislation by introducing certain family-friendly measures, introducing protection measures/benefits for part-timers and tax-benefits that encourage women to take part on the labour market, the cultural and religious value systems nevertheless seem ever present and the government seems to take a rather ambivalent position.

In recent years, getting more women into the labour market has become a top priority in Malta. However, despite the legislative measures taken by the government, particularly in the period after 2000, no significant increase in the female participation rate can be observed. The level stays around 33% (ETC, 2007). It thus seems that major obstacles are still in place. Camilleri-Cassar concludes in her book 'gender equality in Maltese social policy? Graduate women and the male breadwinner model' that: "despite Malta's legal framework and apparent ideology from the top, the detail of family law and social security in Malta seem to show a government that is much more committed to tradition than appears on the surface" (Camilleri-Cassar, 2005, p. 61). The same impression was created in the interviews I conducted with several experts in Malta. Because the government does not explicitly distance itself from traditional (church) messages, the state's effort to get more women to work is rather 'half hearted' (women and men get mixed messages all the time). Resistance on the part of the state to address cultural ideas (strong male breadwinner model) and structural disadvantages for women seems to keep substantive development from taking place. According to Camilleri-Cassar the role of fathers and their need for time to care is neither accepted nor recognised as of yet in Malta. Rather than promoting gender

² The writer of this report does not master the Maltese language. However, Malta's Parliamentary documents are available on the Parliament's website in Maltese only. This means that in the timelines on all three issues no such documents could yet be included. Further action will be taken to include them.

equality, parental leave and care benefits that exclude entitlements to national insurance contributions and which offer no compensation to lost income discourage men's share in time-to-care benefits and at the same time reinforce women's traditional role and dependence on men. The Maltese family-friendly policies are drawn up with women in mind (Camilleri-Cassar, 2005). In her opinion, despite the fact that Malta seems to adopt a strategy to integrate women in the labour market, the family-friendly policies that are introduced merely seem to strengthen traditional gender roles and encourage men's *non*-involvement in unpaid care obligations. Malta remains without any provision regarding state funded child care, a sexist culture persists and measures to ensure equal sharing of familial obligations between men and women are virtually non-existent.

I include the above introduction because I think that it is important to provide some context before starting with the time-line which merely sums up what has happened with regard to policy-making and legislation in the field of non-employment for the years 1995-2007. It is also notable that there is a rather low number of civil society/NGO/consultation texts included in the timeline below. While this could be caused by an absence of systematic consultation procedures or consultation tradition, it is very likely that in such a small country as Malta the biggest share of consultation, networking and interaction between government agencies and civil society takes place informally. This makes it hard for outsiders to trace interactions between government and civil society in the form of paper documents that are also publicly accessible.

In the following paragraphs the relative relevance and presence of the sub issues studied within the broader field of non-employment is discussed.

Starting with the presence of the sub issue of ***reconciliation of work and family life*** within the QUING research period (1995-2007), this is one of the (if not the most) prevalent issue in the field of non-employment. The EU accession process and membership and the obligation to implement EU law and policies that derive from this, added to the fact that Malta is one of the worst achievers with regard to the overall employment rate in general and the female employment rate in particular³, has put much pressure on Malta to introduce legislation in this field. The focus of Maltese gender equality policies during the QUING period lies primarily on getting women (back) into the labour market (however, see my remarks in the introduction paragraph above on the way this is done and on the strong male breadwinner culture that still prevails in Malta). In recent years several important legal notices and acts (such as the Employment and Industrial Relations Act) have been enacted to better protect part-time workers and to introduce family-friendly measures, also for employees working in the private sector. Nevertheless, one can still witness a major divide between the possibilities/ measures available for the private and the public sector. This can be seen in looking at the options for parental leave for example (since 2003 maternity leave is the same for public and private employees): in the private sector employees are entitled to three months unpaid parental

³ To give an example of this pressure: In 2001 the European Union set a road map for Maltese economic and social policy with regard to preparation for accession (Ministry of Foreign Affairs. 2001. Malta: National programme for the adaptation of the *acquis*) in which it was underlined that a coordinated effort is needed from Malta to reach the employment targets set by the EU for the member states. In the Lisbon strategy league, Malta takes the 27th place (Darmenin, 2006).

leave for each child under the age of 8; in the public sector one is entitled to one year unpaid parental leave for each child until they are 6 years of age, a five year career break until the child is 6 and the possibility of working reduced hours until the child is 12 years of age.

After the sub issue of reconciliation of work and family life, the sub issue of **tax-benefit policies** has most relevance during the QUING research period. Several measures in the field of tax-benefit policies have been taken to make it more attractive for women to enter the labour market or to return to the labour market, especially during the most recent years of the research period (2005-2007). Most important in this regard were the new pension scheme (2006) Legal notice 317 of 2005 (Equal treatment in occupational social security schemes regulations), Legal Notice 105 of 2005 (Part-time work (amendment) Rules), Legal Notice 110 of 2005 (Tax Credit (Women Returning to Employment) Rules), and Legal Notice 140 of 2007 (Part-time Employees (Amendment) Regulations).

The sub issue of **care work and informal work**, together with 'equal pay' and 'access to the labour market', are less present during the years 1995-2007. No extensive debates or discussions have taken place. However, if 'child care' is subsumed under this heading, then the issue is present to a greater degree. Child care seems to be a major point of discussion and debate in Malta. It was raised by the majority of respondents that were interviewed as a priority issue. So far, Malta has no legislation on child care. Recently, only some standards on the quality that should be offered by child centres have been launched. Major problems that exist around childcare such as a lack of centres, opening hours (a lot of the centres only open during morning hours), possible state funding of childcare (or making it income-dependent) have not been settled up until this time. At the same time, Maltese people seem to distrust child care centres, preferring parents or grandparents to take care of children. Since 1973 there has been a child allowance in Malta (which became means tested in 1996), making it more viable for women not to be active on the labour market. Such allowance can be seen as an indirect way of paying for motherhood, since it is the only non-contributory benefit (the right is not derived from being a worker on the formal labour market and paying national insurance) that is given to care workers/mothers. However, since it is family-based and means tested it cannot properly be interpreted as an income that the carer/mother receives. Apart from this child allowance (that best approaches some sort of payment for care-work), only employees working on the formal labour market are entitled to leave for care-work, although this is unpaid (except for maternity benefit). The terms 'domestic work' or 'care work' are hardly used in Malta. Terms like 'inactive women' are much more prevalent, pointing to the fact that the focus during the QUING period is primarily on getting women (back) into the labour market. Informal work is not politicized in Malta. Although central actors like the big trade unions and the ETC (see section on 'actors' below) are aware of the fact that these workers lack protection and that the majority of them are women, it has so far not been considered a priority issue. However, the ETC (gender unit) is planning to set up a campaign in the near future on the dangers and pitfalls of informal work. Hardly any research has been done on informal work and care work/domestic work in Malta.

The sub issue of **equal pay/gender pay gap** almost seems to be a non-issue in Malta, although renewed attention is to be expected now that the NCPE has conducted an extensive study on gendered pay in the framework of an ESF funded project. There is a lot of confusion on the size of the pay gap in Malta. According to NSO the gender pay gap for Malta in 2005 stood at 3,3 % while according to the recent study by the NCPE carried out in 2006 (see timeline) the gap is 23,2%. Notwithstanding the different methodological approaches that were used which could have caused part of this divergence, it is possible that these greatly diverging percentages prevent the issue from being put on the policy agenda and obscure equal pay problems. Most developments regarding equal pay in Maltese legislation took place before the start of the QUING research period. It is only in the Employment and Industrial Relations Act (EIRA) from 2002 that attention is again paid to the principle of equal pay. The Act defines the concept of equal pay for work of equal value as 'same class of employment = same rate of remuneration'. In this way Malta transposes Directive 75/117/EC on Equal Pay into national law. However, according to the National Council of Women no mechanisms to ensure the principle of equal pay for work of equal value are established in the EIRA. And according to Camilleri-Cassar, equal pay is an example of an issue where rights and practice do not seem to coincide; equal pay legislation seems to have made little impact on wage differentials (Camilleri-Cassar, 2005). Apart from the NCPE 2006 study on gendered pay, hardly any study has been done on equal pay in Malta. In their work, the two big Maltese trade Unions always make sure that equal remuneration takes place.

Although I feel that the sub issue of **access to the labour market** partly overlaps with the reconciliation and tax-benefit sub issues, only a few legislative changes took place during the period 1995-2007 that could be subsumed under the heading of 'access to the labour market'. These changes derived from Malta's obligation to transpose EU Directives 2000/78/EC and 2000/43EC into domestic law. Most important in this respect is legal notice 461 of 2004 (Equal Treatment in Employment Regulations) which lays down the minimum required provisions to combat discriminatory treatment (direct and indirect) on the grounds of religion or religious belief, sex, disability, age, sexual orientation, and racial or ethnic origin in relation to employment. In 2000, the equal opportunities (persons with disability) act entered into force which also covers discrimination on the basis of disability in employment and access to employment.

1.2 Description of relevant actors in the field

1.2.1 Government

Ministry for the Family and Social Solidarity (MFSS) This is the most important Ministry acting in this issue field. Among other things the Ministry is responsible for social policy and social security, family policy and (gender) equality. The National Commission on Welfare Reform, the National Commission Persons with Disability, the National Commission for the Promotion of Equality for Men and Women, and the National Family Commission are all appointed by this Ministry <http://www.mfss.gov.mt/>

National Commission for the Promotion of Equality for Men and Women (NCPE) The National Commission for the Promotion of Equality (NCPE) is an autonomous body that was set up in January 2004. The primary task of NCPE is to monitor the implementation of the Act to Promote Equality for Men and Women that came into force in December 2003, and to promote equality in spheres where it may be lacking. www.equality.gov.mt

Ministry of Education, Youth and Employment (MEYE) This Ministry is, among other things, responsible for Employment and Training, Industrial and Employment Relations, and Occupational Health and Safety. The Employment and Training Corporation (which has a gender unit) and the Industrial Tribunal are appointed by this Ministry. <http://www.education.gov.mt>

Employment and Training Corporation (Gender Unit) (ETC) The Employment and Training Corporation is Malta's Public Employment Service and was set up by an Act of Parliament on August 7 1990 with the objectives to provide and maintain an employment service, to find suitable employment and to assist employers to find suitable employees, and to provide a training service to clients seeking new jobs and to clients already employed but wanting to improve their knowledge and skills. Within the ETC a Gender Unit exists (since 2002). The Gender Unit at ETC is made up of two persons who work to promote gender equality in the workplace and increase the female participation rate in the local labour market through employment and training initiatives, awareness campaigns, promotion of gender mainstreaming, the publication of gender equality action plans and research projects. So far, the ETC Gender Unit has published three gender equality action plans. The ETC (gender unit) is also very active in the field of childcare. It runs a website on quality childcare in Malta, is involved in childcare campaigns, and has its own childcare centre. www.etc.gov.mt

Office of the Prime Minister (OPM) The Prime Minister of Malta is both the head of government and a minister in his own right with portfolio responsibilities for strategic matters such as the Public Service, defence, EU matters including the management of EU pre-accession and structural funds and planning and priorities coordination. Most of these portfolio responsibilities are administered through the Office of the Prime Minister, commonly known as OPM. OPM's mission is to support the Prime Minister in providing leadership and direction for a stable and effective government. OPM is the hub and nerve centre of the Government. It plays a central role in decision-making and it is also the administrative headquarters of the Government. The Malta Council for Economic and Social Development is appointed by the OPM. The OPM publishes policy statements by means of OPM circulars. <http://www.opm.gov.mt>

Two other ministries are sometimes involved:

Ministry of Finance (MFIN) This Ministry is, among other things, responsible for the budget, finance, economic policy (Malta does not have a separate Ministry for Economic affairs) and taxes. <http://mfin.gov.mt/>

Ministry for Competitiveness and Communications (MCMP) This Ministry is the lead Ministry for two Councils of the EU formations, the Competitiveness Council and the Transport, Telecommunications and Energy (TTE) Council. The creation of the Competitiveness Council in June 2002, through the merging of three previous configurations (Internal Market, Industry and Research), was a response to the perceived need for a more coherent and better coordinated handling of these matters related to the European Union's competitiveness. In the framework of the European Employment Strategy this Ministry has drawn up Malta's National reform programme 2005-2008. www.mcmp.gov.mt

Several other governmental commissions/bodies are sometimes involved:

National Family Commission (have written at least one – but possibly more than one – policy proposal on reconciliation.) The National Family Commission, (also known as KNF - Kummissjoni Nazzjonali Familja) within the Ministry for the Family and Social Solidarity, was set up in 2001. One of the main objectives of the Commission is to advise Government and to suggest appropriate measures so as to promote the well being of Maltese families, in the context of the rapid social changes that are taking place. It does not have its own website.

National Commission on Welfare Reform This Commission was set up by the government in 1999 with the brief to establish the facts regarding the future of the current welfare structure and to come up with sustainable solutions which can be implemented to address the situation. The 13-strong Commission consists of representatives of the government, of the General Workers' Union, of the Confederation of Malta Trade Unions, of the Pensioners' Association, of the employers and of the youth. (source: <http://business-line.com/business-weekly/archives/357/12.htm>). It does not have its own website.

National Commission Persons with Disability (KNPD) <http://www.knpd.org/>

The National Commission for Persons with Disability was established in November 1987. Thus, the KNPD existed long before the NCPE (and also before the DWIS and CAW). The NCPE has been set up by using a similar organizational 'blueprint' or structure as the KNPD. The KNPD is charged with the promotion of equality of opportunity of disabled persons and with implementing the Equal Opportunities (persons with disability) Act. This Act has provided the KNPD with a legal basis. The Equal Opportunity Compliance Unit of the KNPD investigates allegations of discrimination on the basis of disability.

Malta Council for Social and Economic Development

The Malta Council for Economic and Social Development (MCESD) was established by an Act of Parliament (Act No XV) in 2001 as a corporate body having a distinct legal personality. Its Mission Statement is to be a Consultative and Advisory Body to Government on issues relating to the sustainable economic and social development of Malta, whilst providing a forum for consultation and social dialogue between social partners and, where necessary, with Civil Society organizations. <http://www.mcesd.org.mt/index.html>

1.2.2 Political Parties

Malta is a republic. Its parliamentary system and public administration are closely modelled on the Westminster system. Malta has a unicameral House of Representatives which is elected by direct universal suffrage through single transferable vote each five years (unless the House is dissolved earlier by the President on advice of the Prime Minister). The House of Representatives has sixty-five Members of Parliament. In case a party wins an absolute majority of votes, but does not have a majority of seats, that party is given additional seats to ensure a parliamentary majority. The Constitution of Malta states that the President appoints as Prime Minister the member of the House who is best able to command a (governing) majority in the House. Malta's President is elected every five years by the House. The role of the president as head of state is largely ceremonial.

The main political parties are the Nationalist Party (Christian Democratic Party) and the Malta Labour Party (social democratic party). Since 1966 they are the only two parties to be represented in Parliament. During the QUING research period general elections were held in 1996, 1998 and 2003. Only during the years 1996-1998 did the labour party govern Malta. There are various other (smaller) political parties in Malta, of which the Green Party is the most important.

Nationalist Party (*Partit Nazzjonalista*) This party is currently governing, the prime minister being Lawrence Gonzi

Labour Party (*Partit Laburista*) This party is in the opposition and is led by Alfred Sant.

Green Party (*Alternattiva Demokratika*) This Party has never been elected to Parliament but has coherent ideas on (gender) equality policies. The party has a column/opinion page in the Sunday Times written by Harry Vassallo.

1.2.3 Trade Unions

General Workers Union (GWU) www.gwu.org.mt

The Union Haddiema Maghqudin (UHM) www.uhm.org.mt

The UHM and the GWU are the biggest trade unions in Malta. They have a gender committee and a gender unit respectively which focus on gender issues at the workplace. Both are members of the MCWO. GWU is seen as politically closer to the Labour Party, while the UHM is closer to the Nationalist Party.

Confederation of Malta Trade Unions (CMTU) [http://www.cmtu.org.mt/](http://www.cmtu.org.mt) Affiliated to the European Trade Union Confederation (ETUC), the Commonwealth Trade Union Council (CTUC) and the World Confederation of Labour (WCL).

1.2.4 Employers

Malta Employers' Association www.maltaemployers.com

1.2.5 Civil society / NGO's

National Council of Women (NCW) www.ncwmalta.com Founded in 1964 and works towards women's rights and gender equality and a more humane and caring society. Affiliated to the International Council of Women and the European Centre of the International Council of Women (ICW). Has a special consultative status with ECOSOC. This is the largest (and highest funded) umbrella women's organisation in Malta.

Malta Confederation of Women's Organizations (MCWO) recently formed in 2005. A confederation of 11 local women's organizations aiming to represent the concerns, needs and interests of women from all walks of life through dialogue and networking at a national, European and international level and to contribute towards an improvement of the national policy and strategy vis-à-vis women's rights. The MCWO represents Malta at the European Women's Lobby Group as a full member. It has no website yet, email: tlogic@maltanet.net ‘

Malta Gay Rights Movement (MGRM) www.maltagayrights.org The Malta Gay Rights Movement (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.

Moviment Graffiti Moviment Graffiti is a leftist and progressive NGO that is active against oppression and exploitation of people, environment and animals; with a vision of freedom and radical democracy. Its activism consists primarily of two strategies: direct action and ideological action. Moviment Graffiti is active in various areas, including the field of emancipation of the working class, civil rights (such as divorce and anti-sexism) and human rights (such as the rights of asylum seekers). Through public statements, articles, the publication of 'Graffiti' pamphlet as well as other methods of public relations, Moviment Graffiti expresses its ideology. Moviment Graffiti organises and also participates in seminars, discussions and civil society meetings. Moviment Graffiti is autonomous from any political, economic and social force and practices radical democracy within its structures. It believes in the role of progressive alliances in order that the left may be strengthened. <http://www.movimentgraffitti.org/index.php>

Malta Association of Women in Business (MAWB) – Founded in 1991, the MAWB is a constituted, non-profit, non-political, professional organisation for women entrepreneurs and is completely autonomous. Among others things, it wants to ensure that the business environment is focused on providing opportunities for woman to move forward as leaders in business, managerial, administrative and other high ranking posts. The MAWB

communicates and confers with all associations, organizations and government agencies to foster the interests of its members in the pursuit of innovative and effective changes in the business, economic, social and public policy areas. <http://www.mawb.org/index.html>

European Anti-poverty Network Malta (EAPN Malta) www.eapnmalta.org EAPN Malta's mission is bringing together all those with the capacity and the will to eradicate poverty and social exclusion. A number of Maltese civil society non-governmental organisations and groups involved in the fight against poverty and social exclusion have come together to form a network - EAPN Malta, as a means of strengthening the voice of persons experiencing or living at risk of poverty and/or experiencing social exclusion in Malta. EAPN Malta is a member of EAPN (European Anti-Poverty Network). EAPN monitors and analyses EU policies which have an impact on people in poverty, and lobbies European Institutions for the adoption of policies and programmes to combat poverty and social exclusion.

1.2.6 Religious actors

The Roman Catholic Apostolic Church - This is the dominant state religion of Malta. The archbishops of Malta and Gozo are important actors representing the Church on issues in the field of non-employment. See also the introduction to this chapter on the role of the Church in Malta. A relatively large number of NGOs in Malta are church-based.

1.2.7 International Actors

European Union (EU). Malta became a member to the EU in 2004. A large number of Malta's current gender equality policies/legislation seem to stem from obligation towards transposing the EU Directives in the field of (employment and) gender equality. Out of the international actors mentioned in this list, the EU is by far the most influential one with regard to the issue of gender and non-employment.

International Labour Organisation (ILO). Malta became an ILO member in 1965. As a member the country is covered by the ILO declaration on fundamental principles and rights at work and its follow-up (1998). One such fundamental principle is the elimination of discrimination in employment and occupation. Malta has also ratified several ILO Conventions (signatory states are obliged to adapt their national law and practice to the conventions and to report on this). Two of them that concern gender equality are The Equal Remuneration Convention no. 100 that Malta ratified in 1988 and The Discrimination (Employment and Occupation) Convention no. 111 that Malta ratified in 1968. Convention 100 establishes the principle of equal pay for women and men for work of equal value and Convention 111 addresses equality of treatment and opportunity, also in access to employment and in conditions of work. Malta has not ratified Convention 156 (addressing workers with family responsibilities) and Convention 177 (addressing home-working). Recommendations are only guidelines that states should follow. Important ones in the field of

non-employment are the ones on equal remuneration (90), on discrimination (111), on human resource development (150), on workers with family responsibilities (165), on part-time work (182) and on Maternity protection (191). Similarly to the UN/CEDAW, the EU influence prevails in this field.

United Nations (UN). Malta ratified the UN CEDAW Convention in 1991 with reservations on the following articles: 11, 13, 15 and 16. It participated in the fourth world conference on women in Beijing 1995 and committed itself to implement the Beijing Platform for Action. Objectives F.1, F.5 and F.6 are most relevant for employment. However EU competence in the field of (non) employment causes the influence of CEDAW in this field to be reduced.

