



**Convention on the Elimination
of All Forms of Discrimination
against Women**

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**Committee on the Elimination of Discrimination
against Women**

**Consideration of reports submitted by States parties under
article 18 of the Convention on the Elimination of All Forms
of Discrimination against Women**

Fourth periodic report of States parties

Malta*

* The present report is being issued without formal editing.



CEDAW Country Report: Malta

Part I

Article 1: Definition of Discrimination Against Women

‘For the purposes of the present Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.’

1.1 The Legislative Framework

The Maltese legislative framework incorporates a set of legislative measures which bind society to act in accordance with directives in the safeguarding of equality between men and women. Moreover, the law provides a number of remedies which may be sought if any provision found in a law safeguarding equality between the sexes is infringed. The legislation which deals either specifically or generically with discrimination on the ground of sex is:

- The Constitution of Malta
- The European Convention Act
- The Equality for Men and Women Act
- The Employment and Industrial Relations Act
- The Employment and Training Services Act
- The Civil Code
- The Social Security Act
- The Income Tax Act
- The Education Act
- The Maltese Citizenship Act
- The Sports Act
- The Criminal Code

Subsidiary Legislation:

- Part-Time Employment Regulations
- Protection of Maternity (Employment) Regulations
- Parental Leave Entitlement Regulations
- Urgent Family Leave Regulations
- Contracts of Service for a Fixed Term Regulations
- Equal Treatment in Employment Regulations
- Equal Treatment in Occupational Social Security Schemes Regulations
- Equal Treatment of Persons Order
- Equal Treatment in Self Employment and Occupation Order

The Constitution of Malta

Malta is committed through Government policy and legislative measures to the pursuit of equality of treatment between men and women. This principle is enshrined in the Maltese Constitution. The principles of equal treatment and non-discrimination were first introduced in the Maltese Constitution in 1964. This provision provides protection from discrimination on the basis of sex, race, place of origin, political opinions, colour or creed. The Constitution guarantees equality and states that no law shall make any provision which is discriminatory either of itself or in its effect.¹

In 1991, gender equality was strengthened with the amendment in the Constitution to include the prohibition of discrimination on the basis of sex. This was in congruence with the United Nations Convention on the Elimination of all Forms of Discrimination against Women. Article 14 of Malta's Constitution states that:

“The State shall promote the equal right of men and women to enjoy all economic, social, cultural, civil and political rights and for this purpose shall take appropriate measures to eliminate all forms of discrimination between the sexes by any person, organisation or enterprise: the State shall in particular aim at ensuring that women workers enjoy equal rights and the same wages for the same work as men.”²

The Maltese Government has for years been entrusted with the responsibility of leading the way in the implementation of gender policies as well as the integration of gender concerns in all government plans and actions. Maltese political leaders have over the lapse of time shown their commitment to gender equality through various initiatives. These include the amendments introduced in the national legislation to eliminate discrimination based on sex and the promotion of gender equality. These amendments were subsequently put into action particularly within the Maltese public service.

Maltese women obtained several rights prior to the accession into EU in 2004. However it was only in the late 1980's that gender issues were actually placed on the national agenda as a priority area. Since Malta's membership in the EU, there have been several legal amendments and enactments in this regard. Particular mention must be made of the Equality for Men and Women Act and the Domestic Violence Act (including the consequential amendments to the Criminal Code).

Back until the 1980's women in the public service had to resign from their job on contracting marriage. This marriage bar was ultimately abolished following a budget speech, when the government of the day gave up the right to terminate, on marriage, the employment in the public service of female employees. The government also declared its intention to introduce legislation for the granting of maternity leave to women in employment as from the 1st January 1981.³ These changes entailed that women could opt to take maternity leave without resigning from their work. Women thus could cease to view work as a stopgap until marriage and could plan their working life on a long-term basis.

Following Malta's ratification in 1991 of the United Nations Convention on the Elimination of all Forms of Discrimination against Women, and the subsequent constitutional changes, state

departments and parastatal organisations were entrusted with the responsibility of implementing the articles of the Convention that fall under their jurisdiction.⁴

In the nineties, changes were also made to the procedures regarding selection, training and promotion in the civil service. A 1990 OPM Circular made it discriminatory to assess a person on the grounds of sex and marital status. This circular made it clear that male and female employees were to be offered equal opportunities in the selection process to vacant posts.⁵ Heads of departments were urged to ensure that interviewing boards were composed of both women and men. The selection board, on the other hand, was urged to assess applicants according to their qualifications and their personal capability when it came to carry out a job.

1.2 Other Gender Equality Legislation

Protection against discrimination in Maltese law is provided for by both general and specific laws. Besides the provisions found in the Constitution of Malta and the European Convention Act which contain general prohibitions against discriminatory treatment, there are other special laws which contain specific anti-discrimination provisions in certain spheres, mainly employment, or addressed to specific categories, mainly persons with disability and provisions on the basis of sex.⁶

The Employment and Industrial Relations Act stipulates that an employer should not subject his or her employees or prospective employees to any discriminatory treatment, on the basis of their sex, marital status, pregnancy or potential pregnancy, colour, disability, religious conviction, political opinion or membership of a trade union or an employers' association.⁷

Employment in the public service is regulated by the Public Service Management Code. This code is a guiding document by which the Public Service is regulated. The Employment and Industrial Relations Act empowers the Prime Minister of Malta to impose the applicability of the provisions emanating from the Act relating to discrimination to public service employees. In those cases where the discrimination incurred against employees in the public sector by public authorities, the injured parties can invoke the anti-discrimination provisions of the Constitution of Malta and the European Convention Act. The Employment and Training Services Act stipulates that it is illegal for any person to show favours or discriminate against any person on the grounds of sex, race, colour, creed or in relation to the person's political beliefs, or affiliations in associations.⁸

The Employment and Industrial Relations Act prohibits discrimination in matters related to vocational training and guidance, and remuneration for work of equal value.

In cases of alleged discrimination, the victim can seek to protect his or her rights by seeking redress under the Constitution, the European Convention Act, the Employment and Industrial Relations Act and the Ombudsman Act.⁹

1.3 The Civil Code

In 1993, Act XXI incorporated various reforms to the legal provisions found in the Civil Code. This Act sought to promote a cultural practice based on consensual decision-making in marriage. Provisions that discriminated against married women in their capacity as spouses or as mothers were removed and recognition was given to the fundamental principle of equality between the spouses. Mothers were now to assume the same authority and responsibilities over their children as the father. Married parents shared equal authority and responsibility in the administration of their common property.

1.4 Domestic Violence

In December 2005, the Domestic Violence Act was passed through Parliament. In this Act, domestic violence is defined 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.’

The Act contains essential protective measures for victims and dependents, including the introduction of harassment (including stalking) and the causing others to fear violence as a crime and terms providing for Protection Orders and Restraining Orders which may be issued by the court and which may include physically restricting the perpetrator’s access from those places where the perpetrator lives, works or frequents.

Through the enactment of this law and the consequential amendments made to the Criminal Code, criminal charges may be filed by anyone, not just the victim, therefore releasing the onus of such reports from the person who is being abused and permitting the Police to act *ex officio*. Although, the victim may ask the court to dismiss the proceedings, the law states that it is up to the court itself to decide whether to direct the continuation of the proceedings or otherwise.¹⁰ The law also permits the court to issue Treatment Orders requiring perpetrators of violence to undergo treatment for their behaviour.

The Domestic Violence Act also establishes a Commission on Domestic Violence, where amongst other functions, it has the duty to give expert advice to the government on domestic violence issues.¹¹ The remit of the Commission on Domestic Violence can be found in the Annex attached to this document.

Moreover, the Domestic Violence Act states that Government is to designate a specific agency or agencies so as to ensure that a multitude of services are offered to victims of domestic violence as necessary. For this purpose, Government has designated the State agency, Appogg. Amongst the services which this agency is expected to provide one can find the following:

(a) preventive, therapeutic and, or treatment programmes for victims and perpetrators of domestic violence,

- (b) public help-line facilities for emergency access to specialised support services in those areas related to domestic violence,
- (c) expertise for the assessment of the needs of victims of domestic violence, including the development of a care plan for each referral,
- (d) sheltered accommodation for victims of domestic violence, including in partnership with other organizations, institutions or other bodies providing similar accommodation,
- (e) the compilation and dissemination to interested persons and bodies of documentation on the rights of victims of domestic violence and on the remedies and services available to them and
- (f) the collation of data concerning domestic violence for use by the courts, prosecutors, law enforcement officers, health care practitioners, social workers and other agencies and entities, in a manner that protects the identity of victims of domestic violence.

In Malta one may also find a number of voluntary organisations which provide shelters for victims of domestic violence.

Domestic violence cases are gaining more visibility through reporting. One of the reasons behind this phenomena may be because in the past such acts were hidden from the public eye, and only a minimum amount of reports were lodged to the police. It should also be considered that a number of other cases remain unknown because people suffering domestic violence cannot get themselves to report such abuse. In 2005 about 800 cases of domestic violence are reported yearly to Appogg. Of these 550 cases were new whilst the remaining 250 cases were relapses. From the total number of registered cases, 35 were filed by men who were too suffering at the hands of an abusive partner.

1.5 Direct/Indirect Discrimination

In recent years, two Acts which were passed through the Maltese Parliament strengthened the principle of equal treatment between men and women and the position of women in the labour market. These are the Employment and Industrial Relations Act, Chapter 452 of the Laws of Malta, which entered into force in 2002¹², and the Equality for Men and Women Act, Chapter 456 of the Laws of Malta, which was entered into force in 2003.¹³

The Equality for Men and Women Act prohibits any form of direct or indirect discrimination on the grounds of sex and transposes EU Directive 76/207/EEC on equal treatment between men and women in the access to employment, vocational training, promotion and working conditions. It also addresses the provisions of EU Directive 86/613, with regards to equal treatment between men and women engaged in paid activity including self-employment and EU Directive 97/80/EC which deals with the burden of proof in cases of discrimination based on sex. This Act prohibits any form of sexual harassment at work, education or training. It also makes it illegal for financial institutions to discriminate against men or women, while underlining that the spouses of the self-employed who participate in their partners' business activities should be entitled to fair compensation.¹⁴

Additionally, the Employment and Industrial Relations Act, provides for the prohibition of discrimination in employment. This Act prohibits any form of gender discrimination in recruitment

processes and during the course of employment. Unfair dismissals on grounds of gender and maternity are also prohibited. The Act also regulates the right to maternity leave and the relative implications.¹⁵

Protection from any form of harassment in issues related to employment is also provided by virtue of these two Acts. Harassment is defined as a form of discriminatory treatment where it brings about a violation of the dignity of the person being harassed or where it has the effect of creating an intimidating, hostile, degrading, humiliating or offensive environment for the person who is subjected to the discriminatory behaviour. Furthermore Maltese law does not necessitate repeated behaviours before the victim is empowered to take action.

It must be mentioned that the prohibition of harassment is also found in the Public Service Management Code which is the document regulating employment conditions in the public service.

Article 2: Policy Measures

States parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

(a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;

(b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;

(c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;

(d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;

(e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;

(f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;

(g) To repeal all national penal provisions which constitute discrimination against women.

2.1 International Conventions

The European Convention Act was enacted in 1987. This Act makes the substantive articles of the European Convention for the Protection of Human Rights and Fundamental Freedoms an integral part of the Laws of Malta and are thereby enforceable by the Maltese Courts in the instance where a person's fundamental rights and freedoms are infringed on grounds of discrimination. Accessibility to the courts in the cases where the alleged breach occurs is available to all persons. All those people who do not have the financial means to back their legal proceedings in Malta can apply for the provision of legal aid from the State.¹⁶

Apart from the general protection provided by the European Convention Act, Malta has introduced specific legislative acts to transpose Council Directives 2000/78/EC and 2000/43/EC. These include:

- (a) The Employment and Industrial Relations Act;
- (b) The Equal Opportunities (Persons with Disability) Act;
- (c) The Equality for Men and Women Act;
- (d) The Equal Treatment for Persons Order
- (e) The Equal Treatment in Self-Employment and Occupation Order

Up to this date there is no national body or bodies responsible for the promotion of equal treatment on all grounds of discrimination. The existing entities which safeguard equality on a national scale are the National Commission Persons with Disability and the National Commission for the Promotion of Equality, which presently caters for the promotion of equality on grounds of sex. Furthermore, the Equal Treatment for Persons Order has widened the remit of the National Commission for the Promotion of Equality to include race.

Additionally, Malta is also a signatory of various international human rights instruments which provide protection against discrimination. Amongst these tools, there are:

- (a) the European Convention for the Protection of Human Rights and Fundamental Freedoms, and various protocols thereof, excluding Protocol 12;
- (b) the European Social Charter;
- (c) the Framework Convention for the Protection of National Minorities;
- (d) the International Convention on the Elimination of All Forms of Racial Discrimination;
- (e) the International Covenant on Economic, Social and Cultural Rights;
- (f) the International Covenant on Civil and Political Rights;
- (g) ILO Convention 111 on Discrimination in Employment and Malta.

Malta has ratified the Revised European Social Charter of the Council of Europe.

Malta was one of the participant states in the 1995 Fourth World Conference in Beijing. The Maltese government, along with other states, committed itself to implement the Beijing Platform for Action

and sign the Beijing + 10 Review in 2005. The Platform is made up of various strategic objectives. It addresses poverty and discrimination against women, as well as promoting women's empowerment and their access to social and economic resources.

As a member of the International Labour Organisation (**ILO**), Malta implemented the Declaration on Fundamental Principles and Rights at Work together with its 1998 follow-up. Malta is signatory to various ILO conventions and recommendations, which together make up what are known as International Labour Standards. An ILO convention is a legal instrument and signatory states are obliged to bring their national law and practice into conformity with its provisions and to report periodically to the ILO on the issue.

One of the main principles stemming from these conventions comprises the elimination of discrimination in employment and occupation on the basis of gender. Malta has not as yet ratified Conventions 156 and 111. These conventions are addressed towards employees who have family and career responsibilities.

The Maltese Government has however committed itself to the protection of workers as evidenced by the enactment of the Employment and Industrial Relations Act, the various subsidiary legislation issued there-under and the various measures announced by the Government in the 2006 budget speech, which were a means towards the reconciliation of familial and work responsibilities. These measures which prior to the budgetary reform were applicable to the civil service have now been extended to the public sector giving the same rights in parental leave, reduced hours, career breaks, flexitime and teleworking. By adopting these measures the Government is being the pillar of change towards a culture which adheres to the value of the stability of the family whilst encouraging career progress and the usufruct of the human potential. Such measures were the key to the promotion of active participation of women in public and social life.

As a European Union Member, Malta adheres to the policy measures outlined in the 'Roadmap for Equality between women and men 2006-2010'. This roadmap outlines six priority areas for EU action on gender equality, and for each area priority actions and objectives are identified. This Roadmap reaffirms the dual approach of gender equality based on the principle of gender mainstreaming and to the utilization of specific measures.

The six Priority Areas (EU Action + Partnership with Member States and other actors) include:

- a. Equal Economic Independence for Women
- b. Reconciliation of Private and Professional Life
- c. Equal Representation in Decision-Making
- d. Eradication of all Forms of Gender-Based Violence
- e. Elimination of Gender Stereotypes
- f. Promotion of Gender Equality in External Development Policies

2.2 Harassment and Sexual Harassment

Harassment and discrimination at the place of work including the public sector are considered to be serious offences in the Maltese Islands. The *Code of Ethics for Employees in the Public Service*, published in 1994, addressed these issues for the first time. All public officers are under the obligation not to harass or discriminate in work practices on the basis of sex, marital status, pregnancy and sexual preferences.¹⁷ Harassment and sexual harassment is also illegal by virtue of the Equality for Men and Women Act¹⁸ and the Employment and Industrial Relations Act and the Criminal Code.

Since its inception, the National Commission for the Promotion of Equality has worked towards the setting up of Equality Committees (widening the concept of focal points, launched by the previous advisory Commission for the Advancement of Women) under each ministry which in liaison with the Commission itself promote gender mainstreaming and the safeguarding from breaches of law. In addition, the National Commission for the Promotion of Equality has launched a code titled '*Sexual Harassment: A Code of Practice*', so that employers at all levels are made aware of what sexual harassment entails and the rights and duties in this sphere. The National Commission for the Promotion of Equality is also the entity responsible for receiving complaints from victims of sexual harassment. However, the Industrial Tribunal emanating out of the Employment and Industrial Relations Act also offers a possibility of redress in cases of unfair dismissal based on harassment and/or discrimination.

2.3 State Intervention

During the time elapsed since the initial national report was submitted, Government, national agencies and voluntary organizations have committed themselves into putting effort to strengthen existing policies, programmes, awareness-raising and actions aimed at fostering women's participation in social and public life, the equal sharing of familial responsibilities, and a guarantee of genuine equality rather than only formal equality.

The National Commission for the Promotion of Equality is the national entity responsible for gender equality issues. It is an autonomous body and was set up in 2004 following the enactment of the Equality for Men and Women Act. As the national machinery responsible for the promotion of equality, the National Commission for the Promotion of Equality continuously liaises with ministries and other organizations and departments to empower all citizens on gender equality matters through the spread of information and education. Simultaneously, the Commission works thoroughly with policy-makers in the consultation process, thereby becoming a powerful arm in decision-making. Since membership in the European Union, Malta has benefited through various co-funded projects which are a pillar to the investment of the Maltese state in issues related to equality and the building of knowledge.

From the period 2004 till 2006, the Office of the Prime Minister has issued a number of circulars acknowledging gender equality issues and the need to find a balance between familial and professional responsibilities. In December 2003, a circular was sent describing the findings which

emerged from a gender impact assessment project which was carried out. The main points which came forward were:

- a. closer scrutiny of the requirement for Gender Action in the Performance agreements of top management;
- b. strengthening of Focal Points, making contact with them and involving them in policy plans;
- c. budgetary allocation for issues connected with gender, such as training on gender awareness and the gender payroll;
- d. tap expertise on gender for policy making in the public service;
- e. include a section on gender issues in the annual reports;
- f. gender statistics;
- g. promotion prospects and recruitment criteria, and the succession planning.¹⁹

During this same period, a number of circulars have been issued which outlined the need for family-friendly measures, and which stressed the importance of having all public service employees well-versed with such measures. These included:

- a. Urgent Family Leave²⁰
- b. Parental Leave²¹
- c. Special Leave without pay²²
- d. Adoption Leave²³
- e. Flexibility in Parental Leave and Reduced Hours²⁴
- f. Work on Reduced Hours²⁵
- g. Flexibility in Work Schedules²⁶.

Two additional circulars were issued in relation to sexual harassment at the place of work. Heads of Departments were reminded of their obligation to treat all complaints lodged on this issue seriously, and not to permit or condone any form of sexual harassment in their establishment. Heads of Departments were given the authority to take disciplinary action in terms of the Public Service Commission (Disciplinary Procedure) Regulations, against public officers who are accused of sexual harassment. The meaning of sensitivity, confidentiality and respect for the rights of both the complainant and the alleged harasser, both prior and during the actual disciplinary or criminal proceedings were stressed.²⁷

In another circular (**OPM Circular No. 12/2006**), the public service was informed about the document which was published entitled '*The Public Service: Guidelines on what constitutes sexual harassment and the procedures to be followed in cases of sexual harassment*'. This document, drawn up with the assistance of the National Commission for the Promotion of Equality as well as that of the Public Service Commission, is a proactive tool consonant with the commitment of the Government towards building a working environment based on mutual respect, understanding and appreciation which are described as the cornerstone of all working relationships. This document serves as a guideline to both senior management as well as all public officers on how sexual harassment cases

should be tackled in a fair, consistent and expeditious manner, whilst guaranteeing standards of good practice, natural justice and utmost confidentiality. Through the launching of this document, the message conveyed was that the Public Service strives to promote a dignified working environment and a harmonious relationship amongst all public officers, irrespective of their gender. The circular stated clearly that the prevention of sexual harassment is a fundamental aspect of good management, because sexual harassment and the negative consequences which arise from it produce an unconstructive impact on the general well-being of the holistic work environment, including both workers and clients.²⁸

In 2006, the Government of Malta issued OPM Circular 32/2006 addressed to all Permanent Secretaries, Directors General, Directors and Heads of Government entities and requesting them to amend official government forms where discriminatory wording was still being used. Prior to this initiative, forms containing gender-discriminatory wording were still being widely used and disseminated by ministries, departments and public entities. Therefore, every Ministry was asked to study the situation within its respective directorates or entities and provide the National Commission for the Promotion of Equality with a report stating the developments or actions taken so that all government forms will be gender-inclusive.

The various entities concerned sent their feedback to the National Commission for the Promotion of Equality with the amended versions of the official forms, where these were not compliant with the abovementioned Circular. Those entities whose forms were gender-discriminatory but which emanated out of legal notices or parliamentary actions sent their proposed amendments to the Office of the Attorney General so that they could be passed through the House of Representatives, in order for these forms to be compliant with Government's policy.

2.4 The Constitution of Malta

The Constitution of Malta as the sovereign law governing the Maltese Islands guarantees equality between women and men and places an obligation on the state to ensure gender equality.

The Constitution of Malta states that no person shall be treated in a discriminatory manner. Where such fundamental rights are infringed, the injured party has the right to take recourse. Furthermore, the Civil Code and the Criminal Code provide certain provisions outlining the basis for judicial action to be taken against a person who allegedly gives instructions to another person to discriminate.²⁹

2.5 The Constitutional Court

The Constitutional Court is the institution providing a remedy for the violation of human rights. The Constitutional court is vested with the final authority in interpreting the Constitution. The Constitution defines the competence of the Constitutional Court. Through its jurisdiction and decisions taken, the Constitution has developed a defined doctrine of the meaning of equality and non-discrimination based on sex.

2.6 Legal and Institutional Framework

Where infringement of fundamental rights takes place and where persons feel that they have been subjected to discriminatory treatment, they are safeguarded by Maltese legislation which lays down various courses of action that can be followed.

Apart from recourse to action before the Civil Court, First Hall or the Constitutional Court, other entities exist where the alleged victim can address the complaint incurred. Amongst the bodies receiving complaints, there are:

- a. The Industrial Tribunal (established by the Employment and Industrial Relations Act)
- b. The National Commission for the Promotion of Equality (established by the Equality for Men and Women Act and Legal Notices 85 and 86 of 2007 as Subsidiary Legislation emanating from the European Union Act)
- c. The Public Service Commission (established by the Constitution of Malta)
- d. The Ombudsman (established by the Ombudsman Act)
- e. The Broadcasting Authority (established by the Constitution of Malta)
- f. The Employment Commission (established by the Constitution of Malta).

Actions before these authorities are to be brought about by the complainants themselves. However, there is nothing in Maltese law which prohibits an association or any other entity from intervening with the administrative authorities on behalf of a person who has been allegedly subjected to discriminatory treatment. The Equal Treatment In Employment Regulations (Legal Notice 461 of 2004) states that nothing shall prevent any association or other legal entity having a legitimate interest in ensuring that these regulations are complied with, and to engage itself with the approval of the plaintiff on behalf or in support of the complainant, in any judicial or administrative procedure provided for the enforcement of the obligations emanating under these regulations.³⁰

The Employment and Industrial Relations Act stipulates that where any alleged discriminatory treatment has occurred, action can be taken on behalf of the person so subjected to such discrimination. Where it is suspected that an employee has been unfairly dismissed by the employer, or where a breach of an obligation, including discriminatory treatment occurs, recourse shall be sought before the Industrial Tribunal. One of the general principles of the Maltese legal system is that the burden of proof lies with the person making the allegation. However, the Employment and Industrial Relations Act and the relevant regulations made there-under have shifted the burden of proof so much so that where a person claims discriminatory treatment in relation to his/her employment, it is sufficient for the victim to prove that such discriminatory behaviour occurred, and it shall then become incumbent on the defendant to prove that such treatment did not occur or was justified. In the absence of such proof, the Tribunal or Court shall endorse the complaint of the victim. Moreover, the Employment and Industrial Relations Act specifies that under the umbrella of discriminatory treatment there is also included the engaging or selection of a person who is less qualified for the post than a person of the opposite sex, unless the employer gives viable proof that

selection was based on compliant grounds related to the nature of the work involved, or on the basis of past work performance and experience.

In cases of alleged sexual harassment, the law states that:

‘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 Lm1,000 [€329.3] or to imprisonment of not more than six months or to both such fine and imprisonment.’

The person aggrieved has to institute legal action. Where the case is under civil jurisdiction, the burden of proof is shifted from the plaintiff to the suspected guilty party. In such cases, it is up to the person accused of discrimination to prove that there has been no breach of the principle of equal treatment. However, in those instances where the case passes to the Criminal Court, the burden of proof is shifted on both parties, since in criminal law the premise is that a person is innocent until proven guilty.

The National Commission for the Promotion of Equality receives complaints and acts upon them. It may act also as a mediator between the parties, but consent of all those concerned is required for this to occur.

2.7 The Functions of the Ombudsman

The Office of the Ombudsman is an institution set up under the Ombudsman Act, 1995, as amended in 1997. The Ombudsman’s role entails conducting investigations into complaints submitted by members of the public who feel that they have been aggrieved in the hands of government entities or other public bodies, or through the Ombudsman’s own initiative. The investigations deal with the acts, omissions, decisions and recommendations of Ministries, government departments, statutory bodies, corporations, foundations, public officers, and partnerships where the Government has an effective controlling interest in the exercise of their administrative functions on behalf of the Government.

The Office of the Ombudsman, along with the Constitutional Court, is one of the entities responsible for safeguarding the fundamental human rights of people and for monitoring compliance with the mandates of the Constitution. The institution of the Ombudsman in Malta is a foundation of the last resort. The Ombudsman cannot investigate complaints where remedy could have been sought by means of an appeal to an independent tribunal. Also, the Ombudsman’s remit specifies that there can be no investigations of decisions taken by courts and tribunals.

The Ombudsman is an officer of Parliament whose nomination has to be approved by not less than two-thirds of all Members of the House of Representatives. The Ombudsman is an autonomous body and maintains strict independence from government and is accountable and reports to the House of Representatives.

2.8 National Machinery on Gender Equality

Within the legal framework of the Equality for Men and Women Act, the National Commission for the Promotion of Equality was entrusted as the national machinery responsible for the promotion and the enforcement of equality. It is an autonomous agency and its role includes analysing, taking and consulting on the necessary initiatives that can be taken to enable women to actively participate in political, social, cultural and economic life of the country.

The National Commission for the Promotion of Equality monitors efforts to bring national laws in line with the principle of gender equality. The Commission's main objective is to achieve equality of outcomes by promoting *de facto* equality rather than *de jure* equality. The National Commission for the Promotion of Equality processes complaints received by persons who feel that an injustice had been suffered on the grounds of their sex. The Commission coordinates on policy issues regarding equality with different Ministries, departments, as well as voluntary organisations and trade unions.

Following the Budget 2007, the annual budget of the National Commission for the Promotion of Equality has increased slowly, but surely.

The National Commission for the Promotion of Equality has been entrusted with several functions, which can be found in the Annexes attached to this document.

2.9 Legal Update

The National Commission for the Promotion of Equality is currently implementing a project entitled 'The Gender Aspect from a Legal Perspective'.

This project aims to increase the participation and advancement of women in the labour market primarily through the correction of structural barriers in a number of Codes and Acts in Maltese legislation that may be hindering women from entering, staying and/or advancing in the labour market, due to inequalities that may exist within the employment legal framework as well as that governing civil and family life. It intends to complement this activity through the provision of training and dissemination of the results.

This is being brought into practice through the commissioning of a study of current education, employment and training, social security and taxation, criminal, civil and family legislation. This study will lead to the development of recommendations for the amendment of Maltese legislation in line with the principle of gender mainstreaming, and in order to transpose all the implications of EU Directives and the Community objective of promoting equality in all spheres and activities.

