



**Convention on the Elimination
of All Forms of Discrimination
against Women**

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**Responses to the list of issues and questions with
regard to the consideration of the fourth periodic
report**

Malta*

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited before being sent to the United Nations translation services.

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A. General

Reply to the issues raised in paragraph 1 of the list of issues (CEDAW/C/MLT/Q/4)

1. As part of the process of preparing this report, the National Commission for the Promotion of Equality (NCPE), in collaboration with the Ministry of Education, Employment and the Family, organised a consultation meeting with relevant Government Ministries and Departments. In particular, representatives of the Ministry of Education, Employment and the Family; the Ministry of Foreign Affairs; the Ministry of Finance, the Economy and Investment; the Ministry for Justice and Home Affairs; the Ministry of Health, the Elderly and Community Care; the Office of the Prime Minister; Commission on Domestic Violence; the national social welfare agency for children and families in need, APPOGG; Malta's Public Employment Service Organisation, the Employment and Training Corporation (ETC); the Department of Social Security; and the Department of Industrial and Employment Relations attended this meeting. Moreover, consultation was also carried out with non-Governmental organisations working on gender issues, as well as with political parties in relation to women's participation in the political sphere. These entities were requested to give feedback on the progress and the initiatives that have been carried out to safeguard equal treatment between men and women in different social and economic spheres.
2. Consideration is being given to the wider dissemination of such reports so that there is greater public awareness of their existence.

Reply to the issues raised in paragraph 2 of the list of issues

3. The statistical data collected in Malta may be broadly classified into three domains: economic statistics, business statistics and social statistics. Generally, most social statistics are collected and are available internally on a sex-disaggregated basis, in particular labour data; education statistics; demographic, migration, social and culture statistics; and tourism statistics. Furthermore, the decennial Census and the Survey on Income and Living Conditions is also available on a disaggregated basis.
4. Besides, the National Statistics Office (NSO) has collaborated with the Ministry of Finance, the Economy and Investment by introducing mandatory monthly reporting requirements for Government Ministries and Departments, and Extra-Budgetary Units. NSO is presently intensifying its resolve to tap administrative sources, in particular tax sources, to reduce the burden on respondents.
5. We recognize the importance of such data both with regards to the delineation of policy objectives as well as in monitoring ongoing progress.

B. Constitutional, legislative and institutional framework

Reply to the issues raised in paragraph 3 of the list of issues

6. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) was open for signature on 1 March 1980, and entered into force on 3 September 1981. Malta acceded to the CEDAW on 8 March 1991, making an interpretative statement concerning Article 11, and reservations regarding Articles 13, 15 and 16. In accordance

with Article 27.1 of the Convention, it entered into force in Malta on the 30th day following the deposit of the instrument of accession.

7. Abortion is illegal in Malta under the Criminal Code of 1854. The relative section is 241 which lays down the punishment of imprisonment for a term from 18 months to 3 years for whoever shall cause the miscarriage of any woman with child, whether with or without her consent. The same applies to a woman who procures her own miscarriage. The section was amended only once in 1981, by Act XLIX in order merely to delete “hard labour” from the reference to “imprisonment”. Since procuring abortion is a criminal offence in Malta, the government of Malta made a reservation to CEDAW, namely, that it does not consider itself bound by sub-paragraph (e) of paragraph (1) of Article 16 of the Convention on the Elimination of All Forms of Discrimination against Women, in so far as the same may be interpreted as imposing an obligation on Malta to legalise abortion. This continues to be Malta’s position.

8. Furthermore, on 5 March 1997, Malta accepted the amendment to Article 20.1 of the Convention. However, the new article 20.1 will enter into force only after 2/3 of the States parties to the Convention accept this change. To date only 57/186 have accepted.

9. The various elements and issues regulated by the Convention on the Elimination of All Forms of Discrimination against Women have been incorporated into various Maltese laws. For example, the relationships within the family between the husband and wife, as married people and as mother and father are regulated in the Maltese Civil Code. The prohibition of discrimination in employment matters is regulated by the Employment and Industrial Relations Act. The criminal aspect is regulated in the Criminal Code. There is also a specific law, the Equality for Men and Women Act which sets up the National Commission for the Promotion of Equality between Men and Women. This law also regulates other issues, including a civil action for damages in the case of discrimination. Therefore the Convention is reflected by and large in Maltese law and in turn, it is Maltese law which is applied and enforced by the Courts. International treaties in Malta, including this Convention, do not apply directly to people in Malta. They would need domestic legislation to make them applicable to individuals. Otherwise they would have the status of an act of a sovereign state in international law.

10. With regard to case law invoking the Convention, the only case that seems to have come before the Maltese Courts purely with regard to discrimination between men and women was *Victoria Cassar vs. Malta Maritime Authority* decided by the Constitutional Court on the 2nd November 2001. In this case the Court found a breach of article 45 of the Constitution and article 14 of the European Convention for the Protection of Human Rights and Fundamental Freedoms because the law relating to port workers limited the issue of licences to work as a port worker to males.

Reply to the issues raised in paragraph 4 of the list of issues

11. Chapter 456 of the Laws of Malta – the Equality for Men and Women Act has been amended by virtue of Act IV of 2009. This Act widens the definition of discrimination to prohibit:

“discrimination based on sex or because of family responsibilities and includes the treatment of a person in a less favourable manner than other person is, has been or would be treated on the grounds of sex or because of family responsibilities”.

12. In fact, Chapter 456 safeguards equal treatment on the grounds of gender and familial responsibilities in employment, banks and financial institutions, educational facilities, and in advertising. Moreover, by virtue of the amendments brought in force by

Act IV of 2009, the independence of the National Commission for the Promotion of Equality is strengthened, and its functions, namely:

- (a) To identify, establish and update all policies directly or indirectly related to issues of equality for men and women;
- (b) To identify the needs of persons who are disadvantaged by reasons of their sex and to take such steps within its power and to propose appropriate measures in order to cater for such needs in the widest manner possible;
- (c) To monitor the implementation of national policies with respect to the promotion of equality for men and women;
- (d) To liaise between, and ensure the necessary coordination between, government departments and other agencies in the implementation of measures, services or initiatives proposed by Government or the Commission from time to time;
- (e) To keep direct and continuous contact with local and foreign bodies working in the field of equality issues, and with other groups, agencies or individuals as the need arises;
- (f) To work towards the elimination of discrimination between men and women;
- (g) To carry out general and independent investigations with a view to determine whether the provisions of this Act are being complied with;
- (h) To independently investigate complaints of a more particular or individual character to determine whether the provisions of this Act are being contravened with respect to the complainant and, where deemed appropriate, to mediate with regard to such complaints;
- (i) To inquire into and advise or make determinations in an independent manner on any matter relating to equality between men and women as may be referred to it by the Minister;
- (j) To provide independent assistance, where and as appropriate, to persons suffering from discrimination in enforcing their rights under this Act;
- (k) To keep under review the working of this Act, and where deemed required, at the request of the Minister or otherwise, submit proposals for its amendment or substitution; and
- (l) To perform such other function as may be assigned by this or any other Act or such other functions as may be assigned by the Minister.

