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TREATIES ON SOCIAL RIGHTS RATIFIED BY

# Malta

ILO  
TECHNICAL  
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The information and data contained in the Case Study is taken from the Government reports, on-line databases of the National Statistical office, official web-sites of the government departments, MISSCEO, MISSOC, SSI, ILOSTAT and EUROSTAT.

**List of international abbreviations:**

CAS	Committee on the Application of Standards, International Labour Conference
CEACR	Committee of Experts on the Application of Conventions and Recommendations
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CESCR	Committee on Economic, Social and Cultural Rights
COE	Council of Europe
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
ECSR	European Committee of Social Rights
ECSS	European Code of Social Security
ESC	European Social Charter
EU	European Union
EUROSTAT	Statistical Office of the European Union
GC	Governmental Committee of the European Social Charter and European Code of Social Security
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILS	International Labour Standards
IMF	International Monetary Fund
MISSEO	Mutual Information System on Social Protection of the Council of Europe
MISSOC	Mutual Information System on Social Protection
OECD	Organisation for Economic Co-operation and Development
SSI	Social Security Inquiry

*CHAPTER I. Country profile: adequacy of social security benefits, income and poverty indicators.*

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## Country profile by national indicators and minimum standards of social security

<b>Table 1. Eurostat indicators</b>	<b>2006</b>	<b>2010</b>	<b>2013</b>	<b>2014</b>
<b>At-risk-of-poverty threshold (40%, single person)</b>	3,612€	4,174€	4,837€	5,115€
<b>At-risk-of-poverty threshold (50%, single person)</b>	4,515€	5,217€	6,047€	6,394€
<b>At-risk-of-poverty threshold (60%, single person)</b>	5,418€	6,261€	7,256€	7,672€
<b>At-risk-of-poverty rate – (40%, of median equivalised income)</b>	4.2%	3.7%	3.2%	2.4%
<b>At-risk-of-poverty rate – (50%, of median equivalised income)</b>	7.6%	8.0%	8.9%	8.4%
<b>At-risk-of-poverty rate – (60%, of median equivalised income)</b>	14.2%	15.5%	15.7%	15.9%
<b>At-risk-of-poverty rate before social transfers, pensions excluded –(60%, of median equivalised income)</b>	21.3%	23.5%	23.3%	23.8%
<b>At-risk-of-poverty rate for pensioners –(60%, of median equivalised income)</b>	23.7%	17.9%	14.3%	15.3%
<b>Persistent at-risk-of-poverty rate –(60%, of median equivalised income)</b>	-	9.1%	8.5%	10.6%
<b>Aggregate replacement ratio</b>	0.45	0.44	0.56	0.56
<b>People at risk of poverty or social exclusion (% of total population)</b>	19.5%	21.2%	24.0%	23.8%
<b>Severe material deprivation (% of total population)</b>	3.9%	6.5%	9.5%	10.2%
<b>Gini coefficient</b>	27.1	28.6	27.9	27.7

<b>Table 2. National indicators of guaranteed minimum resources, MISSOC (2016)</b>	
<b>Level of sufficient income (single person)</b>	€102.04 per week
<b>Level of sufficient income (each additional member of household)</b>	€8.15 per week
<b>Monthly benefit for household with no other income (single person)</b>	€443.36
<b>Monthly benefit for household with no other income (couple without children)</b>	€478.78
<b>Monthly benefit for household with no other income (couple with 1 child)</b>	€514.19
<b>Monthly benefit for household with no other income (couple with 2 children)</b>	€549.60
<b>Monthly benefit for household with no other income (couple with 3 children)</b>	€585
<b>Monthly benefit for household with no other income (single parent, 1 child)</b>	€478.78
<b>Monthly benefit for household with no other income (single parent, 2 children)</b>	€514.19

**Table 3. MISSOC (2016)**

<i>Social Security branch</i>	<b>Compensation rate/Level of benefit</b>	<b>Qualifying period</b>
<b>Sickness benefit</b>	Benefit is paid in accordance with the number of days worked in a normal week up to a maximum of six days. The rates are: <u>Single parent or a married person whose spouse is not employed on a full-time basis</u> : €20.09 per day; <u>Single person</u> : €13.00 per day. The benefit is paid every week.	Entitlement is subject to at least 50 paid weekly contributions of which 20 paid or credited contributions should fall in the preceding two years.
<b>Unemployment benefit</b>	Married: €12.18 per day (the spouse is not to be gainfully occupied on a full-time basis). Single: €7.97 per day. Benefit is paid weekly covering 6 days of entitlement, family supplements exist.	50 weeks of paid contributions of which at least 20 paid or credited should be in the last two previous years.
<b>Old-age benefit</b>	Minimum pension: from 1st January 2016, the minimum guaranteed pension is €140 per week for both married and single persons who have a contribution average of 50 weeks per year. For persons with a lower contribution average, the rate is reduced proportionately. Maximum pension: €230.32 per week for both married and single persons, on first award of pension. This increases by cost of living adjustments every year after award of pension.	The claimant must have: made an average of at least 15 weekly contributions (paid or credited) per year from either 1956 or 1965 (both are worked out and the beneficiary will be awarded the rate which is higher) or from age 19, and completed at least ten years of employment or self-occupation prior to retirement.
<b>Employment injury benefit</b>	<u>Incapacity degree up to 19%:</u> Lump sum Injury Gratuity (Ghotja ghall-korriment) of between €241.89 and €4,595.02. <u>Incapacity degree from 20% to 89%:</u> Basic Pension (Pensjoni Bazika): highest weekly pension rate €69.75. The amount has been historically established and increased by the cost of living increases. The reduced pension rates are established as for example: $20/89 \times €69.75 = €15.67$ per week for a person awarded a 20% incapacity. <u>Incapacity degree of 90% or more:</u> Invalidity Pension (Pensjoni tal-Invalidita')	-
<b>Family benefit</b>	Monthly amounts of family benefits: One child: €96.32 (maximum) Two children: €192.64 (maximum) Three Children: €288.96 (maximum) Four Children: €385.28 (maximum) Additional Children: €96.32 (maximum for each child)	-
<b>Maternity benefit</b>	Maternity leave: 100% of earnings for 14 weeks: Paternity leave: 100% of earnings for 2 day. Maternity benefit (Beneficju tal-Maternità) (paid in lieu of maternity leave) may be issued after the 8th month of pregnancy or not later than 6 months after birth. Payment for 14 weeks is made in two instalments (if claimed before birth) or in one instalment if claimed after birth. The rate payable	Insured under the social security system and a Maltese citizen or a dependent of a Maltese citizen.

	is: €89.10 per week. With effect from 1st January 2015, self-occupied women shall be paid 14 weeks of maternity benefit at the weekly rate of €168.01.	
<b>Invalidity benefit</b>	<p>Minimum pension:  Married Person: €101.97 per week.  Single Person: €96.27 per week.</p> <p>Maximum pension:  Married Person: €139.43 per week.  Single Person: €119.86 per week.</p>	A minimum of 5 years paid contributions.
<b>Survivor's benefit</b>	<p>Widow(er)s' Pension (Pensjoni tar-Romol): From 1st January 2016, the minimum guaranteed pension is €140 per week for widow/ers whose spouse had a contribution average of 50 weeks per year. For persons with a lower contribution average, the rate is reduced proportionately. The same minimum amount applies in the case of a Survivors' Pension (Pensjoni tas-Superstiti). Orphans receive flat-rate benefits.</p>	-



**Table 4. ISSA (2016)**

<b>legal weekly minimum wage</b>		€168.01	
<b>minimum weekly contribution</b>		€16.80	
<b>maximum weekly contribution</b>		€34.49	for persons born before January 1, 1962
		€42.57	for persons born on or after January 1, 1962
<b>Social Security branch</b>	<b>Min amount of benefits</b>	<b>RR</b>	<b>Qualifying conditions</b>
<b>Sickness benefit</b>	€20.09 a day is paid for a married person or a person supporting a spouse who is not employed full time; €13.00 a day is paid for other persons.	-	Must have at least 50 weeks of paid contributions, including at least 20 weeks of paid or credited contributions in the two years before the year in which the claim is made.
<b>Unemployment benefit</b>	€12.18 a day is paid to a single parent or a married person whose spouse is not employed full time; €7.97 a day is paid for other insured persons. The benefit is paid for up to 156 days. The total number of days must not exceed the total number of contributions paid since the person first entered the system.	-	Must have at least 50 weeks of paid contributions, including at least 20 weeks of paid or credited contributions in the two years before the year in which the claim is made. The insured must be registered as unemployed and be capable of, and available for, work. No benefit is paid for six months if unemployment is voluntary or the result of misconduct.
<b>Old-age benefit</b>	The minimum pension is €56.00 a week.  The maximum pension is €230.32 a week.	Up to 66.7% of the insured's annual average earnings in the best three consecutive years in the last 10 years before retirement	Must have at least 156 weeks of paid contributions, including an annual average of at least 50 weeks of paid or credited contributions for 35 years; must have been gainfully employed for the 10 years immediately prior to retirement. Partial pension: Meets the age requirement for the contributory old-age pension (social insurance, two-thirds pension) and has an annual average of at least 15 weeks of contributions.
<b>Family benefit</b>	<p><u>Child allowance:</u> The benefit for one child is calculated as the difference between €24,742 and the couple's income multiplied by 6%. The benefit increases by another 6% for each child. If household income does exceed €17,242, a flat rate of €8.66 a week for each child is paid.</p> <p><u>Care allowance for fostered children:</u> €70 a week is paid.</p> <p><u>Disabled child allowance (no means test):</u> €20 a week is paid.</p> <p><u>In-Work benefit (social assistance, means tested):</u> From €190 to €1,000 a year is paid for each child for couples with two employed parents; from €52 to €150 a year is paid for each child for couples with one employed parent; and from €680 to €1,200 a year is paid for each child for employed single parents.</p>		
			<p><u>Child allowance (income tested):</u> All households with children younger than age 21, if the income of both parents does not exceed €24,742.</p> <p><u>Care allowance for foster children:</u> The child is certified by a competent authority as a foster child or under the care of an institution. Paid up to age 21 provided the foster child is still under the care of the foster parents.</p> <p><u>Disabled child allowance (no means test):</u> Paid to all households caring for a child with an assessed physical or mental disability. The child must not receive any other social security benefit for the disability. The allowance ceases at age 16 (age 14 for a child with a visual impairment) and may be replaced by the noncontributory disability pension or blind pension.</p>

<b>Maternity benefit</b>	Maternity benefit (universal): €89.10 is paid for 14 weeks (at least five weeks must be taken after childbirth). Maternity leave benefit (universal): €168.01 a week is paid for four weeks.	100% of the insured's previous weekly earnings are paid for 14 weeks by the employer.	Must be employed and entitled to the employer-liability maternity benefit or must be self-employed and entitled to the universal cash maternity benefit.
<b>Employment Injury benefit</b>	<u>Temporary disability benefit:</u> €30.15 a day is paid for a single or married person supporting a spouse who is not in full-time employment; €22.68 a day is paid for other insured persons. The benefit is paid from the fourth day of disability for up to 12 months. <u>Permanent disability benefits for insured workers</u> For an assessed degree of disability of at least 90%, a full disability pension is paid regardless of the number of paid or credited contributions. Benefits range from €68.73 to €129.60 a week. disability from 20% to 89%, the pension ranges from €15.67 to €69.75 a week; disability from 1% to 19%, a lump sum is paid ranging from €241.89 to €4,592.02.		Must have at least one week of contributions.
<b>Invalidity benefit</b>	The minimum flat-rate weekly pension for a single person is €96.27; €101.97 if married. The maximum flat-rate weekly pension for a single person is €119.86; €139.43 if married. Partial disability: €15.67 to €69.75 a week is paid depending on the degree of disability.		Must be aged 16 or older but younger than retirement age, assessed with a total and permanent incapacity for full-time or part-time work (at least a 90% disability), and have at least 250 weeks of paid or credited contributions including an annual average of at least 50 weeks of contributions. The insured must have been gainfully employed continuously in the 12 months before the date of the claim. Partial pension: Must have an annual average of at least 20 weeks of contributions.
<b>Survivor's benefit</b>	Spouse's pension (flat-rate pension): €96.70 to €130.30 a week is paid. Orphan's pension: €58.60 a week is paid for each orphan younger than age 16; €100.94 for each orphan aged 16 to 21 who is not gainfully employed.	Up to 55.6% of the deceased's annual average earnings in the best three consecutive years in the last 11 years before the spouse's death or retirement is paid; 55.6% of average annual earnings in the best 10 consecutive years in the last 11 years before the spouse's death or retirement if the insured was self-employed.	Paid to a widow(er) whose deceased spouse was of retirement age or had at least 156 weeks of paid contributions at the time of death, with an annual average of at least 50 weeks of paid or credited contributions from age 19. Partial pension: The deceased had an annual average of at least 15 weeks of contributions.

Exchange rate: US\$1.00 = 0.92 euros (€)

*CHAPTER II. Checklists of the main ILO provisions of the ILO Social Security (Minimum Standards) Convention, 1952 (No. 102) and corresponding national legislation*

- [Table 1. Sickness benefit \(Part III\)](#)
- [Table 2. Unemployment benefit \(Part IV\)](#)
- [Table 3. Old-Age benefit \(Part V\)](#)
- [Table 4. Maternity benefit \(Part VIII\)](#)
- [Table 5. Invalidity benefit \(Part IX\)](#)
- [Table 6. Survivor's benefit \(Part X\)](#)

**Table 1. Sickness benefit (Part III)**

	<b><u>ILO C. 102</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>National legislation</u></b>	<b><u>Comments</u></b>
<b>Article 14</b>  <b>Risk covered = suspension of earnings</b>	Incapacity for work for work due to <b><u>any</u></b> morbid condition + <b><u>suspension of earnings</u></b>	X		<i>SOCIAL SECURITY ACT (CHAPTER 318)</i> <i>LAWS OF MALTA</i>	
<b>Article 15</b>  <b>Persons protected = Prescribed classes of:</b>	<b><u>Employees</u></b> in paid employment which represent 50% of all employees  <b>OR</b>  <b><u>Economically active population</u></b> (employees, self-employed, farmers, etc.) which represent 20% of all residents,  <b>OR</b>  <b><u>All residents</u></b> whose means are below a prescribed limit	X		<i>SOCIAL SECURITY ACT (CHAPTER 318)</i> <i>LAWS OF MALTA</i>	

### Table 1. Sickness benefit (Part III)

	<u>ILO C. 102</u>	<u>Yes</u>	<u>No</u>	<u>National legislation</u>	<u>Comments</u>
<p><i>Article 16(1)</i></p> <p><b>Type and calculation of the benefit</b></p>	<p>The benefit is a <b>periodical</b> payment?</p> <ul style="list-style-type: none"> <li>Calculated as a percentage of previous earnings</li> </ul> <p><i>Article 65</i> : not less than 45%</p> <ul style="list-style-type: none"> <li>Calculated at a flat rate or guaranteed minimum rate</li> </ul> <p><i>Article 66</i> : not less than 45% of wage of an ordinary unskilled labourer</p> <ul style="list-style-type: none"> <li><b>Means-tested benefit</b> : calculated according to a fixed scale:</li> </ul> <p><i>Article 67</i>: The sum of means and benefit together amount to at least 45% of wage of ordinary unskilled labourer</p>	<p>X</p> <p>X</p>		<p><i>SOCIAL SECURITY ACT (CHAPTER 318) LAWS OF MALTA</i></p>	<p>BENEFITS ARE FLAT RATED ACCORDING TO MARITAL STATUS</p>
<p><i>Article 17</i></p> <p><b>Maximum qualifying period</b></p>	<p>Does the national legislation prescribe a qualifying period for entitlement to sickness benefit?</p>	<p>X</p>			<p><i>A MINIMUM OF 50 PAID CONTRIBUTIONS AND AN AVERAGE OF 20 CONTRIBUTIONS IN THE LAST TWO YEARS PRIOR TO CLAIM.</i></p>

**Table 1. Sickness benefit (Part III)**

	<u>ILO C. 102</u>	<u>Yes</u>	<u>No</u>	<u>National legislation</u>	<u>Comments</u>
<b>Article 18</b>  <b>Minimum duration of benefit</b>	Is sickness benefit paid until recovery of working capacity?  If not, is it paid for at least 26 weeks in each case of sickness?	X		SOCIAL SECURITY ACT (CHAPTER 318) LAWS OF MALTA	IT IS PAID FOR A MAXIMUM OF 156 DAYS BUT MAY BE EXTENDED UP TO 468 DAYS OVER A PERIOD OF TWO YEARS BUT CANNOT EXCEED THE NUMBER OF CONTRIBUTIONS PAID.
<b>Article 18(1)</b>  <b>Waiting period of 3 days</b>	Is there a waiting period before the start of payment of sickness benefit?	X		SOCIAL SECURITY ACT (CHAPTER 318) LAWS OF MALTA	PAYMENT IS EFFECTIVE FROM THE 4TH DAY WITH THE EMPLOYER PAYING THE FIRST 3 DAYS

	<b>Table 2. Unemployment benefit (Part IV)</b>				
	<b><u>ILO C. 102</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>National legislation</u></b>	<b><u>Comments</u></b>
<b>Article 20</b>  <b>Risk covered = involuntary unemployment</b>	Suspension of earnings due to inability to obtain suitable employment when capable of, and available for, work?	X		SOCIAL SECURITY ACT (CHAPTER 318) LAWS OF MALTA	
<b>Article 21</b>  <b>Persons protected =</b>  <b>Prescribed classes of:</b>	<b><u>Employees</u></b> in paid employment which represent 50% of all employees  <b>OR</b>  <b><u>Residents</u></b> whose means are below a prescribed limit.	X		SOCIAL SECURITY ACT (CHAPTER 318) LAWS OF MALTA	
<b>Article 22</b>  <b>Type and calculation of the benefit</b>	The benefit is a <b><u>periodical</u></b> payment? <ul style="list-style-type: none"> <li>Calculated as a percentage of previous earnings   <u>Article 65</u> : not less than 45%               </li> <li><b>Means-tested benefit</b> : calculated according to a fixed scale:   <u>Article 67</u>: The sum of means and benefit together amount to at least 45% of wage of ordinary unskilled labourer               </li> </ul>			SOCIAL SECURITY ACT (CHAPTER 318) LAWS OF MALTA	<b>Flat rated benefit according to marital status</b>

	<b>Table 2. Unemployment benefit (Part IV)</b>				
	<b><u>ILO C. 102</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>National legislation</u></b>	<b><u>Comments</u></b>
<b>Article 23</b>  <b>Maximum qualifying period</b>	Has a qualifying period been prescribed for entitlement to unemployment benefits?	X		SOCIAL SECURITY ACT (CHAPTER 318) LAWS OF MALTA	3 day waiting period
<b>Article 24</b>  <b>Minimum duration of benefit</b>	<p>Is unemployment benefit granted throughout the total period of unemployment?</p> <p>Is unemployment benefit limited to:</p> <ul style="list-style-type: none"> <li>In the case of employees: 13 weeks within 12 months?</li> <li>In the case of poor residents: 26 weeks within 12 months ?</li> </ul> <p>Does the duration of the benefit vary with the length of the contribution period and/or the benefit previously received?</p> <p>If so, average duration of benefit of at least 13 weeks within a period of 12 months?</p>			SOCIAL SECURITY ACT (CHAPTER 318) LAWS OF MALTA	The duration of the unemployment benefit is for a maximum of 156 days and may be replaced by unemployment assistance where unemployment exceeds the 156 days and where a capital and incomes means test is satisfied.
<b>Article 24(3)</b>  <b>Waiting period of 7 days</b>	Does the national legislation establish a waiting period in each case of suspension of earnings before the start of the protected period of unemployment?	.	X	SOCIAL SECURITY ACT (CHAPTER 318) LAWS OF MALTA	



	<u>Table 3. Old-Age benefit (Part V)</u>				
	<u>ILO C. 102</u>	<u>Yes</u>	<u>No</u>	<u>National legislation</u>	<u>Comments</u>
<ul style="list-style-type: none"> <li>Article 26</li> </ul> <p>Risk covered = Old age</p>	<ul style="list-style-type: none"> <li>Does the national legislation afford protection in case of survival beyond 65 years ?</li> <li></li> <li>If beyond 65 years is the working ability of elderly persons taken into account?</li> <li></li> </ul>	X	X	SOCIAL SECURITY ACT (CHAPTER 318) LAWS OF MALTA	
<ul style="list-style-type: none"> <li>Article 27</li> </ul> <p>Persons protected = Prescribed classes of .....</p>	<p><u>Employees</u> in paid employment which represent 50% of all employees</p> <p>OR</p> <p><u>Economically active population</u> (employees, self-employed, farmers, etc.) which represent 20% of all residents,</p> <p>OR</p> <p><u>All residents</u> whose means are below a prescribed limit</p>	X	X	SOCIAL SECURITY ACT (CHAPTER 318) LAWS OF MALTA	Residents who do not satisfy the minimum qualifying conditions may be eligible for a Non-Contributory Pension provided they satisfy a capital and means test.



	<u>Table 3. Old-Age benefit (Part V)</u>				
	<u>ILO C. 102</u>	<u>Yes</u>	<u>No</u>	<u>National legislation</u>	<u>Comments</u>
<b>Article 30</b>  <b>Minimum duration of benefit</b>	Benefit granted until death?	X		SOCIAL SECURITY ACT (CHAPTER 318) LAWS OF MALTA	

	Table. 4 Maternity benefit				
	<u>ILO C. 102</u>	<u>Yes</u>	<u>No</u>	<u>National legislation</u>	<u>Comments</u>
<p><i>Article 47</i></p> <p>Risk covered = Maternity</p>	<p>Pregnancy and confinement and <b><u>their consequences</u></b>, and the resulting <b><u>suspension of earnings</u></b>?</p>	X		<p>Medical and Kindred Professions Ordinance (Cap. 31).</p> <p>SOCIAL SECURITY ACT (CHAPTER 318) LAWS OF MALTA</p> <p>Conditions &amp; Employment Regulations Act (Chapter 135) Laws of Malta</p>	
<p>•</p> <p><i>Article 48</i></p> <p>Persons protected =</p> <p>Prescribed classes of:</p>	<p>•</p> <p><b><u>Employees</u></b> in paid employment which represent 50% of all employees (all women in protected classes)</p> <p>OR</p> <p><b><u>Economically active population</u></b> (employees, self-employed, farmers, etc.) which represent 20% of all residents (all women in protected classes)</p> <p>•</p>	X		<p>SOCIAL SECURITY ACT (CHAPTER 318) LAWS OF MALTA</p> <p>Conditions &amp; Employment Regulations Act (Chapter 135) Laws of Malta</p>	<p>All pregnant women who are Maltese citizens or are married to a Maltese citizen provided they are residents in Malta irrespective of whether they are employed or self-employed, are eligible for maternity benefit provided they are not eligible to maternity paid leave from their employer.</p> <p>The duration of the benefit is of 18 weeks.</p>

	<b><u>Table. 4 Maternity benefit</u></b>				
	<b><u>ILO C. 102</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>National legislation</u></b>	<b><u>Comments</u></b>
<b><i>Article 49</i></b>  <b>Types of medical care to be provided in case of pregnancy and confinement and their consequences:</b>	(a) pre-natal, confinement and post-natal care either by medical practitioners or by qualified midwives; and  (b) hospitalisation where necessary.	X    X		Medical and Kindred Professions Ordinance (Cap. 31).	Benefits in kind:  Maternity-related services and treatment provided for free to resident citizens and their spouses if insured under the social security system.
<b><i>Article 49(3)</i></b>  <b>Objectives of medical care</b>	✓ Maintaining, (Preventive care)  ✓ Restoring, (Curative care)  ✓ Improving, <ul style="list-style-type: none"> <li>the health of the person protected</li> <li>Ability to work and to attend their personal needs</li> </ul>	X  X  X  X		Medical and Kindred Professions Ordinance (Cap. 31).	All health care beneficiaries are covered for full examination, investigations, preventive treatment, emergency treatment and surgery requiring general anaesthesia. This is provided to this specific group without a means test.
<b><i>Article 49(4)</i></b>  <b>Promotion of general health services</b>	What general health services are placed at the disposal of protected persons by the public authorities?			Medical and Kindred Professions Ordinance (Cap. 31).	Universal system funded by government, employers and employees. All persons covered by the National Insurance Act of 1956 are eligible for free health care.

