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EUROPEAN SOCIAL CHARTER

Addendum to the
13th National Report on the implementation of
the European Social Charter

submitted by

THE GOVERNMENT OF MALTA

Articles 1§1, 1§2, 10§1, 10§3 , 15§2, 20 and 24

for the period 01/01/2015 - 31/12/2018

Report registered by the Secretariat on

2 July 2020

CYCLE 2020

Replies by Malta

Article 1.1*

Please provide details of labour market policy measures specifically designed to support specific groups or communities, such as: young people who have not yet entered the labour market, persons in geographical areas and communities with distinct levels of underemployment (quality) or unemployment (quantity) or experiencing severe or chronic unemployment as well as migrants and refugees; Please include statistical information on the overall impact of employment policy during the reference period: economic growth indicators, unemployment rates broken down by gender, age and duration, public expenditure on passive and active labour market measures as a share of GDP, number of participants in active measures (training), activation rate (participants/unemployed ratio).

Reply

Labour market policy measures to support:

1. Young people who have not yet entered the labour market

Youths in Malta benefit from an inter-institutional approach between multiple actors whose aim is to provide a holistic service under the auspice of the Youth Guarantee. The Ministry for Education and Employment (MEDE) and Jobsplus (Malta's PES) engage with different stakeholders through partnerships to better target youths and improve the design and implementations of the various schemes under MT's Youth Guarantee Scheme cited below:

- SEC Revision classes: Post formal education, youths may apply for a maximum of three Secondary Education Certificate (SEC) Revision classes if the grade they obtained in the May exam sitting was 6 or lower or were absent in multiple core subjects which are Maltese, English, Mathematics and a science subject (either Physics or Biology). These classes are offered free of charge during the summer period. The aim of the SEC Revision Classes is to aid youths improve their grades for the SEC examinations during the re-sit sessions in September.
- ICT Summer Course: An ICT Summer course is offered to: students attending the Alternative Learning Programme (ALP), students who are referred by members of the schools' psychosocial teams or inactive youth (either registering or not registering). The participants are offered 60 hours of ICT training. At the end of the programme, successful participants are awarded the ECDL standard certificate, equivalent to MQF 3 or the Practical ICT course which is equivalent to the MQF 2. Following the completion of the Summer ICT Courses, youths are either encouraged to enrol in an educational institution which would further their vocational training or enlist themselves in the NEET Activation Scheme II.
- NEET Activation Scheme II: The aim of this initiative is to promote the re-integration of NEETs by means of targeted intervention. There are three phases to the scheme. The initial phase is individual profiling of participants. The profiling interviews are conducted by psychologists whose aim is to draw up the main characteristics of each individual. The assigned youth worker then receives the drawn profiles. Youth workers ensure that the professionals working with youths can provide personalised assistance which caters to the background of the youth. Based on these profiles, participants are offered tailor-made training with the aim to improve specific skills over a six-week timeframe. Topics covered under the training provided include motivational and behavioural training, guidance on employment, communication skills, CV

writing and interview skills. The engagement of these specialised professionals ensures that the personalised assistance is tailored not only to the participants per se, but also taking into consideration their background and any other issues. Participants are required to choose whether they would like to further their education by enrolling in one of Malta's educational institutions or proceed to a 240-hour work placement either in a simulated or actual workplace during the second phase of the initiative. Participants are provided with both on and off-the-job training to further gain the necessary employability skills and increase their prospects of accessing the labour market. Upon completion of the work exposure phase, participants enter phase three which consists of a traineeship whereby participants will be able to put into practice what they have learnt during the previous two phases.

- MCAST Preventive Classes are provided to students under the age of 25 years who fail one of the exams through Level 1, Level 2 or Level 3 of their respective course at the Malta College for Arts, Science and Technology (MCAST). Youths are offered free preventive classes in a variety of key skills and vocational subjects during their summer period, in preparation for their final assessments the following September.

Unemployed registered youths with Jobsplus are assigned an employment advisor. Post-profiling, Jobsplus, would refer these youths to a Youth Guarantee initiative which corresponds to their needs. The project also includes the services of two job coaches whose main role is to support and coach trainees with the aim of allowing them to successfully complete their work placement and more importantly when there is the possibility for them to be employed. On the other hand, the trainee under the responsibility of a job coach aims to get the necessary training and support required for them to understand and practice the tasks and sequences necessary for the work they are allocated. While MT acknowledges that NEETs may be hard to reach, the YG office has enhanced its outreach mechanisms to minimise the numbers of youths neither in education nor in employment, ranging from informative sessions with educators and psychosocial teams to full-blown national events such as the 'I Choose' fair which sees the participation of Malta and Gozo's entire school-leaving cohort.

Targeted initiative specific newsletters are sent out to a database including educators, school psychosocial teams and senior management schools' staff. These newsletters are in turn uploaded to the schools; internal platform and disseminated to parents and students alike. NEETs are also sent a personal invitation which would encourage them to engage in the Youth Guarantee Programme. These letters are sent out every year between Q1 and Q2 to all inactive youths depending on availability of the lists. Each invitation is sent together with an application form. Furthermore, to further enhance outreach of inactive youths, a team of youth and social workers are tasked with carrying outdoor-to-door visits to maximise outreach potential. To increase the engagement rate for NEETs, social media campaigns across the YG Facebook and Twitter pages, newspaper and YouTube channels and radio advertisements are used in conjunction with the invitation to increase visibility and participation. As a result of a warmly received and successful presence, a solid network of educators and event organisers was established, promising further activities throughout the scholastic year.

Statistical data shows that the NEET rate in Malta is decreasing, in effect the rate in 2015 for NEETs was of 10.5% which went down to 7.3% in 2018 (*Table 1*). This shows that the services provided by the Jobsplus' YG Unit together with the mechanisms in place have had a positive impact on NEET youths in Malta.

Table 1 Young people aged 15-24 neither in employment nor in education and training (NEET) - annual averages

GEO/TIME	2015	2016	2017	2018
EU - 28 countries	12.0	11.5	10.9	10.4
Malta	10.5	8.8	8.6	7.3

2. Unemployed persons

Unemployed people in Malta are encouraged to register with Jobsplus, who as the Maltese PES, can provide targeted support via its employment advisors, and job coaches. Unemployed persons registering with Jobsplus are introduced to an employment advisor who after the initial profiling, will direct them to one of Jobsplus schemes that best suits their needs. Jobsplus, in fact, offers several schemes which aim to enhance the employability skills by providing participants with the transversal skills needed to enter and retain gainful employment.

Unemployed persons with Jobsplus are encouraged to participate in the Traineeship Scheme and the Work Exposure Scheme who aim at providing individuals with the necessary pre-employment training required to find and retain employment. The Work Placement Scheme is offered to participants following a course offered by Jobsplus which would include a practical component. The Scheme allows participants to acquire both theoretical and practical training in namely vocational education and training award in childcare (0-3 years), Vocational Education and Training Award for Care Workers for Persons with Disability and, Vocational Education and Training Award for Care Workers for the Elderly. Additionally, Jobsplus understands the importance to provide enhanced assistance to those further away from the labour market. The Work Programme Initiative for such is a scheme in collaboration with the private sector to assist long-term unemployed individuals to re-enter the labour market through profiling, training and job placements. Other vulnerable groups including registered disabled persons are offered tailor made schemes to further enhance their employment prospects. The Bridging the Gap Scheme is designed to support individuals in their transition period from unemployment to employment where it allows employers to evaluate the individual performance of participants in the workplace prior to engagement.