13. Moreover, in 2008 came into force Legal Notice 181 of 2008 – *Access to Goods and Services and their Supply (Equal Treatment) Regulations, 2008*, which empowers NCPE to safeguard equality between genders in the access to and supply of goods and services. Hence, NCPE also works to prevent direct and indirect discrimination as well as sexual harassment on the grounds of gender in the provision of goods and services. In effect, as a result of this legal development, the functions of NCPE were extended to safeguard gender equality in:

- (a) Social protection, including social security and healthcare;
- (b) Social advantages;
- (c) Education;
- (d) Access to and supply of goods and services which are available to the public, including housing;

(e) Access to any other service as may be designated by law for the purposes of this regulation.

Reply to the issues raised in paragraph 5 of the list of issues

14. In view of recent changes to relevant local legislation the competent authorities are considering CEDAW's recommendation with respect to Malta's reservations to Articles 11, 13 and 15; however, the Government of Malta stands by its original reservation to article 16. More information will be provided at the appropriate time.

C. National machinery for the advancement of women

Reply to the issues raised in paragraph 6 of the list of issues

15. The National Commission for the Promotion of Equality (NCPE) safeguards equal treatment on the grounds of gender and family responsibilities in employment, education and financial institutions by virtue of *Chapter 456 – Equality for Men and Women Act*. Moreover, NCPE also promotes gender equality in the access to and supply of goods and services as delineated in *Legal Notice 181 of 2008 – Access to Goods and Services and their Supply (Equal Treatment) Regulations, 2008*. Furthermore, NCPE is also responsible of safeguarding equality on the grounds of race/ethnic origin in the access to and supply of goods and services by virtue of *Legal Notice 85 of 2007 – Equal Treatment of Persons Order*.

Year	Financial Resources		Human resources
	National budget	EU-Funds	
2007	€256 231.07	€905 972.13	10 staff members and 2 service providers
2008	€256 000.00	€1 377 150.00	10 staff members and 2 service providers
2009	€256 000.00	€273 529.42	10 staff members and 2 service providers

16. NCPE provides training on equality issues, including non-discrimination at the place of work; sexual harassment; balanced participation in familial responsibilities; local and foreign good practices for mainstreaming equality and the sharing of good practices. These training sessions are tailored according to the needs of the respective participants, including public entities, private companies, legal workers, directors, teachers, students, and other groups who request it.

17. NCPE carried out various initiatives with the aim of raising awareness on equality, empowering people by informing them on their rights and responsibilities in relation to equal treatment and combating discrimination, including:

- **ESF 3.47 — Unlocking the Female Potential** — NCPE started this project with the aim of addressing various issues that influence female participation in the labour market. In this regard, research will be carried out to provide vital information, findings and recommendations mostly relevant to policy-makers. Moreover, awareness will be raised on equality through the 'Equality Mark' that will be awarded to companies that foster gender equality, following an assessment of their policies and practices in relation to equal treatment.
- **VS/2009/0405 Strengthening Equality beyond Legislation** – NCPE has also started working on this project which seeks to enhance the principle of equal

treatment on the six grounds of discrimination, as well as multiple discrimination. This project will reach out to sectors such as employers, educators, parents, students, mediators/arbitrators, media, police and army officers, amongst others. Also, research will be carried out to provide details on underreporting of cases of discrimination, and to analyse the reasons why this is happening.

- **Living Equality — VS/2007/0442** — The aim of this project was to sensitise public officers on gender mainstreaming, whilst encouraging them to make use of gender mainstreaming tools. They were also provided with training on gender sensitivity and were empowered to replicate good practices in relation to gender equality in their own department or ministry.
- **Voice for All VS/2007/0477** – was aimed at empowering participants to challenge the learning and thinking processes which give rise to discrimination based on race, sexual orientation, gender, age, religion and disability and to positively endorse diversity. During this project, participants were provided with information, space and time that helped them to stop and think about discrimination and the six grounds of discrimination. Awareness raising targeted SMEs, public administration, members of the media, NGOs, civil society, secondary schools, educators and the general public.
- **ESF 46 — The Gender Aspect from a Legal Perspective** — Through this project, Acts and Codes of Maltese Legislation in relation to employment and training, social security and taxation, education, criminal, civil and family legislation, were analysed from a gender perspective to ensure equal treatment throughout. Also, training sessions on the principle of gender mainstreaming and relevant European Union and Maltese legislation, complemented with the publication of respective toolkits, were provided to legislators, legal service providers, and human resource managers in both Public and Private Sectors.
- **ESF 48 — Affirming Gender Mainstreaming at a National Level** — this project was aimed at providing directors, policy makers, human resource managers and equality committees with the impetus to update policies and practices to meet the obligations of current European Union and Maltese commitments towards the implementation of gender mainstreaming.
- **Mosaic — One in Diversity** — This project sought to raise awareness on the six grounds of discrimination as recognised by the European Union: Gender, Religion or Belief, Race and Ethnicity, Age, Disability and Sexual Orientation. Indeed, information was disseminated through posters, leaflets, billboards, children's stickers, TV and Radio PSAs, and various diversity days. This project also started a network which linked various NGOs and CSOs working in the sphere of equality and discrimination, so as to tackle issues of equality, discrimination and multiple discrimination in a comprehensive way.
- **Taking Gender Equality to Local Communities** – sought to assist the community in looking at gender roles at the local level and encouraged a re-examination of the roles performed by women and men in order to develop a culture of equality and equal opportunities through educational and publicity campaign.

18. Furthermore, NCPE provides assistance to public or private entities, departments, organizations or companies, including the financial sector, when drafting their equality policies. Moreover, NCPE also offers to review such policies to ensure that they are up to standards and in line with all the legal requisites.

19. NCPE assists persons who feel discriminated against by investigating their complaints on the grounds of gender and familial responsibilities in employment, education

and financial services, as well as on the grounds of gender and race/ethnic origin in the access to and supply of goods and services. NCPE deals with complaints by adhering to an established procedure which ensures following common standards in the handling of each case and also allows for the handling of the case according to each client's needs. The same procedure is used for complaints submitted to NCPE by a complainant as well those initiated by NCPE if it is aware of a potential breach in the law with regards to NCPE's remit. NCPE ensures confidentiality in all the phases of processing and investigating complaints.

D. Programmes and action plans

Reply to the issues raised in paragraph 7 of the list of issues

20. The *National Action Plan on Health and Long-term Care*, which is mentioned in section 12.14 of the CEDAW fourth periodic report of Malta, concerns the National Report on Strategies for Social Inclusion and Social Protection. This report is issued every 2 years, as an obligation of each European Union Member State vis-à-vis the Social Protection Committee. In particular, the section on Health and Long-term Care has been included in the National Report on Strategies for Social Inclusion and Social Protection for the period 2006–2008 and also for the consecutive period 2008–2010. The strategies in this report form the basis of the plans for this sector in Malta, for the timeframe that each report covers. The measures included are followed up rigorously for progress and the challenges encountered (including ones due to resources) are continuously analysed so that they will be corrected within the set time frame for their execution.

