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## **EUROPEAN SOCIAL CHARTER**

8<sup>th</sup> National Report on the implementation of  
the European Social Charter

submitted by

## **THE GOVERNMENT OF MALTA**

(Article 7, 8, 16, 17, 27  
for the period  
01/01/2010 – 31/12/2013)

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29 October 2014

**CYCLE 2015**





**EIGHT REPORT ON THE  
EUROPEAN SOCIAL CHARTER (REVISED)**

*submitted by the*

**Government of Malta**

**(1 January 2010 – 31 December 2013)**

**2014**

## **INDEX**

### **Group 4 – Children, Family and Migrants**

<b>I.</b>	<b>INTRODUCTION</b>	<b>04</b>
<b>II.</b>	<b>PROVISIONS OF THE EUROPEAN SOCIAL CHARTER (revised)</b>	
	Article 7	05
	Article 8	09
	Article 16	12
	Article 17	18
	Article 27	36

Report made by the Government of Malta in accordance with Article 21 of the European Social Charter, on the measures taken to give effect to the following accepted provisions of the European Social Charter, the instrument of ratification of which was deposited on the 4th October, 1989:-

Articles 7, 8, 16, 17 and 27 for the period 1 January 2010 to 31 December 2013.

No observations have been received from the organisations of workers and employers regarding the practical application of the provisions of the Charter, of the application of legislation, or other measures for implementing the Charter.

## **I. INTRODUCTION**

This Report by Malta is drafted within the context of the form for submission as adopted by the Committee of Ministers on the 26<sup>th</sup> March 2008.

The following information is to supplement previous information submitted by Malta with respect to the same provision under the European Social Charter and should be taken as additional information. Where a new provision of the Revised Charter has not been reported upon in previous Reports from Malta, full details of the situation of the respective Article in Malta will be provided.

## II. PROVISIONS OF THE EUROPEAN SOCIAL CHARTER (revised)

### Article 7 – The right of children and young persons to protection

#### *Paragraph (1) - Prohibition of employment under the age of 15*

According to the Maltese legislation, the legal age of employment is 16 years. Hence, when ETC's Law Compliance Officers encounter instances of persons who are self-employed or employed and who did not attain this legal age without the necessary permits (issued by the Directorate of Educational Services and the Department of Industrial and Employment Regulations), then the employers of such employees are referred for court action since they would be in breach of a number of laws (EIRA legislation, Young Persons Act, ETC Act and Legal Notice 110 of 1993). Once a person has a valid engagement form as either employed or self-employed, then ETC's legal requirements would be adhered to.

When employers are detected to have an infringement, ETC always informs the employer what resulted from the inspection at their respective premises. In the event that an infringement relates to a person who is of legal age and is either a Maltese or EU National, then the employer is asked to regularise the position of such persons within a stipulated time frame. In the event of non-regularisation, an administrative fine is issued and if this is not paid, then the case is referred for court action. In the event that the infringement relates to a persons who is either (a) working while registering for employment, or (b) a minor (without the necessary permits); or (c) a third country national without a valid employment license, then such employer cannot regularise his position and his case is referred for court action. The sanctions that are imposed are contemplated in Legal Notice 110 of 1993 Articles 6 (2) and 10.

#### Statistics:

		January - December			
		2010	2011	2012	2013
Employment of Minors		20	22	11	12

Regarding what is meant by occasional or short term work involving domestic services in a private household or work in a family undertaking, there is no legal definition but the Maltese authorities, in practice, still require a risk assessment to see whether the tasks undertaken are not harmful, damaging or dangerous to a young person as is required with regards to young persons working regularly.

#### *Paragraph (2) - Prohibition of employment under the age of 18 for dangerous or unhealthy activities*

It should be clarified that under Maltese law, prohibition of employment relates to young

persons under 16 years of age not as indicated in the Conclusions. Maltese law does not apply to occasional work or short term work involving domestic service in a private household or work in a family undertaking. In either case, the work to be performed cannot be regarded as being harmful, damaging or dangerous to a young person. Other matters must be referred to OHSA.

***Paragraph (3) - Prohibition of employment of children subject to compulsory education***

It can be confirmed that the specific conditions are secured in law and practice and that any possible exemptions from the regular attendance of the minor at school are also based on the said conditions.

Regulation 7 of the Maltese Young persons (Employment) Regulations (SL 452.92) states that a child shall have an aggregate minimum of twenty one days free of any work during the child's school holidays.

***Paragraph (4) - Working time for young persons under 18***

In Malta, a person can work after the age of sixteen that is after compulsory education. Notwithstanding there are exceptions in employment in the case of fifteen year olds who will become sixteen in the next scholastic year; i.e. after compulsory schooling. Art. 128 of the Education Act, states that *“No person may employ a minor of compulsory school age or otherwise bound to regularly attend school under the provisions of this Act without the written permission of the Director General of the Directorate for Educational Services. The Director General of this Directorate may give his permission under sub-article (1) when the minor concerned, notwithstanding that he is under the compulsory age to start attending school, would have terminated the full obligatory course at secondary level and produces evidence that he has an offer in writing for him to make a work experience exclusively during the summer holiday period”*.

In accordance with this Article, minors who are under sixteen years old or who will become sixteen within a scholastic year, i.e. between 15<sup>th</sup> September and 15<sup>th</sup> July, upon finding employment may be given permission to work following a school exemption. However they are not eligible to register for employment with the ETC.

***Paragraph (5) - Fair pay***

***Apprentices***

In addition to the weekly remuneration by the employer to apprentices, apprentices are entitled for half of June's statutory bonus and half of December's bonus payable by the employer (€67.55 in June and €67.55 in December).



Apprentices are entitled for the Maintenance Grants payable by the Government. With regards to the latter, this was increased through the 2013 Budget from €86.01 every 4 weeks to €95.00. Apprentices are also entitled for a one-time grant of €326.11 for educational material and equipment.

With regards to the period of apprenticeship and the remark that these should not last too long, ETC is informed that the Malta College of Arts, Science and Technology (MCAST) which is the entity that has been entrusted with the management of the apprenticeship schemes, is working to streamline the apprenticeship structure and duration whereby apprenticeships at MQF/EQF level 3 shall be of a maximum 1 year-duration whilst the MQF/EQF level 4 apprenticeships of a maximum 2 year-duration.

### ***Young workers***

It is confirmed that during the reference period, there were no changes to report.

### ***Paragraph (6) - Inclusion of time spent on vocational training in the normal working time***

It has to be clarified that there were no such specific inspections on this point. The inspections referred to in our previous report “inspections target this rule as well” refer to routine inspections which would target such situations if a case so requires.

### ***Paragraph (7) - Paid annual holidays***

The Industrial Tribunal does not hear cases related to annual leave. We also do not have specific figures and statistics related to annual leave with respect to employees who are under 18 years of age.

### ***Paragraph (8) - Prohibition of night work***

#### ***Legislative review***

Further to what was reported in Malta’s last report, during 2012, Legal Notice 440 / 2003 was amended to remove the obligation on employers which were contrary to those obligations established under OHS Act 2000.

With the new amendments (vide LN 257 / 2012) employers are now duty bound to conduct a risk assessment in accordance with the requirements of the General Provisions for H&S at Work Regulations 2003 (LN 36 / 2003).

