



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

Distr.: General  
22 October 2010

Original: English

**ADVANCE UNEDITED VERSION**

---

### Committee on the Elimination of Discrimination against Women

Forty-seventh session  
4-22 October 2010

## Concluding observations of the Committee on the Elimination of Discrimination against Women

### Malta

1. The Committee considered the fourth periodic report of Malta (CEDAW/C/MLT/4) at its 954<sup>th</sup> and 955<sup>th</sup> meetings, on 12 October 2010 (see CEDAW/C/SR/954 and 955). The Committee's list of issues and questions is contained in CEDAW/C/MLT/Q/4 and the responses of Malta are contained in CEDAW/C/MLT/Q/4/Add.1.

### Introduction

2. The Committee expresses its appreciation to the State party for its fourth periodic report, which in general followed the Committee's guidelines for the preparation of reports, with references to the previous concluding observations, although it was overdue, lacked references to the Committee's general recommendations, and provided limited sex-disaggregated statistics and qualitative data on the situation of women in the areas covered by the Convention, in particular in respect of women from disadvantaged groups. The Committee expresses its appreciation to the State party for its oral presentation, the extensive written replies to the list of issues and questions raised by its pre-session working group and the further clarification to the questions posed orally by the Committee.

3. The Committee commends the State party for its delegation, which was headed by the Acting Permanent Secretary of the Ministry for Education, Employment and the Family and which included the Commissioner of the National Commission for the Promotion of Equality. The Committee appreciates the constructive dialogue that took place between the delegation and the members of the Committee but regrets that inadequate answers were provided to some of the questions and that questions were not always answered in a clear and precise manner.

### Positive aspects

4. The Committee welcomes the amendments made in 2009 to the *Equality for Men and Women Act* which have broadened the definition of discrimination so as to include, in addition to the prohibition of discrimination based on sex, the prohibition of discrimination on the ground of family responsibilities.

5. The Committee further welcomes the strengthening of the independence and functions of the National Commission for the Promotion of Equality through the *Equality for Men and Women (Amendment) Act, 2009*.

6. The Committee welcomes the ratification by the State party of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime in 2003 as well as the ratification of the Council of Europe Convention on Action against Trafficking.

7. The Committee commends the State party for the adoption of the Domestic Violence Act (Cap. 481 of Laws of Malta), which came into force in February 2006 and which established the Commission on Domestic Violence. The Committee also notes with appreciation the setting up of a number of subcommittees, such as the Subcommittee on Service Development, the Subcommittee on Research and Data Collation, the Subcommittee for a National Publicity Campaign and the Subcommittee on Legal Issues, the latter being in the process of being set up. The Committee congratulates the State party for the establishment of “Appogg”, the State agency designated to provide the delivery of a broad range of services to victims of domestic violence

#### **Principal areas of concern and recommendations**

8. **The Committee recalls the obligation of the State party to systematically and continuously implement all the provisions of the Convention and views the concerns and recommendations identified in the present concluding observations as requiring the priority attention of the State party between now and the submission of the next periodic report. Consequently, the Committee urges the State party to focus on those areas in its implementation activities and to report on actions taken and results achieved in its next periodic report. The Committee calls upon the State party to submit the present concluding observations to all relevant ministries, to the Parliament, and to the judiciary, so as to ensure their full implementation.**

#### **Parliament**

9. **While reaffirming that the Government has the primary responsibility and is particularly accountable for the full implementation of the obligations of the State party under the Convention, the Committee stresses that the Convention is binding on all branches of government, and it invites the State party to encourage its Parliament, in line with its procedures, where appropriate, to take the necessary steps with regard to the implementation of the present concluding observations and the Government’s next reporting process under the Convention.**

#### **Legal status and visibility of the Convention**

10. Recalling its concluding observations of 2004 (A/59/38/, part one, paras. 97-98), the Committee notes that no measures have been taken by the State party to fully incorporate the Convention into domestic law. It is concerned that the Convention has not received the same degree of visibility and importance as regional legal instruments, particularly the European Convention on Human Rights and Fundamental Freedoms and European Union directives, and is therefore not regularly used as the legal basis for measures, including legislation, aimed at the elimination of discrimination against women and the promotion of gender equality in the State party.

