



European
Social
Charter

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EUROPEAN SOCIAL CHARTER

Answers to additional questions related to

17th National Report on the implementation of the European
Social Charter

submitted by

THE GOVERNMENT OF MALTA

Articles 2, 3, 4, 5, 6, and 20

CYCLE 2024

Malta's Additional Information to the 17th National Report

Article 2.1

Please provide information on the professions or categories of workers that may work more than 48 hours per week and what are the conditions under which 48 weekly working hour limit can be exceeded?

Under Maltese law (S.L. 452.87), the general maximum average working time is 48 hours per week, averaged over a reference period of 17 weeks. However, certain professions and categories of workers may legally exceed this limit under specific conditions. Workers may opt out of the 48-hour limit through a written agreement, provided that the worker still receives the minimum rest periods set by law (i.e. 11 consecutive hours of daily rest and 24 hours of uninterrupted rest every 7 days or 48 hours every 14 days). Furthermore, various Wage Regulation Orders (WROs) provide derogations that permit extended working hours in specific sectors, such as:

- Watchmen in several sectors, who may work up to or beyond 60 hours before overtime pay applies.
- Transport Equipment and Metal industry workers, where overtime is calculated after 60 hours for watchmen.
- Public transport workers, construction workers, and those in hospitality, cinemas, and theatres, who may exceed the 48-hour cap under conditions defined in their respective WROs.

In all cases, workers must still get their minimum rest periods by law.

What is the maximum possible weekly working time in such cases? What are the safeguards to protect the health and safety of the workers in case they work more than 60hrs?

There is no fixed maximum weekly working time in all cases, but once a worker goes above 60 hours in a week, stricter safeguards must apply. These include:

- Health and safety protections, such as rest period compliance, monitoring of working hours, and obligations to prevent fatigue-related risks.
- Higher overtime rates, which range from 1.5x to 2x normal pay depending on the sector and day (e.g. Sundays and public holidays).
- Written consent or collective agreement requirements when opting out of the 48-hour cap.
- The Director, Department for Industrial and Employment Relations (DIER) can allow special working time arrangements in certain jobs or sectors, if needed for operational reasons.

These safeguards aim to ensure excessive working hours do not endanger workers' wellbeing.

Please provide information on the maximum working hours for seafarers.

Seafarers in Malta follow special rules under international conventions and WRO 452.51. They may work up to 14 hours in any 24-hour period and up to 72 hours in any 7-day period. They must have at least 10 hours of rest in every 24-hour period and 77 hours of rest every 7 days. Rest can be split into two periods, one of which must be at least 6 hours long.

Please provide information on the amount of remuneration for inactive part of on-call time when no actual work is carried out and the worker stays outside the employer's premises?

When a worker is on-call but not actively working and is not on the employer's premises, the law does not set a fixed rule. However, if the worker is required to stay at a specific location (like the workplace), they must be paid at least the minimum pay under the applicable WRO. If

the worker is on-call from home, whether the time counts as paid working time depends on how limited their freedom is during that period. The more restricted the worker is, the more likely it counts as work and must be paid.

Article 3.2

The Committee asks for information on the measures taken to ensure that employers put in place arrangements to limit or discourage work outside normal working hours (including the right to disconnect); and on how the right not to be penalised or discriminated against for refusing to undertake work outside normal working hours is ensured.

Maltese law currently does not contain a dedicated provision guaranteeing a statutory “right to disconnect.” However, under the Organisation of Working Time Regulations (S.L. 452.87), employers must ensure that the maximum average working time does not exceed 48 hours per week, and they must provide daily rest (11 hours) and weekly rest (24 hours). These protections help limit excessive working time. In addition, employment contracts typically specify working hours. Any work outside those hours would normally require the employees’ agreement and may be treated as overtime, which must be compensated accordingly under the applicable Wage Regulation Order (WRO).

Although Malta has no explicit law on the right to disconnect, the law provides indirect protection by ensuring that workers are not obliged to work beyond agreed hours without consent or compensation.

Under Article 30 of the Employment and Industrial Relations Act (Cap. 452), employers are prohibited from taking disciplinary action, terminating employment, or otherwise discriminating against employees for asserting their rights under labour law. This includes refusing to work beyond their agreed hours unless required by law or emergency.

Any victimisation or unfair treatment for refusing to work outside normal hours without consent may be challenged through the Industrial Tribunal or through a complaint to the DIER.

It further asks for information on the measures taken to ensure that self-employed workers, teleworkers and domestic workers are protected by occupational health and safety regulations; and on whether temporary workers, interim workers and workers on fixed-term contracts enjoy the same standard of protection under health and safety regulations as workers on contracts with indefinite duration.

