

— Malta —

Ratifications

Malta ratified the Revised European Social Charter on 27/05/05 and has accepted 72 of the Revised Charter's 98 paragraphs.

Malta has not agreed to be bound by the "collective complaints" procedure.

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|------|------|------|------|------|-------------------|-------|---------------------------|-------|------|------|------|
| 1.1 | 1.2 | 1.3 | 1.4 | 2.1 | 2.2 | 2.3 | 2.4 | 2.5 | 2.6 | 2.7 | 3.1 |
| 3.2 | 3.3 | 3.4 | 4.1 | 4.2 | 4.3 | 4.4 | 4.5 | 5 | 6.1 | 6.2 | 6.3 |
| 6.4 | 7.1 | 7.2 | 7.3 | 7.4 | 7.5 | 7.6 | 7.7 | 7.8 | 7.9 | 7.10 | 8.1 |
| 8.2 | 8.3 | 8.4 | 8.5 | 9 | 10.1 | 10.2 | 10.3 | 10.4 | 10.5 | 11.1 | 11.2 |
| 11.3 | 12.1 | 12.2 | 12.3 | 12.4 | 13.1 | 13.2 | 13.3 | 13.4 | 14.1 | 14.2 | 15.1 |
| 15.2 | 15.3 | 16 | 17.1 | 17.2 | 18.1 | 18.2 | 18.3 | 18.4 | 19.1 | 19.2 | 19.3 |
| 19.4 | 19.5 | 19.6 | 19.7 | 19.8 | 19.9 | 19.10 | 19.11 | 19.12 | 20 | 21 | 22 |
| 23 | 24 | 25 | 26.1 | 26.2 | 27.1 ¹ | 27.2 | 27.3 | 28 | 29 | 30 | 31.1 |
| 31.2 | 31.3 | | | | | | = Non Accepted provisions | | | | |

¹ Sub-paragraph c.

Malta ratified the European Social Charter on 04/10/1988 and accepted 55 of the 72 paragraphs of the Charter. Malta ratified the Protocol reforming the control mechanism on 16/02/1994.

Reports

Between 1990 and 2006 Malta submitted 16 reports on the application of the Charter.

The first report on the Revised Charter concerning the provisions related to the theme 'Employment, Training and Equal opportunities' (Articles 1, 9, 10, 15, 18, 20, 24 and 25 of the Revised Charter) was submitted on 10/12/2007/

The Charter in Domestic law

Malta is a dualist state.

Malta's record with respect to application of the Charter is the following as of 12 December 2007:

Examples of progress achieved or being achieved

Health

► The regulations on the medical supervision of young workers apply to all workers in all sectors (1994 Act on the promotion of health and safety at work) *Article 7§9 – working conditions between the age of 15 and 18 (regular medical examination).*

► The right to maternity leave has been extended to part-time employees (1996 regulation), six weeks post natal leave is now compulsory and in general the right to maternity leave has been strengthened (Industrial Relations and Employment Act (cap 452) and Protection of Maternity (Employment) Regulations 2003) *Article 8§1 – right to maternity leave.*

► Prohibition on assigning an employee while she is pregnant, following delivery or while she is breastfeeding, to work which may pose hazards for the course of her pregnancy or her own or the child's physical and mental health (administrative regulation 92/2000) *Article 8§4 – prohibition of the employment of women in certain dangerous types of work.*

Non-discrimination

Sex

► Elimination of gender-based discrimination with regard to the payment of survivor's pension and sickness benefit (changes made with effect from 1 January 1998) *Article 12§1 – right to social security.*

► Elimination of discrimination between spouses in wedlock and with regard to children including replacement of paternal responsibility by parental authority (Act No. XXI of 1993) *Article 16 – rights of the family (legal protection).*

► Protection against discrimination strengthened (Equal Treatment in Employment Regulations L.N. 461 of 2004 were adopted under the Employment and Industrial Relations Act XXII of 2002) *Article 1§2 Prohibition of discrimination in employment.*

Nationality

► Entitlement to the social security benefits provided for in the Social Security Act of 1987 has been extended to include nationals of other Contracting Parties (European Social Charter Order, 1999) *Articles 13 and 16 – right to social assistance and family rights (family benefit).*

Employment

► Under the Police Act as amended in 2002 police officers from the rank of inspector and above may form one professional association, while all police officers of other ranks may form another. *Article 5 – the right to organise.*

► Creation of Malta Council for Economic and Social Development to promote social dialogue in Malta. *Article 6§1 joint consultation.*

- ▶ Organisation of Working Time Regulations 2003 LN 247 of 2003 provide for a minimum period equivalent to four weeks may not be replaced by an allowance in lieu, except where the employment relationship is terminated. Also legislation now provides that when a worker falls sick during his/her annual leave, he/she does not lose his /her right to holiday leave, and may recover his holiday leave. *Article 2§3 – right to annual holiday with pay*
- ▶ New legislation regulates minimum periods of weekly rest (Organisation of Working Time Regulations 2003 LN 247 of 2003) *Article 2§5 – right to weekly rest*
- ▶ Female employees related to the employer and part-time employees protected against dismissal during maternity leave. (Protection of Maternity (Employment) Regulations 2003) *Article 8§2 – Prohibition of dismissal during maternity leave*

Cases of non-compliance

Health/Education

- ▶ *Article 7§3 – prohibition of the employment of children subject to compulsory education*

Children are permitted to work up to 4 hours per day and cannot therefore enjoy the full benefit of their education.

Social Protection

- ▶ *Article 12§1 –right to social security*

The rates of sickness benefits for a single person, of unemployment benefits, including the Special Unemployment Benefit for a single person, and of the invalidity pension and the survivors' pension are manifestly inadequate; and the duration for which unemployment benefit is payable is too short.

Children

- ▶ *Article 17§1 – right of children and young persons to social, legal and economic protection*

1. Corporal punishment of children is not prohibited;
2. The age of criminal responsibility is manifestly too low.

Employment

- ▶ *Article 2§1 – right to reasonable working time*

It has not been demonstrated that the right to reasonable working hours is guaranteed to workers.

- ▶ *Article 4§4 – right to notice of termination of employment*

Certain periods of notice are unacceptably short (1 week for workers with up to one year of service; 2 weeks for workers in their second year of service; 8 weeks for workers with more than 5 years' service).

▶ *Article 4§5 – Limitation of deduction from wages*

It has not been established that the workers can ensure their subsistence and that of their dependents once deductions are made from wages.

Non-discrimination

Birth

▶ *Article 17 – rights of young persons (legal and social protection)*

1. Children born out of wedlock are discriminated against in matters of succession;
2. Inequalities exist between children of a first and second marriage.

Disability

▶ *Article 1§4 and 15§1 – right of persons to employment and training*

People with disabilities are little integrated into mainstream institutions

▶ *Article 1§4 and 10§1§2§3 – right of persons to education and training*

It has not been established whether nationals of other States party to the Charter and the Revised Charter are guaranteed equal treatment as regards access to education and training (including continuing training), and apprenticeship

The ECSR is unable to assess whether Malta complies with the following provisions:

▶ *Article 6§1 – right to joint consultation*

▶ *Article 13§3 – prevention, abolition or alleviation of need*

▶ *Article 16 – right of the family to social protection*