11. **The Committee reiterates its previous recommendation and urges the State party to recognize the Convention, in addition to other relevant European and international obligations, as the most pertinent, broad and legally binding**

international instrument in the sphere of the elimination of discrimination against women through the incorporation of all substantive provisions of the Convention into domestic law. It also calls upon the State party to take proactive measures to enhance awareness of the Convention, in particular among the judiciary and the legal profession, political parties, Parliament and Government officials, including law enforcement officials, as well as the general public, in order to strengthen the use of the Convention in the development and implementation of all legislation, policies and programmes aimed at the practical realization of the principle of equality between women and men. It reiterates its recommendation that the State party accede to the Optional Protocol and its belief that the procedures available under the Optional Protocol would strengthen the application of the Convention by the judiciary and assist it in understanding discrimination against women.

#### **Reservations**

12. The Committee is concerned about the State party's reluctance, despite relevant changes in its legislation, to withdraw its declaration to article 11, paragraph 1 and its reservations to articles 13 and 15. It is particularly concerned that the State party maintains its reservation to article 16, paragraph 1 (e), which according to the Committee might be the result of a mistaken interpretation of the State party's obligations under this provision.

**13. The Committee urges the State party to expedite its efforts towards the withdrawal, within a concrete time frame, of its declaration to article 11, and its reservations to articles 13, 15 and 16 paragraph 1 (e), of the Convention. The Committee recalls its position that reservations to article 16 are incompatible with the Convention and therefore impermissible.**

#### **National machinery for the advancement of women**

14. The Committee commends the work carried out by the National Commission on Equality and the numerous projects it initiated to raise awareness on equality, such as the project entitled "Unlocking the Female Potential" aimed at addressing issues that influence female participation in the labour market as well as the innovative initiative to award companies that foster gender equality with the "Equality Mark". The Committee welcomes the decisive support of the European Union in this respect but is concerned that the national machinery appears to be heavily dependent on European Union funding for the implementation of its programmes, and that it may thus endanger the continuity of its work and send a wrong signal about the importance of the State party's equality work for women. The Committee notes with appreciation that, as indicated by the delegation, the National Commission of Equality is competent to cover discrimination on the basis of sexual orientation, amongst other forms of discrimination.

**15. The Committee recalls the State party's responsibility to fully ensure government accountability for formal and substantive (*de facto*) equality of women and men and women's enjoyment of all human rights in the implementation of the Convention. The Committee requests the State party to secure sufficient and sustainable resources from the State budget for the work of the Commission in all its aspects, as well as for the relevant ministries working on gender equality.**

#### **Temporary special measures**

16. While noting the existence of a provision in section 45 (11) of the Constitution that allows for the adoption of temporary special measures "shown to be reasonably justifiable in a democratic society", the Committee is concerned that the State party has no plans to adopt such measures and regrets that some references to "temporary special measures" in the report of the State party indicate a lack of a clear understanding of article 4, paragraph

1, of the Convention. The Committee is further concerned at the State party's insufficient understanding of the need for the adoption of temporary special measures.

**17. The Committee encourages the State party to reconsider its position in respect of the application of temporary special measures and to familiarize all relevant officials with the concept of temporary special measures in article 4, paragraph 1, of the Convention, as interpreted in the Committee's general recommendation No. 25. The Committee recommends that the State party consider applying temporary special measures in various forms in areas in which women are underrepresented or disadvantaged and allocate additional resources, where needed, to accelerate the advancement of women. The Committee requests the State party to include comprehensive information on the use of such temporary special measures in relation to various provisions of the Convention and their impact in its next periodic report.**

### **Stereotypes**

18. While welcoming the State party's efforts to address stereotypical attitudes and behaviours that discriminate against women and perpetuate inequality between men and women, the Committee remains concerned about the persistence of patriarchal attitudes and stereotypes regarding the roles and responsibilities of women and men in the family and in society. The Committee is concerned that women continue to be stereotyped as mothers and caregivers, while men are stereotyped as breadwinners. Such stereotypes undermine women's social status, as reflected in women's disadvantaged position in a number of areas, including in the labour market and in access to political life and decision-making positions, and affect women's choices in their studies and professions. The Committee notes that such stereotypes constitute a significant impediment to the practical realization of the principle of equality of women and men, as called for in article 2 (a) of the Convention.