1.3 Timeline

Pre-1995

Care work and informal work

1973: A child allowance paid to families on the basis of the number of children was introduced in 1973 (Darmanin, 2006)

1989: Legal Notice 122 of 1989 amends rules concerning conditions of employment, including minimum weekly rest, vacation leave, and sick leave, of *persons in certain domestic services*.

Primary source:

- Legal Notice 122. 1989. Domestic Service Wages Council Wage Regulation (Amendment) Order. Government Gazette, Supplement, 1989-10-17, No. 15190, pp. B669-B670 [this document is not available online]

Equal pay/gender pay gap

1964: The principle of equal pay was included in the 'declaration of principles' of the Constitution. The principles in this section are not binding, but should be seen as 'working statements'.

1967: OPM circular 38/67 establishes limited parity with males for female employees in public service (Darmanin, 2006). The NCW pressed for this.

1976: the principle of equal pay for equal work became relevant to everybody (including private sector employees) as differentiated wage scales for men and women were abolished (article 14 of the constitution and legal notice 42/76). The trade unions pressed for this change.

1988: Malta ratifies the ILO Convention no. 100 that obliges equal remuneration.

Access to the labour market

1948: introduction of the marriage bar for women in public service by Cabinet decision (Darmanin, 2006)

1974: By Act XLVI of 1974 (section 26A) a woman was prohibited from filling a vacancy for a post that was previously held by a man. Though no longer applied, this section is still in the civil law of Malta (it escaped amendments that were made to bring Maltese law in line with equality legislation) (Darmanin, 2006).

1979: the marriage bar is removed. However women were not permitted to return to their previous level/grade. They had to start at the bottom grade again (Darmanin, 2006)

1996

Reconciliation of work and family life

Legal notice 184 of 1996 requires a female employee who becomes pregnant to inform her employer as soon as she is aware of it.

Primary source:

- Legal Notice 184. 1996. Work Place (Protection of Maternity) (Amendment) Regulations, Official Gazette, 1996-09-27, No. 16,338, pp. B1555-1556 [this document is not available online]

Legal Notice 72 of 1996 decides that no pregnant woman or mother shall be required to perform work which may endanger her health or the health of her child, nor may she be required to perform night work during a period of 21 weeks, beginning 8 weeks before expected date of delivery. No female employee shall be dismissed on grounds that the employer cannot comply with above stipulations.

Primary Source:

- Legal Notice 72. 1996. Work Place (Protection of Maternity) Regulations. Government Gazette, Supplement, 1996-04-26, No. 16,269, pp. B841-B843 [this document is not available online]

Legal Notice 61 of 1996 provides a portion pro rata 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 work not less than twenty hours per week. Subsidiary law to the Employment (Regulation) Act (Cap. 135).

Primary source:

- Legal Notice 61. 1996. Part-time Employment National Standard Order. Government Gazette, Supplement, 1996-04-09, No. 16,262, pp. B699-B700 [this document is not available online]

The Beijing + 10 report refers to a once only career break/parental leave for public service/government employees in addition to the one year unpaid parental leave allowed on the birth of each child for parents (mother or father or shared) with children under five (this age limit has now gone up to six) that was introduced this year. The report makes no reference to the document in which this was decided.

Care work and informal work

The Child allowance becomes dependent on a means test (Darmanin, 2006)

1997

Reconciliation of work and family life

According to the Maltese Beijing + 10 report, paid maternity leave is for the first time introduced for casual/part-time public service employees who work more than 35 hours a week (Beijing + 10 report). The report makes no reference to the document in which this was decided. This could be a legal notice, an amendment act to the CERA (Conditions of Employment Regulations Act, predecessor of the EIRA of 2002) or an announcement in the budget of 1997.

1999

Reconciliation of work and family life

In the annual report of 1999 written by the Department for Women in Society reference is made to a child care Bill that was drafted by the Office of the Attorney General and the Department for Women in Society. However this Bill has never been presented to Parliament.

The Beijing + 10 report mentions several measures that were taken in this field for public service employees. Firstly, an unpaid leave of up to one year to foster a child was introduced. Secondly, parents with children under eight and employees over fifty for medical or serious humanitarian and family reasons are allowed to work reduced working hours. Thirdly, responsibility leave of one year unpaid is allowed for employees taking care of dependent, elderly parents or disabled children or spouses. The report makes no reference to the document in which this was decided.

Reconciliation of work and family life

Legal notice 92 of 2000 was made in accordance with the Occupational Health and Safety (Promotion) Act, 1994. It establishes the general rights and obligations of pregnant workers and mothers. It also sets forth the responsibilities of employers concerning risks, including lists of agents which may be dangerous to pregnant workers. Date of entry into force: 2001-01-01

These regulations define the term 'female' to include a pregnant or breastfeeding worker and mother. The latter means a worker who has recently given birth to a live or still-born child. Within this category no woman shall be required to perform any work which may endanger her physical and mental well being, the safety or continuation of her pregnancy or the health of her child as the case may be. These recommendations stipulate that before assigning work to any 'female' in the conditions mentioned above, employers are obliged to assess the nature and degree of any hazard present at the place of work, the anticipated duration of exposure and the resultant risks to the health and safety of the female concerned, as well as to the safety of her pregnancy or of the child in the case of a breastfeeding worker. Pregnant women are also entitled to one week special leave which may be utilised immediately preceding or following the 13-week maternity leave to which pregnant women were initially entitled. The financial benefits remained the same as those provided for the 13-week maternity leave. Press coverage was given to the new regulations in order to inform the general public of the new benefits.

Primary source:

- Legal Notice 92. 2000. Protection of Maternity at Work places regulations (subsidiary legislation to the Occupational health and safety promotion act of 1994) http://www.ohsa.org.mt/docs/laws/ohs_ln_92_00.pdf

Tax-Benefit Policies

In order to lighten the financial burden of single parents, the Income Tax Act has been amended to provide that in the case of single parents chargeable income is calculated exactly in the same way as that of a married couple with a joint computation. This provision has considerably addressed the plight of women who form the majority of single parents (source: annual report 2000, Department for Women in Society)

Primary sources:

- Income Tax Act (chapter 123).1949. Amended during QUING research period in the following years: XXII of 1995, XX of 1996, V, XVII of 1998, IX of 1999 and **XI of 2000**; **Legal Notice 238 of 2000**; and Acts IV and IX of 2001, II of 2002, II of 2003, II, III

and XIII of 2004, II and IX of 2005, II of 2006, and II and IV of 2007.
http://docs.justice.gov.mt/lom/legislation/english/leg/vol_4/chapt123.pdf

Access to the Labour Market

In this year the Equal Opportunities (persons with disability) Act enters into force. Part III, title I is on employment. It provides a legal basis for the National Commission for Persons with Disability (KNPD), established in 1987.

Primary source:

- Equal opportunities (persons with disability) Act (Chapter 413) 2000.
http://docs.justice.gov.mt/lom/legislation/english/leg/vol_13/chapt413.pdf

2001

Reconciliation of work and family life

During 2001 Government issued three circulars to further public officers' reconciliation of work and family responsibilities:

- o OPM Circular 16/2001, concerning "One week Special Unpaid Maternity Leave", entitles pregnant workers to an additional one week maternity leave (unpaid) immediately preceding or following the 13 weeks maternity leave entitlement. This provision follows Legal Notice 92 of 2000 concerning the Protection of Maternity at Work Places Regulations (in force since 1st January 2001) that protect pregnant or breast feeding workers and safeguard the health of the child. During pregnancy and the three months starting from the date of confinement, women officers may now be given alternative duties where there is an occupational risk to their health and safety.
- o OPM Circular No 47/2001, concerning the "Appointment of Public Officers who are on Maternity and Parental Leave", establishes that officers who qualify for an appointment during Maternity and Parental Leave will be granted their due appointment even if unable to resume duties within the validity period of the appointment. This should enhance the career progression of women, who form the majority of officers making most use of this leave.
- o OPM Circular 48/2001 on "Maternity Leave" establishes that the 14 weeks maternity leave (13 paid and 1 unpaid) are to be availed of 6 weeks compulsorily after confinement and 8 weeks either before or after confinement, in contrast to the previous 13 weeks that were availed of 8 weeks before and 5 weeks after confinement. This flexibility allows working mothers to avail of maternity leave according to their needs.

These initiatives are the result of regular consultation and collaboration between the Management and Personnel Office and the DWIS.

Primary sources:

- The Office of the Prime Minister OPM Circular 16. 2001. One week Special Unpaid Maternity Leave.
- The Office of the Prime Minister OPM Circular No 47. 2001. Appointment of Public Officers who are on Maternity and Parental Leave.
- The Office of the Prime Minister OPM Circular 48. 2001. Maternity Leave.

Care work and informal work

Commissioned by the Commission for the Advancement of Women (Ministry for Social Policy), a research report titled 'A day in her life. Insights into the social and economic contributions of Maltese women' is published. The purpose of this report, as stated in the abstract, is to identify and acknowledge women's contribution to the wealth of the Maltese economy and the relevance of non market work.

Secondary source:

- Camilleri, Frances. 2001. A day in her life. Insights into the social and economic contributions of Maltese women. Research commissioned by the Commission for the Advancement of Women (Ministry for Social Policy). Malta: government printing press. 117 pages.

Covering more than one of the sub issues

In this year the white paper on a new act on Employment and Industrial Relations was published. The White Paper, published in December 2001, was the result of years of consultations among the social partners. It declares that one of its five main objectives, justifying a radical review of the Conditions of Employment (Regulations) Act, is the raising of the female participation rate and the full utilisation of our human resource pool. It is stated that these targets can be achieved if an adequate framework that includes family friendly measures is provided for in the Labour Legislation. These measures should allow workers to continue in gainful employment by reconciling their work and family responsibilities. Although these measures, except for maternity leave, are addressed to all workers, irrespective of sex, they will mostly benefit women on whom the onus of the family traditionally falls. The proposed measures and more are already available for public officers. The aim is to widen the net and include the private sector and public corporations that are to be regulated by the new legislation. These include the flexible management and extension of maternity leave to better cater for the needs of the mother and her family. The three months unpaid parental leave is a totally new provision for workers in the private sector who often have to opt out of gainful employment on the birth of a child. For the first time it is being recommended that employees will also benefit from a minimum of ten (10) hours of work (with pay) per year for urgent leave to look after immediate family members. The protection of workers against discrimination and harassment at the work place is also being addressed. It is being proposed that the Industrial Tribunal adjudicates alleged cases of discrimination. Women make up 60% of employees in part-time work as a principal employment. It is being proposed

that entitlement be given to these employees to participate in vocational training programmes and to apply for whole-time vacancies. Protection from termination of employment in particular circumstances is also being proposed. The national women's machinery has been actively involved in the drafting of these amendments for years, with the final recommendations submitted in February 2000 (no documents located on this). The Director of the DWIS was asked to comment on the White Paper by the Independent on Sunday (13th January 2002).

Primary source:

- Ministry for Social Policy. 2001. White Paper: Employment and Industrial Relations [document is not available online]

Secondary sources:

- Department of Information, press commentaries. 2002. Industrial relations: a new start. Originally published in the Independent on Sunday on 13 January 2002.
- Department of Information, press commentaries. 2001. Labour laws: a new ERA! press release by the department of information. Originally published in The Times on 29 December 2001.
- Mifsud – Bonnici, Aron. 2002. New employment and industrial relations legislation for Malta (the author is legal consultant to the General Workers Union, however the article was not written to necessarily reflect this trade unions opinions).
- Renee Laiviera (Director of the DWIS) comments on the White Paper in the Independent on Sunday (13th January 2002).

In October 2001 the Maltese Government and the European Commission signed a Joint Assessment Paper of Employment Policy Priorities. This can be seen as a first step towards participating in the EU's Employment Strategy (EES). One of the six policy priorities to which Malta is committed is increasing the female employment rate and enabling women and men to balance work and family life. Malta has to report to the European Commission on progress regarding the priorities every May before the year of accession.

Primary source:

- Ministry for Social Policy, Malta & European Commission of Employment and Social Affairs, Joint Assessment paper on the employment policy priorities of Malta, Ministry for Social Policy, 2001 <http://www.msp.gov.mt/esf/publications/jap.pdf>

2002

Reconciliation of work and family life

Legal Notice 427 on part-time employees' regulation is made under the Employment and Industrial Relations Act. This legal notice makes provisions for equal treatment of part-time workers, and for improvement of quality of part-time work. It also aims at facilitating the

development of part-time work, and at contributing to flexible organization of working time. Establishes duty of employer to ensure that part-time employees not be treated less favourably than comparable full-time workers. Differential treatment is allowed on objective grounds. Also deals with leave of part-timers, computation of pro-rata leave entitlement, entitlement to participate in vocational training, unfair dismissal of part-time employees as well as some related matters (source: Natlex ILO). Part-time employees (minimum of 20 hours a week and having part-time work as the principal employment) are entitled to pro rata entitlements of public holidays, and vacation, sick, birth, bereavement, marriage and injury leaves and bonuses.

Primary resource:

- Legal Notice 427. 2002. Part-Time Employees Regulations (subsidiary legislation to the Employment and Industrial Relations Act, chapter 452, of 2002)
<http://etc.gov.mt/docs/parttime%20employees%20regulations%202002.pdf>

Equal pay/gender pay gap

The Employment and Industrial Relations Act (EIRA) defines the concept of equal pay for work of equal value as 'same class of employment = same rate of remuneration'. In this way Malta transposes Directive 75/117/EC on Equal Pay into national law. However, according to the National Council of Women no mechanisms to ensure the principle of Equal Pay for Work of Equal Value are established in the EIRA. Articles 26 to 28 of the EIRA are on equal pay and equal remuneration.

Primary source:

- Employment and Industrial Relations Act (Chapter 452). 2002. To consolidate, with amendments, the Conditions of Employment (Regulation) Act (Cap.135) and the Industrial Relations Act (Cap. 266). ACT XXII of 2002, as amended by Acts IX of 2003, III of 2004 and XIX of 2006.
http://docs.justice.gov.mt/lom/legislation/english/leg/vol_14/chapt452.pdf

Tax-Benefit policies

Married couples with a joint declaration of income will start to benefit from paying less income tax (source: annual report 2002, Department for Women in Society)

Covering more than one of the sub issues

Following years of consultation, the Employment and Industrial Relations Act (EIRA) was enacted in December 2002. Protection against discrimination related to employment is provided for by the EIRA. It shall be unlawful: to discriminate in job vacancies and selecting procedures of employees where the discriminated party is better qualified, unless the employer can prove that the action was based on acceptable grounds related to the nature of

the work or on grounds related to previous work performance and experience, to victimise employees for reporting complaints or disclosing information regarding discriminatory behaviour, to harass through unwelcome acts regarded as offensive, humiliating and intimidating, to sexually harass employers or employees by subjecting them to sexual intimacy; requesting sexual favours, and to entitle employees in the same class of employment to different rates of remuneration for work of equal value (source: the ETC Gender equality action plan 2005-2007). The **Industrial Tribunal** is defined 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. All EIRA provisions have come into force except those in relation to the entitlement to maternity leave where it is envisaged that until new regulations are published in 2003, the provisions under the old Act (CERA) will remain in force. The enacted provisions cover new ground with respect to promoting a work/life balance in the private sector as well as in public corporations. These include provisions with regard to Parental Leave Entitlement Regulations for all workers including part-time employees and fixed term contract employees with contracts of 12 months minimum. The right to parental leave is extended to adoptive parents and to any person who has the legal custody of a child. DWIS participated in the discussions in different forums in the years leading up to the enactment of this law and contributed to the proposals and comments submitted by the CAW prior to the enactment of this legislation. The EIRA 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. The 2002 EIRA act was primarily designed to ratify certain international instruments and to allow Malta to implement the EU acquis on labour legislation (Darmanin, 2006)

Primary resources:

- Employment and Industrial Relations Act (Chapter 452). 2002. To consolidate, with amendments, the Conditions of Employment (Regulation) Act (Cap.135) and the Industrial Relations Act (Cap. 266). ACT XXII of 2002, as amended by Acts IX of 2003, III of 2004 and XIX of 2006.
http://docs.justice.gov.mt/lom/legislation/english/leg/vol_14/chapt452.pdf
- In Parliament the Employment and Industrial Relations Bill (no. 152) was discussed in Second Reading Stage during the following sittings (9th legislature): 729, 730, 731, 732, 733, 734, 735, 736 and 737. In each of these Sittings gender equality related topics are discussed. All 2002.
- In Committee Stage the Bill was discussed during the following meetings (Standing Committee for Consideration of Bills): 144, 145, 149, 151, 153, 154, 156, 158, 159 and 161. These meetings were all about the definition of concepts and seem less relevant to the QUING study.

A white paper proposing a gender equality act is issued. Seen from a non-employment perspective, this Act is supposed to cover discrimination in employment and reinforce equal access to employment. It also addresses issues of discrimination in self-employment. It proposes that spouses of the self-employed who participate in their partners' business should be entitled fair compensation.

Primary source:

- Ministry for Social Policy. 2002. White paper gender equality legislation. Malta: Ministry of Social Policy. 67 pages. (not available on the internet)
- The Equality for Men and Women Bill (No. 112) was discussed in Parliament (9th legislature) in Second Reading Stage during the following Sittings: 809, 810, 811, 812, 814, 815 and 816. All in 2002.
- The Bill was discussed in Committee Stage during the following meetings (Standing Committee for Consideration of Bills): 178, 179, 180 and 181.

Several respondents that were interviewed underlined that the consultation process surrounding this White Paper was far too short. There only was a 5 week period to react to the white paper, which did not allow for a thorough assessment of the White Paper according to some respondents. Despite the time pressure, the National Council of Women published its comments and proposals on the White Paper on its website. Also, The Women's Study Group of the University of Malta wrote recommendations.

Secondary source:

- National Council of Women (NCW). 2002. Comments and proposals put forward at a Seminar organised by the National Council of Women on the White Paper on Equality Between Men and Women. <http://www.ncwmalta.com/infowomendetail.asp?i=25>
- Women's Study Group. 2002. Recommendations on the Equality between men and women Bill. 5 pages. No digital version.

ETC Gender Unit publishes its first gender equality action plan. In this report some key issues/reasons that shape women's decision to enter or leave the labour market are mentioned with regard to the low level of female employment in Malta (in 2001 around 31 %). These include the lack of regulated and affordable childcare, unequal sharing of domestic responsibilities, the lack of family-friendly measures in the private sector, and less security in atypical work such as part-time work, work on temporary contracts and home working, and the gender pay gap.

Primary source:

- ETC (gender Unit). Gender equality Action plan 2003-2004 on the promotion of equal opportunities in the labour market, Employment and Training Corporation (ETC), Malta, 2002 <http://etc.gov.mt/docs/GENDER%20EQUALITY%20PLAN%202003-2004.pdf>

2003

Reconciliation of work and family life

Legal Notice on the protection of maternity (employment) regulations decides that a 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. This Legal Notice also provides for the protection of maternity rights during maternity leave, and prohibition of dismissal and also facilitates improvements in the safety and health of pregnant employees, employees who have recently given birth and those breast feeding (source: annual report DWIS 2003). This legal notice transposes the EU Directive 92/85/EEC 'on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding'. The legal notice partly overlaps with legal notice 92 of 2000 in which the 13 weeks maternity leave and the fourteenth week unpaid maternity leave were already laid down. However, the way in which the leave period can now be deployed has changed (since 2001 public service employees were already allowed to plan maternity leave weeks in a more flexible way, now private sectors employees also are allowed more flexibility).

Primary source:

- Legal notice 439. 2003. Protection of Maternity (Employment) Regulations (subsidiary to the Employment and Industrial Relations Act, chapter 452, 2002)
<http://etc.gov.mt/docs/maternity%20legal%20notice.pdf>

Legal notice 225 on parental leave was made under the Employment and Industrial Relations Act. It sets forth minimum requirements designed to facilitate reconciliation of parental and professional responsibilities for working parents. It establishes 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, it makes provision for right to return to the same job, entitlement of employees during parental leave, unfair dismissal and some related matters (source: Natlex ILO). The EU's Parental Leave Directive 96/34 was sought to be implemented by this legal notice (together with the one on urgent family leave).

Primary source:

- Legal Notice 225. 2003. Parental Leave Entitlement Regulations (subsidiary legislation to the Employment and Industrial Relations Act, chapter 452.78 of 2002).
<http://www.doi.gov.mt/EN/legalnotices/2003/09/LN225.pdf>

The main clauses of legal notice 296 on urgent family leave are: 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 (this is to be deducted from vacation leave entitlement), the employer shall establish the maximum number of hours of time off in each case (should not be less than 1 hour per case except where there is the explicit agreement of employee), the employer can demand evidence to confirm request of urgent family leave, and part-time employees (working over 20 hours a week, see legal notice 427 of 2002) are entitled to pro rata urgent leave (source: ETC gender equality action

plan 2005-2007). The EU's Parental Leave Directive 96/34 was sought to be implemented by this legal notice (together with the one on parental leave regulations).

Primary source:

- Legal Notice 296. 2003. Urgent Family Leave Regulations (subsidiary legislation to the Employment and Industrial Relations Act, chapter 452, of 2002)
<http://www.doi.gov.mt/EN/legalnotices/2003/10/LN296.pdf>

The Department for Women in Society publishes a research report on the career progression of women and men in the public service and the influence of certain family friendly measures.