The Job Bridge Training Centre offers various training opportunities to vulnerable jobseekers. Outreach initiatives are held in order to increase awareness of this service and such centres have fully equipped training rooms, a computer lab and a well-equipped common area for both trainers and trainees. The centres provide pre-employment training to assist disadvantaged jobseekers in acquiring pre-employment skills allowing participants to adapt to labour market changes and requirements. The pre-employment programme consists of four modules – Award in Pre-Employment Skills, Award in Life & Communications Skills, Award in Basic Clerical Training and Basic ICT skills. Moreover, the Sheltered Employment Training is a one-year programme aiming to prepare individuals with disabilities for employment. Job coaches will focus on punctuality, work ethics, independent living, communication and social skills. The objective of this initiative is to offer a simulated working environment and possibly to move towards sheltered employment and eventually to open employment. Clients can receive hands-on training in different tasks such as back office work, assembly of products, packaging material, dismantling of electronic devices and more. Participants are continuously monitored and informally assessed by job coaches who use different home-grown assessments to record improvements and level of productivity. The Access to Employment scheme seeks to promote an equal and inclusive labour market through wage incentives to employers for a number of weeks in a bid to ensure the integration, retention and progression of individuals into the Maltese labour market.

Ultimately, unemployed individuals who would like to increase their employability prospects have the opportunity to participate in several courses offered free of charge by Jobsplus targeting employability skills, language and numeracy skills, clerical, accounting, trades, care workers and business skills amongst others.

3. Migrants and refugees

As the Maltese Public Employment Services corporation, Jobsplus targets the upskilling and reskilling of the Maltese labour force in line with the required skills of the labour market in a bid to reduce the skills mismatch experienced by employers. Jobsplus services including advisory services and training opportunities are available to all individuals residing in Malta. Therefore, migrants are given the same services offered to locals and/or European nationals giving them the same opportunities to avail from when they submit the necessary supporting documentation with their application and subject that the usual eligibility criteria to participate in such initiatives are fulfilled.

Refugees and other TCNs who have been granted long-term resident status can register for employment with Jobsplus, Malta's Public Employment Service, and are therefore eligible for all the services offered to persons on the Jobsplus unemployment register. Such services include being assigned an employment advisor who offers support and guidance in the job search process by assisting the jobseeker in developing a Personal Action Plan. The employment advisor also refers the jobseeker to training programmes, employment schemes and other initiatives. In cases where jobseekers are considered as disadvantaged these are referred to the Inclusive Employment Services within Jobsplus. This unit offers services specifically designed to help disadvantaged individuals who have a harder time finding work.

Whilst jobseekers holding Refugee status can benefit from the services as outlined above, persons who enjoy Subsidiary Protection and Temporary Humanitarian Protection are offered a parallel service under the 'Supported Employment Services for Migrants'. This is a project which is part-financed under the Asylum, Migration and Integration Fund (AMIF 11.01) and was specifically developed in accordance to identified needs of this client group with the aim of facilitating the transfer and integration of migrants to employment. Asylum seekers are also eligible under this project.

The services launched in 2017 included:

- a. Guidance Services for Migrants – these services include initial outreach and the provision of employment guidance.
- b. Job Brokerage Office – this consists of a new office dedicated specifically to facilitating the placement of migrants in short-term placements.

Following initial piloting of the basic services mentioned in points (a) and (b), Jobsplus decided to further extend these services in order to ensure more holistic support to eligible migrants and is currently working towards offering the following additional services:

- Guidance Services for Migrants – tailor made basic training and additional support services including the provision of interpreters and cultural mediators, occupational therapists and psychologists. Jobsplus will also be offering the provision of specialised training for staff in contact with migrants.
- Job Brokerage Office – promotion and further marketing of this new service amongst both employers and migrants.

Furthermore, the project will include general marketing of relevant services amongst both eligible migrants and employers. The relevant documents will also be translated and published in Arabic, Tigrinian, Eritrean and Somali.

In addition to this specialised service, beneficiaries of international protection can also access a number of mainstream services at the various Job Centres managed by Jobsplus such as accessing information on current vacancies and training courses as well as participate in certain active measures such as training programmes including traineeships and work exposure schemes.

At Jobsplus, migrants using the guidance services are profiled using the mainstream profiling system of the PES, this allows for easy matching with vacancies. The Job Brokerage Scheme mentioned above, uses a slightly different database which includes details which are more relevant to the particular requirements received by the office. This allows the office to provide better brokerage assistance to place migrants based on the skills required by the employer and the skills and availability of the working age migrant.

Other third country nationals who are already living and working in Malta can also request guidance services through either the Jobsplus advisory or job centres and may be eligible to apply for relevant Jobsplus courses. Family members can also apply for schemes. In the case of a TCN family member or other family member a copy of the registration certificate issued by Malta's Department of Citizenship and Expatriate Affairs is required on application. Moreover, in 2014, Jobsplus published a manual on Living and Working in Malta targeted at TCNs. This manual was translated in 8 languages, which languages were chosen in relation to the third country nationals who are already working in Malta. The publication includes information on moving to Malta, employment, conditions of work, working time, leave, living conditions, private life and useful links.

Statistical information (Period 2015-2018)

1. Economic growth indicators – Kindly note that Jobsplus does not have this data
2. Unemployment rates broken down by gender, age and duration

Table 1 Unemployment rates by sex, age and citizenship (%)

Age Group	2015	2016	2017	2018
20-64	5.0	4.0	3.5	3.4
20-24	10.3	8.1	8.3	8.3
25-49	4.2	3.7	3.2	2.9
50-64	4.9	3.6	2.4 (u)	3.1

U: low reliability

Source: Eurostat

Table 2 Unemployment rates by sex, age and citizenship (%)

Age Group	2015	2016	2017	2018
20-64	4.8	4.6	3.8	3.1
20-24	6.4 (u)	8.3 (u)	7.1 (u)	4.5 (u)
25-49	4.6	4.0	3.5	3.0
50-64	4.4 (u)	4.4 (u)	2.6 (u)	2.7 (u)

U: low reliability

Source: Eurostat

Table 3 Long-term unemployment rate (15-74 years) by gender

	2015	2016	2017	2018
Females	1.9	2.3	2.2	1.3
Males	3.2	2.4	1.9	2.1

Source: Eurostat

3. Public expenditure on passive and active labour market measures as a share of GDP

In recent years government has adopted a making work pay approach to increase labour market participation, in particular female participation, and reduce dependency on social benefits. As matter of fact, government effort in this regard is not fully reflected since expenditure on Active LMP is in reality higher than the quoted figures as a number of active LMP fall outside the scope of LMP database.

Table 4 Public expenditure

	M€	% of GDP
2015	42.928	0.450
2016	43.579	0.427
2017	43.138	0.382
2018	42.485	0.345

Source: Labour Market Policy Database

4. Number of participants in active measures (training) for the period 2015-2018

Table 5 Number of participants in training

Name of Scheme/Year	2015	2016	2017	2018
Traineeship Scheme	613	382	134	39
Work Programme Initiative	180	986	218	166
Work Exposure Scheme	326	352	145	251
Sheltered Employment Training	77	40	51	45
Headstart*	-	31	27	31
Job Bridge Training	26	172	144	63
Jobsplus Courses	6,799	4,393	4,209	4,706

Source: Jobsplus administrative data

*The Headstart programme was not in force in 2015

5. Activation rate (participants/unemployed ratio)

According to published LMP (Labour Market Policies) data, the activation rate for 2015 stood at 17% and increased to 18% in 2016. In 2017 the rate stood at 18.56% and in 2018 it stood at 17.75%. The activation rate remained stable during the reference period with the rate hovering around 18%. Only activation measures included in the LMP database were considered in the computation of such rates.

Article 1.2

Please provide updated information on legislation prohibiting all forms of discrimination in employment in particular on grounds of gender (if not accepted Article 20/Article 1 AP), race, ethnic origin, sexual orientation, religion, age political opinion, disability (if not accepted Article 15§2), including information on remedies. Please indicate any specific measures taken to counteract discrimination in employment of migrants and refugees. Please indicate what measures have been taken to assess the prevalence of the problem of exploitation of vulnerability, forced labour, modern slavery? Does legislation exist to deal with the phenomenon of exploitation of vulnerability, forced labour, modern slavery and does it make provision for the identification and protection of victims, enable prosecution of exploiters, or otherwise provide reporting requirements for businesses to detail actions taken to investigate their supply chains for forced labour, due diligence in public procurement to guarantee funds are not inadvertently supporting modern slavery? Are there regular inspections of sectors such agriculture, construction, hospitality, manufacturing and domestic work, which are particularly affected by labour exploitation? Please provide information on any measures taken to protect workers in the “gig economy” or “platform economy whose employment is very often precarious, against exploitation.