***Paragraph (9) - Regular medical examination***

***Medical examinations***

Obligations arising out of legislation are not always accompanied by an obligation to send a report to the national regulatory entity (OHSA). This approach is used to avoid imposing extra bureaucratic and administrative burdens on duty-holders. On the other hand, OHS Officers have the power to see copies of the reports of such compulsory medical examinations.

***Paragraph (10) - Special protection against physical and moral dangers***

***Special protection against physical and moral dangers***

By virtue of the requirements of Reg. 4 of LN 91 / 2000, an employer shall ensure that any young person in his employ or to whom he has assigned work, is at all times adequately protected against any hazards which may result from the risk assessment which need to be conducted by the same employer, and, in particular, shall ensure that the work assigned to the young person:

- (a) is not beyond such young person's physical or psychological capacity; and
- (b) does not involve any exposure to any of the chemical, physical or biological agents or to any of the processes listed in the Schedule attached to these regulations, or to any other physical, chemical or biological agent which is toxic, carcinogenic, causes heritable genetic damage, causes harm to an unborn child or which in any other way chronically affects human health; and
- (c) does not involve a risk of accidents which it may be assumed cannot be recognized or avoided by young persons owing to their insufficient attention to safety or lack of experience or training; and (d) does not involve a risk to health from extremes of cold or heat, or from noise or vibration.

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

### ***Paragraph (1)***

#### ***Maternity Leave***

The Protection of Maternity (Employment) Regulations apply to all women employed in Malta, including the public sector.

#### ***Maternity Benefit***

All employed (even in the public sector), self-employed and unemployed women who are expectant mothers are entitled to fourteen weeks of maternity benefits and there is no qualifying period of contributions or employment for such entitlement.

Furthermore, with effect from January 2012 women in employment or self-employment who do not return to their employment or self-employment after the said fourteen weeks are also entitled to continue to receive maternity leave benefits for another two weeks and to a total of four weeks as from January 2013. Therefore the current situation is that in total, women are now entitled to eighteen weeks of maternity benefits.

#### ***Legislative review***

The Council may wish to note that during 2012, LN 439 / 2003 was amended to remove the obligation on employers which were contrary to those obligations established under OHS Act 2000. With the new amendments (vide LN 258 / 2012) employers are now duty bound to conduct a risk assessment in accordance with the requirements of the General Provisions for H&S at Work Regulations 2003 (LN 36 / 2003).

#### **Overview of LN 92 / 2000 (Protection of Maternity at Work Places Regulations, 2000)**

The key aspects of these regulations are as follows:

1. A female worker who becomes pregnant shall inform her employer of her condition as soon as she becomes aware of it.
2. The basic principle of these regulations is built around the notion that no pregnant worker, mother or breastfeeding worker shall be required by any employer to perform any work which may endanger her health and safety, the safety or viability of her pregnancy or the health of her child, as the case may be.
3. As a result, before assigning work to any pregnant or breastfeeding worker or to a mother, an employer shall conduct an assessment of the hazards that worker is likely to be exposed to and to take action accordingly.

4. An employer shall under no circumstance require a pregnant worker to perform duties for which the assessment has revealed a risk of exposure to the agents, processes or working conditions listed in Section A of the Second Schedule
5. An employer shall under no circumstance require a breastfeeding worker to perform duties for which the assessment has revealed a risk of exposure to the agents, processes or working conditions listed in Section B of the Second Schedule,
6. The employer shall inform the workers involved or their representatives at the place of work, of the results of this risk assessment and of all the measures taken, or that are to be taken concerning health and safety at work.
7. If the results of this risk assessment reveals a risk to health or safety, to the pregnancy, or to the child, the employer shall take the necessary steps to remove the female from such exposures, either by temporarily adjusting the working conditions, and/or the working hours, or by assigning the worker to another job which is both suitable in relation to her and appropriate for her to do in the circumstances, under such terms and conditions of employment which are not less favourable than those stipulated in her contract of employment.
8. No pregnant worker, mother or breastfeeding worker shall be required to perform any night work if the worker concerned submits to the employer a medical certificate which states that night work can have harmful effects on the pregnancy, or on the mother, or on the child, as the case may be.
9. A pregnant worker shall be entitled to time off, without loss of pay or any other benefit, in order to attend ante-natal examinations, if such examinations have to take place during working hours, provided that the employer may request documentation which shows the appointment times for such examinations.

Two schedules have been attached to these regulations:

FIRST SCHEDULE – a non-exhaustive list of agents for which a risk assessment has to be carried out:

1. Physical agents regarded as causing foetal lesions, and/or are likely to disrupt placental attachment, including:

- (i) shocks, vibrations or movement;
- (ii) Handling of loads entailing risks, particularly of a dorsolumbar nature;
- (iii) Noise;
- (iv) Extremes of cold or heat;
- (v) Movements and postures, travelling inside or outside the establishment, mental and physical fatigue;
- (vi) Ionizing and non-ionizing radiation.

2. Biological agents: All biological agents endangering the health of pregnant workers and/or of a child, or which would require therapeutic measures which similarly endanger the health of a pregnant woman and/or of a child.

3. Chemical agents: Work with all chemical agents.

## SECOND SCHEDULE

### SECTION A: Agents to which a pregnant worker cannot be exposed:

1. (a) Physical agents: Work in hyperbaric atmosphere, including pressurised enclosures and underwater diving.
- (b) Biological agents: Toxoplasma and Rubella virus, unless the workers are proved to be adequately protected against such agents by immunization.
- (c) Chemical agents: Lead and compounds of lead.
2. Any other physical, biological or chemical agent regarded by OHSA as causing foetal lesions, and/or is likely to disrupt placental attachment, and/or is likely to cause serious disease to a pregnant woman.

### SECTION B: Agents, processes or work activities to which a breastfeeding worker cannot be exposed:

1. Chemical agents: Any chemical agent capable of being absorbed by the human organism which can also pass to a child through breast milk, and which can have deleterious effect on the child.
2. Any other agent, process or work activity which can have a harmful effect on the ability of a mother to breastfeed.

It is important to note that all OHS legislation apply to all work places, to all sectors of activity, both public and private, and to all work activities (vide Art. 3 of Act XXVII of 2000).

#### ***Paragraph (2) – Illegality of dismissal***

There are no exceptions to the prohibition. Moreover, regarding applicability to public sector, answer in 8 (1) applies.

#### ***Paragraph (4) – Regulation of night work***

Legal Notice 439 of 2003 has been amended in 2011 in that a special allowance is paid for whole period necessary for the protection of the employee's health and safety. Protection is extended to all women who are pregnant, who have given birth and who are breastfeeding. This applies to the public sector as well.

#### ***Paragraph (5) - Prohibition of dangerous, unhealthy or arduous work***

It is confirmed that when an employee is transferred to a suitable alternative post, her wages shall not be less favourable than those stipulated in her contract of employment

when an employer takes measures to protect the health and safety of an employee, after a risk assessment has revealed a risk to the safety or health or an effect on the pregnancy or breastfeeding of the employee.

As regards the special maternity leave, the employer shall pay the employee, for the whole of the period necessary to protect the employee's safety or health, a special allowance equivalent to the rate of sickness benefit payable in terms of the Social Security Act.



## **Article 16 – The right of the family to social, legal and economic protection**

### ***Definition of family in Domestic law***

In Malta there is no general definition of the family in the Civil Code however, according to feedback from several entities who provide a service where the family composition is taken into account, in practice a family is understood to be a person living on his own or two or more persons living together as a family.

