



European Social  
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21/08/2012

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## **EUROPEAN SOCIAL CHARTER**

### **REPLY TO SUPPLEMENTARY QUESTIONS**

5th National Report on the implementation of  
the European Social Charter

submitted by

**THE GOVERNMENT OF MALTA**

(Articles 1§2  
for the period 01/01/2007 – 31/12/2010)

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Report registered by the Secretariat on 27 July 2012

**CYCLE 2012**

Mr. Brillat,

Please find Malta's reply to the query dated 14 June 2012 addressed to Malta from the European Committee of Social Rights on the prohibition of discrimination in employment/forced labour/right to earn one's living in an occupation freely entered upon in connection with Article 1.2 for Conclusions 2012

Whereas, Article 6 (1) to Title II - The Regular Force Enlistment of Chapter 220 of the Laws of Malta (The Malta Armed Forces Act, 1970) stipulates *inter alia* that:-

*"A person offering to enlist in the regular force shall be given a notice in the prescribed form setting out the questions to be answered on attestation and stating the general conditions of engagement to be entered into by him; and a recruiting officer shall not enlist any person in the regular force unless satisfied by that person that he has been given such a notice, understands it and wishes to be enlisted";*

Regulations 12 thru 15, 25 thru 32 and Regulation 35 of the Appointments and Conditions of Service of the Regular Force Regulations (S.L. 220.03) (reproduced hereunder for ease of reference) indicate those instances where restrictions to the above 'general conditions' apply.

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## **Regulation 12. Normal Retirement**

(1) Except as otherwise provided by or under these Regulations, an officer shall retire on reaching the age of fifty-five years but may be allowed to remain on the active list beyond this age for such period or periods as the Minister may from time to time determine: Provided that an officer shall have the option to retire on, or on any day after, completion of twenty-five years service, subject to the officer declaring his intent to retire to the Minister in writing, through the Commander, not later than three months prior to his intended date of retirement.

(2) For the purpose of computing the aforementioned twenty five years service, the following shall be considered as reckonable service:

- (i) Special reckonable service,
- (ii) Service in the force as a "man" of the force.

(3) Notwithstanding the provisions of sub-regulation (1), a police officer commissioned in the force on or before the 1<sup>st</sup> October, 1982 may opt to retire on any day on which he would have been entitled to retire had he remained in the Malta Police Force and all the provisions of the Pensions Ordinance which would have been applicable to him had he remained in the Malta Police Force shall be applicable to him on his retirement from the force; and for the purposes of the said Ordinance service in the force shall count as service in the Malta Police Force.

(4) An officer who -

- (a) reaches the age of fifty-five years; and
- (b) has not upon reaching the said age completed twenty five years of service in the force; and
- (c) upon reaching the age of fifty-five years has his engagement with the force terminated; and
- (d) immediately upon his termination of engagement with the force enlists in the Detention Service; and
- (e) does not start receiving a pension in terms of these regulations upon his termination of engagement with the force shall, notwithstanding any other provision of these regulations, be entitled for the purposes of the computation of his pension under these regulations to have his service with the Detention Service reckoned as service in the force until such time as the aggregate of service in the force and service in the Detention Service amounts to twenty five years when such officer shall be entitled to receive a pension in terms of these regulations computed on the basis of twenty-five years of service in the force in accordance with the Pensions Ordinance: Provided that an officer who after enlisting in the Detention Service as stipulated in this sub-regulation leaves the said services or has his enlistment therein terminated before completing a total of twenty five years of service in accordance with this subregulation shall be entitled to a pension to be computed on the basis of the aggregate of his service in the force and of his service in the Detention Service

### **Regulation 13. Voluntary Retirement**

(1) An officer may, on application, be allowed to retire or resign prematurely if the exigencies of the service permit: Provided that an officer will not be allowed to retire or resign prematurely if he has been warned for overseas service or, if he has attended a specialist course outside Malta, earlier than such period, not exceeding five years, commencing with the date of completion of such course as the Minister may determine.