Reply

The main law relating to Equality and Employment is the Equal Treatment in Employment Regulations (Subsidiary Legislation 452.95). These regulations give effect to the relevant provisions of Council Directives 76/207/EEC, 2000/78/EC, 2000/43/EC, 2002/ 73/EC and 2006/54/EC. Moreover, their applicability is very wide in that they apply to all persons as regards both the public and private sectors and including service with the Government. The purpose of these regulations is to put into effect the principle of equal treatment in relation to employment by laying down minimum requirements to combat discriminatory treatment on the grounds of religion or religious belief, disability, age, sex, sexual orientation, and racial or ethnic origin.

The regulations concern all stages of employment life, ranging from the conditions for access to employment, such as the advertising of opportunities for employment, to the actual conditions of employment, including remuneration and dismissals. Membership of and involvement in trade unions or in employers’ associations also falls within the remit of these regulations.

At the outset, one must make a reference to the definition of the term "principle of equal treatment" which means the absence of direct or indirect discriminatory treatment on any of the grounds. "Discriminatory treatment" is stated to mean any distinction, exclusion, restriction or difference in treatment, whether direct or indirect, on any of the grounds (including, sex) which is not justifiable in a democratic society. The law states that discriminatory treatment includes

- harassment and sexual harassment, as well as any less favourable treatment based on a person’s rejection of or submission to such conduct;
- instruction to discriminate against persons on grounds of sex;
- any less favourable treatment of a woman related to pregnancy or maternity leave; and
- in so far as the ground of sex is concerned, any less favourable treatment of a person who underwent or is undergoing gender reassignment (where a person is considering or intends to undergo, or is undergoing or has undergone, a process, or part of a process, for the purpose of reassigning the person’s sex by changing physiological or other attributes of sex)

Regulation 3 expressly prohibits 'discriminatory treatment'. Indeed, this holds that it shall be unlawful for a person to subject another person to discriminatory treatment, whether directly or indirectly, on the grounds of religion or religious belief, disability, age, sex, sexual orientation, and racial or ethnic origin. This includes discriminatory treatment related to gender reassignment and to pregnancy or maternity leave. Discriminatory treatment can be direct or indirect. Direct discriminatory treatment occurs where one person is treated less favourably than another is, has been, or would be, treated in a comparable situation. On the other hand, indirect discriminatory treatment occurs where an apparently neutral provision, criterion or practice would put persons of a particular ground at a disadvantage when compared with other persons unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.

Harassment

The regulations lay down that no person shall harass another person by subjecting him to unwanted conduct or requests relating to any of the grounds, when such conduct or request takes place with the purpose, or which has the effect of violating the dignity of the person who is so subjected, and of creating an intimidating, hostile, degrading, humiliating or offensive environment for the person who is so subjected.

Sexual Harassment

The law states that no person shall sexually harass another person by subjecting him to any form of unwanted verbal, non-verbal or physical conduct or request of a sexual nature, when such conduct or request takes place with the purpose, or which has the effect of violating the dignity of the person who is so subjected, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment for the person who is so subjected.

Equal Pay for Work of Equal Value

An important principle mainly linked to gender equality is the principle of equal pay for work of equal value. The regulations address this principle and state that it shall be the duty of the employer to ensure that for the same work or for work to which equal value is attributed, there shall be no direct and indirect discrimination on grounds of sex with regard to all aspects and conditions of remuneration. Moreover, the employer shall ensure, in particular, that where a job classification system is used for determining pay, it shall be based on the same criteria for both men and women and so drawn up as to exclude any discrimination on grounds of sex.

Genuine occupational requirement

With regards to access to employment, including the training leading thereto, a difference of treatment which is based on a characteristic related to grounds of religion or religious belief, disability, age, sexual orientation, and racial or ethnic origin shall not constitute discrimination where, by reason of the nature of the particular occupational activities concerned or of the context in which they are carried out, such a characteristic constitutes a genuine and determining occupational requirement, provided that its objective is legitimate and the requirement is proportionate.

The regulations specifically address religion or religious belief. Indeed it is held that when an employer has an ethos based on religion or religious belief, and having regard to that ethos, the nature of the employment or the context in which it is carried out constitute a sufficiently genuine and legitimate justification for the employer to require that such work is carried out by a person with

a particular religion or religious belief, any difference of treatment based on a person's religion or religious belief shall not constitute discriminatory treatment, provided that it is proportionate to apply that requirement in that particular case.

Reasonable accommodation for disabled persons

The principle of 'reasonable accommodation' has been implemented in the Equal Treatment in Employment Regulations. Indeed regulation 4A of the regulations states that employers shall provide reasonable accommodation for persons with disabilities. In particular, employers are bound to take appropriate measures to enable a person with a disability to have access to, participate, or advance in employment, or to undergo training unless such measures would impose a disproportionate burden on the employer. However, this burden is not disproportionate when it is sufficiently remedied by measures existing within the framework of the national disability policy.

Differences in treatment on the ground of age

With respect to the ground of age, the law states that difference of treatment on the ground of age shall not constitute discriminatory treatment if such differences are objectively and reasonably justified by a legitimate aim, including a legitimate employment policy, labour market and vocational training objectives; and if the means of achieving that aim are appropriate and necessary.

Positive action

It is not unlawful to afford persons of a particular religion or religious belief, disability, age, sexual orientation, or racial or ethnic origin, access to benefits relating to training which would help prepare them for a particular work or to encourage them to take advantage of opportunities for doing a particular work, where it reasonably appears to the person doing the act that it prevents or compensates for disadvantages linked to grounds of religion or religious belief, disability, age, sexual orientation, and racial or ethnic origin.

The regulations expressly hold that acts done in connection with maintaining or adopting measures providing for specific advantages in order to make it easier for the under-represented sex to pursue a vocational activity or to prevent or compensate for disadvantages in professional careers are not against the law as long as they are implemented with a view to ensure full equality in practice between men and women in working life.

Employees' and employers' organizations

It is unlawful for a registered organization under the Employment and Industrial Relations Act, or for the governing body or any officer or official representative of such organization to subject a person to discriminatory treatment (example, by refusing or failing to accept an application for membership). Moreover, a registered organization under the Employment and Industrial Relations Act, or the governing body or any officer or official representative of such organization, cannot subject a member to discriminatory treatment, for instance, by denying access to any benefit provided by the organization or limiting access to such benefit.

Other duties imposed on the employer and on any organisation to whom the Regulations apply.

It shall be the duty of the employer or any person or organisation to whom the regulations apply, to use appropriate means to bring the provisions of these regulations as well as of any measure taken to further the aim of these regulations to the attention of his employees, or of the organisation's

members, as the case may be, or to any other persons who may be affected by the actions of the employer or the organisation concerned.

The regulations also state that the employer has the duty to take effective measures to prevent all forms of discrimination on ground, in particular harassment and sexual harassment in the workplace, in access to employment, vocational training and promotion.

Redress

In so far as the means of redress are concerned, where an allegation is made that some form of discriminatory treatment has occurred, the person making the allegation, or the Director responsible for industrial and employment relations, if either deems fit, shall have the right to send a written notification to the employer or any person or organisation to whom the regulations apply of the alleged discriminatory treatment received, giving any relevant details and requesting a reply. On receipt of such notification, the respondent shall submit a written reply within ten working days of the date of receipt of such notification, giving the respondent's version of events and any grounds for disputing the allegations, as well an explanation of any relevant procedures adopted by the respondent to prevent discriminatory treatment.