Under the Occupational Health and Safety Authority Act – OHSa - (Cap. 424), employers are legally obliged to ensure a safe and healthy working environment for their employees. This duty extends to teleworkers, who must be covered by the same health and safety rules as office-based employees. Employers should assess the risks of remote work and provide appropriate equipment or guidance.

Maltese Occupational Health and Safety (OHS) legislation applies to all workplaces and all sectors of work activity, public and private, and to all work activities, including those carried out by self-employed persons. The crew of aircraft and vessels, excluded from the Health and Safety at Work Act, 2025 (Cap 646) are covered by Transport Malta through maritime and aviation safety regimes. Furthermore, LN 36 of 2003, one of the subsidiary legislations under Cap 646, specifically refers to the measures that need to be taken to protect Risk groups and vulnerable groups (reg. 17) and Temporary workers (reg. 18).

Domestic workers are protected under the relevant Wage Regulation Order (Domestic Service – WRO 452.40), and while their workplaces (private homes) may not be subject to routine inspections, they are still entitled to basic occupational protections.

Self-employed workers are not covered in the same way, as the employer–employee relationship does not apply. However, if they perform work on another party’s premises, that party may have certain duties under health and safety law depending on the situation.

Maltese legislation ensures that temporary and fixed-term workers enjoy the same health and safety protections as permanent employees. This is set out under S.L. 452.81 (Fixed-Term Work Regulations) and S.L. 452.82 (Temporary Agency Work Regulations). Employers must treat these workers no less favourably than comparable permanent staff in relation to workplace health and safety.

Employers are also required to inform all employees, including those on short-term contracts, about safety measures, emergency procedures, and any risks involved in their job, in accordance with the Information to Employees Regulations (S.L. 452.83).

Article 3.3

Please provide information on measures taken to ensure the supervision of implementation of health and safety regulations by the labour inspection or other competent authorities concerning the following categories of workers:

- 1. domestic workers;**
- 2. digital platform workers;**
- 3. posted workers;**
- 4. workers employed through subcontracting;**
- 5. the self-employed.**

In Malta, the supervision of health and safety across various worker categories is handled primarily by the OHSA, with additional support from the DIER. While enforcement challenges exist, particularly in private residences and among self-employed workers, the legal framework ensures that all categories of workers are covered either directly or indirectly. Special regulations such as those for digital platform workers and posted workers reinforce these protections with clear employer duties and enforcement mechanisms. The Health and Safety at Work Act (Cap 646) provides a comprehensive and enforceable legal framework to ensure the effective supervision and implementation of health and safety regulations for all categories of workers in Malta by the OHSA. Though its surveillance and awareness raising actions, OHSA ensures the mandates assigned by Cap 646 are fulfilled.

Under this legislation, employers bear the main obligation to provide all employees—including domestic workers, with adequate information, instruction, and training regarding occupational risks, supported by the requirement to conduct mandatory risk assessments to identify and mitigate workplace hazards. Employers are also duty bound to ensure that the relevant control measures are implemented.

Surveillance actions by OHSA include, workplace inspections, both proactive (e.g. routine site visits or as part of specific campaigns) and reactive site visits (e.g. accident investigation), and enforcement actions (Court action or the imposition of administrative fines).

OHSA also organises regular awareness raising initiatives to reach the widest audience possible in line with its motto that every worker counts. E.g. during 2024 OHSA targeted the risks from digitalisation and from climate change through 2 EU-OSHA funded conferences.

1. Domestic Workers

Domestic workers in Malta are covered by the Domestic Service Wage Regulation Order (WRO 452.40), which outlines working hours, overtime, and rest periods. The share of workers in this sector is very low in the economy. Nevertheless, while private homes are not typically subject to routine workplace inspections due to certain safeguard in the law to protect privacy, the OHSA retains the right to investigate any health and safety complaint made by domestic workers. Although enforcement is limited due to the private nature of the workplace, domestic workers are still entitled to the same protections under Cap. 646 and may seek assistance through the (DIER).

2. Digital Platform Workers

Digital platform workers are also covered by OHS legislation, either as workers or as self-employed depending on their contractual relationship and so fall within the applicability of Cap 646. Digital platform delivery workers are regulated under the Digital Platform Delivery Wages Council Wage Regulation Order (Legal Notice 268 of 2022). This law presumes an employment relationship between platform workers and platform operators unless proven otherwise. The employer is responsible for creating a safe working environment, conducting risk assessments, and implementing measures to prevent injuries and work-related stress. The OHSA enforces these obligations and can carry out inspections, while the law provides fines for non-compliance. Monitoring systems used by platforms must also respect health and safety principles, particularly regarding mental health and pressure from algorithmic control.