In fact, this is also the definition of a household used for the purpose of social security benefits and assistances as defined in the Social Security Act (Cap. 318) of the Laws of Malta.

### ***Housing***

The Housing Authority still offers the services mentioned in the Malta Report 2011 namely schemes regarding home ownership and rent subsidy, grants on adaptation, repair works and conditions of disability, increase in social housing units, supported housing, sheltered housing and regeneration projects.

Moreover, the HA is currently considering in adopting a number of new measures such as building more social housing units through public private partnership or/and outright purchase from the private sector, to acquire new apartments from the private sector through a request for proposals and to involve in the regeneration of dilapidated properties. The HA is introducing regulations to review and revise social rents so that the new rents will reflect social justice, given that we are making use of valuable HA assets. The HA is also giving opportunity to tenants residing in government owned apartments to become owners of their residence by offering subsidized prices. Housing estates are being embellished and first time buyers with limited income are being financially supported.

Reports and statistics regarding the initiatives and services offered by the Housing Authority may be viewed on <http://housingauthority.gov.mt>.

### ***Comments on “Obligation to Consult Parties Affected in order to find Alternative Solutions to Evictions” and Comments on “Obligation to fix a reasonable notice period of eviction”***

Evictions in Malta are carried out in accordance with Chapter 88 of the law of Malta which act is entitled “Land Acquisitions (Public Purposes) Ordinance”. This law enables the government to carry out evictions whenever land is required for public purposes and prescribes to evictees a number of rights, hence promoting a degree of social justice whenever such evictions take place.



Evictions in accordance with this law can only be carried out if such expropriation is required to take place “in the public interest”. Moreover whenever an expropriation involves an eviction from a dwelling house the law provides certain safeguards for the evictees, including the number of days required to notify the evictees and the legal obligation of the government to provide the evictee with “alternative accommodation” that is “reasonably sufficient”.

In accordance with principles of Administrative Law in Malta, the Court of Justice have jurisdiction to enquire whether the government was justified in issuing an order for expropriation and review whether the alternative accommodation is reasonably sufficient.

Evictions can take place 14 days from the date of publication in the government gazette however if the land from which a person will be evicted is also severing as a dwelling house, the occupier shall not be required to yield up 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.

Chapter 88 protects not only the owner of the property but also lessees and any person who has an interest on the land.

### ***Comments on Legal Protection to Families (legal aid)***

All persons in Malta (whether Maltese or not) are to be provided with free legal aid, if they are qualify for such legal aid. The request for legal aid can also be made orally before the law courts and the court has to appoint a lawyer to draw a report on whether an applicant is entitled to legal aid or not. Legal aid will be given if the net value of the applicant’s property does not exceed 6,988.12€, as provided in the Code of Organisation and Civil Procedure. This figure does not include everyday household items that are considered reasonably necessary for the use by applicant and his or her family. In order to receive free legal aid the applicant’s yearly income should not be more than the national minimum wage established for persons of eighteen years and over.

In calculating the said net asset value, no account shall be taken of the principal residence of applicant or of any other property, immovable or movable, which forms the subject matter of court proceedings, even though such other property is not the subject-matter of the proceedings in respect of which legal aid is being applied for.

Malta employs a number of legal aid lawyers to serve as legal aid lawyers for the island of Malta and a smaller number of legal aid lawyers to serve as legal aid lawyers for the island of Gozo. Legal aid lawyers receive a fixed wage (circa €8,000 per annum) for their services and hence have also to carry out private practice in order to sustain themselves. There is no provision in the law that requires that a number of legal aid lawyers are to appointed for a given number of cases and hence there is doubt on

whether the quality of service offered by legal aid lawyers in view that the number of lawyers appointed is not sufficient to handle to current case load.

### ***Comments on Compensation in Case of Illegal Eviction***

*Spoliation* (the action of taking goods or property from somewhere by illegal or unethical means) is prohibited by the criminal code and the criminal courts will punish offenders accordingly, whenever spoliation is carried out by a private party. Moreover a private party will be required to pay the evicted persons damages in according with the provisions of the civil code arising out of an illegality.

### ***Comments on Childcare Facilities***

Since recently the government of Malta has adopted a policy of free child care facility for all parents who work, hence every parent in Malta has access to child care facility. The Government of Malta has a Department (Department for Social Welfare Standards) whose role is to ensure that child care is of a certain quality. At the moment there are 71 Child Care Centres registered with this Department and there are another 9 who hold a temporary registration. The quality of care provided by child care facilities is assured through inspections, either carried out at random (unannounced) or following complaints.

At the moment the quality of standards for child care are those published in the 2006 Child Day Care Facilities Standards and spells out issues concerning staff to child ratios, competencies and trainings necessary by the staff, suitability of premises used and other related standards.

### ***Family Counselling Services***

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

### ***Participation of Associations Representing Families***

Although there is no law obliging the government departments to ensure the participation of families whenever policies are framed the government of Malta endeavours to promote public consultation whenever laws are being amended or whenever policies are being framed. Prior to the amendment of many laws and policies information about the changes in laws and policies are placed on the government webpage for feedback.

### ***Legal Protection of Families (Rights and Obligations of Spouse)***

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 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 in risk of poverty and one of the parents has enough resources to pay for adequate child support.

### ***Mediation Services***

The mediation services, introduced in 1999, is offered to all couples who engage in separation, divorce or annulment proceedings before the law courts are offered by the government of Malta for free. There are several mediators paid by the government who assist all such spouses draft an agreement which deals with the previous matrimonial life. Either of the spouses may ask the Registrar of the Courts to appoint a mediator to assist with family separation by writing a letter to the Registrar asking that such mediator is duly appointed. Often such letter is written by lawyers representing either of the spouses however there are many cases where the request for the appointment of the mediator is made by the spouses.

There are mediators that are appointed for the island of Malta and other mediators that are appointed for the island of Gozo. Mediators play a fundamental part in the process of separation because they help couples solve most of the disputes before a mediator. Indeed all that is said during the mediation proceeding is without prejudice to what is said in courts. Indeed most marriage breakdowns in Malta would be solved through Mediation (unless the parties come to an alternative agreement outside mediation). Indeed a minority of all mediation cases would fail and would end up in court litigation.

### ***Domestic Violence Against Women***

In 2013 Malta introduced the domestic violence act, which act establishes a commission on domestic violence. The functions of the Commission are to advise the Minister responsible for social policy on:

- (a) increasing the awareness and understanding of domestic violence and harassment and their consequences and on ways and means to reduce their incidence;
- (b) areas of domestic violence on which research is necessary or desirable;
- (c) strategies to expose domestic violence and to facilitate the intervention of public and private agencies and entities with respect to victims and perpetrators of such violence;

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

The law also obliges the government to designate one or more organisations, institutions or other bodies with which arrangements have been made as provided in subarticle (2) as the agency responsible for the provision of preventive, therapeutic and, or treatment programmes for victims and perpetrators of domestic violence. Such institutions should provide the following support by offering:

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

In order to ensure that staff of domestic violence shelters are protected the law states that staff of domestic violence shelters are placed in the same position of public officials, hence it is an aggravation at law whenever such persons are subject to violence.