Secondary source:

- Department for Women in Society. 2003. The Career Progression of Women and Men: Equal Opportunities. The Impact of Parental Leave, Career Break and Responsibility Leave in the Maltese Public Service Study. Valletta: Ministry for Social Policy, Malta, 2003
http://www.msp.gov.mt/documents/wis/wis_career_progression.pdf

Equal Pay/Gender pay gap

The Equality for Women and Men Act (chapter 456, 2003) supplements the articles of the EIRA on equal pay/remuneration by prohibiting discrimination on the basis of sex and family responsibilities, especially through article 4 on employment. Above all, the provisions of the Equality for Men and Women Act apply also to the EIRA. This means that provisions of this Act such as investigations by the NCPE, the remedies provision in article 18 and the article 19 provision that shifts the burden of proof are applicable in the area of equal pay as well (Prechal and Masselot, 2006).

Care work and informal work

The gender Unit of the ETC publishes a study on the work aspirations of inactive women.

Secondary source:

- ECT, 2003. Research report on inactive women "A Look into the Work Aspirations of Inactive Women"
<http://etc.gov.mt/docs/A%20Study%20of%20the%20Work%20Aspirations%20of%20Inactive%20Women.pdf>

Tax- benefits policies

A research on how the income tax and social benefit systems impacts on the incentive to work was commissioned by the Ministry for Social Policy.

Secondary source:

- Allied Consultants. 2003. The interaction of income tax & social benefit systems and its impact on the incentive to work. Research commissioned by the Ministry for Social Policy, with support from the European community- community action program to combat social exclusion (2001-2006).

Access to the labour market

Legal notice 297 establishes that, 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 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.

Primary source:

- Legal Notice 297. 2003. Employment and Industrial Relations interpretation order (subsidiary legislation to the Employment and Industrial Relations Act, chapter 452, 2002). <http://www.doi.gov.mt/EN/legalnotices/2003/10/LN297.pdf>

Covering more than one of the sub issues

In this year the Equality between Men and Women Act is enacted. In the ETC gender equality Plan 2005-2007 a list is provided of the cases in which, according to this Act, the employer discriminates against the employee on the basis of sex and family responsibilities. This is the case when the employee is given less favourable status than others on the basis of sex and family responsibilities in view of: managing the work, giving promotions, distributing tasks, offering training opportunities, working conditions, altering conditions after an employee invoked rights under the law, publishing or displaying an advertisement which promotes discrimination, and neglecting the obligation to suppress sexual harassment. In relation to the EU gender equality acquis, the act caters for the transposition of several EU Directives, such as Directive 76/207/EEC which requires member states to implement the principle of equal treatment regarding access to employment, vocational training, and working conditions. It is also meant to transpose Directive 97/80/EC which places the burden of proof in cases of discrimination based on sex upon the respondent and to transpose 86/613/EEC which requires equal treatment of men and women engaged in self-employed activities.

Primary source:

- Equality for Women and Men Act (Chapter 456). 2003.
http://docs.justice.gov.mt/lom/Legislation/English/Leg/VOL_14/Chapt456.PDF

In 2004 Malta joins the European Union.

Reconciliation of work and family life

The National Family Commission publishes a document on reconciliation of work and family life that includes proposals for policy.

Primary source:

- National Family Commission. 2004. Helping families to balance Work and Home. Proposals for policy. 18 pages
http://www.msp.gov.mt/documents/family/work_family_balance.pdf

Care work and informal work

The Technical Committee for Child Day Care that was set up with the aim of producing childcare regulations launches a document on principles, standards and regulations for consultation in July 2004 under the joint responsibility of the Ministry for the Family and Social Solidarity and the Ministry for Education, Youth and Employment. In July 2006 the childcare standards were officially launched.

Primary source:

- Ministry for the Family and Social Solidarity & Ministry for Education, Youth and Employment. 2004. Early childhood development and care. Consultation Document
http://www.education.gov.mt/ministry/doc/pdf/Consultation%20Document_Eng.pdf

Tax-Benefit policies

The government of Malta publishes a white paper on pensions. The Malta Confederation of Women's Organisations publishes a position paper on this document on the basis of a seminar they organise on the subject. In 2005, the NCW also reacts to this white paper.

Primary source:

- Government of Malta. White Paper. Pensions - Adequate and Sustainable, November 2004. http://www.mfss.gov.mt/pensions/documents/whitepaper/wp_layout.pdf

Secondary source:

- MCWO. Pensions – Adequate and sustainable – white paper. Seminar organised by the MCWO. Rapporteur: Renee Laiviera.
http://mfss.gov.mt/pensions/documents/malta_confederation_of_womens_organisation.pdf 5 pages

- National Council of Women. 2005. Comments and recommendations on: White Paper Pensions - Adequate and Sustainable, November 2004. Consultation Process, 14th February 2005 <http://www.ncwmalta.com/infowomendetail.asp?i=136>

Access to the labour market

Legal Notice 461 on equal treatment in employment regulations implements EU Directives 2000/78/EC and 200/43/EC and makes provisions to combat discriminatory treatment (direct and indirect) on the grounds of religion or religious belief, disability, age, sexual orientation, and racial or ethnic origin. The ETC gender equality action plan 2005-2007 sums up the content of the legal notice: "Direct discrimination" occurs where one person is treated less favourably than another on the basis of stipulated conditions. "Indirect discrimination" occurs where an apparently neutral practice would put persons at a disadvantage when compared with others. It is unlawful to discriminate on the basis of religious belief, age, disability, sexual orientation and racial or ethnic origin, to harass a person through acts which violate the person's dignity and create an intimidating or offensive environment, and for an employment agency to discriminate in providing services; in terms and conditions and in provision of services. Another clause states that positive action shall not be deemed unlawful.

Since its inception the Malta Gay Rights Movement has focused on the transposition of the European Union (EU) Council Directive 2000/78/EC within the labour legislation of the country. MGRM submitted a position paper during the period of consultation leading up to the revision of Malta's industrial law (not available online). Although the Government showed reluctance to fully transpose the Directive, MGRM pressed on through its contacts with ILGA-Europe (The European Region of the International Lesbian and Gay Association), and its contacts with the European Commission. This process came to fruition with the publication of Legal Notice 461 of 2004, which transposed into Maltese law the provisions on sexual orientation discrimination contained in the Directive.

Primary source:

- Legal Notice 461. 2004. Equal treatment in employment regulations (subsidiary legislation to the Employment and Industrial Relations Act, chapter 452.95 of 2002) <http://www.doi.gov.mt/EN/legalnotices/2004/11/LN461.pdf>

Covering more than one of the sub issues

The Maltese government publishes its first national action plan on poverty and social inclusion. Reference to gender, gender equality and gender mainstreaming is made several times. In 2005, a light update report is published.

Primary source:

- Malta National Action Plan on Poverty and Social Exclusion 2004-2006 http://www.msp.gov.mt/documents/msp/nap_incl_mt_20040703.pdf
- National Action Plan against Poverty and Social Exclusion 2004-2006, Light Update Report 2005 http://www.msp.gov.mt/documents/msp/nap_incl_mt_20050801.pdf

In the framework of the EES (European Employment Strategy) a National action plan on employment is published in 2004. Every EU Member State draws up a National Reform Programme each year from 1998 to 2005 which describes how the Employment Guidelines are put into practice at the national level. They present the progress achieved in the Member State over the last 12 months and the measures planned for the coming 12 months; they are both reporting and planning documents. The action plan sets out the principal employment strategies for the years 2005-2010. Because Malta became a member in 2004 they only have a national action plan on employment for 2004 (from 2005 onwards the documents are titled 'national reform programmes'). Guideline six is on gender equality and guideline 7 is on discrimination. The document sets Maltese targets for increasing the female employment rate, increasing the provision of childcare and encouraging the return of older women to the labour market.

Primary source:

- Government of Malta. 2004. National Action plan on employment. http://ec.europa.eu/employment_social/employment_strategy/nap_2004/nap2004mt_en.pdf

Within the framework of the EC's Expert Group on Gender, Social Inclusion and Employment (EGGSIE) an assessment of this national action plan is made from a gender perspective.

Secondary source:

- Borg, Roselyn. 2004. Assessment of the 2004 national action plan for employment from a gender perspective. Malta. Manchester: University of Manchester, European Work and Employment Research Centre, EC's Expert Group on Gender, Social Inclusion and Employment (EGGSIE). http://ec.europa.eu/employment_social/gender_equality/docs/2005/malta- napemp_en.pdf

2005

Reconciliation of work and family life

ETC's gender unit participates in an international research project on fathers and parental leave. In the sources below, one can find the national report that was written in this framework and the joint report written by all countries on the basis of the individual country reports.

Secondary sources:

- ETC. 2005. Report on a qualitative study on modern man in enlarged Europe: malta national report. Hal far: ETC <http://etc.gov.mt/docs/ETC%20Modern%20Man%20Report%202005.pdf>

- Mackeviciute, Indre, ed. 2005. Fathers on parental leave. A joint report based on qualitative research with fathers on leave, employers and decision makers in Lithuania, Iceland, Denmark and Malta. Vilnius: Centre for equality advancement, EUGrimas Publishing House.
<http://www.jafnretti.is/D10/ Files/Fathers%20Parental%20Leave.pdf>

The European Documentation and Research Centre of the University of Malta published a report in the framework of their civil society project on anti-discrimination, inclusion and equality in Malta. In this report several position papers of civil society actors are included. In one of them the position of the UHM (The Union Haddiema Maghqudin) with regard to the participation of women in employment in Malta is explained. The UHM is one of the two major trade Unions of Malta. The report also includes a text written by a representative of the Malta Employers' Association on gender equality in employment:

- Bartolo, Romina 2005. Participation of women in employment in Malta – The position of UHM. In Anti-discrimination, inclusion and equality in Malta, ed. Peter G. Xuereb, 105-110. Msida: The European documentation and research centre, University of Malta. http://home.um.edu.mt/edrc/CD_CSP1/pdf/15.pdf
- Borg, Roselyn. 2005. Gender equality – Some proposals by The Malta Employers Association. In Anti-discrimination, inclusion and equality in Malta, ed. Peter G. Xuereb, 111-114. Msida: The European documentation and research centre, University of Malta. http://home.um.edu.mt/edrc/CD_CSP1/pdf/16.pdf

Tax-Benefit policies

The equal treatment in occupational social security schemes regulations (legal notice 317) are enacted in order to give effect to the relevant provisions of Council Directive 86/378/EEC, as amended by Council Directive 96/97/EC, on the implementation of the principle of equal treatment for men and women in occupational social security schemes. According to Article 2(1) "discriminatory treatment" means any distinction, exclusion, restriction or difference in treatment, whether direct or indirect, between men and women which is not justifiable in a democratic society. "Occupational social security schemes" means schemes, intended to supplement or replace the benefits provided by the Social Security Act, whether membership of such schemes is compulsory or optional, and the purpose of which is to provide employed, self-employed and self occupied persons in an undertaking or group of undertakings, any area of economic activity, occupational sector or group of sectors. "Principle of equal treatment" means the absence of direct or indirect discriminatory treatment between men and women in particular by reference to marital or family status.

Primary source:

- Legal notice 317. 2005. Equal treatment in occupational social security schemes regulations (Subsidiary legislation to the social security act, chapter 318.20).
<http://docs.justice.gov.mt/lom/legislation/english/subleg/318/20.pdf>

According to legal notice 105 on part-time work any person receiving a pension and in part-time employment as a secondary form of income or any person holding full-time job as primary occupation but having also a part-time job as secondary occupation will be able to transfer their right to 15% tax on the part-time income to the spouse returning to employment (which is usually the woman). Because the legal notice is amending the Income Tax Act, one also has to consult the Income Tax Act to oversee the complete measure.

Primary source:

- Legal Notice 105. 2005. Part-time work (amendment) Rules (subsidiary to the Income Tax Act, chapter 123).
<http://www.doi.gov.mt/EN/legalnotices/2005/04/LN105.pdf>

Legal notice 110 on women returning to employment provides women with an extra financial incentive to return to employment. Women returning to employment will get a 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.

Primary source:

- Legal Notice 110 2005. Tax Credit (Women Returning to Employment) Rules. (subsidiary to the Income tax act, chapter 123).
- <http://etc.gov.mt/docs/LN110%20-%20income%20tax%20act%20-%20women%20returners.pdf>

A national strategy report on pensions is published. A few small sections of this report are dedicated to the gender impact of the Maltese pensions system. The report states that due to the gaps in the contribution records, women who stop working in order to care for their children or family members will have much more difficulty in building up adequate pensions' entitlements. This means that women are hindered from earning a full pension benefit entitlement despite the fact that they have been contributing in full during the time of their employment. The current Maltese pensions system fails to acknowledge the atypical occupational behaviour of women. In certain cases, the full contribution paid is lost if work is not continued at some point later in life. Overall, the gender impact in Malta is huge as it is much harder for women to build their adequate pension entitlements due to their interrupted careers. Furthermore, unequal treatment between men and women also exists with regard to some contributory pensions and allowances which still cater for specific benefit rates, payable to "a married man maintaining a wife". Efforts to eliminate such inequalities have already been made, but there still remain areas where discriminatory provisions need to be eliminated. In case of separations, the pension entitlement is agreed according to the decision taken by the Law Courts in the proceedings for separation. In case a couple has opted for a settlement out of court the pension is shared according to such agreement.

Primary source:

- National strategy report on Pensions, July 2005 (a small section is devoted to 'Gender equality and the gender impact of pension systems')
http://ec.europa.eu/employment_social/social_protection/docs/2005/mt_en.pdf

Access to the labour market

In the framework of the civil society project 2005 on 'anti-discrimination, inclusion and equality in Malta' coordinated by Peter Xuereb (director of the European documentation and research centre at the university of Malta), a representative of the Malta Gay Rights Movement has written a position paper on sexual orientation discrimination and the employment framework directive in Malta.

Secondary source:

- Attard, Christian. 2005. Sexual Orientation Discrimination in Malta – The Employment Framework Directive and Beyond. In *Anti-discrimination, inclusion and equality in Malta*, ed. Peter G. Xuereb, 225-236. Msida: The European documentation and research centre, University of Malta.
http://home.um.edu.mt/edrc/CD_CSP1/pdf/30.pdf

Covering more than one of the sub issues

Speech by Dolores Cristina "Fathers' Day Message, from the Minister for the Family and Social Solidarity"

<http://www.msp.gov.mt/services/subpages/content.asp?id=1681>

In the framework of the EES (European Employment Strategy) National reform programme for the years 2005-2008 is published. The National Council of Women produced some recommendations on this document from a gender perspective.

Primary source:

- Ministry for Competitiveness and Communications. 2005. Malta's National reform programme 2005-2008. Malta's strategy for growth and jobs. Addressing the Lisbon Strategy. October 2005
http://www.mcmp.gov.mt/pdfs/National_Reform_Programme_Malta.pdf

Secondary source:

- NCW. 2005. Proposals for National Reform Programme 2005-2008. August 2005
<http://www.ncwmalta.com/infowomendetail.asp?i=153>

The ETC Gender Unit publishes its second gender equality action plan.

Primary source:

- ETC (Employment and Training Corporation). 2005. Gender equality action plan 2005-2007. <http://etc.gov.mt/docs/Gender%20Equality%20Action%20Plan%202005-2007.pdf>

In the framework of the civil society project 2005 on 'anti-discrimination, inclusion and equality in Malta' coordinated by Peter Xuereb (director of the European documentation and research centre at the university of Malta), representatives of the National Council of Women, the General Workers Union (GWU), the Union Haddiema Maghqudin (UHM) and the Malta Employers' Association have all written a position paper on gender equality relating to employment issues in Malta.

Secondary sources:

- Attard, Grace and Doris Bingley. 2005. Gender equality in employment in the EU and Malta: An overview by the National Council of Women. In *Anti-discrimination, inclusion and equality in Malta*, ed. Peter G. Xuereb, 9-20. Msida: The European documentation and research centre, University of Malta. http://home.um.edu.mt/edrc/CD_CSP1/pdf/10.pdf
- Grech, Germaine. 2005. Gender equality: Main issues – The General Workers' Union perspective. In *Anti-discrimination, inclusion and equality in Malta*, ed. Peter G. Xuereb, 93-104. Msida: The European documentation and research centre, University of Malta. http://home.um.edu.mt/edrc/CD_CSP1/pdf/14.pdf
- Bartolo, Romina 2005. Participation of women in employment in Malta – The position of UHM. In *Anti-discrimination, inclusion and equality in Malta*, ed. Peter G. Xuereb, 105-110. Msida: The European documentation and research centre, University of Malta. http://home.um.edu.mt/edrc/CD_CSP1/pdf/15.pdf
- Borg, Roselyn. 2005. Gender equality – Some proposals by The Malta Employers' Association. In *Anti-discrimination, inclusion and equality in Malta*, ed. Peter G. Xuereb, 111-114. Msida: The European documentation and research centre, University of Malta. http://home.um.edu.mt/edrc/CD_CSP1/pdf/16.pdf

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Reconciliation of work and family life

A new pension scheme was introduced by means of Social Security (Amendment) Act. With the Act, a two year childrearing National Insurance Credit is introduced. Parents born on or after the 1st of January 1962, having the legal custody of a child and who opt to leave the labour market to care for the child, are entitled to a maximum of 2 years of child-rearing credits per child until the child reaches the age of 6. The credits can be shared between the mother and the father. For a severely disabled child the maximum is 4 years NI credits. The credits are available for married, single, and adoptive parents who are either employed or unemployed or inactive or self-employed. A problem is that parents working in the private

sector cannot profit from this measure to the same extent as parents working in public sector because of the big divide in the family-friendly measures that are offered (people working in the private sector are not allowed to take a career break).

Primary source:

- Social Security (Amendment) (No. 2) Act No. XIX of 2006. Government Gazette of Malta No. 18,006 - 7th December, 2006
<http://www.doi.gov.mt/EN/parliamentacts/2006/ActXIX.pdf>

The ETC publishes a leaflet on telework based on a study that was commissioned by the ETC in 2005.

Secondary sources:

- ETC. 2006. Leaflet on telework: Telework – Is it for me? Summary of results based on a study commissioned by the Employment and Training Corporation on the benefits and implementation of telework options in Malta, together with best practice examples in the area of teleworking. <http://etc.gov.mt/docs/telework%20leaflet.pdf>
- Avellino, Marie. 2005. An Enabling Framework for Telework. Research Project for The Employment and Training Corporation, Hal Far. Malta:Triptych Associates.
<http://etc.gov.mt/docs/An%20Enabling%20Framework%20for%20Telework.pdf>

In the framework of the ESF funded project by NCPE titled 'Gender mainstreaming. The way forward' one study was conducted on family friendly measures at the workplace and another on telework

Secondary source:

- Darmanin, M. 2006. Introduction of family friendly measures at the workplace. Research report for the National Commission for the Promotion of Equality (NCPE) in the framework of the ESF-project 'gender mainstreaming. The way forward'. Malta: NCPE. 234 pages
<http://www.equality.gov.mt/filebank/documents/FINAL%20Family%20Friendly%20Measures%20Report%202007%2002%2002.pdf>
- Aquilina, Ronald. 2006. Teleworking Pilot Project. Research report for the National Commission for the Promotion of Equality (NCPE) in the framework of the ESF-project 'gender mainstreaming. The way forward'. Malta: NCPE. 240 pages
<http://www.equality.gov.mt/filebank/documents/FINAL%20Telework%20Report%202007%2002%2002%20.pdf>

Care work and informal work

In July 2006 the National Childcare Standards were set to provide a holistic development approach to the care and education of children under the age of 3. The 10 standards are developed in order to ensure that children will receive the best service which stimulates and

enhances their emotional, social and educational developments. The standards are thus child-centred and not 'parent-centred' (no standards are made on, for example, hours of opening of child centres). The standards are not part of law; it is a policy of the ministry for the Family and Social Solidarity.

http://www.msp.gov.mt/documents/msp/standard_child_day_care_facilities.pdf

In August 2006 a pastoral letter on the indispensable (caring) role of mothers for families and society is published by the Archdiocese of Malta:

- Archdiocese of Malta. August 2006. Pastoral letter by the Archbishop of Malta and the Bishop of Gozo on the occasion of the feast of the assumption 2006. A Conscience in favour of women. 4 pages.

[http://www.maltachurch.org.mt/Press/2006/PASTORAL_LETTER -
A Conscience In Favour Of Women.pdf](http://www.maltachurch.org.mt/Press/2006/PASTORAL_LETTER_-_A_Conscience_In_Favour_Of_Women.pdf)

Equal pay/gender pay gap

In the framework of the ESF funded project by NCPE titled 'Gender mainstreaming. The way forward' a study was conducted on the gender pay gap. According to this study the gender pay gap in Malta is much higher than was assumed on the basis of statistics produced by the National Statistics Office (NSO).