Violence against women

Reply to the issues raised in paragraph 8 of the list of issues

21. The Commission on Domestic Violence was set up in March 2006 as per the Domestic Violence Act. From the beginning, the Commission agreed upon the need to build a national action plan for the active prevention, early intervention, and support and follow-up of persons experiencing domestic violence, perpetrators and third parties (children and/or other dependants). The Commission also agreed that in order to attain this objective, it had to understand (a) the structural and operational links between the various entities which interfaced with persons experiencing domestic violence and perpetrators, and (b) the service user/perpetrator flow. In so doing, it would identify the strengths, weaknesses, opportunities and threats of the systems and address them accordingly. The national action plan should lay down the objectives, targets, and recommended action, in the fields of prevention, early intervention, support and follow-up.

22. The Commission has established a number of subcommittees to enable it to meet its terms of reference listed in the Domestic Violence Act and also to enable it to formulate an action plan based on the Council of Europe blueprint for the campaign to eliminate violence against women, including domestic violence. The four main areas of measures delineated in the blueprint include: (a) legal and policy measures; (b) support and protection for victims; (c) data collection; (d) awareness-raising. The Commission has been working more specifically on the latter three areas through the setting up of three Subcommittees. The Commission is also in the process of setting up a subcommittee to look into the legal and policy measures. The subcommittees involved are:

- The **Subcommittee on Service Development** with representatives of the main direct welfare service providers in the field of domestic violence, both public entities and NGOs, i.e. the various shelters, the Domestic Violence Services of Appogg (the designated agency) and the Gozitan Social work services. An ex-service user also sits on this Subcommittee.

This Subcommittee helps co-ordinate the various work of the direct service providers through sharing of information. Standards for the care facilities and also of the services given by the staff are being discussed with the intention of working on national standards which are acceptable to all parties. We have liaised with the Department of Social Welfare Standards and will be working with them on this. Information on opportunities for training and improvement of services through increasing resources (national and international) are also shared and discussed through this forum.

- The **Subcommittee on Research and Data Collation** with representatives from the various entities that touch with people who are experiencing or escaping domestic violence are represented on this Subcommittee through their research/statistics personnel. These include representatives from the Law Courts, Health, Foundation for Social Welfare Services, National Statistics Office, Malta Police and Information Management Unit.

This Subcommittee has looked at ways in which statistics currently gathered by the different entities could be standardised to provide a better picture of those seeking help. The Commission is in the process of recruiting a focal point on a contract for service who will be responsible for the rationalising and harmonising routine administrative Data, for assisting an evidence-based policy and service development approach and for monitoring research trends and developments.

The Commission has commissioned to the National Statistics Authority the replication of a 2003 study commissioned by the then Ministry for Social Policy titled “Domestic Violence against Women: Perceptions of the Maltese General Public”. This study took place in November and December 2008 and has now published the result. A prevalence study is also being carried through funds which the Commission was awarded through an ESF project. The prevalence survey for the Maltese islands will provide a better idea of not only those that report incidences, but also those that do not. This is needed in order to better plan policy and provision of services.

- The **Subcommittee for a National Publicity Campaign** to plan and co-ordinate media events on domestic violence based on a two-year period. The subcommittee included representatives, a public relations personnel from the Foundation for Social Welfare Services and the Ministry for Family and Social Solidarity together with two Commission members. This helps in dovetailing of activities, reducing duplication and increasing cooperation between these main entities. One of the factors continuously considered is to try to ensure that the current services are not swamped with referrals as a result of the publicity.

The Commission participated in media events through the participation of members of the Commission on national television or radio, as well as articles published in the English and Maltese language press. The members of the Commission have also participated in seminars and presented talks on the issue of domestic violence, as well as the legal developments amongst members of professions that touch with the issue. The Subcommittee also organised a Bus Shelter Campaign, in collaboration with the Local Councils Association, a Malta White Ribbon Campaign, in collaboration with the Foundation for Social Welfare Services, and a drawing

competition in Schools, in collaboration with the Democracy and Values Education Section within the Education Division. Reportage of these activities appeared in the media through press releases and press coverage.

- The **Subcommittee on Legal Issues** is in the process of being set up. The Subcommittee will be responsible for reviewing the monitoring and review of legislation and measures provided for by the law.

23. The Commission has also set up a **Sexual Assault Response Team Task Group** after consultation with the Minister of Justice and Home Affairs and the then Parliamentary for Health. The task group includes representatives of the various interested parties who collaborated and together developed this proposal. It is designed to include all the basic services that would be involved in dealing with a case of sexual assault and recommends a way of working that would support the person concerned.

24. The Commission has also organized two **seminars** for professionals that are directly or indirectly involved in domestic violence issues. Both seminars were held to mark the International Day for the Elimination of Violence against Women, 25th November. The first seminar was held on 25 November 2008, a one day seminar titled *Working together to combat Domestic Violence*, whilst the second seminar was held on 20 November 2009, a one day seminar titled *An integrated approach towards Domestic Violence*. The aim of both seminars was to bring together professionals from different organisations involved directly and indirectly in Domestic Violence issues, including social workers, police, lawyers and magistrates to discuss how all professionals can work together with the aim of providing the best services to people experiencing domestic violence. Foreign speakers delivered key note speeches at both events.

25. The Commission took part in conferences organized by the Council of Europe as part of the Campaign to Combat Violence against Women, including Domestic Violence which ran until 2008. The aim of this campaign was to create public awareness of the extent of violence against women and therefore encourage the introduction of new laws to stop this violence. A task force from the Council of Europe published a blueprint in which suggestions were made to all participating countries on how to combat violence.

26. The members of the Commission, in 2008 and 2009 also took part in conferences organized by WaVe. WaVe is a network of European women's non-governmental organizations working in the field of combating violence against women and children. The Network sets out to promote and strengthen the human rights of women and children in general and to prevent violence against women and children in particular. The Commission on Domestic Violence accepted to be WaVe's focal point on the WaVe website.

27. The Commission's website *www.domesticviolence.gov.mt* was set up in June 2007 as part of the Ministry's website. The information on the website includes information on the Commission and its activities as well as on the Domestic Violence Act. It further contains links to websites of other organizations which deal with cases of domestic violence.

28. The Commission was awarded funds for the project 'Dignity for Domestic Violence Survivors' under the Cohesion Policy 2007–2013 Operational Programme II, Priority Axis III Empowering People for More Jobs and a Better Quality of Life, with the Commission as the lead partner with the cooperation of several other organisations. The project includes:

- Prevalence Study – to achieve an indication of the actual prevalence of domestic violence and the existence or otherwise of a link between domestic violence and non-employment. The collection of data has been completed by the contractor and they are now analyzing the data.

- Study visit – to learn how other shelters for victims of domestic violence in European countries empower their residents and promote social inclusion through employment and self-employment, including through the setting up of co-operatives in their operations. In October 2009, nine workers working in the field of domestic violence participated in the study visit which took place in the Czech Republic.
- Development of co-ordination plans including protocols for sectors involved in domestic violence including: police; the media; government entities; health service providers, and NGOs – to work in a coordinated manner to promote inclusion of domestic violence victims in the labour market.
- Media awareness campaign regarding domestic violence and importance of labour market participation for victims of domestic violence.