	<u>Table. 4 Maternity benefit</u>				
	<u>ILO C. 102</u>	<u>Yes</u>	<u>No</u>	<u>National legislation</u>	<u>Comments</u>
<p><i>Article 50</i></p> <p><b>Amount of cash benefit</b></p>	<p>The benefit is a <b><u>periodical payment</u></b>?</p> <ul style="list-style-type: none"> <li>Calculated as a percentage of previous earnings</li> </ul> <p><i>Article 65</i> : not less than 45%</p> <ul style="list-style-type: none"> <li>Calculated at a flat rate or guaranteed minimum rate</li> </ul> <p><i>Article 66</i> : not less than 45% of wage of an ordinary unskilled labourer</p>	<p>X</p> <p>X</p>		<p>SOCIAL SECURITY ACT (CHAPTER 318) LAWS OF MALTA</p>	<p>Cash benefits:</p> <p>Maternity benefit (paid in lieu of maternity leave) may be issued after the 8th month of pregnancy or not later than 6 months after birth. Payment for 14 weeks is made in two instalments (if claimed before birth) or in one instalment if claimed after birth. The rate payable is: €88.35 per week. With effect from 1st January 2016, self-occupied women shall be paid 14 weeks of maternity benefit at the weekly rate of €168.01.</p> <p>Maternity Leave Benefit is paid to employed or self-employed/self-occupied persons alike. It may be issued after the 14th week of Maternity Leave and up to end of 18th week. Payment for a maximum of 4 weeks is made in one instalment. The rate payable is: €168.01 per week.</p>
<i>Article 51</i>	Qualifying period prescribed for entitlement to medical benefits?		X		<p>No qualifying period.</p> <p>Flat-rate benefit on universal entitlement payable to ordinary</p>

	<b><u>Table. 4 Maternity benefit</u></b>				
	<b><u>ILO C. 102</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>National legislation</u></b>	<b><u>Comments</u></b>
<b>Maximum qualifying period</b>	Qualifying period prescribed for entitlement to cash benefits?		X		residents of Malta who are Maltese citizens or women married to a citizen, and who are self-employed, self-occupied or unemployed, or who do not avail themselves of maternity leave from their employers.
<b>Article 52</b>  <b>Minimum duration of benefit</b>	Is medical care provided throughout the entire duration of the contingency?	X		Medical and Kindred Professions Ordinance (Cap. 31).	Free immunisation and vaccination services, free ante-natal and post-natal care and treatment.
	Are periodical payments provided for at least 12 weeks?	X		SOCIAL SECURITY ACT (CHAPTER 318) LAWS OF MALTA	Payments effected up to 18 weeks.

[illegible]





	<u>Table 5. Invalidity benefit</u>				
	<u>ILO C. 102</u>	<u>Yes</u>	<u>No</u>	<u>National legislation</u>	<u>Comments</u>
					average between 20 and 49.
<b>Article 58</b>  <b>Minimum duration of benefit</b>	Benefit paid throughout the entire duration of inability to work or until old-age benefit is payable?	X		SOCIAL SECURITY ACT (CHAPTER 318) LAWS OF MALTA	Until duration of inability or old-age benefit.

	Table 6. Survivor's benefit				
	<u>ILO C. 102</u>	<u>Yes</u>	<u>No</u>	<u>National legislation</u>	<u>Comments</u>
<b>Article 60</b>  <b>Risk covered = Death of the breadwinner</b>	<ul style="list-style-type: none"> <li>Are widows and dependent children protected in case of loss of support as the result of the death of the breadwinner?</li> <li></li> <li>In the case of a widow, is the right to benefit made conditional on her being incapable of self-support?</li> <li>Is the benefit suspended if the widow is engaged in any gainful activity?</li> <li>Is the benefit reduced if the earnings or other means of the beneficiary exceed a prescribed amount?</li> </ul>	X		SOCIAL SECURITY ACT (CHAPTER 318) LAWS OF MALTA	
<b>Article 61</b>  <b>Persons protected = Prescribed classes of :</b>	<u>Employees</u> in paid employment which represent 50% of all employees  <b>OR</b>  <u>Economically active population</u> (employees, self-employed, farmers, etc.) which represent 20% of all residents,  <b>OR</b>  <u>Residents</u> whose means are below a prescribed limit	X		SOCIAL SECURITY ACT (CHAPTER 318) LAWS OF MALTA	Benefit determined according to the contribution average of spouse is and earnings.
			X		



*CHAPTER III. Integrated Management of compliance and reporting obligations of Malta under social security provisions of the ratified international treaties on social rights*

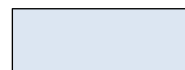
- [Table 1. Up-to-date social security standards in force](#)
- [Table 2. Pending comments of the supervisory bodies](#)
- [Table 3. Up-to-date standards on which reports are due in 2016](#)
- [Table 4. Up-to-date standards on which reports are due in 2017](#)
- [Parts of Convention No.102 no longer applicable following ratification of more advanced standards](#)
- [Fig. 1. Example of time management of the 5 years reporting cycle on international and European social security standards](#)
- [Fig. 2. Example of time management for reporting on social security standards](#)

**Table 1. Up-to-date social security standards in force**

<div>Social Human Rights</div> <div>International treaties</div>	Right to health		Right to work		Right to just conditions of work	Right of the family and children to protection	Right of mothers to protection	Rights of persons with disabilities		Right to an adequate standard of living	Financing & Organization
ICESCR	Right to Social Security Art.9										
	Art.12		Art.6		Art.7§b	Art.10§1§3	Art.10§2			Art.7§a §ii, 11§1	Art.2§1, 4, 5
UN Conventions					CRPD	CRC	CEDAW	CRPD			
ESC Revised	Art.11, 13§1		Art.1§1§3	Art.23	Art. 15§2	Art.16	Art.8§1	Art.15§1		Art.4§1,14	
					Art.3	Art.27§1b		Art.15§3	Art.13§1§2§3		
	Right to Social Security Art.12§1§3										
Protocol	II	III	IV	V	VI	VII	VIII	IX	X	Schedule to XI	
ECSS	Medical care Part II	Sickness benefit Part III	Unemployment benefit Part IV	Old-age benefit Part V	Employment injury benefit Part VI	Family benefit Part VII	Maternity benefit Part VIII	Invalidity benefit Part IX	Survivor's benefit Part X	Level of benefits Part XI	Financing& Organization Part XII
C102	Part II	Part III	Part IV	Part V	Part VI	Part VII	Part VIII	Part IX	Part X	Part XI	Part XIII
Advanced ILO Conventions	C130 Part II	C130 Part III	C168	C128 Part III	C121		C183 Art.6,7	C128 Part II	C128 Part IV	C121, Art. 19-21, C128 Part V, C130 Part III, C168 Art.15,16	C121 Art. 22-26, C128 Part VI, C130 Part IV, C168 Part VIII
First generation ILO Conventions		C024 C025	C044	C035 C036	C012 C042		C003	C037 C038	C039 C040		C24 Art.6-8, C25 Art.6-8, C44 Art.10, C37Art.11-12, C39, Art.13-14
		C056			C017 C018		C103				C35Art.8-11



Social Security Standards in force for Malta



Denounced standards

Social Security Standards not in force

**Table 2. Pending comments of the supervisory bodies**

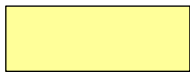
Social Human Rights	Right to health		Right to work		Right to just conditions of work	Right of the family and children to protection	Right of mothers to protection	Rights of persons with disabilities		Right to an adequate standard of living	Financing & Organization
International treaties											
ICESCR	Right to Social Security Art.9										
UN Conventions	Art.12		Art.6		Art.7§b	Art.10§1§3	Art.10§2			Art.7§a §ii, 11§1	Art.2§1, 4, 5
					CRPD	CRC	CEDAW	CRPD			
ESC Revised	Art.11, 13§1		😞 Art.1§1	Art.23	😞 Art. 15§2	😞 Art.16	Art.8§1	Art.15 §1§3		😞 Art. 14§2, Art.13§1§3	
			Art.1§3		Art. 15§1§3	Art.27§1b				Art.4§1, Art.13§2, Art. 14 §1	
					Art.3						
	😞 Right to Social Security Art.12§1§3										
Protocol	II	III	IV	V	VI	VII	VIII	IX	X	Schedule to XI	
ECSS	Medical care Part II	Sickness benefit Part III	Unemployment benefit Part IV	Old-age benefit Part V	Employment injury benefit Part VI	Family benefit Part VII	Maternity benefit Part VIII	Invalidity benefit Part IX	Survivor's benefit Part X	Level of benefits Part XI	Financing& Organization Part XII
C102	Part II	Part III	Part IV	Part V	Part VI	Part VII	Part VIII	Part IX	Part X	Part XI	Part XIII
Advanced ILO Conventions	C130 Part II	C130 Part III	C168	C128 Part III	C121		C183 Art.6,7	C128 Part II	C128 Part IV	C121, Art. 19-21, C128 Part V, C130 Part III, C168 Art.15,16	C121 Art. 22-26, C128 Part VI, C130 Part IV, C168 Part VIII
First generation ILO Conventions		C024 C025	C044	C035 C036	C012 C042		C003	C037 C038	C039 C040		C24 Art.6-8, C25 Art.6-8, C44 Art.10, C37Art.11-12, C39, Art.13-14
		C056			C017 C018		C103				C35Art.8-11



Social Security Standards in force for Malta



Social Security Standards not in force



Pending comments of the supervisory bodies



Critical comments or non-compliance

**Table 3. Up-to-date standards on which reports are due in 2016**

<div>Social Human Rights</div> <div>International treaties</div>	Right to health		Right to work		Right to just conditions of work	Right of the family and children to protection	Right of mothers to protection	Rights of persons with disabilities		Right to an adequate standard of living	Financing & Organization
ICESCR*	Right to Social Security Art.9										
	Art.12		Art.6		Art.7§b	Art.10§1§3	Art.10§2			Art.7§a §ii, 11§1	Art.2§1, 4, 5
UN Conventions					CRPD	CRC	CEDAW*	CRPD			
ESC Revised	Art.11		Art.1§1§3	Art.23	Art. 15§2	Art.16	Art.8§1	Art.15§1		Art.4§1	
	Art. 13 §1				Art.3	Art.27§1b		Art.15§3		Art.13§1§2§3, Art. 14	
	Right to Social Security Art.12§1§3										
Protocol	II	III	IV	V	VI	VII	VIII	IX	X	Schedule to XI	
ECSS	Medical care Part II	Sickness benefit Part III	Unemployment benefit Part IV	Old-age benefit Part V	Employment injury benefit Part VI	Family benefit Part VII	Maternity benefit Part VIII	Invalidity benefit Part IX	Survivor's benefit Part X	Level of benefits Part XI	Financing& Organization Part XII
C102	Part II	Part III	Part IV	Part V	Part VI	Part VII	Part VIII	Part IX	Part X	Part XI	Part XIII
Advanced ILO Conventions	C130 Part II	C130 Part III	C168	C128 Part III	C121		C183 Art.6,7	C128 Part II	C128 Part IV	C121, Art. 19-21, C128 Part V, C130 Part III, C168 Art.15,16	C121 Art. 22-26, C128 Part VI, C130 Part IV, C168 Part VIII
First generation ILO Conventions		C024 C025	C044	C035 C036	C012 C042		C003	C037 C038	C039 C040		C24 Art.6-8, C25 Art.6-8, C44 Art.10, C37Art.11-12, C39, Art.13-14
		C017 C018			C103		C35Art.8-11				



Social Security Standards in force for Malta



Report in 2016



Social Security Standards not in force

\* CESCR report was due on 30 Jun 2009, not yet submitted

\*CEDAW report was due on 01 Oct 2014, not yet submitted



**Table 4. Up-to-date standards on which reports are due in 2017**

<div>Social Human Rights</div> <div>International treaties</div>	Right to health		Right to work		Right to just conditions of work	Right of the family and children to protection	Right of mothers to protection	Rights of persons with disabilities		Right to an adequate standard of living	Financing & Organization
ICESCR*	Right to Social Security Art.9										
	Art.12		Art.6		Art.7§b	Art.10§1§3	Art.10§2			Art.7§a §ii, 11§1	Art.2§1, 4, 5
UN Conventions					CRPD	CRC	CEDAW*	CRPD			
ESC Revised	Art.11, 13§1		Art.1§1§3	Art.23	Art. 15§2	Art.16	Art.8§1	Art.15§1		Art.4§1	
					Art.3	Art.27§1b		Art.15§3		Art.13§1§2§3, Art. 14	
	Right to Social Security Art.12§1§3										
Protocol	II	III	IV	V	VI	VII	VIII	IX	X	Schedule to XI	
ECSS	Medical care Part II	Sickness benefit Part III	Unemployment benefit Part IV	Old-age benefit Part V	Employment injury benefit Part VI	Family benefit Part VII	Maternity benefit Part VIII	Invalidity benefit Part IX	Survivor's benefit Part X	Level of benefits Part XI	Financing& Organization Part XII
C102	Part II	Part III	Part IV	Part V	Part VI	Part VII	Part VIII	Part IX	Part X	Part XI	Part XIII
Advanced ILO Conventions	C130 Part II	C130 Part III	C168	C128 Part III	C121		C183 Art.6,7	C128 Part II	C128 Part IV	C121, Art. 19-21, C128 Part V, C130 Part III, C168 Art.15,16	C121 Art. 22-26, C128 Part VI, C130 Part IV, C168 Part VIII
First generation ILO Conventions		C024 C025	C044	C035 C036	C012* C042*		C003	C037 C038	C039 C040		C24 Art.6-8, C25 Art.6-8, C44 Art.10, C37Art.11-12, C39, Art.13-14
		C056			C017 C018		C103				C35Art.8-11



Social Security Standards in force for Malta



Report in 2017



Social Security Standards not in force

\*C012 and C042 were requested in 2016, not received

\*CESCR and CEDAW reports are expected in 2017 if not delivered in 2016

**Parts of Convention No.102 no longer applicable following ratification of more advanced standards**

**C102 - Social Security (Minimum Standards)**

*Article 75*

If any Convention which may be adopted subsequently by the Conference concerning any subject or subjects dealt with in this Convention so provides, such provisions of this Convention as may be specified in the said Convention shall cease to apply to any Member having ratified the said Convention as from the date at which the said Convention comes into force for that Member.

**C121 - Employment Injury Benefits → C102, Part IV**

*Article 29*

In conformity with Article 75 of the Social Security (Minimum Standards) Convention, 1952, Part VI of that Convention and the relevant provisions of other Parts thereof shall cease to apply to any Member having ratified this Convention as from the date at which this Convention comes into force for that Member, but acceptance of the obligations of this Convention shall be deemed to constitute acceptance of the obligations of Part VI of the Social Security (Minimum Standards) Convention, 1952, and the relevant provisions of other Parts thereof, for the purpose of Article 2 of the said Convention

**C128 - Invalidity, Old-Age and Survivors' Benefits → C102, Parts V, IX, X**

*Article 45*

1. In conformity with the provisions of Article 75 of the Social Security (Minimum Standards) Convention, 1952, the following Parts of that Convention and the relevant provisions of other Parts thereof shall cease to apply to any Member having ratified this Convention as from the date at which this Convention is binding on that Member and no declaration under Article 38 is in force:

- (a) Part IX where the Member has accepted the obligations of this Convention in respect of Part II;
- (b) Part V where the Member has accepted the obligations of this Convention in respect of Part III;
- (c) Part X where the Member has accepted the obligations of this Convention in respect of Part IV.

2. Acceptance of the obligations of this Convention shall, on condition that no declaration under Article 38 is in force, be deemed to constitute acceptance of the obligations of the following parts of the Social Security (Minimum Standards) Convention, 1952, and the relevant provisions of other Parts thereof, for the purpose of Article 2 of the said Convention:

- (a) Part IX where the Member has accepted the obligations of this Convention in respect of Part II;
- (b) Part V where the Member has accepted the obligations of this Convention in respect of Part III;
- (c) Part X where the Member has accepted the obligations of this Convention in respect of Part IV.

### **C130 - Medical Care and Sickness Benefits → C102, Part III**

#### *Article 36*

1. In conformity with the provisions of Article 75 of the Social Security (Minimum Standards) Convention, 1952, Part III of that Convention and the relevant provisions of other Parts thereof shall cease to apply to any Member having ratified this Convention as from the date at which this Convention is binding on that Member and no declaration under Article 3 is in force.
2. Acceptance of the obligations of this Convention shall, on condition that no declaration under Article 3 is in force, be deemed to constitute acceptance of the obligations of Part III of the Social Security (Minimum Standards) Convention, 1952, and the relevant provisions of other Parts thereof, for the purpose of Article 2 of the said Convention.

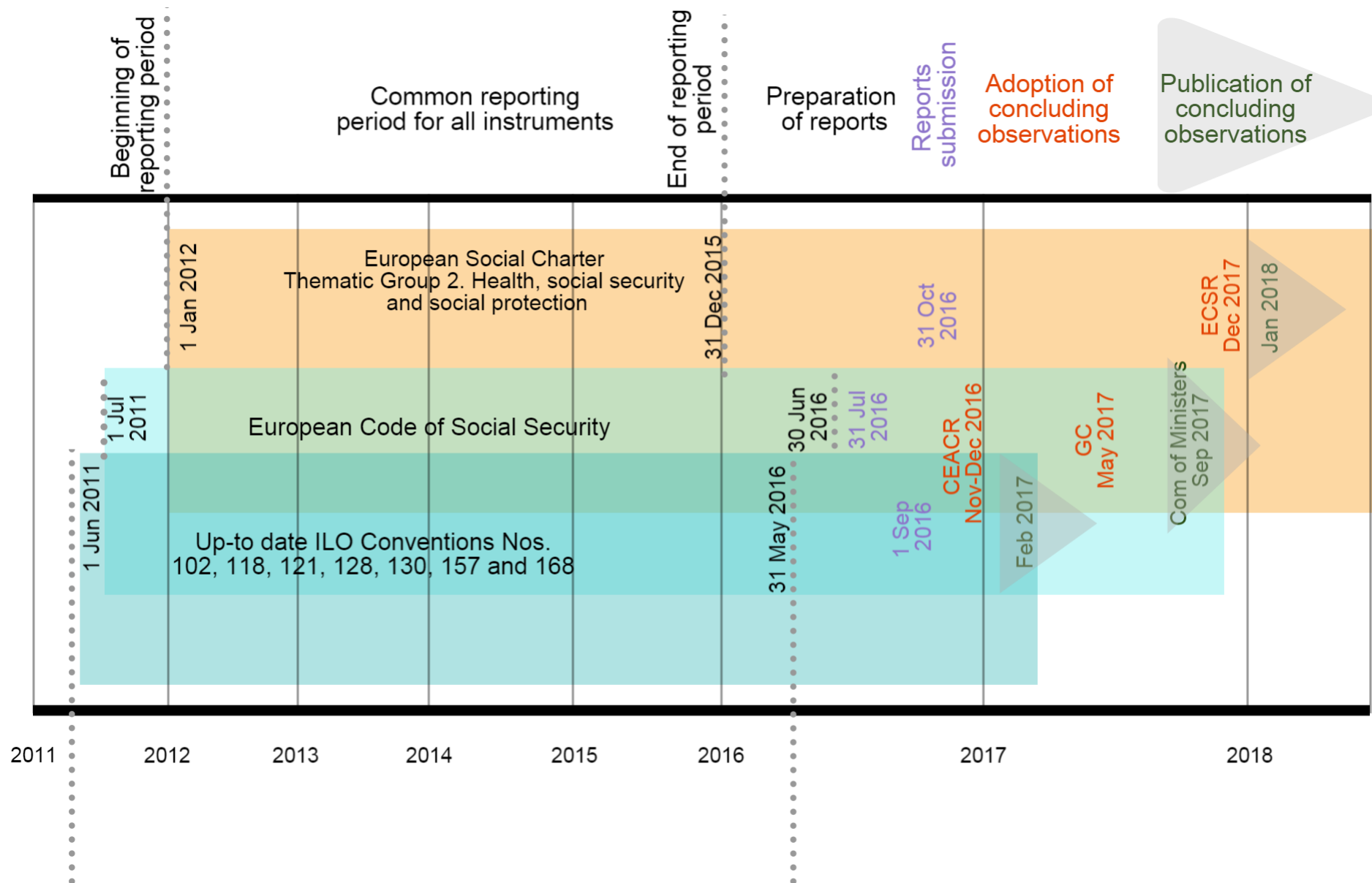
### **C130, Part II → C102, Part II**

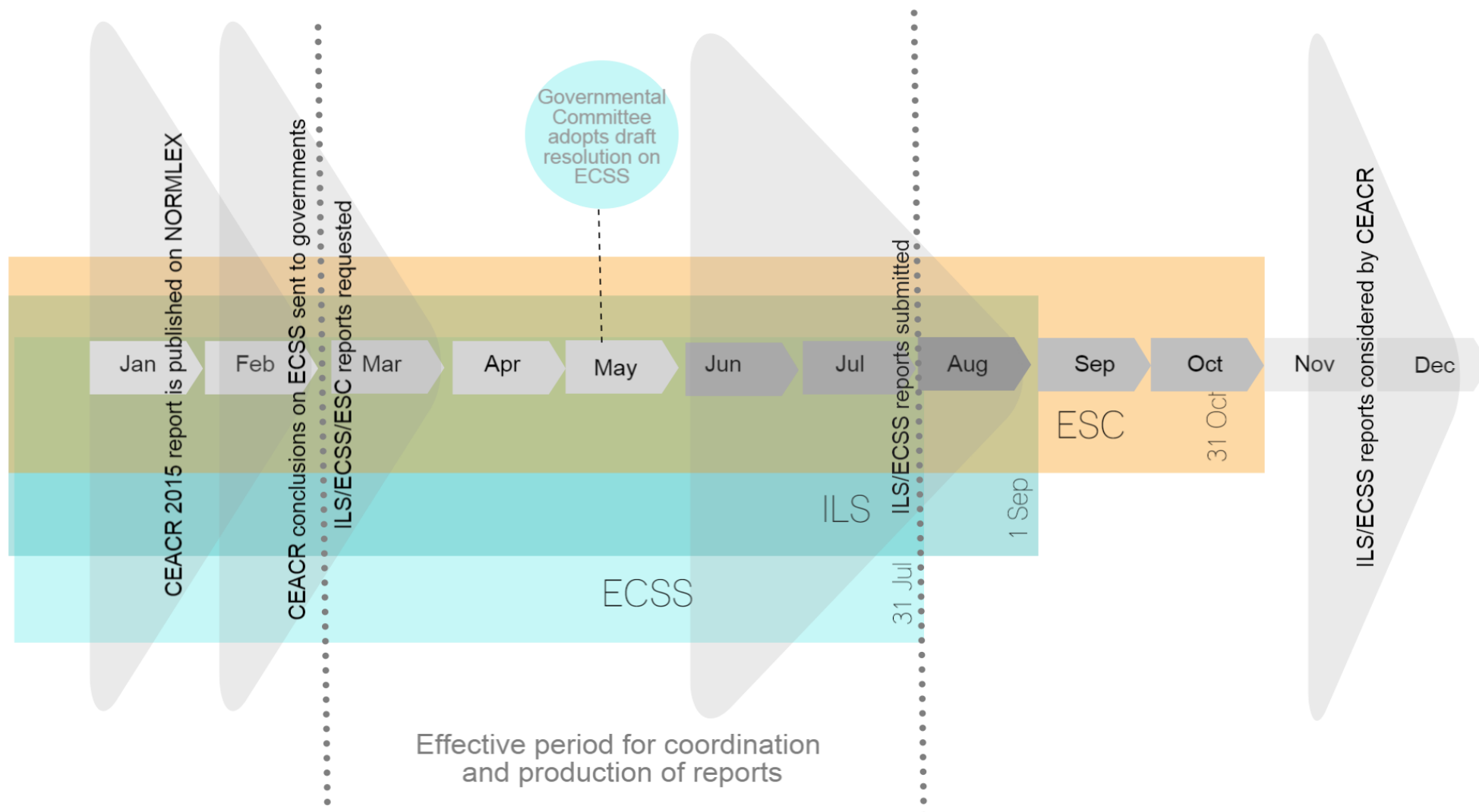
N.B! For information and reporting purposes, more advanced provisions on medical care contained in C130 include all those contained in Part II of C102.