A person claiming to have been subjected to discriminatory treatment in relation to his employment, may, within four months of the alleged breach, refer the matter to the Industrial Tribunal for redress. Moreover, a person who alleges that any other person has committed in his or her regard any unlawful act under the regulations shall, within four months of the alleged breach, have a right of action before the competent court of civil jurisdiction requesting the court to order the defendant to desist from such unlawful act and, where applicable, to order the payment of compensation for such damage suffered. In both kinds of proceedings, where persons who consider themselves wronged because the principle of equal treatment has not been applied to them establish, before the Court or Industrial Tribunal, facts from which it may be presumed that there has been direct or indirect discrimination, it shall be for the defendant to prove that there has been no breach of the principle of equal treatment on the hearing of the complaint, and the Court or Industrial Tribunal shall uphold the complaint if the defendant does not prove that he did not commit that unlawful act.

Besides proceedings before the Industrial Tribunal and the Civil Court, the Department of Industrial and Employment Relations can institute criminal proceedings against an alleged perpetrator of any of the offences contemplated in these Regulations. In such case, any person contravening the provisions of these regulations shall be guilty of an offence and shall, on conviction, be liable to a fine (multa) not exceeding two thousand and three hundred and twenty-nine euro and thirty-seven cents (2,329.37) or to imprisonment for a period not exceeding six months, or to both such fine and imprisonment.

Collective Agreements

The Employment and Industrial Relations Act (CAP 452), in article 5 thereof, holds that where the conditions of employment are prescribed in a collective agreement, the employer or employers being a party thereto shall, within fifteen days of the signing of such agreement, send to the Director of Industrial and Employment Relations a copy thereof duly authenticated. The Director is, in terms of law, a mere recipient of the collective agreement.

The Equal Treatment in Employment Regulations recognize the role which collective agreements may play in promoting equality of treatment, including gender equality. Indeed, the very first regulation holds that the regulations are without prejudice to the introduction and implementation of provisions in collective agreements or any other agreement entered into between employers and employees,

which lay down anti-discrimination rules as long as the latter rules respect the minimum requirements in the regulations themselves. Thus no collective agreement can go below the minimum legal requirements of this law. The minimum requirements have to be adhered to at all costs.

Indeed, regulation 13 continues to build upon the preceding rule by stating that “Any provisions contrary to the principle of equal treatment in any law, individual or collective contracts or agreements, internal rules of undertakings, or rules governing any registered organisation in terms of the Act, shall, on entry into force of these regulations, be considered null and void.”

The Law Compliance Unit (LCU) within Jobsplus (Malta’s Public Employment Services) handles issues related to undeclared work and abuses within the Maltese Labour Market. The Unit employs a number of inspectors who conduct random inspections within companies active in the Maltese labour market. Additionally, Jobsplus and the LCU have set up an online form where individuals can report abuses and inspections are carried out accordingly both ad hoc and by routine.

The LCU derives its legal mandate to perform its functions through the Employment and Training Services Act, precisely in the articles found in Part VIII of the said Act (Chapter 343 of the Laws of Malta).

Infringements concern:

1. *Employment not endorsed (Maltese and EU employees who are not registered by their employer or as self-employed be it Full-time, Part-Time or casual employment);*
2. *Underage Employment – Employment of minors who are still of compulsory school age;*
3. *TCNs – The employment of employees who are citizens of countries outside the EU;*
4. *Strike Offs (employment of persons who are seeking active employment);*
5. *Employers who do not cooperate to our legitimate request (eg disclosing of information);*
6. *False Declarations (e.g. false identities);*

Jobsplus adopts a risk-based approach and risk-based matrix as a method to tackle undeclared work and individuals who require an employment license to work in Malta.

The identified matrix with the highest risks are:

- I. *Nature of work (highest being construction and entertainment such as hospitality);*
- II. *Age bracket of potential employees (most of the risk takers would be under the age of 35);*
- III. *The area (or locality) within which the illegal employment is mostly recurring (highest risk being touristic areas);*
- IV. *Time of offence – i.e. the time wherein employment occurs being early morning and late evenings mostly at risk.*

Based upon this matrix Jobsplus has tailored two inspections:

- I. *Specific and Routine Inspection by Jobsplus Inspectors (which are working upon flexi time and outside-office- hours in order to target the areas with highest infringement risk;*
- II. *Joint Inspections with the Immigration Police in compliance with **The Employers' Sanctions Directive (Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals)** – which may occur on a weekly basis and focusing on information and intelligence gathered by Jobsplus regarding possible breaches.*

Jobsplus investigates other breaches of which may be of a more sensitive nature such as underage employment as well as registering for work whilst working.

When it comes to preventive measures in place, the LCU performs a proactive stance by means of continuous inspections and reaching out to defaulters. Jobsplus provides the following means to reach out to complainants:

- o Freephone 800 76501;
- o Online Reporting system: <https://jobsplus.gov.mt/forms>
- o Internal Referrals (such as Government Entities);
- o Email: compliance.jobsplus@gov.mt
- o Anonymous Correspondence/Reporting
- o Third party Informants

Jobsplus also contribute towards the Employers' Sanctions Directive (Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals) by organizing and participating in Joint Inspections with the Immigration Police.

The table below provides the number of inspections by sector for the period between 2015 and 2018.

Table 6. Number of inspections and sectors. Reference period 2015/2018

Inspections	2015	2016	2017	2018
Construction	247	803	692	284
Hospitality	1,221	1,317	1,151	1,678
Manufacture/Industry	741	322	246	518
Sales	3,242	2,100	661	1,313
Services	989	680	539	702
Transport	288	592	250	546
Total	6,728	5,814	3,539	5,041

Source: Jobsplus, 2020

The table 2 highlights the infringements found during Inspections. It is to be noted that one inspection usually consists of one or more interviews – employees checked.

Table 7. Number of infringements per interviews. reference period 2015-2018

Infringements	2015	2016	2017	2018
Construction	114	428	298	208
Hospitality	1,612	1,773	1,310	1,771
Manufacture/Industry	97	173	170	183
Sales	509	483	205	304
Services	320	591	403	802
Transport	79	109	46	136
Total	2,731	3,557	2,432	3,404

Source: Jobsplus, 2020

The type of inspection varies in risk also depending on the sector. Construction contains its risk and so does hospitality-related inspections. For instance, risks in the construction and hospitality sector may include amongst others: number of employees present; the level of cooperation (or hostility) presented by the interviewee and the actual size of premises.

Additionally, domestic work is also challenging to inspect given that the employment activity is carried out within a household and not in a readily-available employment environment (such as a restaurant where inspectors may have open-access and simply walk-in).

A number of inspections have taken place on companies in the gig economy/platform sectors, in particular those related to taxi and delivery services to ensure that they are abiding by national employment law and to ensure that there is no bogus self-employment. The Employment Status National Standard Order is a law particularly addressing precarious conditions brought about by bogus self-employment.

Cap. 456 of the Laws of Malta prohibits discrimination based on “sex or because of family responsibilities, sexual orientation, age, religion or belief, racial or ethnic origin, or gender identity, gender expression or sex characteristics” in employment. The employees experiencing discrimination based on the aforementioned grounds can file a complaint with the NCPE. Following an investigation, NCPE Commissioner issues an opinion with the findings. When a complaint is proved, NCPE Commissioner can make a report to the Commissioner of Police when the action constitutes an offence; or redress the situation by mediating between the parties when the action does not constitute an offence.

Article 10.1*

Please state what strategies and measures are adopted to match the skills acquired through vocational education and training with the demands of the labour market, especially demands resulting from globalisation and technological developments, and thus to bridge the gap between education and work. Please provide information on measures taken to integrate migrants and refugees in vocational education and training.

Reply

Jobsplus' aim is to target the skills mismatch in the Maltese Labour Market, hence all schemes offered by the corporation target the upskilling and reskilling of the Maltese labour force by equipping the working age population with the necessary transversal skills to enter the labour market and retain gainful employment. The corporation takes very seriously the upskilling of its labour force and all Jobsplus schemes and training courses reflect the changes brought by the advancements made in technology and digitalisation. Additionally, although being a training institution, Jobsplus provides advisory services and therefore, one can request Jobsplus' guidance services.

People registering with Jobsplus as unemployed are assigned an employment advisor who after carrying out the initial profiling goes on to develop a Personal Action Plan (PAP) together. This Personal Action Plan is a multi-level programme which offers step-by-step practical support aimed at empowering and preparing jobseekers for a job and future career.