29. In another initiative, social workers were able to apply for European Union funding under Grundtvig 3 to attend training sessions on domestic violence as part of a project entitled 'Acting on the Background for a higher Climbing up of Women Survivors of Violence.' This took place in June 2008 in Italy where one social worker attended the training sessions. In May 2009, the Commission managed to negotiate nine places for social workers to take part in training sessions under the same programme that took place in Malta.

Reply to the issues raised in paragraph 9 of the list of issues

30. The number of cases of Domestic Violence assisted by APPOGG agency during 2008 and 2009, were 972 and 1,030 respectively. These figures include cases that were carried over from previous years but were still being worked on by social workers during the period under review. The half yearly official statistics for 2010 are released after June 2010.

31. The Domestic Violence Services offered by APPOGG agency are as follows:

- The Domestic Violence Service (Unit), which provides social work service to adults suffering domestic violence in family and intimate relationships. It supports and empowers the service user being abused, helps to find emergency shelter when required, and refers them to any other necessary and appropriate services. This service is made up of a small team of professional social workers who provide support to victims of domestic violence and their children. The service aims at supporting victims at a time of crises and at other times, by providing immediate assistance to them to meet their needs, by helping them develop a safety plan, providing emotional support as required, and liaising with other professionals/personnel within the agency and from other entities regarding the victims needs vis-à-vis referrals for psychological help, housing, social security, legal advice, and children's schooling, among others.
- Ghabex, an emergency shelter for female victims of domestic violence and their children. It aims to providing an immediate safe environment to women victims of domestic violence and their children, who require immediate protection. The shelter programme is based on the belief that women and children have a right to protection from violence and abuse. The service offers a setting conducive to self healing to women and their children who suffer emotional, physical and sexual violence. The women's stay at the shelter is aimed at a maximum period of three months, after which service users will move on to a second stage shelter, or to any alternative accommodation that would have been identified during their stay at Ghabex. During these three months, staff at Ghabex support the women in their daily needs as well

as the above-mentioned needs, and will also work with them to draw up an action plan for their future.

- The Perpetrator's Service, which assists men who are abusive in intimate relationships to become aware of, understand and take responsibility for their behaviour. The Perpetrator's Programme aims to bring about change in perpetrators of domestic violence, "from abuse to respect through awareness and responsibility"; to achieve a safe and healthy environment for their women and children, and develop healthy relationships. This is done through attendance in a group programme spanning over 22 weeks. Two Programmes per year are held. Prior to acceptance into the programme, perpetrators are individually screened by a professional person as to their suitability for the group. After the group programme, the participants are also encouraged to receive continued support through the support group, which is an ongoing one. The service also closely liaises with the Domestic Violence Unit in cases where these are working with the female partner, so as to provide a feedback loop regarding the progress of the perpetrator. Support on an individual basis is also provided in times of crisis, and in maintaining a situation prior to attendance in a group.

Reply to the issues raised in paragraph 10 of the list of issues

32. The Domestic Violence Unit within the agency Appogg received 479 and 454 referrals in 2008 and 2009 respectively.

33. Moreover, between 2007 up to March 2010, the number of cases of violence against women reported to the police was the following:

<i>Year</i>	<i>Number of cases</i>
2007	299
2008	363
2009	467
2010 (January–March)	144

34. The number of females, victims of alleged cases of domestic violence, also includes psychological harm (without any injuries or physical abuse).

Reply to the issues raised in paragraph 11 of the list of issues

35. Crimes relating to rape or carnal knowledge are still considered in Chapter 9 under *Sub-title II OF CRIMES AGAINST THE PEACE AND HONOUR OF FAMILIES, AND AGAINST MORALS*, since such crimes can be committed against both male and female subjects. Article 198 specifies that the offence of rape or carnal knowledge with violence is committed by any person, who by violence has carnal knowledge of a person of either sex. Thus the two essential elements in this crime are the carnal knowledge and the violence.

36. The law does not specify what the violence must consist of. This gives the judge the required space to be able to examine each case on its own merit, to determine whether, in that particular case, the carnal knowledge took place against the will of the victim and notwithstanding such resistance as he or she could offer, having regard to his or her physical strength and moral energy. Under Maltese law there is no indication on the intensity, character, degree and amount of violence required to commit this crime, considering the fact that these depend so much on the character and personal circumstances

of the victim of the crime. Therefore, the violence can be both physical and moral but it must be effective in the sense that it really caused the carnal connection to happen.

37. The legislator, being aware that the element of violence is essential in rape, and being also aware that such a definition of rape may exclude certain situations that everybody agrees constitute rape, introduced the concept of presumed or constructive violence. This means that in certain situations violence is presumed and no evidence to the contrary is allowed. Article 201 of the Criminal Code in fact specifies that violence is presumed when carnal knowledge is committed: (a) on a person under the age of twelve years; (b) on a person who was unable to offer resistance owing to physical or mental infirmity or for any other cause independent on the will of the offender; (c) in consequence of any fraudulent device used by the offender.

Reply to the issues raised in paragraph 12 of the list of issues

38. The definition of 'Domestic Violence' under Article 2 of the Domestic Violence Act is any act of violence, even if only verbal, perpetrated by a household member upon another household member and includes any omission which causes physical or moral harm to the other.

39. It is now accepted by Jurists that it is possible to have rape between spouses. In rape, criminal proceedings shall not be instituted except on the complaint of the private party provided that where such crime is committed with public violence, domestic violence as defined under Chapter 481 Domestic Violence Act or with any other offence affecting public order, criminal action shall be taken independently of the complaint of the private party. It is lawful for the Police to institute criminal proceedings ex officio i.e. without the complaint of the private party in the case of any offence involving domestic violence.

E. Trafficking and sexual exploitation of women

Reply to the issues raised in paragraph 13 of the list of issues

40. Malta prohibits trafficking for sexual exploitation, exploitation in the production of goods or the provision of services, and exploitation in the removal of organs through its Criminal Code (Chap. 9 of the Laws of Malta). The specific offence of trafficking in persons was established in Malta in 2002, although trafficking of a person from Malta for the purposes of prostitution was already a criminal offence under the White Slaves Traffic (Suppression) Ordinance (Chap. 63 of the Laws of Malta). The punishment for human trafficking ranges from two to nine years imprisonment, except in cases of trafficking for exploitation in organ removal, where the punishment is imprisonment for a term between four and twelve years. Punishment is increased by one degree where the victim is a minor. An increase of the punishment also applies whenever the offence is accompanied by grievous bodily harm, generates proceeds exceeding eleven thousand and six hundred and forty-six euro and eighty-seven cents (11,646.87) or is committed with the involvement of a criminal organisation within the meaning of article 83A(1) of the Criminal Code. The prescribed penalties are commensurate with those prescribed for other serious crimes.

41. Subsidiary Legislation (SL 217.07) transposing Council Directive 2004/81/EC on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities, which gave victims of trafficking or illegal immigrants who cooperate with the Maltese authorities permission to reside in Malta for a period of 6 months (renewable), was enacted in 2007. This legislation also provides for a

period of reflection not exceeding 2 months (prior to the granting of the 6-month residence permit) to the pertinent persons so as to give them the opportunity to ‘detach [themselves] from the influence of the perpetrators of the offence so as to enable [them] to take an informed decision on the possibility of cooperating’.