### **C168 → C102, Part IV**

N.B! For information and reporting purposes, more advanced provisions on unemployment benefit of C168 include those contained in Part IV of C102.

Fig. 1. Example of time management of the 5 years reporting cycle on international and European social security standards





**Fig. 2. Example of time management for reporting on social security standards**



*Chapter IV. Concluding observations of the supervisory bodies concerning provisions of the ratified international treaties on social rights and statements of other international bodies reviewing national economic and social policy*

- [Table 1. International treaties on social rights ratified by Malta](#)
- [Table 2. Monitoring Mechanisms of State Party Compliance and Reporting Obligations](#)

1. [\*\*United Nations\*\*](#)

- [International Covenant on Economic, Social and Cultural Rights](#)
- [Convention on the Rights of the Child](#)
- [Convention on the Elimination of All Forms of Discrimination against Women](#)
- [Convention on the Right of Persons with Disabilities](#)

2. [\*\*Council of Europe\*\*](#)

- [European Social Charter](#)

3. [\*\*International Labour Organization\*\*](#)

4. [\*\*EU Country-Specific Recommendations\*\*](#)

**Table 1. In force international treaties on social rights ratified by Malta**

Body	International Treaty	Entry into force for Malta	Next report due on
United Nations	International Covenant on Economic, Social and Cultural Rights	13 Sep 1990	Last due date: 30 Jun 2009
	Convention on the Rights of the Child	13 Sep 1990	29 Oct 2017
	Convention on the Elimination of All Forms of Discrimination against Women	08 Mar 1991	Last due date: 01 Oct 2014
	Convention on the Rights of People with Disabilities	10 Oct 2012	Submitted on 10 Nov 2014
Council of Europe	European Code of Social Security		
	European Social Charter	27 Jul 2005	31 Oct 2016
International Labour Organization	Convention 102		
	Convention 103		
	Convention 121		
	Convention 128		
	Convention 130		
	Convention 168		
	Convention 183		
	Convention 012	04 Jan 1965	01 Jun – 01 Sep 2016
	Convention 035	04 Jan 1965	-
	Convention 036	04 Jan 1965	-
	Convention 042	04 Jan 1965	01 Jun – 01 Sep 2016



**Table 2. Monitoring Mechanisms of State Party Compliance and Reporting Obligations**

<b>Instrument</b>	<b>Supervisory body</b>	<b>Type of a State party report/Reporting cycle</b>	<b>Comments of a supervisory body</b>
International Covenant on Economic, Social and Cultural Rights <b>(ICESCR)</b>	Committee on Economic, Social and Cultural Rights <b>(CESCR)</b>	Periodic reports – every 5 years; initial report – within one year after the entry into force (Art.17)	Concluding observations of the CESCR
Convention on the Rights of the Child	Committee on the Rights of the Child <b>(CRC)</b>	Periodic reports – every 5 years; initial report – within two years after the entry into force (Art.44)	Concluding observations of the CRC
Convention on the Elimination of All Forms of Discrimination against Women	Committee on the Elimination of Discrimination against Women <b>(CEDAW)</b>	Periodic reports – every 4 years; initial report – within one year after the entry into force (Art.18)	Concluding observations of the CEDAW
Convention on the Rights of People with Disabilities	Committee on the Rights of Persons with Disabilities <b>(CRPD)</b>	Periodic reports – every 4 years; initial report – within two years after the entry into force (Art.35)	Concluding observations of the CRPD
European Code of Social Security <b>(ECSS)</b>	ILO Committee of Experts on the Application of Conventions and Recommendations <b>(CEACR)</b> ; European Committee on Social Rights <b>(ECSR)</b> ; Governmental Committee of the European Social Charter and the European Code of Social Security; Committee of Ministers of the Council of Europe.	Full reports – every five years in conjunction with the ILO Convention 102; Annual reports every year (Art.74).	Conclusions of the CEACR; Report and recommendations of the GC; Resolutions of the Committee of Ministers.
European Social Charter/ Revised European Social Charter <b>(ESC)</b>	European Committee on Social Rights <b>(ECSR)</b> ; Governmental Committee <b>(GC)</b> of the European Social Charter and the European Code of Social Security; Committee of Ministers of the Council of Europe.	Normal reports – annually on one of four thematic groups; simplified reports – every two years in case of acceptance of the collective complaints procedure.	Conclusions (national reports) and decisions (collective complaints) of the ECSR; Report and recommendations of the GC; Resolutions of the Committee of Ministers.
ILO Conventions (C102, C121, C128, C130, C168, C183)	Committee of Experts on the Application of Conventions and Recommendations <b>(CEACR)</b> ; Conference Committee on the Application of Standards <b>(CAS)</b> .	Five-year cycle – simplified reports under the ILO technical conventions; detailed report – one year following the entry into force.	Observations and direct requests of the CEACR; Conclusions of the CAS.

## 1. United Nations

### UN Covenant on Economic, Social and Cultural Rights – Concluding observations 2004

*[UN Office of the High Commissioner for Human Rights website link, Treaty bodies database](#)*

#### D. Principal subjects of concern

9.The Committee notes the general difficulty in assessing progress in the implementation of Covenant rights owing to a lack in the information provided by the State party of comparative and disaggregated data.

10.The Committee regrets that the Covenant has not been incorporated into domestic law and therefore cannot be directly invoked before the domestic courts.

11.The Committee is concerned that persistent cultural stereotypes of the role of women negatively affect the equal enjoyment of rights by both men and women. The Committee notes with concern in this regard that women remain largely underrepresented in public service and that there are no female judges in the State party.

12.The Committee notes with concern the trend of rising youth unemployment rates and the rise in long-term unemployment.

13.While noting the measures taken by the State party to promote the rights of persons with disabilities, the Committee is concerned about the lack of incentives for employers to hire such persons.

14.The Committee is concerned that the participation of women in the labour market remains very low. It also notes with concern the significant gap between the wages of men and women and the very low representation of women in senior management positions.

15.The Committee is concerned that it is still difficult for women to balance employment and family responsibilities in the State party. Moreover, the Committee notes with concern that certain measures introduced, including more flexible parental leave schemes, are mainly aimed at women working in the public service and do not apply to women working in the private sector.

16.The Committee notes with concern the high number of industrial accidents in the State party.

17.The Committee is concerned that the Industrial Relations Act unduly restricts the right to strike by providing for a compulsory arbitration procedure in industrial labour disputes.

18.The Committee notes with concern that the State party has not ratified a number of international labour conventions in the area of labour rights and social security, including Conventions Nos. 102, 117, 118 and 122.

19.While noting that various forms of assistance are provided to victims of domestic violence, the Committee is concerned that domestic violence is currently not defined in law as a specific crime, which makes it more difficult for victims of violence to claim their rights.

20.The Committee notes with concern the distinction made between “legitimate” and “illegitimate” children in the Civil Code of the State party and the fact that children born out of wedlock do not have the same rights as children born in wedlock.

21.The Committee expresses its concern at the relatively low age of criminal responsibility in the State party.

22.While corporal punishment is prohibited in schools and other institutions, the Committee notes that corporal punishment within the family, in the form of “reasonable chastisement”, is not prohibited by law.

23.The Committee observes with concern that abortion is illegal in all cases under the law of the State party.

24.The Committee is concerned at the lack of sexual and reproductive health-care services in the State party.

## **E. Suggestions and recommendations**

25.The Committee recommends that the State party provide in its next periodic report comparative and disaggregated data, which would allow the Committee to assess progress in the implementation of the Covenant and, in particular, the situation of disadvantaged and marginalized groups in society.

26.The Committee recommends that the State party reconsider the matter of incorporation of the International Covenant on Economic, Social and Cultural Rights into domestic law. The Committee points out that, irrespective of the system through which international law is incorporated in the domestic legal order, following ratification of an international instrument, the State party is under an obligation to comply with it and to give it full effect in its domestic legal order. In this respect, the Committee draws the attention of the State party to its General Comment No. 9 on the domestic application of the Covenant.

27.The Committee encourages the State party to withdraw its declaration made upon ratification under article 13 of the Covenant.

28.The Committee encourages the State party to establish an independent national human rights institution, in accordance with the Paris Principles (General Assembly resolution 48/134, annex), mandated with the protection and promotion of all human rights, including economic, social and cultural rights.

29.The Committee recommends that the State party further strengthen efforts to raise public awareness about gender equality, including by providing the National Commission for the Promotion of Equality for Men and Women with adequate support, and report on results obtained in its next periodic report.

30.The Committee recommends that the State party strengthen measures to tackle the problem of long-term unemployment and unemployment among young people.

31.The Committee recommends that the State party continue and strengthen its efforts to promote the integration of persons with disabilities into the labour market and to provide data, on a comparative basis, on the impact of those measures.

32.The Committee recommends that the State party continue and strengthen its efforts to increase the participation of women in the labour market and to ensure equal treatment between women and men, including equal remuneration for work of equal value.

33.The Committee urges the State party to take further measures to enable working parents to reconcile professional and family responsibilities, including by ensuring access to affordable childcare and flexible parental leave schemes for workers in both the public and private sectors.

34.The Committee recommends that the State party strengthen measures taken to prevent accidents in the workplace and to ensure that the labour inspectorate has adequate resources and powers to enforce and effectively monitor compliance with safety regulations. It also encourages the State party to ratify the Prevention of Major Industrial Accidents Convention, 1963 (No. 174) of the International Labour Organization (ILO).

35.The Committee encourages the State party to review the legislation on industrial labour disputes with a view to removing the compulsory arbitration procedure, in conformity with the observations made by the ILO Committee of Experts in 2002 concerning the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87).

36.The Committee encourages the State party to ratify ILO Conventions Nos. 102, 117, 118 and 122.

37.The Committee encourages the State party to expedite the adoption of the Domestic Violence Bill currently under consideration.

38.The Committee urges the State party to expedite the planned revision of the Civil Code so as to abolish the terminology “legitimate” and “illegitimate” children and ensure equality in the enjoyment of rights of children born both in and out of wedlock.39.The Committee encourages the State party to review its legislation with a view to raising the age of criminal responsibility.

40.The Committee encourages the State party to consider an explicit prohibition of corporal punishment within the family.

41.The Committee urges the State party to review its legislation on abortion and consider exceptions to the general prohibition of abortion for cases of therapeutic abortion and when the pregnancy is the result of rape or incest.

42.The Committee recommends that the State party strengthen education programmes on sexual and reproductive health and support sexual and reproductive health services.

43.The Committee encourages the State party to ensure that human rights education is provided in schools at all levels and to raise awareness about human rights, in particular economic, social and cultural rights, among State officials and the judiciary.44.The Committee requests the State party to disseminate its concluding observations widely among all levels of society, including among State officials and the judiciary, and to inform the Committee of all steps taken to implement them in its next periodic report. It also encourages the State party to continue to consult with non-governmental organizations and other members of civil society in the preparation of its second periodic report.

## Convention on the Rights of the Child – Concluding observations 2013

[\*UN OHCHR website link, Treaty bodies database\*](#)

### IV. Main areas of concern and recommendations

#### A. General measures of implementation (arts. 4, 42 and 44, para. 6, of the Convention)

##### **Allocation of resources**

The Committee notes the general increase in financial resources allocated to areas related to the implementation of the Convention. However, the Committee remains concerned at the lack of separate, clearly identifiable and monitored budget allocations for the implementation of the Convention.

**In the light of the Committee's recommendations during its Day of General Discussion in 2007 on "Resources for the Rights of the Child – Responsibility of States", the Committee recommends that the State party establish a budgeting process which adequately takes into account child needs, with clear allocations for children in the relevant sectors and agencies, as well as specific indicators and a tracking system. In addition, the Committee recommends that the State party establish mechanisms to monitor and evaluate the efficacy, adequacy and equitability of the distribution of resources allocated to the implementation of the Convention.**

#### E. Family environment and alternative care (arts. 5, 9-11, 18 (paras. 1-2), 19-21, 25, 27 (para. 4) and 39 of the Convention)

##### **Family environment**

The Committee welcomes the State party's efforts to better support families through, inter alia, provision of early childhood care for children under the age of three years and subsidies in cases where it is not affordable. However, the Committee is concerned that the availability of such childcare remains inadequate and support services for families are still insufficient.

**The Committee recommends that the State party intensify its efforts to render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities with timely responses at the local level, including increasing the availability of early childhood care and support facilities to parents.**

##### **Children deprived of a family environment**

The Committee welcomes the increased availability of foster-care service and placements in lieu of institutional care in the State. However, the Committee is concerned that the availability of alternatives to institutional care remains insufficient, with continuing placements of children in institutions, which are not in the best interests of the child, due to insufficient foster-care capacity.

Furthermore, while noting that there are some examples of measures for supporting children in their transition to independent living as adults after they leave institutional care, the provision of such support is not an integral and standard feature of all residential homes for children in the State party.

**The Committee calls upon the State party to:**

**(a) Facilitate and support family-based care for children and give priority to alternative care which is in the best interests of the child wherever possible;**

**( b ) Increase the number of social workers to ensure that the individual needs of each child can be effectively addressed;**

**( c ) In addition to the above, further strengthen its national system for foster care and ensure the provision of adequate funding and support for foster families;**

**( d ) Adequately prepare and support young people prior to their leaving care by providing for their early involvement in the planning of transition as well as by making assistance available to them following their departure;**

**( e ) Provide all the necessary human, technical and financial resources required for improving the situation of children in alternative care placements; and**

**( f ) In so doing, take into full account the Guidelines for the Alternative Care of Children annexed to United Nations General Assembly resolution 64/142 of 18 December 2009.**

**F. Disability, basic health and welfare (arts. 6, 18 (para. 3), 23, 24, 26, 27 (paras. 1-3) of the Convention)**

### **Mental health**

The Committee notes that the State party has only one special unit providing residential psychiatric care to children up to the age of 17. The Committee is concerned that the capacity for meeting the needs of children with mental-health needs remains limited, with additional support from non-governmental organizations (NGOs) being required for meeting existing needs for mental health services.

**The Committee recommends that the State party further develop and expand its mental health - care system for children and young people to ensure adequate and accessible prevention, treatment of common mental health problems in a primary health - care framework as well as specialized care for more serious disorders, with particular attention to children most at risk, including children deprived of parental care.**

### **Adolescent health**

The Committee is concerned that unplanned adolescent pregnancies continue to be a significant problem in the State party. Furthermore, the Committee is gravely concerned that abortion is illegal in all cases and with no exception under the law of the State party and that girls and women who choose to undergo abortion are subject to imprisonment. In this context, the Committee is also concerned at this frequently resulting in girls and women in these situations seeking risky illegal abortions.

**Referring to its general comment No. 4 on adolescent health (CRC/GC/2003/4), the Committee recommends that the State party:**

- (a) Develop and implement a policy which addresses the issues faced by adolescent mothers and protects them and their children from discrimination and violations of their rights; and in so doing , pay particular attention to ensuring that pregnant adolescents and adolescent mothers are supported and assisted in continuing their education; and**
- (b) Review its legislation concerning abortion , and consider including specific exceptions which allow for abortions with appropriate counselling and aftercare when this is in the best interests of the pregnant adolescent.**

The Committee notes that the State party has a national agency (SEDQA) for prevention, treatment, and rehabilitation services to persons with drug, alcohol, and/or gambling problems, while supporting their families. However, the Committee is concerned that tobacco and alcohol consumption as well as drug and substance abuse among adolescents continue to be a significant problem in the State party.

**The Committee recommends that the State party systematically analyse information that it collects through its participation in the European School Survey Project on Alcohol and Other Drugs on the consumption of alcohol, tobacco and illegal drugs amongst adolescents with the aim of using this information to formulate awareness-raising and education campaigns against substance abuse. Furthermore, the Committee recommends that the State party undertake measures necessary for the effective enforcement of the prohibition of the sale and marketing of such products to children; the Committee also recommends that the State party consider prohibiting all forms of advertisements promoting alcohol and tobacco products in media and/or information commonly accessed by children.**

## **Breastfeeding**

The Committee welcomes the increase in duration of maternity leave to 18 weeks as well as the enactment of regulations on the marketing of breast-milk substitutes in the State party. However, the Committee remains concerned about the low rates of breastfeeding in the State party and the lack of data on the root causes of this and its potential linkages with infant obesity. Furthermore,

the Committee is concerned that no hospitals in the State party have achieved baby-friendly status under the Baby-Friendly Hospital Initiative (BFHI).

**The Committee recommends that the State party:**

- (a) Strengthen its awareness-raising efforts on the importance of breastfeeding and promote exclusive breastfeeding of children up to the age of six months; and collect data on breastfeeding with a view to developing a national policy to promote and facilitate breastfeeding;**
- (b) Strengthen the monitoring of existing marketing regulations relating to breast-milk substitutes and ensure that such regulations are monitored on a regular basis and action is taken against those who violate these regulations; and**
- (c) Undertake measures to ensure that all its maternity hospitals meet the required standards and are certified as baby-friendly under BFHI;**
- (d) Undertake measures, including training for mothers and health professionals, on healthy infant and child nutrition.**

#### **J. Cooperation with regional and international bodies**

**The Committee recommends that the State party cooperate with the Council of Europe towards the implementation of the Convention and other human rights instruments, both in the State party and in other Council of Europe member States.**



## Convention on the Elimination of All Forms of Discrimination against Women – Concluding observations 2010

[UN OHCHR website link, Treaty bodies database](#)

### Health

34. While noting the free access to health care, the Committee is concerned about the insufficient access to reproductive health-care services for women. The Committee notes with concern that education on sexual and reproductive health and rights is not part of the curriculum. The Committee is further concerned that abortion is illegal in all cases under the law of the State party and that women who choose to undergo abortion are subject to imprisonment. The Committee further regrets that the data provided by the State party on the health and health care, including mental health care, of its population in its periodic report was not disaggregated by sex.

**35 . The Committee calls on the State party to increase its efforts to improve the availability of sexual and reproductive health services, including family planning, to mobilize resources for that purpose and to monitor the actual access to those services by women. It further recommends that the National Policy on Sexual Health, which is being finalized, ensure that family planning and reproductive health education are widely promoted and targeted at girls and boys, with special attention to the prevention of early pregnancies of underage girls including the control of sexually transmitted diseases and HIV/AIDS. The Committee urges the State party to review its legislation on abortion and consider exceptions to the general prohibition of abortion for cases of therapeutic abortion and when the pregnancy is the result of rape or incest. It further urges the State party to remove from its legislation the punitive provisions for women who undergo abortion, in line with the Committee's general recommendation No. 24 (1999) on women and health and the Beijing Declaration and Platform for Action. The Committee also requests the State party to provide, in its next report, sex-disaggregated data on health and the provision of health care, including mental health care.**

## **Convention on the Right of Persons with Disabilities**

No conclusions observations available yet. First State Party report submitted on 10 Nov 2014.

## 2. Council of Europe

### European Social Charter

[\*Official website of the European Social Charter, link to conclusions\*](#)

#### Article 1 - Right to work – Conclusions 2012

##### Paragraph 1 - Policy of full employment

The Committee takes note of the information contained in the report submitted by Malta.

##### Employment situation

The Committee notes from Eurostat that the GDP growth rate in Malta fell from 4.3% in 2007 to 2.9% in 2010, but was still above the EU-27 average (2.0% in 2010). Although the economic crisis led to a contraction of real GDP by 3.4% in 2009, Malta experienced a marked rebound in economic activity in 2010.

The employment rate increased slightly from 54.6% in 2007 to 56.1% in 2010 (but was still significantly below the EU-27 average of 64.1%).

The unemployment rate remained stable between 2009 and 2010, standing at 6.9% during both of these years.

The youth unemployment rate decreased from 13.9% in 2007 to 13.0% in 2010. On the contrary, the long-term unemployment rate (as a percentage of all unemployed persons) increased from 41.9% in 2007 to 46.3% in 2010 (remaining above the EU-27 average of 39.9%).

The employment rate for older workers (aged between 55 and 64) remained very low (30.2% compared to the EU-27 average of 46.3% in 2010).

The Committee notes that the labour market situation in Malta continues to be characterised by a low employment rate. The major concern remains with long-term unemployed and older workers, whose situation has not improved despite a relative healthy economic context.

##### Employment policy

The Committee notes that the Government has set its employment rate target at 62.9% by 2020. Five priorities have been identified to address the bottlenecks with a view to rising the aggregate employment rate: (i) increasing the participation of women in the labour market, (ii) increasing the employment rate of older workers, (iii) activating vulnerable groups, (iv) improving the employability of the workforce, and (v) maintaining efforts to tackle undeclared work.

The report mentions that the Employment and Training Corporation continues to implement active labour market measures. A description of some of the measures that have been put in place during the reference period is provided.

The Committee in particular notes the Community Work Scheme, which aims at providing the long-term unemployed the opportunity to undertake community work under the direction of Local Councils and NGOs with a view of enabling them to obtain further skills, improve their employability and their chances of finding employment. Since its inception in 2009, a total of 177 individuals have participated in the scheme. Moreover a total of 56 individuals were struck off the unemployment register, and 21 have entered into employment as a direct result of the scheme.

The report shows that the total number of participants in different labour market measures was 2,920 persons in 2010.

The Committee notes from Eurostat that the activation rate in Malta, that is, the number of persons taking part in an active measure as a percentage of the unemployed, was only 2.8% in

2009. This was one of the lowest activation rates among the EU-27 countries that year, where the average was 28.9%.

According to Eurostat, public expenditure on active labour market policies in Malta amounted to 0.13% of GDP in 2009, which is far below the average of the EU-27 countries (where the average public spending on active labour market measures as a % of GDP that year was 0.78%).

The Committee finds that employment policy efforts in Malta, measured both in terms of the activation rate and spending on active labour market measures, were modest during the reference period, and asks whether there are plans to implement more measures in this area, namely in respect of long-term unemployed and older persons.

Finally, the Committee recalls that labour market measures should be targeted, effective and regularly monitored, and asks in this respect whether the employment policies in place are monitored and how their effectiveness is evaluated.

### **Conclusion**

Pending receipt of the information requested, the Committee defers its conclusion.

The Committee considers that the absence of the information required amounts to a breach of the reporting obligation entered into by Malta under the Charter. The Government consequently has an obligation to provide the requested information in the next report on this provision.

## **Article 1 - Right to work – Conclusions 2012**

### **Paragraph 3 - Free placement services**

The Committee takes note of the information contained in the report submitted by Malta.

The Employment and Training Corporation is the public entity responsible for helping people enter into the labour market. It maintains a register of people seeking employment, it captures job vacancies from employers and tries to match the two. The staff of the Corporation provide vocational guidance as well as placement services to jobseekers.

Placement services are carried out from the Corporation's office in Valletta as well as from an additional seven regional job centres. Vacancies notified by employers are displayed in these job centres and jobseekers can seek assistance of the staff in applying for the vacancies.

The report indicates the number of placements made by the Corporation for the different years of the reference period. In 2010, the number of persons placed was 4,043. It however fails to provide the number of vacancies notified by employers to the Corporation, which would enable calculating the placement rate (an indicator which the Committee looks at to assess adequacy of employment services). The Committee therefore asks the next report to provide updated information both on the number of placements as well as on the number of vacancies registered by employment services. It also asks what was the percentage of placements made by the Corporation as a share of the total hirings in the labour market.