The Criminal Code empowers the criminal courts to provide for a restraining order whenever there is the probability that an accused will harass another or where the conduct of the accused is likely to cause a fear of violence.

In Family Court cases wherever it is proved that one of the spouses was violent towards the other, the court may *pendente lite* order that one of the spouses leaves the matrimonial to the exclusion of the other. Although cases where the law courts orders one spouse to leave the matrimonial home are infrequent the law courts have given such decisions. In a given case the Family Court has ordered that the matrimonial home be separated so that one spouse lives on one part and the other spouse in the other. In order to protect the vulnerable party in domestic violence cases the Family Court has been empowered to issue protection orders by applying the same provisions of the criminal code.

In 2007 the Malta Police Force developed guidelines with regards to procedure in handling cases of domestic violence. This guideline was circulated to all officers in the Malta Police through Circular no: 55/07. This circular refers to the effects of domestic violence on victims, it then explains that every member of the Police should give special and particular attention to the victims at the same time giving them support and solidarity. It brings to the attention of every officer the enactment of Domestic Violence Act and the definition of Domestic Violence (any act of violence, even if only verbal, perpetrated by a household member upon another household member and includes any omission which causes physical or moral harm to the other).

The recourse for compensation of victims of domestic violence is the same for victims of any other crime.

Together with or separately from a protection order the Court Criminal and Family Court may make the proper arrangements for a Treatment Order which would require a person (usually the accused) to submit to treatment subject to the conditions which the court may deem appropriate to lay down in the order. Failing to abide by Treatment or Protection order will result in criminal punishments.

### ***Economic Protection of the Family (Vulnerable Families)***

There are no Roma families living in Malta however there are families that are in an economic vulnerable position because they are from a different ethnic group. At the moment such persons are mainly from African families who are currently living in Malta because they cannot be repatriated due to the application of the 1951 Refugee Convention and the application of Articles 2 and 3 of the European Convention.

Malta has 12 different facilities which offer residence to single male adults, couples without children, single women, families and unaccompanied minors. In addition to accommodation Malta gives between €2.33 and €4.66 per person per day to each individual in this category and the figure varies according to whether such person is a child, an asylum seeker, a rejected asylum seeker, a person with temporary protection or a refugee.



## **Article 17 - Right of children and young persons to social, legal and economic protection**

### ***Paragraph (1) - Assistance, education and training***

#### ***Education***

Education is fundamental Malta's economic and social development and for retaining a competitive edge in a world economy. It is essential for democratic governance and social inclusion, as well as for personal fulfilment and prosperity.

The Education Act - Chapter 327 of the Laws of Malta - lays down the principles underlying Malta's educational system and policy. The overarching benefit of the Act is the education of all generations. It establishes the structures and actors which formulate and implement educational policy for the benefit of our children, youths and Maltese society at large. It lays down the basic right of every Maltese citizen to receive education and instruction, the obligations of the State to ensure the existence and accessibility of schools and other institutions of learning, and the rights and duties of parents in relation to their children's education including the right of parents to send their children to the school of their choice.

Furthermore, the Education Act establishes the principles underpinning the Government's role in the provision of education in Malta, the decision making structures in this field, together with many other important issues such as the regulation of the teaching profession and the functioning of all schools and colleges including church schools and independent schools. All these issues have a direct impact on the quality of our educational system and the manner in which education is actually delivered.

The Act also establishes and regulates the University of Malta, the Malta College of Arts, Science and Technology and other entities in the educational sector such as the National Commission for Further and Higher Education.

The Education Act is kept up to date so as to reflect the new challenges of today's world. Hence the Act continues to provide the operational structures required to address weaknesses and deficiencies in the educational systems which it sets up and regulates, and ensures that it is fully capable of delivering Malta's educational policy. In particular, it ensures that all the necessary legal principles and structures are in place to implement the **Malta Education Strategy** for the next ten years (2014 - 2024). This strategy has a number of important objectives including the following:

improving the quality and effectiveness of our country's education,  
ensuring a fairer, more inclusive and more democratic educational system,  
increasing the level of student achievement across all levels, and  
improving the transition from early childhood to primary, secondary, vocational and tertiary education.

The Education Act also aims at establishing greater synergy between all institutions and departments within the Ministry for Education and Employment, central Government and other Ministries, the European Union and at global level, as well between education, the economy and civil society.

For this reason, while launching a nationwide consultation process on a ten year integrated strategy for education in Malta and Gozo, the Ministry for Education and Employment launched a consultation process with all stakeholders involved in the educational sector and with Maltese society at large on amendments to the Education Act - Chapter 327 of the Laws of Malta. The purpose of the consultation is to seek ideas and encourage feedback on the way forward, and discuss possible reforms on all issues currently regulated by the Education Act and related matters.

These issues include the following:

The role and function of the education central authorities including the Directorates of Education and other entities and commissions established by law;

The rights and obligations of parents in the provision of education to their children;

Students' rights and increased student involvement;

The reduction of early school leavers;

The promotion of civic involvement, employability and active citizenship;

The better functioning and management of State Schools and Colleges;

The regulation of the teaching profession and of education providers in all sectors, including church and independent schools, at all levels from early childhood to tertiary education and lifelong learning;

The better coordination of all actors and stakeholders involved in the educational sector, and the involvement of social partners;

The rationalisation of resources and the promotion of innovative technology including digital education; and

The reduction of bureaucracy and inefficiency.

The aim is to ensure that the Education Act will be capable of delivering and sustaining an educational policy for Malta and Gozo for the future which will ensure an excellent standard of education for a better quality of life for all learners and which will equip learners to live in an inclusive and multicultural society able to celebrate diversity and the enjoyment of human rights for all.

The Education Act can be accessed on the following link:  
<http://justiceservices.gov.mt/DownloadDocument>

### *Directorates of Education*

The Education Act establishes a **Directorate for Quality and Standards in Education (DQSE)** under the responsibility, guidance and administration of a Director General.



The mission of this Directorate is to regulate, establish, monitor and assure standards and quality in the programmes and educational services provided by schools, whether State schools or not, as provided for in this Act.

The functions of the Directorate for Quality and Standards in Education generally regulate, guide, evaluate, verify, research and report on the various elements and the results of the compulsory education system with the aim of assuring quality education for all and in order to promote good practices in all activities related to such education in a national curricular framework of lifelong learning.

The Education Act establishes a **Directorate for Educational Services (DES)** under the responsibility, guidance and administration of a Director General.

The mission of this Directorate is to ensure the effective and efficient operation and delivery of services to the Colleges and State schools within an established framework of decentralisation and autonomy.

### ***Research and Development Department***

The Research and Development Department is responsible for the administration of a number of international student surveys in Malta. The participation of Maltese students in such studies is an important process that helps empower policy makers and practitioners when implementing decisions aimed at ensuring the quality of service provision, a more equitable distribution of learning opportunities and ameliorating student attainment. Such studies also provide an evaluative snapshot of the national education system within an international perspective.

Results for Maltese students stemming from such studies as PISA, TIMSS and PIRLS are shedding much light on the reading, mathematical and scientific literacy competences of Maltese students and are guiding education professionals in identifying the causes leading to low student achievement and then addressing the situation at both the classroom and system levels.

