

## Malta, CEDAW, A/59/38 part II (2004)

80. The Committee considered the combined initial, second and third periodic report of Malta (CEDAW/C/MLT/1-3) at its 656th and 663rd meetings, held on 13 and 19 July 2004 (see CEDAW/C/SR.656 and 663).

### **Introduction by the State party**

81. In introducing the report, the representative of Malta provided some general background about the country and stressed the commitment of the Government to the promotion of equality of women and men both in law and in practice. The present Government had focused on the realization of de facto equality for women, through measures in the areas of gender mainstreaming, the elimination of violence against women, women in decision-making, the reconciliation of work and family responsibilities and women's conditions of work. These areas had been included in the national plan of action drawn up by the then Commission for the Advancement of Women following the Fourth World Conference on Women, Beijing, 1995.

82. The representative stated that Malta was a party to several international human rights treaties, and had ratified the Convention on the Elimination of All Forms of Discrimination against Women in 1991. It had entered reservations to articles 11, 13, 15 and 16, although some of these reservations had been superseded by subsequent legislative changes. Treaties and conventions did not automatically become part of the domestic law, and the Convention had not been incorporated into domestic law by legislation. The provisions of the Convention could therefore not be directly enforced by the Maltese Courts. However, the European Convention on the Protection of Human Rights and Fundamental Freedoms had been incorporated into domestic law in 1987, giving Maltese citizens the right to individually petition the European Court of Human Rights once domestic remedies had been exhausted.

83. The Constitution of Malta guaranteed the equality of men and women in the enjoyment of all economic, cultural, civil and political rights. In addition, a number of laws had been enacted to protect the rights of women and give support to articles in the Convention, including the Employment and Industrial Relations Act of 2002 and the Equality for Men and Women Act of 2003. Family legislation had been amended to grant to both spouses equal rights and responsibilities in marriage, including joint responsibility for children and the right to jointly administer property acquired during the marriage. Other laws that had been amended to remove discriminatory provisions included legislation regulating jury service, passport regulations, citizenship, income tax and social security. The laws were enforced by an independent judiciary. The Constitutional Court, which was the final appellate court of the land, had been instrumental in providing redress for human rights grievances. A Family Court had been established in 2003.

84. National machinery for the advancement of women comprised the Ministry for the Family and Social Solidarity and the National Commission for the Promotion of Equality for Men and Women. The Ministry was responsible for equality in Maltese society, as well as social policy, family and child policy, social security and social housing. The National Commission for the Promotion of Equality for Men and Women played an active role in raising public awareness on gender equality, and collaborated and consulted with various bodies including trade unions and women's non-governmental organizations. It was also responsible for developing and monitoring policies related to gender equality, proposing measures for the elimination of discrimination against women, conducting general investigations, investigating individual complaints, and providing assistance to persons to enforce their right to gender equality.

85. Turning to women in decision-making positions, the representative noted that the proportion of women in Parliament and in the Cabinet remained low. Of a total of 65 members of Parliament, only 6 were women, while the proportion of women representatives in local councils stood at 17.6 per cent. Women constituted 17.35 per cent of the members of public bodies, including public boards and commissions appointed by the Prime Minister.

86. The representative highlighted several measures that had been taken to encourage women to join the labour market and to balance professional and family obligations. These measures included paid maternity leave, unpaid parental leave, career breaks for workers in the public sector, and the provision of kindergartens and summer school programmes for pupils in primary schools. Women constituted the majority of part-time workers, and pro rata leave benefits were extended to certain part-time workers. Employment legislation also prohibited discrimination against part-time workers.

87. The representative stated that, while Malta did not have specific legislation on violence against women, provisions in both the Civil and Criminal Codes recognized and criminalized specific forms of gender-based violence. In addition, a draft bill on domestic violence, placing constraints on perpetrators and affording protections to victims of domestic violence, was currently being considered. Sexual harassment was prohibited in several laws, including the Occupational Health and Safety (Promotion) Act of 1994 and the Equality for Men and Women Act of 2003.