The Committee refers to its previous conclusion for information regarding staffing of the Corporation, as well as on the functioning of private employment agencies and their co-operation with public employment services (Conclusions 2008).

Finally, the report describes the efforts undertaken by the public employment services to strengthen profiling tools and improve matching skills with a view to satisfying labour market demands. Mention is also made to a new service for employers introduced in 2010, Personalised Recruitment Service (PRS), which aims at offering employers a holistic job placement service.

### **Conclusion**

Pending receipt of the information requested, the Committee concludes that the situation in Malta is in conformity with Article 1§3 of the Charter.

## **Article 3 - Right to safe and healthy working conditions – Conclusions 2015**

### **Paragraph 1 - Safety and health regulations**

In application of the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, States were invited to report by 31 October 2014 on conclusions of non-conformity for repeated lack of information in Conclusions 2013.

The Committee takes note of the information submitted by Malta in response to the conclusion that it had not been established that there was an adequate occupational health and safety policy and that occupational risk prevention was organised at company level with assessment of work-related risks and with adoption of preventive measures geared to the nature of risks (Conclusions 2013, Malta).

The Committee recalls firstly that, under Article 3§1, States undertake to formulate and implement a national occupational health and safety policy with the primary focus of fostering and preserving a culture of prevention at the national level (Conclusions 2009, Armenia).

In reply to the Committee's question the report states that the EU Strategy on safety and health at work (2007-2012) was adopted in Malta through the publication of the national Occupational Health and Safety Strategic Plan: 2007 – 2012, which was published in 2007. This strategy aimed to ensure that the Occupational Health and Safety Authority (OHSA) fulfils its responsibilities in the field of occupational health and safety while continuing to instil a sense of responsibility and commitment from the relevant social partners. This strategy basically builds on the requirements of the EU strategy but takes into considerations local needs.

As regards the potential burden of health and safety regulations on employers, the report states that during 2014, OHSA embarked on a process of simplifying certain pieces of legislation, namely those focusing on construction and work equipment. An internal exercise is currently underway (as of June 2015) to identify potential burdensome and/or complex clauses in a number of Legal Notices. Once this process is concluded the findings will be included in a report, together with the suggested action, such as relevant legal amendments that are being proposed, and will be discussed with the social partners. A final report will in due course be presented to the Government for eventual publication of the necessary legal amendments.

With respect to Act No. XXVII/2000 of 3 May 2001 on the Occupational Health and Safety Authority, the Committee notes that the relevant legal amendments to the Act have been finalised and discussed with the social partners. The proposals will be sent to Ministry during June 2015, for eventual discussion in Cabinet and promulgation through Parliament.

In view of the above, the Committee considers that the situation as regards a national occupational health and safety policy is in conformity with the Charter.

Secondly, concerning risk prevention at company level the Committee recalls that this implies, in addition to compliance with protective rules, the assessment of work-related risks and the adoption of preventive measures geared to the nature of risks as well as information and training of workers (Conclusions 2009, Armenia).

The report states that the overall findings of the 2011 Research study on health and safety practices show similar trends with studies carried out in other EU Member States. Among others, similarities could for instance be noted when assessing health and safety practices across companies of different sizes. Findings revealed that generally, larger companies are better equipped to maintain and develop safe working practices, unlike smaller enterprises. Shortcomings in health and safety protection at enterprise level are found in all EU member states and not restricted to Malta, as evidenced by periodical EU wide reports on this matter. Both the EU Occupational Health and Safety Agency's ESENER report and the European Commission's Labour Force Survey (ad-hoc module) show that in fact Malta compares well with other member

states and is in fact better than the EU average in most areas of the respective findings. However, in line with its function to ensure that health and safety levels are maintained, where cases of non-compliance are observed, enforcement action as contemplated by law is taken by the authorities. This action varies from improvement notices, orders, issuing of administrative fines and even Court action.

The report further refers to training on health safety provided to employers to enable them to ensure health and safety at company-level. It also mentions that although current health and safety legislation does not state the number of workers required for a workers' safety representative to be appointed, by policy OHSA enforces the appointment of such representatives in entities having 10 or more workers. The law also provides for an employer to consult individually all workers in employment when such a representative is not appointed at a place of work. This guarantees worker participation at all times.

While noting the above information, the Committee nevertheless asks that the report provide more detailed information on the extent to which risk assessment is carried out at company-level, including in small and medium-sized enterprises, as well as examples of measures taken to gear the preventive effort to the nature of risks identified.

## **Conclusion**

Pending receipt of the information requested, the Committee concludes that the situation in Malta is in conformity with Article 3§1 of the Charter.

## **Article 3 - Right to safe and healthy working conditions – Conclusions 2013**

### **Paragraph 1 - Safety and health regulations**

The Committee takes note of the information contained in the report submitted by Malta.

#### **General objective of the policy**

The Committee previously examined (Conclusions 2009) the general objective of the national policy on occupational health and safety. It deferred its conclusion pending receipt of information on whether the objective of the policy is to foster and preserve a culture of prevention in respect of occupational health and safety; whether occupational risk prevention is incorporated into the public authorities' activities at all levels and form part of other public policies; and whether the policy and strategies are regularly assessed and reviewed in light of changing risks.

The report states that occupational health and safety is given consideration in the formulation of public policies, and quotes the inclusion of occupational health and safety requirements in public tenders and in collective agreements for the civil service. It also explains that the Government's Management Efficiency Unit is working with the Occupational Health and Safety Authority (OHSA) to evaluate the potential burden of occupational health and safety regulations on employers and to identify measures to mitigate such burden.

ILO Conventions No. 155 on Occupational Safety and Health (1981) and No. 187 on the Promotional Framework for Occupational Health and Safety (2006) have not been ratified. Selon une autre source,<sup>1</sup> Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work was transposed by the Regulation No. 36/2003 of 24 January 2003 on General Provisions for Health and Safety at the Workplace. The report does not state whether the European Strategy 2007-2012 on safety and health at work is taken into consideration. The OHSA Report for 2010 (pp. 38-42)<sup>2</sup> mentions some co-operation of the OHSA with the EU Agency for Safety and Health at Work (EU-OSHA); the Senior Labour Inspectors' Committee (SLIC); and the EU Advisory Committee for Safety and Health at Work.

The Committee takes note of this information. It concludes that it has not been established that there is an occupational health and safety policy the objective of which is to foster and preserve a culture of prevention. It asks for information in the next report on the potential burden of health and safety regulations on employers. It also asks for information on the amendments to Act No. XXVII/2000 of 3 May 2001 on the Occupational Health and Safety Authority which, according to the OSHA Report for 2010 (p. 32), are currently under discussion.

### **Organisation of occupational risk prevention**

The Committee previously examined (Conclusions 2009) the organisation of occupational risk prevention. It deferred its conclusion pending receipt of information on whether labour inspectors share the knowledge of risks and risk prevention in light of their inspection experience and as part of preventive activities; and on the assessment of work-related risks, the adoption of preventive measures geared to the nature of risks, and the provision of information and training for workers.

In reply to the Committee's request, the report states that the OSHA sought advice on requirements for a certification and accreditation system for external prevention services, to provide protection and prevention services in accordance with Council Directive 89/391/EEC. The system would be put in place once adequate resources are made available to the OSHA. Quoting from an EU study report, the report indicates that in practice, a number of workers are not being provided with the health and safety training required by law; are not covered by medical examination; and have no access to a workers' health and safety representative.

In reply to the Committee's request, the report indicates that inspection visits are conducted in presence of the employer and the workers' health and safety representatives, with whom any findings, shortcomings and actions are discussed. According to the OSHA Report for 2010 (pp. 20-28), the OSHA ensures that duty holders effectively control risks in the workplace, provides advice and information upon request, and involves its officials in training on occupational risks. The Committee takes note of this information. It considers that labour inspectors share the knowledge of risks and risk prevention in light of their inspection experience and as part of preventive activities. It concludes, however, that it has not been established that occupational risk prevention is organised at company level, work-related risks are assessed, and preventive measures geared to the nature of risks are adopted.

### **Improvement of occupational safety and health**

The Committee previously examined (Conclusions 2009) existing structures to improve the health and safety of workers. It deferred its conclusion pending receipt of information on the establishment and development of programmes in training, information, quality assurance and research.

The report states that OSHA inspectors are trained in particular under co-operation agreements with foreign labour inspectorates. The OSHA also draws on expertise from academia and publishes analyses of occupational accidents together with recommendations for preventive and protective measures.

According to the OSHA Report for 2010 (pp. 9-15 and 38-42), the OSHA offered training on industrial practices and teaching at the University of Malta; supported awareness campaigns of the EU-OSHA and the SLIC; participated in the development of the EU-OSHA Online Risk Assessment (OiRA) tool, the survey of Enterprises on New and Emerging Risks (ESENER) and the study on the enhancement of co-operation between the EU labour inspectorates and cross-border enforcement in the area of occupational health and safety (CIBELES); and commissioned research into occupational accidents and diseases. The OSHA website also disseminates good practices and leaflets.<sup>3</sup>

The Committee takes note of this information. It notes the involvement of public authorities in the improvement of occupational health and safety through awareness raising activities, publications, and seminars. It asks for information in the next report on the training of qualified professionals, on the design of training modules (how to work, how to minimise risks for oneself and others), and in existing certification schemes. It also asks for more details on the involvement of the University of Malta and other institutions like the *Turu Micallef Institute* in scientific research, applied research and technical knowledge on occupational health and safety issues.

### **Consultation with employers' and workers' organisations**

The Committee previously examined (Conclusions XIV-2, XVI-2, XVIII-2 and 2009) existing structure for consultation with the social partners under Article 3 of the Charter. It asked for information on what is considered to be a sufficient number of workers under the obligation set out in Section 6§4 of Act No. XXVII/2000 to elect, choose or designate workers' health representatives in the private sector, and whether alternative means of workers' representation are envisaged for small undertakings which do not come under that obligation (Conclusions XVIII-2).

The report does not provide this information. It states that workers' health and safety representatives are informed and involved in discussion during inspection visits. However, quoting from an EU study report, the report also states that workers have no access to workers' health and safety representatives. The OHSA Report for 2010 (p. 14) quotes the ESENER survey finding whereby few workers obtain information on occupational health and safety from workers' representations.

At the national level, legislation is drafted by the Government and discussed by the OHSA Tripartite Board before being released to the public for consultation. According to another source,<sup>4</sup> the composition of the Civil Society Committee was revised by Act No. IV/2012 of 8 May 2012 to amend Act No. XV/2001 of 1 August 2001 on the Malta Council for Economic and Social Development.

The Committee takes note of this information. Recalling the obligation to provide requested information, it reiterates its request for information on what is considered to be a sufficient number of workers under the obligation set out in Section 6§4 of Act XXVII/2000, and whether alternative means of workers' representation are envisaged for small undertakings which do not come under that obligation. It also asks for examples on how consultation on occupational health and safety issues is conducted in practice at company level.

### **Conclusion**

The Committee concludes that the situation in Malta is not in conformity with Article 3§1 of the Charter on the grounds that it has not been established that:

- there is an adequate occupational health and safety policy;
- occupational risk prevention is organised at company level, work-related risks are assessed and preventive measures geared to the nature of risks are adopted.

## **Article 3 - Right to safe and healthy working conditions – Conclusions 2013**

### **Paragraph 2 - Safety and health regulations**

The Committee takes note of the information contained in the report submitted by Malta.

### **Risks covered by the regulations**

The Committee previously examined (Conclusions XVI-2, XVIII-2 and 2009) the extent of the risks covered specifically by the legislation and regulations on occupational health and safety.



The report provides no information on changes in legislation and regulations during the reference period. According to another source,<sup>1</sup> the Building Act has been repealed and replaced by Act No. XII/2011 of 1 July 2011 on Building Regulation, which establishes a Building Regulation Board to manage occupational health and safety aspects on construction sites. According to another source,<sup>2</sup> harmonisation with the Community *acquis* in the field of occupational health and safety continued during the reference period, as Directive 2009/127/EC of the European Parliament and of the Council of 21 October 2009 amending Directive 2006/42/EC with regard to machinery for pesticide application was transposed by Regulation No. 131/2011 on machinery; Directive 2009/128/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for Community action to achieve the sustainable use of pesticides, by Regulation No. 489/2011 on the sustainable use of pesticides; Commission Directive 2009/161/EU of 17 December 2009 establishing a third list of indicative occupational exposure limit values in implementation of Council Directive 98/24/EC and amending Commission Directive 2000/39/EC, by Regulation No. 53/2012 on the protection of the health and safety of workers from the risks related to chemical agents at work; Commission Directive 2010/52/EC of 11 August 2010 amending, for the purposes of adaptation of their technical provisions, Council Directive 76/763/EEC and Directive 2009/144/EC of the European Parliament and of the Council, by Regulation No. 164/2011 on the type approval of agricultural or forestry tractors. Moreover, the transposition of Council Directive 96/82/EEC of 9 December 1996 on the control of major accident hazards involving dangerous substances was supplemented during the reference period by Regulation No. 6/2005 on the control of major accident hazards.

The Committee takes note of this information. Recalling that the report must provide full, up-to-date information on changes in the legislation and regulations adopted during the reference period, it notes that most of the Community *acquis* on specific risk coverage has been incorporated into domestic law and concludes that the current legislation and regulations meet the general obligation under Article 3§2 of the Charter, which requires that most of the risks listed in the general introduction to Conclusions XIV-2 (pp. 37-38) be specifically covered, in line with the level set by international reference standards. Given that, according to another source,<sup>3</sup> the number of ILO Conventions ratified by Malta is particularly low in the important shipping, fishing and docking sectors, the Committee asks for information in the next report on the Government's intent to improve the situation in this regard.

### **Levels of prevention and protection**

The Committee examines the levels of prevention and protection provided for by the legislation and regulations in relation to certain risks.

### **Establishment, alteration and upkeep of workplaces**

The report provides no specific information on the installation, modification and upkeep of workplaces. ILO Conventions No. 119 on the Guarding of Machinery (1963) and No. 127 on Maximum Weight (1967) are in force. ILO Convention No. 120 on Hygiene in Commerce and Offices (1964) is not. Another source<sup>4</sup> indicates that most of the Community *acquis* on workplace equipment, personal protective equipment and electric equipment has been transposed into national law. During the reference period, Directive 2006/25/EC of the European Parliament and of the Council of 5 April 2006 on the minimum health and safety requirements regarding the exposure of workers to risks arising from physical agents (artificial optical radiation) was transposed by Regulation No. 250/2010 on workplaces; Directive 2006/42/EC of the European Parliament and of the Council of 17 May 2006 on machinery, by Regulations No. 232/2008 of 19

September 2008 on lifts, No. 247/2008 of 7 October 2008 on Machinery, and No. 147/2009 of 18 May 2009 on Machinery.

The Committee takes note of this information. Recalling that the report must provide full, up-to-date information on changes in the legislation and regulations adopted during the reference period, it asks for information in the next report on the transposition of Directive 2009/104/EC of the European Parliament and of the Council of 16 September 2009 concerning the minimum safety and health requirements for the use of work equipment by workers at work. It also asks for details on the requirement for employers to assess the occupational risks of workstations and on any schedule for compliance.

### **Protection against hazardous substances and agents**

The Committee previously examined (Conclusions XVI-2, XVIII-2 and 2009) the levels of prevention and protection against asbestos and ionising radiation. It deferred its conclusion pending receipt of information on the transposition of Directive 2003/18/EC of the European Parliament and of the Council of 27 March 2003 amending Council Directive 83/477/EEC on the protection of workers from the risks related to exposure to asbestos at work; on the existence of an inventory of all contaminated buildings and materials; and on levels of exposure to ionising radiation in the workplace in accordance with Council Directive 96/29/EURATOM of 13 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionising radiation (Conclusions 2009).

In reply to the Committee's request, the report states that Directive 2003/18/EC was transposed by Regulation No. 323/2003 which, according to another source,<sup>5</sup> in fact designates Regulation No. 323/2006 of 15 December 2006 on the protection of workers from the risks related to exposure to asbestos at work. According to the report, current legislation require the employer to ascertain the level of asbestos fibres, to assess the risks for the workers' health, and to remove the asbestos or take other measures to secure the workplace.

In reply to the Committee's request, the report indicates that Regulation No. 22/2003 of 28 January 2003 on nuclear safety and protection against radiations lays down maximum exposure levels to ionising radiation at the workplace and for the public. According to another source,<sup>6</sup> this Regulation satisfies the requirements set out in Council Directive 96/29/EURATOM of 13 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionizing radiation. The same source indicates that Council Directive 2003/122/EURATOM of 22 December 2003 on the control of high-activity sealed radioactive sources and orphan sources was transposed by Regulation No. 13/2006 of 13 January 2006 on the control and security of high-activity radioactive and orphan sources; and Council Directive 2006/117/EURATOM of 20 November 2006 on the supervision and control of shipments of radioactive waste and spent fuel, by Regulation No. 48/2009 of 13 February 2009 on waste management and Government Notice No. 24/2009 of 14 January 2009 on Environment Protection.

In light of the above information, the Committee concludes that the levels of prevention and protection against asbestos and ionising radiation are in conformity with Article 3§2 of the Charter, which provides that workers must be given a level of protection at least equivalent to that set by international reference standards. Recalling that the report must provide full, up-to-date information on changes in the legislation and regulations adopted during the reference period, it asks for information in the next report on any measures adopted to transpose Directive 2004/37/EC of the European Parliament and of the Council of 29 April 2004 on the protection of workers from the risks related to exposure to carcinogens or mutagens at work, and to incorporate the exposure limit of 0.1 fibres per cm<sup>3</sup> introduced by Directive 2009/148/EC of the

European Parliament and of the Council of 30 November 2009 on the protection of workers from the risks related to exposure to asbestos at work.

### **Personal scope of the regulations**

The Committee examines the personal scope of legislation and regulations with regard to workers in insecure employment.

### **Temporary workers**

The Committee previously examined (Conclusions XVI-2, XVIII-2 and 2009) the protection of temporary workers, interim workers and workers on fixed-term contracts. It deferred its conclusion pending receipt of information on this subject (Conclusions XVIII-2 and 2009).

In reply to the Committee's request, the report confirms that, in accordance with Section 18 of Regulation No. 36/2003 of 24 January 2003 on General Provisions for Health and Safety at the Workplace, temporary workers enjoy the same levels of prevention and protection than employees on permanent contracts. Quoting from an EU study, the report also indicates that in practice, a number of workers are not being provided with the health and safety training required by law; are not covered by medical examination; and have no access to a workers' health and safety representative.

The Committee takes note of this information. It notes that Section 18 of Regulation No. 36/2003 provides a framework whereby temporary workers, interim workers and workers on fixed-term contracts are covered, and whereby account is taken of the temporary nature of the employment. It asks for the next report to include examples on the way in which the temporary nature of the employment of these categories of workers is taken into account when rehired or assigned to new tasks. It also asks how the right to representation at work is implemented for these categories of workers.

### **Other types of workers**

The Committee previously examined (Conclusions XVI-2, XVIII-2 and 2009) the protection of self-employed workers, home workers and domestic staff. It concluded that the situation was in conformity with Article 3§2 of the Charter in this regard (Conclusions XVIII-2 and 2009).

The report does not provide any information on this point.

The Committee recalls that its previous conclusions were essentially based on Section 19 of Act No. VII/1994 of 23 February 1994 on Occupational Health and Safety, which has been repealed by Act No. XXVII/2000 of 3 May 2001 on the Occupational Health and Safety Authority. Given that Section 2 of Act No. XXVII/2000 excludes persons employed on vessels registered in Malta from the legal definition of worker, the Committee asks for information on the occupational health and safety legislation and regulations applicable to these types of workers. It also asks for confirmation that self-employed workers, home workers and domestic staff enjoy the protection of Act No. XXVII/2000.

### **Consultation with employers' and workers' organisations**

The Committee previously examined (Conclusions XIV-2, XVI-2, XVIII-2 and 2009) the existing structure for consultation with the social partners under Article 3 of the Charter. It asked for information on what is considered to be a sufficient number of workers under the obligation set out in Section 6§4 of Act No. XXVII/2000 to elect, choose or designate workers' health representatives in the private sector, and whether alternative means of workers' representation are envisaged for small undertakings which do not come under that obligation (Conclusions XVIII-2).

The report does not provide this information. It states that workers' health and safety representatives are informed and involved in discussion during inspection visits. However, quoting from an EU study report, it also states that many workers have no access to workers' health and safety representatives. The Occupational Health and Safety Authority (OHSA) Report for 2010 (p. 14)<sup>7</sup> quotes the survey of Enterprises on New and Emerging Risks (ESENER) finding whereby few workers obtain information on occupational health and safety from workers' representations.

At the national level, legislation is drafted by the Government and discussed by the OHSA Tripartite Board before being released to the public for consultation. According to another source,<sup>8</sup> the composition of the Civil Society Committee was revised by Act No. IV/2012 of 8 May 2012 to amend Act No. XV/2001 on the Malta Council for Economic and Social Development.

The Committee takes note of this information. Recalling the obligation to provide requested information, it reiterates its request for information on what is considered to be a sufficient number of workers under the obligation set out in Section 6§4 of Act No. XXVII/2000, and whether alternative means of workers' representation are envisaged for small undertakings which do not come under that obligation. It also asks for examples on how consultation on occupational health and safety issues is conducted in practice at company level.

### **Conclusion**

Pending receipt of the requested information, the Committee concludes that the situation in Malta is in conformity with Article 3§2 of the Charter.

## **Article 3 - Right to safe and healthy working conditions – Conclusions 2013**

### **Paragraph 3 - Enforcement of safety and health regulations**

The Committee takes note of the information contained in the report submitted by Malta.

### **Occupational accidents and diseases**

The Committee previously examined (Conclusions XVI-2, XVIII-2 and 2009) the situation relating to occupational accidents and diseases. It repeatedly asked for information on accidents by sectors of activity and on occupational diseases (Conclusions XVI-2, XVIII-2 and 2009).

According to EUROSTAT data,<sup>1</sup> the number of occupational accidents (more than three days of absence; excluding commuting accidents) declined overall during the reference period (from 2 391 in 2008 to 1 848 in 2010), as did the incidence rate of these accidents (from 2 367.36 in 2008 to 1 850.86 in 2010). This is slightly higher than the average level observed in the EU-15 and the EU-27 (from 2 269.42 in 2008 to 1 582.71 in 2010).

According to the report, the number of fatal accidents (3 in 2008 and 4 in 2010) remained stable overall. ILOSTAT<sup>2</sup> publishes an incidence rate for these accidents of 1.93 in 2008. This incidence rate was 2.07 in 2008 and 2.76 in 2010 on the basis of the number of gainfully occupied persons indicated in the report (145 100 in 2008 and 145 000 in 2010), and 1.76 in 2008 and 2.66 in 2010 on the basis of the labour force published by ILOSTAT (170 400 in 2008 and 176 600 in 2010). Whilst, at the start of the reference period, these figures were below the average rate published by EUROSTAT for the EU-15 and the EU-27 (2.27 in 2008), they later reached a level which is clearly above that average (1.87 in 2010).

In reply to the Committee's request, the report states that most fatal accidents occurred in the construction sector, and now also in the mining and quarrying sector. Quoting from an EU study report, the report indicates that figures reveal a significant number of occupational accidents and diseases, with a large amount of cases being unreported. According to the Occupational Health and Safety Authority (OHSA) Report for 2008 (p. 24),<sup>3</sup> 28% of all fatal accidents involve foreign workers, most of them in the construction sector, a figure which is disproportionate to the

number of foreign workers in the labour force, and which could be explained by the fact that foreign workers are poorly informed, inadequately trained and subject to communication difficulties.

On cases of occupational disease, the Government Representative informed the Governmental Committee<sup>4</sup> that the number of notifications was clearly too low, due to unclear legal requirements and poor linkage between disease and work. The OSHA Report for 2010 (p. 26)<sup>5</sup> confirms that cases of occupational diseases are not recorded on a regular basis and indicates that a single form was developed for filing social benefit claims and notifying cases of occupational disease, and that DH Circular No. 98/2010 was issued to remind public hospitals and medical practitioners to notify cases of occupational disease.