The specific objectives of the project are:

1. to embed the principle of gender mainstreaming in the selected legislative texts;
2. to align Maltese legislation with the principles laid down in the EU Directives;
3. to further the development of gender mainstreaming at a national level;

4. to lay the foundations for an increase in female participation in society in general, particularly in the labour market;
5. to sensitise legislators, providers of legal services and human resource managers to the principles of gender equality and gender mainstreaming. The project is therefore composed of four (4) components which will be performed in sequence as follows:
 - a. a study of current education, employment and training, social security and taxation, criminal, civil and family legislation;
 - b. development of recommendations for gender mainstreaming of Maltese legislation to promote equality in all spheres and activities;
 - c. provision of training sessions for legislators and individuals/entities that provide legal services (especially legal drafting);
 - d. provision of training sessions for human resource managers on the principle of gender mainstreaming and relevant EU and Maltese legislation.

The activities listed above are intended to bring about a paradigm shift in Maltese legislation on two levels – the updating of current legislation and the dissemination of the principle of gender mainstreaming – as follows:

Updating of Current Legislation

In line with EU Directives and the Community objective of promoting equality in all spheres and activities, the commissioned report will outline improvements that can be effected to the current set of legislative measures, and will present recommendations for the amendment of the legislation under review.

Disseminating the Principle of Gender Mainstreaming

To ensure that gender mainstreaming is fully implemented, the National Commission for the Promotion of Equality submitted ESF projects, one titled ‘Gender Mainstreaming – the way forward’ and the other titled ‘The Gender Aspect from a legal Perspective’. Towards the end of these projects, training sessions will be provided for legal personnel in the various Ministries and individuals/entities that provide legal services (especially legal drafting) and human resource managers and law students on the principle of gender mainstreaming and relevant EU and Maltese legislation. This intension is to sensitize all those concerned to the meaning of the principles of gender equality and gender mainstreaming.

Two toolkits will be developed specifically for legislators and providers of legal services including drafters of legislation; and human resource managers to disseminate the results of the project and complement the training sessions that will be provided.

2.10 Gender Equality Clause

Over the past months the National Commission for the Promotion of Equality has also liaised with the Department of Contracts through an EU funded project, to ensure that all public procurement contracts include a clause which binds contractors to uphold gender equality throughout the performance of the relative contractual requirements.

2.11 Domestic Violence

In 2005, Parliament adopted the Domestic Violence Act together with a number of amendments to the Maltese Criminal and Civil Codes. By virtue of these amendments, the relevant criminal offences have become liable to harsher punishments when committed within the domestic sphere. Two new criminal offences, that relating to harassment (including stalking) and the causing others to fear violence have been introduced in the Maltese Criminal Code. Furthermore, the law provides for the issuance of both Protection Orders and Restraining Orders. The court may even issue such orders without being requested by the victim, but it will do so because the circumstances warrant so. The Police are now empowered to prosecute cases involving domestic violence without the specific complaint of the victim.

Article 3: Guarantee of Basic Human Rights and Fundamental Freedoms

States parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

3.1 Gender Equality Policy

The Government of Malta has unremittingly reaffirmed its commitment to the achievement of equality between men and women through its various initiatives and policy measures. The Maltese legislation was supplemented by practical measures which promote *de facto* equality.

The Government constantly stresses the notion that equality is a priority on the national agenda. Therefore, through knowledge-building, education, policy measures, and initiatives adopted, the implementation of gender equality in all strata of society is shifting from an equality of opportunity from advocacy towards equality of outcome.

The Government of Malta is conscious that the achievement of equality between men and women is a common value and a matter of human rights and social justice. Now more than ever, the human race has realised that the cause of women is the cause of mankind, and therefore women's issues cannot be analysed in isolation from other issues. Likewise, women's full participation in all spheres of life is a necessary condition for the objectives shared by EU member states of growth, employment and social cohesion.³¹

Common areas of importance that have been identified over the past years are:

- a. Gender Mainstreaming
- b. The reconciliation of work and family responsibilities
- c. Increase in women's participation in the labour market
- d. Women's participation at the decision-making level
- e. Increase in girls' enrolment in science and technological subjects
- f. Training and Education
- g. Research and Innovation
- h. Awareness-Raising
- i. Monitoring

Various entities in Malta, both governmental and non-governmental, actively seek to eliminate discrimination on several grounds and act positively on the principle of equal treatment. Apart from the measures adopted to implement the Directives, the government has sought and still seeks dialogue and consultation with persons and organisations struggling to combat discriminatory treatment.³²

3.2 Legislation

Gender Equality is legally ensured through a comprehensive legal framework including the Maltese Constitution, the Equality for Men and Women Act, the Employment and Industrial Relations Act and relative subsidiary legislation, the European Convention Act, the Civil Code, the Criminal Code, the Sports Act, the Education Act, the Broadcasting Act and subsidiary legislation made under the Social Security Act and the European Union Act.

3.3 National Machinery on Gender Equality

Following the enactment of the Equality for Men and Women Act, 2003, the National Commission for the Promotion of Equality was formally established in January 2004 to act as a catalyst for the promotion of gender issues, and to provide the machinery for the identification, establishment and necessary updates of all policies related to issues of equality. The National Commission for the Promotion of Equality agreed to focus its policies on practical actions in order to ensure that the execution of these terms is built on solid foundations. These actions have taken a variety of forms and strategies in order to ensure that all men and women in Malta, whatever their economic, educational and social standing, are made aware of the policies that the Commission is promoting and co-ordinating, and that all Maltese society can participate in these changes. The empowerment of both men and women are essential prerequisites for achieving political, social, economic, cultural and environmental progress.

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, including:

- a. the low participation rate of Maltese women in the labour market when compared to the EU average
- b. the low rate of women in decision-making and representative positions, thus affecting the true democratisation of our society.

Innovative policy-making to tackle these issues adopts a four-pronged approach, which includes the economic, legislative, cultural and social dimensions.

The strategic policy directions which the National Commission for the Promotion of Equality is adopting are the promotion of gender equality in economic and in civil life, through fair and distributive representation. The priorities which the Commission endorses for the present and future years are:

- a. audit of the present situation
- b. amendment of laws, if and as necessary
- c. implementation of an inclusion policy across all grounds
- d. capacity building of the National Commission for the Promotion of Equality
- e. training, education, awareness-raising, and media portrayal
- f. widening of network with national and international entities, including local councils, voluntary organisations
- g. honouring government bilateral agreements.

The National Commission for the Promotion of Equality will be taking on specific actions and strategies, where participation at decision-making level will be assessed, and where a multi-ground approach with respect to work policies will be espoused, taking into account:

- a. income tax, social security, pension reform, entrepreneurship
- b. family-friendly measures
- c. work organisation
- d. diversity aspects.

3.4 Gender Mainstreaming

Following OPM Circular 24/2000 on Gender Mainstreaming, Government's policy on gender mainstreaming and its implications were outlined and forwarded to Ministers, Parliamentary Secretaries and senior public service officials. The Cabinet reaffirmed its commitment towards the promotion of gender equality and to adopt the strategy of gender mainstreaming for the achievement of genuine equality.³³

EU directive 2002/73/EC came into force in October 2005 in Malta. In compliance with this directive gender mainstreaming has to form an integral part of state and government policies, and the aspect of

gender mainstreaming must be taken into consideration in areas of decision-making. OPM circular 24/2000 had already put gender mainstreaming at the forefront of government policies.

The National Commission for the Promotion of Equality acts as the national machinery in assisting all authorities in ensuring that gender mainstreaming forms part of the analysis, formulation and monitoring of all policies, programmes and projects. Dissemination of information to all parastatal entities, government appointed boards, committees, commissions and authorities as well as government-owned companies, and the public at large was made possible through the research projects, disseminated material and the conferences organized by NCPE to share the information collated.

The concept of gender mainstreaming entails that the dimension of equal opportunities is included in the design, application, analysis, and monitoring of all policies, measures and actions undertaken. Without the participation of women in all strands of social life it would be impossible to achieve the objectives of equality and development needed for the sustainable cohesion of society. Following the fourth World Conference on Women in Beijing and the fourth Community Plan of Action, the principle of gender mainstreaming has become ingrained in public policies. When plans are drawn with the concept of gender mainstreaming, quality of life will be improved and equalitarian values and attitudes transmitted.

3.5 Employment

The promotion of gender equality in economic life, particularly in the labour market is a priority issue for the Maltese society. Sexist language in calls for application was eliminated as issued through official government circulars and interviewing boards were instructed that discriminatory questions were not acceptable.

Statistical data shows that females are often inactive from the world of work during the period when they are more likely to have children. The female employment rate locally is relatively high up to childbearing age, and decreases thereafter. The female employment rate as it stands presently is of 32.6 per cent. Part-time employment as the main type of employment is more prevalent amongst women.

In Malta, it is estimated that only 8.1% of single mothers are full-time employees³⁴. Such statistical analysis portrays a situation which needs to be studied analytically in order to probe into the causative factors which are inhibiting the female population from actively participating in the labour economy.

The challenge of achieving better reconciliation between professional work and family life is central to a whole range of social issues. As it stands today, balancing family and professional responsibilities is more the responsibility of women. Fluctuations in the composition of the labour force, new forms of work organisations, the restructuring of social protection, changes in the distribution of childrearing between women and men; all these components have an intense bearing on families.

3.6 Education

Maltese citizens enjoy equal access to education, which is free of charge from the initial stages of kindergarten schooling to university. To date, women represent the majority of students at tertiary level which is synonymous to the population of the Maltese Islands where women outnumber men by some percentage points. However women are not represented equally in every area of study, although this is changing slowly. The areas of study least popular with women are Architecture, Civil Engineering, and Mechanical and Electrical Engineering.

The relatively large increase in female graduates is producing an added value to Malta's human resources. However, the decrease in female employment is producing what is known as the 'leaking pipe syndrome', where large numbers of qualified women leave the workforce for family or other reasons.

3.7 Training

Training on gender equality and the principles of gender mainstreaming is a function the National Commission for the Promotion of Equality has been responsible for since its inception.

Gender indicators and tools for analysis are being developed for the local scenario so that data will be monitored and gender aspects in relation to accessibility, control over resources and decision-making processes analysed holistically.

Various government organisations, schools and other public entities have requested NCPE's training expertise to train their respective employees, and for the information to be disseminated amongst all levels of their agencies.

3.8 Guidelines

The National Commission for the Promotion of Equality prepares guidelines to direct Ministries, government departments, organisations and entities concerned on equality issues. In the past years several initiatives were taken to prepare guidelines for gender equality policies, a sexual harassment code of practice, gender impact assessments, and general guidelines on the corporate operational functioning of the organisation.

3.9 Sex Disaggregated Data

An analytical technique which is a necessary component for gender mainstreaming is sex disaggregated data. Statistics form the basis of analysis of current gender relations, for developing forecasts or for assessing policies in the making.

Article 4: Special Measures

1. Adoption by States parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.

2. Adoption by States parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity shall not be considered discriminatory.

4.1 Introduction

Political commitment towards the acquisition of genuine equality, both through legal enforcement and through the adoption of practical methods have been present for years in the Maltese Islands, bringing gender equality issues at the forefront of the political agenda. The main objectives of government's policy towards an integrated approach in the enforcement of gender equality are:

- a. the promotion of gender equality
- b. the elimination of sex-based discrimination
- c. representation of women in the political, economic, social and cultural sphere
- d. reconciliation of familial and professional responsibilities.
- e. achievement of social cohesion through education, fair justice, and empowerment.

4.2 A Brief Overview

The setting up of the national machinery for equality; the National Commission for the Promotion of Equality was foremost among several measures adopted by Government to achieve *de facto* equality.

The Constitution of Malta provides a provision to the effect of temporary measures which can be taken to accelerate the process of gender equality.

Sec. 45 (11): 'Nothing in the provisions of this article shall apply to any law or anything done under the authority of a law, or to any procedure or arrangement, in so far as such law, thing done, procedure or arrangement provides for the taking of special measures aimed at accelerating *de facto* equality between men and women, and in so far only as such measures, taking into account the social fabric of Malta, are shown to be reasonably justifiable in a democratic society.'

It is up to the Constitutional Court which is sovereign to all other laws to interpret the scope of this provision.

Furthermore, the Equality for Men and Women Act stipulates that special protection granted to women during childbirth or pregnancy; and measures of positive action for the purpose of achieving substantive equality for men and women shall not be deemed to constitute discrimination.

Subsequent to Malta's declaration to adhere to the treaty of the Convention on the Elimination of all Forms of Discrimination Against Women (**CEDAW**) in 1991, Malta was bound to eliminate all forms of discrimination in all spheres of life and to ensure women's full development and advancement so that human rights and fundamental freedoms would be enjoyed in the same way as men, and this includes representation in the private, public and political realms.

Section 1 of Article 4 of the CEDAW treaty cites positive action as a means to achieve actual equality.

'Adoption by State Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved'.

Article 119.4 of the treaty of Amsterdam explicitly allows positive action in the field of employment and vocational activities in favour of the under-represented sex. It should be borne in mind that both sexes are bearers of gender roles. Both men and women stand to gain from the elimination of stereotypes, and from the equal distribution of resources.

The Government of Malta, earlier on this year in the Budget Speech 2006, stated that the human being is the focal point of the nation's work. The economical market, trade, education, legal framework, fiscal measures, technology, the European Union and the monetary dimension amongst others are not an end in themselves but tools for the service of the people and society at large.

Moreover, this budgetary speech highlighted the fact that even though all persons irrespective of their differences possess the same dignity, their needs differ. Therefore one of the reforms mentioned was that whilst safeguarding the dignity of everyone, preferential treatment can be afforded to those who are more vulnerable in the social sphere. By giving leeway to special and temporary measures which accelerate equality, sustainable development is guaranteed without being vitiated with the temptation to pander to instant gratification by adopting short-term policies, and getting distracted from long-term needs.³⁵

4.3 Political Ideology

The political system per se does not discriminate against female representation in politics in the Maltese Islands. Citizens who wish to contest local or national elections are confirmed or otherwise as candidates after a preliminary vetting by the respective parties. There is no primary selection process nor any electoral lists that create specific difficulties for women candidates. The electoral system itself, based on proportional representation by means of the transferable vote, has been, on the contrary considered by many as having been advantageous towards the election of women Members

of Parliament. The political parties themselves attempt to increase the number of female activists within their folds in an attempt to move towards a greater female representation within the House of Representatives.

The main political parties found in the Maltese Islands, Partit Nazzjonalista (**PN**), Malta Labour Party (**MLP**), and Alternattiva Demokratika (**AD**), adopt specific measures to decrease inequality within their party structures. The three of them have enshrined specific measures in a conscious move to increase the proportion of women representing their parties and society.

The measures adopted by each political party differ in degree.

The party in office, the Partit Nazzjonalista does not consider gender quotas to be the solution to achieving genuine and long term gender equality in Malta. It adheres to the principle of proportional representation. It introduced an internal system of proportional representation whereby women are represented in every committee and at every party level in accordance with the proportion of female membership.

Several years ago reserved seats were established for women and for youths at Sectional Committee level, in an attempt to ensure that adequate representation on a local level be guaranteed.

In 2005, radical amendments were made to the party statute. These amendments form part of the PN's positive action programme.

The largest structure within the party is the General Council which has 855 members, of whom 236 are women. The number of women at this level has increased because the majority of councillors are chosen from the Sectional Committees and must be representative of the total number of members.

The General Council elects 13 members to the Executive Committee of the party. Proportional representation ensures that 4 out of the 13 elected candidates must be women. Election is automatic for the top four women vote catchers, even if they are not among the first 13.

The party has branches for women, youths, the elderly, small and medium sized enterprises and local councils. Each branch has 3 members within the Executive Committee and once again the policy of proportional representation is adhered to.

This policy has resulted in a marked increase in the number of women within the party structures following the last party elections.

The Malta Labour Party, the party in Opposition, believes that the quota method is one way by which real equality between men and women can be brought forward. Amendments to the party statute in 1993 provided that at least 20% of the party delegates at its General Conference must be women. Subsequently this percentage was increased and extended to ensure a minimum representation of females in the national executive body, which is the highest body after the General Conference in the Constitutional Hierarchic Structure of the party. The quotas at general conference level and national

executive level stand at 40%. The Malta Labour Party's 1996 electoral programme advocated positive action for women on government boards and at certain levels in the civil service. The MLP is an active member of the Socialist International which actively promotes the concept of quotas amongst its members.

Alternattiva Demokratika, Malta's Green Party believes that the principle of quotas is a legitimate concept in democracy as long as inequalities between men and women persist. The political manifesto of AD states that true democracy does not exist without women's full representation in all levels and in every sphere of society. AD has reserved seats for women within its Executive Council but the participation level of women within AD has not increased in past years.

A major problem in the Maltese political scene remains the low rate of women candidates at local and national government levels. It is essential that this rate shows an increasing trend. There are many reasons for this lack of response on the part of women, not least being connected to cultural influences. Family commitments undoubtedly hold women back from contesting elections. Analysts of the local political scene also cite a lack of assertiveness and self-confidence as possible reasons for the lack of participation.

The National Machinery

In 2004, the National Commission for the Promotion of Equality was set up. This was a major breakthrough for equality and hence for the advancement of women. The national entity responsible for gender issues ensures that women's needs and concerns are not abridged, and that gender mainstreaming is incorporated in the implementation of government policies and programmes.

The National Commission for the Promotion of Equality has conducted a study on the strengths and weaknesses of adopting special measures to accelerate gender equality in order to analyse the concept of affirmative action in a comprehensive manner and pass recommendations on a national scale.

Awareness-raising on gender equality among policy-makers, heads of department, educators and the general public was given priority, paralleled by action in all spheres of social life. Public awareness and knowledge-building on gender equality, together with the improvement in women's status were heightened through seminars, conferences, discussions, workshops, research projects, publications, and media portrayal.

4.4 Publications

The National Commission for the Promotion of Equality launches annual reports, providing a recapitulation of the activities undertaken throughout the year, giving detailed information on the projects submitted both at EU level and on a national scale. The reports present a review of the activities undertaken and serve as an evaluation tool and as an appraisal of the outcomes of gender policies. The national machinery highlights also the concerns faced by the gender public, and outlines the areas where action needs to be taken for the improvement of the quality of life of men, women and

families in Maltese society. Evaluations and comparative analysis on the changes which take place over time are also recalled.

Reports and publications of the annual report but also of other reports emanating from studies brought forward by the Commission are distributed to Members of Parliament, Government Ministries and departments, voluntary organisations, parastatal organisations, the media and the public at large.

4.5 Measures Towards Reconciling Work and Family Responsibilities

Government has taken several measures to enable workers to balance familial and professional obligations. This year through the budgetary reform, Government has announced that all the family-friendly provisions enjoyed by the public service were now extended to the public sector, thus affecting an estimate of 13 000 families.

These measures are to be considered the take-off in the enforcement of equal opportunities and the equal representation for both men and women, not only in the professional scenario but also in the domestic arena. The Maltese Government believes that through the adoption of special measures, employees will be more productive as a result, and families will be the primary beneficiaries of such initiatives.

The Employment and Industrial Relations Act (EIRA) provides various minimum family-friendly measures which are given by right to every employee, both in the public and private spheres:

These are the right to:

14 weeks maternity leave: 13 weeks paid and 1 week unpaid

3 months Parental Leave:

(1) It shall be the individual right of both 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

Provided further that parental leave shall be availed of in established periods of one month each.

(2) Unless otherwise prescribed in a collective agreement applicable to the employee, the employer together with the employee may decide whether to grant the parental leave on a fulltime or a part-time basis, in a piecemeal way or in the form of a time credit system.

Emergency time-off

All employees, shall be entitled to time off from work on grounds of *force majeure* for urgent family reasons in cases of sickness or accident making the immediate presence of the employee indispensable.

The employer shall be bound to grant to every employee a minimum total of fifteen hours with pay per year as time off from work for urgent family reasons.

4.5.1. The Malta Public Service

The public service in Malta has always announced that it is in the forefront in the introduction of policies etc. which help its employees balance between their work and family-responsibilities. In fact amongst many measures, Government introduced, in addition to the provisions already established by law, one can mention, extended unpaid parental leave, a system of reduced working hours and responsibility leave amongst others applicable only to employees below scale 6.

All public service employees who are employed indefinitely may avail themselves to these family-friendly policies, obviously in particular circumstances, due to work reasons, discretion must be exercised to ensure an efficient continuation of the service given.

Nevertheless, some family friendly measures cannot be availed of by officers who are engaged on a fixed-term contract and also officers who are on a performance agreement. It must be said that officers who are public service employees and in order to advance in their career take up a fixed-term contract have the option of resorting to their substantive grade in order to be able to avail themselves of family-friendly measures.

4.5.2. Public Sector

On the other hand, in the public sector, the same conditions do not apply. In fact, employees in this sector are bound by the provisions in their respective Collective Agreements.

4.5.3. Private Sector

With respect to the private sector in Malta, apart from the obligatory minimum measures introduced by law, employees again are governed according to provisions within their Collective Agreements, where available. Studies show that whilst there has been a change in attitudes regarding family friendly measures, there are still limitations depending on firm-specific attitudes and measures available, which are independent of firm sector, size and gender composition. (unpublished study, NCPE). However, employers hold a positive attitude to family friendly measures and the majority of companies tend to believe that where measures were available, they should be available to employees without distinction of sex, status or caring responsibility. One must also note that these studies also highlight the fact that the availability of family friendly measures is limited which shows that legal obligations in employment need to be improved to ensure that workers in the private sector are covered. (ibid.) In view of this, discussions with employers are necessary.

Article 5: Sex Role Stereotyping and Prejudice

States parties shall take all appropriate measures:

(a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;

(b) To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

5.1 Changes in Social and Cultural Patterns

Traditionally Maltese women were centred around the home and the family. The common knowledge was that women were to be found in the domestic sphere. Their social and political role was very limited, mainly because society was under a male bastion, dominated entirely by male decisions. However with the advent of the Second World War, the need was felt for females to be employed. The transition from limited presence of women in the labour market to their entry in the world of paid work helped these women achieve further economic independence and eventually full political rights. This social pattern shackled some of the traditional cultural beliefs that women's and men's roles were to be segregated. However, as yet, gender stereotypes are still present, even though opposition from main influencers have deteriorated considerably. Social and cultural changes have been slow, with only 32.6 per cent of women participating in the labour market, this being the lowest female employment rate in the EU. In the past, legal mechanisms, social attitudes, and cultural norms constituted a hurdle for women's full participation in social, economic, cultural, and political life. However, nowadays policy-makers are recognising the need to have a diverse workforce where both men and women are free to make choices and are not impinged from exercising their rights.

Ensuing from the Equality for Men and Women Act (2003) and subsequently the setting up of the National Commission for the Promotion of Equality, a number of directives were transposed prioritising gender equality, and safeguarding the rights of women throughout pregnancy and motherhood, in their access to employment, in recruitment procedures, in attracting back women to the economic sphere, and in the retention of employees to name a few.

Government is taking several measures in different areas to promote a balanced and non stereotypical image of women. Actions to be undertaken are not only directed towards public administration but are cross-cutting, covering also all levels of human behaviour at all levels of society.

5.2 The National Machinery

The national entity responsible for equality issues in the local sphere is the National Commission for the Promotion of Equality. The Commission liaises with several other entities, amongst which

government bodies, voluntary organisations and women's organisations. Benchmarking and networking are conglomerate with the national machinery's policies. One of the main objectives is to promote representation in the economic, political, social and cultural sphere, and in strengthening the family and personal relations. A plan of action for the years ahead was drawn up outlining the priority areas, amongst which abolishing stereotypes and prejudices, whilst enhancing a culture of gender equality where every individual is respected.

The National Commission for the Promotion of Equality seeks to raise gender consciousness through all Ministries and Government departments, through elaborate collaboration and close co-ordination. A network of Equality committees incorporating the original idea of focal points within every Ministry were established, whereby they have the obligation to report back to the National Commission for the Promotion of Equality on the measures being adopted on gender issues. Simultaneously, the national entity strives to sensitise policy-makers and other officials by running training programmes and launching seminars and conferences which redress discriminatory practice.

In the three years since the Commission's formation gender-sensitising sessions have been held for school teachers, school counsellors, school children, university students, the police force, human resource managers, lawyers, policy directors, permanent secretaries, senior public officers, media professionals, and the general public. Efforts are constantly being made to integrate the concept of gender equality into all activities and at all levels. Members of the National Commission for the Promotion of Equality are invited on a regular basis as keynote speakers at conferences, seminars, and the media on a national level, and as participants at international meetings overseas.

The National Commission for the Promotion of Equality is giving priority to research projects on the status of women in several areas, including the role of women in politics and in decision-making posts, as well as conducting studies on gender mainstreaming, education, economy, health, image and portrayal, and sexual harassment.

The Commission publishes tools and technical material to facilitate the activities of organisations both in the private and in the public sector. In addition, activities to raise awareness about issues which were still at the backlight were also put to practice.

5.3 Education and the Promotion of Equality

Education is one of the main pillars in Maltese society as well as one of the priority areas identified by the Government of Malta in the vision for the sustainability of the country. The National Commission for the Promotion of Equality focuses on education, since it is a two-pronged tool which enables both boys and girls to be empowered to think that if they just believe in their abilities, then every task can be done by both males and females.

Meetings are held with education authorities to discuss how the promotion of gender equality can be incorporated in educational activities, whilst also having a series of gender-sensitised training programmes organised purposefully for educators.

5.4 Equal Access to Education

School children in the Maltese Islands share the same national minimum curriculum. As the curriculum implies, education is fundamental for the social moulding of children.

‘Education is an appropriate channel to enable individuals to reach their full personal, social and moral development’ (NMC p.63).

The formal and hidden curriculum influence children’s learning about gender roles and gender differentiation in society. During elementary school years children are taught of what it means to be male or female. Schools as the secondary area of socialisation can influence children’s perceptions about gender roles. Schools may either foster gender biases or challenge such stereotypical images.

Children are influenced by the culture and the wider context surrounding them. Their network including family, peers and education instill in them perceptions that influence their thinking later on in life. Factors which are part of the external environment, such as gender expectations and stereotypes need to be addressed through education.

At university level, several courses amongst which Bachelor in Education, Social Policy and Social Work are focusing on mainstreaming equality and training prospective professionals in their respective careers about gender issues, gender equity and gender equality.

Courses which were once marked by a clear demarcation in gender roles are now being broken down, where both sexes have the possibility to follow studies which were once thought to be traditionally female or exclusively male. The diversity in occupational roles attests to the claim that demarcation of roles along sex lines is arbitrary.

Although policy statements are there binding institutions to have gender sensitive education, many observe that, at the implementation level, gender sensitive curricula, materials and methods are few and far between. This is the difference between *de jure* equality and *de facto* equality.

‘Education for all’ needs to be interpreted as education for all women and all men, through the delivery of the right messages. Only when that happens can education for all stop being a slogan and start being a reality.

5.5 Gender Sensitisation of Teachers

Educators are in a key position to realise that stereotyped images and functions of women and men, long accepted as natural, should be questioned and challenged. Analysis of past and current situations indicates that while girls’ access to schooling might increase, access is only the tip of the iceberg. The nature of content, materials, and methods used in education are the instruments which can make or break gender stereotypes.

The issue of young children's education goes well beyond educational resources. Teachers play a significant role in influencing the success and failure of their pupils. Their interpretation of the contents, their attention to, and interaction with learners; the way they assign duties and homework should not be determined by the broad patriarchal vision of the universe that keeps intact the hierarchy of the sexes. Different treatment of girls and boys by teachers, lack of sufficient role models for both sexes contribute to the enhancement of gender stereotypes.