Secondary source:

- Deguara, Angele. 2006. Gender Pay review. Research report for the National Commission for the Promotion of Equality (NCPE) in the framework of the ESF-project 'gender mainstreaming. The way forward'. Malta: NCPE. 327 pages
<http://www.equality.gov.mt/filebank/documents/FINAL%20Gender%20Pay%20Review%20Report%202007%2002%2002%20.pdf>

Tax-Benefit policies

See above under 'reconciliation of work and family life' on the introduction of a new pension scheme.

Access to the labour market

In his message during the yearly 'Lenten Pilgrimage' on the Sunday known as 'People's Sunday', the Archbishop referred to women's natural vocation as mothers, while on the same day the Minister for the Family and Social Solidarity had appealed to the Church for support for state campaigns to increase the number of women participating in the labour market (Darmanin, 2006).

Secondary sources:

- His message was published in the Sunday Times on 6 March 2006

Covering more than one of the sub issues

The ETC (Gender Unit) publishes a manual for employers with the aim to help employers and HR practitioners to recognise, prevent and deal with gender discrimination at work.

Secondary source:

- ETC. 2006. Making work better for organisations and for employees. A manual for employers. <http://etc.gov.mt/docs/manual%20content.pdf>

At the end of each year the Prime Minister declares the budget speech. The budget of 2007 included a number of initiatives to help women to return to employment. Previously, anyone working part time could not pay a contribution which was below a certain threshold which was pitched to the minimum wage based on a 40 hour week. With this change, those working part time (more than 8 hours) can pay just 10% of what they earn instead of the fixed rate pitched to the minimum wage. Those working less than 8 hours do not pay NI. Another measure that was announced is that the government will allow parents to deduct Lm400 (around 930 euros) from the taxable income to make good part of the expenses incurred in **licensed** childcare services (the problem is that there do not exist state licensed childcare centres in Malta as of yet). In those cases where employers pay their employees for expenses related to childcare services, such expenses are considered as business costs and therefore are deductible from taxable income. In those cases where employees receive payment from their employer for expenses related to childcare services, such payments shall no longer be considered as fringe benefits in the hands of the employee and will therefore no longer be taxable. Another important decision that was announced is that the family-friendly measures that are applicable to the public *service* (government) employees will from now on be applicable to the whole public *sector*. Measures announced in the budget speech 2007 enter into force on the 1st of January 2007.

Primary Sources:

- Ministry of Finance. 2006. Budget speech 2007. 90 pages
http://www.mfin.gov.mt/image.aspx?site=MFIN&ref=2007_speech_en
- Management and Personnel Office (MPO)/Office of the Prime Minister (OPM). 2006. Leaflet: family-friendly measures in the public service

The National Council of Women wrote a document that includes their reflections and comments in reaction to the pre-budget 2007 document.

Primary and secondary sources:

- Ministry of Finance. 2006. Pre-budget 2007
<http://www.mfin.gov.mt/image.aspx?site=MFIN&ref=PreBudget07E>
- National Council of Women. 2006. Reflections and Comments on the pre-budget 2007 (only available on paper). 13 pages

Both political parties in Parliament publish a position paper on gender equality. The papers focus, among other things, on increasing the participation of women in the labour market. The General Council of the Nationalist Party encourages government to implement certain changes so as to enable women to enter and remain in the labour market. Most of these recommendations were addressed in the Budget 2007 speech. The aim of the Malta Labour Party's document is to increase the female participation rate and increase overall equality between women and men in Malta.

Primary sources:

- Nationalist Party. 2006. Increasing women's participation in society. Only published in Maltese. Abstract is included in the ETC gender equality action plan 2007-2008
- Malta Labour Party. 2006. Towards full equality between women and men. Only published in Maltese. Abstract is included in the ETC gender equality action plan 2007-2008

In the framework of the ESF funded project by NCPE titled 'Gender mainstreaming. The way forward' a study was conducted on the career path and conditions of work of Maltese graduates (of whom the majority are women) in the labour market. The NCPE also published an executive summary on the project covering all issues researched (equal pay, family friendly measures, telework and career paths).

Secondary sources:

- NCPE. 2006. Gender mainstreaming. The way forward. Executive summaries. ESF project final report. Valletta: NCPE.
<http://www.equality.gov.mt/filebank/documents/FINAL%20EX%20SUMMARIES%20007%2002%2002.pdf>
- Deguara, Angele. 2006. Career path and conditions of work of Graduates in the labour market. Research report for the National Commission for the Promotion of Equality (NCPE) in the framework of the ESF-project 'gender mainstreaming. The way forward'. Malta: NCPE. 352 pages
<http://www.equality.gov.mt/filebank/documents/FINAL%20Graduate%20Careers%20Review%20Report%202007%2002%2002.pdf>

2007

Tax-Benefit policies

Legal notice 140 amends legal notice 427 of 2002 by abolishing the 20 hours/week threshold for receiving pro-rata benefits. Previously part-time employees only had a right to pro-rata benefits if they worked above 20 hours per week. To make matters worse, this threshold was often exploited by employers who, for instance, would offer part-time workers (most of them women) a 19.5 hours contract. This legal notice gives part-time employees their rights and entitlements if they work more than 8 hours. Legal notice 164 of 2007 sets the date for when

legal notice 140 will enter into force. This will be the 1st of July 2007. Women's organisations and the ETC Gender Unit had been pressing for this change for years. Immediately prior to the government finally changing this threshold, the women's rights Committee from the European Parliament had visited Malta and in this setting the issue of the threshold was again brought to the fore by the Maltese women's organisations. This time the government reacted very swiftly.

Primary source:

- Legal Notice 140. 2007. Part-time Employees (Amendment) Regulations (subsidiary legislation to the Employment and Industrial Relations Act, chapter 542). <http://www.doi.gov.mt/EN/legalnotices/2007/05/LN%20140.pdf>

Care work and informal work

A press release by Ministry of Education, Youth and Employment was published. It refers both to the quality of childcare as well as to childcare in relation to the issue of reconciliation:

- Ministry of Education, youth and employment. 2007. Promoting the Benefits of Quality Childcare Services in Malta. Press Handout 20/02/2007. 4 pages. http://www.education.gov.mt/ministry/doc/pr_pdf7/PR01507.pdf

Access to the labour market

Legal notice 57 amends legal notice 461 of 2004. Among other things the definition of discriminatory treatment is amended.

Primary source:

- Legal notice 57 of 2007 amending legal notice 461 of 2004. 2007. Equal treatment in employment regulations (subsidiary legislation to the Employment and Industrial Relations Act, chapter 452.95 of 2002) <http://docs.justice.gov.mt/lom/Legislation/English/SubLeg/452/95.pdf>

Covering more than one of the sub issues

The Gender Unit of the ETC publishes its third gender equality action plan covering the period 2007-2008. For the first time several consultation meetings with various stakeholders (such as policy makers, trade unions, employers, ETC staff members, academics, NGOs and the gender equality machinery) were held when writing the gender equality action plan. On the basis of the consultation process the action plan starts with some policy recommendations that, although falling outside the remit of ETC (because they require legal and policy changes to materialise), are indispensable for creating the right conditions for those who want to combine work with personal commitments and responsibilities. The recommendations include: encourage the extension of childcare centres opening hours, review the benefit system in order to 'make work pay' for lone parents and other vulnerable

groups and carry out gender audits and gender budgeting on government spending. On the basis of the consultation process the ETC action plan for the years 2007-2008 focuses on the following priority target groups: job seekers, lone parents, **immigrant women**, women at risk of job loss, and secondary school students.

Primary source:

- ETC. 2007. Gender equality action plan 2007-2008, promoting equal opportunities in the labour market. 44 pages. The document is not yet available online.

At the end of this year a gender audit of Maltese legislation will be finished. The specific objectives of the audit are to embed the principle of gender mainstreaming in the selected Codes and Acts of Maltese Legislation (including social security and taxation, criminal, civil and family legislation) The audit was commissioned by the NCPE in the framework of the ESF funded project (no. 46) titled 'the gender aspect from a legal perspective'.

2 Intimate citizenship

2.1 Introduction

The QUING state of the art report on Malta noted that the distribution of (academic) studies across the three issues (non-employment, intimate citizenship and gendered violence) is very uneven. Most of the studies relate to the issue of non-employment, whereas only a few were found that relate to the other two issues. When searching for policy/legislative documents and civil society documents for this intimate citizenship issue history I was confronted with the same problem. On the issue of intimate citizenship (and gender-based violence as well) the amount of primary/secondary sources that would be adequate for frame and voice analyses later in the project is substantially smaller than in the field of non-employment. As we have looked only at documents in English, and there was the possibility overlooking the existence of documents that were in Maltese, we used the interviews conducted in Malta as a check, coming to the conclusion that no major debates and policy shifts that have taken place in the field of intimate citizenship were missed.

Intimate citizenship is a field in which (at least during the QUING research period) not a lot of debates have taken place *in the political arena* (notwithstanding that from time to time intimate citizenship issues have surfaced in the media and NGO/civil society action has focused on such issues). Many of the sub issues we study within the issue of intimate citizenship are located in areas on which the Catholic Church traditionally holds strong opinions/positions (e.g. reproductive rights, gay rights and divorce), which it also tries to propagate whenever possible. This may well be an important reason why certain topics never reach a priority place on the political agenda. Although the church also holds strong positions in the field of social policy with regard to non-employment, it seems that certain changes have been made possible because of external international influence, especially of the EU (albeit these changes are rather minimal as to their content and so far do not seem to pose major challenges to the strong male breadwinner model that draws its influence from the Catholic church). In the field of intimate citizenship the pressure on the government to challenge the traditional Catholic Church standpoints is not so strong.

All in all, in the issue field of intimate citizenship the Roman Catholic Apostolic Church (the dominant state religion of Malta) seems to have had a rather strong (indirect) influence on the (non)development and content of policies in this field, by withholding certain issues from being put high on the policy agenda and thus preventing change on these issues. Article 2 of the Maltese Constitution is on religion and states that (1) the religion of Malta is the Roman Catholic Apostolic Religion; that (2) the authorities of the Roman Catholic Apostolic Church have the duty and the right to teach which principles are right and which are wrong; and that (3) religious teaching of the Roman Catholic Apostolic Faith shall be provided in all State schools as part of compulsory education. And article 3 of the Equality for Men and Women Act that entered into force in 2003 specifically provides that nothing in that Act shall be construed as affecting any rule relating to religious practice, access to priesthood or membership in any religious order or other religious communities. Grech (2005) states that article 2 of the Constitution could be interpreted as giving the Catholic

Church the monopoly in religious affairs. In the interrelationship of law and morality, the ethical and the legal, it would appear that only the Roman Catholic Apostolic type of morality could be enforced in this country, to the exclusion of all others. By focusing mainly on the influence of religion on the political, Grech's article at times shows how deeply ingrained religion is in Malta in many issue fields that are being analyzed in the framework of QUING. While in 1975 during the Labour administration church and state were separated, the church is being consulted by the state on all issues in the field of family/social matters. This has been laid down in an agreement the government and the state concluded that dates back to the nineties. It appeared to be rather difficult to trace the official document on this 'deal'. However, on the website of the archbishop of Malta reference is indeed being made to an agreement on church property which 'permitted the Church to concentrate better on its pastoral mission' (<http://www.maltachurch.org.mt/Malta/christianity.htm#Church-State%20relations>).

In the sub issue of **divorce, separation and marriage** no major changes have taken place during the QUING research period except Act I amending the Marriage Law which gave the church more power in annulment cases. Outside this one change, there have not been serious attempts to change things since 1995. Issues like cohabitation (in Malta couples living together are not recognized; there exists no such thing as registered partnership), divorce and property rights within marriage have not been put on the political agenda. Evidence of discussion on these issues can be found in the media.

Divorce seems to be the most hotly debated issue (although not in the political arena⁴). For years various civil society actors and NGOs have tried to press for the adoption of a Divorce Law by the Maltese Government. For example, women's movements like Min-naha tan-nisa (women's perspective) in the eighties and Moviment Mara Maltija (movement of Maltese women) (both of these movements no longer exist), but also the male lobby (The association for Men's Rights Malta and The Malta Divorce Movement). Several attempts have also been made by the Labour Party. Despite this pressure, up until now, divorce is still legally impossible in Malta. One can separate, but not divorce. The only way to divorce is to have a foreign divorce registered, provided that the decision was delivered by the competent court of a country in which either of the parties is domiciled or of which either of the parties is a citizen. Another possibility is to get your marriage annulled. However this is much more difficult to obtain than separation. The Civil Code of Malta is based on the Canon (church) law. The grounds on the basis of which one can apply for annulment are very limited (there are some 6 or 7 grounds). Recently the amount of annulments has increased. Only in the case of divorcing in a foreign country or of an annulment are the parties free to remarry before the state (not the church) (source: <http://ec.europa.eu/civiljustice>).

Based on the interviews I have held in Malta, an ever increasing amount of the population is in favour of divorce. Opinion polls show that 50% would accept it. This opinion might be related to the law on separation. Separation cases still punish the person who is held responsible for the separation. So if you are guilty of adultery, for example, you will lose

⁴ In a masters thesis written by Maltese Maria Carmela Micallef (social studies: gender and development) the author states that: "It would have been a very foolhardy government that would propose the introduction of divorce [...]. Such a move would have alienated a lot of people from both sides of the political divide and would have definitely sent the party introducing such legislation to the opposition benches for a long time" (Micallef, 2001, p. 23)

your rights. This is the same for women and men; however, women are disproportionately punished by this as they often have no other resources on which to depend. Before the QUING period important changes in the Civil Code were made regarding equal partnership in marriage. Since 1993 the situation regarding family law has stayed the same. The 1993 changes to the Civil Code can be regarded as 'one of the' or even 'the' most important turning point in Malta's history of gender equality policies. However this happened before the QUING research period (1995-2007).

Regarding ***civil partnership and gay marriage, discrimination on the basis of sexual orientation***, certain actors and civil society organizations are trying to get the issue of sexual orientation discrimination regarding civil partnership and marriage onto the political agenda, thereby attempting to move beyond the mere implementation of EU Directive 2000/78/EC. An important issue that the Malta Gay Rights Movement (MGRM) is striving for is the legal recognition of stable relationships between persons of the same sex. However, MGRM's expectation is that no changes are likely to take place regarding this issue in the near future. Although they lobby, the issue of same sex partnership and marriage is not placed on the policy agenda. In Malta cohabitation (registered) is not possible, not even for heterosexual couples, but there are private contracts that people sign as an alternative. However these contracts are always about such things as housing or custody (for example lesbian partners with a child) rather than concerning legal recognition of the love relationship itself.

In the sub issues relating to ***reproductive rights*** the government of Malta has either none (e.g. Malta does not have a separate policy on sexual and reproductive rights and technologies, however the church propagates strong messages on these issues) or restrictive policies (e.g. abortion is criminalized in the Criminal Code). Maltese women seem to have only limited choices in the field of sexual and reproductive rights. In Malta discrimination in assisted reproduction on the basis of sexual orientation seems to be a non-issue. Although IVF treatment for lesbian couples is not possible through state clinics, it is provided by private clinics. This is not forbidden, because Malta does not have any legislation on this issue yet. Discrimination in the field of partnership status (being married or not) seems to be an issue that occasionally surfaces in the media. There is a huge anti-abortion lobby in Malta (related to the church). I do not expect anything to change in Malta's policy on abortion. However certain actors are pressurizing the Maltese government to adopt its first clear and separate policy on sexual and reproductive rights, and recently the government has started drafting a policy on reproductive technologies. The influence of the church in this field, however, is significant and this has caused certain respondents to think that if the government is to adopt a policy in this field it will only restrict people's choices even further [e.g. that private clinics providing IVF treatment to lesbian and non married couples will be explicitly forbidden]. Also, by means of the wedding preparation courses organized by church that couples are obliged to attend before getting married in Church (the large majority of couples in Malta still want to marry in church), the church has influence on issues relating to contraception. The message that is being communicated is the importance of procreation and that it is against church doctrine if you use abortive contraception. The only contraceptive method that you are allowed to use is the 'natural method'. Given the fact that

in Malta 35 % of sexually active people never use contraception and only 2% of women use the contraceptive pill, the power of the church to influence actual practices seems significant.

2.2 Description of relevant actors in the field

2.2.1 Government actors

Ministry for the Family and Social Solidarity (family policy, social (security) policy, child policy and equality policy) <http://www.mfss.gov.mt>

National Commission for the Promotion of Equality for Men and Women (NCPE) the official gender equality machinery institution of the government. The National Commission for the Promotion of Equality (NCPE) is an autonomous body that was set up in January 2004. The primary task of NCPE is to monitor the implementation of the Act to Promote Equality for Men and Women that came into force in December 2003, and to promote equality in spheres where it may be lacking. www.equality.gov.mt

Ministry for Justice and Home Affairs (marriage, separation, partnership, citizenship, immigration) <http://www.mjha.gov.mt>

Ministry of Health, the Elderly and Community Care (sexual and reproductive health) <http://www.sahha.gov.mt>. Based on the information gathered through the interviews, this Ministry is currently preparing an Act on reproductive technologies.

Office of the Prime Minister (OPM) The Prime Minister of Malta is both the head of government and a minister in his own right with portfolio responsibilities for strategic matters such as the Public Service, defence, EU matters including the management of EU pre-accession and structural funds and planning and priorities coordination. Most of these portfolio responsibilities are administered through the Office of the Prime Minister, commonly known as OPM. OPMs mission is to support the Prime Minister in providing leadership and direction for a stable and effective government. OPM is the hub and nerve centre of the Government. It plays a central role in decision-making and it is also the administrative headquarters of the Government. The Malta Council for Economic and Social Development is appointed by the OPM. The OPM publishes policy statements by means of OPM circulars. <http://www.opm.gov.mt>

National Family Commission (have written at least one – but possible more than one – policy proposal on reconciliation.) The National Family Commission, (also known as KNF - Kummissjoni Nazzjonali Familja) within the Ministry for the Family and Social Solidarity, was set up in 2001. One of the main objectives of the Commission is to advise Government and to suggest appropriate measures so as to promote the well being of Maltese families in the context of the rapid social changes that are taking place. The Commission is currently working on a new policy plan on the family which will be due by the end of March (2008). The

issues that are covered are marriage preparation, low child birth rate and marriage breakdown. It does not have its own website.

2.2.2 Political parties

The main political parties are the Nationalist Party (Christian democratic party) and the Malta Labour Party (social democratic party). Since 1966 they are the only two parties to be represented in Parliament. During the QUING research period general elections were held in 1996, 1998 and 2003. Only during the years 1996-1998 has the labour party governed Malta. There various other (smaller) political parties in Malta of which the Green Party is the most important.

Nationalist Party (*Partit Nazzjonalista*) This party is currently governing, the prime minister being Lawrence Gonzi

Labour Party (*Partit Laburista*) This party is in the opposition and is led by Alfred Sant.

Green Party (*Alternattiva Demokratika*) This Party has never been elected to Parliament but has the most coherent ideas on (gender) equality policies. The party has a column/opinion page in the Sunday Times written by Harry Vassallo.

2.2.3 Civil society / NGO's

National Council of Women (NCW) www.ncwmalta.com Founded in 1964 and works towards women's rights and gender equality and a more humane and caring society. Affiliated to the International Council of Women and the European Centre of the International Council of Women. Has a special consultative status with ECOSOC. The National Council of Women generally is regarded to be a quite religious, middle-class women's organisation; a fact that influences their activities in the field of intimate citizenship (e.g. they are anti-abortion). This is the oldest, largest and the highest funded women's group in Malta.

Malta Confederation of Women's Organizations (MCWO) recently formed in 2005. A confederation of 11 local women's organizations aiming to represent the concerns, needs and interests of women from all walks of life through dialogue and networking at a national, European and international level and to contribute towards an improvement of the national policy and strategy vis-à-vis women's rights. The MCWO represents Malta at the European Women's Lobby Group as a full member. The group has no website yet, email: tlogic@maltanet.net

Malta Gay Rights Movement. The Malta Gay Rights Movement (MGRM) was set up in June 2001 and 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. Future projects of the MGRM will include the setting up of a reference library on LGBT issues and monitoring the implementation of the Free Movement and Asylum Directives. Another issue that the MGRM wants to bring onto the political agenda and which is considered to be of fundamental importance to the local LGBT community is the lack of any legal recognition of stable relationships between persons of the same sex. The MGRM has embarked on a national campaign with a view to facilitate the progressive introduction of laws remedying this injustice. They try hard to lobby for legal recognition in the field of partnership and family law. For example, they recently had a meeting with the Minister (of the Family and Social Solidarity) on same-sex partnership. The MGRM has also met with the Commission for the Family because this Commission is currently working on a new policy plan on the family which covers issues such as marriage preparation, low child birth rate and marriage breakdowns and which is due by the end of March (2008). The MGRM tried to lobby for a broader formulation of 'the family' to include more unconventional living arrangements. It would be a victory if this formulation becomes less conservative. However according to the MGRM, the Commission most likely will not propose anything which would recognise same-sex partnerships. www.maltagayrights.org

The Association for Men's Rights Malta (AMR) The Association for Men's Rights (Malta) was founded on the 10th March 1990. Since that date the organization has campaigned against the impediment of departure used against men in separation/annulment cases. According to its website, the organization 'won' this case on the 1st of October 1995 when a law was passed through the Maltese Parliament for the removal of the impediment of departure. Furthermore, it has introduced in Malta the International Men's Day on 7th February of every year. It has also campaigned for the introduction of a Family Court in Malta, more discreet hearings, and argued that the Family Court be placed outside the Court Building as family matters should not be handled as criminal sittings. In addition, the association has campaigned for the introduction of a Divorce Law. Malta is the only country in Europe and one of three countries in the World that do not have a Divorce Law. According to the AMR, Malta is dominated by the Catholic Church and Catholic Fundamentalism. It has protested to the Council of Europe and at the Malta Courts against the Malta Catholic Church and the Vatican about the Marriage Law imposed on Malta by the 'religious fundamentalists' onto Maltese who are not members of the Catholic Church. It publishes its own newsletter titled 'Male Order'. AMR can be seen as THE anti-church lobby in Malta. However, their standpoint as regards women's emancipation is not very progressive <http://www.mensra.com/home.shtml>

Malta Movement for the Rights, Protection and Development of the Unborn Child The Movement for the Rights, Protection and Development of the Unborn Child in the Maltese Islands comprises over 40 organisations and associations, including three political parties, trade unions, the association of local councils, a number of government departments and a significant number of civil society and church organizations. It was set up in 2004. According to Mifsud, the lobbying of the Movement has been a determining factor in the introduction of certain concepts relating to the unborn child in recent Maltese legislation, such as a clause in

the Domestic Violence Act that decides that the unborn child is considered to be 'a member of the household' (Mifsud, 2006). It does not have a website.