**19. The Committee calls upon the State party to put in place a comprehensive policy, targeted at men and women, and boys and girls, to overcome traditional stereotypes regarding the roles of women and men in society and in the family, in accordance with articles 2 (f) and 5 (a) of the Convention. Such a policy should include legal, administrative and awareness-raising measures, involve public officials, church authorities and civil society and target the entire population. It should also focus on the involvement of different media, including print and the Internet, and encompass both specialized and general programmes.**

### **Reconciliation of family and work life**

20. The Committee welcomes the State party's legislative and policy efforts and other measures towards the adoption of family-friendly measures, such as flexible working arrangements and special leave provisions for employees in the public sector, to improve their quality of life by facilitating the reconciliation of work and private life. The Committee is concerned, however, that domestic and family responsibilities are still primarily borne by women, many of whom interrupt their careers or engage in part-time jobs to meet family responsibilities. While commending the State party for the introduction of tax concessions for parents who send their children to childcare centres, the Committee notes with concern that the lack of childcare facilities in the State party, particularly for the 0 to 3 age group, their unequal quality and lack of flexibility in term of operating hours, and the lack of afterschool programmes may constitute an impediment to women's participation in the labour market. The Committee is also concerned that no statistical data was provided on the number of men who take parental leave in both the public and private sectors.

**21. The Committee encourages the State party to step up its efforts to assist women and men in striking a balance between family and employment responsibilities, *inter alia*, through further awareness-raising and education initiatives for both women and**

men on adequate sharing of child rearing responsibilities and domestic tasks. The Committee urges the State party to step up its efforts to improve the availability, affordability and quality of childcare facilities for school-age children in order to facilitate the re-entry of women into the labour market. It also invites the State party to consider amending the Employment and Industrial Relations Act in order to enable employees in the private sector to benefit from similar flexible working arrangements and special leave provisions as employees in the public sector. The Committee urges the State party to monitor the use of the parental leave provisions by women and men as an indicator of shared family responsibilities and to develop incentives to encourage more men to avail themselves of parental leave and to facilitate child care services for all working parents in need of them.

#### **Violence against women**

22. While noting the efforts undertaken by the State party to prevent and address violence against women through, *inter alia*, the enactment of the Domestic Violence Act in 2005 and the establishment of the Commission on Domestic Violence, the Committee, however, remains concerned at the high prevalence of violence against women and the persistence of socio-cultural attitudes still condoning domestic violence and deterring women from reporting cases to the police. It is further concerned that, while the Domestic Violence Act empowers the police to start court proceedings on domestic violence without the victim having to file a report, the courts consider that they have discretionary powers to stay the proceedings when the victim refuses to testify before the court, even when the perpetrator has admitted the offence and evidence is available. It is also concerned about the remaining gaps in data collection on all forms and manifestations of violence against women.

23. In accordance with its general recommendation No. 19, the Committee urges the State party to continue to put emphasis on comprehensive measures to address violence against women in the family and in society. The Committee recommends that the State party strengthen its efforts to ensure that female victims of violence have immediate protection, including the possibility of expelling the perpetrator from the family home, effective recourse to a shelter, and access to free legal aid and psycho-social counseling. It recommends ensuring that public officials, especially law enforcement officials, members of the judiciary, health-care providers and social workers, are fully sensitized to all forms of violence against women. The Committee calls on the State party to systematize data collection on violence against women, including domestic violence. It recommends that structures be established to help female victims of violence rebuild their lives, including through the creation of job opportunities. The Committee invites the State party to further pursue, in collaboration with a broad range of stakeholders, including women's and other civil society organizations, awareness-raising campaigns through the media and public education programmes to make such violence socially unacceptable.