(2) An officer retiring or resigning voluntarily shall have the reserve liability specified in regulation 16.

### **Regulation 14. Compulsory Premature Retirement**

(1) An officer may be called upon to retire or resign or may be removed at any time by the Commander with the approval of the Minister on grounds of inefficiency, unsuitability or misconduct.

(2) An officer may be called upon to retire or resign or may be removed in manner aforesaid on grounds of non-recommendation or failure to pass promotion examination in such circumstances and under such conditions as the Minister may determine.

(3) An officer may be called upon to retire or resign or may be removed on account of ill-health if an approved medical authority certifies him as being unfit for military service and that he is likely to remain so permanently.

### **Regulation 15. Compulsory Retention Beyond Normal Retiring Age**

Where an officer is engaged on active service or on service in a national emergency, he shall be liable to be compulsorily retained on the active list beyond his normal retiring age.

### **Regulation 25. Enlistment in the Corps and The Right To Purchase Discharge**

(1) Recruits may, if the Commander so directs (within generally or in particular cases) be enlisted in particular corps.

(2) The rights conferred by article 14(1) of the Act shall not be exercisable by a recruit before the expiration of two months beginning with the date of his attestation.

### **Regulation 26. Enlistment**

(1) Successful candidates shall be enlisted -

(a) on an initial engagement of three years with the colours to count from the date of attestation or the eighteenth birthday whichever is the later, or

(b) on a five year engagement with the colours to count from the date of attestation, or

(c) where a man enlists on secondment from the public service, on a three year engagement with the colours to count from the date of attestation, or

(d) on a fourteen month engagement with the colours to count from the date of attestation, or

(e) on an eighteen month engagement with the colours to count from the date of attestation, or

(f) on a twelve month engagement with the colours to count from the date of attestation, as the Minister may determine: Provided that the engagement shall be deemed to be completed

(i) in the case of candidates who are enlisted on a five year engagement but are over fifty-five years of age on the date of enlistment, on their attaining the age of sixty-one years or on completion of the said period of engagement **whichever is the earlier**; but such candidates may opt to terminate their engagement on attaining the age of sixty years;

(ii) in the case of candidates who are enlisted on a three year engagement on secondment from the public service on the date on which they are recalled to the public service.

(2) There shall be no terminal benefits and, subject to the provisions of sub-regulation (3) and (4), there shall be no reserve liability on completion of -

(a) the initial engagement of three years, or

(b) the five year engagement, or

(c) the three year engagement, or,

(d) the fourteen month engagement, or  
(e) the eighteen month engagement, or  
(f) the twelve month engagement,  
referred to in sub-regulation (1).

(3) Male soldiers enlisted on a fourteen month engagement shall have a reserve liability of ten years from the date of termination of their engagement: Provided that male soldiers enlisted before 1st day of June, 1982 may be accepted for service in the reserve for such term.

(4) Male and female soldiers enlisted on a twelve or eighteen month engagement shall have a reserve liability of twenty years from the date of termination of their engagement.

#### **Article 27. Re-engagement to complete 12 years' service.**

(1) Such percentage of men enlisted on an initial engagement under the immediately foregoing regulation as the Minister may, according to the exigencies of the service, determine, may be allowed to serve for a second engagement of nine years.

(2) A man who is allowed to serve for a second engagement as aforesaid may, at the end of every three year period terminate his service by giving a six months' notice of his intention to terminate his service to his commanding officer.

(3) A man who is allowed to serve for a second engagement as aforesaid shall have a reserve liability equal to the balance, if any, of nine years service uncompleted.

#### **Article 28. Re-engagement to complete 22 years' service.**

(1) Subject to the exigencies of the service, such percentage of men on re-engagement under the immediately foregoing regulation as the Minister may, according to the exigencies of the service, determine, may be allowed to serve for a third engagement of ten years to complete twenty-two years' service.

(2) A man serving a third engagement may, at the end of fifteen years' service, terminate his service by giving a six months' notice of his intention to terminate his service to his commanding officer; and a man with sixteen years reckonable service may terminate his service at any time upon giving three months' notice as aforesaid.