## **Concluding comments of the Committee**

### *Introduction*

88. The Committee commends the State party for the submission of its combined initial, second and third periodic report, which, although delayed, provided comprehensive information. The Committee regrets that its guidelines for the preparation of initial reports were not fully complied with. It commends the State party on its oral presentation, which focused on recent developments and provided updated information on the status of implementation of the Convention. It expresses its appreciation for the responses to the questions posed by the Committee.

89. The Committee commends the State party for its delegation which was headed by the Executive Director of the National Commission for the Promotion of Equality for Men and Women and the constructive dialogue that took place between the delegation and the members of the Committee.

90. The Committee notes that reservations have been made by the State party to article 11, paragraph 1, articles 13 and 15, and article 16, paragraph 1 (e), of the Convention.

### *Positive aspects*

91. The Committee notes with appreciation the extensive legal reform undertaken since the ratification of the Convention, including the Constitution and laws in the areas of women's legal status in the family, citizenship, employment, income tax, social security and sexual harassment. It particularly welcomes the adoption of the Code of Ethics for Public Officials (1994) and the passage of the Equality for Men and Women Act of 2003.

92. It commends the State party's holistic efforts, since the adoption of the Beijing Platform for Action, to mainstream gender into all activities of governmental departments, including the notion of accountability of high-level public officials for its implementation. It also notes with appreciation the establishment of the national machinery, including the newly created National Commission for the Promotion of Equality for Men and Women.

93. The Committee commends the State party for the creation of the Office of the Ombudsman whose mandate includes the consideration of complaints concerning discrimination on the grounds of sex.

94. The Committee commends the State party for its extensive social measures, particularly its strong support for the reconciliation of work and family responsibilities of women and men, inter alia, through State kindergartens that are free of charge for children between the ages of 3 and 5.

95. The Committee welcomes the State party's efforts in creating awareness on domestic violence and commends the establishment of the Domestic Violence Units, which provide support to victims of domestic violence.

96. The Committee notes with appreciation that the State party has accepted the amendment to article 20, paragraph 1, of the Convention, relating to the Committee's meeting time.

*Principal areas of concern and recommendations*

97. While noting that the Constitution and other domestic legislation stipulate equality between women and men and non-discrimination on the grounds of sex, the Committee is concerned that the comprehensive approach of the Convention covering all forms of discrimination in all fields has not been incorporated into domestic laws and thus is not directly applicable.

**98. The Committee urges the State party to take all necessary action to ensure that the provisions of the Convention are fully incorporated into domestic law. In order to ensure wide understanding and implementation of the Convention, the Committee recommends that the State party consider making the text of the Convention available in both Maltese and English. It also recommends that the State party continue to organize information and awareness-raising campaigns on a regular basis on the content of and obligations resulting from the Convention and the general recommendations of the Committee, with particular focus on the role of legislators, policy makers, senior public officials, the judiciary, and the legal profession, in the implementation of the Convention. It also recommends that the impact of such campaigns be evaluated at regular intervals.**

99. While commending the State party for the legal reforms undertaken since the ratification of the Convention, the Committee is concerned about the reservations to article 11, paragraph 1, articles 13 and 15, and article 16, paragraph 1 (e), of the Convention.

**100. The Committee urges the State party to review its reservations and to expedite taking the necessary steps for their withdrawal especially since, in the light of new legislation and the general interpretation of the Convention, they may no longer be necessary.**

101. The Committee is concerned that the regulation requiring the Director of Social Security to determine the head of household may result in unintentional discrimination against women and may contradict civil law that gives parental authority to both parents.