Through the PAP, the Employment advisory unit subjectively establishes whether the person is considered to be highly employable (level 1), Employable (level 2) or at risk (level 3). Employment advisors then direct individuals to the scheme provided by Jobsplus which best suits their needs.

Below is a list of schemes implemented by Jobsplus in a bid to ensure that the skills acquired by the individual are in line with the demands of the labour market.

- **Traineeship Scheme** - The Traineeship Scheme is intended to provide jobseekers with initial vocational training (pre-employment training) that will help individuals obtain the knowledge, skills and competence required to find and retain employment. Traineeships are based on a combination of on-the-job and off-the-job training. The programmes offered are labour market driven, whereby the job preferences of the jobseekers are matched with the requests made by employers participating in the scheme. During the scheme, the trainee must attend 300 hours within a maximum period of 12 weeks, consisting of 282 hours as on-the-job training and 18 hours as off-the-job training. The theoretical tuition will be delivered by Jobsplus at its training complex and/or by any other approved entity whilst the on-the-job training will take place at the employer's premises with whom the trainee is placed. The classroom training programme is recognised by the NCFHE and pegged at respective level with the Malta Qualifications Framework (MQF).
- **Work Programme Initiative** - Jobsplus in collaboration with the private sector is assisting long-term unemployed individuals to re-enter into the labour market. The Work Programme Initiative's (WPI) main objective is that of re-integration the long-term unemployed into the labour market. This initiative consists of three phases: profiling, training and job placements. If any participant is not placed in employment for at least 6 out of 24 months from the date of the signing of the WPI contract, s/he is referred back to Jobsplus. This initiative is targeted

for long-term unemployed individuals aged 25 years and over, who are seeking full or part-time employment. These individuals need to be either:

- Registering for 12 months over the last two years (not necessarily consecutive);
- Inactive individuals not registering during the past 12 consecutive months.
- Work Exposure - The Work Exposure Scheme is intended to facilitate transition into employment by providing jobseekers with initial hands on training that will help individuals obtain the knowledge, skills and competences required to find and retain employment. This scheme is designed to mirror contemporary labour market demand, whereby the job preferences of the jobseekers are matched with employers' requests. The on-the-job training will take place at the employer's premises where the trainee is placed. During the scheme the trainee must attend 240 hours of placement within a maximum period of 12 weeks.
- Work Placement - The Work Placement Scheme is aimed at providing training to participants following a course offered by Jobsplus, which includes a practical component. These are:
 - Vocational Education and Training Award in Child Care (0-3years)
 - Vocational Education and Training Award for Care Workers for Persons with Disability
 - Vocational Education and Training Award for Care Workers for the Elderly

The Work Placement Scheme gives Jobsplus' trainees the opportunity to acquire both theoretical and practical training. The duration of the Work Placement Scheme is of a maximum of 26 weeks, on an average of 30 hours/week. The on-the-job training will take place at the employer's premises with whom the trainee is placed. The hours trainees must perform is set by Jobsplus, although trainees are allowed a degree of attendance flexibility ranging approximately between 20 hours to 40 hours per week. The classroom training programmes are recognised by the NCFHE and pegged at respective levels with the Malta Qualifications Framework (MQF).

- Courses at Jobsplus – Unemployed individuals who would like to increase their employability prospects are also invited to participate in several courses offered free of charge by Jobsplus. Jobsplus courses target employability skills, language and numeracy skills, digital skills, clerical, accounting, trades, care workers and business skills amongst others. Inactive and employed persons can also attend Jobsplus' training courses.
- The Inclusive Employment Services Division within Jobsplus is specifically designed to assist persons with disability, former substance abusers, former prison inmates, and individuals with other socio-economic difficulties to integrate into the labour market and to enhance their skills and employability prospects through the below measures. Job Bridge Training Centre offers pre-employment training and outreach initiatives in LEAP Centres. Current services being offered through Jobsplus' centre:

- Pre-Employment Training: The aim of this training is to assist disadvantaged jobseekers to acquire pre-employment skills in order to adapt to labour market changes and requirements. The Pre-Employment Programme consists of four modules: Award in Pre-Employment Skills; Award in Life & Communications Skills; Award in Basic Clerical Training; Basic ICT Skills.

- Outreach initiatives: Job Bridge Training Centre offer a weekly outreach service within the LEAP centres. The aim of these sessions is to outreach inactive clients and create awareness about Jobsplus' services for disadvantaged jobseekers.

- Sheltered Employment Training - The Sheltered Employment Training (SET) is a one-year programme aimed at preparing individuals with mental, physical and/or intellectual disabilities for employment. Clients are assigned to small groups with job coaches who focus on

punctuality, work ethics, independent living, communication and social skills. The objective of this initiative is to offer a simulated working environment and possibly to move towards sheltered employment and eventually to open employment. Clients can receive hands-on training in different tasks such as back office work, assembly of products, packaging material, dismantling of electronic devices and more. Participants are continuously monitored and informally assessed by job coaches who use different home-grown assessments to record improvements and level of productivity. Job coaches are entrusted to carry out a professional assessment of each client to determine the development process during this experience. Job coaches are also requested to provide recommendations on diverse training according to the client's needs and work preferences.

- The Bridging the Gap scheme is designed to support disadvantaged groups such as registered persons with disability who are registering as unemployed, and former substance abusers, former prison inmates, and individuals with other socio-economic difficulties, in the transition period from unemployment to employment. It allows the employer to evaluate the performance of the client in the workplace, prior to proper engagement. The scheme offers participants a period of work exposure with an employer to learn on-the-job the skills needed for a job. The employer and Jobsplus enter into an agreement regarding the work exposure period, whereby participants are placed on the scheme with the prospect of employment.

The Lino Spiteri Foundation is a public social partnership between Jobsplus and Empower, a leading cooperative that employs persons with disability in collaboration with the private sector. This partnership aims to draw on Jobsplus' resources together with the experience and expertise of the corporate sector to create employment opportunities for persons with disability.

The Lino Spiteri Foundation also offers the Headstart Programme. The aim of the Headstart Programme is to serve as a launch pad into employment. The programme is aimed at replicating employment in order to support individuals in increasing skills and employability. Quality and production outputs of participants are measured, and opportunities of employment are targeted accordingly. A job coach assists the group in order to support in the attainment of their personal goals and a quality coach is also on board to ensure quality levels are achieved according to expectations. This programme aims to ensure that participants fit within the employers' needs and are supported until such time that they are fully included into the workforce. Candidates enrolled in this programme should attend at least 80% of the overall programme. Prior to enrolment in the programme, candidates will need to undergo a 'selection week' where their employability standards and production targets are measured and assessed. Eligibility depends on the outcome of this 'selection week'. Referrals for Headstart are done through the LSF Profiling and Guidance Executives. Headstart aims to ensure that a) the individuals fit within the employers' needs and b) are supported until such time that they are fully included into the workforce.

Refugees and other TCNs who have been granted long-term resident status can register for employment with Jobsplus, Malta's Public Employment Service, and are therefore eligible for all the services offered to persons on the Jobsplus unemployment register. Such services include being assigned an Employment Advisor who offers support and guidance in the job search process by assisting the jobseeker in developing a Personal Action Plan. The Employment Advisor also refers the jobseeker to training programmes, employment schemes and other initiatives. In cases where jobseekers are considered as disadvantaged these are referred to the Inclusive Employment Services. This unit offers services specifically designed to help disadvantaged individuals who have a harder time finding work. Beneficiaries of international protection can also access a number of mainstream

services at the various Job Centres managed by Jobsplus such as accessing information on current vacancies and training courses as well as participate in certain active measures such as training programmes including traineeships and work exposure schemes. When it comes to training, persons enjoying (1) Refugee status (2) Subsidiary Protection and Temporary Humanitarian Protection (3) Asylum seekers and Failed Asylum seekers can benefit from training programmes offered by Jobsplus, provided that they submit supporting documentation with their application and subject that the usual eligibility criteria to participate in such initiatives are fulfilled. Family members can also apply for schemes. In the case of a TCN family member or other family member a copy of the registration certificate issued by Malta's Department of Citizenship and Expatriate Affairs is required on application.