42. Moreover, the Criminal Code features provisions relating to compelling or inducing a person, of age or a minor, to prostitution. The punishment for such offence against a minor is imprisonment for a term between eighteen months and four years. However, an imprisonment term between two and six years applies if:

- The offender wilfully or recklessly endangered the life of the person under age
- The offence involves violence or grievous bodily harm on such person
- The offence is committed with the involvement of a criminal organisation within the meaning of article 83A(1)

43. The punishment for such offence against a person of age, is a term of imprisonment not exceeding two years, provided that a term of imprisonment of between 1 and 4 years shall apply whenever: the offence involves abuse of authority, of trust or of domestic relations; or if the offence is habitual or for gain.

44. Rape is subject to an imprisonment of between three and nine years, whereas violent indecent assault, whenever it does not constitute any of the other crimes referred to in Subtitle VIII (bis) of the Criminal Code, carries a term of imprisonment of between three months to one year.

45. From year 2007 till the end of March 2010, there were three (3) cases of trafficking in human beings for the purpose of prostitution. Nine (9) persons were prosecuted in these cases and all three (3) cases are still sub judice. In these cases eight (8) women were identified as victims.

46. With regards to the efforts Malta has made to raise awareness among women and girl victims on the importance to report trafficking; in 2008, the National Social Welfare Services Agency (Aġenzija Appoġġ) produced a detailed brochure to raise awareness about human trafficking. It included information about identifying potential victims and also focused on the victim and where they can find assistance. The brochures were distributed at the national Hospital, Health Centres, Community centres, Local Councils, and Churches and other entities run by the church, such as, Emigrants Commission, Chamber of Advocates, and Amnesty International, Malta Office. They were also distributed in entertainment areas to target potential sexually exploited victims and sex clientele.

47. Aġenzija Appoġġ is currently running a campaign with Body Shop (Malta), as part of a Body Shop (Europe) Campaign, which was launched towards the end of 2009, with a view to contribute to the fight against the trafficking of children and adolescents for the purpose of sexual exploitation, by raising awareness. A leaflet was produced by Body Shop and distributed with the assistance of Aġenzija Appoġġ. Part of the proceeds from Body Shop sales of a particular product will be dedicated to financing urgent medical, psychological, psychiatric and accommodation needs of victims of human trafficking.

F. Political participation and participation in public life

Reply to the issues raised in paragraph 14 of the list of issues

48. To continue encouraging and empowering women to participate in decision making positions, NCPE launched the European Union co-funded project *ESF 3.47 – Unlocking the*

Female Potential, as a part of which, research will identify the reasons underlying the ‘glass ceiling’ and ‘glass cliff’ in the labour market. In particular, this research will identify and analyse the main factors that hinder women from occupying managerial positions in employment.

49. The National Council of Women (NCW), in collaboration with the National Statistics Office (NSO) has conducted a study on ‘Obstacles for the Participation of Women in Decision-making’. The aim of the study was to identify obstacles for women in decision-making posts in political, economic and social sectors. The results revealed that many women are not coming forward for top posts because of the difficulties in reconciling long hours of work and family responsibilities. The study also revealed that both women and men fail to see the relationship between a woman’s life pattern and her gender and the negative impact on her career path choices.

50. To this end, the National Council of Women organized a course in 2007 “Women in Political Decision-making”, which included a series of interactive sessions, designed for women interested in local and national politics. This course aimed at empowering participants to enter the political sphere. Indeed, this course was addressed by professional speakers, experts in the delivery of programmes in empowerment, representatives of local councils and political parties, Members of the Parliament of Malta and Members of the European Parliament.

51. Although women are still underrepresented in the National Parliament (8.7% in 2008), a positive development is that with regards to the Cabinet of Ministers, female representation is very high as two out of eight Ministers are female. Also, another positive trend is the number of women elected in the Local Councils is on the increase. In fact, currently 19.8% of Local Councillors are female. Very often, elections at a Local Council level serve as a springboard to higher echelons in political life. Hence, the increase in female representation at Local Councils level is likely to bring about an increase in the number of female Members of Parliament in the longer term.

G. Education

Reply to the issues raised in paragraph 15 of the list of issues

52. Objective 5 of the National Minimum Curriculum, *Strengthening of Gender Equality* and the requirements of the Strategic Plan (2001) are implemented by teaching secondary school students issues that are related to gender equality through Personal and Social Development (PSD) lessons and programmes in secondary schools. These lessons aim:

- To increase awareness on issues related to gender
- To identify how gender influences roles in the home
- To help students identify the values they own
- To identify that different people have different values
- To understand the importance of tolerance and diversity
- To help students explore the gender stereotypes regarding relationships they encounter through film and media
- To understand how these stereotypes affect their personal dating relationships
- Issues on sexuality specifically on sexual harassment

- To recognise that gender role influences the various roles taken on in life
- To identify that gender behaviour could influence their work related behaviour

53. Moreover, a policy document “Career Guidance – Policy for Schools” was issued by the then Ministry of Education, Youth and Employment in October 2007. It proposes the setting up of a National Career Guidance Centre (NCGC). One of its roles is to encourage gender equality. The policy document emphasizes that career education should be gender sensitive.

54. In January 2009 the Directorate for Quality and Standards in Education issued the National Policy and Strategy for the Attainment of Core Competences in Primary Education which considers that actions need to address societal contributors of Core Competences deficit such as gender.

55. School development planning is including considerations of gender equity as well as proposals that support an equity policy. Schools are formulating their specific gender policies regarding this kind of practice in schools. School development plans and the school ethos reflect the need for the whole school together with its school council to make a written commitment to and assure formal responsibility for fostering the school’s Inclusive Education programme.

56. Compulsory in-service courses are organised for teachers by the Curriculum and eLearning Department within the Directorate for Quality and Standards in Education. They are held in July and/or September as well as during the year. Such courses tackle:

- (a) Gender issues in the Maltese Environment;
- (b) The role of women on literature;
- (c) Dealing with gender issues;
- (d) How to write scripts with gender issues in mind;
- (e) Equality issues in the classroom.

57. The Curriculum Management and eLearning Department organised a Council of Europe workshop between 24–27 April 2007 – ‘A Route to Equality and Fairness in School’. It targeted College Coordinators, the Senior Management Team of all Schools, Education Officers, Subject Coordinators and Teacher Trainers. It addressed the issues of Gender, Disability, Discrimination and Xenophobia. It aimed to equip all stakeholders with the necessary knowledge and skills to prepare students to leave school with an awareness of the importance of equal opportunities, of the prejudices others may face due to their gender, age, ethnic origins, sexuality or physical abilities, and awareness of their obligation not to discriminate.