24. The Committee reiterates the concern expressed in the Committee's previous concluding observations that the crime of rape must be associated with violence and that rape as well as violent assault are considered in the Criminal Code under the title "Of crimes against the Peace and Honour of Families and against Morals".

25. The Committee urges 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 sex and gender based-discrimination that seriously inhibits women's ability to enjoy their human rights and fundamental freedoms on a basis of equality with men. It further urges the State party to review the definition of rape so as to place the lack of consent at its centre.

**Trafficking and exploitation of prostitution**

26. The Committee remains concerned about the paucity of data with regard to trafficking of women and girls into the State party. As such, the Committee was not provided with sufficient information on the actual situation in the State party and on the institutional mechanism in place to fight against trafficking. The Committee is concerned that the granting of temporary residency permits to victims is based on cooperation with the authorities in legal proceedings.

27. The Committee encourages the State party to provide, in its next report, comprehensive information on the prevalence of trafficking in Malta. The Committee calls upon the State party to take all appropriate measures to ensure better identification and investigation of trafficking cases, particularly through the establishment of a mechanism to proactively ensure identification of and support for trafficked persons as well as enhanced training and capacity-building efforts for law enforcement officials, including immigration officials, so as to increase their ability to identify potential victims of trafficking. The Committee invites the State party to strengthen its measures to combat all forms of trafficking in women and children, including through increased international, regional and bilateral cooperation with countries of origin and transit, in line with article 6 of the Convention. In this respect, the Committee urges the State party not only to ensure the prosecution and punishment of individuals involved in trafficking, but also the protection and recovery of victims of trafficking. The Committee also urges the State party to consider using the Recommended Principles and Guidelines on Human Rights and Human Trafficking developed by the Office of the United Nations High Commissioner for Human Rights in 2002 as a basis for its plan of action. The Committee calls upon the State party to collect and analyse data on all aspects of trafficking, disaggregated by age, sex and country of origin, in order to identify trends. The State party is encouraged to undertake a study on the issue of trafficking, including the root causes, with a view to identify priority areas for action, and to formulate relevant policies.

**Women's participation in political and public life**

28. While noting an increase in the representation of women at the level of the Local Councils with 19.8% of women, the Committee remains deeply concerned that Maltese women are still underrepresented in the National Parliament (8.7% in 2008) and are absent in the European Parliament. It is also concerned that women remain underrepresented in senior positions within the public administration, including the diplomatic service and the judiciary, as well as the private sector, thus limiting women's participation in decision-making processes in all areas.

29. The Committee urges the State party to intensify its efforts to strengthen women's representation in leadership roles and in decision-making positions in political bodies, including Parliament and local councils, in public administration, including the diplomatic service, and in the private sector. It recommends that the State party expand its current awareness-raising efforts and training activities to a wider range of stakeholders, including leaders of political parties, senior managers in the private sector and boards of trustees of foundations under public law. The Committee recommends that the State party take measures, in particular temporary special measures in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation No. 25 and general recommendation No. 23, so as to accelerate the achievement of women's full and equal participation at all levels and in all areas.

## Education

30. The Committee welcomes the fact that the State party recognizes that “education and training are important tools for promoting gender equality” and that a National Strategic Plan has been developed for implementation of a National Minimum Curriculum which incorporates a number of policies, structures and processes to achieve this goal. The Committee is concerned, however, that there is no clear articulated national implementation and evaluation plan to monitor progress towards attainment of gender equality in all educational structures and processes. The Committee notes with concern the removal of vocational education from the curriculum at the secondary level and the implications for school-leavers’ engagement in certain areas of paid work. The Committee further notes with concern that at the tertiary level women are under-represented in critical areas such as engineering, manufacturing and construction and that the transition from school to work continues to be constrained by traditional attitudes towards women’s role in the family and home.