Besides these international studies the Research and Development Department has also been entrusted with the implementation of the *Framework for the Education Strategy for Malta 2014-2024*. This initiative involves the formulation of a coherent strategy for lifelong learning opportunities from early childhood education and care to adult learning, including both general and vocational education and training, and encompassing formal, informal and non-formal learning. The aim is that in the next decade all children, young people and adults have the opportunity to obtain the necessary skills and attitudes to be active citizens and to succeed at work and in society. To achieve this aspiration, the Framework has four measureable targets in line with European and international benchmarks:

*to reduce the gaps in educational outcomes, decrease the number of low achievers and raise the bar in students' literacy, numeracy, and science and technology achievement;*

*to support educational achievement of children at-risk-of-poverty and from low socio-economic status, and reduce the relatively high incidence of early school-leavers;*  
*to raise levels of student retention and attainment in further, vocational, and tertiary education and training;*  
*to increase participation in lifelong learning and adult learning.*

The next steps of this strategy are envisaging that by the end of 2014, a comprehensive plan of action, implementation and monitoring will be published.

The Research and Development Department is also putting in place an informational system by which the senior management and college and school administrators will have access to student performance, achievement levels and attendance patterns on a school level. This system is aimed at identifying attainment gaps and absenteeism rates in order to address issues and difficulties as soon as they crop up. This informational system will thus help to provide the necessary support to children at risk of dropping out of school.

### ***The Directorate for Quality and Standards in Education (DQSE)***

The Directorate for Quality and Standards in Education (DQSE) is responsible for setting and monitoring standards. The Directorate is composed of three Departments:

Department of Curriculum Management (DCM)  
Department of eLearning (DeL) and,  
Department of Quality Assurance (DQA)

### ***The Department of Curriculum Management***

The Department of Curriculum Management (DCM) within DQSE strives to ensure that learners get their entitlement to Quality Education. Through the implementation of the National Curriculum Framework for All document (NCF, 2012), students are provided with the knowledge, skills, competences, attitudes and values that a learner is expected to have at the end of each cycle of education.

A Learning Outcomes based framework is being developed to provide through an ESF project which will be the basis for the 8 Learning Areas, the 6 Cross Curricular Themes and the Learning and Assessment programmes for each of the subjects taught in compulsory education and identified in the National Curriculum Framework for All.

Through the work of the Education Officers, the Department strives to provide quality education to all the students. The Department also coordinate the annual examinations in all state schools together with the End of Primary Benchmark assessment.

The Department of Curriculum Management also manages the School Secondary Certificate & Profile, given to students at the end of compulsory education. Continuous Professional Development is provided to all teachers so as to enhance their teaching skills and competences in a world which is continually changing at a very rapid rate.

## *The Quality Assurance Department*

The Quality Assurance Department (QAD) is set to nurture and monitor a quality holistic educational provision in Maltese compulsory schooling, which seeks to assist every individual achieve his/her own full potential and reach personal fulfilment through lifelong learning, participation in the world of work and active citizenship for all.

As part of the Directorate for Quality and Standards in Education (DQSE) within the Ministry for Education and Employment (MEDE), the mission of the QAD is to regulate, establish, monitor and assure standards and quality in the programmes and educational services provided by Maltese State and Non-State Schools, as provided for in the Education Act.

### *School Improvement*

In line with international developments, and recommendations by the seminal document published by the OECD entitled *Synergies for Better Learning* (2013), the QAD has been investing its efforts in merging Internal and External Review processes into what is being referred to as the Integrated School Improvement Framework.

### *Internal Reviews*

QAD seeks to:

Nurture a culture of Self Evaluation, at individual, organisational and system level by initiating, coordinating, monitoring and reviewing (as may be required).

School Self Evaluation through the effective adoption of School Development Planning;

Individual Self Evaluation through the Performance Management and Professional Development Programme (PMPDP), particularly with Newly Qualified Teachers (NQTs) and Educators voluntarily requesting to participate in such programme;

Review and consolidate the Induction and Mentoring Programme for NQTs; Support State and Non-State Schools in Quality Assurance issues, particularly by establishing and maintaining the QAD College Focal Person role;

Create synergies with External Reviews;

Coordinate ongoing QAD Professional Development initiatives.

### *External Reviews*

QAD seeks to:

Planning, coordinating, administering, monitoring and reviewing external school reviews, this includes - Proposing schools to be reviewed following established criteria.

Coordinating initiatives related to the Standing International Conference of Inspectorates (SICI). This is an association of national and regional inspectorates of education in Europe covering 32 member inspectorates aiming to support the improvement of education through improving inspection processes;

*Creating synergies with Internal Reviews;*

Assisting in the coordination of Professional Development initiatives for QAD staff members;

### ***Education Regulatory Compliance Section***

The Education Regulatory Compliance Section (ERCS) within QAD is particularly responsible for the Non-State Educational Sector, namely Church Schools, Independent Schools, International Schools and Independent Summer Clubs.

The main functions of this section are to:

*regulate and ensure compliance on the part of Non-State Schools;*  
*register new schools and summer clubs;*  
*approve the appointment of all staff recruited by church schools;*  
*approve the appointment of S/LSAs and confirm teaching staff in Independent and International Schools;*

ensure that all schools follow the National Curriculum Framework and adhere to the National Minimum Conditions as outlined in the Education Act of 1988.

### ***Education Psycho-Social Services within Student Services Department***

The Education Psycho-Social Services within Student Services Department incorporates the following services:

**Social Work Service** – The service aims to provide an effective social work service to all students of compulsory school age in support of their education and personal growth, working within the students' educational, family and social environment. This service incorporates also the role of the Social Support Worker who mainly offers practical assistance to families of habitually absent students followed by the College Social Worker/s.

The present remit of the Social Work Service is to give priority to habitually absent students and to serve as a link between the home and the school. Interventions include:

assessing cases referred through home, school and office visits, provide practical assistance to families of these students including teaching them home management, parenting and interpersonal for the benefit of the education of the children, attend Regional Tribunal hearings to give feedback to the Commissioner regarding cases of absenteeism, assist Magistrate presiding Juvenile Court, provide consultation services to College personnel, and build and enhance formal and informal support networks within and outside DES for the benefit of the students.

**Safe School Programme incorporating: Child Safety Services (CSS)** - This is a specialized service working in the area of child abuse. It is an educational, coordinating and therapeutic service, offering interventive and preventive services to students, parents and school staff. CSS strives to offer effective and professional services catering for the needs of children who have experienced abuse. Interventions include conducting awareness raising sessions with parents and all Year 4 students attending state schools, a Year 6 and From 2 programme has also been initiated and is gradually being introduced in all schools, provide consultation services to all schools regarding child abuse cases, monitor case and co-ordinating services, train staff in identification of child abuse cases, and offer counselling sessions to abused children whereby Appogg closes the case and indicates that child would benefit from counselling services.

**Anti-Bullying Service** – Personnel aim to ensure that the schools are providing a safe and secure environment, where students are allowed to flourish in their social capacities and academic capabilities. The role is to ensure that students are feeling secure in a non-threatening environment, and to encourage and motivate students to respect each other, as well as accept and allow for personal differences. The services offered include awareness and prevention programmes held in schools, and intervene on an individual and class level and well as with parents of both victim and bully, when applicable.