H. Employment

Reply to the issues raised in paragraph 16 of the list of issues

58. Malta’s Public Employment Service Organization (ETC) strongly believes in the need to gravitate towards new, upgraded, employment patterns that are socially, economically and environmentally sustainable in the long-term. ETC aims to reach this goal through the effective use of existing skills amongst the local population and the appropriate upgrading and nurturing of individual skills knowing full well that the population holds the key to further investment and development in Malta which in turn reap greater employment levels and social gains. The effectiveness of active labour market

measures depends not only on the design and method of implementation but also on the receptiveness of the target group. Currently, female employment potential remains largely unexploited and it is indeed within this context that Malta's Public Employment Service Organization is working together with its key stakeholders towards achieving greater gender equality in employment; particularly by increasing female activity rates and improving the quality of jobs made available through fostering a culture of life-long learning. From a labour market perspective, ETC will therefore further strive to encourage and support women to re-enter, remain and progress in the labour market.

59. To this end, ETC has embarked on a number of efforts aimed at assisting the Maltese Government in fulfilling its goals in this regard. Apart from officially drafting a Gender Equality Action Plan that maps out ETC's gender equality strategy for the period 2009–2010, the Gender Unit within the Corporation also monitors and assists in achieving an overall gender mainstreamed approach with regards to the services that are offered by the corporation. Public Employment Service Organization initiatives, including gender-related ones, have also been included in the Flexicurity Roadmap 2008–2010. Life-long learning continues to remain at the centre of all significant shifts towards economic and social development. Hence, all training courses are not only made available to all interested clients (irrespective of their gender) but an effort has also been made to introduce particular courses at local council level with further plans to expand the network of courses at this level in order to facilitate access to interested individuals; particularly women. Entry requirements for certain courses including IT have also been lowered in order to enable a larger pool of individuals who are seeking to upgrade their skills to participate in such courses. This is further backed up by supplementary plans to continue revising entry requirements by introducing a system of aptitude tests that continues to ensure the full participation in courses by capable individuals who unfortunately do not have the necessary qualifications to back-up their skills. In order to further buttress our inclusion policy, an hourly rebate for the use of childcare services was introduced for individuals attending ETC courses having dependants to look after. Clients; most of whom are women, are now given the possibility of attending a training course whilst leaving their children in the hands of professionally trained child minders.

60. Vast experience in the field of employment and training has very often revealed that the majority of clientele have ample experience in the caring and informal economy and gravitate towards employment in these areas. Indeed, statistics published pertaining to the local economy also reveal a strong female inclination towards this employment sector. New gateways for employment in this field should therefore be created through the provision of basic training to interested individuals who are then issued with the necessary certification as proof of their capability of providing a quality service. This structure would not only provide employment to low-skilled individuals but would also have the effect of formalizing domestic work and care for dependants. ETC also has plans to look into this possibility further in the future.

61. Low female employment is tackled through enhanced outreach efforts; namely by means of female focus groups, information sessions for registering individuals and members of the general public, posters targeting inactive females distributed at local hubs of activity, and updating of information of the Corporation's website to keep clients abreast of new government and ETC developments. Indeed, greater outreach efforts amongst the local population has become one of the primary routes that the Gender Unit has sought to embark upon in an effort to raise awareness about various issues including flexible working arrangements, the work-life balance, and the sharing of family responsibilities amongst others. Long-standing cultural stereotypes are not easily eradicated, nevertheless greater information dissemination amongst the public including registrants, the inactive population and employers may hold the key towards instituting a stronger shift towards gender equality in employment. To this end, ETC also organizes a number of employer-targeted seminars

that deal with issues such as gender discrimination in work and recruitment practices, research into and subsequent seminar pertaining to the benefits of facilitating a work-life balance for employees, and other seminars highlighting the importance of introducing flexible working arrangements such as Teleworking as means of retaining valuable staff. To this end, ETC will also initiate a European Union-funded media campaign; *ESF 3.59 Nista' – The Benefits of Sharing Life's Responsibilities Campaign* in the coming days that will target males and females as well as employers by highlighting the importance of these aforementioned issues. Nevertheless, although Malta's Public Employment Service Organization can contribute towards this shift towards greater gender equality in employment through its initiatives, ETC is at the end line of this process and the effectiveness of the actions implemented by the Corporation depends on a number of factors which the Public Employment Service Organization does not necessarily have any direct control upon.

62. In economic terms, ETC has and will continue labouring towards empowering more females hailing from various walks of life to acknowledge their skills and put them to good use. Apart from offering a specific 'Employment for Women' course aimed at females who are seeking to return to the labour market after a long period of absence, ETC also offers tailor-made employment and training assistance to sensitive cohorts of inactive clients in the local population namely, victims of domestic violence and young single mothers in a bid to encourage such individuals to improve their situations through employment and avoid becoming victims of the poverty trap through sole dependence on government benefits.

63. In addition, funding schemes are in place to encourage individuals to pursue education in the areas of science and IT, and these also benefit women since they are underrepresented in these sectors. These funding schemes are the "Get Qualified" scheme (popularly known as My Potential) and the Strategic Educational Pathways Scholarship Scheme (STEPS). The "Get Qualified" scheme is aimed at promoting lifelong learning especially in the field of Information and Communication Technologies. This supports students attending fee-based ICT courses in public and private institutions in Malta. Students can submit an application form to register their interest with the scheme and to receive a refund of tuition fees through future income tax deductions following the successful completion of the course. Benefits of the scheme include discounts of 25% on low-end ICT certifications. In addition customized loan packages to cover the expenses of the courses are provided between the Ministry for Infrastructure, Transport and Communications and three different banks – Bank of Valletta, HSBC Bank and Lombard Bank. The scheme also offers tax credits on tuition expenses.

64. Furthermore the availability of adequate information on further and higher education to students in schools, and for career guidance teachers, are considered very important tools to attract more students to continue their studies after compulsory education and for students to be in a position to make informed choices about the subject and institution they wish to enrol in. Bearing this in mind the National Commission for Higher Education developed a bilingual Maltese and English "Student Guide for Further and Higher Education in Malta" (available at: http://nche.gov.mt/mediacenter/PDFs/1_Student%20Guide%20English%20WEB.pdf), during summer of 2009. The publication was distributed to all students in 5th and 6th Form of all schools in Malta and Gozo in January 2010. The guide outlines the Maltese Education System and the different institutions that students may wish to contact, with all the contact and web link information necessary for students to continue searching and discovering their options. The guide also contains information on funding schemes and opportunities to study abroad, as well as a checklist of things to consider when making such an important choice in their life.

Reply to the issues raised in paragraph 17 of the list of issues

65. In September 2008, the Department for Social Welfare Standards was granted 500,000 Euros European Regional Development Funds (ERDF), to distribute to potential beneficiaries. This Aid Scheme is entitled: Grant Schemes for Childcare Facilities — The Regeneration of Childcare in Malta under Priority Axis 6 — Urban Regeneration and Improving the Quality of Life, and shall run for 57 months. The closure for this scheme shall be in June 2013.

66. This Aid Scheme aims at increasing and improving child care services in specific localities, either close to their home or linked to the workplace of the parents. This encourages the development and regeneration of these areas since it will indirectly contribute towards increased social activity within these areas, leading to greater economical activity for the region. Furthermore business enterprises are supported in their effort to engage and train more females due to the potential link between low female participation in the labour market and affordable child care facilities, thus increasing the female participation rate in the labour market. This scheme aims at improving existing facilities and encouraging new facilities for early childhood education and development.