Cana movement The Cana Movement is an organization of people who have the family at heart. It is a voluntary organization 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; and to help couples strengthen their marriage and their family.

<http://www.canamovement.org/>

The Malta Divorce Movement (MDM) was launched on the 3rd March 1997. Several articles in support of divorce were written by members of the MDM Council and members of the Council were invited onto different television and radio stations and were interviewed by various foreign correspondents, especially from the English BBC station. Also several newspaper articles with comments about divorce were published in different newspapers. Dr. Emmy D. Bezzina (family law lawyer and also founder of AMR) published research on the situation of separated persons. The divorce campaign became fiercer following this article as the Malta Catholic Church came into full attack against the MDM and against progressive associations like the Association for Men's Rights. Every year MDM officials visit the European Union together with a delegation from the Association for Men's Rights to talk about and campaign for a divorce law in Malta. <http://www.mensra.com/divorce.shtml>

Family rights association (FRA) Also set up by Dr. Emmy Bezzina who founded the Malta Divorce Movement and the Association for Men's Rights. <http://www.mensra.com/fra.shtml>

Moviment Graffiti Moviment Graffiti is a leftist and progressive NGO that is active against oppression and exploitation of people, environment and animals; with a vision of freedom and radical democracy. Its activism consists primarily of two strategies: direct action and ideological action. Movement Graffiti is active in various areas, including the field of emancipation of the working class, civil rights (such as divorce and anti-sexism) and human rights (such as the rights of asylum seekers). Through public statements, articles, the publication of 'Graffiti' pamphlet as well as other methods of public relations, Moviment Graffiti expresses its ideology. Moviment Graffiti organises and also participates in seminars, discussions and civil society meetings. Moviment Graffiti is autonomous from any political, economic and social force and practices radical democracy within its structures. It believes in the role of progressive alliances in order that the left may be strengthened.

<http://www.movimentgraffitti.org/index.php>

2.2.4 Religious actors

The Roman Catholic Apostolic Church - This is the dominant state religion of Malta. The archbishops of Malta and Gozo are important actors representing the church on issues in the field of intimate citizenship. See also the introduction to this chapter on the role of the Church in Malta. Many NGOs in Malta are church-based.

2.2.5 International actors

United Nations (UN)/ CEDAW. Malta ratified the UN CEDAW Convention in 1991 with reservations. It participated in the fourth world conference on women in Beijing 1995 and committed itself to implement the Beijing Platform for Action. Following the accession, government departments and semi-governmental organizations were entrusted with the responsibility of implementing the articles of the Convention that fall under their jurisdiction. This was spelled out in Circular no 66/91 by the Office of the Prime Minister dated August 1991. The first step that was taken to give support to many of the Convention’s articles was the amendment to the Constitution to include the equal right of men and women to enjoy all economic, cultural, civil and political rights (press release CEDAW, WOM/1456, 2004), together with several amendments to the Civil Code in 1993 regarding equal partnership in marriage and family law (which are of great importance in the field of intimate citizenship).

Ratified international treaties or conventions do not automatically become part of Maltese law. The CEDAW Convention can thus not be invoked before the Maltese courts. Malta’s constitutional system is modelled on the UK and also follows this system in relation to international treaties. Their dualist system in matters of international law means that international treaties in Malta are not self-executing. For an international obligation to be given the force of law domestically, it has to be incorporated into domestic legislation. One exception to this rule is the adoption of the ECHR into Maltese law by means of the European Convention Act of 1987. Malta did not sign the Optional Protocol to the CEDAW Convention, though this is being considered.

European Convention on Human Rights (ECHR) the ECHR was adopted into Maltese law by means of the European Convention Act of 1987. Maltese citizens can invoke the European Convention on Human Rights in Maltese courts, along with the right to petition the European court.

2.3 Timeline

Because only a few policy changes have taken place in the field of intimate citizenship in Malta, I have included information in this timeline that may seem rather insignificant but which is nevertheless valuable in gaining a better insight into this policy field.

Pre-1995

Divorce, separation, marriage

Early seventies: The Maltese women’s lobby starts. They set up family planning clinics.

1975: The Marriage Act (chapter 255 of the laws of Malta) was enacted. Up till 1975, Canon Law regulated marriages in Malta. Although the local Courts could grant separations they

were not empowered to annul a marriage. The Marriage Act limited the power of the Church in local marriages. If a marriage was recognised by Civil Law, spouses could seek annulment at either the Civil Court or the Church Tribunal, albeit within very limited parameters such as insanity, impotence and pre-existing marriage. Moreover civil marriages contracted abroad started to be recognised locally. A substantial amendment to the Act was made in 1995 (see in timeline below).

Primary source:

- *Marriage Act* (Chapter 255). 1975. To regulate marriages and to provide for matters connected therewith or ancillary thereto. As amended by Acts: XXXIV of 1981, III of 1983, I and XXIV of 1995, IX of 2000, XXXI of 2002 and IX of 2004.

http://docs.justice.gov.mt/lom/legislation/english/leg/vol_6/chapt255.pdf

1975: Homosexuality as a crime is decriminalized.

During the eighties, the *women's organisation Min-naha tan-nisa* (women's perspective) was active. They worked closely with the labour government on *divorce law*. 100 separated men and women started building cases. They managed to get a motion passed in favour of divorce at the labour party annual conference. This was later (in 84/85) blocked. This led to much frustration and the organisation ended.

1981: *Removal of the marriage bar*. Before that time, women had to resign from their jobs in public service after marriage.

1985/86: A white paper on changes in family law is launched. It was dropped, because it was thought to be too progressive at that time. The 1993 changes in family law (see below) were less progressive.

1991: The *Social Security Amendment Act of 1991* repeals section 17(3)(c) which stated that "any contribution paid by a woman before the date of her marriage shall not be taken into account on any claim for such benefit made subsequently to that date" (this act is not available online).

1993: When in 1991 the Constitution was amended to include a prohibition on sex discrimination (article 45), discriminatory legislation has been gradually brought into line with the constitution. Some of the most important changes were made in 1993 when several *amendments regarding equal partnership in marriage and family law were made to the Civil Code in order to remove discriminatory provisions (Act XXI of 1993)*. This amendment curtailed the undisputed dominance of the father and husband within the family. The most important amendments are that the law recognizes that the spouses are equal and share the responsibilities of married life as spouses and parents; that the parents together are responsible for the care and upbringing of their children; that decisions in family matters, which concern the children or property acquired during marriage, are to be taken jointly by

the spouses and that the matrimonial home requires special protection in the interests of the family.

Primary sources:

- Commission for the Advancement of Women. 1993. Equal Partners in Marriage: Amendments to the Civil Code Regarding the Family (not available online). 39 pages
- Ministry for Social Policy. 1991. Equal Partners in Marriage. Updating of the Family Law. Malta: Government printing press (not available online)

1995

Divorce, separation, marriage

A private member's Bill to introduce divorce entitled 'an act to make provisions for the dissolution of marriages' was presented by a labour party MP (Joseph Brincat) during this year. However, the Bill was never debated and lapsed with the dissolution of Parliament.

Secondary source:

- A Bill entitled an Act to make provision for the dissolution of marriages. 1995. 4 pages

A concordat with the Vatican leads to a substantial amendment to the Marriage Act in this year by Act I of 1995. This amendment gives the Ecclesiastical Tribunal exclusive jurisdiction over canonical marriage. This means that in case of an appeal for annulment of a marriage conducted by the church, even if one of the partners objects, the case is to be heard by the Ecclesiastical Tribunal only (and thus not by the Civil Court). This denies persons their civil rights.

Primary source:

- Act no I of 1995 amending the Marriage Act.

1996

Divorce, separation, marriage

The Social Security Act is amended (ACT XXI of 1996). The main amendment concerns the concept of 'head of household' which was previously associated with the husband (who was seen as the 'sole head of household'). The new provisions define the head of the household as 'such person as in the opinion of the Director of Social Security is the head of the household' (annual year report of the Department Equal Status of Women 1996, 1997). The CEDAW Committee states that it seems discriminatory that the social security office decided who the head of the household was (Press release WOM/1456). Act XXI amending the social security act is not available online, but the social security act in which this amendment act is included is.

Primary source:

- Social Security Act (Chapter 318). 1987. To establish a scheme of social security and to consolidate with amendments existing provisions concerning the payment of social insurance benefits, pensions and allowances, social and medical assistance, non-contributory pensions and the payment of social insurance contributions by employees, employers, self-employed and the State. Amended during the QUING research period in the following years: XXVII of 1995, XXI of 1996, XVI and XXII of 1997, VII of 1998 and II of 1999; Legal Notices 56 and 84 of 1999, and 10 of 2000; Act XI of 2000; Legal Notice 21 of 2001; Act VI of 2001; Legal Notices 4 and 422 of 2002; Acts II of 2002 and XI of 2003; Legal Notice 436 of 2003; Acts II of 2004, III and XIII of 2005, and II, VI and XIX of 2006; and Legal Notices 100 and 101 of 2006, and 62 of 2007. http://docs.justice.gov.mt/lom/legislation/english/leg/vol_7/chapt318.pdf

The Income Tax act (Act XX of 1996) is amended to give married women the right to sign, jointly with their husband, the income tax return form. Previously, the responsibility for the declaration of income lay solely with the husband. Married women are also given the possibility of being elected, by consent of both spouses, as the spouse responsible for the tax on the chargeable income. Act XX of 1996 amending the income tax act is not available online, but the Income Tax Act in which this amendment act is included is available.

Primary source:

- Income Tax Act (chapter 123).1949. Amended during QUING research period in the following years: XXII of 1995, XX of 1996, V, XVII of 1998, IX of 1999 and XI of 2000; Legal Notice 238 of 2000; and Acts IV and IX of 2001, II of 2002, II of 2003, II, III and XIII of 2004, II and IX of 2005, II of 2006, and II and IV of 2007. http://docs.justice.gov.mt/lom/legislation/english/leg/vol_4/chapt123.pdf

1997

Divorce, separation, marriage

The Malta Divorce Movement had a meeting on 22nd October with the Labour Government appointed 'Commission for the Future of the Family' which was commissioned by Prime Minister Dr. Alfred Sant to examine how the introduction of divorce in Malta can be obtained (source: <http://www.mensra.com/divorce.shtml>)

1999

Divorce, separation, marriage

In this year the government publishes a policy report on the setting up of a Family Court (see also 2003 for continuation):

- The Family Court – Ministerial Report. April 1999 [Il-Qorti tal-Familja – Rapport Ministerjali, April 1999]. Maltese version only.

2000

Divorce, separation, marriage

In order to lighten the financial burden of single parents, the Income Tax Act has been amended to provide that in the case of single parents chargeable income is calculated exactly in the same way as that of a married couple with a joint computation. This provision has considerably addressed the plight of women who form the majority of single parents (source: annual report 2000, Department for Women in Society)

Primary sources:

- Income Tax Act (chapter 123).1949. Amended during QUING research period in the following years: XXII of 1995, XX of 1996, V, XVII of 1998, IX of 1999 and *XI of 2000*; *Legal Notice 238 of 2000*; and Acts IV and IX of 2001, II of 2002, II of 2003, II, III and XIII of 2004, II and IX of 2005, II of 2006, and II and IV of 2007. http://docs.justice.gov.mt/lom/legislation/english/leg/vol_4/chapt123.pdf

Civil partnership and gay marriage, discrimination on the basis of sexual orientation

The Department of Women in Society received queries from the general public regarding the gender bias existing in the Citizenship Act. Consequently, the Director of the Department presented these anomalies during discussions with the Commission for the Advancement of Women on Bill No 31 to amend the Citizenship Act. The finalised proposed amendments to the Bill focused on the need to remove all gender discrimination in the Act not only between couples but also in respect of ascendants and descendants. These proposals were given due consideration in the final amendments to the Act (Act IV to amend the Maltese Citizenship Act) (Source: Annual report 2000, Department for Women in Society). The amendment Act IV is not available online, but the Maltese Citizenship Act in which the amendments are included is available.

Primary source:

- *Maltese Citizenship Act* (Chapter 188). 1964. To provide for the acquisition, deprivation and renunciation of citizenship of Malta and for purposes incidental to or connected with the matters aforesaid. As amended by Acts: II of 1970, XXXI of 1972, LVIII of 1974, XXXI of 1975, IX of 1977, XIII of 1983, XXIV of 1989 and *IV of 2000*.
- http://docs.justice.gov.mt/lom/legislation/english/leg/vol_4/chapt188.pdf

2001

Divorce, separation, marriage

In May a white paper is published on the setting up of a Family Court as the judicial forum with jurisdiction over all family matters (Malta national report to CEDAW, 2002).

Primary source:

- Government of Malta. 2001. White paper on the setting up of a family court [source is not available on the internet)

Act No XIII of 2001 (amending the Constitution of Malta), concerning the freedom of movement of foreign spouses who are married to Maltese citizens came into force on the 24th April (Government Gazette of Malta No. 17,086 – 24th April 2001). The Act legislates for the husband of a citizen of Malta to enjoy freedom of movement, as entrenched in the Constitution, equal to that enjoyed by a non-Maltese wife of a citizen of Malta or of a person who enjoys freedom of movement. As a result, the wife or the husband, as well as the widow or the widower, of a citizen of Malta will enjoy freedom of movement after five years has elapsed from the date of marriage (source: Annual report 2001, Department for Women in Society)

Primary source:

- *The Constitution of Malta*. 1964. As amended by Acts: XLI of 1965, XXXVII of 1966, IX of 1967, XXVI of 1970, XLVII of 1972, LVII, LVIII of 1974, XXXVIII of 1976, X of 1977, XXIX of 1979, IV of 1987, XXIII of 1989; Proclamations Nos. II and VI of 1990; Acts XIX of 1991, IX of 1994; Proclamations IV of 1995 and III of 1996; Acts: XI of 1996, XVI of 1997, III of 2000, *XIII of 2001* and V of 2003.

http://docs.justice.gov.mt/lom/legislation/english/leg/vol_1/chapt0.pdf

2002

Divorce, separation, marriage

The Financial Estimates of 2002 established that in the case of a marriage separation, the partner required to pay alimony (in most cases this concerns the husband) will receive a deduction from his annual income that would be equivalent to the actual payment under the court decree or the mutual agreement between the partners. This measure offers greater financial security for persons receiving alimony, who are mostly women, who may thus better secure their own well-being and that of children in their custody. (Source: Annual report 2002, Department for Women in Society) (Primary sources in which these changes were enshrined have not been located).

Married couples with a joint declaration of income will start to benefit from paying less income tax (source: annual report 2002, Department for Women in Society).

On the 12th September delegations of the Malta Divorce Movement, the Association for Men's Rights and the Family Rights Association distributed a petition in support of divorce in the European Parliament (source: <http://www.mensra.com/divorce.shtml>)

Secondary source:

- Malta Divorce Movement & Association for Men's rights & Family rights association. 2002. Petition presented to all M.E.P's from the family rights Association; The Malta Divorce Movement and the Association for Men's Rights (Malta) on the 12th of September 2002.
<http://www.mensra.com/pet.shtml>

2003

Divorce, separation, marriage

The Family Court was established by a legal notice (LN 397) of 16 December. This Notice requires the Minister for Justice (after consultation with the presiding judge of the Family Section of the Civil Court) to appoint a panel of experts in family matters from a list of qualified mediators, and another panel of experts in family law or children's advocates already in possession of a warrant to practice as advocates. The Court was installed in response to an increase in the number of marital separations in Malta, and to safeguard the right of all parties and particularly the needs of children. The functions of the Family Court are to facilitate the proceedings on family and marital issues requiring the intervention of mediators during a pre-trial period. The parties are only allowed to precede with their suit for personal separation in cases where the attempts of the mediator to reconcile the parties or to assist them in reaching an agreement have failed, or upon the lapse of two months from the filing of their first letter of intent (Abela, 2004).

Primary source:

- Legal Notice 397. 2003. The Civil Court (Family Sections), The Civil Court (General Jurisdiction) and The Court of Magistrates (Gozo) (Superior Jurisdiction) (Family Sections) Regulations 2003.
<http://www.doi.gov.mt/EN/legalnotices/2003/12/LN397.pdf>

Civil partnership and gay marriage, discrimination on the basis of sexual orientation

The Malta Gay Rights Movement publishes a survey that documents Sexual Orientation Discrimination in Malta. The last section of the document includes recommendations directed towards the government. One of these recommendations *calls for the enacting by Parliament of legislation for the recognition of same-sex partnerships*. Such legislation would not only give such relationships the legal stability they deserve, but also help reduce discrimination in areas such as housing, inheritance rights and fiscal benefits (Malta Gay Rights Movement, 2003).

Secondary source:

- Malta Gay Rights Movement. 2003. *Sexual orientation discrimination in Malta. A report on discrimination, harassment and violence against Malta's gay, lesbian and*

bisexual community. Malta: Malta Gay Rights Movement.

<http://www.maltagayrights.org/pdf/sexual-orientation-discrimination-in-malta.pdf>

Reproductive rights

The Malta-EU Information Centre (MIC) announces that Malta will have a protocol on abortion annexed to Malta's accession Treaty that gives the country legal certainty that present or future EU law cannot change the Maltese law on Abortion. The wording of the protocol is the following: "Nothing in the Treaty on European Union, or in the Treaties establishing the European Communities, or in the Treaties or Acts modifying or supplementing those Treaties, shall affect the application in the territory of Malta of national legislation relating to abortion." (Busuttil, 2003) Malta also made a reservation to the CEDAW Convention article 16 to protect their abortion law from international influences.

2004

In 2004 Malta joins the European Union.

Civil partnership and gay marriage, discrimination on the basis of sexual orientation

On 22 July the **Malta Gay Right Movement organized its first Pride March**. The aim of the Pride is to emphasize that there are no differences between sexes and that discrimination against LGBT people can never be tolerated. According to the coordinators many gays are still afraid of the stigma surrounding homosexuality which could lead to job loss, harassment at the workplace and a lack of acceptance by friends and family. This forces them to live a heterosexual life. They expect the state to treat them equally as citizens of Malta. The activity was also backed by several other organizations such as Alternattiva Demokratika (the left green political party of Malta), the Association for Men's Rights and individual ministers and members of parliament (Abela, 2004).

Covering more than one of the sub issues

In July 2004 the first Maltese report to the CEDAW Committee was considered. It concerned a combined first, second and third periodic report that was submitted in 2002. With regard to issues relating to intimate citizenship, Malta received several comments:

- The Committee was of the opinion that the Malta national report did not give a clear picture of the situation of women in Malta. Among other things, the Committee asked for clarification of the circumstances under which the income of a married woman was considered to be the income of her husband. Such special circumstances seemed to be discriminatory according to the Committee. The Malta delegation does not provide the Committee with a clear answer in this respect.
- The Committee also requested clarification on the apparent conflict between the deliveries of free health care by the government, while at the same time there was a lack

of free contraception. While not intending to imply abortion, the Convention does imply that affordable contraception should be available.