The National Commission for the Promotion of Equality is taking the initiative to mainstream gender equality through education, where all educators at all levels are being given gender-sensitising training sessions.

5.6 Non-Sexist Reading Material

Gender bias is transmitted implicitly through the language and pictures used in books. Books can be an important tool towards the elimination of stereotypes and the enforcement of equality. On the other hand textbooks can be the means which hinder equal opportunities to both sexes if they are gender biased. Some school textbooks portray an unbalance of the sexes since they lack women's contribution.

Curricula and materials reinforce stereotypes. '*Id-Denfil*' and '*Lejn il-Missier*' are two textbooks which have been in use in the school curriculum in the Maltese Islands for a long time and which perpetuate gender bias. Measures have also been undertaken by Government to change the school textbooks which had discriminatory language. Up till now the '*Ladybird*' books were replaced by other textbooks with no reference to stereotypical behaviour.

5.7 Media and Media Professionals

Media portrayal is an effective tool in the elimination of gender stereotypes. But it is also one of the main pillars reinforcing gender segregation, and can be a deceiving visual of what it means to be men and women if used incorrectly.

Language, images, attitudes, and behaviours often presented in the media do little to offset gender discrimination and stereotypical behaviour. The Malta Broadcasting Authority has drafted a set of guidelines, and is responsible for the monitoring process to determine how women are portrayed in publications and materials, and which roles are being attributed to them. The Broadcasting Authority observes, analyses and channels complaints with regards to image portrayal in the media. Where a breach of conduct is found to be present, the Broadcasting Authority has the power to take action to disseminate an image of women which is free from stereotypes.

A complaint can be lodged either to the National Commission for the Promotion of Equality or to the Broadcasting Authority itself. A number of complaints were lodged in the past two years since the inception of the Commission. The approach was addressed either by the liaison of the National Commission for the Promotion of Equality and the Broadcasting Authority, or by the Consumer Affairs Committee. Where complaints are related to bill-boards messages, the Consumer Affairs

Committee is the entity responsible for the redress. The lodging of complaints is a positive development because it signifies that people are increasingly becoming more aware of gender issues and the destructive sexist content found in the media. The nature of complaints range from a different array of subjects, amongst which, lack of representation when certain subjects are addressed in programmes, use of the female image as a sexual object, disrespect for women as professionals, the image of women and girls in domestic chores, stereotypes in advertisement of children's toys and materials.

Maltese society is committed towards bringing the image of women in line with modern changes which are in congruence with changing needs and the benefits of diversity and not with stereotypical classifications.

The National Commission for the Promotion of Equality has been involved in several promotional campaigns outlining gender equality. Throughout 2006 a television programme 'Nahdem u Kif' was broadcasted as a means to change social and cultural patterns. It was also a nominee in the Malta Television Awards as 'Best Educational Programme' and 'Best Original Script'. Moreover, billboards, and internal and external bus posters co-funded by EU projects were disseminated, to give a high profile to gender issues so that the public is informed about their rights and duties.

5.8 Politics

In the political sphere, various measures aimed at increasing women's participation in politics and eliminating stereotypical behaviour was taken. Women today still need to overcome cultural obstacles to enter the arena of politics, however the National Commission for the Promotion of Equality is lobbying with the political parties to eliminate these barriers which are hindering women from entering the field of politics. The three political parties have incorporated measures into their systems which promote the active participation of women in politics.

5.9 The Reconciliation of Family and Professional Responsibilities

The reconciliation of family and professional responsibilities was one of the main priorities which the National Commission for the Promotion of Equality focused on since its coming into force. The roles of men and women in professional and familial life were incessantly highlighted, instilling the message that every task can be done by both men and women if one believes in the abilities possessed within. Apart from underlining the personal and familial benefits achieved when responsibilities are communally shared, the National Commission for the Promotion of Equality highlighted the fact that gender equality and the elimination of sex segregation as a result of traditional stereotypes are a benefit to society in a holistic manner, both through an economic perspective and a social one.

The number of women seeking paid work outside the home is on the rise. This inclination may have gained momentum because of the increasing number of women studying at tertiary level, and due to the economic necessities encountered. Notwithstanding the fact that women enjoy equal access and opportunities in education, a large proportion of them find it difficult to remain in the labour market during their child-bearing years, and to find a balanced reconciliation between familial and

professional responsibilities. This may be a direct result of the perception that reconciliation is predominantly a women's concern. Men's role is fundamental for actual reconciliation to occur, and men must be adequately informed of the strengths inherent in adopting measures which cater for the sustainability not only of the work sphere, but also of the familial arena.

The National Commission for the Promotion of Equality has conducted a study in 2006 co-funded by EU, which specifically addressed the issue of gender stereotypes amongst school children. Research from the study, 'Facilitating Equality through Education' indicates that gender stereotypes are still a major feature in Maltese society. In the annex attached to the document, some of the results which emerged from qualitative interviews are illustrated.

Article 6: Prostitution

States parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

6.1 Destination for Trafficking

Malta is primarily a country of destination for women and children trafficked for the purpose of sexual exploitation. Women are mainly trafficked from Eastern Europe, Ukraine, and Russia. Situated at the intersection of southern Europe and northern Africa, Malta has been vividly exposed in the past years to trafficking of potentially vulnerable populations, mainly the increasing transit of women migrating illegally from the sub-Saharan countries.³⁶

6.2 Legislation on Traffic in Women and Girls

Government acknowledges that trafficking constitutes a sombre problem for the country and has over the past years taken measures to address the issue of trafficking through law enforcement. Legislation on the prevention of traffic of women and girls has existed since 1930, when the White Slave Traffic (Suppression) Ordinance, Chapter 63 of the Laws of Malta was promulgated. This law prohibits the trafficking of persons, males and females for prostitution. This law was amended several times since its enactment, the last being in 2006. The law criminalises forced inducement, namely using means of violence, threats or deceit to coerce prostitution if the victim has attained the age of twenty-one years. Punishment for the offence is imprisonment for a term which does not exceed two years. The punishment may go up to ten years, if the offence is committed by means of abuse by family relation, abuse of authority, trust or domestic relations, or habitually or for gain. Where the offence is induced on a person under twenty-one years of age, the penalty shall be imprisonment for a term of two to five years. Where there are aggravated circumstances, namely that the victim had not completed the age of twelve years, the person was induced by means of violence or threats, or by deceit, or committed by means of abuse by consanguinity or affinity, or by persons in charge even if temporarily of care, education, instruction, control or custody of the person under the age of twenty-one years, or the abuse is done habitually or for gain, the punishment shall be imprisonment for a term from three to ten years.

The law prohibits the keeping or managing of a brothel, using the premises for the purpose of prostitution, living on the money transacted from prostitution, or the detention of a person against his or her will in a brothel. Where a minor is involved, the law provides for the removal of any minor from any brothel or premises used for the purposes of prostitution. Upon inquiring the circumstances of the case where a minor is involved, the court may direct that such minor is delivered to the parents or other ascendants, or the tutor as the case may be with an injunction to provide for the education and watch over the conduct of the minor. In cases of default of such responsibilities it shall be lawful for the court to direct that such a minor be placed in an institution or other 'place of safety'.³⁷

On a second conviction for any of the crimes specified in the Ordinance, the punishment may be increased by two degrees, and on a third or subsequent conviction, the penalty may rise by three degrees.³⁸

The law criminalises international trafficking, child labour and sexual exploitation. The White Slave Traffic (Suppression) Ordinance³⁹ explicitly prohibits international trafficking; inducing a person to leave Malta or to come to Malta for purposes of prostitution.

In May 2005, the Council of Europe adopted the Convention on Action against Trafficking in Human Beings. The Convention goes beyond the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, through the enhancement of the capacity of member states to prevent and combat trafficking in persons and the protection of human rights of the victims of trafficking.

6.3 Prostitution

Prostitution *per se* does not constitute a criminal offence if practised behind closed doors, or in a place which is not accessible easily. Loitering and soliciting for the purpose of prostitution or engaging in acts in public which are immoral, contribute to an offence punishable by law. The offence of acts against decency or morals committed in a public place or in a place which is exposed to the public is punishable by law, on conviction, with imprisonment for a term which does not exceed three months, and to a fine (multa). Section 11 of the Criminal Code states that the maximum of a fine (multa) is five hundred liri, whilst the minimum is ten liri, unless otherwise provided by the Court.

Table 6.1 Crimes Known to the Police 1997 – 2000

Crimes known to the Police 1997 – 2000				
Year	Aug – Dec 1997	1998	1999	2000
Prostitution Offences	1	9	28	23

40

Figure 6.1 Reported Prostitution Cases

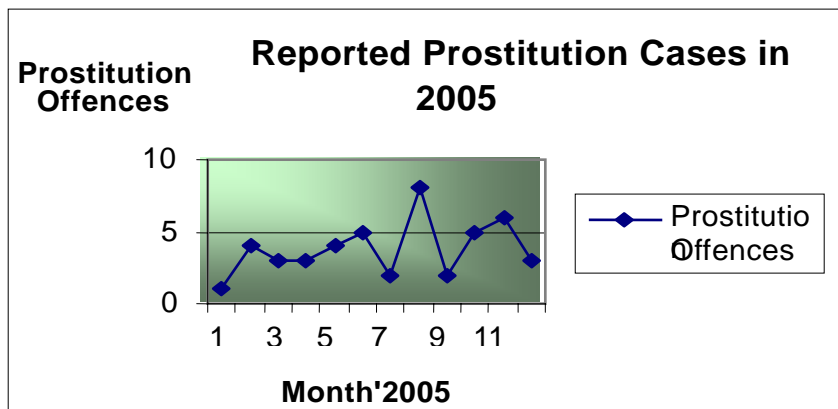


Table 6.2 Reported Prostitution Cases in 2005

Reported Prostitution Cases in 2005											
Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
1	4	3	3	4	5	2	8	2	5	6	3

41

Table 6.3 Reported Prostitution Cases in 2006

Reported Prostitution Cases in 2006							
Jan	Feb	Mar	Apr	May	Jun	Jul	Aug
5	---	3	4	4	4	2	5

--- data not available

42

Part II:**Article 7: Political and Public Life**

States parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

(a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;

(b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;

(c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.

7.1 Women's Right to Vote and to Stand for Elections

By the beginning of the 21st century over 95 per cent of all nations in the world had granted the two most fundamental democratic rights: the right to vote and the right to stand for elections. Malta granted these rights to women on 5 September 1947.

Following Malta's independence in 1964, when Malta ceased to be a colony, fundamental rights and freedoms of the individual were introduced in the Constitution which is the sovereign law of the country.

Elections of members to the House of Representatives are held not later than every five years. Elections are held on the basis of proportional representation by means of the single transferable vote.

In 1993, decentralisation emerged through the introduction of the local councils. These constituted a positive stride towards the occurrence of participative politics. The local councils act as mediators between government and the people. They are a means to safeguard their community's needs. Every year elections are held for a third of the Local Councils, which term of office lasts for three years. Electoral registers include all citizens of Malta who satisfy the conditions of the Constitution. Malta boasts a high percentage of the population participating fully in election both at community level and at national level of democratic politics.

Malta has committed itself to safeguard gender equality through two constitutional provisions:

1. Specific gender equality provision – Section 14
2. Clause on active measures by states positive action for the promotion of equality – Section 45.11

7.2 Women's Role in the Political Sphere

In recent years, women's participation in political life has increased, yet the steps taken are too slow and incremental for Maltese society to achieve the breakthrough in the emancipation of women in the political sphere. The following figures show the number of women in parliament from 1990 till 2006.

Table 7.1 Seats held by Women in National Parliament in %

Seats held by Women in National Parliament in %											
Country	1990	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
Malta	2.9	5.8	5.8	9.2	9.2	9.2	9.2	9.2	9.2	9.2	9.2

These figures show that since 1999, there has been no advancement in the number of women in Parliament, except for the fact that currently two of the women who have a seat in Parliament are Ministers. Out of the present fourteen ministers, two are women totalling 14.28% of the ministerial staff. These are Hon. Giovanna Debono, Minister for Gozo since 1998, and Hon. Dolores Cristina, Minister for the Family and Social Solidarity since 2004. Another front-bencher in the present political system is Mrs. Helen d'Amato, Parliamentary Secretary in the Ministry of Health, the Elderly and Community. The number of women parliamentarians is 6 out of 65 which is equivalent to 9.2%.

Local Councils elections are a springboard for political life. Yet the number of females found in the National Parliament is also mirrored in the local councils, where the rate of women who are mayors is 8.8% with 6 women mayors out of 68 councils. 20% of the councillors are females (2006).

Political parties are necessary vehicles of democratic equality, and they are the medium for development, equality and justice. A democracy without women can no longer be viewed as a democracy because democratic institutions which do not have at their roots gender equality are not respecting completely the principle of human rights.

The main three political parties use affirmative action to attract more women in the political sphere. The party in office Partit Nazzjonalista (**PN**) does not adhere to the principle of quotas but implements the principle of representation. PN is actively involved in putting into operation the principle of gender mainstreaming. The party is involved in actualising its positive action programme in gender issues, and acts as a watchdog to make sure that equality exists, and to instigate further developments.

The Malta Labour Party (**MLP**) believes that quotas are an effective instrument towards the achievement of real equality between men and women. The statute's provision states that 20% of the party's delegates at its' general conference have to be female. Subsequently this percentage was increased, where it was extended to ensure also a minimum representation of females in the national executive body of the Labour Party; the national executive body being the highest body after the general conference in the Constitutional Hierarchic Structure of the Party and at the present time the quotas at general conference level and national executive level stand at 40%.

Alternattiva Demokratika (AD) hold on to the principle that quotas are an effective mechanism for the achievement of *de facto* equality, and to have an equal representation in the political, social and public life. Democracy entails that all population is represented and that all needs are considered carefully. In order for this to be possible, women's voices cannot be abridged.

7.3 Women's Role in Public Life

Women's achievements in tertiary education are not reflected accordingly in their political life, and in senior management posts. Almost a third of the managers in the EU25 were women (32%). Malta's standing is amongst the lowest amounting to 14.5 per cent. Women's under-representation in the key jobs undermines society's democratic values.

Vertical segregation must be eliminated in the Maltese Islands in order to reduce the striking absence of women in decision-making positions. Abolishing the glass-ceiling will be a positive and essential method to remedy for the deficit of women in decision-making posts.

Currently in Malta there is a total of 19 judges, two of whom are women and were appointed in 2006. This was a major stepping stone for women's issues and for equal representation. The two newly appointed female judges did not qualify for the post because of positive gender discrimination, but because they filled the criteria needed for such posts. In Malta, there have been a number of women magistrates for several years and they have acquitted themselves professionally. There is also an appointed female on the court of first instance in Luxembourg. However, she is not a member of the judiciary system under the Maltese Constitution.

The judiciary sector is an important public service, albeit its difficult circumstances relating to resources. The service it provides is an essential one in a democratic society based on the rule of law. The appointment of two female judges, Dr. Abigail Lofaro and Dr. Anna Felice was a move towards bridging the gender gap in decision-making positions. Presently there are 17 magistrates in Malta, four of whom are women. After Malta joined the European Union, Dr Ena Cremona, the most senior practicing woman lawyer, was appointed judge in the EU Court of Justice in Luxembourg. These appointments are testimony that equality integrity is moving at a stable pace. The Government of Malta through these appointments has demonstrated that the capabilities and commitments of women to serve the country in sensitive and onerous high office posts are a reality.

Therefore figures show that Maltese society up till now in the Judicial Sector has: two female judges and four female magistrates + one female magistrate in the EU Court of Justice. In the legislative sector, in the House of Representatives there are six females.

7.4 Trade Union Membership

In Malta, a large percentage of unionised workers are males (73%). This is in line with the female participation rate in the labour market (33.6). However, the ratio of workers affiliated in a trade union is slightly lower for females than for males. Among the largest unions we have locally, the ratio of

female workers is highest in the Malta Union of Midwives and Nurses (MUMN) and the Malta Union of Teachers (MUT).

Table 7.2 Proportion of registered Female Members in Trade Unions

Proportion of registered Female Members:		
<i>Name of Union</i>	<i>Registered Members</i>	<i>Female Members as % of total</i>
<i>General Workers' Union</i>	46,156	18.4
<i>Union of United Workers</i>	26,129	31
<i>Malta Union of Teachers</i>	6,830	68.7
<i>Malta Union of Bank Employees</i>	3,027*	--
<i>Malta Union of Midwives and Nurses</i>	2,466	70.9
<i>Others</i>	1,658	19.8
Total	83,239	28

(Source: *European Industrial Relations Observatory On-line*)

*as per 2004/2005

-- data not available

7.5 The General Elections Act

The General Elections Act (as amended in 1996) does not include any provision for ensuring the guarantee of gender equality in the lists of candidates. It is up to the discretion of the political parties to decide the methods to adopt for elections and for the selection of candidates that they want to contest the elections on their behalf. However, there is nothing that precludes independent candidates from contesting the General Elections. On the other hand, there is nothing that precludes independent candidates or otherwise from contesting the General Elections.

7.6 Citizenship/Nationality

Malta had remained a single nationality State for a period of 25 years that is, from Independence in 1964 up to 1989 when the legislation related to citizenship was amended to introduce dual citizenship for the first time, directed mostly in respect of Maltese emigrants.

Malta became an independent State on 21 September 1964. Accordingly, the Constitution of Malta was enacted by the Malta Independence Order 1964 and Chapter III of the said Constitution is dedicated to citizenship. The Constitution established that persons born in Malta before the 21st September 1964, one of whose parents was also born in Malta, became automatically citizens of Malta on the 21st September 1964 (*jus soli/jus sanguinis*). It established further that persons born in Malta after independence acquired Maltese citizenship by mere birth in Malta (*jus soli*).

The principle was then also established that a Maltese citizen shall not have any other nationality and that if a person who is a citizen of Malta possessed any other citizenship whilst still a minor, that person had to decide which citizenship to retain between his eighteenth and nineteenth birthday. Moreover Maltese citizens who, on acquiring adulthood chose the citizenship of some other country, ceased to be automatically citizens of Malta. Furthermore, foreigners who acquired Maltese citizenship by registration or naturalisation had to renounce any other citizenship held by them within six months or three months as the case may be. Acts which, though deemed to protect our concept of nationality, were serving as a humiliating experience – at times also a source of family problems.

It has to be pointed out that a number of related legislative amendments were made in 1965, when the Maltese Citizenship Act was introduced, in 1970 when the Immigration Act was enacted, and in 1974, when Malta became a Republic. However, up till 1989, in so far as dual citizenship is concerned the position under Maltese citizenship law remained relatively unchanged. This first step was not very easy to achieve because initially the persons concerned had to satisfy a number of criteria. Moreover, the consent of the other country had to be accepted, as otherwise it would have been futile to regain Maltese citizenship and then lose the citizenship of the country of emigration. These conditions could, perhaps, though some have considered them rigorous; nevertheless many former citizens of Malta qualified to be reinstated as citizens of Malta.

The significant changes to Maltese citizenship legislation, in particular where dual nationality is concerned, were effected in February 2000. By means of new provisions in the Maltese Citizenship Act, dual or rather multiple nationality, was made the rule rather than the exception it was previously. Government indeed decided that it was time to make substantial and more liberal changes in our citizenship legislation and allow Maltese citizens to possess another nationality or other nationalities. This measure affected the national status of thousands of first generation Maltese, born outside Malta to Maltese migrants, who could be found in countries which allow dual citizenship – the majority of whom reside in Australia, the United Kingdom, Canada and the United States of America. It should be noted also that, since the year 2000, non-Maltese citizens who are registered or naturalized as citizens of Malta are no longer required to renounce any other citizenship held by them, as was previously the case. Thus these persons could hold also dual or multiple nationality.

Effects of the dual citizenship amendments

1. Section 7 of the Act as amended stipulates that:

It shall be lawful for any person to be a citizen of Malta and at the same time a citizen of another country.

This means that if a citizen of Malta acquires another citizenship on or after the 10th February 2000, that person may hold such other citizenship together with his Maltese citizenship.

It means also that a minor who is a citizen of Malta and possesses also a foreign citizenship, as well as persons who are in possession of two citizenships, for example they are Maltese by descent and Canadian because they were born in Canada and who on the 10th February 2000 were over 18 years of age but had not yet attained their 19th birthday, may now hold both citizenships indefinitely. (As

the law stood before the 10th February 2000 such persons had to make a choice as to which citizenship to retain between their eighteenth and nineteenth birthday. This is no longer the case).

2. Section 9 of the Act as amended stipulates that:

A person (born in Malta or abroad) who was a citizen of Malta by birth or by descent and who resided outside Malta for an aggregate period of at least six years and who acquired or retained the citizenship of another country shall be deemed not to have ever ceased to be a citizen of Malta.

To illustrate this by an example, say, a female citizen of Malta emigrated to Australia and stayed there for three years, after which she returned to Malta. After four years in Malta she returned to Australia where she stayed for five years, during which period she acquired Australian citizenship. As she:

- was a citizen of Malta;
- resided outside Malta for a total of eight years; and
- acquired Australian citizenship,

She, therefore, fulfils the requirements of the above-mentioned provision of the law and qualifies **AUTOMATICALLY** to hold dual citizenship.

It is to be remarked that had the said person instead of going to Australia emigrated to a different country, she would still qualify to hold dual citizenship.

3. Section 8 of the Act as amended stipulates that:

A person who (before 10/2/2000) had ceased to be a citizen of Malta because he lost maltese citizenship on acquiring a foreign citizenship or because he failed to renounce a foreign citizenship within the time prescribed by Law, shall be entitled to re-acquire maltese citizenship by registration.

This means, in effect, that those former citizens of Malta who had acquired Maltese citizenship on the 21st September 1964 or at birth but who have not resided abroad for at least six years and those persons who were citizens of Malta by Registration or Naturalization are now Entitled to be registered as citizens of Malta.

That is, these persons, with immediate effect, without having to satisfy any residence conditions and irrespective of where they are now residing (whether in Malta or abroad), may submit an application to be registered as citizens of Malta.

It should be noted, however, that in the case of former citizens of Malta who had acquired Maltese citizenship by registration or naturalization, Maltese citizenship shall be granted only if the Minister responsible for citizenship matters is satisfied that such grant is not contrary to the public interest.

4. Acquisition of citizenship as a result of marriage.

The foreign spouses of citizens of Malta can apply to be registered as citizens of Malta only after five years of marriage and as long as they are still living with their spouse. Upon the acquisition of Maltese citizenship, they may retain also their citizenship of origin.

Persons who are separated may also apply for Maltese citizenship as long as they had lived with their spouse for five years after marriage.

Foreign Widows/widowers may also apply for Maltese citizenship as long as five years would have elapsed from the celebration of marriage.

5. Acquisition of citizenship by children whose mother was a citizen of Malta.

The law has been amended also to make it possible for those children born of a Maltese mother on or after 21st September 1964 and before 1st August 1989 (the date when it became possible to acquire Maltese citizenship automatically if the mother is a citizen of Malta), to be registered as citizens of Malta.

This means that those persons, who are now 18 years of age or over, irrespective of whether they reside in Malta or abroad, may now apply to be registered as citizens of Malta and retain Maltese citizenship together with their foreign citizenship. In the case of minor children, an application can be submitted on their behalf by their mother to be naturalized as citizens of Malta.

The 1989 Amendments to Chapter III of the Constitution

1. (i) Dual citizenship

Section 27(3) of the Constitution was amended to enable Maltese emigrants to hold dual citizenship. This, of course, was only possible if the country of which they were citizens recognized the dual nationality concept.

If a person fulfilled all the necessary requirements, then he was deemed not to have ceased to be a citizen of Malta when he acquired the citizenship of the country to which he emigrated. By way of an example, if, say, he became a citizen of Canada on the 20th August 1978 (and according to the law as it stood then, he ceased to be a citizen of Malta on that date) he was considered not to have ceased to be a citizen of Malta as from that date.

(ii) Effects of Dual Citizenship on children who were born abroad after their father became a citizen of the country to which he emigrated

Prior to the 1st August 1989 when a child was born abroad to a former male citizen of Malta (that is, a person who was a citizen of Malta and who ceased to be such a citizen after acquiring the citizenship of the country to which he emigrated) that child did not become a citizen of Malta at birth.

Since, however, the father (as from the 1st August 1989) was reinstated in his previous status of a citizen of Malta with effect from the date when he acquired the foreign nationality, that child has also

acquired Maltese citizenship with effect from his/her date of birth as the father is deemed to have been a citizen of Malta at the time of the child's birth.

2. Acquisition of Maltese Citizenship by birth in Malta

Prior to the 1st August 1989 a person who was born in Malta became automatically a citizen of Malta, that is, by mere birth in our country. The Constitution was amended to limit such acquisition. As from the 1st August 1989 a person born in Malta shall become a citizen of Malta only if either one of his parents:

- i. is a citizen of Malta; or
- ii. was born in Malta, emigrated and is now the citizen of another country.

3. Acquisition of Maltese citizenship by persons born abroad

Prior to the 1st August 1989, a person born abroad acquired Maltese citizenship if at time of birth the father was a citizen of Malta himself born in Malta or who acquired Maltese citizenship by registration or naturalization.

As from the 1st August 1989 a person born abroad shall become a citizen of Malta if either of his parents is a citizen of Malta as explained in the preceding paragraph. That is, from the said date a child born abroad to a female citizen of Malta shall also become a citizen of Malta by descent.

4. Acquisition of Maltese Citizenship through marriage

Prior to the 1st August 1989 a foreign woman married to a citizen of Malta or to a person who became a citizen of Malta was entitled to become a citizen of Malta by registration.

As from the 1st August 1989 such entitlement has been conferred also on the foreign husband of a female citizen of Malta.

Such entitlement, moreover, is applicable also to a widow or a widower of:

- i. a person who would have become a citizen of Malta on the 21st September 1964 had that person not died before that date; or
- ii. a person who was a citizen of Malta at the time of that person's death.

In each case, however, the Minister responsible for matters relating to Maltese citizenship must be satisfied that the grant of citizenship to such person is not contrary to the public interest.

5. Acquisition of Maltese citizenship by adoption

Prior to the 1st January 1977 a person who was lawfully adopted by citizens of Malta became a citizen of Malta by adoption. As from that date, however, it was no longer possible to acquire Maltese citizenship through adoption.

The Constitution was amended once again to reintroduce acquisition of citizenship by adoption. As from the 1st August 1989 a child will become a citizen of Malta by adoption provided that child is under ten years of age on the date of adoption.

The 1989 Amendments to the Maltese Citizenship Act (Cap 188)

6. Acquisition of Maltese citizenship by naturalization

Prior to the 1st August 1989 persons who wished to become citizens of Malta could do so if they qualify:

- i. to be registered as citizens of Malta after a minimum period of 5 years' residence in Malta in the case of Commonwealth citizens, Irish citizens or British protected persons - Section 3(1) of the Act; or
- ii. to be naturalized as citizens of Malta after a minimum period of 6 years' residence in Malta in the case of aliens, (that is, not being persons referred to in (i) above) - Section 6 of the Act.

As from the 1st August 1989 any person may be naturalized as a citizen of Malta if that person has resided in Malta for at least five years.

7. Naturalization as citizens of Malta of persons who can prove descent from a person born in Malta and who are citizens of a country the access to which is, in their case, restricted

A new provision of the Act - Section 3(4) - makes it possible for a number of persons, the majority of whom reside abroad, to apply for Maltese citizenship if:

- i. they are citizens of a country other than the country in which they are residing; and
- ii. their access to the country of which they are citizens is restricted; and
- iii. they can prove descent from a person born in Malta.

The Minister responsible for matters relating to Maltese citizenship, however, must be satisfied that the grant of citizenship to such persons is not contrary to the public interest.