67. The establishment of a suitable balance between work and family life and the increased employment of working mothers will indirectly lead to an improved quality of life of the parents due to greater earning power and due to the availability and greater accessibility of quality child care services.

68. This Aid Scheme focuses on the provision of quality childcare in Malta and supports the Government's central policy, that to promote and sustain quality childcare services in order to enable a better work-life/family balance and encourage an increased participation of females in the local workforce. It also contributes towards attaining the European Union targets of providing placements for at least 33% of children between 0–3 years of age in Malta.

69. The concept of this Aid Scheme will help to upgrade and improve existing child care facilities, by assisting existing child care providers to re-locate premises (if re-location is required for compliance with National Standards), encourage start-ups and facilitate compliance with the National Standards for Child Care Facilities.

70. This Aid Scheme is intended to achieve the following:

- Facilitate entry into and retention of the female workforce, thus increasing and retaining female participation in the workforce
- Support families to achieve a better work-life balance
- Enhance the quality of life
- Promote entrepreneurship amongst providers of child-care
- Increase employment opportunities within the child care provision

71. The main objective of this project is to provide more accessible and affordable childcare facilities in Malta thus increasing the uptake of childcare services with a view to encourage more females to take up or retain their employment. This scheme also promotes a better work-life balance. This project shall address those inactive females who perceive childcare as necessary for entering the labour market, those employed females who perceive childcare as a very important condition to retaining their job and those unemployed females who perceive childcare as a very important condition to starting working and are precluded from doing so due to financial constraints in affording the cost of childcare facilities. This project will also make it easier for those females who enter employment or who are already in employment to increase the number of working hours.

72. This project will also provide a greater choice to parents and such a choice would increase competitiveness and consequently keep prices down, thus making child care more accessible for parents.

Reply to the issues raised in paragraph 18 of the list of issues

73. The Social Security Act (Chap. 318 of the Laws of Malta) provides the legal basis for social protection of all insured persons in Malta. The Act provides for two basic schemes – one contributory and the other non-contributory. Under the former, long-term and short-term benefits are paid subject to payment of contributions (10% of basic wage, salary or net income). In the case of part-time employees, these are entitled to all contributory benefits as long they satisfy the relevant contribution tests.

74. Part-time workers who earn less than the National Minimum Wage may elect to pay pro-rata social security contributions (10% of their actual income rather than 10% of the National Minimum Wage). These will still be entitled to all contributory benefits but at pro-rata rates subject to the actual rate of contributions paid.

Reply to the issues raised in paragraph 19 of the list of issues

75. Chapter 456 of the Laws of Malta, the Equality for Men and Women Act, prohibits sexual harassment as ‘unwelcome sexual conduct’. It is also unlawful for persons responsible for any workplace or any educational establishment to neglect their obligation to suppress sexual harassment as provided under this Act. These also have to ensure that the curricula and textbooks do not propagate discrimination.

76. Employers are bound by law to make claims on behalf of their employees claiming to have been sexually harassed or discriminated against with the Commissioner for the Promotion of Equality.

77. Persons found guilty of sexual harassment on other persons shall be guilty of an offence against this article (Article 9) and shall, without prejudice to any greater liability under any other law, be liable on conviction to a fine (multa) of not more than two thousand and three hundred and twenty-nine euro and thirty-seven cents (2,329.37) or to imprisonment of not more than six months or to both such fine and imprisonment.

78. Chapter 452 of the Laws of Malta, The Employment and Industrial Relations Act, also provides for protection against discrimination related to employment. Articles 26–32 in this Act provide for protection against discrimination related to employment. This means any misconduct which may be committed between an employer and an employee or to another employee or to an employer. Subjecting such person at the place of work to such harassment by inducing physical intimacy as a result of requesting sexual favours or subjecting a victim to any act or conduct with sexual connotations, including spoken words, gestures or the production, display or circulation of written words, pictures or material is in breach of Articles 26, 27, 28 or 29 of this Act. When a person feels offended by such behaviour s/he may make a complaint with the Industrial Tribunal, in accordance with the provisions laid down by article 30 of this Act. The same article 30 (2) further provides that if the Industrial Tribunal is satisfied that the complaint is justified, it may take such measures as it may deem fit including the cancellation of any contract of service or of any clause in a contract or in a collective agreement which is discriminatory and shall order the payment of compensation for loss and damage sustained by the aggrieved party as a consequence of the breach.

79. This is also without prejudice to any further action that such complainant may be entitled to take under any other applicable law and shall also be without prejudice to any other action to which the respondent may be subject in accordance with any other applicable law.

80. Article 32 of the same Act lays down the punishments for persons infringing articles 28 and 29, i.e. they shall be liable on conviction 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.

81. From the first January 2007 to date, the Vice Squad did not arraign any person under the Equality for Men and Women Act or the Employment and Industrial Relations Act.

I. Health

Reply to the issues raised in paragraph 20 of the list of issues

82. Access to health advisory services and health care in Malta is equally accessible for both sexes. Sexual and reproductive health information and care is provided free of charge as part of general health care particularly in obstetric and gynaecological and genitourinary clinics. A National Policy on Sexual Health has been drafted after a process of consultation and is currently being finalised.

83. Sexual education is also provided in secondary schools, through Personal and Social Development (PSD) lessons. In particular, the topics discussed aim to raise awareness on various issues related to sexual behaviour, namely:

- To focus on same gender sexual development
- To identify the different sexual developmental stages each individual goes through
- To learn about opposite gender emotional, physical and sexual development
- To review the physical changes associated with sexual development
- To clarify any misconceptions related to sexual development
- To give importance to the emotional aspect of sexual relationships
- To establish personal limits for intimacy
- To become aware of the repercussion of irresponsible sexual behaviour
- To identify ways of how to protect oneself (abstinence, condoms, pills, etc.)
- To establish the importance of communicating with a partner about contraception
- To tackle topics of sexuality that the students need to tackle (e.g. rape, internet chatting, sexual harassment, paedophilia, and exhibitionism)
- To learn about the difference between HIV and AIDS, and about ways of transmission
- To consider misconceptions related to HIV and AIDS
- To explore personal feelings related to this issue
- To become aware of the main STIs (i.e., Chlamydia, gonorrhoea, hepatitis, herpes, syphilis) and how they are transmitted

- To identify which contraceptives can be used as protection against transmission of STIs
- To clarify the differences between sexuality and sex
- To clarify students' understanding of sexual orientations (homosexuality, bisexuality, trans-sexuality)
- To discuss student's feelings and opinions about different sexual orientations
- To identify students knowledge of sexual deviant behaviours such as prostitution, pornography, fetishes and
- To explore students feelings and opinions

Reply to the issues raised in paragraph 21 of the list of issues

84. Induced termination of pregnancy at any stage of gestation is illegal under Maltese legislation as declared in the Criminal Code (Chpt. 9; Part II; Title VIII; Sub-title VII; paragraphs 241–243).