The Committee takes note of this information. It notes that incidence rates of occupational accidents and fatal accidents have continued to decrease in overall terms. It nevertheless asks that the next report indicate any measures taken to reduce the high number of occupational accidents and to lower the particular exposure of foreign workers in that regard. It also notes the excessively low number of recorded cases of occupational disease. It therefore asks for information on the results of the measures already taken, and on any further steps taken to counter inadequate reporting or recognition of cases of occupational disease in practice.

### **Activities of the Labour Inspectorate**

The Committee previously examined the activities of the labour inspectorate (Conclusions XVI-2, XVIII-2 and 2009). It concluded that the situation was not in conformity with Article 3§3 of the Charter on the ground that it was not established that the labour inspection services were effective. It asked for confirmation that the OSHA officers were empowered to suspend activities in case of imminent or serious danger to the health and safety of workers. It also asked for information on the number of workers covered by inspections against the labour force and on OSHA staffing resources (Conclusions XVIII-2 and 2009).

The report provides no information on the legal framework and the functioning of the labour inspectorate. According to the OSHA Report for 2008 (p. 18), regulatory aspects of the EURATOM Treaty, including occupational and medical exposure to ionizing radiation, come under the remit of the inter-ministerial Radiation Protection Board (RPB). The OSHA Radiation Protection Section tested relevant medical equipment and inspected the compliance of facilities with the Regulations No. 44/2003 on Nuclear Safety and Radiation Protection and the Regulation No. 472/2004 on medical exposure. According to the OSHA Report for 2011 (p. 21-22),<sup>6</sup> a regulation was drafted in consultation with the social partners to accommodate the option provided by Section 38§3 of Act No. XXVII/2000 of 3 May 2001 on the Occupational Health and Safety Authority to issue fines instead of, or in parallel to, criminal prosecution. This option, which had never been put into practice, would now be structured into a two-tier list of contraventions and corresponding fines of 250 € and 450 €.

In reply to the Committee's request, the report confirms that the OSHA keeps no figures on the number of workers covered by inspection visits. The Government Representative informed the Governmental Committee that the OSHA staff was 26 in 2009, among which 11 labour inspectors of all grades, and that the evaluation report by the Senior Labour Inspectors' Committee (SLIC) had found that the OSHA applied the SLIC Common Principles. According to the OSHA Reports for 2009 (p. 47)<sup>7</sup> and 2010 (pp. 37 and 54-55), the OSHA staff was also 26 in 2010 and the OSHA budget was 751 115 € in 2009 and 798 760 € in 2010.

The report indicates a rise in the number of workplaces inspected by the OSHA (from 2 022 in 2008 to 2 663 in 2010), in line with the previous trend. According to the OSHA Reports for 2008 (pp. 16-17) and 2010 (p. 27), the OSHA investigated complaints and cases of fatal accidents. In 2008, inspections focused on hotels; refuse collection; quarrying; transport; healthcare and

construction. It appeared that, in the hotel sector, only 46% of employers had appointed a Workers Health Representative and 49% carried out the mandatory risk assessment; in the construction sector, many new buildings did not meet the standards required under Regulation No. 44/2002 on Workplace Minimum Health and Safety Requirements, which induced employer liability for providing workplaces which contravened to occupational health and safety regulations.

In reply to the Committee's request, the report states that under Section 17 of Act No. XXVII/2000, OHSA inspectors may issue legally binding oral or written injunctions and orders to close a workplace in total or in part. The report indicates an increase in the number of warning notices (from 64 in 2008 to 289 in 2010); a decrease in the number of orders to suspend work (from 105 in 2008 to 70 in 2010); and an increase in the number of cases of criminal prosecution (from 128 in 2008 to 144 in 2010). The OHSA Reports for 2008 (pp. 24-25) and 2010 (29-30) further indicate that, out of persons found guilty of a breach of Act No. XXVII/2000, two persons were sentenced to imprisonment in 2008 and 2010, and that the amount of fines increased overall (from 32 890 € in 2008 to 118 000 € in 2010).

The Committee takes note of this information. It notes the increase in the OHSA budget and in the overall fines. It also notes that, on the basis of the labour force published by ILOSTAT, the number of workers per labour inspector was 16 054 in 2010. The Committee asks that the next report provide information on any other bodies vested with labour inspection authority besides the OHSA, in particular for the shipping, fishing and docking sectors, given that Section 2 of Act No. XXVII/2000 excludes persons employed on vessels registered in Malta from the legal definition of worker (see above under Article 3§2). It also asks for information on any changes on the follow-up given to the draft regulation on fines for contraventions, and on data collection about the number of workers covered by inspection visits through the OHSA IT management system, which the Government Representative informed the Governmental Committee would be implemented. In order to gauge the effectiveness of the labour inspectorate and the deterrence of the penalties imposed, it further asks for figures on complaints and non-fatal occupational accidents investigated, and information on the average amount of fines imposed, given that Section 38§3 of Act No. XXVII/2000 provides for a range between 465.87 € and 11 646.87 €.

## **Conclusion**

Pending receipt of the information requested, the Committee defers its conclusion.

## **Article 3 - Right to safe and healthy working conditions – Conclusions 2015**

### **Paragraph 4 - Occupational health services**

In application of the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, States were invited to report by 31 October 2014 on conclusions of non-conformity for repeated lack of information in Conclusions 2013.

The Committee takes note of the information submitted by Malta in response to the conclusion that it had not been established that measures are taken to promote the progressive development of occupational health services (Conclusions 2013, Malta).

The Committee recalls that under Article 3§4 States must promote, in consultation with employers' and workers' organisations, the progressive development of occupational health services for all workers with essentially preventive and advisory functions. These services may be run jointly by several companies. The services must be efficient and should be able to identify, measure and prevent work-related stress, aggression and violence (see Statement of interpretation on Article 3§4, Conclusions 2013; also Conclusions 2003, Bulgaria). It further recalls that if occupational health services are not established for all enterprises, the authorities

must develop a strategy, in consultation with employers' and employees' organisations, for that purpose. Thus, States "must take measures that allow it to achieve the objectives of the Charter within a reasonable time, with measurable progress and to an extent consistent with the maximum use of available resources" (Conclusions 2003, Bulgaria, Conclusions 2009, Albania). The report states that under Regulation No. 36/2003 all employers are legally bound to ensure that workers are provided with health surveillance appropriate to the health and safety risks at work, and shall make all arrangements as are required to ensure that health surveillance shall be carried out whenever the risk assessments required to be performed by an employer reveal:

- an identifiable disease or adverse health condition related to the work involved;
- the likelihood that the disease or condition may occur under the particular conditions of work.

The report further explains that in practice there is a variation between the type of health surveillance carried out by large employers and that by smaller ones. Certain large companies employ company doctors who generally conduct a number of occupational health functions at the place of work such as in-house pre-employment screening, periodic medical examinations and guidance to management and workers on occupational health issues. Smaller employers tend to rely on government general health services and/or family doctors for advice and services.

The Government, as the largest employer, has set up an Occupational Health Unit which carries out pre-employment screening and some health surveillance of government employees. Private employers may also opt to make use of Government Health services for a number of occupational health matters (such as audiometric testing, blood tests, X-rays, etc.) or as part of a limited diagnostic approach. While health care in Malta is generally free of charge, occupational health services of private employers through the Government's Occupational Health Unit are normally against a charge.

Finally, the report states that there are 19 registered occupational medicine specialists on the Medical register of the Health Division, three of whom are retired and one works abroad.

The Committee asks that the next contain more precise information on the proportion of enterprises that provide occupational health services either through own services, government services or family doctors and on whether the risk assessments employers are required to make in practice lead to the result that certain enterprises or branches do not provide services at all. If the latter is the case, the Committee wishes to know what measures the Government is taking to ensure that occupational health services are progressively introduced for all workers across all sectors of the economy. It also wishes to receive details on the nature of the services that are provided, whether they are limited to medical examinations or also include advice and counselling, adaptation of work and workplace, etc., and on whether workers' representatives are involved in risk assessment and in the organisation of occupational health services.

## **Conclusion**

Pending receipt of the information requested, the Committee concludes that the situation in Malta is in conformity with Article 3§4 of the Charter.

## **Article 3 - Right to safe and healthy working conditions – Conclusions 2013**

### **Paragraph 4 - Occupational health services**

The Committee takes note of the information contained in the report submitted by Malta.

The Committee previously examined (Conclusions 2009) the gradual introduction of occupational health services. It deferred its conclusion pending receipt of information on measures taken to promote the progressive development of occupational health services within

a reasonable time, with measurable progress and to an extent consistent with the maximum use of available resources; and on strategies geared to provide access to such services for all workers in all sectors of activity and all undertakings.

In reply to the Committee's request, the report states that under Section 16 of Regulation No. 36/2003 on general provisions for health and safety at workplaces, workers are entitled to periodic medical examinations, at the employers' cost. Since the employer must ensure that workers are provided with a health surveillance which is appropriate in regard to the occupational risks, additional medical examinations shall be carried out whenever mandatory risk assessment reveal an identifiable disease or adverse health condition in relation to work, or the likelihood that, given the working conditions, such a disease or condition may occur. Arrangements for appropriate health surveillance (hire medical physicians, accommodate in-house expertise, use public health services) are decided by the employer in consultation with the workers' health and safety representative. Quoting from an EU study report, the report also indicates that in practice, a number of workers are not covered by medical examination and have no access to a workers' health and safety representative.

According to another official source,<sup>1</sup> there were 131 registered occupational therapists in 2010 which, on the basis of the labour force published by ILOSTAT,<sup>2</sup> would amount to 0.74 occupational therapist per 1 000 workers. According to the OHSA Report for 2010 (p. 12),<sup>3</sup> whereas there is currently a void in occupational medicine, the OHSA's application with the University of Malta for setting up a postgraduate certificate course in occupational health for medical physicians was rejected for lacking demand and expertise.

The Committee takes note of this information. It considers that the report does not establish that workers have access to occupational medicine in practice, that measures are taken to promote the progressive development of occupational health services, and that strategies are adopted to ensure access to such services for all workers in all sectors of activity and all undertakings.

## **Conclusion**

The Committee concludes that the situation in Malta is not in conformity with Article 3§4 of the Charter on the ground that it has not been established that measures are taken to promote the progressive development of occupational health services.

## **Article 8 - Right of employed women to protection of maternity – Conclusions 2015**

### **Paragraph 1 - Maternity leave**

The Committee takes note of the information contained in the report submitted by Malta.

### **Right to maternity leave**

Under the Protection of Maternity (Employment) Regulations (Legal Notice 439 of 2003, as amended in 2004, 2007, 2011, 2012 and 2014) pregnant employees are entitled to an uninterrupted period of fully paid maternity leave of 14 weeks (increased to 18 weeks as from 1 January 2013), with 6 weeks compulsory postnatal leave. Employees on a fixed-term contract are entitled to the same rights, for the duration of the contract. In response to the Committee's question, the report indicates that the same regime applies both to the private and public sector.

### **Right to maternity benefits**

Employed or self-employed women on maternity leave are entitled to fourteen weeks on full wages as maternity leave benefits (Section 7 of the Protection of Maternity (Employment) Regulations), without any qualifying period of contributions or employment. The same regime applies to both the private and public sector.



The Committee refers to its Statement of Interpretation on Article 8§1 (Conclusions 2015) and asks whether the minimum rate of maternity benefits corresponds at least to the poverty threshold, defined as 50% of the median equivalised income, calculated on the basis of the Eurostat at-risk-of-poverty threshold value.

### **Conclusion**

The Committee concludes that the situation in Malta is in conformity with Article 8§1 of the Charter.

## **Article 8 - Right of employed women to protection of maternity – Conclusions 2011**

### **Paragraph 1 - Maternity leave**

The Committee takes note of the information contained in the report submitted by Malta.

#### **Right to maternity leave**

According to the Protection of Maternity (Employment) Regulations (Legal Notice 439 of 2003, as amended by Legal Notice 3 of 2004, Legal Notice 427 and Legal Notice 431 of 2007) pregnant employees are entitled to an uninterrupted period of fully paid maternity leave of 14 weeks, with 6 weeks compulsory postnatal leave. The situation is therefore in conformity with Article 8§1. The Committee asks whether the same regime applies to women employed in the public sector.

#### **Right to maternity benefits**

The report indicates that women on maternity leave are now entitled to fourteen weeks on full wages. The Committee reiterates its question as to whether there are conditions, such as minimum periods of contribution and/or employment, for receipt of maternity benefit. Should the next report not provide this information, there will be nothing to establish that the situation is in conformity with the Charter in this respect.

The Committee also asks whether the same regime applies to women employed in the public sector.

### **Conclusion**

Pending receipt of the information requested, the Committee concludes that the situation in Malta is in conformity with Article 8§1 of the Charter.

## **Article 11 - Right to protection of health – Conclusions 2013**

### **Paragraph 1 - Removal of the causes of ill-health**

The Committee takes note of the information contained in the report submitted by Malta.

#### **Right to the highest possible standard of health**

The Committee notes from WHO data that life expectancy at birth (average for women and men together) was 80.46 years in 2009 (the average observed the same year for the EU 27 was 79.0 years).

The mortality rate (number of deaths per 1000 inhabitants) remained stable throughout the reference period, standing at 7.86 in 2011.

The main cause of death in 2009 was cardiovascular disease (38% of all deaths), followed by cancer (29% of all deaths). The report indicates that the Government is tackling these causes of death in a holistic way by launching and implementing strategies that include measures with an impact on the whole preventive and care pathways (prevention and protection, screening and

early diagnosis, definitive diagnosis and treatment, palliative and end-of-life care). These strategies include the Non-Communicable Disease Strategy, the National Cancer Plan 2011-2015 and the strategy to combat obesity: Healthy weight for life.

The infant mortality rate in 2010 was 5.48 per 1 000 live births (the EU 27 average was 4.1 per 1 000 in 2010). The report mentions that the main causes of death were either conditions originating in the perinatal period or congenital malformations, deformations and chromosomal abnormalities.

The Committee notes that there were no cases of maternal mortality in 2009. However, the rate reached 24.89 per 100 000 live births in 2010, falling again to 0 in 2011. The report indicates that there is a long-standing, strong and ongoing policy committed towards reducing preventable maternal mortality and morbidity, while respecting the dignity and rights of both the mother and the unborn child. The policy involves maintaining a high and professional level of obstetric and paediatric/neonatal care to all mothers on the Islands, making high quality health care before, during and after childbirth are freely accessible to all mothers and their infants. The Committee nevertheless asks for an explanation for the fluctuations of the maternal mortality rate, and in particular whether it illustrates a sharp increase in the number of deaths in 2010 or rather reflects a statistical calculation related to the low number of births in Malta.

### **Right of access to health care**

The report recalls that the public health care system provides a comprehensive basket of health services free at the point of delivery to all persons residing in Malta who are covered by the social security legislation of Malta and also provides for all necessary care to irregular immigrants.

In its previous conclusion, the Committee found that the situation was not in conformity with the Charter on the ground that it had not been established that the healthcare system was sufficiently accessible to the entire population (Conclusions 2009). The Committee notes from the written information submitted by the Maltese representative to the Governmental Committee (Governmental Committee, Report concerning Conclusions 2009, Doc. T-SG(2011)1final), that no user charges or copayments apply but a few services including elective dental services, optical services and coverage of certain formulary medicines are means-tested. The private sector acts as a complementary mechanism for health care coverage. The state health service and private general practitioners comprise primary health care in Malta. However, the two systems of primary care practice function independently of one another. The median cost of a GP visit is €12 and to a specialist €42 in the public sector, according to European Health Interview Survey 2008. The current report also indicates on the question of access to healthcare that the National Health Interview Survey of 2008 confirmed that an individual in Malta was three times more likely to attend a consultation with a private rather than with a public GP. However, this was not translating into unmet need or non-access to the health care system. The self-reported unmet needs for medical examination is low for Malta. Eurostat statistics for 2010 show that the total self-reported unmet need was 1.3 (EU average 2.0). Moreover, the self-reported unmet need for the first quintile of equivalised income 1.9 (EU average 5.2) while the same statistic for the fifth quintile was 0.3 (EU average 0.3). Total unmet need and the difference between the first and fifth quintile is lower than in several other EU Member States. On the basis of this information, the Committee considers that the situation is in conformity with the Charter on this ground.

With regard to measures to reduce waiting times, according to the report since 2009 it has been the Government's publicly stated objective that waiting times for interventions across all clinical specialties need to be gradually reduced to acceptable levels. This needed to be done equitably; through the adoption of patient-centric approaches; and with the input and co-operation of professionals across the public health continuum. Since mid-2010, waiting time for certain elective interventions has been reduced quite significantly. The Committee asks what is the

average waiting time for such interventions. The report emphasises that the process leading to the better management of waiting lists for elective interventions has been launched and includes the consolidation of elective waiting list information into single homogeneous data-sets. Mater Dei Hospital now maintains a Centralised Waiting List Management System (CWLMS) that so far includes orthopaedics; ophthalmology; and cardiology elective data. The process of populating the system with surgical and other speciality data is currently ongoing. The Committee asks to be kept informed on the implementation of any further measures to reduce waiting times.

In the last examination the Committee adopted a general question addressed to all States on the availability of rehabilitation facilities for drug addicts, and the range of facilities and treatments. As the report does not address this issue, the Committee requests that information be included in the next report.

As regards the right to protection of health of transgender persons the Committee received submissions from the International Lesbian and Gay Association (European Region) (ILGA) stating that "in Malta there is a requirement that transgender people undergo sterilisation as a condition of legal gender recognition". It also claims that "the authorities fail to provide medical facilities for gender reassignment treatment (or the alternative of such treatment abroad), and to ensure that medical insurance covers, or contributes to the coverage of such medically necessary treatment, on a non-discriminatory basis". The Committee notes from the report that hormone therapy and sex change surgery are not yet included in the national health care package. The Maltese Government however states that it abides with the principle of not tolerating any discrimination for the access of services on any basis including sexual orientation. In this respect, the Committee refers to its question on this matter in the General Introduction.

## **Conclusion**

The Committee concludes that the situation in Malta is in conformity with Article 11§1 of the Charter.

## **Article 11 - Right to protection of health – Conclusions 2013**

### **Paragraph 2 - Advisory and educational facilities**

The Committee takes note of the information contained in the report submitted by Malta.

### **Education and awareness raising**

In its previous conclusion, the Committee found that it had not been established that public information and awareness-raising was a public health priority (Conclusions 2009). The current report indicates that the Health Promotion and Disease Prevention Directorate creates and collates information aimed at the general public covering all aspects of health well-being and the prevention of illness. This information is an essential part of the campaigns and initiatives that the Directorate holds based on national priority areas and uses information generated from research based on the local context. The Directorate utilises a variety of media to communicate its messages to the general public. It prepares and funds adverts for television and radio, and these are aired on most stations at different times of the day, depending on and tailored for the audiences being targeted. Other entities within the Ministry of Health are also constantly engaged in providing information on health to the public with the aim of increasing public awareness on a number of health issues. On the basis of this information, the Committee considers that the situation is no longer in breach the Charter on the aforementioned ground. It nevertheless asks the next report to provide specific examples of health promotion campaigns.

The Committee refers to its previous conclusion for an overview of health education activities in schools (Conclusions 2009). The report mentions that a Health Education Committee was

established in 2009 with the aim of identifying issues common to both the Ministries of Education and Health in promoting the health of schoolchildren. The committee proposes actions to be taken and coordinates activities between the two Ministries. The Committee asks to be kept informed of any initiatives undertaken in this context.

### **Counselling and screening**

In its previous conclusion, the Committee noted the availability of free check-ups for babies of 6 weeks, 8 months and 18 months. It also noted that a free supervisory and monitoring programme for pupils was run by the school health service for children up to the age of eleven, and asked what the situation was as regards free medical checks for children over the age of eleven (Conclusions 2009).

The report says that beyond the age of 11 years, the Maltese School Health Service has introduced scoliosis screening for all 12-13 year olds in secondary schools. Furthermore, in the coming months Malta shall be introducing universal vaccination against HPV for all girls born in 2000 and later on reaching their 12th birthday. The Committee asks to be kept informed of any additional health checks which may be introduced for children over the age of 11, and more generally, whether there are projects to extend medical checks for the whole period of schooling. In its previous conclusion, the Committee found that it had not been established that prevention through screening was used as a contribution to the health of the population (Conclusions 2009). The current report provides ample information on screening activities funded and organised by the public health system. These include screening programmes for communicable diseases, non-communicable diseases, risk factors and cancer. Some examples mentioned in the report are: screening for SAI (Sexually Acquired Infections), carried out primarily by the GU clinic (Genitourinary clinic). Serological testing such as HIV and Hepatitis Screening are carried out by the community doctors at the governmental health centre. At the primary health care centres, clients can request screening for non-communicable diseases and associated risk factors such as hypertension, diabetes mellitus and blood lipid levels. National organised cancer screening programmes were started in 2009. The first programme to be initiated was for breast cancer screening. This programme provides women between 50-60 years with a mammography screening every 3 years. An organised colorectal cancer screening programme for persons aged 60 to 64 years was launched in late 2012, and a national screening programme for cervical cancer is planned to start in 2014. On the basis of this information, the Committee considers that the situation is no longer in breach the Charter on the aforementioned ground.

### **Conclusion**

Pending receipt of the information requested, the Committee concludes that the situation in Malta is in conformity with Article 11§2 of the Charter.

## **Article 11 - Right to protection of health – Conclusions 2013**

### **Paragraph 3 - Prevention of diseases and accidents**

The Committee takes note of the information contained in the report submitted by Malta.

### **Healthy environment**

The Committee takes note of the different measures and regulations mentioned in the report for the reduction of environmental risks, in particular in the field of air quality, environmental noise, ionising radiation and food safety. There are currently five air monitoring stations in operation, and an air quality plan is underway. In 2011, the Malta Environment and Planning Authority (MEPA) published a draft Noise Action Plan, which aims at identifying measures to reduce noise

burden resulting from major road traffic. The Committee asks to be kept informed on the implementation of the above-mentioned plans. With respect to ionising radiation, the report confirms that dose limits are in accordance with the recommendations set out in EU regulations. The Committee notes from another source<sup>1</sup> that following its 2004 accession to the EU, Malta invested heavily in environmental infrastructure and regulation, and the new Environment Protection Act was enacted in 2001, under which some 250 pieces of subsidiary legislation were passed by 2008. Some improvements, such as with respect to air pollution, soon became apparent. At the same time, the increased availability and lower prices of imported goods have increased household consumption, with impact on environmental issues such as waste generation, energy use and transport. The Committee asks to be kept informed on environmental monitoring related to those activities which have the potential to cause serious pollution.

### **Tobacco, alcohol and drugs**

The report indicates that policies are being implemented to ensure smoke-free public places in accordance with the WHO Framework Convention on Tobacco Control (FCTC), which Malta ratified on 24 September 2003 (entry into force 27 February 2005). Regulations were introduced in 2004 banning smoking in any enclosed private or public premises that are open to the public, except in designated smoking rooms approved by the Superintendent of Public Health. Under new regulations that will come into force in January 2013 these designated smoking rooms will not be allowed any more. This is a further step forward towards providing cleaner indoor air; it does not however affect exposure to tobacco smoke in private homes. Other measures to prevent smoking are in place, including a ban on all forms of tobacco advertising under a legal notice which came into force in 2011.

The Health Interview Survey (HIS) of 2008 showed that between 2002 (26.1%) and 2008 (25.2%) there were no marked differences in the total number of smokers including those who smoke daily and those who smoke occasionally. When compared to EU member states the rate of daily smoking in Malta is comparatively low: the 5th lowest rate after Portugal, Sweden, Finland and Slovakia respectively.

As regards alcohol consumption, the aforementioned survey showed that more than half of respondents reported rarely or never having alcoholic drinks in the previous 12 months with 15.3% drinking alcohol at least once a week. Data from ESPAD however shows that 87% of 15 and 16 year olds reported consumption of alcohol in the previous 12 months which is double the proportion of adults consuming alcohol in the same time period. An emerging trend is the increase in the rates of binge drinking. The Committee invites the Government to submit comments on this, and asks whether any measures are being taken as regards consumption of alcohol by young persons.