The Year 2000 Amendments to the Citizenship Legislation

1. Amendments to Chapter III of the Constitution

Chapter III of the Constitution has been amended by Act No III of 2000 so that only the general principles concerning Maltese citizenship are to appear therein. All detailed provision on citizenship has been incorporated in the Maltese Citizenship Act (Cap. 188).

Section 22 of the Constitution has been substituted by the following:

22. (1) The acquisition, possession, renunciation and loss of Maltese citizenship shall be regulated by law.

(2) Dual or multiple citizenship is permitted in accordance with any law for the time being in force in Malta.

Sections 23, 24, 25, 26, 27, 30 and 31 of the Constitution have been repealed.

Sections 28 and 29 have been renumbered as sections 23 and 24 respectively.

2. Amendments to the Maltese Citizenship Act (Cap. 188)

Dual or multiple citizenship

Act No IV of 2000 has introduced amendments to the Maltese Citizenship Act to give effect to new provisions governing dual or multiple citizenship:

Section 7 introduces the new cardinal principle:

It shall be lawful for any person to be a citizen of Malta, and at the same time a citizen of another country.

This means that if a citizen of Malta acquires another citizenship on or after the 10th February 2000 — the date when all provisions of the new law came into effect — that person may hold such other citizenship together with his Maltese citizenship.

It means also that a minor who is a citizen of Malta and possesses also a foreign citizenship as well as persons who on the 10th February 2000 were over 18 years of age but had not yet attained their 19th birthday and were in possession of two citizenships, for example Maltese which they acquired by descent and another citizenship which they acquired by birth in a foreign country, may hold both citizenships indefinitely.

Section 9 of the Act stipulates that a person, born in Malta or abroad, who was a citizen of Malta by birth or by descent and who resided outside Malta for an aggregate period of at least six years and who acquired or retained the citizenship of another country shall be deemed not to have ever ceased to be a citizen of Malta.

This means, for example, that the children born abroad to Maltese emigrants, who on the 10th February 2000 were over 19 years of age and who have always resided in their country of birth, shall automatically re-acquire Maltese citizenship (that is, they do not have to do anything for such re-acquisition but shall re-acquire Maltese citizenship by an involuntary act).

Section 8 of the Act stipulates that a person who, before the 10th February 2000, had ceased to be a citizen of Malta because he lost Maltese citizenship on acquiring a foreign citizenship or because he failed to renounce a foreign citizenship within the time prescribed by law, shall be entitled to re-acquire Maltese citizenship by registration.

This means, in effect, that those former citizens of Malta who had acquired Maltese citizenship on the 21st September 1964 or at birth but who have not resided abroad for at least six years and those persons who were citizens of Malta by registration or naturalisation and lost their citizenship, are now

entitled to be registered as citizens of Malta. That is, these persons, without having to satisfy any residence conditions and irrespective of where they are now residing (whether in Malta or abroad), may submit an application to be registered as citizens of Malta. It should be noted, however, that in the case of former citizens of Malta who had acquired Maltese citizenship by registration or naturalisation, Maltese citizenship shall be granted only if the Minister responsible for citizenship matters is satisfied that such grant is not contrary to the public interest.

In all those cases where a foreign national has to apply to acquire Maltese citizenship (that is, where citizenship is being acquired by a voluntary act) it is important that the person concerned verifies whether under his/her country's citizenship legislation, he/she might lose the citizenship of that country because of the said voluntary act.

3. Acquisition of Maltese Citizenship through marriage

Prior to the 10th February 2000 the foreign spouse of a citizen of Malta could apply for registration as a citizen of Malta immediately after marriage. This is no longer the case. As from the said date the foreign spouse can apply for Maltese citizenship only if he/she would have been married to a citizen of Malta for at least five (5) years and they would still be living together at the time when an application for citizenship is made (Sections 4 and 6 of the Act).

In the case of a foreign person whose Maltese spouse died before the fifth year of marriage, such person would also be entitled to apply for Maltese citizenship when five years would have elapsed from the date of marriage and as long as the said foreign spouse was still living with the Maltese spouse at the time of his/her demise.

The law has been amended to make it possible for those foreigners who are separated de jure or de facto from their Maltese spouse to also be entitled to be registered as citizens of Malta as long as the separation occurred after the fifth year of marriage and the couple had lived together during the said period of five years.

4. Acquisition of Maltese Citizenship by children whose mother was a citizen of Malta at the time of their birth

Citizenship used to be transmitted to the children only by their father. In line with the evolution of the citizenship laws in other countries, Malta introduced the transmission of Maltese citizenship by the mother as from 1st August 1989 and since then all those children who were born abroad to a mother who was a citizen of Malta, acquired automatically Maltese citizenship.

The law has now been further amended to give the opportunity to all those persons who were born on or after the 21st September 1964 and before the 1st August 1989 to acquire Maltese citizenship by registration. These persons, irrespective of whether they reside in Malta or abroad, and without having to satisfy any residence conditions, can apply for registration as citizens of Malta and may then retain such citizenship together with the citizenship they now hold.

In all those cases where a foreign national has to apply to acquire Maltese citizenship (that is, where citizenship is being acquired by a voluntary act) it is important that the person concerned verifies

whether under his/her country's citizenship legislation, he/she might lose the citizenship of that country because of the said voluntary act.

5. A new-born infant found abandoned in Malta shall be deemed to be a citizen of Malta.

As the law stood prior to the recent amendments, a new-born infant found abandoned in Malta was deemed to have been born in Malta. However, he could not then become a citizen of Malta as, for obvious reasons, it was not known whether at least one of his parents was a citizen of Malta, a requisite for a child born in Malta to acquire Maltese citizenship at birth. Therefore, that child was stateless.

The law has now been amended to the effect that the said child shall now be deemed to be a citizen of Malta until his right to any other citizenship is established.

General remarks

1. It shall be lawful for any person to be a citizen of Malta, and at the same time a citizen of another country.
2. Maltese laws do not make any distinction between males and females for the acquisition, changing or retention of nationality.
3. Any person, male or female, who acquires Maltese citizenship does not have to renounce any other citizenship he or she holds.
4. The foreign spouse of a citizen of Malta enjoys the right to remain and to work in Malta (on the strength of marriage). The said spouse may also acquire Maltese citizenship subsequent to the marriage but shall be entitled to do so only after 5 years of marriage and as long as he/she would still be living with the Maltese spouse.
5. In the case of a mixed marriage the children can acquire the citizenship of both parents.
6. Any person may apply for naturalization as a citizen of Malta after having resided in Malta for at least five (5) years.
7. Under the present citizenship guidelines:
 - a. All applications for citizenship from:
 - i. former citizens of Malta,
 - ii. children of returned migrants or of Maltese parents living in Malta,
 - iii. children born to persons who were non-Maltese but who later acquired Maltese citizenship,
 - iv. persons born abroad but of Maltese descent,
 are to be given favourable consideration.

b. Applications from persons who do not fall under one of the categories listed above will only be given favourable consideration if there are humanitarian aspects involved.

Article 8: Representation

States parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations.

8.1 Participation in International Meetings/Conferences

There is no legal form of discrimination which prohibits women from representing Malta at the national or international level. Maltese women are given equal rights and opportunities to attend conferences and to participate in the work of International Organisations.

International meetings are synonymous to many government officials, especially since Malta's membership to the European Union. Most international meetings are attended by the senior officers of the relevant Ministry. However, such delegations often include also officers at a more subordinate level.

Although the participation of women has gradually increased in political and public life, there is still a clear marked imbalance in equality in terms of quantity and quality. This phenomenon is even more striking in the sphere of international relations, particularly with regards to high-echelon positions.

In the European Parliament, there is an outstanding deficit in Maltese women, where Malta fares at the bottom of the list with 0 per cent of representatives out of the five members representing our country. However, there are female international representatives within:

- EU institutions
- United Nations
- Embassies
- Council of Europe

Dr. Joanna Drake was appointed to head the European Commission representation in Malta in 2005. Dr. Ena Cremona became a judge of the Court of First Instance of the European Communities after Malta's accession to the EU in May, 2004, following the formal approval of her nomination by the Council of the European Union. Dr. Cremona's term will expire on the 31 August 2007. The total personnel for Malta of the United Nations Secretariat as of 1 July 2006 is eleven; seven are men and four are women. Ms. Margherita Amodeo holds a chief position at the Department of United Nations Operations in Cote d'Ivoire. Ms. Annabelle Borg is an Associate Recruitment Officer at the Recruitment and Placement Section. Ms. Marilyn Maria Carmela Micallef is Registrar at the United Nations mission in Kosovo, and Ms. Rachel Rico holds the position of Associate Human Rights

Officer at the Department of Support to Human Rights Special Procedures. There are also three Maltese female representatives employed with the Council of Europe and its dependant institutions.

8.2 Participation in the Work of International Organisations

With regards to the role of women in conflict resolution and the consolidation of peace on the international scene, there has been an increasing interest in the participation thereof. Maltese female diplomats who work in Missions accredited to International Organisations share equal rights and obligations to men.

The policies belonging to the Maltese Government vouch for the principle of gender mainstreaming not only on a national level, but also internationally. The promotion of human rights and fundamental freedoms alongside with democracy, participation and non-discrimination are emphasised.

Since its inception, the National Commission for the Promotion of Equality has participated in international cooperation directed at the promotion of mainstreaming women in all spheres of public and civil life. Mainstreaming equality entails starting at the grass-roots level, and going beyond what is traditionally accepted as the norm to address the factors that are impinging on women's advancement in several areas of representation.

8.3 Diplomatic Service

The ratio of males to females in diplomatic service is narrowing down as time goes by.

The following is a breakdown of Diplomatic Staff of Foreign Affairs in the Maltese Islands from the period between December 2000 and September 2006.

Table 8.1 Diplomatic Service

December 2000

<u>GRADE</u>	<u>MALE</u>	<u>FEMALE</u>
Ambassador*	30	Nil
Senior Counsellor	Nil	Nil
First Counsellor	3	Nil
Counsellor	11	3
First Secretary	15	11
Second Secretary	2	7
Total	61	21

December 2003

<u>GRADE</u>	<u>MALE</u>	<u>FEMALE</u>
Ambassador*	35	2
Senior Counsellor	2	Nil
First Counsellor	1	Nil
Counsellor	11	2
First Secretary	20	22
Second Secretary	13	20
Total	82	46

September 2006

<u>GRADE</u>	<u>MALE</u>	<u>FEMALE</u>
Ambassador*	34	2
Senior Counsellor	1	Nil
First Counsellor	9	3
Counsellor	6	4
First Secretary	29	34
Second Secretary	8	7
Total	87	51

* Denotes both Resident and Non-Resident Ambassadors

Source: Ministry of Foreign Affairs — Malta

Article 9: Nationality

1. States parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.

2. States parties shall grant women equal rights with men with respect to the nationality of their children.

9.1 Main Principles and Provisions

Malta became an independent state in 1964, where the Maltese state acquired autonomy over British rule. The Constitution of Malta was enacted by the Malta Independence Order, 1964 and Chapter III of the Constitution is dedicated to citizenship. Laws and Regulations on nationality in relation to gender issues have not changed since the last report was submitted.

9.2 Non-nationals in the Maltese Islands

Table 9.1 National and non-national population in Malta in 1990 and 2004

Year	Nationals (1000)	Non- Nationals (1000)	Non-Nationals %
1990	352	6	1.6
2004	389	11	2.8

Source: Eurostat: *Statistics in Focus – Population and Social Conditions – 8/2006*

The largest group of non-nationals in Malta comes from the United Kingdom which strongly reflects our historical background.

Table 9.2 Foreigners residing in Malta aged between 16 to 24 holding a work permit in 2005

Age	Males	Females	Total	% total work permit holders
16	-	-	-	-
17	-	-	-	-
18	1	-	1	0.0
19	3	4	7	0.2
20	7	8	15	0.4
21	12	14	26	0.8
22	24	20	44	1.3
23	28	32	60	1.7
24	46	30	76	2.2
Total	121	108	76	2.2

Source: NSO News Release 179/2006 – International Youth's Day

The position of the Maltese state in the experience of asylum-seekers is emerging with more significance year after year. Malta's geographical position makes it a good destination for a number of irregular immigrants to reach the Maltese shores. In 2005, 48 boats were registered to have entered the Maltese seas bringing a total of 1,882 irregular immigrants to Malta. When conducting a comparative analysis for the previous year, this translates into an increase of 434 irregular immigrants. In the first

six months of 2006, the total number of boats reaching Malta was nine, corresponding to 378 irregular immigrants.⁴³

The rise in arrivals reaching Maltese shores is also reflected in an increase in the number of applications for asylum. The total number of applications received by the Office of Refugee Commissioner during 2004 amounted to 997, whilst the number registered in 2005 was 1,199. The difference is translated into an increase of 20 per cent over the figures accounted for in 2004. The number of applications recorded in the first five months of 2006 reached 557, which suggests that the substantive increasing trend will be further sustained in 2006.⁴⁴

A registered increase was also noticed in the number of migrants who were repatriated, which rose from 709 in 2004 to 954 in 2005. In the primary four months of 2006, the number of repatriations stood at 349. The figures for repatriation include all foreigners who were removed from the country for one reason or the other. These consist of the repatriation of persons who enter the country legally but who stay beyond their authorised stay, persons arriving in Malta without the required documentation, and other individuals who arrive in Malta irregularly.⁴⁵

In 2005, the total number of decisions on asylum seekers taken by the Office of the Refugee Commissioner amounted to 1,102. 49.3 per cent of these were positive decisions where refugee status or humanitarian protection was granted to 36 and 510 individuals respectively. The remaining 50.5 per cent of the decisions taken were rejections. In contrast with the previous two years, 2005 was marked by the fact that the percentage of rejections outnumbered the percentage of grants of humanitarian aid. Between the period of 2002 and 2005 a total of 160 persons were granted the status of refugees, 1,509 individuals were given humanitarian protection and 1,288 persons' applications were rejected.⁴⁶

Part III:

Article 10: Education

States parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

(a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training;

(b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;

(c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods;

- (d) *The same opportunities to benefit from scholarships and other study grants;*
- (e) *The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;*
- (f) *The reduction of female student drop-out rates and the organization of programmes for girls and women who have left school prematurely;*
- (g) *The same opportunities to participate actively in sports and physical education;*
- (h) *Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.*

10.1 Education

The Government of Malta strongly believes that the key to securing a sustainable future lies in education. Investment in education is a guarantee of open opportunities for all children. Education is the instrument that yields success for the child as an individual and for the country.

The Constitution of Malta and the Education Act of 1988 (Act XXIV of 1988) and including amendments from 2006 describe the aims and objectives of the Maltese educational system. The Constitution imposes the following obligations upon the State:

- The provision of compulsory schooling.
- The provision of compulsory Primary Education, which shall be free in all State schools.

Ch II, Art. 10: “Primary education shall be compulsory and in State schools shall be free of charge.”

- The provisions of scholarships and of financial assistance to ensure the right of all individuals to further their studies and attain the highest level of educational achievement.

Ch II, Art. 11 (1): “Capable and deserving students, even if without financial resources, are entitled to attain the highest grades of education.”

Ch II, Art. 11 (2): “The State shall give effect to this principle by means of scholarships, of contributions to the families of students and other provisions on the basis of competitive examinations.”

- The development of cultural, scientific and technological research.

Ch. II, Art. 8: “The State shall promote the development of culture and scientific and technical research.

- The development of professional and vocational training.

Ch. II, Art 12 (2): “It shall provide for the professional or vocational training and advancement of workers”.

Ch. II, Art 17 (3): “Disabled persons and persons incapable of work are entitled to education and vocational training”.

The law regulating Education in Malta (Act XXIV of 1998) is the main legal instrument governing educational provision in Malta. It defines the rights and obligations of students, parents and the educational institutions which have a stake in the sphere of education.

The Education Act (1988) provides the legal framework underpinning the provision of education in Malta, and the prohibition of discrimination on the basis of sex with regards to access to all types of vocational guidance, vocational training, and re-training. This impediment is applicable to all educational establishments or any other entity making provisions for vocational training or guidance. The realms which fall under its scrutiny are:

The Government of Malta states that:

“Educational establishments and entities providing vocational training are to ensure, within the limits of their competence, that curricula and textbooks do not propagate discrimination as well as are to fulfil their obligation to suppress sexual harassment (as provided under sub article (2) of article 9).”

10.2 The National Minimum Curriculum

The Government of Malta believes that the education of all individuals is a universal priority for the nurturing and development of every citizen and society at large. The National Minimum Curriculum helps to create stimulating learning environments in which all students have the opportunity to reach their full learning potential. This document is a holistic attempt to put education at the heart of the state’s priorities.

Policies in the field of education and training are important tools for gender equality.

The legal basis for the Maltese National Minimum Curriculum can be found in the Education Act (Cap. 327). In the ‘General Provisions’ contained in Part 1 of the Education Act, there is the entitlement for education:

“It is the right of every citizen of the Republic of Malta to receive education and instruction without any distinction of age, *sex*, belief or economic means”.

The *National Minimum Curriculum: Creating the Future Together* (2000) is applicable to all State, Church and Independent schools. This document constitutes a binding foundation for the development of separate curricula, at three different levels of education including the pre-primary, primary and secondary educational system. The National Minimum Curriculum avows that:

“In democratic society, every individual should be respected. Therefore, the educational community should actively oppose all forms of discrimination by promoting the corresponding attitudes and readiness to act”.

(NMC: Creating the Future Together)

The National Minimum Curriculum applies to all education providers in Malta with regards to the teachings of 5 to 16 years-olds which is the prescribed compulsory school attendance age. The curriculum adheres to the principle of social justice and social inclusion. One of the policies of the National Minimum Curriculum is to make learning accessible to all:

“The education community must ensure equality access to the educational system without discrimination on the grounds of ability, gender, religion, race or socio-cultural and economic background.”

(NMC: Creating the Future Together)

The National Minimum Curriculum is committed towards strengthening the national community’s obligation of guaranteeing equal opportunities for everyone, irrespective of their gender. One of the principles outlined in the National Minimum Curriculum is the reinforcement of gender equality.

Emanating from society’s commitment to the principle of gender equality, the Curriculum assigns to the educational community the following responsibilities, that boys and girls:

- Follow the same curriculum.
- Are catered for in a manner that ensures equal access to the same work opportunities.
- Are exposed to the same educational experiences.
- Have the opportunity to effectively choose the subjects they want to learn based on an informed choice.

Principle 11: Gender Equality (NMC)

The National Minimum Curriculum stresses on the importance that gender equality should not be tackled in isolation and/or solely in schools.

“Gender equality is not a theme that should be treated by the school in isolation, or during the teaching of a particular subject. Equality should be an interdisciplinary theme which teachers can develop within the context of their particular subject, confronting prejudice and promoting more gender inclusive alternatives.”

(NMC: Creating the Future Together)

School is a very influential institution for the shaping up beliefs and attitudes. As such schools need to ensure that the resources availed of by the educational community do not in any way undermine the principle of equality. In choosing and producing resources, the schools should actively explore and

create texts and visual representations which promote the principle of gender equality. According to the National Minimum Curriculum, structural change should be complemented by ongoing renewal of the teachers' pedagogy. In co-educational school settings, teachers need to focus on:

- Gender interaction during group activities
- The amount of attention devoted to people of a different gender
- Expectations regarding people of a different gender
- Responsibilities assigned to people of a different gender

Objective 5 of the National Minimum Curriculum is 'Strengthening of Gender Equality'. In accordance with this objective, on completion of one's education in a Maltese school, one should consider man and woman as equals. Students need to acquire:

- Knowledge and information about laws in relation to gender equality
- Skills including appreciation and acceptance of gender difference; the acquisition of analytical thinking, and the ability to criticize discriminatory attitudes and situations
- Attitudes including the belief in social justice which includes the fundamental principle of equality between women and men.

The National Minimum Curriculum is a good source of guidance. However it is not enough on its own. This document will reach its maximum when it is implemented in schools, and when results are achieved. The National Steering Committee developed a Strategic Plan in 2001 which is an instrument for the implementation process of the Curriculum at school and central levels. This plan represents minimal requirements which are being made legally obligatory on all state and non-state schools in the interests of implementing the National Minimum Curriculum. According to the Strategic Plan (2001) gender in the National Minimum Curriculum includes:

A. Policies

1. Preparing legislation to ensure gender equity.
2. Ensuring that the deployment of administrative and teaching staff is gender sensitive.
3. Requiring schools to have in-house gender equity policy.
4. Having a written policy statement on equal gender stereotyping.
5. Establishing framework to ensure that gender equity permeates all new National Minimum Curriculum programmes.

B. Structures include the establishment of

1. A post of gender equity officer.

2. An education committee in gender equity.
 3. A monitoring committee.
- C. Process
1. To organize in-service training on gender.
 2. To develop a joint programme with differentiated learning.
 3. To organize an awareness programme for School Council members.

10.3 Educational Institutions

The Maltese educational institutions include state, private and religious schools. The Maltese Educational System provides compulsory education in all public schools for children between the ages of 5 and 16. Education is provided free of charge in all public schools from pre-grade (3 years) up to tertiary education. Church schools are substantially subsidised by government and tuition is free.

In 2003, the number of children of compulsory school age was about 62, 550 (16.1% of the population). Of these around 64 per cent attended full-time education in state schools, whilst the remaining 36 per cent attended the non-state sector.⁴⁷ Although kindergarten does not fall under the obligatory education bracket, about 98 per cent of the age cohort of three to four-year-olds attend these centres.⁴⁸

State primary schools are localised in every town and village of the Maltese Islands. The state secondary school system is streamed into junior Lyceums and secondary schools. Students can opt to move to a trade school after completing three years of secondary level education. However the majority of students continue with their studies towards the Matriculation Secondary Education Certificate (MATSEC).

10.4 Tertiary Education

The economic and social development of a country is closely interrelated to the educational attainment of its people who are at tertiary level. The University of Malta offers a number of courses in different areas of study. The international dimension at university finds scope in the Foundation for International Studies which sets up international conferences on a wide array of themes. The Foundation has also supported several projects of a world-wide network through its International Environment Institute. Such ventures are under the auspices of UNESCO and Council of Europe. Moreover, courses in cultural tourism and diplomatic studies with an innovative anthropological notion are offered.

In 1988 under the auspices of the United Nations the International Institute on Ageing was inaugurated. The promotion of training and research along with the exchange of information and knowledge are at the roots of the Institute in order to serve as the vehicles towards the formation and implementation of social policies and action. The International Institute on Ageing grants

multi-disciplinary education and training in various areas related to ageing, and acts as a catalyst with regards to the exchange of information on matters related to ageing.

Universities have a pivotal role in generating social transformation collectively with economic and political change. The student population at tertiary level is on the increase. This is a common feature in the EU 25 Member States and Malta is no exception. In the period between 1943 and 1964, females enrolled at the University of Malta were less than 100 in total. Up to two decades ago, locally only 20 per cent of university students were females. In the scholastic year 2003-2004 women constituted 55.8 per cent of those attending university.⁴⁹ In the same academic year the proportion of female graduates was 57.1 per cent. Nowadays, female graduates lead male graduates by seven percentage points.⁵⁰

Attached in the annex there is a chart which portrays the trends in the number of women per 100 men in tertiary education for the academic years 1997-1998 to 2003-2004.

In Malta, men dominate in technical courses at post-secondary level, but this trend is decreasing, thus slowly paving the way to a more proportionate balance in technical occupations. The female ratio of students at the Malta College of Arts, Science and Technology (MCAST) stands at one women for every two men, which is relatively low. However, since its inception back in 2000, the female enrolment rate is increasing.

Worldwide, women are still being excluded from the fields of science and technology especially in decision-making posts and the higher echelons of the fields. Less women than men choose a scientific career and when they do, the professional progress is slower.

In Malta, the ratio of male students graduating in Science in 2004 was 4:2, whereas in IT, the discrepancy was even wider with a ratio of 3:1. The need was felt to have clear grass-roots policies which deal with the under-representation of women in the fields of Science and Technology. These gender differences in educational career choices follow the stereotypical patterns that the labour market at large is witnessing. Research indicates that women are highly skewed towards specific areas, namely Humanities and Social Sciences, Education, Health and the Medical fields, whereas they lack in Engineering and Science-based courses.

The table below outlines the number of tertiary graduates in 2003 in the fields of science, mathematics and computing and engineering, manufacturing and construction; change (%) since 1998 and percentage of female graduates in 1998 and 2003 – Malta.

Table 10.1 Tertiary Graduates in Selected Subjects

	Number of graduates 2003	Change (%) since 1998	% females 1998	% females 2003
All fields of Education	2,048	53.1	53.7	54.7
Science, Mathematics and Computing	84	200.0	32.1	35.7
Engineering, Manufacturing and Construction	98	157.9	2.6	18.4

Source: Eurostat, Education Statistics as cited in Statistics in focus 19/2005

These figures indicate that the number of graduates in science has more than doubled in Malta.

In engineering, Malta was the only country in the EU25 which registered a double-fold increase, showing that in past years there was a very low number locally in both fields.

In Malta in 2006/07 tertiary enrolments per field consisted in:

- 30.7% - Social Sciences, Business and Law
- 16.0% - Education
- 14.2% - Health and Welfare
- 12.3% - Humanities and Arts
- 7.8% - Engineering, Manufacturing and Construction
- 10.7% - Science, Mathematics and Computing
- 5.87% - Services
- 0.6% - Agriculture and Veterinary

In the annex attached to this document there is a table which portrays the students statistics by faculty for the academic year 2005/2006.

Graduates in 2006 in Malta:

- Education – 76.9% females vs. 23.1% males
- Legal degrees – 61.5% females vs. 38.5% males
- B.Pharm – 73.9% females vs. 26.1% males
- Accountancy – 63.2% females vs. 36.8% males
- Notary Public – 65.3% females vs. 34.7% males
- MD – 41.7% females vs. 58.3% males
- LLD – 48.9% females vs. 51.1% males
- Dentistry – 25.0% females vs. 75.0% males
- Architecture – 46.4% females vs. 44.1% males
- Engineering – 19.4% females vs. 80.6% males

Source: University of Malta

10.5 Early School Leavers

The following table outlines the school leaving percentage segregated by sex. The proportion of early school leavers is calculated as the percentage of persons aged between 18 to 24 years having achieved lower secondary education or less, and not in education or training as a percentage of all persons aged between 18 to 24 years.

Table 10.2 Early School Leavers

Year	Sex		Total
	Males	Females	
	%		
2002	53.0	50.9	52.0
2003	51.7	48.2	50.0
2004	45.2	39.9	42.6
2005	41.2	34.6	38.1

Early School leavers is the percentage of persons aged between 18 to 24 years having achieved lower secondary education or less and not in education or training as a percentage of all persons aged between 18-24.

10.6 University of the Third Age

The University of the Third Age was set up in 1993, and its aim includes running programmes designed to be intellectually, culturally enriching and informative. The institution caters for persons over sixty years of age. The University of the Third Age has registered an increase in the number of participants which has redirected the downward trend in participation which was recorded in the last three academic years prior to 2006. Female participation rose, and the ratio of male to female stood at one for every three participants at the University of the Third Age.

The age groups which retained the greater part of members were the 70-74 year group, and the 65-69 years respectively. 40.9 per cent of participants attending the University of the Third Age had held a professional career prior to retirement.

10.7 Adult Education and Lifelong Learning

Contemporary society striving to secure full access to social, economic and political life, places demands on education and training. For this to be secured, individuals have to keep on learning not solely in their earlier stages of life, but throughout it. Adult Education morning and evening classes are popular with women, in particular. Lifelong learning has become a primary goal onto the national political agenda. Since the accession in the European Union, Malta is actively promoting the notion of lifelong learning and is participating in programmes initiated by the European Commission back in 1996.