Reply to the issues raised in paragraph 22 of the list of issues

85. Prevention is the cornerstone for all other activities within the comprehensive approach to tackle HIV/AIDS. This is especially so in Malta where, at present the number of cases of HIV/AIDS is still small and therefore prevention measures are more relevant to try to prevent the spread and the occurrence of an outbreak. Over the last 4 years (2006–2009), the annual average of reported new cases of HIV positive persons amounted to 20, while the annual average of reported new AIDS cases was 5. Of all these cases, 36 (35.6%) were female and 4 cases (4%) were below the age of 20 years at diagnosis. The population of Malta is just over 400,000. From 2000–2009, we had 17 sero-positive pregnant women.

86. The thrust of our HIV prevention is focused on the ABCD message. (Abstinence, Be faithful, use Condoms correctly and consistently, Do not use drugs and Do testing). Pre- and post-test counselling, testing and contact tracing are offered at several locations and a needle distribution programme is conducted at all primary health centres and it is open to all intra-venous drug users in the community. Diagnosed cases are treated and followed up at the specialist in-patient infectious diseases unit and at the genitourinary out-patient clinic. Treatment (HAART – Highly Active Anti-Retro Viral Treatment) is available to all, free of charge, and with regular follow up. Pregnant women are offered screening for HIV at antenatal booking and positive cases are treated accordingly and peri-natal specialist care is given to prevent transmission to the neonate.

J. Migrant women

Reply to the issues raised in paragraph 23 of the list of issues

87. Despite the huge pressures we have experienced over the past decade vis-a-vis irregular migration, Malta has never wavered from giving protection to those found to be meriting. This applies also to women and girls. All indications of abuse, exploitation, and violence are referred to law enforcement authorities and social welfare agencies.

88. Adult single women, both protected and even failed asylum seekers, are housed in an open centre set up specifically for their needs and protection. Single mothers and family

units are also housed in other open centres catering to the needs of women with children. Unaccompanied female minors are placed under the Care Order regime and also housed in yet other specific set-ups, where special attention is given to the needs and protection of children/adolescents who are destitute of any family support.

89. Regarding profile, the vast majority of current residents are Somali. Other nationalities are also represented to a lesser degree. There are around 500 females in residence currently, out of a total of close to 3000 total residents in open centres.

90. Moreover, all foreigners residing in Malta require a residence permit, and according to the 2008 Demographic Review, there were 8,544 foreign females residing in Malta.

91. Additionally the National Commission for the Promotion of Equality works to ensure that Maltese society is a society free from any form of discrimination based on sex/gender and family responsibilities in employment, and racial/ethnic origin and gender in the provision of goods and services and their supply. Migrant women and children can also benefit from such protection.

K. Marriage and family relations

Reply to the issues raised in paragraph 24 of the list of issues

92. In terms of Article 3 of the Marriage Act (Chap. 255 – Laws of Malta), the minimum marriageable age for both males and females is 16, and it is subject to the consent of the persons exercising parental authority or of the tutor, if the minor is under tutorship. Notwithstanding, the Court of Voluntary Jurisdiction within whose jurisdiction the minor habitually resides, may upon good cause being shown, authorize the celebration of a marriage where the consent of the person exercising parental authority or tutorship is not granted.

Reply to the issues raised in paragraph 25 of the list of issues

93. Articles 35–41 of the Civil Code of Malta specify the grounds upon which a separation is authorised. In particular, Article 35 provides that a personal separation can be pronounced by a judgment or authorised by a decree of the competent civil court. Following a separation judgment, the parties are freed from the duties of cohabitation and civil effects towards each other, except the fact that they are still married to each other.

94. Article 36 specifies that a separation may not take place except on the demand of one spouse against the other and on any of the grounds stated in the following articles in the same Code, or by mutual consent of the spouses as provided in article 59. Therefore all suits for personal separation shall be brought before the appropriate section of the Civil Court, (Article 37 (1)); however provisions in the subsequent sub-article (2) provide that prior to commencement of proceedings a demand by means of a decree may be made to establish the amount of an allowance for maintenance and who shall continue to reside in the matrimonial home *pendente lite*.

95. The law states that where domestic violence is involved the said application in article (1) shall be made within four days and the court may, of its own motion before or after hearing the parties, issue a protection order (Art 412C of Chapter 9) or a treatment order (Art 412D Chapter 9). The court shall summarily hear the applicant and the respondent and decide by decree even if on the day of the hearing the applicant or the respondent, or both, fail to appear before the court (sub art (3)). Article 38 further provides that in order to protect the safety of the parties involved or in the best interests of the child

or children, or of any other minor dependants of any of the spouses, where evidence of domestic violence has been produced the provisions of the above mentioned articles shall *mutatis mutandis* apply to an order issued under this article as if it were an order issued under the corresponding article of the said Code.

96. The grounds for separation are adultery (Chapter 16, Art 38), claims of excesses, cruelty, threats or grievous injury against the plaintiff or against any of his or her children (Art 40) and desertion without good grounds – after 2 years (Article 41). The court may also at its discretion take into consideration other grounds that the defendant did not consider, (Chapter 16 Article 45). In certain cases a judge can authorize the separation on grounds of irretrievable breakdown of marriage, resulting from serious incompatibility of character.

97. When separation is granted, the legislation that governs children in custody is Article 4 (1) of Chapter 410 of the Laws of Malta Child Abduction and Custody Act specifies the transposition of the European Convention on Recognition and Enforcement of Decisions Concerning Custody of Children.

98. Chapter 242 – Maintenance Orders (Reciprocal Enforcement) Act governs alimonies in case of separation. This legislation makes new provision in place of the Maintenance Orders (Facilities for Enforcement) Ordinance (Chap. 48); makes provision with a view to the accession by Malta to international conventions relating to maintenance; makes other provision for facilitating the recovery of maintenance by or from persons in Malta from or by persons in other countries; and for purposes connected with the matters aforesaid.

99. The division of property when separation is granted is governed by the proviso IN Article 7 (6) of the Civil Court (Family Section), the First Hall Of The Civil Court and The Court of Magistrates (Gozo) (Superior Jurisdiction) (Family Section) Regulations (S.L. 12.20). It provides that if the Court shall not be in a position to determine the manner in which any community of property between the parties is to be liquidated, it may first determine all the other issues and then proceed to give judgment on that point at a later stage. The Court may also at any stage encourage the parties to enter into an arbitration agreement as provided for in the proviso to article 15(6) of Chapter 387 Arbitration Act. This Article provides that disputes, concerning questions of personal civil status including those relating to personal separation and annulment of marriage, are not capable of settlement by arbitration: Provided that questions relating to the division of property between spouses may be referred to arbitration subject to the approval by the competent court of the arbitration agreement and of the arbitrator to be appointed.

100. In the contract of separation, a clause is normally included whereby the spouses renounce to inheritance rights vis-à-vis each other and therefore when a husband dies after separation, his wife has no claims or obligations with regard to his inheritance.

L. Optional Protocol

Reply to the issues raised in paragraph 26 of the list of issues

101. The Optional Protocol to the CEDAW was open for signature on 10 December 1999, and entered into force on 22 December 2000, following 10 ratifications or accessions. Malta did not sign this Optional Protocol.

102. The ratification of the Optional Protocol is still under consideration by the Maltese Government. The necessary legal requirements need to be fulfilled before ratification can be carried out.