

# Implementation of the UN Convention on the Rights of Persons with Disabilities



The Federation of Organisations for  
Persons with Disability  
(MALTA)

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## Report re Malta

### Universal Periodic Review

#### 17th session

This report is submitted by the Federation of Organisations Persons with Disability, on the practical implementation of the United Nations Convention on the Rights of Persons with Disability as ratified by the Government of Malta in 2012. EDF, a member of the International Disability Alliance, endorsed this report.

***The Federation of Organisations Persons with Disability*** is an umbrella organisation which is a means of communication between associations, whose aims are to help persons with disability without interfering in the autonomy of the affiliated associations. The Federation is made up of the following Organisations.

ADHD

Down syndrome Association

Malta Society for the Blind

Movement in Favour of Rights for Persons with Disability

Dar il-Wens (Residential Homes for Persons with Intellectual Disability)

Fondazzjoni Arka (Respite Care for Persons with Disability)

Equal Partners Foundation (Training for Persons with Intellectual Disability)

Inspire (Training for Persons with Intellectual Disability)

Ghaqda Zghazagh b'Dizabilita' (Organisation for Young People with Disability)

National Parents Society of Persons with Disability

Multiple Sclerosis

Ghaqda Sptar Monte Carmeli (Organisation that works with Mentally Ill People)

Kummissjoni Morda u Persuni b'Dizabilita' (Commission for People with Disability and the Sick)

## **Methodology.**

The Member Organisations were informed by EDF of the opportunity to contribute a report to the UPR process and invited to write the report. They were requested to pass on their comments as to what was to be discussed. These were then analysed and a draft report was written. The draft report was then circulated to the members. Comments passed on were discussed and noted, with the organisation concerned. A final draft was formulated.

### **I. Legislative and policy framework for the human rights of persons with disabilities in Malta**

The Equal Opportunities Act 2000

Cap. 12 - Code of Organization and Civil Procedure

Cap. 16 - Civil Code

Cap. 210 - Disabled Persons (Employment) Act

Cap. 354 - General Elections Act

Cap. 452 - Employment and Industrial Relations Act

Mental Health Act 2007

ACT No. XXIV of 2012 - Guardianship Law

The General Election Act

#### ***Education***

The Maltese Constitution (1964). (Disabled persons and persons incapable of work are entitled to education and vocational training. (Constitution of Malta Act 1964: Chapter II, 17 [3.]

The Education Act (1988).

Malta is a signatory of The Salamanca statement (UNESCO 1994), Signed by the Maltese Government.

The National Minimum Curriculum (1999) reviewed in 2013.

Equal Opportunities (Persons with Disability) Act (2000)

Equal Opportunities Compliance Unit (EOCU)

The National Inclusive Policy. 2000, Education Department. ,

The Inclusive and Special Education Review" (2005).

The National Policy Document on Special Education in Malta KNPD (1993)

The Republic of Malta has ratified the UN Convention on the Rights of Persons with Disabilities and the Optional Protocol in 2012.

## **II. General assessment of implementation of the UN CRPD**

Article 33, 2 UN CRPD requires State Parties to establish or designate a framework to promote, protect and monitor the implementation of the UN CRPD. The official monitoring body for Malta is the Kummissjoni Nazzjonali Persuni b'Dizabilita` (KNPD), (*National Commission for People with Disability*). The National Commission Persons with Disability (KNPD) has been to the fore of the disability policy in Malta. KNPD has informed all stakeholders as to the tool being used to monitor UNCRPD. The stakeholders were requested to comment on their drafted report.

KNPD initiated the process with a report "Working towards the Implementation of the UN CRPD" by grouping together articles that are considered to be closely related. A consultation with the disability sector was then initiated. A report was drafted and again consulted with the organisations concerned. A final draft was computed.

### **Comments**

KNPD should continue consulting the concerned organisations during the course of the on-going monitoring.

The Malta Federation of Organisations Persons with Disability, which represents various sectors of disability, deems that it should be represented at all levels wherever issues on disability are being discussed in line with article 33, 3 UN CRPD. The Federation was present for a number of years on the Board of the National Commission Persons with Disability. Regrettably it no longer is.

## **III. Progress made**

There have been major changes in disability laws and disability policy in Malta over the past number of years. In 1969 the Employment Act (Handicapped Persons) was enacted. Since then the Equal Opportunities Act was passed in 2000.