3. Posted Workers

Posted workers enjoy equal OHS protection rights consistent with both national legislation and European Union Directives. The host employer (or any employer they be assigned with) must comply with the requirements of Cap 646 and afford the necessary OHS protection. Posted workers (i.e. workers temporarily sent from another

EU member state to Malta) are protected under the Posted Workers Regulations (S.L. 452.82) and fall under Maltese health and safety laws while working in Malta. The OHSA is empowered to inspect worksites and verify that posted workers enjoy equal treatment in terms of safety training, equipment, and accident prevention. Posted workers may also report issues directly to OHSA or DIER.

4. Workers Employed through Subcontracting

In the context of subcontracting, the law places responsibility on both the main contractor and the subcontractor to ensure that OHS is being adhered to. Furthermore, where more than one contractor shares the same place of work, effective coordination shall be in place to ensure OHS. Workers employed via subcontractors are equally protected under Maltese OHS laws. Both the subcontractor (direct employer) and the principal contractor (site manager or project owner) have responsibilities under Cap. 424, especially when working on shared premises or construction sites. OHSA actively monitors such arrangements to prevent gaps in enforcement. In high-risk sectors like construction, OHSA coordinates with site managers to ensure all workers on-site, regardless of contract structure, have safe conditions and appropriate training.

5. The Self-Employed

Self-employed individuals are also legally required to implement health and safety measures for themselves e.g. by carrying out risk assessments, taking adequate OHS measures to protect themselves and by cooperating with other contractors who may be engaged on the same place of work. Self-employed persons are partially covered under Chapter 424, specifically when their activities may present risks to others. While they are not subject to employer-directed safety protocols, self-employed individuals working on shared sites (e.g. construction, renovation) must comply with OHSA regulations and may be inspected. The OHSA encourages self-employed workers to apply safety standards to themselves and provides guidance on risk management.

Important updates in the local OHS legislation

During 2024, Malta published a new OHS Act (Cap 646) following a public consultation process and thorough discussions with stakeholders and culminated in the public debate in Parliament. The new Act was unanimously approved by the House of Representatives in July 2024. Presidential assent to this new Act was given on the 9th of August 2024 and the Act was brought into effect on the 26th of November 2024. The new Act brought important changes to the OHS legal framework including:

- a. The restructuring of OHSA, with a clear delineation between the Governing Board and the Executive. A clearer function of the Governing Board has thus been established.
- b. More powers to OHSA, especially the power to issue administrative instruments to address urgent matters, which require fast action by OHSA.
- c. The introduction of a new duty on employers to appoint a Health and Safety Reporting Officer (HSRO), when directed by regulations or by OHSA, to address serious issues within that organisation.
- d. A new structure of penalties, which now covers failures of a purely administrative nature (shortcomings for which a special compromise procedure applies), and the retention of action through Courts.
- e. Increasing deterrents against breaches of the law. Penalties under Cap 646 have increased as follows: administrative penalties have been set up to a maximum of €20,000 and up to €50,000 for fines of a special compromise procedure. Convictions through a Court may lead to imprisonment for a term of not more than two (2) years, or to a fine of not less than €1,000 but not exceeding €50,000 or to both such fine and imprisonment. On a second or subsequent conviction such person shall be liable to a fine of not less than €2,000 but not exceeding €50,000, or to imprisonment for a term of not less than one (1) year and not exceeding four (4) years, or to both such fine and imprisonment.
- f. OHSA will publish an offenders' register on its website to enhance the visibility of enforcement actions taken. This register is scheduled to go live during 2025.
- g. The establishment of an independent and impartial Health and Safety Tribunal to hear and decide appeals against administrative penalties, and against decisions, orders, or administrative instruments issued by the Authority.

Article 5

Please provide information on the status and prerogatives of minority trade unions, i.e., those not deemed representative.

Under the Recognition of Trade Unions Regulations (L.N. 413 of 2016), only the union that represents the majority of employees (more than 50%) in a given category may be officially recognised for collective bargaining. Minority unions—those that do not meet this threshold—do not have bargaining rights but are still free to operate, represent individual members, and engage in trade disputes. Their members are protected under Articles 26 and 27 of the Employment and Industrial Relations Act (Cap. 452) from discrimination or victimisation related to union activity.

Article 6.1

Please state what measures are taken by the Government to promote joint consultation.