The highest number of participants following adult education courses or evening courses were aged 40 years and over. Female participation represented the majority of participants, accounting for 52.5 per cent of the total participation.

10.8 Expenditure on Education

Table 10.3 Expenditure per student in tertiary institutions (in EUR PPS, compared to GDP per capita)

Country	In EUR PPS	Compared to GDP per capita
EU 25	7,945.9	37.1
Malta	7,048.0	45.1

Source: Eurostat, Education Statistics as cited in Statistics in Focus 18/2005

The table above portrays the present situation in the expenditure on education. Malta invests considerably more than the EU25 average with a difference of 8 percentage points. In Malta 45.1 per cent of GDP per capita is spent per student at the tertiary level of education. The actual monetary amount spent per student is lower than the EU average although as a percentage it is higher. This means that even though the actual amount spent per student at the tertiary level of education usually

increases with the level of wealth of a country, as a percentage of GDP per capita, the Maltese government is investing more than the average EU25.

In the Budget for 2007, Government announced that the biggest investment ever is being carried out at all levels of education. Today, from every Lm100 produced, Lm6 is spent on education.⁵¹

The investment in education has yielded several results. In the last five years, the number of early school leavers decreased by 10 per cent. The percentage of students dropping out of the education system after secondary schooling has been dropping steadily, from approximately 48 per cent to 37 per cent. Youths attending post-secondary or vocational courses increased by 26 per cent while 20,000 youths participated in various fields and levels of advanced and higher education.⁵²

Article 11: Employment

1. States parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:

(a) The right to work as an inalienable right of all human beings;

(b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;

(c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;

(d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;

(e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;

(f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.

2. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States parties shall take appropriate measures:

(a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;

(b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;

(c) To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities;

(d) To provide special protection to women during pregnancy in types of work proved to be harmful to them.

3. Protective legislation relating to matters covered in this article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary.

11.1 The Employment of Women

Employment growth in Malta has turned positive in 2004 and 2005, following a negative stream in the previous two years. This decline is mainly attributable to a deteriorating manufacturing industry and a contracting public sector. Employment growth in the Maltese Islands for 2006 registered 0.6 per cent.⁵³

The two tables below portray the labour status in Malta as it stood in January 2006, and in the period between July and September 2006, segregated by sex.

Table 11.1: Labour Status January 2006

Labour Status	Sex				Total	
	Males		Females			
	No	%	No	%	No	%
January 2006						
Employed	103,212	64.8	44,694	27.0	147,907	45.5
Unemployed	7,606	4.8	4,623	2.8	12,229	3.8
Inactive	48,431	30.4	116,136	70.2	164,566	50.7
Total	159,249	100.0	165,453	100.0	324,702	100.0
January 2005						
Employed	103,100	65.4	46,295	28.2	149,395	46.1
Unemployed	6,740	4.2	4,256	2.6	10,996	3.7
Inactive	47,878	30.4	113,715	69.2	161,594	50.2
Total	157,719	100.0	164,266	100.0	321,985	100.0

Source: NSO: Labour Force Survey January 2006 83/2006

Table 11.2: Labour Status July – September 2006

Labour Status	Sex				Total	
	Men		Women		No	%
	No	%	No	%		
July-September 2006						
Employed	103,809	65.0	49,883	30.1	153,692	47.2
Unemployed	6,730	4.2	4,399	2.6	11,129	3.4
Inactive	49,254	30.8	111,488	67.3	160,742	49.4
Total	159,793	100.0	165,770	100.0	325,563	100.0
July-September 2005 (Revised)						
Employed	102,608	64.4	47,043	28.7	149,651	46.3
Unemployed	7,010	4.4	4,494	2.7	11,504	3.5
Inactive	49,794	31.2	112,583	68.6	162,377	50.2
Total	159,412	100.0	164,120	100.0	323,532	100.0

Absolute changes between one survey and another, smaller than 1,800, may be due to sampling error.

Source: NSO: Labour Force Survey July-September 2006 001/2007

The figures of the labour status segregated by employed, unemployed, and inactive may not portray the de facto situation, since the relatively large number of inactive women may possibly indicate a greater female participation in the informal economy.

The table below explains the distribution of the labour force for the period July to September 2006.

Table 11.3: Distribution of the Labour Force July – September 2006

Labour Status	Sex				Total	
	Men		Women		No	%
	No	%	No	%		
July-September 2006						
Employed	103,809	93.9	49,883	91.9	153,692	93.2
Unemployed	6,730	6.1	4,399	8.1	11,129	6.8
Total	110,539	100.0	54,282	100.0	164,821	100.0
July-September 2005 (Revised)						
Employed	102,608	93.6	47,043	91.3	149,651	92.9
Unemployed	7,010	6.4	4,494	8.7	11,504	7.1
Total	109,618	100.0	51,537	100.0	161,155	100.0

Absolute changes between one survey and another, smaller than 1,800, may be due to sampling error.

Source: NSO: Labour Force Survey July-September 2006 001/2007

The table below shows the employment rate for males and females for January 2005 and January 2006. The figures show that a slight decrease was registered in 2006 in the female employment rate, although analysis of this phenomenon shows that there is a stable curve, which goes through a stage of decline and upwards again.

Table 11.4: Employment rates January 2005 and January 2006

	Males	Females	Total
January 2006	74.0	32.6	53.4
January 2005	74.3	34.0	54.3

Source: NSO: Labour Force Survey January 2006 83/2006

As the table below describes, the female employment rate for the period July to September 2006 rose from the figure registered in January 2006 which stood at 32.6 per cent. For the time span of July to September 2006, the female employment rate recorded was 36.5 per cent. The increase in figures may be due to seasonal factors where in the summer period, more people get out to work. However a slight rise was also noticed from the previous year, where the female employment rate for the period July to September 2005 stood at 34.5 per cent.

Table 11.5: Employment rates by age groups for the period July – Sept. 2005 and July – Sept. 2006

Age group	Sex		Total
	Men	Women	
	%	%	%
July-September 2006			
15-24	42.3	44.1	45.8
25-54	89.3	40.1	65.0
55-64	51.1	11.4	30.4
Total	74.3	36.5	55.5
July-September 2005 (Revised)			
15-24	46.7	45.5	46.1
25-54	89.0	36.4	63.0
55-64	49.0	12.1	29.8
Total	73.4	34.5	54.2

Persons in employment (15-64 years) as a percentage of the population of working age (15-64 years).

Source: NSO: Labour Force Survey April-June 2006 001/2007

11.2 Employment Rates by Age Groups

Female full-time employment is dominant in the twenty age interval, and declines thereafter. The drop in female economic activity reinforces the stereotype that the domestic chores including child-bearing are women's primary responsibility.

Statistical data shows that females are often inactive from the world of work during the period when they are more liable to have children. The female employment rate locally is relatively high up to childbearing age, and decreases thereafter.

In 2003, the employment rate for women aged 20-49 without children under 12 in the EU25 was 75%, compared with 60% for those with children under 12. The opposite is observed for men where the

employment rate increased from 86% for those men aged 20-49 who did not have children under 12 to 91% for those with children under 12.

In Malta, the total employment rate for women aged 20-49⁵⁴ without children under 12 is 37.5% out of which 8.6% on a part-time basis, and for those women with children under 12, the rate is of 26.7% with 8.4% working part-time. For males without children under 12 the figures show that 87% are in the labour force. The increase noted in EU25 for men with children under 12 is verified also locally with the rate of 90.6%. Therefore these figures indicate that with childbearing and rearing female employment declines whilst male employment increases. This pattern is further reinforced with an additional decline in female employment when the number of children increases, and a raise in figures for male employment when from the first child to the second child, and a slight decline on the third child. In the EU25, employment rates for women aged 20 to 49 fell from 65% with one child under 12 to 58% with two and to 41% with three children and more. For men, the employment rates were 91% for the first child, 92% for the second and 86% on the third child or more. In Malta, female employment rates for the first child and the second child fell from 29.9% to 23.8% respectively whilst for men the figures show 90.4% of employment rate on the first child, 95.3% with the second child and a decline for those having three children or more, where the rate stands at 93.6%.⁵⁵

Studies show that the female employment rate decreases with age reaching the take-off in the 25-34 age bracket and declining thereafter.⁵⁶ Research also indicates that the gaps between male and female employment rates are higher among those who have a lower educational attainment. The gap narrows as education rises.

11.3 Unemployment

The percentage of unemployed persons for January 2006 amounted to 7.6 per cent with 6.9 per cent for males and 9.4 per cent for females.

Table 11.6: Unemployment rates January 2005 and January 2006

	Males	Females	Total
January 2006	6.9	9.4	7.6
January 2005	6.1	8.4	6.9

Source: NSO: Labour Force Survey January 2006 83/2006

Table 11.7: Unemployment rates by age groups

Age group	Sex				Total	
	Men		Women			
	No	%	No	%	No	%
July-September 2006						
15-24	2,252	33.5	2,519	57.3	4,771	42.9
25-34	1,052 ^u	15.6	561 ^u	12.7	1,613 ^u	14.5
35-44	1,190 ^u	17.7	549 ^u	12.5	1,739 ^u	15.8
45-54	1,866 ^u	27.7	863 ^u	15.1	2,529	22.7
55-64	370 ^u	5.5	107 ^u	2.4	477 ^u	4.3
Total	6,730	100.0	4,399	100.0	11,129	100.0
July-September 2005 (Revised)						
15-24	2,671	38.1	2,771	61.7	5,442	47.3
25-34	1,302 ^u	18.6	512 ^u	11.4	1,814	15.8
35-44	1,464 ^u	20.9	526 ^u	11.7	1,990	17.3
45-54	1,339 ^u	19.1	685 ^u	15.2	2,024	17.6
55-64	234 ^u	3.3			234 ^u	2.0
Total	7,010	100.0	4,494	100.0	11,504	100.0

^u - under-represented

Absolute changes between one survey and another, smaller than 1,800, may be due to sampling error.

Source: NSO: Labour Force Survey July-September 2006 001/2007

One of the strategies adopted to combat unemployment is to provide career guidance and training. The Employment and Training Corporation (ETC) offers a number of courses addressed in particular to the segment of the population which is unemployed. These courses are also open for the general public who wish to upgrade their expertise or choose another path of proficiency to explore. The higher the level of education of both men and women, and the more multi-skilled they are, the more the chance to minimise unemployment.

Table 11.8: Unemployment rates by age groups for the period July – September 2005 and July – September 2006

Age group	Sex		Total
	Men	Women	
	%	%	%
July-September 2006			
15-24	13.1	16.1	14.5
25+	4.8	4.9	4.8
Total	6.1	8.1	6.8
July-September 2005 (Revised)			
15-24	15.1	17.3	16.1
25+	4.7	4.9	4.8
Total	6.4	8.7	7.1

Unemployed persons as a percentage of the labour force.

People registering with the Employment and Training Corporation in Malta as unemployed can do so either as Part 1 registrants, or as Part 2. Persons qualify for the Part I Register if they become unemployed due to:

1. redundancy by an employer irrespective of the length of service.
2. liquidation or closing down of an employer's operation.
3. unsuitability during a pre-determined contractual period of probation or the national standard of 13 weeks, whichever is the greater.
4. medical reasons which have been confirmed by the Medical Officer appointed by the ETC.
5. a justifiable cause which can be substantiated by documentary evidence and has been agreed and confirmed in writing by the Employment Services Manager.

Persons may also qualify for inclusion in the Part I register if:

1. a case of appeal has been upheld by the National Employment Authority.
2. the period of penalisation after strike off action has lapsed.
3. the case has been investigated by the Employment Services Manager or Chief Executive and written results of the investigation are available on file. These cases will merit investigation if additional information has been made available to further substantiate a claim for eligibility for Part I.
4. documentary evidence requested by the ETC has been submitted and accepted.

The following persons may also be considered eligible for inclusion in the Part I register.

1. official School Leavers
2. young persons whose 16th birthday falls within the same academic year are only permitted to register on Part I after the official school leaving date (16th July). This condition applies whether they are already 16 years old and/or in possession of a school exemption certificate.
3. returned migrants
4. foreigners married to Maltese citizens on production of supporting documentary evidence.
5. persons who have been absent from the job market and wish to return to full-time employment, (women returners).
6. EU nationals.

The Part II register consists of persons who fail to qualify for Part I namely persons who:

- terminate their employment without a just cause.
- lose employment as a result of misconduct.
- are penalised for rejecting an opportunity for employment or training.
- are penalised for working and registering whilst on Part I.
- have not had their case upheld by the National Employment Authority.
- have not had their medical reason for leaving employment confirmed by the Medical Officer appointed by the ETC.

- fail to produce all the required documents requested by the ETC.

The two tables below show that number of males and females registering as unemployed with the Employment and Training Corporation in Malta, by their level of education.

Table 11.9: Unemployed by Level of Education

Unemployed on Part 1 by Level of Education as at the end of September 2006										
LEVEL	Description: Academic/Trade	MALES			FEMALES			TOTAL		
		Literate	Illiterate	Total	Literate	Illiterate	Total	Literate	Illiterate	Total
1	Working Knowledge/Operator	1,084	522	1,606	202	39	241	1,286	561	1,847
3	Competent/Skilled Operator	2,288	392	2,680	674	27	701	2,962	419	3,381
5	'O' Level/City & Guilds	438	0	438	394	0	394	832	0	832
6	Intermediate	48	0	48	19	0	19	67	0	67
7	'A' Level/Engineer by Experience	98	0	98	94	0	94	192	0	192
8	Diploma	75	0	75	48	0	48	123	0	123
9	Graduate/Graduate Engineer	39	0	39	41	0	41	80	0	80
TOTAL		4,070	914	4,984	1,472	66	1,538	5,542	980	6,522

Table 11.10: Unemployed by Level of Education

Unemployed on Part 2 by Level of Education as at the end of September 2006										
LEVEL	Description: Academic/Trade	MALES			FEMALES			TOTAL		
		Literate	Illiterate	Total	Literate	Illiterate	Total	Literate	Illiterate	Total
1	Working Knowledge/Operator	120	50	170	37	5	42	157	55	212
3	Competent/Skilled Operator	204	14	218	61	1	62	265	15	280
5	'O' Level/City & Guilds	67	0	67	43	0	43	110	0	110
6	Intermediate	1	0	1	1	0	1	2	0	2
7	'A' Level/Engineer by Experience	13	0	13	10	0	10	23	0	23
8	Diploma	12	0	12	4	0	4	16	0	16
9	Graduate/Graduate Engineer	7	0	7	12	0	12	19	0	19
TOTAL		424	64	488	168	6	174	592	70	662

11.4 Occupations Segregated by Sex

The gender gap in occupations is diminishing as women are choosing more professions which were once thought to be traditionally male, although such segregation still persists to some extent.

Table 11.11: Main Occupation of Total Employed Persons in July – September 2006

Occupational Group	Sex				Total	
	Men		Women		No	%
	No	%	No	%		
Armed Forces	1,861	1.8	-	-	1,861	1.2
Legislators, senior officials and managers	10,812	10.4	2,280	4.6	13,092	8.5
Professionals	9,941	9.6	7,619	15.3	17,560	11.4
Technicians and associate professionals	13,935	13.4	10,396	20.8	24,331	15.8
Clerks	8,313	8.0	9,912	19.9	18,225	11.9
Service workers and shop and sales workers	14,171	13.6	10,182	20.4	24,353	15.8
Skilled agricultural and fishery workers	2,276	2.2	137 ^U	0.3	2,413	1.6
Craft and related trades workers	19,594	18.9	611 ^U	1.2	20,205	13.2
Plant and machine operators and assemblers	8,267	8.0	4,589	9.2	12,856	8.4
Elementary occupations	14,639	14.1	4,157	8.3	18,796	12.2
Total	103,809	100.0	49,883	100.0	153,692	100.0

^U - under-represented

Source: NSO: Labour Force Survey July - September 2006 001/2007

The table below shows that in 2006, the majority of persons were employed in the private sector, with an amount reaching 70.7 per cent for males and 69.3 per cent for females.

Table 11.12: Total employed persons classified by economic sector

Economic Sector	Sex				Total	
	Men		Women			
	No	%	No	%	No	%
July-September 2006						
Private	73,386	70.7	34,568	69.3	107,954	70.2
Public majority	1,878	1.8	892 ^U	1.8	2,770	1.8
Independent statutory bodies	8,512	8.2	2,222	4.4	10,734	7.0
Government departments and ministries	20,033	19.3	12,201	24.5	32,234	21.0
Total	103,809	100.0	49,883	100.0	153,692	100.0
July-September 2005 (Revised)						
Private	70,729	69.0	31,546	67.1	102,275	68.3
Public majority	3,929	3.8	1,006 ^U	2.1	4,935	3.3
Independent statutory bodies	9,042	8.8	1,867	4.0	10,909	7.3
Government departments and ministries	18,908	18.4	12,624	26.8	31,532	21.1
Total	102,608	100.0	47,043	100.0	149,651	100.0

^U - under-represented

Absolute changes between one survey and another, smaller than 1,800, may be due to sampling error.

Source: NSO: Labour Force Survey July-September 2006 001/2007

The proportion of women who have fixed term contracts, and therefore limited employment rights and benefits outnumbers men, although the difference is relatively low.

Table 11.13: Fixed Term Contracts Employees as a % of Total Employees

Year	Sex		Total
	Males	Females	
	%		
2002	2.7	4.6	3.3
2003	1.7 ^U	4.6	2.6
2004	4.2	7.1	5.1
2005	3.9	5.3	4.3

Source: NSO: Key indicators on the labour market July 2006 147/2006

11.5 Gender Pay Gap

Although collective agreements and minimum wage laws are in principle gender-neutral, women still end up earning less than men. According to Pay Developments – 2005, Malta enjoys the lowest hourly wage pay gap which stands at 4 per cent, which signifies that a woman on average earns 96 per cent of a man's salary. However, a study conducted by the National Commission for the Promotion of Equality, which used different tools for measurement revealed otherwise.

The European Commission established that GPG measures the difference in the average gross hourly earnings between men and women (aged 15-64 who work at least 15 hours a week) across the whole economy and all establishments.

However, the National Commission for the Promotion of Equality identified the following limitations in the pan-European data collection that may be the factors responsible for the figures enclosed:

- Workers working for 15+ hours weekly
- Seasonality factors, particularly part-time work
- No 'equal value work' comparisons
- Comparison of same occupations across private/public sectors and different industries
- Under-representation of some sectors.

From the sample studied in 2006, the National Commission for the Promotion of Equality showed that the mean basic pay was Lm419 monthly where men earned LM 444.15 monthly and women Lm374.28 monthly. These figures show that the gender pay gap measured in this manner amounts to a difference of 15.7 per cent.

The gap continues to widen further when accounting for supplementary payments beyond the basic pay, which include commissions and bonuses. This means that when the mean weighted gross pay is LM557.31 monthly, men earn Lm608.92 monthly whilst women earn Lm467.33 monthly. Research thus indicates that through this measurement, the gender pay gap amounts to a difference of 23.2%.

This study revealed that women earn less on an hourly basis than their male counterparts. When the gross total hourly pay including supplementary payment is calculated in relation to the hours worked, men earn Lm3.26 hourly, whilst women earn Lm2.79 hourly, totalling a difference of 14.4%. This is due to the fact that men work a total of 267 hours annually more than women, as familial responsibilities and domestic chores are still the primary concern of females in Maltese society.

Table 11.14: Average gross annual salary for employees by main occupation in April – June 2006

Occupation	Sex				Total	
	Men		Women			
	No	Average Lm	No	Average Lm	No	Average Lm
Armed Forces	1,861	5363.06	-	-	1,861	5363.06
Legislators, senior officials and managers	6,797	9387.58	1,407 ^U	7138.61 ^U	8,204	9001.88
Professionals	8,412	7561.05	7,538	6512.95	15,950	7065.72
Technicians and associate professionals	12,791	6226.76	10,165	5414.95	22,956	5867.29
Clerks	8,088	5262.31	9,912	4735.86	18,000	4972.41
Service workers and shop and sales workers	11,446	4384.73	9,162	3925.06	20,608	4180.37
Skilled agricultural and fishery workers	592 ^U	4543.93 ^U	-	-	592 ^U	4543.93 ^U
Craft and related trades workers	13,827	4925.89	539 ^U	5191.01 ^U	14,366	4935.84
Plant and machine operators and assemblers	7,269	4823.26	4,589	4540.70	11,858	4713.91
Elementary occupations	14,420	4501.15	4,097	3468.78	18,517	4272.73
Total	85,503	5620.32	47,409	4955.43	132,912	5383.16

^U - under-represented

Source: NSO: Labour Force Survey July -September 2006 001/2007

Data on the differences in wages between men and women shows that the gap is still sharp, with women earning lower wages than their male counterparts in similar positions.

11.6 Full-Time and Part-Time Employment

The gender gap in full-time employment and part-time employment is widespread in the Maltese Islands. Whereas the registered number of full-time employees for males for 2005 stood at 72.7 per cent, for females it was a meagre 29.3 per cent.

On the other hand, with reference to the table below, part-time employment rate for 2005 for males amounted to 5.1 per cent, whereas for women it was equivalent to 21.4 per cent. Part-time employment is a phenomenon that has characterised women's re-entry into the labour market. The number of hours worked have encouraged women with familial obligations to participate in the paid workforce. Women tend to opt for part-time work rather than be employed on a full-time basis. 71% of workers who work on a part-time basis only are women. This study indicates that women's choice of working part-time as a primary working activity has accelerated by over five times in two decades.⁵⁷ This shows that the family and domestic responsibilities are still highly skewed towards women.

Table 11.15: Employment Rate in Full Time Equivalents

Year	Sex		Total	Employment gender gap in FTE
	Males	Females		
	%			
2002	72.9	31.5	52.3	41.5
2003	72.1	30.5	51.4	41.6
2004	73.1	30.1	51.7	43.0
2005	72.7	29.3	51.2	43.4

The employment rate in FTE is defined as the total hours worked divided by the average annual number of hours worked in full time jobs, calculated as a proportion of total population in the 15-64 age bracket.

The employment gender gap in FTE is the difference between women and men in percentage points.

Source: NSO: Key indicators on the labour market July 2006 147/2006

Table 11.16: Part-time employees as a % of total employees

Year	Sex		Total
	Males	Females	
	%		
2002	4.4	18.9	9.4
2003	3.5	19.1	8.7
2004	3.9	20.5	9.4
2005	5.1	21.4	10.5

Source: NSO: Key indicators on the labour market July 2006 147/2006

11.7 Women and Entrepreneurship

Entrepreneurship and the attitudes and skills needed to build an entrepreneur mind frame are being reflected in the national policy agenda. In 2004, small enterprises employing less than nine persons amounted for the greatest source of employment when added together, in the Maltese Islands. The main employers in Malta are the many who employ a few. Small and medium sized enterprises in Malta and Gozo represent the backbone of the Maltese economy.

Women entrepreneurs are being encouraged to take an active role in this field. Presently, in Europe the proportion of employees is made up more of men. Malta follows this trend however action has been sought by our government to narrow the gap through the initiatives taken in the Budget reform, and through various networks between different entities. Entrepreneurship is the responsibility of all Ministries which in their own way influence the environment in which the entrepreneur operates. The initiative proposed by Government enables men and women working in a family business to register as employees of the same family business for fiscal purposes. This means that any man or woman will have the opportunity to enjoy all social benefits while also being entitled to a pension on payment of their Social Security contributions. This implies that the family members concerned get recognition for the work done and at the same time benefits from a tax reduction. In 2005, women represented

13.5 per cent of the self-employed. With the measures taken in 2006, this figure is expected to increase. Moreover, financial packages for Maltese women in business are being offered, and the hurdles which women are facing in entering the enterprise industry have been identified and are being addressed.

Government is committed to have structures in place which offer future entrepreneurs the opportunity for specialised training, re-training programmes, advice on the preparation of a business plan and micro-credit facilities. In addition educational institutions are now in place offering students to incorporate entrepreneurship skills into their ventures.

Table 11.17: Self-Employed as a % of Total Employment

Year	Sex		Total
	Males	Females	
	%		
2002	17.8	5.4	14.0
2003	17.2	8.0	14.3
2004	17.1	6.2	13.8
2005	17.3	4.3	13.3

The self employed component is made up of persons who are self employed without employees and self employed with employees.

Source: NSO: Key indicators on the labour market July 2006 147/2006

In 2005, a total of 20,380 persons were self employed (with or without employees). This amounts to 13.7 per cent of the labour force, of which 86.5 per cent and 13.5 per cent were males and females respectively. An increase in self-employment of 11.2 per cent was registered between 2000 and 2005, an increase of 10.8 per cent for males and 5.2 per cent females.

11.8 Women in Management

Representation of women in decision-making positions and in high echelon posts is still very low in the Maltese Islands. However, it is envisaged that in a few years time, with women already making up more than half of the tertiary education population, and with an increase in females following their careers, more women will be prepared to take up managerial posts. Presently, Malta fares at the bottom of the list in females occupying managerial positions in the EU25 with a proportion of 14.5 per cent.⁵⁸

Women in tertiary education outnumber men. This situation mirrors the quantitative ratio between men and women, since women account for the majority of the population. Yet, this result is not reflected in the labour economy, and the quantitative leap achieved in education is not being translated into a qualitative jump in the economic field.

The Feminisation Ratio which denotes the number of women per hundred men in a specific category is low for women in high decision-making posts. The percentage of women in top grades and senior academic staff in tertiary education never exceeds one third of men. Locally, the level of vertical dissimilarity among researchers and technical personnel is strongly felt.

Table 11.18: Committees, Boards, Commissions and Tribunals

Male and Female Representation
2006

Members				
	Men	Women	% Men	% Women
	1368	342	80.0	20.0
Total	1710		100	

Chairpersons				
	Men	Women	% Men	% Women
	185	22	89.4	10.6
Total	207		100	

<i>Year</i>	<i>No. of Female Chairpersons Appointed by Government</i>
<i>2000</i>	11
<i>2002</i>	25
<i>2003</i>	27
<i>2004</i>	26
<i>2005</i>	23
<i>March 2006</i>	22

Women's under-representation in the key jobs undermines society's democratic values. Political parties are necessary vehicles of democratic equality, and they are the medium for development, equality and justice. The Government of Malta espouses the principle that a democracy without women cannot be viewed as a democracy because democratic institutions which do not have at their roots gender equality are not respecting completely the principle of human rights. However the progress witnessed along the years has still not completely offset the weaknesses which the Maltese labour market faces. To this end, work is being carried out to promote training and education, simultaneously with incentivising women through various measures to be gainfully occupied and thus participate in the Maltese economy.

Vertical segregation must be eliminated in order to reduce the striking absence of women in decision-making positions. Abolishing the glass-ceiling will be a positive and essential method to remedy for the deficit of women in decision-making posts. These artificial barriers created by artificial and organizational prejudices are inhibiting women from reaching senior positions. This blockage is a reflection of social and economic gender inequality. The Government of Malta understands that gender equality boost productivity and economic growth. It is also at the root of improving family welfare.