In recent years, Government has introduced policies to encourage inclusion. Policies such as:

The national Minimum Curriculum 1993 (reviewed 2013)

National inclusive Policy 2000

Inclusive and Special Education Review 2015

National Policy on Disabled Persons 2009

National Policy on Disabled Persons and Employment 2009

Policy on Independent Living 2011

Persons with disabilities have the possibility to participate in mainstream education. Support workers and resources are also available on request up to Tertiary Education.

“Access for all” is a guideline for the authorities to issue building permits for public buildings, including business and entertainment premises. Today more accessible buildings are available.

More disabled people and their families are aware of their rights as also of services offered by the state and NGOs. The general public is also more educated on disability issues.

With all this it is important to note that accessibility is still a problem in various locations notably in the streets.

***The four issues which will be tackled in this report are:***

Independent Living (Article 19),

Education (Article 24) and

Employment (Article 27),

Participation in political and public life (Article 29).

#### **IV. Major challenges *IV.1. INDEPENDENT LIVING (Article 19)***

In recent years, the government’s policy has been to encourage the inclusion of people with disability into the community rather than placing them in institutions. The Access for all Design, the Equal Opportunities Act is a confirmation of this trend.

##### ***IV.1.1. Policy on Independent Supported Living for Disabled Persons***

KNPD has commissioned and published a “Policy on Independent Supported Living for Persons with Disability in Malta” (2011). The recommendations complement the UN CRPD namely through the **‘setting out of necessary changes in legislation, policies, organisation, practices and structures to ensure that the needs of people with disabilities are met in a cohesive, comprehensive and cost effective way’**.

It also recommends that more home support needs are to be developed in the areas of grant application, personal assistance and home help services and assistive technology.

#### ***IV.1.2. Independent living***

The provision for independent living in Malta is **restricted to residential settings** especially for those with intellectual disability. Agenzija SAPPOR (a government entity), the Church in Malta and NGOs are offering supported residential homes in the community. Access to such services is hard considering a sizeable waiting list.

#### ***IV.1.3. Support Services***

Malta is falling short of the standards that are mentioned by Article 19 (b) UN CRPD, which states that “persons with disabilities have a right to access to a range of in-home, residential and other community support services, including personal assistance necessary to support living and inclusion in the community”.

The **provision of support services** to enable people with disabilities to live independently in their own homes, such as Personal Assistant Services and Home Help Schemes are **barely existent**. Despite the identification of such services as fundamental to facilitating independent living for people with disabilities, they remain **underfunded**. Such services are available against payment. Due to this, such services are not of use for low earning disabled persons, especially those whose main income comes from pensions. The social service received by people with disabilities is less than the minimum national wage.

#### ***IV.1.4. Social Housing***

Significant barriers exist in relation to support for people with disabilities who want to live in their own homes but cannot afford to buy or rent a property. While in theory they have the same entitlements to social housing as other members of the community, in practice the **limited supply of accessible and adaptable social housing hinders people with disabilities to live independently in their own homes**. Furthermore, additional disability related costs mean that the cost of living for people with disabilities is higher than for other members of the community.

#### ***IV.1.5. Home Help Services***

People with disabilities in Malta may also make use of home help services including meals on wheels, to assist them to remain in their own home and to avoid going into long-term care. A small fee is requested. These **services unfortunately are limited**; they should be catered to a larger number of people.

The housing authority provides schemes to facilitate people with disabilities living independently in their own homes. These schemes are available to assist in the carrying out of works necessary to render a house more suitable to the accommodation needs and any

other works which are reasonably necessary for the purposes of rendering a house more suitable for the accommodation of a person with a disability.

There are **no formal mechanisms for measuring the quality of community based assistance and services** or their impact on quality of life of persons with disabilities. Mostly young people with disability in Malta - although keen to live as independent a life as much as possible - are not satisfied with the provisions offered. Government and NGOs are offering supported living accommodation with limited independence especially in decision making. But more important, independent living is not affordable by the vast majority of disabled people, even when they are employed. So for people with disabilities receiving state benefits, independent living is even less affordable.

Preparation for independent living should start with users and their families at a very early age, to have more control on their lives in the move to adulthood. This will not be easy in the traditional Maltese environment.