Article 10.3*

Please describe strategies and measures (legal, regulatory and administrative frameworks, funding and practical arrangements) in place to ensure skilling and reskilling in the full range of competencies (in particular digital literacy, new technologies, human-machine interaction and new working environments, use and operation of new tools and machines), needed by workers to be competitive in emerging labour markets.

Reply

To facilitate occupation mobility, Jobsplus offers a number of courses aimed at helping individuals acquire transversal or specific skills which are labour market oriented. Different types of courses are available, varying from short courses to vocational courses pegged to the Maltese and European Qualification Frameworks. According to Eurostat statistical data the rate of adults (25-64 years) participating in learning increased from 7.4% in 2015 to 10.8% in 2018 (Table 1).

Table 1 Adult participation in learning, % of population aged 25 to 64

Geo\Time	2015	2016	2017	2018
EU (28 countries)	10.7	10.8	10.9	11.1
Malta	7.4	7.8	10.6	10.8

Source: Eurostat, 2019

The measures below provide brief information regarding what the Maltese PES is implementing to ensure skilling and re-skilling for workers to be competitive in emerging labour markets and to strengthen the labour supply by increasing the versatility in skills and knowledge needed by workers in the labour market.

The Investing in Skills scheme with a €5 million budget until 2023, seeks to promote the up-skilling of persons who are already active within the Maltese labour market. The aim of this scheme is to encourage local employers to up-skill their workforce by actively participating in training programmes and courses through financial incentives. As of the 4th June 2018, NGOs and Social Partners are eligible to apply for the Investing in Skills irrespective if these conduct and economic activity or not. Nonetheless, in all instances, training must be delivered to the direct employees of the applicant entity in order to be eligible.

Another initiative is the Work Exposure Scheme which is intended to facilitate the transition into employment by providing jobseekers initial hands on training that helps them obtain the knowledge, skills and competences required to find and retain employment.

Additionally, the Traineeship Scheme equips jobseekers with initial vocational training (pre-employment training) to help obtain knowledge, skills and competences required to find and retain employment. Traineeships are based on a combination of on-the-job (placement with employer) and off-the-job (course delivered by Jobsplus) training. The programmes offered are labour market driven, whereby the job preferences of the jobseekers are matched with the requests made by employers participating in the scheme.

The Work Placement Scheme seeks to provide hands-on training to participants following a course offered by Jobsplus, which includes a practical component training. These are: Vocational Education and Training Award in Child Care (0-3years); Vocational Education and Training Award for Care Workers for Persons with Disability; Vocational Education and Training Award for Care Workers for

the Elderly. The on-the-job training take place at the employer's premises with whom the trainee is placed. The classroom training programmes are recognised by the NCFHE (National Commission for Further and Higher Education) and pegged at respective levels with the Malta Qualifications Framework (MQF).

The Training Pays Scheme aims to increase the number of adults participating in lifelong learning. Persons will be refunded 75 per cent (excluding VAT) of the training costs incurred (up to a maximum of €1,000), when attending a training programme with the intent of improving their level of competence or acquiring new skills. Both the training programme followed, and the training provider need to be accredited and licensed by the National Commission for Further and Higher Education (NCFHE).

On another note, through the Youth Guarantee, young people who are NEETs and at risk of social exclusion and or at risk of becoming long-term unemployed can benefit from initiatives specifically targeted at youth. The project focuses on both the current stock of NEETs as well as on those at risk of becoming NEETs. Both registered jobseekers and economically inactive young people can benefit from the Youth Guarantee measures, administered jointly by Jobsplus and the Ministry of Education and Employment.

The world of work offers particular challenges to people with disabilities. In this regard, Jobsplus (Malta's PES) through its divisions particularly the Inclusive Employment Service Division provides an opportunity for persons with disabilities to continue developing their skills or receive training to learn new skills. The Inclusive Employment Services Division is specifically designed to assist persons with disability, former substance abusers, former prison inmates, and individuals with other socio-economic difficulties to integrate into the labour market.

Through the partnership held with the Lino Spiteri Foundation (LSF) it also provides vocational guidance for persons with disability, placement in suitable employment of registered persons with disability; support throughout the process of employment from the interviewing process through to induction at which point the support of a Job Coach can then be introduced and to hands-on at the place of work or off-site support to the individual. Throughout 2018, Jobsplus and the Lino Spiteri Foundation continued the implementation of the VASTE Project funded by the European Social Fund. This €11 million Project consists of measures focused on enhancing and promoting the skills and abilities of persons with disability and vulnerable individuals (former inmates, former substance-abusers and other socially-challenged individuals).

During 2018, Jobsplus and Lino Spiteri Foundation focused on supporting employed disabled persons on-the-job, increasing retention in employment while concurrently creating new employment opportunities for more individuals.

With the Work Programme Initiative Scheme (WPI), Jobsplus, in collaboration with the private sector, is assisting long-term unemployed individuals to re-enter into the labour market. The Work Programme Initiative's main objective is that of re-integrating the long-term unemployed into the labour market. This initiative consists of three phases: profiling, training and job placements. If any participant is not placed in employment for at least 6 out of 24 months from the date of the signing of the WPI contract, s/he is referred back to Jobsplus.

Jobsplus aims at equipping the labour force with transversal skills and education in order for unemployed individuals to enter gainful employment. The Maltese unemployment rate is at its lowest

at 3.3% in 2018. Notwithstanding this fact, Jobsplus continues to provide training opportunities at its Training Centre in Hal Far, which offer courses that are labour market driven whose design was conducted after consultations with stakeholders including employers to target the skill-shortages in the Maltese labour market.

When it comes to on how Jobsplus ensure that the offer of training programmes responds to current and future labour market needs, Jobsplus always aims at offering courses that match the needs and demand of the labour market.

Article 10.4 RESC*

Please indicate the nature and extent of special retraining and reintegration measures taken to combat long-term unemployment as well as figures demonstrating the impact of such measures (please include detailed statistics on long-term unemployment in your country, if not provided under Article 1.1).

Reply

Not available yet.

Article 15.1*

Please indicate progress in ensuring access to and inclusion of children with disabilities into mainstream facilities. Please indicate trends in this area, including number of children with disabilities included in mainstream facilities, the number attending special schools, the number attending school on a part time basis etc. In addition, please indicate the legislative basis for inclusion and remedies in place in cases of exclusion from education on the basis of disability.

Reply

Not available yet.

Article 15.2*

Please provide information on progress made in ensuring persons with disabilities have access to employment on the open labour market, including recent non-discrimination measures and measures to promote employment. Please include figures on the number of persons with disabilities in employment and the number of unemployed. Please provide up-dated information concerning obligations on the employer to take steps in accordance with the requirement of reasonable accommodation to ensure effective access to employment of persons with disabilities.

Reply

A number of policy measures and schemes launched by the Maltese Government over the past years have contributed to the increase in the number of persons with disability in employment. According to Jobsplus' administrative data, persons with disability in employment increased from 1,797 in 2013 to 3,578 in 2018. Of which in 2018 2,474 were males and 1,104 were females.

The vocational rehabilitation and the employment of persons with disability is implemented by Jobsplus through the Inclusive Employment Services Division. Jobsplus carries out the following functions to meet adequately the needs of persons with disability:

- Keeping of a register for persons with disability.
- Medical assessments of disabled persons seeking to enter their name in Jobsplus disability register once employed.
- Occupational and professional assessment
- Sheltered Employment Training
- Pre-Employment Training

Through the partnership held with the Lino Spiteri Foundation (LSF) Jobsplus also provides vocational guidance for persons with disability, placement in suitable employment of registered persons with disability; support throughout the process of employment from the interviewing process through to induction at which point the support of a Job Coach can then be introduced and to hands-on at the place of work or off-site support to the individual. Throughout 2018, Jobsplus and the Lino Spiteri Foundation continued the implementation of the VASTE Project funded by the European Social Fund. This €11 million Project consists of measures focused on enhancing and promoting the skills and abilities of persons with disability and vulnerable individuals (former inmates, former substance-abusers and other socially challenged individuals).