31. **The Committee encourages the State party to systematically monitor policies, structures and processes related to promoting gender equality identified in the National Strategic Plan for implementation of the National Minimum Curriculum. It highly recommends that special attention be given to the establishment of structures such as the education committee in gender equity and the monitoring committee and that information on specific outcomes related to achieving gender equality be provided in the next periodic report. It also recommends that the State party revise the decision to remove technical vocational subjects from the secondary level and to empirically assess its impact on female participation in technical courses at the Malta College of Arts, Science and Technology (MCAST), as well as female under-representation in the critical areas of science, mathematics, computing and engineering, manufacturing and construction.**

## Employment

32. While acknowledging the initiative taken by the State party to foster women’s employment, the Committee is concerned about the situation of women in the labour market, which is characterized, in spite of women’s high level of education, by a persistent high female unemployment, the concentration of women in low-paid sectors of employment, the wage gap between women and men and the fact that a significant number of women leave the workforce after childbirth. The Committee regrets that the delegation was not in a position to inform it on the number of reported cases of sexual harassment in the workplace and on their outcome.

33. **The Committee urges the State party to ensure equal opportunities for women and men in the labour market through, *inter alia*, temporary special measures in accordance with article 4, paragraph 1, of the Convention and general recommendation No. 25. The Committee recommends that efforts be strengthened to eliminate occupational segregation, both horizontal and vertical, and to narrow and close the wage gap between women and men. The Committee recommends that the State party conduct regular reviews of its legislation in accordance with article 11, paragraph 3, of the Convention, with a view to eliminating barriers women face in the labour market, including the obstacles to achieve managerial positions. It calls upon the State party to monitor the impact of measures taken and results achieved and to report thereon in its next periodic report. The Committee further requests the State party to include in its next periodic report information on cases of sexual harassment and their outcome.**

## Health

34. While noting the free access to health care, the Committee is concerned about the insufficient access to reproductive health-care services for women. The Committee notes with concern that education on sexual and reproductive health and rights is not part of the curriculum. The Committee is further concerned that abortion is illegal in all cases under the law of the State party and that women who choose to undergo abortion are subject to imprisonment. The Committee further regrets that the data provided by the State party on the health and health care, including mental health care, of its population in its periodic report was not disaggregated by sex.

35. **The Committee calls on the State party to increase its efforts to improve the availability of sexual and reproductive health services, including family planning, to mobilize resources for that purpose and to monitor the actual access to those services by women. It further recommends that the National Policy on Sexual Health, which is being finalized, ensure that family planning and reproductive health education are widely promoted and targeted at girls and boys, with special attention to the prevention of early pregnancies of underage girls including the control of sexually transmitted diseases and HIV/AIDS. The Committee urges the State party to review its legislation on abortion and consider exceptions to the general prohibition of abortion for cases of therapeutic abortion and when the pregnancy is the result of rape or incest. It further urges the State party to remove from its legislation the punitive provisions for women who undergo abortion, in line with the Committee's general recommendation No. 24 and the Beijing Declaration and Platform for Action. The Committee also requests the State party to provide, in its next report, sex-disaggregated data on health and the provision of health care, including mental health care.**

## Marriage and family relations

36. The Committee expresses its concern about the inability to divorce in Malta which results in *de facto* discrimination against women. The Committee is further concerned about the lack of legal provisions governing *de facto* unions which could result in women being negatively affected in the event of the dissolution of the union, especially with respect to the division of property and assets in the absence of a domestic legal framework governing such unions.

37. **The Committee urges the State party to introduce and support vigorously legislation which permits divorce, allows women to remarry after divorce, and grants women and men the same rights to administer property during marriage and equal rights to property on divorce. It also recommends that women and men be granted equal rights to initiate divorce proceedings. The Committee encourages the State party to review its current legal system governing marriage and family relations with a view to extending existing legal provisions to couples living in *de facto* unions.**

## Refugee and asylum-seeking women

38. While welcoming several measures intended to ensure the protection of asylum-seeking and refugee women including programmes addressing the needs of pregnant women and minors, the establishment of separate open accommodation centres for refugee women, and early release from detention centres for families, the Committee is concerned at the State party's capacity limitations and effective access to education and social services for asylum-seeking and refugee women. The Committee is particularly concerned about the situation of asylum-seeking women, especially the fact that they often do not receive assistance from female public officials and that frequently the interpreters provided for the interviews are men. These facts create serious impediments to women asylum-seekers who



are victims of sexual abuse. The Committee is further concerned about the lack of information on statelessness women in the State party.