The following table illustrates the ‘Daily Government Workforce Status Report’ segregated by sex as it stood in 2006:

Table 11.19: ‘Daily Government Workforce Status Report’

	Males	Females	Total
General Service	1622	2084	3706
Messengerial	213	64	277
Medical	511	272	783
Professional (Other than Medical)	287	196	483
Nursing/Paramedical	1831	2221	4052
Educational	1682	3559	5241
Police	1504	259	1763
Other Departmental (e.g. Customs, Printing, etc.)	1721	420	2141
Technical and Supervisory	2729	48	2777
Industrial Group 1	581	43	624
Industrial Group 2	2915	458	3373
Industrial Group 3	762	26	788
Industrial Group 4	561	14	575
Other Industrial Grades	492	17	509
Part-Time Employees	28	290	318
Casual Employees	212	975	1187
Contract Employees	467	283	750
Trainees	3	1	4
Grand Total	18121	11230	29351

Source: Management and Personnel Office: Department of Policy and Planning – Workforce Planning and Analysis Branch

The figure above illustrate the current situation in government workforce, where sex segregated positions are still widely felt. A high discrepancy is evident in technical and supervisory roles, where the number of men occupying such a position amount to 2729, as opposed to merely 48 women. Another feature which can be distinguished is the differentiation between part-time employees which reflects 28 men compared to 290 women, and casual employees where 212 are men and 976 women.

In the annex attached to this document a table can be found illustrating employees in the Public Service as in December 2006 segregated by sex, grade and salary scale. For the purpose of this report, the top five scales were taken into account to outline the difference in high echelon positions between men and women.

11.9 Reconciliation of Family and Professional Responsibilities

The Government of Malta is committed towards the encouragement of female participation in the labour market, and the achievement of a balance between familial and professional responsibilities. In 2006, Government has increased and strengthened several strategies towards the reconciliation of family and work responsibilities, whilst promoting the individual as the focal point of society.

In the Prime Minister's words, the Hon. Dr. Lawrence Gonzi, the individual represents the alpha and omega of all the country's efforts. Whilst working to curtail the challenges which the Maltese economy faces, the Government is safeguarding the needs which men and women struggle to meet. This blueprint for action stands out from the initiatives and measures put in force in the past years.

One of the priorities of the Maltese Government in the national agenda is the role of women in society. All political parties in the local sphere believe that every woman should have the right to work, independently of whether she has an economic necessity or not. Financially, the State recognises that more women are needed to contribute in the labour market. The Government of Malta has taken the responsibility of ensuring that the country invests in women's education at every level including tertiary education.

A measure that the government has introduced in the strategic plan is to have effective structures which cater for the reconciliation of professional and familial responsibilities of both men and women. Whilst the role of women is still that of the primary care-giver with the possibility for child-rearing, increased attention is being placed on the role the father in familial responsibility.

Government recognises that women go through different phases in the course of their years. Therefore present policies are being catered towards introducing systematic structures which address the woman's needs ranging from her early years through motherhood and adult life. New Child day care facilities were inaugurated to diminish the culture of dependence which usually falls on women's shoulders. Those parents who send children under the age of three to child-care facilities registered by the Department for Social Welfare Standards are being given tax credits. In the next year more childcare facilities are going to be launched to provide the necessary services for the changing times and the corresponding changing needs.

In July 2006 the Government published the Standards for Child Day Care Facilities and also allocated funds specifically to help existing facilities to upgrade their premises to attain the established standards.

11.10 Sexual Harassment

Sexual Harassment is a prohibited form of gender discrimination which is defined as “*unwelcome sexual conduct*”. It is unlawful under:

- Cap. 456 of The Equality for Men and Women Act, 2003
- Cap 452 of Employment and Industrial Relations Act 2002

The National Commission for the Promotion of Equality has launched *Sexual Harassment: A Code of Practice* which disseminates information on the nature of sexual harassment. This manual is accessible to all public, private and parastatal organisations, so that both employers and employees at all levels become aware on what sexual harassment entails.

Sexual harassment is different from general harassment or bullying that is not sexual in nature. Sexual harassment is prohibited at the workplace and educational facilities, during working hours, at work or study related activities such as training courses, conferences, field trips, work functions and office parties. It is also prohibited by and between all workplace participants and all other persons present at the place of work. Sexual harassment is prohibited regardless of the sex of the person. Therefore, a person can forward a complaint if he/she is harassed by someone of the same sex. Where there is proof of sexual harassment, the accused is liable under civil or criminal law, depending on the nature of the individual case.

The employer can incur liability and face legal sanctions if sexual harassment is allowed at the place of work. The employer has the responsibility to take all necessary actions to prevent sexual harassment from occurring at the place of work. Persons who are in charge of any work place, educational establishments, or entity providing educational training for other establishments which provide goods, services or accommodation facilities shall not permit other persons who have a right to be present or to avail themselves of the facilities, goods or services offered, to suffer sexual harassment at that place.

Employers must ensure that where there are claims of sexual harassment these are dealt with in a confidential manner. Victimisation is a form of discrimination, so this must be avoided. The alleged harasser must undergo a disciplinary procedure, but the employer must deal with this individual in a constructive manner so that the harassment ends with immediate effect, as well as, where possible, the accused is given the opportunity to show that an improvement in conduct occurred. Cases of frivolous complaints need to be dealt with seriously, adopting strict disciplinary measures. The employer may choose to impose different sanctions, depending on the severity of the case. Disciplinary actions may range from a written reprimand to dismissal.

In cases of criminal offence, the person found guilty of such sexual harassment (without prejudice to any greater liability under any other law) shall be liable on conviction to a fine (*multa*) of not more than Lm1,000 [€329.3] or to imprisonment of not more than 6 months or to both.

Article 12: Health

1. States parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.

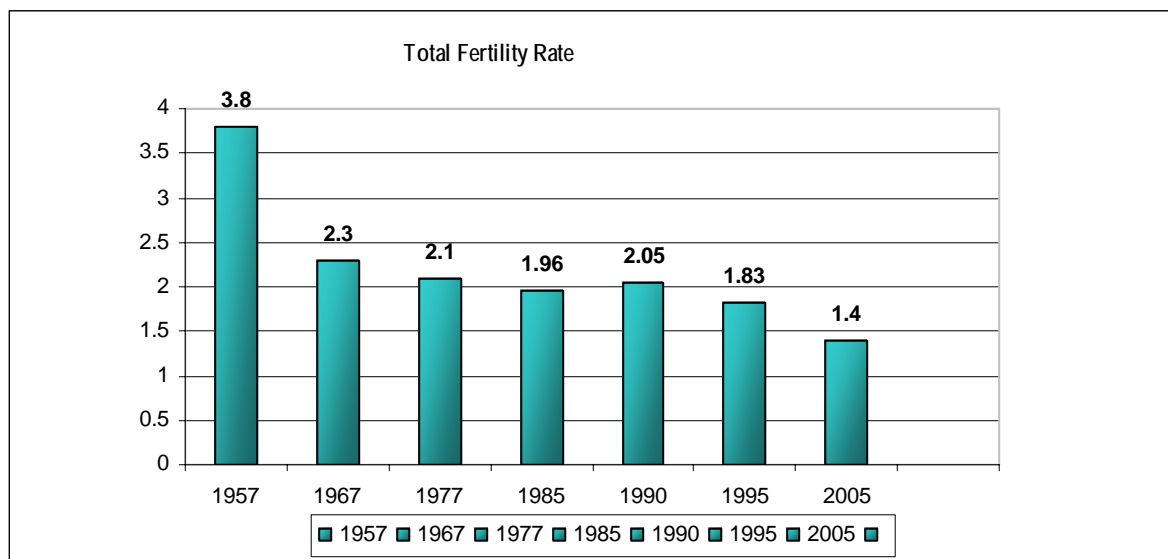
2. Notwithstanding the provisions of paragraph 1 of this article, States parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

12.1 Demographic Trends

The Maltese population enjoys a good quality of living according to European Union standards. Access to health care is universal, and the workforce in the health sector is highly trained and qualified.

The population of Malta is increasing with the female ration being slightly higher than number of males. Fertility rate is deteriorating, and the birth rate is of 11.6 births per 1000 population. The figure below illustrates the deteriorating fertility rate.

Figure 12.1: Total Fertility Rate from 1957 to 2005 in Malta:



Source: NSO: World Population Day 2005

The dependency ratio for Malta which is calculated by taking the sum of persons aged less than 15 years together with persons 65 years and over, as a percentage of the working-age population between 15 and 64 years, stood at 44.5 per cent in 2005. A decline of 5.9 per cent was registered in a

span of ten years. This decrease is explained by a marked decline in the number of people aged less than 15 years as a percentage of the working-age population. The declining fertility rate is expected to trigger further reductions in the dependency ratio in the future years. The population of persons aged less than 15 has declined from 33.2 per cent in 1995 to 24.7 per cent in 2005.

When compared with other European Member States Malta registers a lower dependency ratio in the old age bracket. On a local level, the proportion of people 65 years and over divided by the working-age population stands at 19.8 per cent. However, a significant rise of 2.6 per cent was noticed since 1995, showing that the ageing population is a phenomenon which must be catered for.⁵⁹

12.2 Life Expectancy

Life expectancy for both males and females has been progressing steadily. In 2004, life expectancy for males stood at 76.7 years, whereas for females it was 80.5 years. Healthy life expectancy for males at birth stood at 70 years, whereas for women it was 72 years. Healthy life expectancy takes into account not only the mortality rates but also the years lost to poor health.

12.3 Probability of Dying

The probability of dying calculated per 1000 population is of 7 deaths per 1000 population for boys under the age of 5; 6 deaths per 1000 population for girls under the age of 5; 87 deaths per 1000 population for males aged between 15 and 60; and 51 deaths per 1000 population for females aged between 15 and 60.⁶⁰

12.4 Cardiovascular Diseases

Circulatory diseases in Maltese society are the leading cause of death, combining 46 per cent of all deaths and 8 per cent of all hospital admissions. The two main killers which fall within this category are Ischaemic Heart Disease which is responsible for 25 per cent of all the deaths and 7 per cent of the disease burden, and Cerebro-vascular Diseases which are responsible for 11 per cent of all deaths and 5 per cent of the disease burden.⁶¹

12.5 Cancer

Cancer is the second most common cause of death, representing 24 per cent of the total deaths, whilst it is also the third largest contributor to the disease burden amounting to 16.5 per cent. 17 per cent of all cancer deaths are lung cancer and 13 per cent breast cancer. Each year around 2,331 new cases of cancer are registered, two-thirds of which are among men. Out of the new registered cases, 12 per cent are non-melanocytic skin cancer, 9 per cent breast cancer, 6 per cent lung cancer, where the probability of men suffering such disease is six times higher than women, and 9 per cent colorectal cancer.⁶²

12.6 Neuropsychiatric Disorders

Suicide and self-inflicted injury are the cause of 6 deaths per 100 000 population, in the Maltese Islands.⁶³

12.7 Respiratory Diseases

Respiratory diseases afflict 68 cases per 100 000 population in the Maltese Islands.⁶⁴

12.8 Diabetes

Diabetes is common in Mediterranean islands, and Malta is not immune from such pattern. 10 per cent of adults older than 35 years of age have diabetes, whilst another 13 per cent have impaired glucose tolerance.⁶⁵

12.9 Alcohol Consumption

Consumption of alcohol amongst girls and boys is increasing. From a study conducted by the Health Promotion, 'The Health Behaviour of School-Aged Children Study 2006' it was illustrated that there was a substantial increase in the number of 11, 13, and 15 year-olds who indulge in alcohol, when compared to a similar study in 2002. A month prior the survey was conducted, a total of 21.5 per cent and 15.3 per cent of 13-year-old boys and girls respectively got drunk. While the percentage of 11-year-olds getting drunk 'in the last 30 days' prior to the survey, was nonexistent, in 2006 it rose to 9.6 per cent for boys and 4.9 per cent for girls.

The research indicates that 29 per cent of boys and 15.2 per cent of girls of 15-year-olds got drunk in the month under study. This survey shows an alarmingly high rate of alcohol consumption. Government is committed to see that the deteriorating problem which girls and boys alike are experiencing in the experimenting and going beyond of alcohol consumption is tackled not only through educational campaigns. A concerted effort must be taken by legislators and entities should see that the law is enforced.

A new law has been enacted which makes it illegal for any person under 16 years of age to consume, be served or be in possession of alcohol. As it stood to date, it was only illegal to sell alcohol to persons less than sixteen years of age, however it was not illegal for a person under such age to drink alcohol. This law seeks to eliminate the binge drinking mentality prevalent in teenagers, whilst putting responsibility on all stakeholders involved, including all of those who sell alcohol, parents, third persons who give alcohol to under-age persons and individuals under sixteen years of age themselves.

In 2006, an interministerial Permanent Focus Group was purposely set up by Government to take care of the campaigns on underage drinking. Furthermore the National Commission on the Abuse of Drugs, Alcohol and Other Dependencies, also under the auspices of the Ministry for the Family and Social Solidarity is currently finalising a National Alcohol Policy which will also continue to address underage drinking, amongst other related matters.

12.10 Obesity

Obesity is a startling phenomenon which is afflicting the Maltese Islands. Statistics gathered in 2002 by the World Health Organisation for children aged 11, 13 and 15, show that Malta is at the top of the list for children suffering from obesity with a percentage of 7.9 per cent.⁶⁶ At age five, 13 per cent of boys and 11 per cent of girls are obese. At age ten, the figures rise to 19 per cent and 24 per cent respectively.⁶⁷ Similarly, the highest prevalence of overweight youths was also registered in Malta with 25.4 per cent of youths falling in this category.⁶⁸

12.11 Eating Disorders

Studies reveal that adolescents are over-worried about their body image. In a study on ‘The Health Behaviour of School Aged Children’ carried out in Maltese schools amongst 11 to 15 year olds, more than half the children, especially girls, would like to change something in their appearance. More than a quarter of the teenagers questioned stated that they are fat, and 13 per cent said that they were not attractive.⁶⁹

Several schools and parents are currently reporting eating disorders cases, highly prevalent amongst young females. A survey conducted by the Health Promotion Department amongst medical doctors reveals that in the span of six months, they had encountered 77 cases of eating disorders or suspected cases of eating disorders. More than half of the cases reported were Anorexia Nervosa, whilst a quarter of them were Bulimia Nervosa. 88 per cent of the cases affected females, and almost half of them were between the age of 18 and 29 years, whilst more than a quarter were less than 17 years old.⁷⁰

12.12 Human Resources

The health sector is one of Malta’s largest employers, employing around 7 per cent of the total workforce. There is a rich merge between the public and private sector in health care. In the health field the government acts as both a third-party payer, and a service provider. In the public health care sector, health professionals and support staff employees are public officers. Approximately per 100 000 population there are 260 physicians, 400 dentists, 550 nurses, and 200 pharmacists.⁷¹

12.13 Expenditure on Health

The health care system is publicly funded and free at the point of use. Expenditure in health care in the Maltese islands is rising steadily. Demand for health care services is extensive, but the health care system tries to meet such demand through the provision of comprehensive coverage and the promotion of equity. Health care expenditure is 70 per cent publicly funded and 30 per cent private financing.⁷²

12.14 National Action Plan

The National Action Plan on Health and Long-term Care submitted by the Ministry of Health, the Elderly and Community Care has outlined three main policy objectives, which are quality, access and sustainability.

The report aims at enhancing access to health care services through addressing the challenges which the health sector faces, and identifying solutions. The promotion of health care quality services is a priority for the coming years, and the guarantee of sustainability for service-users and for the health system as a whole is part of the national agenda. The vision of this report outlines the need to raise a societal awareness of inclusion and venture on networks which would benefit the service user, the health structure, and society at large.

Article 13: Economic and Social Benefits

States parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:

(a) The right to family benefits;

(b) The right to bank loans, mortgages and other forms of financial credit;

(c) The right to participate in recreational activities, sports and all aspects of cultural life.

13.1 Family Benefits

The budgetary reform which the Maltese Government adopted in 2006 was a positive step towards the reconciliation of family and professional responsibilities by giving the same rights and obligations applicable to all the civil service to the entire public sector. These measures include having the same rights in parental leave, reduced hours, career breaks, flexitime and teleworking. By adopting these measures the Government is being the pillar of change towards a culture which promotes the active participation of women in public and social life.

The private sector is regulated by the Employment and Industrial Relations Act and in instances where there are collective agreements, these play an important role in as much as the conditions provide cannot be below those stipulated by law. These collective agreements set standards and criteria for the issuing of family-friendly benefits beyond those set by the law. Research indicates that where employers adopt family-friendly measures in their organisations, employees become more loyal and as a result productivity and satisfaction increase.

Today's society is characterised by the ever increasing need to reconcile family and professional responsibilities. The family-friendly measures which were available to public service employees were extended this year to all public sector employees, thus reaching over 13,000 families. This budgetary reform was the testimony of a major breakthrough in the importance attached to the reconciliation of family responsibilities without hindering career prospects. Simultaneously, these measures are a clear-

marked proof that now more than ever, the need is felt to have both parents sharing the dual roles which family and profession require. These measures create a dynamic and responsive culture which caters for the needs of contemporary and future generations.

Government is aware that more and more women are choosing to seek employment. This choice presents new challenges for the family, which must fulfil its duties as a family while balancing these duties with work responsibilities.

In the Budget 2007, Government adopted a number of measures which help the family in the fulfilment of its responsibilities. The family-friendly measures present today in the Maltese Islands in the Public Service and now applicable also to the Public Sector according to the budget speech of 2007 are the following:

- **Maternity Leave** – Full time public officers are entitled to thirteen weeks paid leave and one week unpaid leave, of which six weeks are to be availed of compulsorily after confinement.
- Contract, casual and part-time employees who work at least 20 hours a week are also entitled to maternity leave, calculated pro-rata in hours but taken in days, on the same conditions as full-time employees.
- **Special maternity leave** – An employee who, having been granted maternity leave, is unable to resume duties at the expiration of the maternity leave, owing to a pathological condition arising out of confinement will be entitled to five weeks absence from her sick leave.

Obligation of six months work – An employee who has been granted paid maternity leave is required to work for an uninterrupted period of six months after the period of maternity leave is over, or after she resumes duty from parental leave.

- **Birth Leave** – Male full-time employees are entitled to two working days paid leave, to be taken within fifteen days of the occasion of the birth of their child.
- **Adoption Leave** – The adoptive mother or the father may avail themselves of up to five weeks adoption leave with pay, starting from the day that a child passes into their custody. This leave may be shared once by both parents if they are both public officers, provided that they are do not take the adoption leave at the same time and do not exceed the prescribed limit of five weeks.
- **Obligation of three months work** – Three months of uninterrupted service must be worked after the five weeks paid adoption leave, calculated pro-rata if the adoption leave is shared by both parents, with each parent being bound by her/his respective period of service.

- **Foreign Adoptions** – special consideration will be given for additional separate periods of leave not exceeding three months in aggregate in those cases of international adoptions that involve lengthy processing abroad.
- **Leave to foster children** – Public officers may avail themselves of special unpaid leave for a period not exceeding one year, in order to foster a child.
 - Should the occasion arise for a further foster placement, additional unpaid leave may be allowed provided that not more than a total of one year special unpaid leave is availed of in every period of four years.
- **Parental Leave** – Parents, including adoptive parents, who are public officers, and who have been in government employment for at least one year, are allowed to avail themselves of one year of unpaid leave to take care of each of their children under the age of six.
 - Parents may choose to utilise 3, 6 or 9 months instead of 12. The parental leave may only be utilised in one period. Any outstanding parental leave that is not utilised (from the one-year entitlement) is lost and may not be availed of at a later date.
 - Parental leave may be availed of by either the father or the mother or shared once by the parents if they are both public officers. Parents must declare their option up-front when they apply for parental leave.
- **Resumption during summer schedule** – If officers resume duty during the summer schedule, payment shall be at reduced hours if there is any shortfall in the annual working hours.
- **Teaching grades** – Officers in teaching grades are allowed to resume duty by the end of February, or in September at the beginning of the scholastic year, including the summer holidays even if they have not taken 12 months unpaid leave.
 - Any outstanding period of the 12 months parental leave is lost. This is intended to minimise the disruption of classes as much as possible.
- **Career Break** – Public officers are allowed to avail themselves of a career break of 5 years, granted once only, for the care of children under 6 years of age.
 - The career break must be taken as one period. It may be reduced by multiples of three months and may be shared once by both parents.
 - Any unutilised leave from the career break may be availed of for the care of another child/children under 6 years of age.
- **Appointment of Public Officers who are on Maternity and Paternal leave** – Officers who qualify for appointment during maternity and parental leave will be granted their due

appointment even if they are unable to resume duties within the validity period of the appointment.

- **Special Leave to accompany spouse abroad** – A year of unpaid leave, renewable yearly on application for a maximum of four years, may be granted to public officers to accompany their spouse abroad on government sponsored courses or assignments. These four years may be utilised at a stretch or broken up by periods of resumption of duty.
- **Bereavement Leave** – All full-time staff are entitled to two working days paid leave on the occasion of the death of near relatives, namely husband or wife, mother or father (or the person who at the time was acting as mother or father), son or daughter, brother or sister. In the event of a near relative dying abroad additional paid leave may be granted on the authority of the Head of Department.
- **Marriage Leave** – All full-time employees are entitled to three working days paid leave on the occasion of their marriage, to start not later than the first working day following the event.
- **Reduced Hours** – Full-time public officers who have been serving for at least 1 year may be allowed to work on a reduced timetable of 20, 25 or 30 hours in order to look after children under twelve years of age, to care for dependant parents, children or spouses or, if they are over 50 years of age, for medical or serious humanitarian and family reasons.
- **Non-eligibility** – Uniformed members of the Armed Forces of Malta, public officers who are on a Performance Agreement or employees who are engaged on contract subject to pre-determined conditions are not eligible for work on reduced hours.
- **Responsibility Leave** – Unpaid responsibility leave may be availed of by full-time public officers who have been in government employment for at least one year, to take care of their dependent elderly parents, their children or their spouses. The elderly parent, child or spouse must have no other responsible person living with him during the day. The elderly parent, child or spouse must be certified by a medical specialist to require care. If both elderly parents are alive they must be certified as being dependent on care.
 - This leave is granted for periods of one year at a time but is renewable.
 - In cases requiring the care of children, this unpaid leave may be availed of by the father or the mother and may be shared in the same way as parental leave is shared, provided that together they do not exceed the prescribed limit and that they do not take responsibility leave concurrently.
 - If the reason for which the responsibility leave is approved is no longer applicable, the employee is allowed to resume duties provided that advance notice of one month is given.

- **Urgent Family Leave** – Full-time employees may utilise four half-days leave from the annual vacation leave entitlement for the purpose of urgent family leave. Casual/ part-time employees and officers on reduced hours may be allowed to utilise four days of their vacation leave for this purpose. Urgent family leave is granted in the following circumstances, when the immediate family is involved in:
 1. Accidents;
 2. Sudden illness or sickness requiring assistance or presence of the employee;
 3. Situations requiring their presence during births and deaths.- Immediate family is taken to mean the spouse, children, parents, brothers and sisters.
- **Thirty Days Unpaid Leave** – These may be granted for any good reason. Adequate arrangements must be made with the employer beforehand.
- **Maximum years of unpaid leave available** – Any of these types of unpaid leave may be followed by another, subject to any overall total limit of eight years unpaid leave. This leave may be availed of at a stretch or broken up by periods of resumption of duty.
- **Progression and Promotion** – This unpaid leave counts as service in the grade, provided that the total does not exceed 365 days in any period of 4 years immediately preceding the progression or promotion.
 - Experience, as distinct from ‘service in the grade’, must be directly related to the duties of the post. However, the following exceptions are allowed as experience:
 1. maternity leave;
 2. sick leave on full pay or half pay;
 3. other paid or unpaid leave.
 - The exceptions at a), b) and c) are allowed provided that they do not exceed one year and do not exceed 10% of the experience required.
 - Service on a reduced time-table counts in full for the purposes of salary increments.
 - Service on reduced hours counts in full for the first 12 months but counts pro-rata for subsequent periods of reduced hours for the purposes of progression and promotion.
 - The seniority of employees, opportunities for training and eligibility to apply for calls for appointments are not prejudiced by ‘reduced hours’ of work.
- **Casual/part-time employees** who work for twenty hours or more are also entitled to maternity leave, birth leave (for male employees), bereavement leave and marriage leave. All leave entitlements of casual and part-time employees are to be computed in hours on a pro-rata basis as a fraction of the total number of hours of leave entitlement of comparable full-time employees, and to be taken in days.

Another change proposed in 2006 involved all part-timers working for a total of eight hours weekly or more. This is intended to be a major breakthrough for women who are the majority of individuals

opting for a part-time job as their primary source of income. Until the National Budget held in October 2006, all of those working on a part-time basis irrespective of the hours worked, used to pay a lump Lm5.79 which is 10 per cent of the minimum wage. Now the payable national contribution has been ratified to 10 per cent of the part-timer's full wage; that is calculated on a pro-rata basis.

Those persons sharing a family-business, where one partner is registered as the business person, whilst the other contributes in the management of the enterprise without being registered in the company's books, will now have the possibility to be a full partner in the family business. This entails having the advantage of enjoying all social benefits while also being entitled to a pension on payment of their Social Security contributions. For all the families who have a stake in this reform, this will not only be transferred to better recognition for their work, but it will mean that family businesses will also benefit from a tax reduction.

The Government of Malta took a decision to remedy for the situation encumbered by widows and widowers. As from January of the coming year (2007) widows and widowers will remain entitled to a fixed rate of pension when they earn more than the minimum threshold and during the five years of their re-marriage.

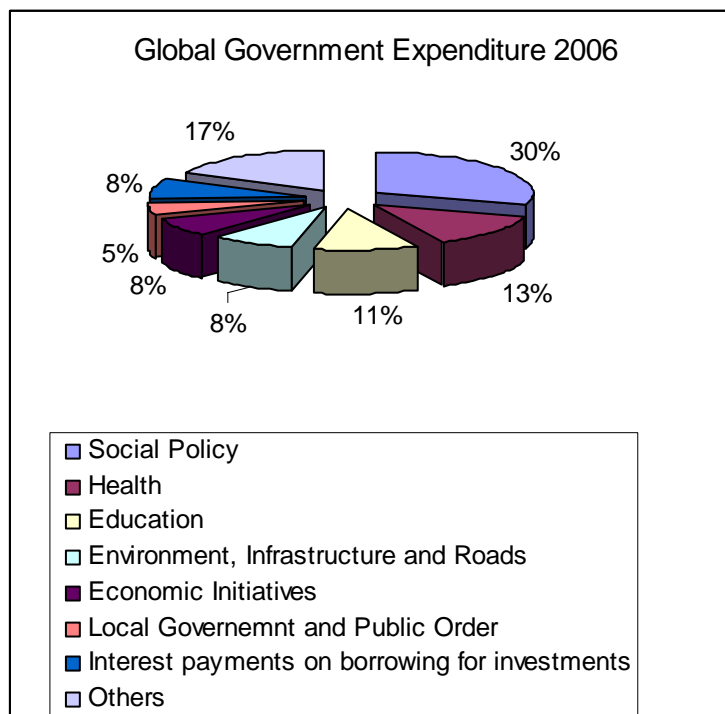
13.2 Government Expenditure

In 2006, the allocated budget for Global Government Expenditure was as follows:

- Social Policy – 29.8%
- Health – 13.1%
- Education – 10.8%
- Environment, Infrastructure and Roads – 8.4%
- Economic Initiatives – 7.9%
- Local Government and Public Order – 4.7%
- Interest Payments on borrowing for investment – 8%
- Others – 17.3%

Total – Lm976.1 m

These figures illustrate that Government allocates more money on social policy which includes pensions, social housing and social benefits amongst others. State intervention in the Maltese state is high with the distribution of resources catering for the needs of the public. Demand for social services is high, however with the generous welfare state which the Maltese society enjoys, social exclusion and poverty are being minimised and a good quality of life is being promoted.

Figure 13.1: Global Government Expenditure 2006

Source: Ministry of Finance Malta Budget 2006 – ‘Partecipazzjoni u Diskuzzjoni biex Int Tghix Ahjar’

13.2 Access to Financial Credit

Women, irrespective of whether they are married or not, have access to loans, mortgages and other forms of financial credit. Females can administer the property acquired prior to marriage. The Community of Acquests is administered jointly between the two spouses which includes all property acquired by the husband or wife from the date of marriage until its termination.