The report states that services to combat harmful consumption of alcohol and drug abuse are delivered and coordinated by the Foundation for Social Welfare Services (FSWS), within the Ministry of Justice, Dialogue & Family. The Foundation offers prevention and treatment services, both on community and residential settings. The Committee takes note of other rehabilitation programmes and services for alcohol and drugs mentioned in the report.

The Committee asks the next report to provide updated information on policy regarding alcohol consumption, in particular what is the minimum age at which the sale of alcoholic beverages is permitted.

### **Immunisation and epidemiological monitoring**

The Committee notes that vaccination coverage rates have improved since the last reference period: Malta has now surpassed the 95% target coverage rates for diphtheria, tetanus, polio, Hib meningitis and pertussis vaccination. As regards Measles, Mumps and Rubella vaccination, the

report confirms that the coverage rate for the second dose of this vaccine is now officially over 85% (97.2% uptake of MMR2 in 2010).

The Committee recalls that the Infectious Disease prevention and Control Unit investigates all notified cases of communicable diseases and takes the necessary measures to control them.

### **Accidents**

The report states that the rate of road traffic accidents with injury per 10 000 population was 299.67 in 2006 and has dropped to 199.52 in 2010. The mortality rate per 100 000 population (all ages) from external causes of injury and poisoning was 24.92 in 2010. There is a marked gender difference (four-fold): in 2009 the rate for males was 41.08 and the rate for females 10.31. The rate for children below the age of 4 was 4.97 and for the age group 5-19 years 7.14 in 2009. Campaigns to increase awareness to prevent accidents and promote a lifestyle that avoids the risks for accidents are organised by various agencies and organisations. These include several Ministries (responsible for Health, Police, Transport, Education), the Occupational Health and Safety Authority (OHSA), the Medicines Authority, and a number of NGOs. The Committee asks to be kept informed on the initiatives undertaken by the latter.

### **Conclusion**

The Committee concludes that the situation in Malta is in conformity with Article 11§3 of the Charter.

## **Article 12 - Right to social security – Conclusions 2013**

### **Paragraph 1 - Existence of a social security system**

The Committee takes note of the information contained in the report submitted by Malta.

### **Risks covered, financing of benefits and personal coverage**

In its previous conclusion (Conclusions 2009) the Committee noted that the personal coverage under social security branches was adequate and asked for updated figures on this issue. It notes from the report that there are two categories of benefits – contributory and non-contributory. The latter are intended to cover persons who do not qualify for contributory benefits or are paid in addition to contributory benefits when these do not reach the minimum amount of income.

The Committee asks the next report to provide information concerning the personal coverage of each branch of social security. For medical care, the report should provide the information on the percentage of persons insured out of the entire population. For income replacement benefits (pension, sickness, maternity and unemployment), information should be provided on the percentage of persons insured out of the total active population.

### **Adequacy of the benefits**

The Committee notes that 50% of the Eurostat median equivalised income stood at € 453 per month in 2011.

In its previous conclusion the Committee held that the level of minimum sickness, unemployment and special unemployment benefit was manifestly inadequate.

As regards the amount of *unemployment* benefit, the Committee notes from MISSOC that it amounts to € 7,37 per day for a single person. Benefit is paid weekly covering 6 days of entitlement. The Committee considers that the level of this benefit remains manifestly inadequate and therefore, the situation is not in conformity with the Charter.

As regards *sickness* benefit, the Committee notes from MISSOC that the employer pays wage/salary for the maximum total number of full days of sick leave the employee is entitled to under the labour law (Wage Regulation Order) or the individual collective agreement. The

amount of benefit for a single person is €12,01 per day. The Committee considers that the amount is inadequate and therefore, the situation is not in conformity with the Charter.

As regards *old-age* benefit, the Committee notes from MISSOC that the minimum pension for a single person amounts to €113 25 per week. The Committee further notes that all pensioners are entitled to a Government bonus of €135 10 in June and December and an additional bonus of €3,12 per week. Pensioners granted pension in 2008 or before are paid a cost of living bonus of €6,41 per week, pensioners granted pension in 2009 are paid a cost of living bonus of €5,24, pensioners granted pension in 2010 are paid a cost of living bonus of €3,88, pensioners granted pension in 2011 are paid a cost of living bonus of €1,94 per week, while pensioners granted pension in 2012 are paid a cost of living bonus of €1,55 per week. The Committee considers that the minimum level of old-age benefit is adequate.

In its previous conclusion the Committee held that the duration for which unemployment benefit was paid was too short. In this regard the Committee notes from MISSOC that the qualifying period for unemployment benefit is 50 weeks of paid contributions. As regards the duration of benefit, the maximum length of unemployment benefit is 156 days (5 months), provided that the number of benefit days paid does not exceed the number of contributions paid under a contract of service. The Committee notes that the situation which it found not to be in conformity with the Charter in its conclusions 2006 and 2009 has not changed. Therefore, the Committee reiterates its conclusion of non-conformity on the ground that the maximum length of unemployment benefit is too short.

The Committee recalls that in the meaning of Article 12§1 there must be a reasonable initial period during which the unemployed may refuse an unsuitable employment offer without losing his/her entitlement to unemployment benefit. The Committee asks whether the legislation foresees such reasonable period. In the meantime the Committee reserves its position on this point.

## **Conclusion**

The Committee concludes that the situation in Malta is not in conformity with Article 12§1 of the Charter on the grounds that:

- the minimum levels of unemployment and sickness benefits are inadequate;
- the maximum duration of unemployment benefit is too short.

## **Article 12 - Right to social security – Conclusions 2013**

### **Paragraph 3 - Development of the social security system**

The Committee takes note of the information contained in the report submitted by Malta.

The Committee notes that during the reference period a number of amendments were introduced to the system of social security. It notes in particular that the levels of different benefits have been increased in line with the cost of living.

The Legal Notice of 143 of 2009 provides that where a person who is registered as an unemployed person and who is in receipt of a non-contributory unemployment assistance and accepts to provide work in the community has his unemployment benefit amount increased to 75% of the national minimum wage. Besides, the ceiling for supplementary allowance purposes was increased to €8 162 for single persons and the maximum weekly rate was also increased to € 4,57.

As regards the amendments to the pension system, the Committee notes that persons in receipt of a contributory retirement pension may continue with their employment or self-employment irrespective of their earnings from the said employment without forfeiting their right to a contributory pension. Besides, as a result of the pension reform enactments of 2006 the persons

born on or after 1 January 1962 will benefit from a higher pensionable income for pension purposes.

### **Conclusion**

The Committee concludes that the situation in Malta is in conformity with Article 12§3 of the Charter.

## **Article 13 - Right to social and medical assistance – Conclusions 2015**

### **Paragraph 1 - Adequate assistance for every person in need**

In application of the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, States were invited to report by 31 October 2014 on conclusions of non-conformity for repeated lack of information in Conclusions 2013.

The Committee takes note of the information submitted by Malta in response to the conclusion that it had not been established that social assistance was provided to everyone in need (Conclusions 2013, Malta).

The Committee recalls that under Article 13§1 of the Charter the system of social assistance must be universal in the sense that the benefits must be payable to any person on the sole ground that (s)he is in need (European Roma Rights Centre (ERRC) v. Bulgaria, Complaint No. 48/2008, decision on the merits of 18 February 2009, §38). In its previous conclusion the Committee noted in particular the absence of information on the reasons for classifying the non-contributory unemployment assistance benefits as social assistance. It requested information on the eligibility criteria for these benefits, on the notion of "suitable work", on what grounds are considered legitimate in refusing employment and what are the consequences of a non-valid refusal i.e., in particular, what forms of social assistance may be refused in case a person would refuse employment, whether the assistance is entirely withdrawn and whether the withdrawal of such assistance may amount to the deprivation of means of subsistence for the persons concerned. It finally asked for clarification of what forms of social assistance, if any, apply to people in need not falling within the social assistance categories indicated above and not eligible for unemployment benefits (such as, for example, workers whose salary would be insufficient to satisfy their basic needs and those of their family).

The report firstly recalls that the social security system provides for two schemes, namely the contributory and non-contributory scheme. Whereas the contributory scheme – sickness benefit, unemployment benefit, injury benefit, injury pension, retirement pension, widow pension, invalidity pension – is an insurance based scheme where qualification for all benefits depends on a contribution test, the non-contributory scheme – social assistance, medical assistance, carer's pension, social assistance carers and disability pensions – is a capital and income-tested scheme and is therefore based on the financial situation of the claimant and also on the outcome of a medical panel review. Unemployment assistance falls under the same conditions and a claimant is registering for work as a jobseeker with the Register of the Employment & Training Corporation. Therefore, the eligibility criteria for claimants falling under the non-contributory scheme are that they form a household on their own, satisfy the capital/incomes test and satisfy a medical panel review. The financial eligibility criteria for unemployment assistance claimants is the same but claimants must also be registering for work.

The report further explains that in the case of a beneficiary of unemployment assistance who is struck-off the work register for refusing employment, unemployment assistance is suspended but the other eligible members in his household have the right to apply for social assistance on their behalf and thus will continue to receive social assistance for the period commensurate with the strike-off duration. With respect to the notion of suitable work, the report emphasises that



persons registering for work have an employability profile and any referral for employment will satisfy their employment profile.

Finally, the report mentions that persons in receipt of a non-contributory assistance automatically qualify for the maximum rate of child allowance where such a benefit is due or to the maximum rate of Supplementary Allowance if a child allowance is not in payment and to the energy benefit. Furthermore, persons with a low salary – up to the national minimum wage – also qualify for the maximum child allowance or supplementary allowance and to the energy benefit. On the basis of the above information, the Committee considers that the situation is compatible with the Charter. However, it asks that the next report provide further details on the financial means-test applied and on whether and to what extent assistance is withdrawn in case of refusal of employment offered. It also wishes to receive up-dated information on the amounts of Supplementary Allowance and energy benefit paid to workers in need due to insufficient resources (e.g. low pay below the minimum wage).

### **Conclusion**

Pending receipt of the information requested, the Committee concludes that the situation in Malta is in conformity with Article 13§1 of the Charter as regards the provision of social assistance to everyone in need.

## **Article 13 - Right to social and medical assistance – Conclusions 2013**

### **Paragraph 1 - Adequate assistance for every person in need**

The Committee takes note of the information contained in the report submitted by Malta.

#### **Types of benefits and eligibility criteria**

The Committee notes from the report that, under the Maltese system, social assistance is aimed at people who, for different reasons are not in a condition to work, namely: a head of household who is not fit for employment due to sickness, physical or mental illness; a person who according to the Employment Training Centre cannot be employed; single parents or separated persons who cannot engage in full-time employment due to family responsibilities and single persons who are over 18 years old, not living with their parents, who cannot engage in gainful occupation or register for employment. A specific means-tested non-contributory assistance scheme (Carers pension) is furthermore available for single or widow persons taking care on a full time basis of a sick relative. The report and MISSOC indicate that a capital resources test is applied in determining eligibility to social assistance: in the case of a single person, the total capital assets (not including the house and first car) must not exceed €14 000; a means test is also applied including any income from employment, investments or rents.

As regards people not falling in the above mentioned categories, the report mentions unemployment assistance benefits, in respect of which applies the requirement to seek suitable work, referred to in previous conclusions (Conclusions XVIII and 2009). Given that non-contributory benefits of this type can be considered as either social security or social assistance, the Committee asks the next report to indicate the Government's reasons for classifying these benefits as social assistance. It asks in this respect to indicate the eligibility criteria to these benefits and reiterates the questions previously raised concerning the notion of "suitable work", what grounds are considered legitimate in refusing employment and what are the consequences of a non-valid refusal i.e., in particular, what forms of social assistance may be refused in case a person would refuse employment, whether the assistance is entirely withdrawn and whether the withdrawal of such assistance may amount to the deprivation of means of subsistence for the persons concerned.

The Committee furthermore asks the next report to clarify what forms of social assistance, if any, apply to people in need not falling within the social assistance categories indicated above and not eligible for unemployment benefits (such as, for example, workers whose salary would be insufficient to satisfy their basic needs and those of their family). In the meantime, the Committee holds that it is not established that social assistance is provided to everyone in need.

As regards medical assistance, the Committee notes from MISSOC that all persons covered by the National Insurance Act of 1956 are eligible for free health care.

### **Level of benefits**

To assess the situation during the reference period, the Committee takes account of the following information:

- Basic benefit: according to MISSOC in 2011 the monthly social assistance benefit amounted to €401.13 for single persons, €436.54 to a couple without children and to €471.95 to a couple with one child. According to the report, the amounts were respectively of €381.76 for single persons, €414.36 for a couple without children, €446.96 for a couple with one child.
- Additional benefits: according to the report, the maximum rate of energy benefit per person in 2011 was €75 and the maximum rate for supplementary allowance was €4.57 per week (i.e. €18.28 per month) for a single person and €8.13 per week (i.e. €32.52 per month) for a couple.
- Medical assistance: the Committee previously noted (Conclusions 2009) that free medical aid ranges from medicines to hospital treatment. Furthermore, the report indicates that persons suffering from a chronic disease are entitled to medical assistance in cash. The sickness assistance rate in 2011 was €89.44 for one person and €158.36 for two persons.
- Poverty threshold (defined as 50% of median equivalised income and as calculated on the basis of the Eurostat at-risk-of-poverty threshold value): it was estimated at €453 in 2011.

In the light of above information, the Committee considers that the level of social assistance is adequate.

### **Right of appeal and legal aid**

In response to its previous finding of non-conformity (Conclusions 2009), the Committee notes from the information provided to the Governmental Committee (Governmental Committee, Report concerning Conclusions 2009, Doc. T-SG(2011)1final, §308) that the right of appeal is effectively guaranteed, by providing legal aid to people lacking adequate means. In particular, decisions concerning suspension of assistance can be appealed cost-free before the umpire and, in second instance, before the Court of Appeal. The Committee accordingly holds that the situation is in conformity with Article 13§1 on this ground.

### **Personal scope**

The Committee previously concluded (Conclusions 2009) that there was no clear indication of whether a length of prior residence requirement applied to foreign nationals to be entitled to social assistance on the same terms as Maltese nationals, insofar as the available information indicated that only permanent residents (i.e. foreign nationals granted long-term residence permit after residing in Malta for at least five years) could apply for social assistance. It accordingly found that it was not established that the situation was compatible with the Charter on this issue.

According to the information provided to the Governmental Committee (Governmental Committee, Report concerning Conclusions 2009, Doc. T-SG(2011)1final, §308), Nationals of

States Parties, legal residents or legally employed in Malta, enjoy equality of treatment with nationals in the matters of Social Assistance without being subjected to any prior residence requirement. Social Assistance is not granted only to holders of long term residence permit but also to holders to ordinary residence permit. In fact, under the Legal Notice No. 204/1999 "The provisions of the Social Security Act shall apply to nationals of the countries being, together with Malta, parties to the European Social Charter, and who have their ordinary residence in Malta". The authorities pointed out that residence permits are granted inter alia on condition of resources and stated that if the required criteria are no longer met, the residence permit would be cancelled and the persons concerned would be required to leave the island.

The Committee recalls that under Article 13§1, foreigners who are lawfully resident in the territory of a Contracting Party and lack adequate resources must enjoy an individual right to appropriate assistance on an equal footing with nationals, i.e. beyond emergency assistance. Furthermore, they cannot be repatriated on the sole ground that they are in need of assistance. Once the validity of the residence and/or work permit has expired, the Parties have no further obligation towards foreigners covered by the Charter, even if there are in a state of need. However, this does not mean that a country's authorities are authorised to withdraw a residence permit solely on the grounds that the person concerned is without resources and unable to provide for the needs of his family. The Committee asks the next report to clarify whether a residence permit can be withdrawn, before its legal expiry, for the mere reason that the person is in need and what type of assistance is available to the foreign residents who don't have a permanent residence permit. In the meanwhile, it reserves its position on this issue.

### **Conclusion**

The Committee concludes that the situation in Malta is not in conformity with Article 13§1 of the Charter on the ground that it has not been established that social assistance is provided to everyone in need.

## **Article 13 - Right to social and medical assistance – Conclusions 2015**

### **Paragraph 3 - Prevention, abolition or alleviation of need**

In application of the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, States were invited to report by 31 October 2014 on conclusions of non-conformity for repeated lack of information in Conclusions 2013.

The Committee takes note of the information submitted by Malta in response to the conclusion that it had not been established that services exist, offering advice and personal assistance to persons without adequate resources or at risk of becoming so (Conclusions 2013, Malta).

The Committee recalls that Article 13§3 concerns specifically services offering advice and personal assistance to persons without adequate resources or at risk of becoming so (Conclusions XVI-2, Hungary). In its previous conclusion the Committee specifically requested information on which types of advice and services (other than those provided to people in situation of need because of abuses, addictions or disability) were available specifically to people needing social assistance. It also wished to know what was the capacity of the social services to respond to requests for advice and personal assistance from persons in need.

The report primarily provides information on services provided to persons with addictions and to persons with disabilities as well as on services available to all members of society, for example services in respect of domestic violence and child abuse. Mention is made that Agenzija APOGG through outreach programmes and social work interventions identify people at risk of poverty and social exclusion and assist them to integrate back into mainstream society. The Committee understands that the various types of services mentioned in the report are in principle available

free of charge to persons in receipt of social assistance/unemployment assistance and it asks that the next report confirm this understanding as well as provide up-dated information on services such as advice and personal help, including on the number of beneficiaries. The Committee underlines that this information is necessary to fully assess the situation.

### **Conclusion**

Pending receipt of the information requested, the Committee concludes that the situation in Malta is in conformity with Article 13§3 of the Charter as regards advice and personal help.

## **Article 13 - Right to social and medical assistance – Conclusions 2013**

### **Paragraph 2 - Non-discrimination in the exercise of social and political rights**

The Committee takes note of the information contained in the report submitted by Malta. It notes there have been no changes in the situation that it has previously considered to be compatible with the Charter (Conclusions 2009).

### **Conclusion**

The Committee concludes that the situation in Malta is in conformity with Article 13§2 of the Charter.

## **Article 13 - Right to social and medical assistance – Conclusions 2013**

### **Paragraph 3 - Prevention, abolition or alleviation of need**

The report submitted by Malta contains no information on Article 13§3.

The Committee notes however from the information submitted to the Governmental Committee (Governmental Committee, Report concerning Conclusions 2009, Doc. T-SG(2011)1final, §§331-339) and that available on the official website of the Foundation for Social Welfare Services (FSWS), that social services are coordinated by the FSWS, which operates through three agencies dealing respectively with vulnerable children and families (APPOGG Agency), disability (SUPPORT Agency) and addiction issues (SEDQA Agency). All the agencies provide services both to Maltese nationals and foreign residents. The Committee understands that some of these services can cover to some extent the situation of people lacking resources, and notes in particular that the mandate of the APPOGG Agency includes "services to support and work with families and/or individuals at risk of poverty and social exclusion to empower them to attain the best quality of life". It notes however, from the detailed description of the organisation and functioning of these services, that no information is available on the services covered by Article 13§3, i.e. specific services offering advice and personal assistance to persons without adequate resources or at risk of becoming so.

The Committee notes from the Governmental Committee report (see above) and its previous conclusions (Conclusions XVIII and 2009) that the attention of the authorities had already been drawn to the fact that more specific information was required in this respect and it asks accordingly the next report to duly address this issue and, in particular, to provide concrete information on the services available to persons without adequate resources or at risk of becoming so (what type of advice and services, other than those provided to people in situation of need because of abuses, addictions or disability, are available specifically to people needing social assistance? how are these situations dealt with? are there any data on this kind of requests and the capacity of the services to respond to them?). In the meanwhile, the Committee does not find it established that the situation is in conformity with Article 13§3 of the Charter.

## **Conclusion**

The Committee concludes that the situation in Malta is not in conformity with Article 13§3 of the Charter on the ground that it has not been established that services exist, offering advice and personal assistance to persons without adequate resources or at risk of becoming so.

## **Article 14 - Right to benefit from social services – Conclusions 2013**

### **Paragraph 1 - Promotion or provision of social services**

The Committee takes note of the information contained in the report submitted by Malta.

### **Organisation of the social services**

As the report does not describe any change in the organisation of social services, the Committee refers to its previous conclusion (Conclusions 2009) for a description of the situation.

### **Effective and equal access**

The Committee notes that SAPPOR provides social services for people with disabilities while APPOGG concentrates on persons with insufficient incomes. The Committee reiterates that the provision of social welfare services should concern all those in need, especially vulnerable groups and individuals who have a social problem including children, elderly persons, disabled people, young people in difficulty, young offenders, minorities, such as migrants, Roma and refugees, the homeless, alcoholics and drug addicts, battered women and former prisoners. Concerning the social services for these other categories of the population the Committee refers to its conclusion under Article 13§3.

The report states that under the clients' rights charter, clients are entitled to receive quality services in a respectful manner without any discrimination irrespective of their nationality. This means that the services of the Foundation for Social Welfare Services (FSWS) are open to anyone who needs them, irrespective of their nationality.

### **Quality of services**

In reply to the Committee's request for reasons to account for the differing trends in funding for APPOGG (for which state support had slightly decreased) and for SAPPOR (for which there had been a major increase), the report points out that APPOGG's budget increased between 2008 and 2011, rising from MTL2 718 million (€6 331 million) to MTL 3 450 million (€8 036 million). State support for SAPPOR also grew, rising from MTL5 467 million (€12 734 million) to MTL6 590 million (€15 350 million).

In the absence of a reply in the report, the Committee again asks for information on changes in the staffing of Appogg and Sappor. It underlines that if the necessary information is not provided in the next report there will be nothing to show that Malta is in conformity with the Charter in this respect.

Users are informed of their rights and may complain about the quality of a service. User satisfaction surveys are also regularly conducted. Lastly, the adoption services run by APPOGG are given accreditation following an assessment of the service provided.

## **Conclusion**

Pending receipt of the information requested, the Committee concludes that the situation in Malta is in conformity with Article 14§1 of the Charter.

## **Article 14 - Right to benefit from social services – Conclusions 2013**

## **Paragraph 2 - Public participation in the establishment and maintenance of social services**

The Committee takes note of the information contained in the report submitted by Malta.

Noting that the report does not provide any new information on the situation of voluntary organisations in the provision of social services, the Committee refers to its previous conclusion (Conclusions 2009) for a description of the situation.

The Committee again asks how much funding is provided by the state through the fund set up under the 2007 Act and whether the fund offers training for voluntary organisations.

The Committee also wishes to know whether and how the Government ensures that services managed by the private sector are effective and are accessible on an equal footing to all, without discrimination at least on grounds of race, ethnic origin, religion, disability, age, sexual orientation and political opinion.

The Committee underlines that if the necessary information is not provided in the next report there will be nothing to show that Malta is in conformity with the Charter.

## **Conclusion**

Pending receipt of the information requested, the Committee defers its conclusion.

The Committee considers that the absence of the information required amounts to a breach of the reporting obligation entered into by Malta under the Charter. The Government consequently has an obligation to provide the requested information in the next report on this provision.

## **Article 15 - Right of persons with disabilities to independence, social integration and participation in the life of the community – Conclusions 2012**

### **Paragraph 1 - Vocational training for persons with disabilities**

The Committee takes note of the information contained in the report submitted by Malta.

The Committee observes that to assess the effective equal access of children and adults with disabilities to education and vocational training, it systematically should be informed of the following key figures:

- total number of persons with disabilities, including the number of children;
- number of students with disabilities following mainstream educational and vocational facilities;
- number of students with disabilities following special school education or training facilities;
- the percentage of students with disabilities entering the labour market following mainstream or special education and/or training.