**102. The Committee calls upon the State party to revisit this regulation, including the criteria on the basis of which the Director of Social Security determines the head of household, and to provide data in its next report on the percentage of married women who are the head of household.**

103. While the Committee appreciates the work undertaken by the various components of the national machinery for gender equality, it does not have a clear picture whether the existing human and financial resources are sufficient to enable the national machinery to fully comply with its mandate and objectives.

**104. The Committee calls upon the State party to provide, in its next report, detailed information on the results of the work**

**undertaken by the national machinery for gender equality, including its role in mainstreaming gender perspectives into laws, and into programmes and policies of individual ministries, departments and public entities, on the results of the Strategic Policy Direction 2004-2006 and on the impact of the work of the National Commission for the Promotion of Equality for Men and Women on the non-discrimination of women.**

105. The Committee is concerned about the persistence of entrenched traditional stereotypes regarding the role and responsibilities of women and men in the family and society which, despite women's generally high level of education, negatively affect the full enjoyment of their rights and impede the full implementation of the Convention. Such stereotypes are reflected, *inter alia*, in women's low representation in the labour force, in their low participation in political and public life, and in the non-recognition of household work and volunteering in the national account statistics and in women's pension entitlements and social benefits.

**106. The Committee strongly recommends the organization of awareness-raising campaigns, on the basis of the Convention and the Committee's general recommendations, at regular intervals to foster a better understanding at all levels of society of the equal status and joint responsibilities of women and men in the family and in family care. These campaigns should be targeted at teachers in all educational establishments at all levels, marriage counsellors, the police force, social and health workers and church authorities, and the impact of such campaigns should be evaluated. It also recommends that the media be encouraged to project positive images of women and men in non-traditional activities. It further encourages the State party to begin assessing the unpaid work done by women in the family in order to recognize such work in national account statistics and in pension entitlements and social benefits.**

107. While noting that the proportion of women represented in local councils as of June 2004 was 17.6 per cent, the Committee is concerned that they are significantly underrepresented at the national level in elected and appointed posts, in the judiciary, and in political decision-making, including the administration and the foreign service.

**108. The Committee encourages the State party to take sustained measures to increase the representation of women in elected and appointed bodies in all areas of the public sector and in the judiciary. The Committee recommends the utilization of temporary special measures in accordance with article 4, paragraph 1, of the Convention and general recommendation 25 in all areas of public life including adequate measures with clearly defined goals and time-bound targets aimed at achieving balanced representation of women and men in general and at high levels of decision-making in particular. The Committee also suggests that the State party continue to offer leadership training programmes to women and carry out awareness-raising campaigns on women's participation in decision-making.**

109. The Committee is concerned that women are severely underrepresented in the labour market in general and in senior and decision-making positions in particular. Furthermore, the Committee notes with concern the strong occupational segregation, both horizontal and vertical, the concentration of women in part-time jobs, and the persistent wage gap between women and men. The Committee is also concerned about the lack of information on women working part-time for less than 20 hours, who seem to be less protected and seem to have access to fewer entitlements.

**110. The Committee urges the State party to ensure that women have de facto equal opportunities in the labour market. Efforts should be made to eliminate occupational segregation in the public and private sectors through skills training and encouraging women to work in non-traditional fields and by the utilization of temporary special measures in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation 25. The Committee further requests the State party to address the wage gap, inter alia, through job evaluation systems. Information should be provided in the next report on the percentage of women working part-time for less than 20 hours and on their legal protection and entitlement to social benefits.**

111. Noting that a significant number of women drop out of the labour market by age 25, the Committee is concerned about the lack of information regarding the number of women who want to re-enter the labour-market at a later stage in their lives as well as about the apparent lack of overall labour market policies for these women.

**112. The Committee recommends that the State party conduct thorough research on the current and future potential of women wanting to re-enter the labour market and to design, based on such research, a comprehensive policy for counselling, training and retraining these women aimed at reintegrating them into the labour market.**

113. Given the low representation of women in the labour force, the Committee is concerned about the lack of information regarding the availability of childcare facilities for children under age 3 as well as information concerning the percentage of children aged 3 years or over attending kindergarten, and on whether the available facilities meet the needs of working parents. The Committee also lacks information on the implementation of plans for after-school care. The Committee is further concerned about the apparently insufficient opportunities for parents employed in the private sector to balance their employment and family responsibilities.