The banks of Malta sustain that their mission statement enshrines people management and that therefore a diversity policy free from discrimination is adopted, of which gender equity forms an important part.

When a prospective customer requests a bank account, the marital status of that person is not required for such purpose. In the case of a loan application, the marital status has to be determined in view of the fact that a loan is considered to be an act of extraordinary administration according to the Civil Code and the Bank has to safeguard its position in the event of a default. Moreover, information regarding the applicant’s trade, profession or occupation, assets and liabilities, income and expenses, is necessary to assess the creditworthiness of the applicant. When the applicant for the loan is a single person, the applicant’s gender is not taken into consideration for the purpose of granting the loan or otherwise.⁷³

11.4 Sport

In the sports sector the government is vesting Lm1.1 million. The government is investing in sports facilities. Although these are based in government schools, they are intended to be used after school hours also by sports organisations and those having a keen interest in sports. The aim is to have the people amongst the best educated and trained in the world.

The Sports Act (Ch. 455) states that physical education and sport shall be taught and practised in all primary and secondary schools. Moreover the Act stipulates that no discrimination shall be permitted on the grounds of sex, race, colour, religion or political opinion or residence within the different localities of Malta in the access to sport facilities or to sport activities.

The Malta Olympic Committee specifies that it shall be the force resisting all pressures of any kind, and commits itself to take action against any form of discrimination and violence in sport.

The following table illustrates the number of female members in sports organisations by year and type of sport:

Table 13.1: Female Members in Sports Organisations by Type of Sport

Type of sport	2001		2002		2003		2004	
	Number	% total	Number	% total	Number	% total	Number	% total
Athletics	375	2.5	405	2.7	210	1.1	227	1.1
Basketball	630	4.3	673	4.4	516	2.6	620	2.9
Boćći	26	0.2	26	0.2	42	0.2	44	0.2
Darts	31	0.2	25	0.2	27	0.1	28	0.1
Diving	571	3.9	561	3.7	1,448	7.3	1,763	8.3
Football	473	3.2	538	3.6	576	2.9	635	3.0
Gymnastics	2,080	14.0	2,242	14.8	83	0.4	281	1.3
Gyms	4,212	28.4	4,043	26.7	3,160	15.9	3,726	17.6
Handball	105	0.7	218	1.4	161	0.8	175	0.8
Hockey	34	0.2	49	0.3	26	0.1	43	0.2
Martial arts	738	5.0	771	5.1	617	3.1	663	3.1
Netball	200	1.4	201	1.3	205	1.0	200	0.9
Sailing	246	1.7	264	1.7	290	1.5	288	1.4
Sports centres	2,274	15.4	2,200	14.5	8,883	44.8	8,799	41.5
Table tennis	19	0.1	27	0.2	33	0.2	33	0.2
Tennis	1,077	7.3	1,158	7.7	643	3.2	674	3.2
Volleyball	414	2.8	412	2.7	326	1.6	326	1.5
Waterpolo	178	1.2	151	1.0	1,526	7.7	1,583	7.5
Other*	1,139	7.6	1,179	7.7	1,048	5.3	1,095	5.2
Total**	14,822	100.0	15,143	100.0	19,820	100.0	21,203	100.0

* Other organisations are: archery, billiards & snooker, bridge, canoeing, chess, cricket, draughts, fishing, golf, karting, pigeon racing, polo, regatta, rugby, shooting, squash, swimming, triathlon, ten pin bowling and wrestling.

** This total does not necessarily represent a total number of individual persons - it is possible that the same person was a member of many different organisations.

Source: NSO culture statistics 2004.

Article 14: Rural Women

1. States parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of the present Convention to women in rural areas.

2. States parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:

(a) To participate in the elaboration and implementation of development planning at all levels;

(b) To have access to adequate health care facilities, including information, counselling and services in family planning;

(c) To benefit directly from social security programmes;

(d) To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, inter alia, the benefit of all community and extension services, in order to increase their technical proficiency;

(e) To organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self employment;

(f) To participate in all community activities;

(g) To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;

(h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

14.1 Physical Features

Given Malta's small size of 315 sq kms and the associated high population density, an international definition of rurality applicable to the islands' specific situation is lacking. The physical reality shows that all areas are constituted on a continuum from urban to rural areas where agricultural activity, countryside recreation and nature conservation are traditionally considered as rural.

The total population in the Maltese Islands in 2005 was estimated at 404, 039. Since the first population census conducted in 1842, the population has increased three-and-a-half times over, registering 114,499 in 1842 and rising to 404,039 in 2005. Moreover, the population has more than doubled between the beginning of the twentieth century and the turn of the twenty-first century (1901-2005). However, a slowdown in population growth has been registered. Whereas in 1995, population growth was 9.5 per cent, in 2005 such growth declined to 6.9 per cent. As in 2005, the

gender gap in the population narrowed with 200,715 male residents making 49.7 per cent of the population, and 203,324 female residents, making 50.3 of the population.⁷⁴

Malta is the most densely populated European Union Member State with a proportion of 1,282 residents per square kilometre. On a national level, Malta is by far more densely populated than the other two islands Gozo and Comino. Whilst the former registers 1,513 residents per square kilometre, the latter have a population density of 452 residents per square kilometre.⁷⁵

14.2 Resources in short supply

Water supply in the Maltese Islands, similar to the other Mediterranean countries has for centuries been a constraint. With the population reaching over 400 000 and with an influx of tourists visiting the islands every year, the demand for water has risen to a significant degree. Furthermore, because of the small size of the country and the high population density which characterize the Maltese geographical and demographic state, the number of freshwater reservoirs is limited.

Resulting from these constraints, government has embarked on the construction of desalination plants, which despite the high costs incurred have accounted for a growing percentage of supply since the late 1980s. Presently, one-half of total demands is met through the usage of such projects, with rainwater and extraction from boreholes accounting for the rest. Malta is limited in agricultural resources, having poor soil, limited arable land and water shortages. Land and water restrictions have forced those persons engaged in agricultural activities to cultivate crops in greenhouses instead of open fields, and farmers to rear animals in concentrating farming. The high population density together with the boom in construction which has surfaced in Malta in the past years has placed several constraints on waste management.

14.3 Agriculture in Malta

Until some decades ago, agriculture was one of the main pillars for the Maltese economy. However, the urban regeneration that echoed the Maltese Islands led to a decrease in agricultural activity.

The limitations in natural resources observed in Malta are placing constraints on the agricultural dimensions. Acute water shortages, extreme land fragmentation and limited investment and research are all factors which are reiterating the declining agricultural activity. Employment in agriculture and fisheries amounts to 1.6% of the total employment and it is following a deteriorating trend, although part-time employment in this sector remains important.⁷⁶

The following table highlights the sectoral, sex, employment status and regional analysis of full-time analysis in agricultural and fishing activities for August 2005 and August 2006.

Table 14.1: Agricultural and Fishing Activities

Economic Activity	August 2005	August 2006
Agriculture, hunting and related service activities	3 067	2 995
Private Sector	1 632	1 606
Public Sector	1 435	1 389
Men	2 724	2 655
Women	343	340
Self-Employed	1 264	1 255
Employees	1 803	1 740
Malta	2 653	2 580
Gozo	414	415
Fishing, fish farming and related services activities	435	461
Private Sector	435	461
Public Sector	-	-
Men	418	443
Women	17	18
Self-Employed	327	317
Employees	108	144
Malta	329	354
Gozo	106	107

Source: NSO New Release: Gainfully Occupied Population: August 2006, 4/2007

The following table illustrates the sectoral distribution of part-time employment in agricultural and fishing activities for August 2005 and August 2006.

Table 14.2: Part-time Employment in Agricultural and Fishing Activities

Economic Activity	August 2005	August 2006
Agriculture, hunting and related service activities	1 358	1 396
Part-timers who also hold a full-time job	856	841
Men	830	816
Women	26	25
Part timers as a primary job	502	555
Men	422	469
Women	80	86
Fishing, fish farming and related services activities	279	423
Part-timers who also hold a full-time job	173	269
Men	171	265
Women	2	4
Part timers as a primary job	106	154
Men	90	131
Women	16	23

On the basis of available data, women's presence in the agricultural and fishing industry is relatively low. However, the picture portrayed by these figures may be deceiving since women often work with the husbands or partners and thus contribute to the industry, but are not registered as employees.

The Government of Malta has committed itself to provide financial assistance to the agricultural sector in order to help it restructure to open up to competition. The Budget 2007 has outlined a measure which is expected to encourage female workers to declare their employment status if they run the family-business with their partners. Those individuals who share a family-business, where one partner is registered as the business person, whilst the other contributes in the management of the

enterprise without being registered in the company's books, will now have the possibility to be a full partner in the family business. This entitles the individuals of enjoying all social benefits while also being entitled to a pension on payment of their Social Security contributions. For all the families who will be affected by this reform, this will not only be transferred to better recognition for their work, but it will also denote that family businesses will also benefit from a tax reduction.

The magnitude attached to fish farming is growing in importance as over-fishing and pollution in the Mediterranean Sea have negatively affected the industry. The total production emanating from fish farms has grown to over 2,200 tonnes, which is mainly exported to Italy and Japan. This is over double the amount of 908 tonnes from wild fisheries. As a measure for the prevention of further depletion of stocks and protection for the domestic fishing industry, Malta has secured derogation from EU rules, which will allow it to maintain a fisheries conservation zone of 25 nautical miles.⁷⁷

The following table outlines the agricultural production for the period 1998 to 2002.

Table 14.3: Agricultural Production

Agricultural production					
(‘000 tonnes)					
	1998	1999	2000	2001	2002
Vegetables	67.7	65.4	64.5	66.9	72.2
Fruit	11.0	8.2	7.7	7.2	7.7
Meat	18.5	18.6	17.7	18.5	18.5
Source: United Nations Food and Agriculture Organisation.					

14.4 Training in Agriculture

At tertiary level, the Institute of Agriculture at the University of Malta provides the opportunity for students to read for a number of courses on agricultural issues. For the scholastic year 2005/2006, student statistics by course were as follows:

Table 14.4: Institute of Agriculture – University of Malta

Course	Year	Females	Males	Total
B. Sc (Hons) in Med. Agro-Ecosystems Management	1	6	21	27
Diploma in Water Operations Management	2	11	30	41
MSc in Agricultural and Veterinary Pharmacy	2	0	1	1
Msc in Agricultural Sciences	2	0	1	1
	3	0	1	1
Preparatory Course for Diploma in Agriculture	1	2	10	12
Faculty/Institute Total:		19	65	84

Source: University of Malta Statistics

Part IV:

Article 15: Law

1. *States parties shall accord to women equality with men before the law.*
2. *States parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.*
3. *States parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.*
4. *States parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.*

15.1 Equality under the Law

Maltese equality law is underpinned by three constitutional provisions, that is, articles 14, 32 and 45 of the Constitution of Malta. Article 14 of the Constitution, which is included under the ‘Declaration of Principles’, provides that *‘The State shall promote the equal right of men and women to enjoy all economic, social, cultural, civil and political rights and for this purpose shall take appropriate measures to eliminate all forms of discrimination between the sexes by any person, organisation or enterprise; the State shall in particular aim at ensuring that women workers enjoy equal rights and the same wages for the same work as men.’*

Section 32 of the Constitution of Malta guarantees equality between men and women in the enjoyment of fundamental rights and freedoms of the individual.

Article 45 of the Constitution, which forms part of the said Chapter IV entitled 'Fundamental Rights and Freedoms of the Individual', lays down, in article 45(1), that '*...no law shall make any provision that is discriminatory either of itself or in its effect.*'

In 1993, a major reform was made to the Civil Code (Laws of Malta, Cap. 16), in those provisions dealing with family law to redress discriminatory practice against women in marriage.

By virtue of the relative amendments, both partners have equal rights and responsibilities in marriage, and joint responsibility for their children. Property acquired during marriage is administered jointly. Prior to 1993, married women were legally inferior to their husbands since the Civil Code used to recognize the husband as the sole head of the family, with authority over the children and in the administration of the couple's patrimony.

Amendment to legislation in 1996 further redressed discrimination against married women, that prevailed in the Social Security Act, 1987, and the Income Tax Act, 1949.

The amendment to the Social Security Act concerned the definition of head of household. Whereas previously, the law recognised the husband as the sole head of the 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.

Through Act XX of 1996, several amendments were made to the Income Tax Act, 1949, which previously had held the husband responsible for the completion of income tax returns and for the payment of income tax on his and his wife's earnings. A first set of amendments in 1990 brought about a situation where the husband and wife could opt for a separate computation. In practice this meant that the husband and wife would pay less income tax, however, the husband was still responsible for tax returns and payments. Following the enactment of Act XX of 1996, married women were given the opportunity to sign the income tax return jointly with their husband. This enactment also gave the wife the possibility of being elected, by consent of both spouses, as the spouse to be responsible for tax on the chargeable income. Although a tax return is signed by the responsible spouse, the spouses are jointly and severally liable for payment of the tax due. The law thus gives the opportunity for spouses to choose whether to opt for a joint computation or a single one.

When Chapter 16 of the Civil Code was amended in 1993, by Act XXI, married women obtained the right to joint parental authority, together with their husband. Whilst previously the Civil Code spoke of "paternal authority", this concept has now been changed to that of "parental authority", which has to be exercised by the common accord of both parents. If, however, one of the parents dies, parental authority is exercised by the surviving parent. In the case of any disagreement between the parents in matters of particular importance, the Civil Code provides for the possibility of recourse to the Court of

Voluntary Jurisdiction. The court limits itself to suggesting a solution which it considers to be in the best interests of the child and of the family. If, however, disagreement between the parents persists, and the matter is one of fundamental importance, the presiding judge may, upon the request of both spouses jointly, determine the matter himself in the best interests of the family and family life.

Furthermore, joint parental authority is extended to joint representation of the children in civil matters and joint administration of the children's property.

New passport regulations complementing the Passports Ordinance, 1928, were also drawn up to enforce the provisions of the Civil Code, regarding the joint parental rights. Now the signature of both parents is required for the issue of a passport in the name of a minor. Minors can travel on the passport of either parent as long as upon its issue, the consent of both parents was previously obtained. As from 1st April 2001 however it is no longer possible to include minors on their parents' passport or on new passports issued after this date.

The 2004 Equality for Men and Women Act further guarantees the implementation of the principle of equal treatment of men and women in employment and occupation, vocational training and education, access to finance in relation to business activities, and portrayal of the sexes in the media.

Maltese women, whether single or married, have access to loans and credit, can hold title to land, and can make contracts in their own name, including those related to credit, real estate, and commercial transactions. In the context of marriage, both spouses are obliged to enter into contracts jointly when acquiring or disposing of immovable property, since the community of acquests subsists between spouses. Spouses however are legally entitled to opt for a different matrimonial regime, such as separation of estates and community of residue under separate administration.

Amendments to family law have removed all former discrimination faced by married women in the crucial area of banking and finance. Moreover, access to credit and finance in the context of business transactions is protected by article 6 of the Equality for Men and Women Act, which states that : *'No bank or financial institution or insurance company shall discriminate against any person in the grant of any facility in respect of the establishment, equipment or in the launching or extension of any business or the launching or extension of any form of self employment or the insurance of that business or the person in self employment'*.

However, access to finance is not easy for women and credit arrangements with banks remain difficult. The situation should improve further with the transposition of Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services, which is currently under way. The transposition of this Directive would *inter alia* have the effect of extending the scope of the above quoted article 6 of the Equality for Men and Women to cater for situations which are beyond the context of business transactions.

Since the coming into force of the amendments to the Civil Code in 1993, by Act XXI, married women have the right to administer property acquired before marriage (paraphernal property) and to administer jointly with their husband all property acquired during marriage. The first important step

towards the elimination of discrimination against married women in Malta dates back to the enactment of Act XLVI of 1973 whereby, *inter alia*, married women were allowed to contract in their own name and represent themselves in judicial proceedings without the consent and assistance of their husbands. This brought about the end of a situation wherein a married woman had, virtually, no legal capacity.

As a result of the 1993 amendments to the Civil Code, married women have obtained the right to administer not only property which belonged to them before marriage (paraphernal property) but also to administer, jointly with the husband, the patrimony acquired by both spouses during marriage when the community of acquests subsists between the spouses. Whereas the concept of judicial separation of property has been maintained, under Section 1332 of the Civil Code, the law now provides for the separation of property solely to protect the interests of both spouses.

Moreover, article 3 of the Education Act (Laws of Malta, Cap. 327) stipulates that ‘It is the right of every citizen of the Republic of Malta to receive education and instruction without any distinction of age, **sex**, belief or economic means.

Similarly, sub-article (2) of article 3 of the Sports Act (Laws of Malta, Cap.), stipulates that ‘The State recognises that no discrimination should be permitted on the grounds of sex, race, colour, religion or political opinion or residence within different localities of Malta in the access to sport facilities or to sport activities.’ Sub-article (3) of the same article goes on to state that ‘The State recognises that everyone should have the opportunity to take part in sport, and that where necessary, additional measures shall be taken aimed at enabling and encouraging women and young gifted people, as well as disadvantaged or disabled persons or groups of such persons, to effectively take advantage of such opportunities.’

The Third Schedule to the Broadcasting Act (Laws of Malta, Cap. 350) – Code for Advertisements, Teleshopping and Sponsorships provides that ‘Advertising and teleshopping shall not, *inter alia*, ‘include any discrimination on grounds of race, sex or nationality...’.

15.2 Choice of Residence

By virtue of the 1993 amendments which made men and women equal partners in marriage, both spouses jointly decided where to establish their matrimonial home and reside during marriage. Outside marriage, or after a personal separation, both are free to choose their place of residence.

15.3 Freedom of Movement

The Constitution defines freedom of movement as the right to move freely throughout Malta, the right to reside in any part of Malta, the right to leave and the right to enter Malta. Thus, anyone entitled to freedom of movement is considered an exempt person under the provisions of the Immigration Act and does not require a permit to reside.

One of the criteria to obtain freedom of movement in Malta under the provisions of the Constitution, is if the person is a non-Maltese wife of a citizen of Malta, who has acquired Maltese citizenship by birth in Malta, or of a person who enjoys freedom of movement, as long as the wife is actually living with her husband. In 1989, the Immigration Act, 1970, was amended so that non-Maltese husbands of citizens of Malta be considered as exempt persons for the purposes of residence and employment in Malta. Moreover, the non-Maltese widow or widower of a citizen of Malta continues to enjoy these residential and employment privileges on the death of the spouse.

If a foreigner wants to work in Malta before the marriage in order to familiarize himself/herself with the local employment situation, an employment license must be submitted on his/her behalf by the prospective employer. If sufficient documentary evidence be submitted to the effect that the marriage will take place within six months, an employment license valid for the six months prior to the marriage date, is issued. The employment licence is no longer necessary after the marriage is contracted.

15.4 Nationality

Prior to the 1989 amendments Malta was a single nationality State and a Maltese citizen could not hold any other nationality. The only exception to this rule followed a constitutional amendment made in the same year which was a consequence of the high rate of emigration and returned migrants to Malta.

Thus, Maltese emigrants could retain both their Maltese citizenship, as well as the citizenship of their adoptive country, provided that the laws of that country allowed this. If this was not the case, the emigrant ceased to be a citizen of Malta as soon as he/she acquired the citizenship of the adoptive country.

The applicant would qualify for dual citizenship if he/she is a Maltese emigrant holding a foreign citizenship acquired after and as a result of the emigration to a particular country. Furthermore he/she must have been born in Malta prior to Malta's Independence, on the 21 September 1964, having at least one of his/her parents also born in Malta, or born in Malta on or after that date but before 1 August 1989 and he/she must have lived in the adoptive country, from which citizenship was obtained, for at least six years during which any visit/s to Malta should not have exceeded three months in any one year, or twelve months in the aggregate.

A person born in Malta after 1 August 1989 would also qualify for dual citizenship but subject to different conditions. As a consequence of Act IV of 2000 it is now also possible for a citizen of Malta to have multiple citizenship. Art 7 of the Maltese Citizenship Act states that:

It shall be lawful for any person to be a citizen of Malta, and at the same time a citizen of another country.

Thus, with regards to persons born on or after 1989, nationality may be conferred by either mother or father of the minor. With regards to persons born before 1989, Maltese Nationality can only be acquired through the father and not the mother.

Article 16: Marriage and Family Life

1. States parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

(a) The same right to enter into marriage;

(b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;

(c) The same rights and responsibilities during marriage and at its dissolution;

(d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;

(e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;

(f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;

(g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;

(h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.

2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

16.1 Legal Framework

Article 45 of the Maltese Constitution provides protection against discrimination on a number of grounds, including on the grounds of sex. Consequently, both men and women are equally free to enter into marriage with a person of their choice. This is subject to some restrictions which are imposed in the public interest. Thus, a marriage contracted between:

(a) an ascendant and a descendant in the direct line;

(b) a brother and a sister, whether of the full or half blood;

(c) persons related by affinity in the direct line; or

(d) the adopter and the adopted person or a descendant, or the husband or wife, of the adopted person, shall, whether the relationship aforesaid derives from legitimate or illegitimate descent, be void.

In this regard, the relationship of an adopted person shall be deemed to subsist both with reference to his natural and to his adoptive family. The court of voluntary jurisdiction within whose jurisdiction either of the spouses resides may moreover upon good cause being shown dispense from the provisions of sub-article (1)(c) and (d).

Furthermore, a marriage contracted between persons either of whom is bound by a previous marriage shall be void. Marriage is also void if contracted by a person under the age of 16 and between persons either of whom is incapable of contracting by reason of infirmity of mind, whether interdicted or not.

Marriage in Malta is regulated by the Marriage Act of 1975 as subsequently amended in 1996, and by a number of other provisions in the Maltese Civil Code. Marriage is valid only if the relative procedures are adequately followed.

Maltese law also makes provision to ensure that a person enters into marriage only with their free and full consent. Particularly, as illustrated above, Maltese law provides for a minimum age of eighteen years for a person to be able to contract marriage. The Marriage Act (article 3) in fact provides that a marriage contracted between persons either of whom is under the age of sixteen shall be void; and further, that any person still under parental authority (that is, under the age of eighteen years) may not validly contract marriage without the consent of the person exercising such authority, or of the tutor, as the case may be. Maltese law thus seeks to ensure that a person does not contract marriage without the full understanding of the implications thereof.

A marriage is also void if contracted by a person who is incapable of contracting by reason of infirmity of mind, whether interdicted or not.

In this regard, Maltese law also provides for the possibility of annulling the marriage in the eventuality that such consent at the time of marriage is vitiated for some reason or another:

(a) if the consent of either of the parties is extorted by violence, whether physical or moral, or fear;

(b) if the consent of either of the parties is excluded by error on the identity of the other party;

(c) if the consent of either of the parties is extorted by fraud about some quality of the other party which could of its nature seriously disrupt matrimonial life;

(d) if the consent of either of the parties is vitiated by a serious defect of discretion of judgment on the matrimonial life, or on its essential rights and duties, or by a serious psychological anomaly which makes it impossible for that party to fulfil the essential obligations of marriage;

(e) if either of the parties is impotent, whether such impotence is absolute or relative, but only if such impotence is antecedent to the marriage;

(f) if the consent of either of the parties is vitiated by the positive exclusion of marriage itself, or of any one or more of the essential elements of matrimonial life, or of the right to the conjugal act;

(g) if either of the parties subjects his or her consent to a condition referring to the future;

(h) if either of the parties, although not interdicted or infirm of mind, did not have at the time of contracting marriage, even on account of a transient cause, sufficient powers of intellect or volition to elicit matrimonial consent.

The Civil Code provides, inter alia, that ‘the spouses shall have equal rights and shall assume equal responsibilities during marriage. They owe each other fidelity and moral and material support.’ It follows that decisions are to be taken jointly, at least in so far as they effect important issues. Joint responsibility concerns three main areas:

- Administration of property;
- Choice of matrimonial home;
- Exercise of parental authority.

Divorce is not permitted under Maltese Law. A divorce obtained in another country, however, shall be recognised for all purposes of law in Malta provided that the decision is given by a competent court of the country where the divorce is obtained and of which either the husband or the wife are citizens thereof or are domiciled therein. Maltese law, however, provides for the personal separation of a married couple as authorised by the competent court. Legal personal separation does not lead to divorce.

The marriage will continue to subsist but the spouses will not be bound by the duties which the contract of marriage brings about. The spouses will no longer be bound by the duty of co-habitation. Other duties such as the duty to maintain each other and the children would be regulated in the judgment of separation or in the public deed in case of consensual separation.

16.2 Administration of Property

(a) The Community of Acquests

Marriages in Malta are regulated by the Community of Acquests, which is the prevailing system of administration of assets owned by the spouses. The Community of Acquests comprises all income earned, and all property acquired (bought, or taken on lease or emphyteusis) by the husband or wife from the date of the marriage until its termination and includes all income derived from such property.

The Community of Acquests applies also in the case of a marriage celebrated abroad between persons who subsequently establish themselves in Malta with regard to any property acquired after their arrival.

The Community of Acquests is equivalent to a partnership of property between the spouses wherein all the property which they acquire, both jointly and separately, with their work or savings during marriage, belongs equally to both.

As a result of the amendments introduced in the Civil Code in 1993, the position with regard to the Community of Acquests, although retained, was radically changed. As a result of these amendments, husband and wife were put on an equal footing. The ordinary administration of the acquests and the right to sue or be sued in respect of such ordinary administration, vests in either spouse, whilst acts of extraordinary administration, and the right to sue or be sued in respect of such acts, or to enter in any compromise in respect of any act whatsoever, vests in both spouses jointly. The Civil Code provides an exhaustive list of all those acts which are considered to be acts of extraordinary administration, and hence, any other act which is not mentioned in the law is presumed to be an act of ordinary administration. However, in doubtful situations, each case should be considered on its own merits. The law also lays down those instances wherein one spouse may perform acts of extraordinary administration on his or her own. The first case wherein this is possible is when one spouse, by means of a public deed or a private writing (attested in terms of Section 634 of the Code of Organisation and Civil Procedure), appoints the other spouse as his or her mandatory. Another case is if one of the spouses is away from Malta or if there exists any other impediment in respect of such spouse and in either case no such authorisation exists, the other spouse may perform such necessary act of extraordinary administration of the acquests on his own after obtaining the authorisation of the Court of Voluntary Jurisdiction. However, the Court may not, in such cases, grant authorisation to perform necessary acts of extraordinary administration in general but such authorisation will be limited to a particular act. If such act consists in the alienation of the ownership of any real right over immovable property or the granting of any general or special hypothecation, this is also to be registered in the name of the absent or incapable spouse as if such spouse were a party to the deed of alienation or hypothecation. In default, the registration, in respect of third parties, is only *operative vis-à-vis* the spouse in whose name it is registered. The Civil Code also caters for the situation wherein one of the spouses does not consent to an act of extraordinary administration. In such a case, if the act is necessary in the interests of the family, then the other spouse can apply to the competent court for authorisation to perform the required act.

Although the general rule is that the spouses administer their property together, the Civil Code caters for those situations wherein one of the spouses may be excluded from the administration of the Community of Acquests. The competent court, in such case, may, at the request of one spouse, exclude the other spouse, either generally or limitedly for particular purposes or acts, from the administration of the Community of Acquests if the latter spouse is not competent to administer or has mismanaged the Community of Acquests. In such a case, the administration of the Community shall, to the extent to which such spouse has been excluded, vest exclusively in the spouse not so excluded. These consequences are also brought about if one of the spouses is interdicted or incapacitated and persist until such interdiction or incapacitation ceases.