The Maltese government promotes joint consultation primarily through tripartite structures like the Malta Council for Economic and Social Development (MCESD). This council includes trade unions, employers, and government representatives. It plays a key role in shaping national policies such as the Cost-of-Living Allowance (COLA) mechanism. The Minimum Wage and Collective Bargaining Regulations (2024) introduced mandatory employer participation in collective bargaining and measures to improve the capacity of social partners, particularly when collective bargaining coverage is below 80%. This includes the creation of an action plan with defined goals and a review every five years.

Please describe what issues of mutual interest have been the subject of joint consultation during the past five years, what agreements have been adopted as a result of such discussions and how these agreements have been implemented. State if there has been any joint consultation on matters related to (i) the digital transition, or (ii) the green transition.

In the last five years, the MCESD and social partners have discussed:

- Cost of Living Allowance (COLA) reforms
- Remote working and telework arrangements
- Wage increases in healthcare, education, and care sectors
- COVID-19 emergency measures
- The Labour Migration Policy
- Digital and green transition topics, including sustainability and digital platform labour regulations. Consultation on Malta's Sustainable Development Strategy 2050 and National Climate Challenges were undertaken
- Traffic Mitigation Measures
- Increases in the Minimum Wage in the Low Wage Commission (which falls under the auspices of the MCESD).

The Digital Platform Delivery Wages Council WRO (2022) was also direct result of such consultation, providing employment rights and safety protections to gig workers.

Article 6.2

Please provide information regarding:

- factors such as *erga omnes* clauses and other mechanisms which aim to extend collective agreements;
- the favourability principle and the extent to which local/workplace agreements may derogate from legislation or collective agreements agreed at a higher level;
- obstacles hindering collective bargaining at all levels and in all sectors of the economy (e. g. decentralisation of collective bargaining), as well as specific details on the measures taken or planned in order to address them, their timeline, and expected or achieved outcomes in terms of those measure;
- measures taken or planned to guarantee the right to collective bargaining of (i) economically dependent self-employed persons (showing similar features to workers) and (ii) self-employed workers.

Extension of Agreements, Favourability, and Obstacles

- Extension mechanisms (Erga Omnes): There is no automatic extension mechanism in Maltese law; collective agreements apply only to the members of the recognised union unless employers voluntarily apply terms universally.
- Favourability principle: Workplace agreements may not provide conditions less favourable than statutory minimums or sectoral agreements. Higher-level protections take precedence.
- Obstacles to bargaining: Challenges include low coverage in some private sectors, difficulties organising in IT and gig work, and limited bargaining in SMEs. The 2024 regulations introduced an action plan to address these issues through capacity building and increased transparency.
- Self-employed/economically dependent workers: Malta has taken steps to include platform workers under employee protections by presuming an employment relationship unless proven otherwise. Broader protection for all self-employed is still limited but evolving

Article 6.4 - Please indicate:

- the sectors in which the right to strike is prohibited;
- the sectors in which there is restriction on the right to strike;
- whether armed forces and police have the right to strike or if there is a restriction on the right to strike, please indicate if the restriction is established by law, and why is it necessary in a democratic society for the protection of the rights and freedoms of others or for the protection of public interest, national security, public health or morals (Article G of the Charter). In addition, please indicate whether the members of armed forces have other means through which they can effectively negotiate the terms and conditions of employment, including remuneration;
- the sectors for which there is a requirement of a minimum service to be maintained.

Please, give details about the relevant rules concerning the above and their application in practice, including relevant case law.

Please, indicate whether it is possible to prohibit a strike by seeking injunctive or other relief from the courts of other competent body (administrative body or arbitration body).

If affirmative, please provide information of the scope and number of decisions in the last 12 months.

- Sectors where right to strike is prohibited: The Armed Forces of Malta and the Police Force are prohibited from striking under the EIRA (Cap. 452) and related regulations. These restrictions are justified on national security and public order grounds.
- Restricted sectors and minimum service: Strikes may be limited in essential services such as healthcare, electricity, and port services. In such cases, minimum service levels are required to ensure public safety and continuity.
- Legal challenges to strikes: It is possible to seek injunctions from civil courts to halt a strike if it is unlawful or breaches procedural obligations. Courts have intervened in past cases, e.g., Freeport Terminal and MIA disputes, to determine the legality of industrial action. Recent court rulings have expanded the definition of "trade disputes" to include protests over government policy, setting legal precedent for broader strike grounds.
- Remedies and enforcement: Industrial disputes involving unlawful conduct may result in criminal charges if public order or property is affected. However, peaceful industrial action is protected under law.