- The fact that medical officers are able to object to the insertion of so-called intrauterine contraceptive devices is seen by the Committee as an obstacle to the free choice of women in the matter of contraception. The Maltese delegation answers that a delicate balance had to be sought between the rights of the client and those of the person supplying the service and that this was not always easy to achieve.
- In view of the high teenage pregnancy rate in Malta, the Committee wonders whether sex education from a non-religious angle is addressed. The Maltese delegation answer that sex education at schools was discussed in a very broad way and was not part of religious instruction. However, nothing precluded teachers of religion from discussing the Church position on these matters.
- According to the information that Malta has provided to the Committee, it believes that there exists a apparent contradiction between the Maltese Security Act (as amended in 1996) that defines only one person as the head of the family, and the Civil Code (as amended in 1993) in which parental authority was to be exercised by common accord of both parents. The Maltese delegation answers that they view these two Act as separate and dealing with different issues.
- The Committee wonders whether Act XX of 1996 is still in force. Under this Act, a married woman is able to sign a tax return jointly with her husband and could also assume responsibility for the tax return, with the consent of her husband. Is *her* consent also necessary in case the husband assumes that responsibility? The Maltese delegation answers that when the question of consent concerns the declaration of income, then the husband also requires his wife's consent.
- The Committee comments that the fact that divorce is illegal in Malta constitutes a fundamental rights violation. According to the Maltese delegation access to divorce is not considered to be a fundamental human right in international human rights conventions and treaties. When a marriage breaks down, the couple might have recourse to separation either through the courts or privately through a notary. Since the report was submitted, the Family Court had been set up to deal with cases of separation when it was not done with the consent of the parties. Either spouse may request maintenance from the other. Failure by a spouse to pay maintenance is a criminal offence and subject to action before the courts against the offending party. In cases where no maintenance is due, the party concerned might apply for social benefits under the Social Security Act.

Primary source:

- Government of Malta. 2002. Combined initial, second and third periodic report to the CEDAW Committee..
<http://daccessdds.un.org/doc/UNDOC/GEN/N02/761/60/PDF/N0276160.pdf?OpenElement>

Secondary sources:

- Committee on the Elimination of Discrimination against Women. 2004. *Consideration of reports submitted by States parties under article 18 of the Convention. Combined*

initial, second and third periodic report of Malta. New York: Committee on the Elimination of Discrimination against Women.

<http://daccessdds.un.org/doc/UNDOC/GEN/N04/422/66/PDF/N0442266.pdf?OpenElement>

- Committee on the Elimination of Discrimination against Women. 2004. *Consideration of reports submitted by States parties under article 18 of the Convention (continued). Combined initial, second and third periodic reports of Malta (continued)*. New York: Committee on the Elimination of Discrimination against Women. http://www.iwraw-ap.org/resources/pdf/SummaryRec_Malta2.pdf

2005

Reproductive rights

In a presentation on 'Sexual and reproductive health and rights in Malta' held by Dr. Frances Camilleri-Cassar at the Commonwealth People's Forum in November, it is stated that although the issue has been on the policy agenda for several years, Malta still awaits a national sexual and reproductive health policy. It is also noted that the medical profession in Malta is very much male-dominated and that Malta's reproductive technology is a product of male reality. This sustains male power over women. Religious (next to political) impediments to access reproductive choices presents one of the most serious health problems that women in Malta (and men as well) face today. A key challenge to sexual and reproductive rights is Malta's tradition of involving religious conservative views in its national reproductive health agenda. In the framework of a WHO report on young people's health (2001/2002), Malta did not provide data on the incidence of sexual intercourse, mean age and the use of contraception. However, in 2003 the first national health interview survey was published by the Department of Health Information, which provides some information on these issues: 23% of sexually active Maltese people never use contraception and only 2% use the contraceptive pill (see also section 5: 'international-CEDAW'). In Malta abortion is punishable by law under section 241-243A of the Criminal Code. Camilleri-Cassar demands good access to all forms of contraception, since reproductive control is central to women's health and autonomy.

Secondary source:

- Camilleri-Cassar, Frances. 2005. Presentation on 'Sexual and reproductive health and rights in Malta' held at the Commonwealth People's Forum in November 2005. <http://www.sosmalta.org/filebank/Sexual%20and%20Reproductive%20Health%20-%20final%20Francis%20Camilleri.ppt>

On 27 February an article is published in Malta Today titled 'Doctor opposes limiting in-vitro fertilization to married couples'. Doctors fear that Parliament might pass a very restrictive law that restricts the use of reproductive medical technology to the treatment of married couples only. Given that Malta has no divorce legislation, separated individuals are left with no option

but to cohabit and doctors feel that declining medical treatment for infertility to such couples would be an injustice. There are more issues at stake which the new legislation would have to tackle, such as when a human person is considered to come into being. In Malta the morning after pill is not available (not even in the case of rape), since it is considered to be an abortive pill (Samsone, 2005).

Secondary source:

- Sansone, Kurt. 2005. Doctor opposes limiting in-vitro fertilization to married couples. *Malta Today*, February 27. <http://www.maltatoday.com.mt/2005/02/27/t19.html>

In the Beijing +10 report the Maltese government states that a national sexual health policy is being drafted. However, to this date (July 2007) there is still no such policy being launched, nor has a bill on reproductive technology been launched (see paragraph above this one). Publications and legislation in the field of public health are presented on the 'health promotion website' of the Ministry of Health. As far as legislation is concerned, there is only reference to a tobacco smoking control act. Publications in the field of 'women's health' are limited to breastfeeding, gestational diabetes, post natal depression and the well-being of the unborn baby. There is only one publication in the field of 'sexual health', a leaflet titled 'understanding sexual and reproductive health'. It cannot be downloaded from the website.

2006

Reproductive rights

In the framework of the civil society project 2006 on 'The Family, Law, Religion and Society in the European Union and Malta' coordinated by Peter Xuereb (director of the European documentation and research centre at the university of Malta), the coordinator of the Malta Movement for the Rights, Protection and Development of the Unborn Child has written a position paper.

Secondary source:

- Mifsud, Tony. 2006. Quality Life for the Unborn Child. In *The Family, Law, Religion and Society in the European Union and Malta*, ed. Peter G. Xuereb, 235-246 Msida: The European documentation and research centre, University of Malta

2007

Civil partnership and gay marriage, discrimination on the basis of sexual orientation

On the 15th of May various members of the *Malta Gay Rights Movement* held a meeting with the new Archbishop Paul Cremona. A number of issues were discussed, such as homophobia in society and in the educational sector, the lack of recognition of same sex

couples by the state and the difficulties faced by gay individuals with a call to the priesthood or religious life. A paper that outlines MGRM's position in respect to Church teachings on homosexuality was presented to Archbishop Cremona. The Malta Gay Rights Movement publishes its own newsletter; a report on the meeting with the new archbishop is included in the fourth edition of 'Alegre'.

Secondary sources:

- Malta Gay rights Movement. 2007. Alegre LGBT newsletter by MGRM. Issue 4, June 2007, pages 3-5 report on the meeting MGRM had with archbishop Cremona.
<http://www.maltgayrights.org/pdf/alegre-4.pdf;jsessionid=811E45A0B43AF0E5D85D85140CAF13F1>
- Attard, Patrick and Gabi Calleja and Marisa Xuereb. 2007. Position paper for the Audience with His Excellency Monsignor Paul Cremona O.P., Archbishop of Malta to be held on the 15th May 2007 at the Curia. Malta: Malta Gay Rights Movement.
<http://www.maltgayrights.org/images/2007/position-paper-archbishop.pdf>

On the 22nd of May the MGRM had a meeting with the Minister for the Family and Social Solidarity (Dolores Cristine) in which they discussed the issue of the legal recognition of same sex partnership. A report of this meeting is included in the fifth edition of the MGRM newsletter 'Alegre'.

Secondary sources:

- Malta Gay Rights Movement. 2007. Alegre LGBT newsletter by MGRM. Issue 5, June 2007, page 4 reports on the meeting MGRM had with Minister Dolores Cristine.
<http://www.maltgayrights.org/pdf/alegre-5.pdf;jsessionid=811E45A0B43AF0E5D85D85140CAF13F1>

Covering more than one sub issue

At the end of this year a *gender audit of Maltese legislation* will be finished. The specific objectives of the audit are to embed the principle of gender mainstreaming in the selected Codes and Acts of Maltese Legislation (including social security and taxation, criminal, civil and family legislation). The audit was commissioned by the NCPE in the framework of the ESF funded project (no. 46) titled 'the gender aspect from a legal perspective'.

3 Gender-based violence

3.1 Introduction

3.1.1 General legal background information

The relevant sections of Maltese national legislation concerning violence against women arise principally from the Criminal Code. They are categorized under the 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 'crimes against the person' (title VIII). These sections cover *rape* and *violent indecent assault*, crimes against the person, *private violence*, *abduction*, and *defilement of minors*, *pornography*, *prostitution and trafficking in women*. The Domestic Violence Act (Laws of Malta, Cap 481) from 2006, the Employment and Industrial Relations Act (2002) and the Equality for Men and Women Act (2003) are also relevant in this regard (Council of Europe, 2007). Both in the Employment and Industrial Relations Act and in the Equality for Men and Women Act clauses on *sexual harassment* are included.

Domestic violence is prosecuted under title VIII of the Criminal Code 'violence against the person'. Offences that are included in this title are aggravated when they concern cases of domestic violence (Council of Europe, 2007). The Domestic Violence Act defines domestic violence as 'Any act of violence, even if only verbal, perpetrated by a household member upon another household member and includes any omission which causes physical or moral harm to the other'. 'Household member' includes: persons married or formerly married to each other; persons living in the same household as the offender or who had lived with the offender within a period of one year preceding the offence; persons whose marriage has been dissolved or declared null; parents and their children; other adults sharing the same household; persons who are, or have been, formally or informally engaged with a view to get married; persons who are related to each other either by consanguinity or affinity up to the third degree inclusively; persons having or having had a child in common; the child conceived but yet unborn (Domestic Violence Act, 2005). The Civil Code has been amended allowing an abused spouse to obtain a court order of separation (Consideration of National report to CEDAW, <http://daccessdds.un.org/doc/UNDOC/GEN/N04/422/66/PDF/N0442266.pdf?OpenElement>).

Rape is defined in the Criminal Code (article 198 of subtitle II 'Crimes against the Peace and Honour of Families and against Morals') as "Whosoever shall, by violence, have carnal knowledge of a person of either sex". The sanction is imprisonment from 3-9 years. With regard to proof of carnal connection according to the criminal code (article 206): "A carnal connection shall be deemed to be complete by the commencement of the connection, and it shall not be necessary to prove further acts". The offence is aggravated in certain circumstances (article 202), for example when the crime is committed against the spouse. This is only since the 2005 Domestic Violence Act. Before this time spousal rape was treated in the same way as rape. In the national report to the CEDAW of 2002 the government states

that 'the Maltese Criminal Code makes no special provision for rape and violent indecent assault within marriage. No such cases have, to date, been reported. As a rule, with respect to substantive criminal law, Maltese Courts follow Italian case law and writings of jurist' (pages 170-171).

With regard to *sexual assault*, the Criminal Code defines violent indecent assault as: "any violent indecent assault, which does not, in itself, constitute any of the crimes above" (article 207 of subtitle II 'Crimes against the Peace and Honour of Families and against Morals').

The use of the term *violent* in both the definition of rape and sexual assault is defined as follows: "Unlawful carnal knowledge and any other indecent assault, shall be presumed to be accompanied with violence when the person abused was unable to offer resistance owing to physical or mental infirmity, or for any other cause independent of the act of the offender, or in consequence of any fraudulent device used by the offender." (Council of Europe, 2007)

Sexual Harassment is prohibited under the Employment and Industrial Relations Act (2002), under legal notice 461 of 2004, and under the Equality for Men and Women Act (2003). The concept of harassment is also mentioned under the Public Service Management Code (Section 7.1.3.4). It states that: 'Public officers should not harass in work practices on grounds of sex, marital status, pregnancy, age, race, colour, nationality, physical or mental impairment, sexual orientation, or religious, political or other convictions/allegiances when dealing with their colleagues and members of the public' (Ellul, 2005).

Offences related to pornography are defined under articles 208 and 209 of the Criminal Code and by the Pornography and Obscenity Regulations (LN 80 of 1975). An article is pornographic when: "Its dominant characteristic is the exploitation of, or undue emphasis on, sex, or any one or more of the following subjects, namely, crime, horror, cruelty and violence; or it directly or indirectly advertises or gives information on any article considered to be pornographic or obscene under these regulations". An article shall not be considered pornographic or obscene to the extent that it serves the public good on the ground that it is in the interests of science, literature, art or learning or other subjects of general concern. Related offences are: Distribution of pornography in a public place or in a place accessible to the public; Manufacturing, printing or otherwise making pornography or introducing it into Malta; Acquiring, keeping, trading or putting pornography into circulation; Exporting any pornographic or obscene print, painting, film, book, card or writing or any other pornographic or obscene article whatsoever, whether similar to the above or not. In the Council of Europe report, the NCPE (National Commission for the Promotion of Equality between Men and Women) states that a committee is appointed to consult with the Minister to make (new) regulations defining pornography or obscenity (Council of Europe, 2007).

Articles 204 and 205 (of subtitle II 'Crimes against the Peace and Honour of Families and against Morals') of the Criminal Code focus on *prostitution*. Considered are: inducing a person under age to prostitution; compelling or inducing women of age to prostitution and; prostitution related offences. Prostitution related offences are: Detention of a woman or girl

against her will in a brothel (the police are empowered, where there is suspicion, to issue a search warrant for any woman or girl and take her out of such a place); Living on immoral earnings (sanction up to 2 years of imprisonment); Soliciting (sanction: between 18 months and 2 years of imprisonment); Brothel keeping (sanction: up to 2 years, rising for subsequent convictions) (the police can close any premises and the courts may revoke licenses) (Council of Europe, 2007). Prostitution is not a criminal offence per se if “practiced behind closed doors (in private) or in a place not easily accessible”. Loitering and soliciting for the purpose of prostitution or engaging in other immoral acts in public is punishable by law and imprisonment. However, these are very difficult crimes to prove in Court, since Courts request that prostitutes are caught in the act of loitering or soliciting. Prostitutes are not licensed and neither are brothels. In Malta rather strong traditional values still persist and prostitution is considered highly immoral (Maltese national report to the CEDAW, 2002).

The prostitution related offences indirectly deal with **trafficking**. Current prevailing legislation is also represented by the White Slave Traffic (Suppression) Ordinance (chapter 63 of Maltese laws). This Ordinance indicates those activities that are related to trafficking in women and girls which are considered to be criminal offences. These include transportation outside Malta of a person for sexual purposes, the detention of persons for prostitution and living off the prostitution of other persons (Malta Beijing + 10 Report). In 2002 there was a change in the Criminal code in the field of trafficking (see the timeline on 2002 in section 3.3 below).

3.1.2 Which sub issues are present in Malta?

In the following part of this introduction I provide a short overview of the sub issues that have played a role during the QUING period 1995-2007 within the political arena in Malta.

Regarding the sub issue of **domestic violence and violence in partnerships (marital rape)**, marital rape seems to be a non-issue (i.e. not politicized), while domestic violence is the sub issue within the broader issue of gender-based violence that receives most attention. It seems that violence against women is often limited to or equated with domestic violence. Only during the very first years that attention was paid to gender-based violence was the issue approached under the heading ‘violence against women’ and included more than domestic violence alone (see pre-1995 timeline). In Malta the Domestic violence Act (2006) defines domestic violence as not only something between intimate partners but between family members in a wider sense. While the relevant articles in the Criminal code and the Domestic Violence Act are formulated in gender neutral language, the services that are provided by government generally view women as the victims and men as the perpetrators. However, the Maltese NGO ‘National Council of Women’ states that: ‘although we associate this kind of violence mostly with women and children, there are also men victims, but the stigma of such cases is very strong and consequently men are still finding it more difficult to come forward’. (<http://www.ncwmalta.com/newsviewsdetail.asp?i=147>). All in all, domestic

violence is not seen as a consequence of unequal structural power relations between men and women in Maltese society. The official line is a 'de-gendered' one.

Regarding the sub issues of **sexual assault and rape** and **trafficking and prostitution**, the sub issue of trafficking received some attention within the QUING period when an extra section on trafficking in persons was added to the Criminal Code in 2002. The other sub issues were not present or politicized in English language documents or at least no new legislation was developed in those fields.

With regard to the sub issue of **sexual harassment and stalking**: Alongside domestic violence, sexual harassment is the sub issue which has received the most attention in the QUING period. This is largely due to the obligation Malta had to implement the EU acquis into domestic law. However, from the early nineties onwards some attention within the political arena had already been paid to the issue, though not resulting in any developments in terms of legislation.

The 2002 change to the Criminal Code added an extra section on **pornography**.

I have not found any reference to the sub issue of **forced marriage, honour crimes and FGM**. However, Malta has recently witnessed an influx of 'irregular' migrants of whom many are Muslim. This might cause these issues to be debated in the future.

3.2 Description of relevant actors in the field

3.2.1 Government actors and institutional arrangements/services

Ministry of the Family and Social Solidarity (MFSS) - The issue of domestic violence falls within the responsibility of the Minister of The Family and Social Solidarity. As the Ministry is also responsible for (gender) equality issues and appoints the NCPE which has the primary task to monitor the implementation of the Act to Promote Equality for Men and Women, sexual harassment (covered by the Act) also falls within its field of responsibility.

<http://www.mfss.gov.mt>

National Commission on the Promotion of Equality between Men and Women (NCPE) - This is the official national machinery on gender equality. The NCPE was set up in January 2004. The primary task of NCPE is to monitor the implementation of the Act to Promote Equality for Men and Women that came into force in December 2003, and to promote equality in spheres where it may be lacking. Before 2004 it was preceded by the Commission for the Advancement of Women (advising the government on gender equality policies) on the one hand and by the Department for Women in Society (implementing policies concerning gender equality) on the other hand. It should be noted that in the annual reports published by NCPE **nothing** is to be found on issues relating to gender based violence, except for sexual harassment (as this is covered by the Equality between men and women Act). One would

expect to find something in the annual report for 2005 (the year that the Bill on the Domestic Violence Act was launched) or otherwise in the annual report for 2006 (the year that the act entered into force and the Commission on Domestic Violence was set up). Previously, the Commission for the Advancement of Women and the Department for Women in Society *did* pay attention to these issues. It could be that the NCPE from its inception has not regarded the issue of gender based violence as their responsibility because they knew that a Commission on Domestic Violence would soon be set up. However, this means that all issues (except sexual harassment) falling outside of the issue of domestic violence are not covered by any specific institution/commission in Malta. Combating domestic violence and violence against women is also not designated a priority in the NCPE's Strategic Policy Directions 2004-2006. www.equality.gov.mt

Commission on Domestic Violence (2006) - advises the Minister on policies in the field of Domestic violence. The legal base of the Commission lies in article 3 of the Domestic Violence Act. The members of the Domestic Violence Commission are appointed by the Minister for Social Policy. The function of the Commission is to advise the Minister on all aspects of domestic violence. The Act lists the most relevant aspects on which the Commission is to advise. The Commission is not very powerful since it has only advisory tasks and is not well funded. The Commission does not have its own website.

APPOGG (Part of the Foundation for Social Welfare Services) APPOGG is the central national agency for children and families in need. It falls under the responsibility of the Ministry for the Family and Social Solidarity and is the provider of domestic violence services and child protection services. These services were founded in September 1994 (although another name was used: Social Welfare Development Programme, SWDP) with the aim of promoting a society with Zero Tolerance to Violence. The domestic violence services include the Domestic Violence Unit, the emergency shelter Ghabex, a perpetrators' programme, and the support line 179. http://www.appogg.gov.mt/aboutappogg_overview.asp

Domestic Violence Unit (DVU). Set up in 1994 as the 'Unit on Violence Against Women' and renamed 'Domestic Violence Unit' in mid-1995. Its predecessor was an inter-departmental Action Team that was set up in 1991 to investigate and assess the incidence of violence. The Action Team developed short- and long-term programmes which integrated government and voluntary action to counteract domestic violence and other abuses such as rape and sexual harassment. As a result of the recommendations, two specialized units were established - one was the Domestic Violence Unit and the other on child protection (<http://www.un.org/News/Press/docs/2004/wom1456.doc.htm>).

The Domestic Violence Unit aims to provide a quality social work service to adults and their children suffering abuse in family and intimate relationships. The Aims and Objectives of the DVU are:

- To help persons over 18 years who are victims of violence better understand their situation
- To provide support, information and validation of feelings
- To support victims of violence in Safety planning

- To encourage and facilitate self-empowerment
- To help service users find shelter when it is requested
- To provide support groups to victims of domestic violence
- To link and refer service users to other necessary services or professionals

http://www.appogg.gov.mt/adultandfamily_domesticviolenceservices_domesticviolenceunit.asp

Emergency Shelter (Ghabex, set up in 2000) offers refuge for women victims of domestic violence and their children. The shelter programme is based on the belief that women and children have a right to protection from violence and abuse and that any woman, regardless of socio-economic, status and age, may be subjected to abuse. The women's stay at the shelter is aimed at a maximum period of three months, after which service users will move on to a second stage shelter, or to any alternative accommodation that has been identified during their stay at Ghabex. There are three NGO-run shelters. These are partly funded by APPOGG.

http://www.appogg.gov.mt/adultandfamily_domesticviolenceservices_emergencysshelter.asp

Perpetrators' Programme This deals with male adults who engage in abusive behaviour towards their partners. The mission statement of this programme is: "Men's Services aims to bring about change in perpetrators of domestic violence, "from abuse to respect through awareness and responsibility"; to achieve a safe and healthy environment for women and their children, and healthy relationships."

http://www.appogg.gov.mt/adultandfamily_domesticviolenceservices_perpetratorsprogramme.asp

Support line 179 This is a 24 hour free telephone service run by a team of professionally trained volunteers offered by APPOGG. It provides immediate, confidential support to callers of any age, who require assistance both in day-to-day and crisis situations. It also provides information on social welfare services and referral systems to those callers who require further assistance. <http://www.appogg.gov.mt/supportline179.asp>

Ministry of Education, Youth and Employment (MEYE) This Ministry is, among other things, responsible for Employment and Training, Industrial and Employment Relations, and Occupational Health and Safety. The Employment and Training Corporation (which has a gender unit) and the Industrial Tribunal are appointed by this Ministry. Therefore it is the ministry that together with the MFSS (and NCPE) shares responsibility for the sub issue of sexual harassment. <http://www.education.gov.mt>

3.2.2 Political parties

Nationalist Party (Partit Nazzjonalista) This party is currently governing; the prime minister being Lawrence Gonzi

Labour Party (Partit Laburista) This party is in the opposition and is led by Alfred Sant.