It asks the next report to provide such figures and recalls that where it is known that a certain category of persons is, or might be, discriminated against, it is the national authorities' duty to collect data to assess the extent of the problem (*European Roma Rights Centre v. Greece*, Complaint No. 15/2003, decision on the merits of 8 December 2004, §27). The gathering and analysis of such data (with due safeguards for privacy and against other abuses) is indispensable to the formulation of a rational policy (*European Roma Rights Centre v. Italy*, Complaint No. 27/2004, decision on the merits of 7 December 2005, §23).

The report indicates that the number of disabled people voluntarily registered as such was 11,940 in 2010 (2.9% of population), of whom 874 people below 16 (7.3%), 4,616 people between 17 and 59 (38.7%) and 6,396 people over 60 (53.6%).

Malta has signed on 30 March 2007 the UN Convention on the Rights of Persons with Disabilities (CRPD) and its Optional Protocol. The report indicates that a draft law is being prepared on disability, aimed at harmonising different relevant laws with the CRPD, in view of its ratification.

### **Definition of disability**

The Equal Opportunities (Persons with Disability) Act of October 2000 defines disability as a physical or mental impairment that substantially limits one or more of the major life activities of a person. The Act further defines impairment in the context of disability as meaning any loss, restriction or abnormality of psychological, physiological, or anatomical structure or function. The Committee asks the next report to clarify how concretely this definition takes into account international classifications such as that endorsed by the WHO (International Classification of Functioning, Disability and Health – ICF 2001).

### **Anti-discrimination legislation**

As noted in previous conclusions (Conclusions 2008), the Equal Opportunities (Persons with a Disability) Act of October 2000, makes it unlawful to discriminate against disabled people on the basis of their disability, inter alia, in the areas of education and training and provides the National Commission for Persons with a Disability (KNPD) with the legal framework to take action when there is a case of discrimination in education or training through the Equal Opportunities Compliance Unit (EOCU), which was set up for that purpose. KNPD has also been appointed as independent monitoring mechanism of the UN Convention on the Rights of Persons with Disabilities (CRPD), which Malta is set to ratify soon and which includes education in its remit. It is furthermore represented in the Statementing Appeals Board, concerning the level of support granted to students with special needs.

The report provides details of the complaints concerning education (which constituted in 2009-2010 some 21% of the total complaints) and of the solutions found, in particular as regards reasonable accommodation to make education facilities accessible to disabled students. Victims can furthermore receive compensation and further remedies are also available before ordinary courts.

The Equal Opportunities (Persons with a Disability) Act, 2000 specifically provides that a person is considered to be acting discriminatorily when he treats or proposes to treat a person less favourably on the basis of a characteristic that appertains generally to persons who have such a disability or a presumed characteristic that is generally imputed to persons who have such a disability. The same Act also prohibits acts of discrimination which are inflicted because a person makes use of assistance.

### **Education**

Children with special educational needs are educated within mainstream schools whenever possible. A EU Commission report of 2011 (Eurydice – National system overview on education systems in Europe) indicates that: "A statementing moderating panel, on the basis of assessments by specialists, recommends the kind of educational support and facilities required by the child to benefit from inclusion in mainstream education. The school, in consultation with parents and teachers, draws up an individualised educational programme (IEP) for each pupil with a disability. Inclusive Education Co-ordinators are responsible for managing inclusive education at school level. Support may include the services of a Learning Support Assistant (LSA) on a shared or full-time basis. Those children with special educational needs who are not integrated into mainstream schools are educated in Resource Centres, while every attempt is made for these children to enjoy inclusive experiences. There are four Resource Centres, one for primary-aged children another for secondary aged students, the third is for older secondary school students and young adults while a fourth caters for young adults. Students attend Resource Centres up to the age of 22 years. During initial teacher education, significant emphasis is being placed on various aspects of inclusive education while teachers in service are offered training in various aspects of inclusive and special education. During school year 2009/10, the number of students

with special needs who were taught in Resource Centres accounted for 0.28% of the total student population. This percentage covers both state and non-state sectors".

Disabled people receive the support of Learning Support Assistants (if required) during compulsory education (some 1,500 such assistants are available in mainstream education), the curriculum can be adapted to their needs, in accordance with their Individual Educational Programme and both independent and state schools are expected to be accessible to disabled students (guidelines in this respect were adopted in 2000). Furthermore, different forms of financial assistance are available to disabled persons for education and training.

### **Vocational training**

According to the ANED report on equality of educational and training opportunities for young disabled people (2010), the majority of disabled people receive vocational training in the mainstream. Referring to its previous conclusions (2008), the Committee notes that, in this respect, the situation seems to have been brought into conformity with the requirements of Article 15§1 of the Charter.

In particular, a number of initiatives have been taken to promote the possibility for students with disabilities to go further after the compulsory schooling age (16) and in training, thanks to the cooperation established between the National Commission for Persons with a Disability with entities providing education and training, the introduction of special examination arrangements and the setting up of a disabled support unit within the University of Malta to provide assistance and resources to disabled university students and staff. As a result, 128 students with disabilities were reported in 2010 to be attending post-secondary and university level education (0.9% of the general population of students at these levels).

In addition, a special "Supported Employment Section" has been set up within the Employment and Training Corporation (ETC), the national agency responsible for providing vocational training and job experience to all those seeking to enter employment, including persons with disabilities. The special section supports and targets disadvantaged groups to enhance their capabilities to integrate into labour market by providing them counseling and placement services together with referrals to adequate training. Following an assessment by a professional occupational therapist aimed at better identifying the ability of a person to work and a number of regular interviews, registered disabled persons can attend mainstream courses in a training programme, adapted to their needs if need be, provided by the Maltese Public Employment Service. Specific and individualised training is available to persons with disabilities both when looking for a job or in the course of their professional career. 66 persons with disabilities attended mainstream vocational training between September 2007 and December 2008, 134 in 2009 and 539 in 2010. A scheme called "Bridging the Gap" is also available, which provides disabled people (and other disadvantaged groups) with training and support to secure employment. 18 disabled people attended specialised vocational training provided by the Eden Foundation (now called "Inspire Foundation") and the Richmond Foundation, with the assistance of the national employment training agency. The report furthermore indicates that initiatives are under way with a view to set a new course (to start in 2012) aimed at intellectually disabled people wishing to work in the field of tourism.

### **Conclusion**

The Committee concludes that the situation in Malta is in conformity with Article 15§1 of the Charter.

### **Article 15 - Right of persons with disabilities to independence, social integration and participation in the life of the community – Conclusions 2012**



## **Paragraph 2 - Employment of persons with disabilities**

The Committee takes note of the information contained in the report submitted by Malta.

### **Employment of persons with disabilities**

The report does not provide the requested statistical data. According to EU SILC data for 2009, compiled by ANED, the employment rate for disabled people (aged 20-64) in Malta was 32%, compared to 61.6% for non-disabled people. The unemployment rate was 17.6% and the economic activity rate 38.8%. The Committee reiterates its requests for up-to-date figures concerning the total number of persons with disabilities, the number of persons with disabilities of working age and the number of persons with disabilities employed (on the open market and in sheltered employment), those benefiting from employment promotion measures and those seeking employment as well as those who are unemployed. In the absence of these figures, it cannot be established whether the situation is in conformity with Article 15§2. Should next report fail to provide the information requested, there will be nothing to establish that the situation is in conformity with Article 15§1 of the Charter.

### **Anti-discrimination legislation**

The Equal Opportunities Persons with a Disability Act (2000) makes it unlawful for employers to discriminate against disabled people on the basis of their impairments (with the exception of armed forces). The law also obliges employers to make 'reasonable accommodation' when employing disabled people. In accordance with Article 7(5) the phrase "make reasonable accommodation" is defined to include (a) making existing facilities used by employees readily accessible to persons with disabilities; and (b) restructuring jobs, instituting part-time or modified work schedules, reassigning vacant positions, acquiring or modifying equipment or devices, appropriately adjusting or modifying examinations, training materials or policies, providing qualified readers or interpreters, and making any other similar accommodation for a person with a disability. The National Commission Persons with a Disability is to be consulted on physical access before approving building plans. The Test of Reasonableness Board can however allow for exemptions if the adaptations are deemed too expensive or technically difficult. National law does not clearly provide for the shift of the burden of proof when claiming the right to reasonable accommodation where such a right or duty is provided for.

The report provides detailed information on the case law concerning discrimination in employment and reasonable accommodation, including as regards decisions of the Test of Reasonableness Board.

### **Measures to encourage the employment of persons with disabilities**

The creation of employment opportunities for disadvantaged groups, including persons with disabilities, is considered to be a priority in the Government's policy. A National Policy on Employment and Persons with Disability was published in 2010. The government agency responsible for employment and training (ETC) offers support to disabled people seeking employment through schemes offering disabled people the opportunity of entering the labour market through supported employment measures. Among the schemes available in 2007-2010, the report mentions the following:

- Bridging the Gap Scheme (see also Conclusions 2008), providing the possibility to follow a training, remunerated weekly at 80% of the minimum wage (while renouncing the rights to any Social Security benefits throughout the traineeship);

- Cooperation agreements with the Eden foundation and the Richmond foundation to provide on-the-job training, work experience and follow-up support to persons with mental and intellectual disabilities;
- Work trial scheme, providing training remunerated at 50% of the minimum wage for the duration of the scheme (maximum 12 consecutive weeks, based on a 20 hour week, i.e. 4 hours a day);
- the Supported Employment Scheme (2004-2006), aimed at promoting disabled people's permanent integration in competitive employment;
- Employment Aid Programme, which offers financial assistance to employers, by subsidising 75% of the wage of the disabled employee for the first year and 60% of the wage for two other years (until September 2013) – in addition, the programme subsidises 50% of employers' national insurance contributions for disabled employees.

The report indicates that the Supported Employment Section placed 147 persons in employment between October 2007 and December 2008, 84 in 2009 and 107 in 2010. In particular, between 2007 and 2008, 24 persons found a job through the cooperation agreements with Eden foundation and Richmond foundation, 49 through work experience schemes, including the Bridging the Gap scheme, and 61 through the Supported Employment Scheme (including 20 persons accessing work for the first time). In 2009, half of the 26 persons with disabilities participating to the Bridging the Gap scheme were placed in employment. In 2010, 31 persons participated to the Bridging the Gap scheme and 7 to the Work trial scheme. End 2010, out of 31 persons participating in the Bridging the Gap scheme, 16 continued in employment, 12 returned on the unemployment register, whilst the remaining 4 were inactive. Between 2009 and December 2010 a total of 48 persons with disabilities participated in the Employment Aid Programme. The Committee asks the next report to indicate more clearly how many trainees with disabilities benefited from the different measures enacted and what percentage of them entered a lasting work relationship thereafter.

The government has also encouraged employers to recruit disabled people by making changes to the Social Security Act to the effect that employers employing a severely disabled person or a visually impaired person will have their national insurance for the first 156 weeks of employment refunded. In addition, accessible transport used during working hours is partly subsidised by the government. However, according to the ANED report (2009) on employment of disabled persons, such services are still expensive when compared to regular public transport and there are long waiting lists to use this service.

The 1969 Employment Disabled Persons Act, (known as the 'Quota Act') provides that local companies with more than 20 workers shall ensure that 2% of their workforce are taken from registered disabled people. The ANED report 2009 on employment of disabled persons and the report by the European Network of Experts in the Non-Discrimination field indicate however that the quota is not respected (end 2007, the disabled persons in the public sector were 347, i.e. 1.2%, while no data were available for the private sector). The Committee requests the next report to reply to these comments and provide additional information on all the steps taken to promote the employment of people with disabilities.

Maltese law does not specifically provide for sheltered or semi-sheltered employment for disabled workers. The setting up of sheltered employment structures is reported to be under consideration. The Committee requests the next report to provide more information in this respect.

## **Conclusion**

Pending receipt of the information requested, the Committee defers its conclusion.

The Committee considers that the absence of the information required amounts to a breach of the reporting obligation entered into by Malta under the Charter. The Government consequently has an obligation to provide the requested information in the next report on this provision.

## **Article 15 - Right of persons with disabilities to independence, social integration and participation in the life of the community – Conclusions 2012**

### **Paragraph 3 - Integration and participation of persons with disabilities in the life of the community**

The Committee takes note of the information contained in the report submitted by Malta.

#### **Anti-discrimination legislation and integrated approach**

The Committee recalls that the right of persons with disabilities to social integration provided for by Article 15§3 implies that barriers to communication and mobility be removed in order to enable access to transport (land, rail sea and air), housing (public, social and private), cultural activities and leisure (social and sporting activities). For this purpose Article 15§3 requires: – the existence of comprehensive non-discrimination legislation covering both the public and private sphere in fields such as housing, transport, telecommunications and cultural and leisure activities and effective remedies for those who have been unlawfully treated; – the adoption of a coherent policy on disabilities: positive action measures to achieve the goals of social integration and full participation of persons with disabilities. Such measures should have a clear legal basis and be coordinated.

The Committee notes that the Equal Opportunity (Persons with Disability) Act prohibits discrimination on the ground of disability inter alia in the areas covered by Article 15§3. Complaints in case of alleged discrimination can be addressed to ordinary courts or to a specialised body, the National Commission on Persons with Disability (KNPD). In 2009-2010, there were 35 complaints concerning accessibility issues (34%), 22 concerning access to goods and services (21%) and 5 concerning housing (5%). Complaints related to access have been decreasing since 2008, while those concerning access to goods and services, including communication, have been increasing. The percentage of cases related to housing remains relatively low. The report provides details of the case-law, showing the solutions found in a number of issues (including access to public services buildings, hotels, banks, shops, churches, swimming pools and sport centres; access to driving lessons, subtitling of tv programmes, airport check-in services, personal assistance; elevators and ramps in private buildings; travel insurances etc.).

#### **Consultation**

The Committee refers to its Conclusions 2008, where it had noted that the National Commission on Persons with Disability (KNPD) is responsible for devising and implementing social integration policies for disabled persons. At least half of its members are persons with physical disabilities themselves or family members of persons with a mental disability. The mandate and activities of KNPD are presented in detail in the report.

#### **Forms of financial aid to increase the autonomy of persons with disabilities**

According to the ANED report on social inclusion, two main social security provisions concern disability:

- the Invalidity Pension, which is a contributory pension awarded to people who have worked and have become unable to work due to permanent disability. The rate of the invalidity pension varies according to the individual. Claims to Invalidity Pension are

assessed by a medical board, on the basis of extensive medical evidence. According to the 2007 NSO "Malta in Figures" report, there were 7,307 people on this benefit in 2006 (the figure was expected to decrease, as new stricter criteria for eligibility have been introduced). In the period of Jan – Mar 2008, according to the NSO figures for government expenditure, the state was paying €6,910,000 in national minimum invalidity pensions (i.e. a decrease of €156,000 as compared to Jan – Mar 2007).

- the Disability Pension, which is awarded to Maltese disabled people over the age of 18 (over the age of 14 in the case of visually disabled people) and qualifying under provisions in the Social Security Act. The amount of the disability pension corresponds to 55% of the National Minimum Wage, i.e. around €338. Unlike the invalidity pension, this pension is non-contributory. According to the 2007 NSO "Malta in Figures" report, 2,194 people were receiving this benefit in 2006. During the period Jan – Mar 2008, the state was paying €2,292,000 in disability pensions – an increase of €167,000 in respect of Jan – Mar 2007. The ANED report 2009 on the implementation of policies supporting independent living for disabled people indicates that the level of this pension is too low to realistically cover the costs of an independent living. Furthermore, if the person or his/her spouse earns more than the National Minimum Wage he/she is no longer entitled to the disability benefit.

Family members of disabled people can apply for a 'carer's pension' or a 'disabled child allowance'.

### **Measures to overcome obstacles**

The National Commission on Persons with Disability (KNPD) has an advisory role in relation to the issuing of new building permits or the restructuring of existing buildings. Its guidelines on accessibility, issued in 2000 and revised in 2005 and 2011, apply in particular to educational, medical and public services buildings. Exceptions are possible for financial or technical reasons, upon decision of the Test of Reasonableness board. The ANED report on the social inclusion and social protection of disabled people indicates that, despite the efforts made, inaccessibility remains a problem for disabled people, the more so since not all the buildings are accessible and the regulations do not extend to other features of the built environment (such as pavements). The Committee notes the information provided concerning the assessment of conformity of building permits requests and works done and requests the next report to provide updated information on the progress made in effectively ensuring the removal of barriers.

### **Technical aids**

The National Commission Persons with Disability (KNPD) has an Assistive Apparatus Service (SGhS) that provides disabled people with financial aid in purchasing assistive equipment. This fund also provides disabled people with advice on the apparatus best suited for each disabled person. Although this service is not means-tested, the financial or social situation of the applicant may be also considered. Financial aid varies according to need, up to a maximum of around €1,800, although this can be increased in special cases. Disabled people can also apply for additional assistance to purchase assistive equipment through the Malta Community Chest Fund (MCCF), which provides financial assistance to individuals and NGOs, including disabled people, depending on individual needs. Disabled applicants wishing to benefit from both types of funding need to be approved by an independent board within KNPD. According to KNPD's annual report for 2008, 304 people benefited from the SGhS fund in 2008 and the total of approved grants was €210,950. The average amount granted to applicants was €694 (KNPD 2008). The report provides details of the technical aids granted in 2012 (outside the reference period). In addition,

a new resource centre was inaugurated in 2011 (outside the reference period), which assists disabled people in assessing the type of assistive material better suited to their condition.

The ANED report on the social inclusion and social protection of disabled people indicates that many support services are run by the state and are coordinated by the *Agenzija Sapport*. Disabled people can benefit from home-help and other services provided free of charge for elderly people. Financial support exists for disabled people employing personal assistants (reduced National Insurance Contribution) and for family members providing full-time care and support to a disabled relative (Carers' Pension), but the level of such benefits is reported not to be high enough to really cover the costs. Personal assistance is provided by the Sapport state agency and is allocated in a non-discriminatory way through a Service Allocation Committee, which decides on the basis of the particular needs of each client. The agency monitors and assesses the effectiveness of its services on a regular basis. Owing to the lack of resources, however, the waiting list to benefit from the agency's support is long. The same applies to the services offered by NGOs (in particular, the Inspire Foundation and, as regards persons with mental disabilities, the Richmond Foundation). Furthermore, the services provided in the private sector may also involve payment, unlike those provided by the state, which are largely free of charge, or subsidised.

In respect to medical care, Malta has a free health system with contributions being paid for by National Insurance. Disabled people with certain medical conditions may also benefit from free medicines. However, representatives of mental health system users in particular have complained that certain costly medicines used for a wide range of mental health conditions (like bipolar disorder) are not covered by this provision.

### **Communication**

The EPASI country report 2008 indicates that sign language is not recognised as an official language, although spoken by some 100 persons. Furthermore, there are complaints that the number of interpreters is too low, despite the financial support provided by the government to this purpose. A Foundation for Information Technology Accessibility (FITA) is in charge of making information communications technology (ICT) accessible for disabled people. Its information services assist disabled individuals in the selection, acquisition, or use of an assistive technology device, intended to increase, maintain, or improve the individual's quality of life. The Committee asks next report to indicate more in detail the measures taken to promote access to the new information and telecommunication technologies.

### **Mobility and transport**

Measures to make public transport accessible have been underway since 1996. Through government's subsidies, some 100 buses have been replaced, but more resources are needed to make public transport fully accessible. Transport services are also provided by private companies to disabled workers, partially subsidised by the government, but the demands largely exceed the supply for this service. Furthermore, disabled people can get a blue sticker giving them access to reserved parking places (statistics for 2012 are provided in the report) and can also be exempted from payment of taxes on vehicle road licenses and registration. Free ferry trips on Gozo Channel are available to disabled people with a Special Identity Card, as well as free trips to and from hospitals. The Committee takes note of the case law provided concerning transport and requests next report to provide updated information on accessibility to public road, rail, air and sea transport, it also asks whether free or reduced fares are available for persons with disabilities, where necessary to cover additional costs.

### **Housing**

In relation to housing, disabled people and their families can claim financial assistance to help them carry out necessary adaptations. Applications for housing adaptations are assessed by a board of the Housing Authority (HA), which has the final say in granting these subsidies. 10% of new allocation schemes concern disabled people. The Housing Authority also offers subsidy on rents which are not means-tested and a subsidy on loans for disadvantaged groups (including disabled people), provided that the bank approves the loan, which is more difficult for low-income disabled persons. The ANED report on social inclusion indicates that the demand for housing schemes is high, although no official statistics exists on their success and, as some of them address disadvantage groups in general, it is not possible to assess the specific situation of disabled people in this area.

In 2005, 2,808 persons with disabilities (11.8%) were living in institutional residences, but current trends are towards progressive de-institutionalisation. At present, residential services are available through the Sappot agency, upon decision of a team of social workers, in situations where the person cannot continue living in his/her former residence. Disabled clients are then allocated a separate flat where they can benefit from the personal support of the same agency. In June 2009, 104 disabled people benefited from these services (they were 100 in 2003, when the service started) in 5 residences spread over the country. The KNPD is also in the process of constructing an Independent Living Centre (ILC) aimed at providing disabled people with services related to independent living (general information related to disability services, wheelchair and driving assessments and training, with the opportunity to test out equipment).

### **Culture and leisure**

People with disabilities (under certain conditions) are entitled to a Special Identity Card which gives them free entrance or reduced price access to certain sport and cultural activities. The Committee notes the case law provided concerning removal of barriers to sport and cultural facilities, as well as efforts under way to remove obstacles to tourism for people with disabilities and asks next report to provide updated information on accessibility of sport and cultural activities (access, fees, special programmes, etc).

### **Conclusion**

The Committee concludes that the situation in Malta is in conformity with Article 15§3 of the Charter.

### **Article 16 - Right of the family to social, legal and economic protection – Conclusions 2015**

The Committee takes note of the information contained in the report submitted by Malta.

### **Social protection of families**

#### **Housing for families**

The Committee refers to its previous conclusion (Conclusions 2011) for a description of the services offered by the Housing Authority.

As regards forced eviction, the report provides information on eviction justified by public interest. The 'Land Acquisitions (Public Purposes) Ordinance' enables the authorities to carry out evictions whenever land is required for public purposes and prescribes to evictees a number of rights. Evictions can take place 14 days from the date of publication in the Government Gazette, however if the land from which a person is to be evicted is also serving as a dwelling house, the occupier shall not be required to yield the possession thereof before the lapse of fourteen days from the date when alternative accommodation, reasonably sufficient for the persons resident in that dwelling house, has been offered in writing by the competent authority to the said occupier.

In accordance with principles of administrative law, the Court of Justice has jurisdiction to enquire whether the government was justified in issuing an order for expropriation and review whether the alternative accommodation is reasonably sufficient. The Committee wishes the next report to lay out the legislation on forced eviction for reasons other than public interest such as insolvency or wrongful occupation.

The Committee notes from the 2013 report on Malta of the European Commission against Racism and Intolerance (ECRI), which notes from a qualitative study on racial discrimination in Malta prepared by the National Commission for the Promotion of Equality (NCPE) that persons of migrant background continue to be confronted with racial discrimination when looking for a place to rent. The ECRI report mentions the project established by the NCPE, which consists of a situation-testing exercise, a study on the housing options available to migrants and plans to address home owners and estate agents on the illegality of racial discrimination. In his visit report of 2011, the Council of Europe Commissioner for Human Rights also stressed the issue of discrimination faced by migrants trying to access private housing.

While encouraging the efforts made by the NCPE, the Committee considers in view of the available information that the situation is not in conformity with the Charter on the ground that migrant families face discrimination in their access to housing.

### **Childcare facilities**

The report states that the Government recently adopted a policy of free childcare facility for all parents who work, meaning that every parent has access to childcare facilities. It also refers to the Department for Social Welfare Standards, whose role is to ensure that childcare is of a certain quality. There are currently 71 childcare centres registered with this Department and 9 holding a temporary registration. The quality of care is ensured either through inspections or on the basis of complaints. The Committee wishes the next report to indicate the number of children that these centres can accommodate.