Professional assessments are carried out to offer services to clients according to their specific needs. Since 2016, 931 unique disabled persons and vulnerable individuals, including 108 Gozitans, received one or more of the following support or training measures:

- Sheltered Employment Training
- Pre-Employment Training
- Basic ICT Training and mentoring of clients prior and during employment as necessary.

During 2018, Jobsplus and Lino Spiteri Foundation focused on supporting employed disabled persons on-the-job, increasing retention in employment while concurrently creating new employment opportunities for more individuals. By the end of 2018, 175 vacancies were generated through 600 visits to various companies. LSF placed 138 disabled persons in employment, of which more than half benefited from LSF's job carving method.

Circa 30,000 job coaching hours were spent on supporting the transition and retention in employment of clients through ongoing assessments and follow-up plans. Pre-employment preparation for specific job opportunities was tailored for individuals that needed further support.

Over the years, Jobsplus has identified specific categories of persons, such as persons with disability that experience particular challenges in having access to the labour market and securing employment. Jobsplus is implementing several measures aimed at tackling the constraints to integrate them in the labour market.

- The Access to Employment scheme seeks to promote an equal and inclusive labour market through providing wage incentives to employers for a number of weeks in a bid to ensure the integration, retention and progression of individuals into the Maltese labour market. This programme offers the possibility of augmenting the productivity and employability of vulnerable groups, such as persons with disability, that are furthest away from the labour market and with low employment rates through facilitating access to employment and upgrading skills through work. Such programme enhances the financial independence of disadvantaged persons and prevent their social exclusion and marginalization. As from 4th June 2018, NGOs and Social Partners are eligible to apply for the Access to Employment Scheme irrespective if these conduct an economic activity or not.
- The possibility to keep the disability pension whilst in employment, following changes introduced to the Social Security Act in 2017;
- Fiscal incentive for employers hiring persons with disability- This incentive was introduced in 2015. An employer who employs a registered person with disability is eligible to claim a fiscal incentive equivalent to 25% of the disabled person's basic wage up to a maximum of €4,500 for each person with disability. Employers benefiting from the Access to Employment Scheme (A2E) are not eligible to benefit from the referred fiscal incentive.
- The enforcement of the legal quota which denotes that for employers hiring more than 20 employees, at least 2% of the workforce must be persons with a disability; Employers who fail to adhere to this legislation are requested to make an annual contribution for every person with disability they should be employing. This contribution is capped at €10,000 per employer. On 28th April 2016, a Memorandum of Understanding (MOU) acknowledging the financial and tax incentives granted at employers to favour employment of registered disabled persons, has been signed between the Employment and Training Corporation, now Jobsplus, Malta Employers Association and Malta Chamber of Commerce, Enterprise and Industry.
- Sheltered Employment Training which is a one-year programme aimed at preparing individuals with mental, physical and/or intellectual disabilities for employment, with the aim of moving to open employment. The job coaches assist the clients through hands-on work-related training and other training to enhance their soft skills including their work ethics, independent living, communication and social skills.
- Bridging the Gap scheme which is designed to support the client in the transition period from unemployment to employment, through a work exposure experience. It allows the employer to evaluate the performance of the client in the workplace, prior to proper engagement. The employer and Jobsplus enter into an agreement regarding the work exposure period, whereby the client is placed on the scheme with the prospect of employment. Clients receive a weekly allowance of 80% of the minimum wage from Jobsplus. The client will have to renounce the rights to any social security benefits if the work exposure period exceeds the twenty-eight weeks. Employers participating in this scheme are exempted from social security

contributions, wages and sick leave benefits. Throughout this work exposure phase, the employer can benefit from the support of Jobsplus officials.

- Job Bridge Training Centre offers pre-employment training and outreach activities with local education institutions and NGOs. Current services being offered through our centre include:
 - Pre-Employment Training: The aim of this training is to assist disadvantaged jobseekers to acquire pre-employment skills in order to adapt to labour market changes and requirements. The Pre-Employment Programme consists of four modules:
 - Award in Pre-Employment Skills;
 - Award in Life & Communications Skills;
 - Award in Basic Clerical Training;
 - Basic ICT Skills.
 - Outreach initiatives: Job Bridge Training Centre offers a weekly outreach service within the LEAP centres. The aim of these sessions is to outreach inactive clients and create awareness about Jobsplus' services for disadvantaged jobseekers. Implementation of the Headstart Programme which is aimed at replicating employment in order to support individuals in increasing skills and employability. This programme aims to ensure that participants fit within the employers' needs and are supported until such time that they are fully included into the workforce.

The below tables include statistical data on the number of persons with registered disabilities who have participated in one of the schemes offered by Jobsplus.

Table 8 Number of persons with disabilities and schemes

Year	Schemes	Total	Of Which Registered Disables Persons
2015	Bridging the Gap	117	82
	Access to Employment	60	34
	Sheltered Employment	77	77
	Headstart*	-	-
	Job Bridge Training	26	26
2016	Bridging the Gap	111	60
	Access to Employment	399	120
	Sheltered Employment	40	40
	Headstart	31	31
	Job Bridge Training	172	72
2017	Bridging the Gap	127	75
	Access to Employment	365	98
	Sheltered Employment	51	51
	Headstart	27	27
	Job Bridge Training	144	94
2018	Bridging the Gap	65	45
	Access to Employment	319	60
	Sheltered Employment	45	45
	Headstart	31	31
	Job Bridge Training	63	32

Source: Jobsplus, 2019

* Not implemented in 2015

Further to the above-mentioned schemes, below is a table which outlines the number of firms compliant with 2% quota.

The legislation of the 2% employment quota of persons with disability was amended in 2015 however, its enforcement commenced in 2016 following a memorandum of understanding between the Government and employers' associations, hence why statistical data for the year 2015 is not available. In January 2017, Jobsplus took stock of the status of private companies as at end 2016 and requested the payment of the contributions from non-compliant companies as per law for years 2015 and 2016.

Table 9 Firms compliant with 2% quota

Private Companies 2016	Amount
In line	377
Not in Line	747
Grand Total	1124
Private Companies 2017	Amount
In line	525
Not in Line	501
Grand Total	1026
Private Companies 2018	Amount
In line	605
Not in Line	508
Grand Total	1113

Source: Jobsplus administrative data, 2020

Disabled persons in employment

Table 10 Employed people having a disability

	2015	2016	2017	2018
Disabled persons in employment	2,318	2,850	3,499	3,578

Source: Jobsplus administrative data, 2020

Disabled persons in unemployment

Table 11 Unemployed people having a disability

Month	Unemployed Registered Disabled Persons			
	Part 1	Part 2	Part 3C1*	Total
December 2015	386	12	163	561
December 2016	343	11	105	459
December 2017	268	14	127	409
December 2018	220	5	149	374

Source: Jobsplus administrative data, 2020

*Unemployed registered disabled persons under Part 3C1 are those individuals who register as unemployed looking for part-time work only.

The principle of 'reasonable accommodation' has been implemented in the Equal Treatment in Employment Regulations. Indeed regulation 4A of the regulations states that employers shall provide reasonable accommodation for persons with disabilities. In particular, employers are bound to take appropriate measures to enable a person with a disability to have access to, participate, or advance in employment, or to undergo training unless such measures would impose a disproportionate burden on the employer. However, this burden is not disproportionate when it is sufficiently remedied by measures existing within the framework of the national disability policy.

Article 15.3*

Please describe the measures taken (and progress made) to ensure that persons with disabilities have the right to live independently in the community, such as the existence of available independent living schemes, sheltered housing for persons with disabilities, in-home, residential and other community support services, including personal assistance.

Reply

Not available yet.