**Anti-Substance Abuse Service** - The service empowers youth and adults (teaching staff and parents) with factual information about drugs so they can make informed decisions and live drug-free. It also conducts drug prevention work consisting of activities that students can join which popularize drug-free living. The service also provides practical tools to educate young people about substance abuse. Personnel strive to give an effective and timely help to students suffering from substance abuse while at the same time ensuring a safe school environment. This is achieved by providing the following services: prevention programmes with students held even in liaison with other services such as the Drama Unit, organise parents prevention exercise, consultation service to schools and intervene in individual cases in liaison with specialised services.

**School Psychotherapy Services** - The service aims at providing effective psychotherapeutic programmes for students with emotional and behavioural problems and their families. Services offered include: assessment and psychotherapeutic intervention in cases of Social, Emotional and Behavioural difficulties experienced by children and young people, supporting youngster's family, school staff and school management teams in developing strategies and coping skills in relating with youngsters with various emotional difficulties such as depression, anxiety and phobias as well as

those with disruptive behaviours, working in liaison with professionals and support services within and outside DES, and provide professional support to school staff.

**Servizz Għożża** - The service aims to provide a support service and an educational programme to unmarried pregnant minors. The programme seeks to achieve its objectives by promoting the psycho-social and emotional well-being of unmarried teenage mothers encouraging them to adopt a positive attitude towards motherhood, as well as emphasising the importance of education and employment by empowering the girls to pursue their career paths. Servizz Għożża offers a number of Programmes including: Adolescent Pregnancy, Bandiera Bajda (targeting boys), Mother and Baby Support Group and a prevention programme in Primary Schools titled Nifhmu I-Uliedna fil-Bidliet (*Understand our children*) Counselling services are also provided.

**Education Medical Services** - This service is responsible for the administration of regular medication at all government main-stream schools (from Kindergarten to Sixth Form) in Malta and Gozo, through the contractor nurses. It is also responsible for the other contract to provide nurses for the four Resource Centres (ex-special schools). Besides offering a limited medical advisory service and guidance to all schools, the Hepatitis Immunisation Programme for all staff at the Resource Centres is also managed.

**Counselling services** - The College Counsellors, School Counsellors, guidance teachers and trainee counsellors give their service in all the schools at primary and secondary level. Students usually ask for support and counselling themselves, or are referred by teachers or by the parents. In some cases parents may be sent for. Counselling ranges from crisis interventions to personal counselling. The service includes:

- personal guidance to pupils/students to help them deal successfully with their concerns;
- seminars and ongoing development, preventive and informative programmes regarding work of other agencies and personal growth / enrichment;
- parenting skills programmes, consisting of six sessions with parents; and
- individual and group counselling with students and parents, both as preventive action and crises intervention.

**Career guidance services** - The College Career Advisors, career guidance teachers, guidance teachers and trainee career advisors carry out various duties within the area of Career Education and Career Guidance mainly: a. Delivery of Career Seminar for 4th Formers; b. Organisation of the Learning Expo; c. Help identify, organise and follow up job exposure experiences for 4th formers ; d. Organise visits to workplaces and post-secondary institutions; e. Transition programmes; f. Informative of various different career paths; g. Choice of Subjects; and h. Organise initiatives / programmes / projects related to career guidance offered both to parents and students. Personnel offer career guidance sessions to all the students.

**Prefects of Discipline** - The College Prefect of Discipline is responsible for the co-ordination of policies, procedures and activities that encourage good behaviour in the school communities within the College. The CPD acts as a resource person who offers

support in this area to the whole college community in liaison with other professionals and the students' services team. This is achieved by providing the following services: teach behaviour management techniques to school staff, deliver talks to parents regarding behaviour management and discipline at home during and after school hours, organising transition activities for students who are progressing from primary to secondary school and students who change schools for various reasons, and intervene in individual cases in liaison with other professionals within and outside DES whilst providing consultation services to school staff.

All these professionals that are based in the respective College work in multi-disciplinary teams to cater for the holistic needs to the students.

### **Good Shepard Project**

Each year the DES conducts an exercise to check whether students who are listed on the Local CdB and who have reached the age of 5 implying that they should be attending school as from scholastic year 2011/2012 are in fact registered in any local school. The DES consequently issues the list of unregistered students which is passed on to the Social Work Service. This year the details of the students were passed on to the Principal Social Worker in September hence there was not enough time for follow up since in previous years the list was provided by mid-June. It was hence decided that the three social workers recruited in summer would work on the project until they were allocated in their respective College amounting to a couple of weeks.

Contact with parents is made through letters, phone calls, home and/or office visits. It is also the case that links were initiated with AWAS since most of the students are migrants or asylum seekers and hence AWAS assist us in identifying their location when possible since most of the addresses listed in the CdB are inaccurate.

**Migrants – Promoting equity vis-à-vis migrant pupils:** Currently, migrant learners who upon registration for compulsory schooling cannot communicate in both Maltese and English are being offered a six weeks course during school hours in basic and functional language. This course is based along themes of level A1 CEFR and targets mainly basic survival language which the learners will come across and use especially within the daily school set up. Its focus is mainly on listening and speaking and it aims at integrating the learner as quickly as possible within the mainstream education set up. The course is being delivered by full time teachers selected through an internal call to work in this unit.

Through the EU funded projects LLAPSI (Language Learning and Parental Support for Integration) running within the European Refugee fund and the Integration fund for Third Country Nationals, MEDE is also recruiting language support assistants who are working alongside the full time teachers in supporting migrant learners with language acquisition and development along the same course outlines.

Also through the LLAPSI projects, a number of Parent Leaders are also being recruited in order to work with migrant parents to ensure better awareness of the local schooling

system and enact better integration processes in order for the new migrant families to access educational opportunities in the best way possible.

**Number of Public and Private Schools**

<b>Sector</b>	<b>State</b>	<b>Church</b>	<b>Independent</b>
Primary	68	26	12
Secondary	29	22	12

**Average Classes size**

<b>Sector</b>	<b>State</b>	<b>Church</b>	<b>Independent</b>
Average Class Size Primary	17	26	22
Average Class Size Secondary	19	27	21

**The Ratio Teacher per pupil**

<b>Sector</b>	<b>State</b>	<b>Church</b>	<b>Independent</b>
Ratio Class Room per Teacher Primary	1:17	1:22	1:29
Ratio Class Room per Teacher Secondary	1:6.36	1:11	1:8

**Figures on Students in Primary and Secondary Education**

<b>Sector</b>	<b>State</b>	<b>Church</b>	<b>Independent</b>
Primary	19508	7548	3285
Secondary	11449	7547	2289

***Status of the Child***

It has been correctly pointed out that the position until 2004 was that succession law discriminated between children born in wedlock and those born out of wedlock and hence there is non-conformity with Article 17(1). Article 602 et seq. of the civil code has been duly amended and removed the a priori discrimination against children born out of wedlock who were incapable of receiving more than the reserved portion. Likewise Articles 712 et seq. of the Civil Code have been amended so that children of second (or subsequent) marriages or children who were adopted are not discriminated against (who were, prior to the amendments incapable of receiving more than the least favoured child of the first marriage). Hence there is no more discrimination against children born out of wedlock, adoptees or children born out of second marriages with children born in the first marriage, in regards to succession.