### **Family counselling services**

The report indicates that through *Agenzija Appoġġ* the Government provides services relating to children in need and families. The said agency has professional social workers and psychologists who help individuals that are passing through difficulties in their relationship with others, particularly with their family members. Psychological support for children's education is provided mostly within schools and colleges by professional staff that are assigned to each school and college.

### **Participation of associations representing families**

The report explains that the Government endeavours to promote public consultation whenever laws are being amended or policies are being framed. Prior to the amendment or the framing of policies the Government puts relevant information on its webpage. In view of the foregoing, the Committee considers that the situation is not in conformity with the Charter on the ground that it has not been established that associations representing families are consulted when family policies are drawn up.

### **Legal protection of families**

#### **Rights and obligations of spouses**

The Committee notes that marital conflicts are settled by the Civil Hall First Court (Family Section). Procedure requires that before proceedings are instituted before the court spouses ask the registrar to appoint a mediator (free of charge) and assist the spouses on agreeing on

important points relating to the separation, which points include: matrimonial home and other assets, whether maintenance is to be paid and if so the amount of maintenance, who will be the primary care giver to the children and visitation rights received by the other parent and other relative issues. During the mediation, parties may be assisted by a person of trust which usually is a lawyer. Once the parties agree on a separation contract such agreement is sent to the Family Court which will assess whether one of the parties is seriously prejudiced by the contract. Case law shows that the Family Court will intervene and ask the spouses to revise the contract if it considers that the children will be placed at risk of poverty and there is uncertainty as to whether one of the parents has enough resources to pay for adequate child support.

### **Mediation services**

The report indicates that mediation services are offered free of charge to all couples who engage in separation, divorce or annulment proceedings.

### **Domestic violence against women**

The Committee takes note of the entry into force of the Domestic Violence Act in 2013, which establishes a commission on domestic violence. The functions of this commission are to advise the Minister responsible for social policy on the issue of domestic violence. The Act obliges the Government to designate one or more organisations, institutions or other bodies as the agency responsible for the provision of preventive or therapeutic programmes for victims and perpetrators of domestic violence. The Committee asks the next report to indicate the outcome following the implementation of these programmes.

It also notes that the Criminal Code empowers criminal courts to issue a restraining order when there is a high probability that an accused will harass his victim or when the conduct of the accused is likely to cause a fear of violence. In family courts cases, whenever it is proved that one of the spouses was violent towards the other the court may order that one of the spouses leaves the matrimonial home to the other. In addition to or without a protection order the criminal court and the family court may also issue a treatment order, which would require the accused to follow a treatment which the court may deem appropriate.

### **Economic protection of families**

#### **Family benefits**

According to Eurostat data, the monthly median equivalised income in 2013 was €1,007. According to MISSOC, the monthly amounts of child benefits was €96.32 for the first child, €192.64 for 2 children, €288.96 for 3 children, €385.28 for 4 children and €96.32 for any additional children. Child benefits represented a percentage of that income as follows: 9.6% for the first child, 19% for 2 children, 28.6% for 3 children and 38.2% for 4 children, etc.

The Committee considers that, in order to comply with Article 16, child allowances must constitute an adequate income supplement, which is the case when they represent a significant percentage of the monthly median equivalised income. On the basis of the figures indicated, the Committee considers that the amount of benefits is compatible with the Charter.

#### **Vulnerable families**

In its previous conclusion (Conclusions 2011) the Committee asked what measures were taken to ensure the economic protection of Roma families. The report indicates in this respect that there are no Roma families living in Malta. It however explains that there are families in an economically vulnerable position being from a different ethnic group, mostly African families,



who cannot be repatriated due to the application of the 1951 Refugee Convention and Articles 2 and 3 of the European Convention of Human Rights.

The report mentions that there are 12 different facilities which offer residence to single male adults, couples without children, single women, families and unaccompanied minors. In addition to accommodation the Government gives between €2.33 and €4.66 per person per day to each individual in this category.

### **Equal treatment of foreign nationals and stateless persons with regard to family benefits**

The Committee noted in its previous conclusion (Conclusions 2011) that the equal treatment of nationals of States parties to the European Social Charter residing in Malta was ensured regarding family benefits. The Committee however asked whether the granting of residence status was subject to a length-of-residence requirement. The report provides no answer in this respect, the Committee therefore reiterates its question.

The Committee asks the next report to indicate whether stateless persons and refugees are treated equally with regard to family benefits.

### **Conclusion**

The Committee concludes that the situation in Malta is not in conformity with Article 16 of the Charter on the grounds that:

- migrant families face discrimination in their access to housing;
- it has not been established that associations representing families are consulted when family policies are drawn up.

### **Article 16 - Right of the family to social, legal and economic protection – Conclusions 2011**

The Committee takes note of the information contained in the report submitted by Malta.

The report provides no description or information on social protection measures for families (apart from housing-related matters) nor on their legal and economic protection, despite repeated requests in previous conclusions. The Committee asks the next report to provide information in accordance with the questions below, so as to permit an assessment of the situation on substantive grounds. In the meantime, having no elements at its disposal showing that the situation complies with the Charter on these issues, it reiterates its conclusion of non-conformity.

As the notion of the "family" is variable, the Charter applies to every family according to the definition of this notion in domestic law. The Committee asks that the next report indicate how the "family" is defined in domestic law.

### **Social protection of families**

#### **Housing for families**

The Committee points out that Articles 16 and 31, though different in personal and material scope, partly overlap in several areas relating to the right of families to housing. In this respect, the notions of adequate housing and forced eviction are identical under Articles 16 and 31 (Centre on Housing Rights and Eviction (COHRE) v. Italy, Complaint No. 58/2009, decision on the merits of 25 June 2010, § 115). As Malta has not accepted Article 31, housing for families is examined under Article 16.

The report indicates that the Housing Authority is a Public Entity which promotes and offers home ownership to help first time buyers, to buy their residence from the private sector; offers grants for adaptation and repair works in private and public buildings for owners and tenants

and provides schemes related with rent subsidy and government housing. The Housing Authority has also initiatives to help voluntary organisations that provide housing services to persons in housing need.

The Committee has constantly interpreted the right to economic, legal and social protection of family life provided for in Article 16 as guaranteeing the right to adequate housing for families, which encompasses secure tenure supported by law (Centre on Housing Rights and Eviction (COHRE) v. Croatia, Complaint 52/2008, decision on the merits of 22 June 2010, § 53).

Under Article 16, States Parties must promote the provision of an adequate supply of housing for families, take the needs of families into account in housing policies and ensure that existing housing be of an adequate standard and size considering the composition of the family in question, and include essential services (such as heating and electricity). Furthermore, the obligation to promote and provide housing extends to ensuring enjoyment of security of tenure, which is necessary to ensure the meaningful enjoyment of family life in a stable environment. The Committee recalls that this obligation extends to ensuring protection against unlawful eviction (European Roma Rights Centre (ERRC) v. Greece, Complaint No. 15/2003, decision on the merits of 8 December 2004, § 24).

The effectiveness of the right to adequate housing requires its legal protection through adequate procedural safeguards. Occupiers and tenants must have access to affordable and impartial legal and non-legal remedies. Any appeal procedure must be effective (Conclusions 2003 France, Italy Slovenia and Sweden; Conclusions 2005 Lithuania and Norway; European Federation of National Organisation working with the homeless (FEANTSA) v. France, Complaint No 39/2006, decision on the merits of 5 December 2007, §§ 80-81). Public authorities must also guard against the interruption of essential services such as water, electricity and telephone (Conclusions 2003, France).

As to protection against unlawful eviction, States must set up procedures to limit the risk of eviction (Conclusions 2005, Lithuania, Norway, Slovenia and Sweden). The Committee recalls that in order to comply with the Charter, legal protection for persons threatened by eviction must include:

- an obligation to consult the parties affected in order to find alternative solutions to eviction;
- an obligation to fix a reasonable notice period before eviction;
- accessibility to legal remedies;
- accessibility to legal aid;
- compensation in case of illegal eviction.

To enable it to fully assess whether the situation is in conformity with Article 16 of the Charter as regards access to adequate housing for the families, the Committee asks for information in the next report on all the aforementioned points.

As regards access to housing for vulnerable families and Roma in particular, the Committee has held that "as a result of their history, the Roma have become a specific type of disadvantaged group and vulnerable minority. They therefore require special protection. Special consideration should be given to their needs and their different lifestyle both in the relevant regulatory framework and in reaching decisions in particular cases, not only for the purpose of safeguarding the interests of the minorities themselves but to preserve cultural diversity of value to the whole community" (COHRE v. Italy, §§ 39-40). The Committee asks that the next report provide information on measures taken to improve the housing situation of Roma families.

### **Childcare facilities**

In its previous conclusion, the Committee was not able to assess whether childcare facilities were affordable and of good quality, due to a lack of information, and found that the situation was not

in conformity with the Charter on this ground (Conclusions 2006). The report again fails to provide any information on childcare facilities in the country.

The Committee points out that states must ensure that affordable, good quality childcare facilities are available (with quality defined in terms of the number of children under the age of six covered, staff to child ratios, staff qualifications, suitability of the premises used and the size of the financial contribution parents are asked to make). In order to assess whether this provision matches the needs of families, the Committee asks for information on childcare facilities to be included in the next report.

The Committee underlines that, to be in conformity with Article 16 of the Charter, staff working in nurseries should be suitably qualified. It therefore asks what measures are planned to monitor the quality of such services.

### **Family counselling services**

The report contains no information on family counselling services.

The Committee recalls that families must be able to consult appropriate social services, particularly when they are in difficulty. States are required in particular to set up family counselling services and services providing psychological support for children's education. The Committee asks for information to be included in the next report on family counselling services.

### **Participation of associations representing families**

The report contains no information on this matter.

The Committee recalls that to ensure that families' views are catered for when family policies are framed, the authorities must consult associations representing families. The Committee asks for information in the next report on the participation of relevant associations representing families in the framing of family policies.

### **Legal protection of families**

#### **Rights and obligations of spouses**

The report contains no information on this issue.

In cases of irreparable deterioration in family relations, Article 16 of the Charter requires the provision of legal arrangements to settle marital conflicts and in particular conflicts pertaining to children (care and maintenance, deprivation and limitation of parental rights, custody and access to children when the family breaks up). The Committee asks for the next report to provide detailed information on the aforementioned points.

#### **Mediation services**

In its previous conclusion (Conclusions 2006), the Committee noted that a mediation service had been introduced in 1999 to help couples settle the various problems arising out of separation (finance and custody of children).

The Committee points out that states are required to set up family mediation services, which help settle disputes and ensure that future relations between parents and between them and their children are not unduly damaged. The Committee asks for information in the next report on access to such services, whether they are free of charge, how they are distributed across the country and how effective they are.

#### **Domestic violence against women**

The report contains no information on this matter.

The Committee recalls that Article 16 requires that protection for women exists, both in law (through appropriate measures and punishments for perpetrators, including restraining orders, fair compensation for the pecuniary and non-pecuniary damage sustained by victims, the possibility for victims – and associations acting on their behalf – to take their cases to court and special arrangements for the examination of victims in court) and in practice (through the collection and analysis of reliable data, training, particularly for police officers, and services to reduce the risk of violence and support and rehabilitate victims).

In the general introduction to the last conclusions (Conclusions 2006), the Committee asked for the next reports on Article 16 to provide a comprehensive description of measures taken to combat domestic violence against women (measures in law and practice, data, judicial decisions). The report does not provide the information requested. The Committee underlines that if the next report does not provide the necessary information, there will be nothing to show that the situation in the Malta is in conformity with Article 16 of the Charter on this ground.

## **Economic protection of the family**

### **Family benefits**

The report provides no information on family benefits.

The Committee however notes from ISSA<sup>1</sup>, that a child allowance (income-tested) is available for all households with children younger than age 21, if the income of both parents does not exceed €23,923. For children aged 16 or older, the child must be a full-time student and not receiving a stipend for studying, must never have been in gainful employment, must not be registered as unemployed, and must not be entitled to any social assistance benefits. The benefit for one child is calculated as the difference between €23,923 and the couple's income multiplied by 6%. The benefit increases by another 6% per child. If household income does exceed €23,923, a flat rate of €250 per annum per child is paid.

The Committee considers that, in order to comply with Article 16, child allowances must constitute an adequate income supplement, which is the case when they represent a significant percentage of median equivalised net income. According to MISSOC<sup>2</sup>, in 2009 the monthly amount of child allowances (maximum) was € 96.2 for one child, € 192.64 for two children and € 288.96 for three children. The Committee notes that these amounts per month correspond to 11.6%, 23.3% and 34.9% of monthly median equivalised income. The Committee recalls that it previously considered that the amount of benefits was sufficient. It notes that basic child allowances have risen compared with the previous reference period. Based on the information at its disposal, the Committee considers that the amount of family benefits is sufficient.

### **Vulnerable families**

States' positive obligations under Article 16 include implementing means to ensure the economic protection of various categories of vulnerable families, including Roma families. The Committee consequently asks what measures are taken to ensure the economic protection of Roma families.

### **Equal treatment of foreign nationals and stateless persons with regard to family benefits**

The Committee also notes from ISSA that all resident citizens of Malta and European Union citizens and persons covered by the European Social Charter residing in Malta are entitled to family allowances. The Committee asks whether the granting of residence status is subject to a length-of-residence requirement.

## **Conclusion**

The Committee concludes that the situation in Malta is not in conformity with Article 16 of the Charter on the ground that it has not been established that Malta implements a comprehensive policy to ensure the social, legal and economic protection of the family.

### **Article 23 - Right of the elderly to social protection – Conclusions 2013**

The Committee takes note of the information contained in the report submitted by Malta.

#### **Legislative framework**

The Committee notes from the report that the Office of the Commissioner for Mental Health and Older Persons was established in 2011 with the aim of promoting awareness of matters relating to the rights and interests of older persons and of the need to uphold and safeguard these interests.

The Committee previously asked (Conclusions 2009) whether anti-discrimination legislation (or an equivalent legal framework) to protect elderly persons outside the field of employment existed in Malta. It reiterates its question whether legislation expressly prohibits age discrimination beyond employment, in particular in access to goods, facilities and services.

The Committee also asks for information on the legal framework related to assisted decision making for the elderly, and, in particular, whether there are safeguards to prevent the arbitrary deprivation of autonomous decision making by elderly persons. In this respect, the Committee refers to its statement of interpretation in the General Introduction.

#### **Adequate resources**

When assessing adequacy of resources of elderly persons under Article 23, the Committee takes into account all social protection measures guaranteed to elderly persons and aimed at maintaining an income level allowing them to lead a decent life and participate actively in public, social and cultural life. In particular, the Committee examines pensions, contributory or non-contributory, and other complementary cash benefits available to elderly persons. These resources will then be compared with median equivalised income. However, the Committee recalls that its task is to assess not only the law, but also the compliance of practice with the obligations arising from the Charter. For this purpose, the Committee will also take into consideration relevant indicators relating to at-risk-of-poverty rates for persons aged 65 and over.

The Committee notes from MISSOC that the minimum pension for a single person amounted to €109.37 per week in July 2011 (corresponding to approx. €474 per month). The Committee further notes from the report that low income pensioners are also entitled to a supplementary allowance (SPA) as cash and energy benefit (EB) in the form of a voucher. Both benefits are means tested and all recipients of the minimum old age pension normally qualify for such benefits. The SPA maximum rate for a married person is €8.13 per week whereas that for a single person is €4.57 per week. The EB assessment depends also on the electricity consumption and on an annual basis amounts to €75 per eligible person per household. Therefore in a household composed of two married persons where the annual income comprises of a minimum old age pension they will benefit also from the maximum rate of SPA of €422.76 annually and from a possible maximum of €150 annually as EB. According to the report, the applicable minimum income guarantee for low income elderly persons claiming SPA is €10 573 for a married couple and €8 405 for a single person (approx. € 881 and € 700 per month). The applicable minimum income guarantee for low income persons claiming EB is €8 401 for both married and single person household

The poverty threshold, defined as 50% of median equivalised income and as calculated on the basis of the Eurostat at-risk-of-poverty threshold value, was estimated at €453 in 2011. The

Committee considers that the minimum level of old-age benefits, together with the available supplements, is adequate.

However, the Committee further notes from Eurostat that in 2011, 4.3% of persons aged 65 and over received income falling below 40% of median equivalised income (compared to 5.1% in 2010 and 5.3% in 2007). The Committee therefore asks the Government to explain why this group of persons do not qualify for the minimum guarantees described above and requests information on what specific measures are taken to address their situation. Pending receipt of this information, the Committee reserves its opinion on this point.

### **Prevention of elder abuse**

The Committee notes from the report that a National Working Group on Elder Abuse was set up in 2010 with the aim of enhancing awareness on elder abuse. The Working group produced a booklet: 'Abuse of the Older Person, See it, Prevent it, Stop it', as well as a Roadmap for the Prevention of Older Person Abuse which serves as a base for co-ordinated approach amongst the various stakeholders. It also elaborated policies concerning prevention and response to abuse arising in residential care and a strategic plan addressing Older Person abuse and society's response to such abuse, which involves education and training, research, caregiver support and legislation. The Committee would like to receive more details on the relevant policies/strategic plans and their outcome.

### **Services and facilities**

The Committee notes from the report that as the number of older persons in Malta continues to increase, the various community services have expanded to match the increased demand. According to the report, access to the various community services has been facilitated by online application forms, which are also available from the various local councils. Review of the various community services is ongoing and is guided by the principles of equity, quality, timeliness of service, financial sustainability and empowerment of the older person. The Committee would like to receive more detailed information and it reiterates its question whether the supply of services is sufficient.

The Committee also recalls that it previously asked how the quality of services was monitored, and whether there was a possibility for elderly persons to complain about quality and access to services. According to the report, the central office in Valletta serves as a customer base and receives complaints from service users. The Committee wishes to receive more comprehensive information.

### **Housing**

In light of the repeated lack of information, the Committee reiterates its questions about the housing available for elderly persons. The Committee also asks whether the needs of elderly persons are taken into account in national or local housing policies. In the absence of a reply in the next report, there will be nothing to prove that the situation is in conformity on this point.

### **Health care**

The report indicates that new specialised outpatient clinics have been introduced in order to facilitate the expansion of primary care services addressed specifically to older persons. These include memory clinics as well as other specialised clinics related to continence, movement disorders, falls, ophthalmic and Tuberculosis/Pulmonary disorders. Other paramedical services such as physiotherapy and occupational therapy were made increasingly available both on an outpatient basis as well as through domiciliary visits. Podology clinics exist within most of the Day Centres. To facilitate diagnosis of patients suffering from cognitive problems, consultant

geriatricians have started conducting dementia clinics in two health centres on a weekly basis and a consultant psychogeriatrician has also been appointed. In addition, an orthogeriatric service at Mater Dei Hospital was introduced on one of orthopaedic wards, allowing for joint management of clinical needs by orthopaedic surgeons, geriatricians and anaesthetists. The Committee wishes to know whether there are any guidelines on health care for elderly persons.

### **Institutional care**

The Committee previously asked what proportion of the applications for a place in a residential home are met. The report indicates that requests for long-term care are addressed based on the urgency of admission. As a general rule, all very urgent applications are accepted for admission into residential care. In order to be in a position to meet such demand an average of 150 new additional long-term care beds are provided each year.

The Committee further notes from the report that the consultation process for the draft new National Care Standards have now been presented to the new government who is reviewing them with a view to the introduction of new standards for Homes of the Elderly. The Committee wishes to be kept informed on the implementation of these new health care standards and would like to receive more details about their content.

### **Conclusion**

Pending receipt of the information requested, the Committee concludes that the situation in Malta is in conformity with Article 23 of the Charter.

## **Article 27 - Right of workers with family responsibilities to equal opportunity and treatment – Conclusions 2015**

### **Paragraph 2 - Parental leave**

The Committee takes note of the information contained in the report submitted by Malta.

The Committee notes that the situation which it has previously considered to be in conformity with the Charter has not changed. The report states that since 2010 parental leave is of four months duration.

The Committee recalls that under Article 27§2 of the Charter the States are under a positive obligation to encourage the use of parental leave by either parent. The States shall ensure that an employed parent is adequately compensated for his/her loss of earnings during the period of parental leave.

The modality of compensation is within the margin of appreciation of the States Parties and may be either paid leave (continued payment of wages by the employer), a social security benefit, any alternative benefit from public funds or a combination of such compensations. Regardless of the modality of payment, the level shall be adequate (Statement of Interpretation on Article 27§2, General Introduction to Conclusions 2015).

The Committee asks what financial compensation or benefits are provided during the period of parental leave.

### **Conclusion**

Pending receipt of the information requested, the Committee concludes that the situation in Malta is in conformity with Article 27§2 of the Charter.

### **3. ILO Conventions**

No Concluding Observations



## 4. EU Country-Specific Recommendations: 2015

(the numeration of comments is kept in accordance to the original)

The European Union has set up a yearly cycle of economic policy coordination called the European Semester in 2010. Under the European Semester, the European Commission was given a mandate by Member States to check whether they take action on reform commitments they have made at EU level. The European Semester starts when the Commission adopts its Annual Growth Survey which sets out EU priorities to boost job creation and growth for the next year.

Each year, the Commission undertakes a detailed analysis of EU Member States' plans of budgetary, macroeconomic and structural reforms and provides them with the country-specific recommendations basing its decision on the submitted by each country National Reform Programme and Stability Programme. These recommendations provide tailor-made policy advice to Member States in areas deemed as priorities for the next 12-18 months. The European Council endorses the recommendations after the discussion.

Where recommendations are not acted on within the given time-frame, policy warnings can be issued. There is also the option of enforcement through incentives and sanctions in the case of excessive macroeconomic and budgetary imbalances.

### **COUNCIL RECOMMENDATION of 14 July 2015 on the 2015 National Reform Programme of Malta and delivering a Council opinion on the 2015 Stability Programme of Malta (2015/C 272/21).**

[\*Official Website of the European Commission\*](#)

(8) Malta is currently in the preventive arm of the Stability and Growth Pact following the abrogation of the Excessive Deficit Procedure in June 2015 ( 2 ). In its 2015 Stability Programme, the Government plans a gradual improvement of the headline deficit to 1,6 % of GDP in 2015 and further to 0,2 % of GDP in 2018. Based on the Commission's 2015 spring forecast, the excessive deficit can be considered to have been corrected in 2014. According to the Stability Programme, the Government plans to meet the medium-term objective — a balanced budgetary position in structural terms — by 2019, one year after the programme period. According to the Stability Programme, the government debt-to-GDP ratio is expected to gradually decline to 61,2 % in 2018. The macroeconomic scenario underpinning these budgetary projections is plausible. There appears to be a risk of some deviation from the required adjustment of 0,6 % of GDP towards the medium-term objective in both 2015 and 2016. In 2015, the improvement in the structural balance is forecast to be 0,1 % of GDP below the requirement. While the adjustment projected for 2016 is in line with the requirement, there is a risk of some deviation over 2015 and 2016 taken together. Measures to support the planned deficit targets from 2016 onwards have not been sufficiently specified. Therefore, further measures will be needed in 2015 and 2016. Based on its

assessment of the Stability Programme and taking to account the Commission's 2015 spring forecast, the Council is of the opinion that Malta is expected to broadly comply with the provisions of the Stability and Growth Pact.

(9) The sustainability of Malta's public finances is at risk in the long term, in particular in view of a projected increase in age-related expenditure. In the pension system, the legislated increase in the statutory retirement age is being introduced at a very slow pace and there is no specific link between the statutory retirement age and life expectancy. Malta has addressed the challenges of its pensions system through labour market measures and the introduction of third-pillar pensions, and has made further policy announcements in its National Reform Programme, but measures aimed at substantially improving the sustainability and adequacy of the system remain to be announced and implemented. Implementation of the 2014 national health systems strategy has started, with the aim of maximising the efficiency of the healthcare system while pursuing its financial sustainability. This needs to be monitored.

HEREBY RECOMMENDS that Malta take action in 2015 and 2016 to:

3. To ensure the long-term sustainability of public finances, continue the ongoing pension reform, such as by accelerating the already enacted increase in the statutory retirement age and by consecutively linking it to changes in life expectancy.