Article 20

Please provide up-dated information on the statutory framework guaranteeing equal pay for equal work or work of equal value with particular emphasis on the following aspects: - rules on shifting the burden of proof in cases where pay discrimination is alleged on grounds of sex - rules on compensation in case of pay discrimination on grounds of sex (are ceilings applicable?) - does national law and practice provide for pay comparisons outside the company directly concerned? Please describe the job classification and promotion systems in place as well as strategies adopted and the measures taken to ensure pay transparency in the labour market (notably the possibility for workers to receive information on pay levels of other workers), including the setting of concrete timelines and measurable criteria for progress. Please provide statistical data on the gender pay gap (adjusted and unadjusted) for all years of the reference period.

Reply

The National Commission for the Promotion of Equality (NCPE) is empowered to investigate cases of pay discrimination based on the grounds of sex as per Cap. 456. Article 19(2) of the Act applies the shifting of the burden of proof as follows: *“In any proceedings under sub-article (1) [in a competent court of civil jurisdiction] and in any proceedings concerning the application of the principle of equal treatment before a competent authority not being a Court referred to in sub-article (1), it shall be sufficient for the plaintiff or the person insinuating the said proceedings to establish, before the Court or before such other competent authority, facts from which it may be presumed that he or she has been treated less favourably, directly or indirectly, on the basis of sex or because of family responsibilities, and it shall be incumbent on the defendant or on the person against whom such proceedings are brought to prove that there has been no breach of the principle of equal treatment, or that such less favourable treatment was justified in accordance with the provisions of this Act, and the Court or other competent authority shall uphold the complaint if the defendant or the person against whom the proceedings before the competent authority are brought fails to prove that he did not commit an illegal act”*.

- **rules on compensation in case of pay discrimination on grounds of sex (are ceilings applicable?)**
- **does national law and practice provide for pay comparisons outside the company directly concerned?**

The NCPE is currently implementing its project ‘Prepare the Ground for Economic Independence’ (PGEI) through which an Equal Pay Tool is being developed. The aim of the Equal Pay Tool is for the entity to check **equal pay for work of equal value between women and men** within an organisation. Once developed, the tool will be pilot tested with 5 organisations to ensure that it is suited to NCPE’s needs within the national context. The Tool will be having 3 Tiers that feed into one another and provide different levels of information. An evaluation of the job description of each employee will be carried out in order to gather the said information which in return is inputted in the Tool. As part of Tier 3, the organisation will need to determine the **“value of work”** through a Job Evaluation exercise utilising the following criteria: knowledge; complexity; impact; human contacts; management; and the work environment.

Gender Pay Gap in unadjusted form¹

%	2015	2016	2017	2018
MT	10.4	11.0	12.2	11.7
EU28	16.5	16.3	16	15.7

Rules on shifting the burden of proof in cases where pay discrimination is alleged on grounds of sex- Where persons who consider themselves wronged because the principle of equal treatment has not been applied to them establish, before the Court or Industrial Tribunal, facts from which it may be presumed that there has been direct or indirect discrimination, it shall be for the defendant to prove that there has been no breach of the principle of equal treatment on the hearing of the complaint, and the Court or Industrial Tribunal shall uphold the complaint if the defendant does not prove that he did not commit that unlawful act.

There is no applicable ceiling at law in rules on compensation in case of pay discrimination on grounds of sex, and national law and practice do not provide for pay comparisons outside the company directly concerned.

¹ <https://ec.europa.eu/eurostat/tgm/table.do?tab=table&init=1&language=en&pcode=tesem180&plugin=1>

Article 24*

Please provide an up-dated description of national law concerning valid reasons of dismissal. As regards dismissal for certain economic reasons, please indicate whether the courts have the competence to review a case on the economic facts underlying dismissals. Please indicate what safeguards exist against retaliatory dismissal and dismissal due to temporary absence from work due to illness or injury (e.g time limit on protection against dismissal, rules applying in case of permanent disability and compensation for termination of employment in such cases). Please indicate what strategies and measures exist or are being introduced to ensure dismissal protection for workers (labour providers), such as “false self-employed workers” in the “gig economy” or “platform economy”. Please outline the obligations on employers/labour engagers in this respect. Please provide an up-dated description of national law and practice as regards compensation and reinstatement in case of unlawful dismissals.

Reply

Maltese Employment law does not provide what is a good and sufficient cause for dismissal at law. It however does state what may not constitute a good and sufficient cause; for instance, in the case of a transfer of undertakings, marriage, pregnancy, membership/non membership in a union etc (art 36 (14) EIRA). The Industrial Tribunal, which has exclusive jurisdiction to hear and decide cases of unjustified dismissal regulates its own procedure and it is not precluded from going through the economic facts underlying dismissals. Whatever the procedure adopted, the Tribunal shall endeavour to ensure that justice is done according to the substantive merits of the case; and, subject to the rules of natural justice, the Tribunal shall reach its conclusions on any matter in such a manner as it deems appropriate. In giving any award, decision or advice the Tribunal may give consideration to the social and economic policies and to the principles of social justice prevailing at the time of its pronouncement if it considers that these are relevant to the determination of the case before it.

In recent years, the Employment Status National Standard Order was enacted to address bogus self-employment and the resultant abuse and to therefore combat both. This law lists a number of criteria indicating an employment status, rather than a self-employment status. The Employment Status National Standard Order (SL452.108) states that bogus self-employment will not be considered as such and will be deemed to be an employee if five out of the following eight criteria are met:

- 1. they depend on one single person for whom the service is provided for at least 75% of their income over a period of one year;*
- 2. they depend on the person for whom the service is provided to determine what work is to be done and where and how the assigned work is to be carried out;*
- 3. they perform the work using equipment, tools or materials provided by the person for whom the service is provided;*
- 4. they are subject to a working time schedule or minimum work periods established by the person for whom the service is provided;*
- 5. they cannot sub-contract the employee's work to other individuals to substitute themselves when carrying out work;*
- 6. they are integrated in the structure of the production process, the work organisation or the company's or other organization's hierarchy;*
- 7. the person's activity is a core element in the organization and pursuit of the objectives of the person for whom the service is provided; and*
- 8. they carry out similar tasks to existing employees, or, in the case when work is outsourced, they perform tasks similar to those formerly undertaken by employees.*

If five out of eight criteria are present, the employment relationship is presumed to be indefinite, full-time. In that case, the date of engagement shall be first date of the rendering of the service. Wages paid should be comparable or the rates which as 'self-employed', the person used to receive. All conditions of employment shall be brought to the notice of the new 'employee'.

Moreover, the same law holds that any conversion of a contract of service or of a contract of employment into a contract for service can only have legal effect if it is authorized by the Director of industrial and Employment Relations. Until such authorization is obtained and if it is refused once sought, the employment status of the person concerned shall be considered to be unchanged and shall be the same as that enjoyed prior to the request for authorization.

Where on a complaint for unfair dismissal referred to the Tribunal, the latter (a) finds that the grounds of the complaint are well-founded, and (b) on the specific request of the complainant to be reinstated or re-engaged made in the referral or in the statement of his case, the Tribunal considers that it would be practicable and in accordance with equity, for the complainant to be reinstated or re-engaged by the employer, the Tribunal shall make an order to that effect, stating the terms on which it considers that it would be reasonable for the complainant to be so reinstated or re-engaged. But where the complainant is employed in such managerial or executive post as requires a special trust in the person of the holder of that post or in his ability to perform the duties thereof, the Tribunal shall not order the reinstatement or re-engagement of the complainant; but where the complainant was appointed or selected to such post as aforesaid by his fellow workers the Tribunal may order his reinstatement or re-engagement in the post held by him before such appointment or selection. Where, in cases of unfair dismissal, there is no specific request for reinstatement or re-engagement or the Tribunal decides not to make an order for reinstatement or re-engagement, the Tribunal shall make an award of compensation, to be paid by the employer to the complainant, in respect of the dismissal. In determining the amount of such compensation, the Tribunal shall take into consideration the real damages and losses incurred by the worker who was unjustly dismissed, as well as other circumstances, including the worker's age and skills as may affect the employment potential of the said worker.