***Corporal Punishment***

As of 2014 all forms of corporal punishment have been outlawed. Section 339 of the criminal code states that it is a contravention for any person *being authorized to correct any other person, exceeds the bounds of moderation: Provided that, for the avoidance of any doubt, corporal punishment of any kind shall always be deemed to exceed the bounds of moderation.*

***Children in public care***



Currently the situation is that most children who are taken into public care are placed in foster care within a short period of time, if not at once. Foster parents are appointed by Agenzija Appoġġ, which is accredited as a Foster Care Agency by the Department for Standards in Social Welfare. In accrediting the Foster Care Agency the Department follows the National Standards for Out-of-Home Child Care, published in 2009. Moreover Chapter 285, the Children and Young Persons (Care Orders Act) allows the Director Responsible for Welfare to inspect the places in which minors who are in public care are residing to ensure that the correct quality of service is being provided to these minors.

The criteria found in the law required for the restriction of custody or parental rights is that a child needs care, protection or control. The law states that a child is in such situation if:

- (a) he is beyond the control of his parents or guardian; or*
- (b) he is not receiving such care, protection and guidance as a good parent may reasonably be expected to give and -*
  - (i) the child or young person is falling into bad associations or is seriously exposed to moral danger; or*
  - (ii) such lack of care, protection or guidance is likely to cause the child or young person unnecessary suffering or seriously affect his health or proper development.*

The primary procedural safeguards to ensure that children are removed from their families only in exceptional circumstances is that the decision of the social workers will be reviewed by the juvenile court if the parent objects to the care order. The secondary procedural safeguard is that a board will review the care order once every six months.

### ***Mechanisms of Policy Delivery and Monitoring***

As stated in the previous report the responsible entities for such services are Agenzija Appoġġ, Agencija SAPPOR and Agencija SEDQA within the Ministry for Family and Social Solidarity.

Agenzija Appoġġ is the main entity for the delivery and administration of services in accordance with the policies developed, relating to children with social difficulties. Services focusing on Children across the different branches in APPOGG include: the Child Protection Service ensures child victims of abuse receive efficient and effective services. The Fostering Service provides an alternative family setting for children under a care order living in residences, and also supports foster carers with a view to ensuring the best possible service to children in their care, Specialised Fostering which provides foster care to children with specialised needs, while the Adoption Service assesses the suitability of persons wishing to adopt, offers guidance and support throughout the process so as to ensure adequate preparation of the prospective parent(s), and also provides the necessary support following the adoption, to ensure the child's well-being.

Aġenzija Appoġġ also administers the 179 support line, which is a 24-hour free phone service available to anyone requiring assistance, and which receives calls *inter alia* requesting assistance, as well as reporting child abuse situations. This is one means for identifying children whose rights are being, or might be violated, and of providing them with the necessary assistance and care. Moreover a hotline for reporting internet pornography has also been set up by Aġenzija Appo ġġ. This initiative began as a project co-funded by the EU but its operation has continued despite the cessation of such funding.

The Socio-Legal Services within the Agency is responsible for carrying out Court assessments, supervising visits, and the Legal Services of the Agency may also represent the Agency or the Ministry in appeals from care orders which have been imposed by the Court.

The Department for Social Welfare Standards is charged with establishing standards for various sectors, is also responsible for their implementation, in that it seeks to inform, coach and support providers in their adoption of standards, while it also monitors compliance, assesses performance and receives complaints. However, the Department is not established by law and therefore does not have enforcement powers. Compliance is thus sought through collaboration.

Policies and programmes relating to education are implemented and monitored by the relevant units in the education department of the Ministry for Education and Employment, depending on the nature of the programme in question. For instance, a number of special schools have been established, catering for children with severe learning difficulties, children with disabilities, children with social, emotional and behavioural difficulties affecting their schooling and so forth. These fall under the responsibility of the Student Services Department within the said Ministry.

This Department is also responsible for the management and coordination of education psycho-social services such as the Safe Schools Programmes (Child safety services, anti-substance abuse, and anti-bullying section), school psychological services, the school social work section (which provides services such as student guidance, therapy where difficulties relate to family or social background). Likewise, several initiatives have been implemented which fall within the responsibility of this Department, such as the EU School Milk Subsidy Scheme and the EU School Fruits Scheme, and the Healthy Eating Lifestyle Planning (HELP), all of which seek to promote health eating habits in schools. On the other hand, the School Resources Management Department is responsible for ensuring health and safety in schools and colleges, and for providing schools with the necessary resources, particularly in view of the priority which the Government has attached to the education sector and the emphasis which has been placed on increasing the availability and use of technology in schools. With regard to ensuring adequate standards are maintained, the Directorate for Quality and Standards in Education reviews matters such as the legislation on National Minimum Conditions for Schools, the national minimum curriculum, the teachers' code of ethics and so forth.

Policies and legislation falling within the responsibility of the Ministry for Justice, Culture and Local Government likewise fall to be implemented and monitored by different departments within the Ministry, according to the issue in question, as well as by the Programme Implementation Directorate. Ensuring investigation and prosecution of offences involving children for instance is the responsibility of the Malta Police Force and the Attorney General's Office, although a link with Aġenzija Appoġġ has also been established for the referral of children needing assistance. In fact the Child Protection branch within Aġenzija Appoġġ has established a Protocol with the Police Force, providing for referrals from between both entities, and this may be highlighted as another mechanism for identifying children whose rights have been or are being violated, and of ensuring that they are referred to the Agency in order to receive any assistances needed.

### ***Priorities and Budget***

Budget Measures since 2011 and Electoral Manifesto Commitments for 2013 – 2017:

- May 2011: The Setting up of the Out of Home Care Programme, which offers Specialised Foster Care. This initiative gives additional financial and other support to foster carers who foster children with specialised needs. The benefits given reflect the challenges and needs of the children placed in their care;
- In June 2013: Aġenzija APPOGG extended its Fostering Services to the island of Gozo in view of the fact that a number of foster carers were providing their services on the island. This service facilitated access to support to the foster carers and children receiving the service;
- In July 2013 - In line with the Government Budget Proposal, Agency APPOGG opened a Community Residential Home catering for Siblings. This was the first such home, intended primarily to prevent separation of siblings in out of home care. The home caters for a maximum of 8 children.
- Further budget proposals in 2013 focus and gave priority to children/young person of home care, in particular a Therapeutic Facility and a Residential Home for Youth.

Electoral Manifesto Commitments (2013 – 2017) identify as priorities:

- The enactment of a Children's Act;
- The Reduction of Waiting Lists in Children's Services;
- The Introduction and Implementation of a Positive Parenting Policy;
- The Protection of Children from On line Abuse

Other initiatives:

- The setting up of the Youth in Focus Service, focusing on young people with challenging behaviour including those involved in some form of criminal behaviour and those experimentation in drugs or other substances. This measure was of particular importance since young people experimenting with substances were not referred to the National Drugs and Alcohol Agency – Sedqa in order to prevent labelling and stigmatisation. Sedqa provides its support to Appogg when this is required;
- Progett Kellimni.Com was set up by an NGO – SOS Malta in collaboration with APPOGG, the Salesians and Agenzija Zghazagh, offering online counselling and support to young people

In September 2013 Agenzija SAPPOR opened the first residential home for children with disability and challenging behaviour. Such pilot project was initiated due to the fact that there are a number of children with disability who are at risk of institutionalisation due to their maladaptive behaviour. The residence can only cater for 4 children and thus it is targeting only a small percentage of the population. Moreover due to the lack of residential homes for adults with disability, it is not guaranteed that the service will continue after the current clients reach 18, as they may require to continue to reside in this Residential Facility.