Green Party (Alternattiva Demokratika) This Party has never been elected to Parliament but has the most coherent ideas on (gender) equality policies. The party has a column/opinion page in the Sunday Times written by Harry Vassallo.

3.2.3 Civil society / NGO's

Malta Confederation of Women's Organizations (MCWO) set up in 2005, a confederation of 11 local women's organizations. It aims to represent the concerns, needs and interests of women from all walks of life through dialogue and networking at a national, European and international level and to contribute towards an improvement of the national policy and strategy vis-à-vis women's rights. The MCWO represents Malta at the European Women's Lobby Group as a full member. As EWL tackles the issue of gender-based violence (EWL observatory on violence), the MCWO is also to report on this issue to the EWL. There is no website yet, email: tlogic@maltanet.net

National Council of Women (NCW) www.ncwmalta.com Founded in 1964 and works towards women's rights and gender equality and a more humane and caring society. NCW is affiliated to the International Council of Women and the European Centre of the International Council of Women. It has a special consultative status with ECOSOC. The National Council of Women is regarded as a quite conservative, religious (middle-class) women's organisation. It is the largest (and highest funded) women's group in Malta. The Council do occasionally raise the issue of domestic violence, although it does not seem to be one of their top priorities.

3.2.4 Trade Unions

The biggest trade unions **UHM** and **GWU** have a gender committee and a gender unit respectively focusing on gender issues at the workplace. Both are members of the MCWO.

3.2.5 Religious actors

The religious order of the Good Shepherd Sisters set up the first women's shelter in Malta around 1980. It is named 'Merhba Bik'.

Other church organizations work very closely with the government services in the field of domestic violence as well.

3.2.6 International actors

EU – The EU has only minimal competences in the field of gender-based violence, in the issue of sexual harassment in the workplace. It is in reaction to EU directives that sexual harassment was clearly put on the policy agenda and that legislation in this field was

developed (before that time some attention had already been paid to the issue within the political arena though this had not resulted in any developments in terms of legislation/policy). Malta participates in some Daphne projects, but there are few references to this.

Council of Europe (CoE) – In the field of violence against women outside sexual harassment (because here the influence of European Commission prevails), the CoE seems at times to have influenced actions taken by the Maltese government. For example, the setting up of the Unit on Violence Against Women (renamed the Domestic Violence Unit) in 1994 was based on recommendation R(90) 2 on ‘social measures concerning violence within the family’. Also, in the framework of the CoE campaign to combat violence against women (including domestic violence) launched in November 2006, the government is currently developing a new national campaign to combat violence against women applying the Council of Europe campaign blueprint to the Maltese situation.

http://www.coe.int/T/E/Human_Rights/Equality/PDF_EG-TFV_2006_8_blueprint_E.pdf).

UN-CEDAW – Malta ratified the UN CEDAW Convention in 1991 with a few reservations. It participated in the fourth world conference on women in Beijing in 1995 and committed itself to implement the Beijing Platform for Action. While in the field of intimate citizenship the ratification of the CEDAW Convention was an important factor in the 1993 changes in family law (regarding equal partnership in marriage), the influence of CEDAW in the field of domestic violence is not entirely clear. After Malta signed the Beijing Platform for Action, the Commission for the Advancement of Women wrote a new action programme in response which included the priority ‘the elimination of violence against women, particularly domestic violence’. It was also in 1991 that an inter-agency action team on violence against women (with a broader focus than only domestic violence) was installed.

3.3 Timeline

As in the case of intimate citizenship, regarding the issue of gender-based violence the number of primary/secondary sources adequate for frame and voice analyses later in the project is substantially smaller than in the field of non-employment.

Given the relatively small number of policy changes around which primary/secondary sources on gender-based violence are ‘gathered’, I have included information in this timeline that may seem rather insignificant but which is nonetheless valuable in gaining a better insight in this policy field.

Pre-1995

Domestic violence and violence in relationships

Around 1980: Among the first people to act with regard to addressing the issue of domestic violence were the Good Shepherd Sisters (a religious order) who set up the first women’s shelter. It was therefore not the women’s movement that started the first shelter.

1991: an inter-agency action team *on violence against women* was set up within the then Ministry for Social Policy (now MFSS), bringing together representatives from key government departments, trade unions and NGOs. One of its tasks was to draw up a report mapping the situation of violence against women (domestic violence, rape and sexual harassment) and a plan of action (though it is not clear whether such plan of action was ever produced). In 1992 the action team presented its report to the Minister. It included several recommendations for the enactment of legislation (source: Combined initial, second and third periodic report to the CEDAW Committee, 2002). In this year the action team, together with the Secretariat for Equal Status of Women (which acquired the status of a department in 1994 and changed its name to 'Department for Women in Society in 1999), organised a round table on sexual harassment at work for the Trade Unions and women's organisations.

1993: A victim support section is set up within the Malta Police Force to deal with investigating domestic violence and sexual offences. It is part of the Vice Squad and made up of primarily female police officers. This section is also coupled with gender sensitive training programmes at the police academy. The members of this support section also refer victims to all available services (Source: Combined initial, second and third periodic report to the CEDAW Committee, 2002).

1993/1994: the terms of reference of the action team ended in 1992. An inter agency forum *on violence against women* was set up in 1994 to evaluate the services offered by the Ministry. As a result of this forum, the recommendations by the former action team and Recommendation No. R (90)2 of the Council of Europe's Committee of Ministers on 'social measures concerning violence within the family', two specialized units were established in 1994 - one was the *Unit on Violence Against Women* and one on child protection. The services proposed in the plan on the units were in line with the Council of Europe recommendations. At the same time, the Social Welfare Development Programme (nowadays called APPOGG) was set up (Source: Combined initial, second and third periodic report to the CEDAW Committee, 2002; Macelli, 1996).

1995

Domestic violence and violence in relationships

The Unit on Violence Against Women is renamed the 'Domestic Violence Unit'. It still carries this name today (source: Macelli, 2006).

1996

Covering more than one sub issue

A support line run by trained volunteers was set up. Originally the idea to set up such a support line came from the Maltese women's organisation 'Moviment Mara Maltija'

(movement of Maltese women). This movement also worked on the issue of domestic violence. They had tried up to set up a support line, but did not have enough resources. The SWDP (now APPOGG) took over this initiative. Although initially intended to deal specifically with domestic violence, it almost immediately 'de-gendered' and became a general help line called 'support line 179'. One important reason for this is that Malta is too small to have separate lines for each issue (source: Combined initial, second and third periodic report to the CEDAW Committee, 2002).

1997

Covering more than one sub issue

The Commission for the Advancement of Women, inspired by the Beijing Platform for Action, prioritizes the elimination of violence against women in its action program 1997-2000. This objective is further worked out in 'goals' on the one hand and 'strategies' on the other hand. The goals are:

- The promotion of a culture that does not tolerate any form of violence against women - domestic violence (physical and emotional), sexual abuse, sexual harassment and rape.
- The reduction of violence against women.

The Strategies are:

- Education on gender equality (Educational programmes on gender equality for children and adolescents in schools; Educational programmes for engaged couples on gender equality and on problems of violence; Training in assertiveness skills for young girls to enable them to build self-esteem and to teach them not to tolerate abuse and violence).
- Prevention and Action Against Violence (Educational programmes and training in life-skills aimed at victims of violence; Therapy programmes for perpetrators to enable them to control their anger).
- Training of professionals (The training of professionals who come into contact with victims of abuse).
- Strengthening of Legislation (Amendments to laws to provide more protection for victims of violence; Introduction of legal provisions on sexual harassment).
- Improvement of Support Services (The strengthening of services such as: the support of social workers and psychologists; more shelters for victims of domestic violence; The development of therapy services for perpetrators; The development of social assistance and therapeutic services for victims of sexual abuse and of rape)

1998

Domestic violence and violence in relationships

In this year a white paper proposing a domestic violence act titled was issued. It was initiated by the then labour administration. The White paper was widely distributed within government and amongst professionals, academia and women's organizations. It was highly debated and seminars were organized around it. An initial draft of a Domestic Violence Bill was published. The labour administration lasted only for a short period (18 months between 1996 and 1998) and fell that same year. The nationalist administration that took over promised to review the Bill and to issue it soon. It was only in 2005 that a constrained version of the 1998 Bill was presented to Parliament which became law in 2006. In the meantime, the idea for a domestic violence act did not totally disappear - even though between 1998 and 2002 the issue seems not to be publicly discussed. In 2002 a coordinated response team on violence against women was set up (see timeline 2002), the major aim of which was to push through a law on domestic violence. Up until 2005 draft bills went back and forth between the team and the Attorney General (the top lawyer of government, responsible for the drafting of new legislation).

Primary sources:

- Parliamentary Secretariat for Women's Rights (Office of the Prime Minister). August 1998. Proposed amendments to the Maltese law regarding domestic violence, White Paper [Proposti għall-emendi għat-tishih tal-ligijiet Maltin fil-qasam tal-vjolenza domestika, White Paper, Segretarjat Parlamentari għad-Drittijiet tan-Nisa, Ufficju tal-Prim Ministru, Awwissu 1998]. Maltese version only.
- Bill on domestic violence, 1998

2002

Domestic violence and violence in relationships

A coordinated response team on violence against women was set up by the Ministry for Social Policy that, however, focused mainly on domestic violence. It included policy makers, and professionals, and agencies and entities from the field working with women who suffer abuse or having a role in the prevention of family violence (source: Combined initial, second and third periodic report to the CEDAW Committee, 2002). The main aim of the team was to push through a law on domestic violence (which had been in the pipeline since 1998). Other tasks were to develop and implement a national action plan on violence against women to ensure a coordinated response, research, awareness-raising and coordination and networking of service providers and professionals in the field. The response team operated from 2002 to 2005. It finally faded away rather than being actively dissolved.

Primary and secondary sources:

- No document written by this response team has been located.

In 2002-2003 Malta carried out a national campaign to combat domestic violence. The campaign slogan was 'zero tolerance'. The campaign lasted for 3 months. The aim was to raise awareness regarding Domestic Violence issues, explaining what domestic violence is and that it is not acceptable. The public was also informed about the domestic violence services available and where to find help (source:

http://www.coe.int/t/dg2/equality/domesticviolencecampaign/countryinformationpages/malta/Completedquestionnaire_en.pdf).

In this year, the National Statistics Office carries out a survey on perceptions about Domestic Violence in Malta on behalf of the Ministry of Social Policy (in 2004 renamed into 'Ministry for the Family and Social Solidarity').

In this year of renewed attention to the issue of domestic violence, the National Council of Women (NCW) publishes a short paper on domestic violence on their website in which they express what legislation/changes are needed.

Secondary source:

- National Council of Women. 2002. Addressing the issue of domestic violence. <http://www.ncwmalta.com/infowomendetail.asp?i=26>

Trafficking and prostitution

The Criminal Code was changed with regard to trafficking in persons and pornography. A new section of the Criminal Code (article 248 a, b, c, d and e, subtitle VIII BIS 'of the traffic of persons', title VIII 'crimes against the person') targets the trafficking of persons for three specific purposes: economic exploitation (248 a), prostitution and pornography (248 b), and exploitation of human organs. Furthermore, another new section (208 a) was included in the Criminal Code making it a criminal offence for any citizen or permanent resident of Malta (whether he/she is inside or outside Malta) to take or transmit any indecent photograph, film, video recording or electronic image of a minor or distribute or show these (Beijing + 10 answers to the questionnaire on the implementation of the Beijing platform for action).

Primary source:

- Criminal Code (Chapter 9). 1854. To amend and consolidate the Penal Laws and the Laws of Criminal Procedure. Last amendment in 2006 (and each year from 1995 to 2005) http://docs.justice.gov.mt/lom/legislation/english/leg/vol_1/chapt9.pdf

Sexual harassment and stalking

The Employment and Industrial Relations Act (EIRA) entered into force. Article 29(2) prohibits sexual harassment: It is unlawful for an employer/employee to sexually harass another employee/employer by:

- (a) Subjecting victim to an act of physical intimacy;
- (b) Requesting sexual favours;
- (c) Subjecting victim to any act/conduct with sexual connotations, including: spoken words, gestures or the production, display or circulation of written words, pictures or other material where
 - (i) act/request/conduct is unwelcome to victim and could reasonably be regarded as offensive, humiliating or intimidating to victim;
 - (ii) victim is or could be treated differently because of victim's rejection of such behaviour.

Primary source:

- Employment and Industrial Relations Act (Chapter 452). 2002. To consolidate, with amendments, the Conditions of Employment (Regulation) Act (Cap.135) and the Industrial Relations Act (Cap. 266). ACT XXII of 2002, as amended by Acts IX of 2003, III of 2004 and XIX of 2006.
http://docs.justice.gov.mt/lom/legislation/english/leg/vol_14/chapt452.pdf
- In Parliament the Employment and Industrial Relations Bill (no. 152) was discussed in Second Reading Stage during the following sittings (9th legislature): 729, 730, 731, 732, 733, 734, 735, 736 and 737. All 2002. Especially in Sittings 730, 731 and 732 the topic of sexual harassment is debated.

A study on sexual harassment was undertaken, commissioned by the Ministry for Social Policy in 2002.

Primary Source:

- Galea-Seychell, O. and C. Cortis Miscaldef. 2002. Sexual Harassment at the workplace in Malta. Malta: Ministry for Social Policy. 99 pages.
- http://www.msp.gov.mt/documents/msp/sexual_harassment.pdf

The White paper on gender equality legislation was published. Provisions on sexual harassment are included in the Bill. The time allowed for consultation was very short (only a few weeks). Despite the time pressure, the National Council of Women published its comments and proposals on the White Paper on its website.

Primary and secondary sources:

- Ministry for Social Policy. 2002. White paper gender equality legislation. Malta: Ministry of Social Policy. 67 pages. (not available on the internet)
- National Council of Women (NCW). 2002. Comments and proposals put forward at a Seminar organised by the National Council of Women on the White Paper on Equality between Men and Women.
<http://www.ncwmalta.com/infowomendetail.asp?i=25>

- The Equality for Men and Women Bill (No. 112) was discussed in Parliament (9th legislature) in Second Reading Stage during the following Sittings: 809, 810, 811, 812, 814, 815 and 816. All in 2002. At least during Sitting 810 the topic of sexual harassment comes up.

2003

Sexual harassment and stalking

The Equality between Men and Women Act entered into force. Article 9 is on sexual harassment and states:

(1) Without prejudice to the provisions of article 29 of the Employment and Industrial Relations Act, it shall be unlawful for any person to sexually harass other persons, that is to say:

(a) to subject other persons to an act of physical intimacy; or

(b) to request sexual favours from other persons; or

(c) to subject other persons to any act or conduct with sexual connotations, including spoken words, gestures or the production, display or circulation of any written words, pictures or other material, where the act, words or conduct is unwelcome to the persons to whom they are directed and could reasonably be regarded as offensive, humiliating or intimidating to the persons to whom they are directed; or (d) the persons so subjected or requested are treated less favourably by reason of such persons' rejection of or submission to such subjection or request, it could reasonably be anticipated that such persons would be so treated.

(2) (a) Persons 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, shall not permit other persons who have a right to be present in, or to avail themselves of any facility, goods or service provided at that place, to suffer sexual harassment at that place.

(b) It shall be a defence for persons responsible as aforesaid to prove that they took such steps as are reasonably practicable to prevent such sexual harassment.

(3) Persons who sexually harass other persons shall be guilty of an offence against this article and shall, without prejudice to any greater liability under any other law, be liable on conviction to a fine (multa) of not more than one thousand liri or to imprisonment of not more than six months or to both such fine and imprisonment.

Primary source:

- Equality for Men and Women Act (Chapter 456). 2003. To promote equality for men and women.
http://docs.justice.gov.mt/lom/Legislation/English/Leg/VOL_14/Chapt456.PDF

Domestic violence and violence in relationships

The NCPE is set up. In its Strategic Policy Directives 2004-2006, the priorities in the field of gender equality are identified. Combating domestic violence/violence against women is no longer identified as a priority, in contrast to its status as a priority in the 1997-2000 action plan of the NCPE's predecessor 'the Commission for the Advancement of Women'. Sexual harassment is covered by the NCPE (because the issue is included in the Equality between Men and Women Act of 2003 for which the NCPE has responsibility).

The Malta National Action Plan on Poverty and Social exclusion 2004-2006 is launched. Key priority 7 of this plan is to further support families in need and families at risk of social exclusion, *particularly victims of domestic violence*. Some statistics are cited; for example, 30 per cent of Maltese believe that domestic violence against women in Malta is very common whilst 40 per cent thinks it is fairly common, 21 per cent of women and men in Malta know of a woman who is a victim of domestic violence within their neighbourhood and 70 per cent of Maltese believe that all forms of domestic violence are very serious. Some statistics on reported cases and interventions are also cited. The statistics appear to show an increasing willingness to report cases of domestic violence (Office for social inclusion, 2004). Concerning policy and services in the field of domestic violence, the report states that a Coordinated Response Team was set up within the Ministry for the Family and Social Solidarity aiming to better co-ordinate the existing services available to victims of domestic violence and to identify other services that might be needed (see also 2002 in the timeline). Furthermore, some details are provided with regard to how the report came into being. A large number of government departments, voluntary organizations, trade unions and religious organizations were involved in the consultation. The mainstreaming of gender, disability and mental health issues within the wider framework of the fight against poverty and social exclusion was dominant throughout the process. It is notable that the focus is explicitly on gender, disability and health, but excludes other groups such as gay people. One focus group in consultation round 1 consisted of 'disadvantaged groups' and the Malta Gay Rights Movement was included; however the NAP does not mention gay people in the framework of social exclusion (Office for social inclusion, 2004).

Sexual harassment and stalking

Legal notice 461 on equal treatment in employment regulations is issued under the Employment and Industrial Relations Act. It extends the protection from harassment in matters of employment on all the grounds mentioned in order to comply with obligations under EU Directives 2000/43/EC and 2000/78/EC. It defines harassment as a form of discriminatory treatment where it has the effect of violating the dignity of the person who is being harassed or where it has the effect of creating an intimidating, hostile, degrading, humiliating or offensive environment for the person who is so subjected (Ellul, 2005).

Primary source:

- Legal notice 461 (subsidiary legislation 452.95) on Equal treatment in Employment regulations, 5th November, 2004 as amended by Legal Notice 57 of 2007. <http://docs.justice.gov.mt/lom/Legislation/English/SubLeg/452/95.pdf>

Covering more than one sub issue

In July 2004 the first Maltese report to the CEDAW Committee was considered. It concerned a combined first, second and third periodic report that was submitted in 2002. With regard to issues relating to gender-based violence Malta received several comments:

- The Committee underlined the importance of the Maltese Domestic Violence Bill becoming law as soon as possible (in 2005 a new Bill – replacing the old 1998 one – was published. The Bill became law in 2006).
- The Maltese Criminal Code makes no distinction on the basis of the victim's sex. The Maltese government appears to see violence as a gender-neutral phenomenon, not being aware of its gender-specific forms. That is why the Committee wondered whether the future Domestic Violence Act would include awareness of the gender-specific nature of violence. (Taking into consideration the 2006 Domestic Violence Act text it should be concluded that this Act does not include such awareness).
- The fact that rape and its aggravating circumstances are listed under the title 'Of Crime Affecting Good Order of Families' is disturbing to the Committee. It urges the Maltese government to move rape to another part of the Code (Malta did not follow up this recommendation).
- The Malta report did not provide clear information on the funding of the Domestic Violence Unit and supporting services; where those services are provided by civil society organizations the question is raised as to whether the government provides them with financial support.
- Concerning prostitution, the Maltese national report referred to it as being highly immoral. The Committee suggested that rather than focusing on the women prostitutes, Malta should better focus on their male clients. Criminalizing the women involved is not considered to be a good course of action (in the meantime, nothing changed regarding Maltese legislation/policies on prostitution).

2005

Domestic violence and violence in relationships

The Bill entitled the Domestic Violence Act, 2005 is published in the Government Gazette of Malta. The bill is considered to be not as far reaching as its 1998 predecessor.