In the eventuality of one spouse performing an act requiring the consent of both spouses without the necessary consent of the other spouse, such an act may be annulled at the request of the latter spouse

if such act relates to the alienation or the constitution of a real or personal right over immovable property. In the case of movable property the act may only be annulled if rights over them have been conferred by gratuitous title. Such action for annulment may only be instituted by the spouse whose consent was required within the peremptory period of three years from the date when such spouse became aware of the act, or from the date of registration if such act is registerable, or from the date of the termination of the Community of Acquests, whichever is the earliest. However, this right lapses on the expiration of three months from the day on which notice of the act has been given to such spouse by means of a judicial act, unless an action is instituted within such period of three months.

(b) Separation of Estates

Either before the marriage, or at any time after the marriage, the couple may declare that instead of the Community of Acquests, they want to opt for complete Separation of Estates, whereby they will own and administer their property separately. This option entails that there is a net distinction between the property of the spouses (acquired during their marriage), and each would administer his or her property without the interference of the other.

Even in those marriages regulated by the Community of Acquests, the law provides that, either spouse can demand the separation of property if, *inter alia*, the other spouse conducts his/her affairs in a disorderly manner, or on the basis of other grounds specified in the law, such as the interdiction or incapacitation of one of the spouses.

(c) Community of Residue Under Separate Administration

A new concept regulating the spouses' patrimonial relations, introduced by the amendments to the Civil Code, is the Community of Residue Under Separate Administration which is based on the German system of the Community of Accrued Gains. This provides for the situation where the spouses, by means of a marriage contract, exclude the application of the Community of Acquests and opt for a system wherein all property acquired by them during the marriage is held and administered by the spouse by whom such acquisitions were made. In relation to third parties, it is dealt with by such spouse as if such spouse were the exclusive owner thereof. It is submitted that this system is a half-way-house between the system of Community of Acquests and the system of Judicial Separation of Property. During the marriage, each spouse is free to acquire property in his or her own name and to administer and dispose of such acquests without the consent of the other spouse. But, on the dissolution of the marriage, all property acquired by both spouses and which is still owned by them, shall be divided equally between them. The assets governed by this system are those assets which form part of the Community of Acquests. In the case of assets acquired jointly by spouses who have opted for this system, these shall be administered jointly. The share of each spouse in such property may only be alienated *inter vivos* and with the consent of the other spouse, or, where such consent is unreasonably withheld, with the authority of the Court of Voluntary Jurisdiction, or in a judicial sale by auction at the insistence of any creditor of such spouse.

It is to be noted that a spouse will not be allowed to alienate any personal assets gratuitously except with the consent of the other spouse. This does not apply to donations of moderate value, regard being

had to the condition of the parties and all other surrounding circumstances. In default, an action for the annulment of the act of alienation under gratuitous title may be instituted, by the spouse whose consent was required, within the peremptory period of one year from the date when the spouse became aware of the act, on the date of registration, when such act is registrable or the date of termination of the community of residue under separate administration whichever is the earlier.

16.3 The Matrimonial Home

Three other important amendments which have been introduced to the Civil Code relate to:

- (a) the matrimonial home,
- (b) the wife's surname, and
- (c) the suspension of the right of maintenance.

As regards the matrimonial home, the previous position in the Family Law was that the wife was bound to live with her husband and follow him wherever he deemed fit to establish the matrimonial home. Thus, in theory, the wife had no say in where she lived. A radical change to this situation was brought about by the 1993 amendments to the Civil Code which state that, the matrimonial home is to be established where the spouses may, determine by their common accord, in accordance with the needs of both spouses and the overriding interests of the family itself.

Although the matrimonial home may have been acquired by either spouse prior to the marriage, and, thus, forms part of such spouse's paraphernal property, the fact that it is the matrimonial home imposes certain obligations on such spouse. The latter may only alienate, by title *inter vivos*, his or her right over the matrimonial home:

- a. with the consent of the other spouse; or,
- b. where such consent is unreasonably withheld, with the authority of the Court of Voluntary Jurisdiction; or,
- c. in a judicial sale by auction at the instance of any creditor of such spouse.

16.4 The Family Surname

Under the amendments to the Civil Code, the family surname remained that of the husband. However, married women were given the right to choose whether to assume their husband's surname, or to retain their maiden surname or to add the husband's surname with her own. The children of the marriage must take their father's surname, to which they may add their mother's. Furthermore, women who had been married before December 1993, were given a period of six months to apply at the Public Registry to revert to their maiden surname.

16.5 Maintenance of Spouses

The spouse against whom the separation is pronounced shall not be released from the obligation of supplying maintenance to the other spouse. The burden of maintaining the family is not borne any longer solely by the husband, but by both spouses jointly. The Civil Code provides that both spouses, each in proportion to his or her needs, and of his or her ability to work, whether in the home or outside the house, as the interest of the family requires, to maintain each other and to contribute towards the needs of the family. In the case of personal separation, the spouse who has given cause for separation, is bound to maintain the other spouse.

Upon pronouncing the personal separation of the spouses, the Court may order that maintenance be paid as a lump sum instead of periodical payments, for example, once a week or monthly. This could be applied in the case of a spouse who would require training or retraining in a profession, art or trade. This lump sum can also be invested by the spouse in an income-generating activity. This is in order to make the spouse to whom maintenance is due, financially independent of or less dependent on the other spouse, as the case may be. With respect to maintenance, the spouse has a prior right over the parents and other ascendants.

16.6 Parental Authority

Marriage imposes on the spouses the duty to look after, maintain, instruct and educate the children. The law has broadly defined the concept of 'care' expanding it to include "instruction and education" that go beyond mere physical care. The couple are jointly responsible for the care of their children and the concept of *patria potestas* (paternal authority). All references made to paternal authority are now made to parental authority. Parental authority must be exercised by common accord.

In case of disagreement, the law provides the possibility of recourse to the Court of Voluntary Jurisdiction which is done informally by either parent, who should indicate in the application the possible solution that he or she deems the most desirable in these circumstances. In such case the Court may do one of two things:

- a. if the matter is not such that the Court should not substitute its authority for that of the parents, then the Court may indicate which parent it considers most suitable to take that particular decision; or,
- b. it may impose its authority, which residual authority will continue to subsist in the very interest of the child and even despite the agreement of both parents on a particular matter, when this is clearly prejudicial to the children's welfare.

In these proceedings the Court may also hear those children who have reached the age of 14 on matters that directly concern them. Both parents may open a bank account in their own name for and on behalf of the minor. The parents have the usufruct of all property devolving on the child by succession, donation or any other gratuitous title. In the case of a child born out of wedlock, the parent acknowledging him/her enjoys all the rights of parental authority in his/her regard, other than the legal usufruct.

Furthermore, the father is also bound to maintain and educate such child according to his means and to continue maintaining him/her in case of need even after the latter has attained majority and provided he/she has no husband or wife or descendants who are in a position to supply such maintenance. Such duty of the father extends also to the legitimate descendants of the predeceased son or daughter if their surviving parents or legitimate ascendants are unable to provide for him/her.

Either of the parents may deny maintenance if such child refuses without just cause to follow his/her directions in regard to his/her conduct or education, or if the child refuses to live in the house chosen by the parent and approved by the court for the purpose, and also in any other case in which according to law, it is competent for a parent to refuse maintenance to a legitimate child.

Children may be legitimated either by subsequent marriage or by a decree of the Court of Voluntary jurisdiction, in which cases, the parents and the legitimated child are in the same condition as a parent and a legitimate child. The child does not however acquire any other right deriving from consanguinity.

Adoption may only take place with the authority of the court of voluntary jurisdiction, granted by a decree made on the application of a person of either sex. In the case of a married couple, an adoption decree may be made on an application of the two spouses who must have been married and living together for a period of not less than five years. The application must be submitted jointly by the spouses. These conditions do not apply when one of the spouses is the natural parent of the child.

An adoption decree cannot be made unless the applicant, or in the case of a joint application, one of the applicants:

- has attained the age of 30 years but not that of 60 years, and is at least 21 years older than the person to be adopted;
- or is the mother or father of the person to be adopted and has attained majority.

An adoption decree cannot be made:

- a. in respect of a person who has attained the age of 18 years, except in favour of a sole applicant who is the mother or the father of the person to be adopted;
- b. if the person to be adopted is a female and the sole applicant is a male, unless the court is satisfied that there are special circumstances justifying the adoption decrees;
- c. if the future adopter is in Holy Orders or is bound by solemn religious vows;
- d. in favour of a tutor in respect of a person who is or was under his tutorship except after having rendered an account of his administration or after having given adequate guarantee of the rendering of such account.

In the case of an adoption of an illegitimate person, the consent of the mother is necessary if she is alive, and the natural father is also heard if he has acknowledged the person to be adopted as his child, or if the court is satisfied that he has contributed towards his/her maintenance or has shown a genuine and continuing interest in him/her.

On adoption, the adopted child acquires the same property rights as those of a child born in lawful wedlock.

Annexes

Article 1: Definition of Discrimination

The remit of the Commission on Domestic Violence includes:

- a. increasing the awareness and understanding of domestic violence and harassment and their consequences and on ways and means to reduce their incidence
- b. areas of domestic violence on which research is necessary or desirable
- c. strategies to expose domestic violence and to facilitate the intervention of public and private agencies and entities with respect to victims and perpetrators of such violence
- d. educating the public on all aspects of domestic violence
- e. ways to facilitate communication between public and private agencies and entities involved in action against domestic violence
- f. standards for care facilities for victims and perpetrators of domestic violence, including public or private shelter services or facilities
- g. standards and protocols for practitioners
- h. procedures for the effective co-ordination on a national level of the activities of public and private agencies and entities engaged in the giving of services on domestic violence issues including support services
- i. a comprehensive and co-ordinated plan for the collection of data concerning domestic violence for use by the courts, prosecutors, law enforcement officers, health care practitioners, social workers and other agencies and entities in a manner that protects the identity of victims of domestic violence
- j. developing a comprehensive plan for a multi disciplinary approach of active prevention and early intervention
- k. specialized training for professional groups involved and
- l. consulting and networking with other relevant national and international entities.

Article 2: Policy Measures

The National Commission for the Promotion of Equality has been entrusted with several functions, amongst which:

- a. to identify, establish and update all policies directly or indirectly related to issues of equality for men and women;
- b. 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;

- c. to monitor the implementation of national policies with respect to the promotion of equality for men and women;
- d. to liaise between, and ensure the necessary coordination between, government departments and other agencies in the implementation of measures, services or initiatives proposed by Government or the Commission from time to time;
- e. 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;
- f. to work towards the elimination of discrimination between men and women;
- g. to carry out general investigations with a view to determine whether the provisions of this Act are being complied with;
- h. to investigate complaints 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;
- i. to inquire into and advise or make determinations on any matter relating to equality between men and women as may be referred to it by the Minister;
- j. to provide assistance, where and as appropriate, to persons suffering from discrimination in enforcing their rights under this Act;
- k. to keep under review the working of this Act, and where deemed required, at the request of the Minister or otherwise, submit proposals for its amendment or substitution;
- l. 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.

Article 5: Sex Role Stereotyping and Prejudice

The following are some of the results which emerged from the qualitative interviews conducted for the project 'Facilitating Equality through Education'.

Who does the Cooking?

- Mother Only – 43.6%
- Usually Mother/ Sometimes Father – 38.8%
- Between Mother and Father – 10.0%
- Usually Father/ Sometimes Father – 3.0%
- Father Only – 0.8%
- Other – 3.8%

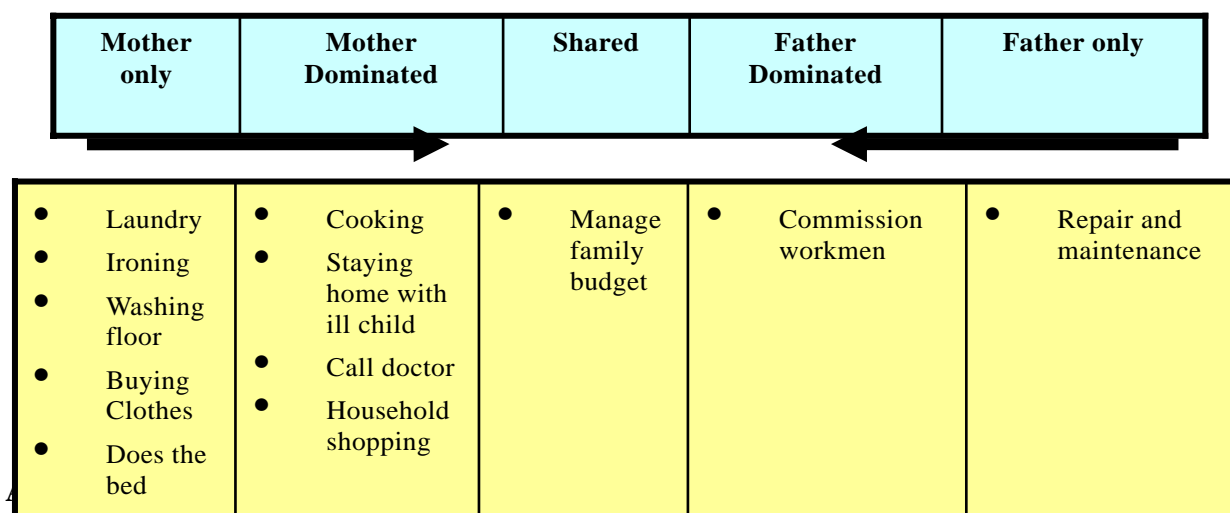
Who usually washes the floor?

- Mother Only – 64.6%
- Usually Mother/ Sometimes Father – 10.4%
- Between Mother and Father – 7.2%
- Usually Father/ Sometimes Father – 0.6%

- Father Only – 1.4%
- Other – 15.8%

Who usually washes the clothes?

- Mother Only – 80.0%
- Usually Mother/ Sometimes Father – 8.8%
- Between Mother and Father – 5.6%
- Usually Father/ Sometimes Father – 0.6%
- Father Only – 0.6%
- Other – 4.4%



Article 8: Representation

Table 8.1 Diplomatic Service

December 2000

<u>GRADE</u>	<u>MALE</u>	<u>FEMALE</u>
Ambassador*	30	Nil
Senior Counsellor	Nil	Nil
First Counsellor	3	Nil
Counsellor	11	3
First Secretary	15	11
Second Secretary	2	7
Total	61	21

December 2001

<u>GRADE</u>	<u>MALE</u>	<u>FEMALE</u>
Ambassador*	31	1
Senior Counsellor	Nil	Nil
First Counsellor	1	Nil
Counsellor	12	2
First Secretary	13	13
Second Secretary	4	12
Total	61	28

December 2002

<u>GRADE</u>	<u>MALE</u>	<u>FEMALE</u>
Ambassador*	32	2
Senior Counsellor	Nil	Nil
First Counsellor	1	Nil
Counsellor	11	2
First Secretary	16	17
Second Secretary	4	8
Total	64	29

December 2003

<u>GRADE</u>	<u>MALE</u>	<u>FEMALE</u>
Ambassador*	35	2
Senior Counsellor	2	Nil
First Counsellor	1	Nil
Counsellor	11	2
First Secretary	20	22
Second Secretary	13	20
Total	82	46

December 2004

<u>GRADE</u>	<u>MALE</u>	<u>FEMALE</u>
Ambassador*	41	1
Senior Counsellor	1	Nil
First Counsellor	8	3
Counsellor	3	Nil
First Secretary	19	23
Second Secretary	22	21
Total	94	48

December 2005

<u>GRADE</u>	<u>MALE</u>	<u>FEMALE</u>
Ambassador*	39	3
Senior Counsellor	1	Nil
First Counsellor	7	3
Counsellor	3	Nil
First Secretary	29	36
Second Secretary	13	11
Total	92	53

September 2006

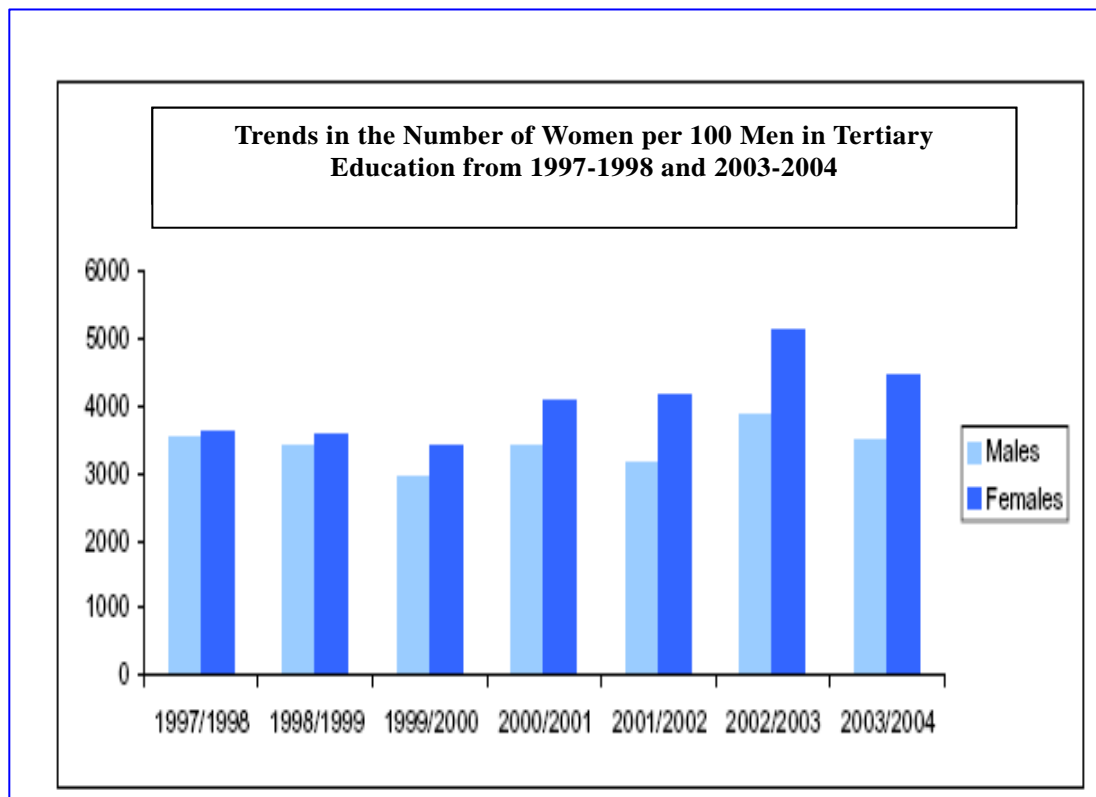
<u>GRADE</u>	<u>MALE</u>	<u>FEMALE</u>
Ambassador*	34	2
Senior Counsellor	1	Nil
First Counsellor	9	3
Counsellor	6	4
First Secretary	29	34
Second Secretary	8	7
Total	87	51

* Denotes both Resident and Non-Resident Ambassadors

Source: Ministry of Foreign Affairs – Malta

Article 10: Education

Figure 10.1: Tertiary Education



Source: NSO Education Statistics 2004

Table 10.2 Student Statistics

Faculty/Institute	Female	Male	Total
Board of Studies for Information Technology	35	151	186
Centre for Communication Technology	159	101	260
Centre for Labour Studies	35	38	73
Conservation and Management of Cultural Heritage	9	3	12
Edward de Bono Institute for the Design and Development of Thinking	13	11	24
Euro-Mediterranean Centre for Educational Research	8	3	11

European Centre of Gerontology	8	1	9
European Documentation and Research Centre	47	21	68
Faculty of Architecture and Civil Engineering	70	84	154
Faculty of Arts	385	250	635
Faculty of Dental Surgery	14	19	33
Faculty of Economics, Management and Accountancy	864	652	1516
Faculty of Education	900	274	1174
Faculty of Engineering	77	312	389
Faculty of Laws	381	253	634
Faculty of Medicine and Surgery	227	150	377
Faculty of Science	103	96	199
Faculty of Theology	79	102	181
Foundation Studies Programme	18	22	40
Institute for Islands and Small States	13	13	26
Institute for Masonry and Construction Research	1	3	4
Institute for Physical Education and Sport	7	6	13
Institute of Agriculture	19	65	84
Institute of Forensic Studies	3	11	14
Institute of Health Care	324	106	430
International Institute for Baroque Studies	3	17	20
Mediterranean Academy of Diplomatic Studies	11	17	28
	3813	2781	6594

Source: University of Malta

Article 11: Employment**Table 11.1 Public Service Segregated by Sex, Grade, and Scale**

Scale 1	Male	Female
Attorney General	1	-
Judge	-	2

Scale 2	Male	Female
Commissioner of Police	1	-

Scale 3	Male	Female
Chairman (Health)	12	-
Deputy Attorney General	1	-
Deputy Commissioner	1	-
Director, Clinical	3	-
Magistrate	13	4
Officer in Grade 3	7	-

Scale 4	Male	Female
Assistant Attorney General	1	-
Assistant Commissioner of Police	9	-
Chief Architect and Civil Engineer	8	-
Chief Engineer	1	-
Chief Scientific Officer	3	-
Consultant	122	19
Director, Forensic Science Laboratory	1	-
Director, Pharmaceutical Services	-	2
Office in Grade 4	35	2
Senior Counsel	1	-
Senior Counsellor	2	-

Scale 5	Male	Female
Assistant Director of Education	6	4
Assistant Registrar (Courts)	4	1
Assistant Registrar (Land Registry)	1	1

Assistant Director, Pharmaceutical Services	-	1
Chief Architect and Civil Engineer	5	-
Chief Curator	1	-
Chief Engineer	3	-
Chief Quantity Surveyor	1	-
Chief Scientific Officer	3	1
Deputy Director (Inst. Of Tourism Stud.)	1	-
First Counsellor	9	4
Inspector (Sc. 8/7)	1	-
Manager, Nursing Services	1	-
Officer in Grade 5	241	46
Principal Medical Officer	4	8
Principal Scientific Officer	-	1
Principal Public Cleansing Officer	2	-
Projects Manager	1	-
Senior Air Traffic Control Officer	1	-
Senior Clerk Assistant	-	1
Senior Counsel	3	2
Senior Registrar	35	17
Sports Officer I	1	-
Sports Officer II	3	-
Superintendent of Police	23	3

Source: Management and Personnel Office: Department of Policy and Planning – Workforce Planning and Analysis Branch

Article 12: Health

Table 12.1: Expectation of Life by Sex

Year	Males	Females
1870	44.7	47.4
1890	41.2	42.8
1910	43.4	44.7
1920	45.9	45.2
1930	41.3	43.5
1948	55.7	57.7
1957	65.7	68.9
1967	67.5	71.6
1985	70.8	76.0
1995	74.9	79.5
2004	76.7	80.5

Source: NSO demographic statistics 2004.

Article 1 Definition of Discrimination

¹ Ellul, T. Malta Executive Summary of the country report on measures to combat discrimination, Malta

² Government *online*. The Constitution of Malta, Article 14

³ Commission for the Advancement of Women – Malta (2001).

⁴ Commission for the Advancement of Women – Malta (2001), OPM Circular No.66/91.

⁵ Commission for the Advancement of Women – Malta (2001), OPM Circular No. 37/90.

⁶ Ellul, T. Malta Executive Summary of the country report on measures to combat discrimination, Malta

⁷ Ibid.

⁸ Ibid.

⁹ Ibid.

¹⁰ Amnesty International – Report 2006; Europe and Central Asia - Malta

¹¹ Ibid.

¹² Government of Malta *on-line*.

¹³ Ibid.

¹⁴ Government of Malta, *on-line*.

¹⁵ Ellul, T. Malta Executive Summary of the country report on measures to combat discrimination, Malta

Article 2 Policy Measures

¹⁶ Ellul, T. Malta Executive Summary of the country report on measures to combat discrimination, Malta

¹⁷ Commission for the Advancement of Women – Malta (2001). OPM Circular No.7/96.

¹⁸ Government of Malta *on-line*. The Equality for Men and Women Act, Chapter 456.

¹⁹ MPO/255/2002

²⁰ MPO/250/2003

²¹ MPO/68/81/III

²² MPO/118/1983

²³ MPO/242/1990

²⁴ MPO/278/2005

²⁵ MPO/175/1995/III

²⁶ OPM Circular No. 21/2006

²⁷ OPM/262/00

²⁸ OPM/262/2000

²⁹ Ellul, T. Malta Executive Summary of the country report on measures to combat discrimination, Malta
³⁰ Ibid.

Article 3 Guarantee of Basic Human Rights and Fundamental Freedoms

³¹ COM/2006/0092final

³² Ellul, T. Malta Executive Summary of the country report on measures to combat discrimination, Malta

³³ OPM 24/2000

³⁴ NAP Poverty and Social Exclusion 2004-2006

Article 4 Special Measures

³⁵ Budget 2007: Securing our Children's Future

Article 5 Sex Role Stereotyping and Prejudice

Nil

Article 6 Prostitution

³⁶ Trafficking in Persons Report: Released by the Office to Monitor and Combat Trafficking in Persons; June 3, 2005 in www.state.gov/g/tip/rls/tiprpt/2005/46617.htm

³⁷ Article 6(2).

³⁸ Article 11.

³⁹ Enacted by Ordinance VIII of 1930, as amended by acts of 1933, 1955, 1965, 1974, 1976, 1981, 1983, 1989, 1994, and 2006.

⁴⁰ www.pq.gov.mt

⁴¹ Ibid.

⁴² Ibid.

Article 7 Political and Public Life

Nil

Article 8 Representation

Nil

Article 9 Nationality

⁴³ NSO News Release 135/2006; *World Refugee Day*

⁴⁴ Ibid.

⁴⁵ Ibid.

⁴⁶ Ibid.

Article 10 Education

⁴⁷ Eurydice June, 2005: *National Summary Sheets on Education Systems in Europe and Ongoing Reforms - Malta*

⁴⁸ Ibid.

⁴⁹ NSO Education Statistics 2004

⁵⁰ Minister's Speech at The Conference of the Malta Association of Women in Business (MIIIT) – '*Good Practice in Female Led Enterprises*'. 19-05-06

⁵¹ Budget 2007, (2006, October 19). A budget for a sound future. The Times, pp. I - XVI

⁵² Ibid.

Article 11 Employment

⁵³ Economic Bulletin issued by the Economic Unit of the MCESD, June 2006

⁵⁴ (Note: the analysis is limited to this age bracket in order to exclude households less affected by the need to reconcile work and family life)

⁵⁵ Eurostat 2005 – Reconciling work and family life in the EU 25 in 2003

⁵⁶ NSO Labour Force Survey December 2005

⁵⁷ ETC Research Study 2004 – A Look into the Work Aspirations of Inactive Women

⁵⁸ Eurostat News Release March 2006; 29/2006

Article 12 Health

⁵⁹ Ibid.

⁶⁰ Malta Country Report: Health: 10 Health Questions

⁶¹ Ibid.

⁶² Ibid.

⁶³ Ibid.

⁶⁴ Ibid.

⁶⁵ Ibid.

⁶⁶ www.medicalnewstoday.com

⁶⁷ Malta Country Report: Health: 10 Health Questions

⁶⁸ www.medicalnewstoday.com

⁶⁹ www.exploremalta.com/health/

⁷⁰ Ibid.

⁷¹ Malta Country Report: Health: 10 Health Questions

⁷² Ibid.

Article 13 Economic and Social Benefits

⁷³ Bank of Valletta; Risk Monitoring Department Compliance Unit

Article 14 Rural Women

⁷⁴ Census of Population and Housing 2005: *Preliminary Report*, National Statistics Office 2006

⁷⁵ Ibid.

⁷⁶ Country Profile Malta 2003 Main Report; Regional Overview: Membership of Regional Organisations

⁷⁷ Ibid.

Article 15 Law

Nil

Article 16 Marriage and Family Life

Nil