**114. The Committee urges the State party to provide more information in its next report on overall policies to assist parents in the reconciliation of family and work responsibilities through childcare facilities for children of all ages, and their implementation. The Committee further requests information on the situation of parents working in the private sector, as well as on the State party's plans to encourage the private sector to introduce measures supporting women and men in better balancing their employment and family responsibilities.**

115. The Committee notes with concern that the Domestic Violence Bill has been under discussion since March 2000. The Committee is also concerned that, under the Criminal Code, the crime of rape must be associated with violence and that rape as well as violent assault is considered in the Criminal Code under the title “Of Crimes against the Peace and Honour of Families and against Morals”.

**116. In light of its general recommendation 19, the Committee urges the State party to give high priority to the adoption of the pending legislation on domestic violence, which is a form of discrimination against women and a violation of their human rights. The Committee calls upon the State party to define the crimes of rape and violent assault as crimes against the physical and mental integrity of women and as a form of discrimination that seriously inhibits women’s ability to enjoy their human rights and fundamental freedoms on a basis of equality with men.**

117. The Committee is concerned about the paucity of data with regard to trafficking in women and girls and of any information on the State party’s strategies for combating trafficking.

**118. The State party is encouraged to provide, in its next report, comprehensive information on the prevalence of trafficking in Malta as a country of transit and destination and, if required by the findings, on the State party’s strategy for the prevention of trafficking in women and girls, the support and rehabilitation measures for victims, the prosecution and punishment of offenders, and its international, regional and bilateral cooperation with respect to combating trafficking.**

**119. The Committee urges the State party to ratify the Optional Protocol to the Convention.**

120. The Committee requests the State party to respond to the concerns expressed in the present concluding comments in a results-oriented fashion in its next report under article 18 of the Convention. The Committee encourages the State party to ensure the wide participation of all ministries, public bodies and entities in the preparation of that report as well as a discussion of the report with non-governmental organizations. It further encourages the State party to consider involving the Parliament of Malta in the discussion of the report before its submission to the Committee.

**121. Taking account of the gender dimensions of declarations, programmes and platforms for action adopted by relevant United Nations conferences, summits and special sessions (such as the special session of the General Assembly to review and appraise the implementation of the Programme of Action of the International Conference on Population and Development (twenty-first special session), the special session of the General Assembly on children (twenty-seventh special session), and the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the Second World Assembly on Ageing), the Committee requests the State party to include information in its next periodic report on the implementation of aspects of these documents relating to relevant articles of the Convention.**

122. The Committee notes that States' adherence to the seven major international human rights instruments, i.e. the International Covenant on Economic, Social and Cultural Rights (CESCR), the International Covenant on Civil and Political Rights (CCPR), the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the Convention on the Rights of the Child (CRC), and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (MWC) enhances the enjoyment by women of their human rights and fundamental freedoms in all aspects of life. Therefore, the Committee encourages the Government of Malta to consider ratifying the treaty to which it is not yet a party, i.e. the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (MWC).

123. The Committee requests that the present concluding comments be widely disseminated in Malta in Maltese and English in order to make the people of Malta, in particular government officials and politicians, especially parliamentarians, as well as women's non-governmental organizations, aware of the steps that have been taken to ensure the de jure and de facto equality of women and the further steps required in this regard. It also requests the State party to continue to disseminate widely, in particular to women's and human rights organizations, the Convention, the Optional Protocol thereto, the Committee's general recommendations and the Beijing Declaration and Platform for Action, as well as the results of the twenty-third special session of the General Assembly, entitled "Women 2000: gender equality, development and peace for the twenty-first century".