Primary and secondary source:

- The Bill entitled the Domestic Violence Act, 2005. Government Gazette of Malta No. 17,766 - 13th May, 2005 <http://www.doi.gov.mt/EN/bills/2005/Bill45E.pdf>

- James Debobo. 22 May 2005. Weak domestic violence bill emerges after seven-year limbo. Published in: Malta Today. 2 pages.
<http://www.maltatoday.com.mt/2005/05/22/t15.html>
- In Parliament the Bill (No. 45) was discussed in Second Reading Stage during the following sittings (10th legislature): 274, 275, 276, 277, 278, 279, 280 and 281. All in 2005
- In Committee Stage the Bill was discussed during the following meetings (Standing Committee for Consideration of Bills): 54, 56, 57, 58 and 62.

An update of the Malta National Action Plan on Poverty and Social exclusion 2004-2006 is launched. A tiny section of this plan is dedicated to domestic violence.

Primary source:

- National Action Plan against Poverty and Social Exclusion 2004-2006, Light Update Report 2005
http://www.msp.gov.mt/documents/msp/nap_incl_mt_20050801.pdf

Sexual harassment and stalking

The National Commission on the Promotion of Equality Between Men and Women (NCPE) publishes a code of practice on sexual harassment. This Code of Practice is intended to disseminate information to employers, employees and the general public about the meaning of the term 'sexual harassment' and the rights and obligations of employers and employees. In particular, it is meant to ensure that sexual harassment at the workplace is prohibited and that it is clearly understood that it can give rise to serious consequences if it does exist. However, this code is not merely a sensitization document; it is also a 'code of practice' since the document ends with a specimen sexual harassment policy that could be used in practice by employers.

Primary source:

- National Commission for the Promotion of Equality between men and women. 2005. Sexual harassment: a code of practice.
http://www.msp.gov.mt/documents/wis/sexual_%20harass_practice.pdf

2006

Domestic violence and violence in relationships

The Domestic Violence Act (chapter 481 of Maltese laws) enters into force and in this framework amendments are also made to the Civil Code and Criminal Code. Before the existence of this Act one only could rely on the Criminal Code, which does not explicitly define Domestic Violence as a specific crime. In 1998 a first bill on domestic violence was published (see timeline 1998). The act (together with the amendments to Criminal Code and

Civil Code) contains some important measures, like the inclusion of both physical and verbal harassment as a crime. It also includes terms that provide for restraining orders that prohibit the perpetrator from entering the areas where the victim lives and works. Reports on domestic violence can be lodged by anyone, not only by the victim. Once a report has been filed, the police have to carry out their investigation and take court action. However, the victim of violence can ask the magistrate to stop procedures against the perpetrator. This leaves the door open for the perpetrator to put pressure on the victim to drop charges. This is generally regarded as the greatest shortcoming of the Act. In this way, it places the onus for prosecution upon the victim (Darmanin, 2006). The Act starts with defining domestic violence. The rest of the text of this Act is dedicated to the setting up of a Commission on Domestic violence, the tasks and procedures relating to it, and to appointing a 'designated agency' as the agency responsible for the provision of preventive, therapeutic and/or treatment programmes for victims and perpetrators of domestic violence. The measures listed above are to be found in the criminal code amendments. The Act excludes stalking as a crime.

Primary Source:

- Domestic Violence Act (Chapter 481). 2006. To make special provision for domestic violence and to make consequential and other amendments to the Criminal and Civil Codes.

http://docs.justice.gov.mt/lom/Legislation/English/Leg/VOL_15/Chapt481.pdf

The Commission on Domestic Violence was established under Article 3 of the Domestic Violence Act on 1st March 2006. The Commission is appointed by the Minister of the Family and Social Solidarity. The role of the Commission is to advise the Minister of The Family and Social Solidarity on all aspects of Domestic Violence. The Commission is understaffed and under-funded.

In a questionnaire Malta has answered in the framework of the CoE campaign to combat violence against women one can deduce that the Commission on Domestic Violence Malta is currently drafting a national action plan (based on the CoE blueprint) on violence against women. This plan will lay down the objectives, targets and recommended action in the field of prevention, early intervention, support and follow-up. Thus far, Malta has never had a national action plan on domestic violence/violence against women.

Secondary source:

- Council of Europe Campaign to Combat Violence against Women, including Domestic Violence. 2006. Country information page on national action to combat violence against women in Malta.

http://www.coe.int/t/dg2/equality/domesticviolencecampaign/countryinformationpages/malta/Completedquestionnaire_en.pdf

In the biennial report 2004-2005 of APPOGG (the Domestic Violence Unit is part of this service provider), it is stated that the Domestic Violence Unit is experiencing financial and human limitation. Their caseload is unmanageably high.

Secondary source

- APPOGG. 2006. Biennial report 2004-2005. (page 14-17 on domestic violence services),
http://www.appogg.gov.mt/pdf/information/appogg_Biennial_Report_2004-2005v2.pdf

Press release on Commission on Domestic Violence by the Ministry for the Family and Social Solidarity.

Secondary source:

- Press release Ministry for the Family and Social Solidarity (MFSS). 30 March 2006. On: Commission on Domestic Violence
<http://www.msp.gov.mt/ministry/content.asp?id=795>

Covering more than one sub issue

A National Action Plan on social protection and social inclusion 2006-2008 is launched. This NAP is the successor of the National Action Plan on Poverty and Social exclusion 2004-2006 (see timeline 2004 and 2005). In this NAP reference is made to gender-related violence and domestic violence several times, but also (and this is remarkable) the NAP mentions violence motivated by homophobia and xenophobia (page 16-17). Although not speaking about intersectionality explicitly, the NAP mentions various groups that are victims of multiple discrimination, including lesbian women as victims of domestic violence (p.58) and women asylum seekers (p.58). However, no real analyses or discussion of the problems faced by such groups is included in the NAP; they only are listed as vulnerable groups. Nevertheless, their inclusion could point to a slightly increased awareness of issues connected to intersectionality.

Primary source:

- National report on strategies for social protection and social inclusion 2006-2008. September 2006.
http://www.msp.gov.mt/documents/msp/nap_inc_2006_2008.pdf

2007

Domestic violence and violence in relationships

In the chapters on non-employment and intimate citizenship reference is made to the gender audit of Maltese legislation that is being conducted in the framework of the ESF funded

project (no. 46) titled 'the gender aspect from a legal perspective'. It should be noted that although the Criminal Code is being reviewed, the gender audit does not cover the Domestic Violence Act.

The government is planning to launch a new national campaign this year to combat violence against women, applying the Council of Europe (CoE) campaign blueprint to combat violence against women (including domestic violence) to the Maltese situation

(http://www.coe.int/T/E/Human_Rights/Equality/PDF_EG-TFV_2006_8_blueprint_E.pdf).

The CoE campaign was launched in November 2006.

In an interview with the newly appointed chairwoman (Marcelina Naudi) of the Domestic Violence Commission published in the Malta Independent Online, she says that domestic violence has always existed in Malta, but that there was this dominant belief in Malta that for a long time had made domestic violence accepted and hidden. It was accepted for the father or husband to be violent. The Commission is working hard to change these dominant views. She also underlines the importance of raising awareness about the issue with different associations and professions. Furthermore, she identifies a problem with gathering statistics on the size of the problem. At this moment, statistics are gathered by several different organisations, such as the police, the government service APPOGG and the shelters. These are not however put together in a standard form. The Commission is also working on this issue (Ameen, 2007, <http://www.independent.com.mt/news.asp?newsitemid=45481>).

In a press release (The Times, 5th April 2007), the National Council for the Promotion of Equality between Men and Women (NCPE) states that "violence against women is a manifestation and a result of the imbalance of power between the two genders. Moreover violence against women is particularly serious because it is both a violation of human rights and a major obstacle in the struggle towards greater equality for men and women in society". The press release refers to a case in which a brother had abused his sister since she was 6 years old. No further explanation is provided to support the above quoted sentences. Because a de-gendered line of thinking about domestic violence seems to prevail in Malta, it seems remarkable that violence against women is here conceptualized as an issue of unequal structural power relations. However, this seemingly sudden change may be due to their use of text from the first paragraph of the Council of Europe blueprint to combat violence against women (Council of Europe, 2006). This paragraph contains (italics added) the sentences "*violence against women is the result of an imbalance of power between women and men, leading to serious discrimination against women, both within society and the family*"... "*Violence against women is a violation of human rights, the very nature of which deprives women of their ability to enjoy fundamental freedoms. It often leaves women vulnerable to further abuse and is a major obstacle to overcoming inequality between women and men in society*".

Press release on Domestic Violence by the Ministry for the Family and Social Solidarity.

Secondary source:

- Press release Ministry for the Family and Social Solidarity, International Women's Day- Commission on Domestic Violence, 7th of March 2007, <http://www.msp.gov.mt/ministry/content.asp?id=888>

PART III: CONCLUDING SECTION

This final section summarises some of the key questions in the issue histories. It is intended not only as a conclusion to the report, but also as an aid to the comparative analysis of gender+ equality in the 29 countries (plus the EU) by providing simplified accounts of key questions.

1 Relative importance of topics within the issues and in generic gender + equality policies

This section considers the extent to which these topics and sub-topics identified at the level of QUING as a whole are actually present in the policy debates in each country. Answers to the question in this section enables QUING to assess the variation in the policy fields in each country, with QUING as a whole (not only the EU) as the point of reference.

Generic gender + equality policies

The level of debate and discussion about the nature of gender equality policies and their relation to policies regarding other inequalities is quite low in Malta. According to the Maltese experts on gender equality in Malta, it is mostly the EU that has made the issue of gender a legitimate issue to talk about in the political arena and within broader society. Consequently, gender equality policies seem to be focused primarily on employment issues relating to the EU acquis that has to be implemented, while other issues have a 'secondary status'. The enforcement of the Equality between Men and Women Act in 2003 seems to have been passed without any substantial debate within civil society and government (and between them). It was drafted by one policy expert and consultation was rather minimal, as the time span during which civil society actors/NGOs were allowed to respond was too short. The gender + dimension relating to gender equality policies is largely absent in Malta. The occasional attention that is being paid to it is EU-driven. Recently the NCPE's remit was broadened to include race (alongside gender). It is highly possible that in reaction to EU requirements Malta will work towards one single equality body. However, to date, neither the expertise nor substantial debate exists on multiple inequalities/ intersectionality in Malta.

Non-employment

The most important topics in Malta were reconciliation of work and family life and tax-benefit policies. The EU accession process which brought the obligation to implement EU directives and policies, added to the fact that Malta is one of the worst achievers with regard to the overall employment rate in general and the female employment rate in particular, have put much pressure on Malta to introduce legislation in this field. In order to get people (and

especially women) out of non-employment and into the labour market, legislative measures on parental leave and part-time work and tax-benefit incentives have been introduced to make working more attractive (to women). In general one can say that non-employment was by far the most important and present issue out of the three issues studied within QUING. Despite the focus on getting more women to participate in the labour market, the male breadwinner culture and the religious teachings on the traditional role of women within the family remain strong. As a consequence, the attention paid to getting more men involved in care tasks is rather low.

Intimate citizenship

None of the sub issues studied within the issue of intimate citizenship have a priority place on the political agenda. Only in the field of reproductive rights is the government working on future policy/legislation (which will possibly restrict certain practices in this field, such as IVF treatment), although not much discussion is taking place on this within civil society. It is the other way around for the other two sub issues; in both divorce and same sex partnership civil society groups pressurize the government. However, both issues are absent from the political agenda. The rather strong influence that the church has on policy-makers in Malta (and on broader society as well) seems to 'mute' any real discussions and policy changes on all three sub issues within the political arena. These are stigmatized issues.

Gender-based violence

In Malta, domestic violence is clearly the dominant sub issue within the issue of gender-based violence. During the QUING research period, gender-based violence is almost equated with domestic violence. In Malta, domestic violence is seen as not only something between partners but between family members in a wider sense. Generally, domestic violence is not seen as a consequence of unequal structural power relations between men and women in Maltese society. The official line tends to be a 'de-gendered' one. After domestic violence, it is sexual harassment that has received the most attention in Malta, largely due to the obligation to implement certain EU-directives.

2 Major changes in the three issues and in generic gender + equality policies

Generic gender + equality policies

The Equality between Men and Women Act brought about an abrupt shift in the gender equality machinery. The advisory Commission on the Advancement of Women and the executive Department for Women in Society were replaced by the National Commission for the Promotion of Equality between Women and Men (NCPE) which has its legal base in the Act. The most important change with regard to legislation was the introduction of the

aforementioned Act, although experts generally do not identify the Act as a major turning point because it was drawn up too quickly and omits many issues that should have been included (such as a focus on the definitions of gender discrimination and gender equality). Also, the NCPE that was set up by this Act is generally not regarded as being very powerful. The change in gender machinery seems to have entailed a narrowing of focus onto employment issues since the NCPE is, to a large extent, dependent on EU-funding for its (research) projects.

Non-employment

Most of the legislative changes in this field attempt to increase the incentive for non-employed women to start working (part-time). In recent years important legal notices and acts (Employment and Industrial Relations Act, EIRA) have been enacted to introduce family-friendly measures (that also apply to employees working in the private sector) and to provide tax-benefit advantages for part-time workers and women returnees to employment. Besides the EIRA, the most important measures that have been introduced concern the following: the introduction of a new pension scheme that entitles parents to two years of National Insurance Credits in cases where they leave the labour market to care for the child; the budget of 2007 that makes it possible to pay only 10 % of your income to national insurance instead of a certain threshold that was pitched to the minimum wage on the basis of a 40 hours week; and the 2007 legal notice that abolishes the 20 hours/week threshold for part-time employees to receive pro-rata benefits.

Intimate citizenship

Hardly any major changes have taken place in the period 1995-2007. The most important change took place before our research period, namely the 1993 amendment to the Civil Code regarding equal partnership in Marriage. One change that maybe should be noted though is the 1995 Amendment to the Marriage Act which provides the church with considerably more power in annulment cases.

Gender-based violence

The biggest legislative/policy changes during the QUING period cluster around the issues of domestic violence (Domestic Violence Act of 2006) on the one hand and sexual harassment on the other hand (Employment and Industrial Relations Act of 2002, the Equality for Men and Women Act of 2003 and legal notice 461 of 2004). However, regarding domestic violence, civil society actors and experts do not think that the Domestic Violence Act goes far enough since it still leaves the onus of prosecution with the victim. The 2006 Act is regarded as a limited version of the 1998 White Paper on Domestic Violence.

3 The role of civil society and other political actors

Generic gender + equality policies

Consultation in Malta does not seem to take place in a systematic and transparent way. This makes it difficult to establish the role and influence that civil society and NGOs have on policy (this is also true for the three issues discussed below). Also, in a small country like Malta, informal networking is relatively easy. In general, NGOs and the women's movements voice in particular seem not to have much influence on policy-making in Malta, whereas the church can be regarded as a rather powerful civil society actor. The most powerful and competent (and with the most secure funding, which explains the disappearance of many smaller feminist groups) is the National Council of Women which has close links to the party currently in government (the Nationalist Party). The Green party seems to have the most coherent and progressive ideas on gender equality, but has thus far never been elected in Parliament. The labour party seems to attach more importance to gender equality than the Nationalist Party. During the only period that Labour was in administration they installed a secretariat for women's issues in the OPM and had a State Secretary on Women's issues. A majority of the existing NGOs are church related and they generally have more funds than non-church affiliated groups.

Non-employment

The two biggest Maltese trade unions (GWU and UHM) have a gender unit, but these are not well staffed which affects the amount of work they can do and to what extent they are able to pressurize the government on gender issues. The Gender Unit of the Government's ETC (Employment and Training Corporation) is quite active in not only pressurizing government to adopt certain policies that would contribute to gender equality, but also in providing training and developing media campaigns to raise public awareness on matters such as men and parental leave and child care. However, neither the trade unions nor ETC pay real attention to other inequalities such as race and sexual orientation. The Church should also be mentioned, since it is consulted on social policy issues. The Maltese women's movement represented by two umbrella organisations (the National Council of Women and the Malta Confederation of Women's Organizations) tries to pressurize the government to adopt measures that would enhance gender equality in employment issues. Since its inception in 2001, the Malta Gay Rights Movement has focused on pressurizing the government, demanding the full transposition of the European Union (EU) Council Directive 2000/78/EC within the labour legislation of the country, using its contacts with ILGA-Europe and the European Commission.

Intimate citizenship

The women's movement hardly seems to be active in this field. Both umbrella organizations (National Council of Women and the Malta Confederation on Women's Organizations) seem to focus mainly on issues relating to the non-employment issue and secondarily on issues

related to gender-based violence. The Malta Gay Rights Movement tries hard to lobby for any legal recognition in the field of partnership and family law. The Association for Men's Rights Malta, The Malta Divorce Movement and the Family Rights Association (all founded by the same person) can be seen as the only sort of anti-church lobby in Malta. This male only lobby is pro-divorce and pro-abortion. However, in Malta there is a big pro-church lobby present. On the issue of intimate citizenship, the Cana Movement and the Malta Movement for the Rights, Protection and Development of the Unborn Child are notable. The fear of losing votes seems to prevent the political parties from adopting a 'radical' position on intimate citizenship issues.

Gender-based violence

It seems that out of the three issues studied it is the issue of gender-based violence on which the least NGO/civil society activity takes place. The two women's umbrella organisations, the NCW and the MCWO, pay most attention to employment related issues. The MCWO does seem to be more sensitive to the issue of gender-based violence (they also have to report on this issue to the EWL) than the NCW, but for both women's groups it is not a priority issue. Although in this field several voluntary (quite often religious) organisations provide certain services (the 3 non-governmental shelters for example), NGOs that politically lobby and put pressure on the government in this field seem to be largely absent. The Commission on Domestic Violence that was set up in 2006 as a consequence of the Domestic Violence Act has only an advisory function and is not well funded.

4 The impact of the EU and other international bodies

Generic gender + equality policies

The UN/CEDAW and the Beijing Platform for Action seem to have influenced some (but not all) of particularly the early developments in the field (before the QUING research period and in the first years of the timeline). Since the accession process started and since Malta has become a member, the EU and its Treaties and Directives have been the major force behind changes in the field of gender equality in Malta. The limited attention that is being paid to gender+ equality issues is EU-driven.

Non-employment

EU influence in this field is overwhelming. A large majority of Malta's current gender equality policies/legislation stems from the obligation towards transposing the EU gender acquis which is mainly focused on employment related issues. In the field of non-employment it has been demonstrated on several occasions that once civil society actors pressurize via EU-channels the government is (suddenly) willing to change policies/legislation. Legal notice 140 of 2007 and the introduction of legal notice 461 of 2004 (implementing directives 2000/43/EC and 2000/78/EC) are exemplary. The EU competence in the field of (non)employment seems

to cause the influence of other international bodies, particularly the ILO and the UN/CEDAW to be much less.

Intimate citizenship

Ratifying the CEDAW Convention provided Malta with a major incentive to change its constitution, its Civil Code and its Social Security act in the period 1991-1993. However, afterwards the influence of this international body seems to have diminished. The Vatican impacts upon policy in the field of divorce/marriage. In the field of sexual orientation discrimination the EU has had some impact, mainly in the field of equal treatment in employment. But its impact will possibly turn out to be wider than this, since the EU and its stance towards equal treatment on the basis of sexual orientation provides some legitimization for discussing the issue of sexual orientation discrimination (also in fields other than employment) in the Maltese public and political arena. The European Convention on Human Rights was adopted into Maltese law by means of the European Convention Act in 1987. Maltese citizens can invoke the Convention in Maltese courts along with the right to petition the European Court on Human Rights. However, it is not clear that this has had any real impact.

Gender-based violence

With regard to sexual harassment the impact of the EU has been substantial (particularly in field of sexual harassment). In the field of domestic violence other international actors like UN/CEDAW and Council of Europe seem to have had influence. After Malta adopted the Beijing Platform for Action, the Commission for the Advancement of Women included violence against women in their action plan. Furthermore, in the year that Malta ratified the CEDAW Convention the first action team on violence against women was set up by government. The 1998 White Paper on Domestic Violence was also introduced in the aftermath of the UN Fourth World Conference on Women. The Council of Europe seem to have had some influence on the setting up of the Domestic Violence Unit in 1994 and within the QUING research period the CoE campaign to combat violence launched in 2006 seems to have provided some incentives to develop the first action plan in this field.

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Annex 1: list with experts that were interviewed

Sina Bugeja, the Executive Director of the National Commission for the Promotion of Equality (NCPE): telephone interview, 25th of June 2007

19, 20 and 21 June 2007:

Grace Attard Former president and current vice-president of the National Council of Women

Anna Borg Chairperson Malta Confederation of Women Organisations (MCWO); Senior executive, gender unit; Employment and Training Corporation

Gabi Calleja, Malta gay rights movement-

Frances Camilleri-Cassar (researcher)

Josann Cutajar(researcher and lecturer)

Mary Darmanin (researcher and lecturer)

Ruth Faruggia, researcher/lecturer and lawyer

Charmaine Grech, General Workers Union (Gender Unit)

Renee Laiviera, Malta Confederation of Women's Organisations, former Director of the Department for Women in Society

Marceline Naudi Researcher and lecturer, Chairperson of Commission on Domestic Violence

Peter Xuereb, Chairman of the European Research and Documentation Centre