**39. The Committee calls upon the State party to keep under review and carefully monitor the impact of its laws and policies on women migrants, refugees and asylum-seekers with a view to taking remedial measures that effectively respond to the needs of those women. In this respect, the Committee urges the State party to fully integrate a gender-sensitive approach throughout the process of granting asylum/refugee status, including in the application stage by ensuring the availability of female interpreters. The Committee requests the State party to consider acceding to the 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.**

#### **Beijing Declaration and Platform for Action**

**40. The Committee urges the State party, in the implementation of its obligations under the Convention, to fully utilize the Beijing Declaration and Platform for Action, which reinforce the provisions of the Convention, and requests the State party to include information thereon in its next periodic report.**

#### **Millennium Development Goals**

**41. The Committee emphasizes that full and effective implementation of the Convention is indispensable for achieving the Millennium Development Goals. It calls for the integration of a gender perspective and an explicit reflection of the provisions of the Convention in all efforts aimed at the achievement of the Millennium Development Goals and requests the State party to include information thereon in its next periodic report.**

#### **Dissemination**

**42. The Committee requests the wide dissemination in Malta of the present concluding observations in order to make the people, including government officials, politicians, parliamentarians and women's and human rights organizations, aware of the steps that have been taken to ensure the *de jure* and *de facto* equality of women, as well as the further steps that are required in that regard. The Committee recommends that the dissemination should include the local community level. The State party is encouraged to organize a series of meetings to discuss progress achieved in the implementation of the present observations. The Committee requests the State party to continue to disseminate widely, in particular to women's and human rights organizations, the Committee's general recommendations, the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session of the General Assembly on the theme "Women 2000: gender equality, development and peace for the twenty-first century".**

#### **Ratification of other treaties**

**43. The Committee notes that the adherence of the State party to the nine major international human rights instruments<sup>1</sup> would enhance the enjoyment by women of**

---

<sup>1</sup> The International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child; the International Convention on the Protection of the Rights of All

their human rights and fundamental freedoms in all aspects of life. The Committee therefore encourages the State party to consider ratifying the treaties to which it is not yet a party, namely the Convention on the Rights of Persons with Disabilities and the International Convention for the Protection of All Persons from Enforced Disappearance.

**Follow-up to concluding observations**

44. The Committee requests the State party to provide, within two years, written information on the steps undertaken to implement the recommendations contained in paragraphs 13 and 37 above.

**Preparation of next report**

45. The Committee requests the State party to ensure the wide participation of all ministries and public bodies in the preparation of its next report, as well as to consult a variety of women's and human rights organizations during the process.

46. The Committee requests the State party to respond to the concerns expressed in the present concluding observations in its next periodic report under article 18 of the Convention. The Committee invites the State party to submit its next periodic report in October 2014.

47. The Committee invites the State party to follow the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents, approved at the fifth inter-committee meeting of the human rights treaty bodies, in June 2006 (HRI/MC/2006/3 and Corr.1). The treaty-specific reporting guidelines adopted by the Committee at its fortieth session, in January 2008, must be applied in conjunction with the harmonized reporting guidelines on a common core document. Together, they constitute the harmonized guidelines on reporting under the Convention on the Elimination of All Forms of Discrimination against Women. The treaty-specific document should be limited to 40 pages, while the updated common core document should not exceed 80 pages.

---

Migrant Workers and Members of Their Families; the International Convention for the Protection of All Persons from Enforced Disappearance; and the Convention on the Rights of Persons with Disabilities.