(3) A man on a third engagement shall have a reserve liability equal to the balance, if any, of twenty-two years' service uncompleted.

#### **Article 29. Maximum reserve liability for men.**

A man shall not have any reserve liability beyond the age of 55 years.

#### **Article 30. Termination of engagement at the age of 55 years.**

Notwithstanding any other provision of these regulations a man of the force shall have his engagement terminated on reaching the age of fifty-five years, but may be allowed to remain on the active list beyond this age for such period or periods as the Minister may, from time to time, determine.

#### **Article 31. Continuance beyond 22 years' service.**

Such percentage of men on a twenty-two years' engagement as the Minister may, according to the exigencies of the service, determine, may be allowed to continue their service beyond twenty-two years on a yearly basis until the age of fifty five years but may be allowed to continue their service beyond this age for such period or periods as the Minister may from time to time determine.

#### **Article 32. Purchase of discharge.**

Discharge from colour service, except at option points as provided in the foregoing provisions of these Regulations, may be purchased in such circumstances and against such payment as the Minister may from time to time determine.

#### **Article 35. Men of the force may retire after 25 years service.**

(1) A man of the force shall have the option to retire on, or on any day after, completion of twenty-five years service irrespective of any engagement to which he is committed at the time, on giving three months notice of his intention to retire in writing, to the Commander through his Commanding Officer, accordingly.

(2) For the purposes of sub-regulation (1), special reckonable service shall be considered as service for the computation of the twenty-five years service.

(3) An man of the force who -

(a) reaches the age of fifty-five years; and

(b) has not upon reaching the said age or upon having his enlistment with the force terminated at an age of more than fifty five years and less than sixty-one years completed twenty-five years of service in the force; and

(c) upon reaching an age of at least fifty-five years but less than sixty-one years has his engagement with the force terminated; and

(d) immediately upon his termination of engagement with the force enlists in the Detention Service; and

(e) does not start receiving a pension in terms of these regulations upon his termination of engagement with the force, shall, notwithstanding any other provision of these regulations, be entitled for the purposes of the computation of his pension under these regulations to have his service with the Detention Service reckoned as service in the force until such time as the aggregate of service in the force and service in the Detention Service amounts to twenty-five years when such man of the force shall be entitled to receive a pension in terms of these regulations computed on the basis of twenty five years of service in the force in accordance with the Articles and Rules contained in the Third Schedule: Provided that a man of the force who after enlisting in the Detention Service as stipulated in this sub-regulation leaves the said services or has his enlistment therein terminated before completing a total of twenty five years of service in accordance with this sub-regulation shall be entitled to a pension to be computed on the basis of the aggregate of his service in the force and of his service in the Detention Service.

Regards



**Edward Buttigieg Dip. Public Administration**

Assistant Director – Contributory Benefits

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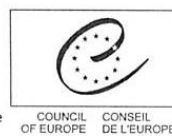
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Mr Edward Buttigieg  
Assistant Director Contributory Benefits  
Department of Social Security  
38 Ordnance Street  
Valletta VLT2000  
Malta

Strasbourg, 14 June 2012

Dear Mr Buttigieg,

The European Committee of Social Rights is currently examining the States' reports on the European Social Charter with respect to the thematic group on "employment, training and equal opportunities" and has instructed me to forward to you the enclosed questions.

The Committee would be grateful if you could reply to these questions before 27 July 2012 in order to allow the information to be taken into account in Conclusions 2012.

Yours sincerely,

*Régis Brillat*

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COMITE EUROPEEN DES DROITS SOCIAUX

14 June 2012

Questions addressed to Malta

Article 1§2 (prohibition of discrimination in employment/ forced labour/ right to earn one's living in an occupation freely entered upon):

- *What is the length of, if any, compulsory minimum period of service required of those serving in the professional armed forces?*
- *Are there circumstances, such as specialised training or specific operational requirements, which entail a different compulsory minimum term of service in the professional armed forces and under what conditions may the persons concerned leave the service before the expiry of this term?*