### *Young offenders*

The age of criminal responsibility has been raised to the age of 14. The relevant provisions of the law have been changed (Article 35 of the criminal code) and nowadays a child under the age of 14 shall be exempt from criminal responsibility for any act or omission. Hence the article in the criminal code relating to mischievous discretion between the age of 9 to 14 has been removed.

In addition Agenzija APPOGG offers a service in collaboration with the Malta Communications Authority (as the Lead Partner) and the Office of the Commissioner for Children to protect minors from on line abuse – BeSmartonLine Project funded by the European Commission. As part of this project a memorandum of Understanding with the Police (CyberCrime Unit) was signed in 2012 regulating interventions in cases of online abuse of children and young people. An online reporting system – childwebalert – was developed as part of the project.

The Juvenile Court is the responsibility of the Justice Unit and the Court Services, while the management of YOURS, the juvenile section of the correctional facilities, now having a male and female section, and the implementation of policies and programmes relating thereto, fall within the responsibility of the broader Correctional Services. The objective of strengthening the Probation and Parole Services and the establishment of a Sexual Offenders Register, both of which were listed in the Government's electoral

manifesto, are the responsibility of the Ministry for Home Affairs and National Security and the Ministry for Justice, Culture and Local Government.

The Sexual Offenders Register was set up as a register for any person conducting offences against minors, under the Protection of Minors (Registration) Act 2012.

### ***Paragraph 2 - Free primary and secondary education - regular attendance at school***

#### ***Measures to combat absenteeism taken by the eEducation Psycho-Social Services - SSD***

##### ***Access to E1 platform***

As from January 2013 both social workers and social support workers have access to the E1 platform which holds the attendance of all primary schools and secondary schools. All workers are to check attendance of all students attending schools that fall within their remit once a month and attendance of active cases once every fortnight. This will ensure continuous monitoring of children with a history of absenteeism with the aim of intervening as early as possible when signs of relapse start to emerge.

##### ***Working with Early School Leavers***

During the last four scholastic years career advisors, social workers and social support workers worked jointly to identify fifth formers who are at risk of becoming early school leavers in their respective College. This initiative entails the identification of 5<sup>th</sup> formers who do not intend to sit for any Matsec O Level or for only one or two. Priority is given to those students who are also habitual absentees. An individual meeting is scheduled with the students to explore their career paths. This year the social workers and social support workers identified those students amongst the above who were not attending school and made contact with them mainly through home or office visits to explore their interests and vocational aptitudes and consequently served as a link with the career guidance service provided at College level. Social workers and social support workers also give their input in programmes organised for these students at College level.

During scholastic year 2013-14 the Ministry for Education and Employment launched an Alternative Learning Programme for these Fifth Formers who are not sitting for their O'Level. The programme incorporated vocational courses and core competences, IT, Life Skills and Career Education for the students. The entities involved in providing the courses are Malta College for Arts, Science and Technology, Employment and Training Corporation, Youth. Inc. and Agenzija Zghazagh. A matching exercise was carried according to the preferences given by the students taking into consideration their abilities and skills which were identified during the one to one session with the career advisor, guidance teachers, social workers and social support workers. Personnel of the services were present on the different premises here the ALP was held every single day to monitor and support the students.

### ***Legal Measures to Reduce Rate of Absenteeism***

Social Workers attend Regional Tribunal sittings to give feedback to the Commissioner of Justice presiding the hearing regarding their interventions with habitually absent students. This information will assist the Commissioner when passing judgement. Meetings were held with the Commissioner of Justice and representatives of Regional Tribunals to explore how to tackling cases of habitual absenteeism more effectively in the light of lack of enforcement measures.

The Service Manager, Education Psycho-Social Services and the Principal Social Worker represented the MEDE in the Tri-Partite Committee involving four Ministries created mainly to tackle absenteeism. They were involved in two separate sub-committees. The Service Manager attended the one dealing with the Co-Ordination of Services whilst the Principal social Worker formed part of the sub-committee. As a result it was agreed with the AG Office that they will send a warning letter to 100 parents of student who are habitually absent from school without providing a valid justification. All of these parents have several pending fines to pay hence action will be taken to ensure that these fines are paid. Consequently, the social workers and social support workers were asked to identify these parents. LOQUS were also contacted to provide the amount of pending fines these parents have to pay. Both DG DES and the Minister gave their approval. Arrangements are underway for the letter to be sent in conjunction with the Regional Tribunals.

Another initiative is that a working committee will meet regular to come up with further proposals in relation to law enforcement.

#### ***Tackling long term absence covered by medical certificates***

This issue is being tackled through the following measures:

- Introduction of the sickness record card for each student
- Issuing of criteria for issuance of medical certificates
- Close monitoring of sickness absence of each student
- Early identification of abuse of sickness absence
- Early intervention in instances of abuse
- Improved collaboration with GPs

### ***Attendance Policy, Strategy and Procedures***

Since 2010 the team of social workers and social support workers employed with the Education Psycho-Social Services within Student Services Department have been giving priority to primary students with a history of absenteeism.

Consequently, following in depth interventions the number of unauthorised school absences decreased in a way that fewer children were missing more than 3 school days.

During summer 2014 most of the team could focus on students who missed 30 days or less in a scholastic year. In certain Colleges students who missed several school days covered by medical certificates were also assessed.

#### Comparison of Unauthorised Absenteeism 2008-09 to 2013-14

##### Year Population Percentage

TOTAL PRIMARY 2008/09 20878 2.12%  
TOTAL SECONDARY 2008/09 15594 7.76%

TOTAL PRIMARY 2009/10 20238 1.55%  
TOTAL SECONDARY 2009/10 15031 6.67%

TOTAL PRIMARY 2010/11 19831 0.99%  
TOTAL SECONDARY 2010/11 14185 7.42%

TOTAL PRIMARY 2011/12 19652 1.07%  
TOTAL SECONDARY 2011/12 13431 7.90%

TOTAL PRIMARY 2012/13 19525 1%  
TOTAL SECONDARY 2012/13 12791 7.5%

TOTAL PRIMARY 2013/14 13478\* 1.7%  
TOTAL SECONDARY 2013/14 11782 7.7%

\*Number of students excludes kindergarten hence rise in percentage

#### **Regional Tribunal Sitings attended by Social Workers:**

Year	No of sitting
2011	144
2012	72
2013	54

Number of students whose parents were referred to the Regional Tribunal because of habitual absenteeism:

Year	No of Students
2011	1766
2012	1613
2013	1399

The attendance policy was launched in October 2014. The aim is to maximise school completion for all students, raise student achievement and close gaps in student

performance, identify attendance patterns in order to design attendance improvement effort, verify that individual students are complying with education legislation.



**Article 27 – The right of workers with family responsibilities to equal opportunities and equal treatment**

***Paragraph (2)***

It should be clarified that since 2010, parental leave is of four month duration.

***Paragraph (3)***

Regulation 10 of the Parental Leave Entitlement Regulations (SL 452.78) stipulates that it shall not be lawful for the employer to dismiss an employee solely because an employee takes or applies to take parental leave in accordance with these regulations, and any such dismissal shall not constitute a valid reason for termination of employment.

There is no stipulated level of compensation which could be awarded by the Industrial Tribunal. There is no law of precedents and the Tribunal has discretion to impose any amount of compensation it deems fit.