In conclusion to these challenges, for many adults living with a disability, the lack of practical and financial support for independent living options is a significant barrier to social inclusion and independence.

#### ***IV.1.6. Recommendations and Remarks***

The following recommendations should be taken into account by the Maltese Government to realize the right to independent living for persons with disabilities.

- A **range of living options** should be developed to accommodate the different needs of adult service users either in partnership with NGOs or Government Entities.
- **Direct funding for supported living services** should be promoted more and lacunae in the system realised and acted upon. In order for independent living to become possible for all, more support is need. Such support should be home help services such as personal assistance and assistive technology. **Funds** should be made available to disabled persons or their carers to help them acquire such services and facilitate independent living. **Clearly defined targets and time frames** should be developed and adopted to implement the 'Policy on Independent Living' with the allocation of the required funds.

## **IV.2. EDUCATION (Article 24)**

Most disabled children are attending mainstream education. They are assisted with various forms of support and aids on request. These have also been extended to higher education.

### ***IV.2.1. Inclusive Education***

Inclusive education has been in the Maltese Education System for a number of years. However, there is a need to review the inclusion of children with disabilities in mainstream education and to design an education system that includes all children and ensures that they all have the opportunity to learn the core skills they need for tomorrow's world. Persons with disabilities are too often in situations of persistent unemployment and risk of poverty. What is being offered certainly is not preparing the majority of children and young people with disability to enter the employment market or higher education. **This is an unacceptable reality. Our systems of education should not only offer services but also aim to be effective.**

#### ***IV.2.2. Support***

The Department of Education has provided many supports such as Learning Support Assistants (LSAs) which have made a positive difference. But the system and main teaching method, the **text-based system of learning** and what happens in the classroom, remain the same. Teachers however do not often use the LSAs effectively and the school as a whole rarely takes responsibility for all the students, including those with disability. The Malta Union of Teachers also has adopted a working policy which **restricts the flexibility needed** to address the diverse needs of disabled students.

There is a **limited subsidised transport** for students with mobility issues to and from the Education Establishments. Public transport has improved, but accessible buses, bus stops and comprehensive routes with reliable schedules remain unattained for the general public, and more so for persons with disability.

University ACCESS Disability Support Unit provides various services for students with disability attending Tertiary Education.

Students with an intellectual disability are offered a **programme** aimed to develop **independence living skills** by the Malta College of Arts Science and Technology (MCAST). It is to be noted that employment for students who have attended 'Pathway', a course offered to them, has not had much success. It critically **fails to develop the skills acquired in mainstream education**, however it serves to place apprentices in job placement experiments and expose them to the world of work.

Changes such as greater use of multimedia, onscreen learning and ICT are available, but not accessible.

#### ***IV.2.3. Comments***

People with disabilities are **seriously discriminated** against in all aspects of Maltese life and prevented or **not given a proper basic education**. This is hindering them from gaining qualifications, getting jobs, having families and leading fulfilling lives. Although our education system does cater for disabled people of all ages because of lack of studies it cannot be confirmed if these systems are effective.

Although change is obvious and more resources are being introduced, disabled children and young adults are still achieving less success than other students. (KNPD, ANED Report, 2010).

Statistics show that **students with learning disabilities are less likely to be able to achieve future choices.** "... this might be due to the lack of coordination between various service providers or benefit systems to help support disabled people's educational or training choice." (KNPD, ANED Report, 2010). This is also commented in the NAO report (see employment). This same report states that lack of accessible educational training, personal support and transport hinders the increase in participation. It also states that these problems are being tackled and progress has been made.

Individuals with learning disabilities fare even worse. In a KNPD report 2009 it is stated that **79.3% of disabled students end without any qualification** after finishing secondary schooling. **Students with intellectual disabilities fare worse with 93.7%** finishing without any qualifications. The main barrier for children with intellectual disabilities as well as specific learning difficulties is that the mainstream education system was not designed to include them. It is a traditional system that has not changed in spite of a policy of inclusion and mainstreaming. Instead it has opted for compensatory supports.

If people with disabilities are hindered in attaining the level of education they might otherwise reach, this can have an impact on labour force participation, income, poverty and broader participation in society. Schemes designed for Maltese consumption should be designed. It is good to follow in the trend of other European countries, but a holistic Maltese system should be considered.

#### ***IV.2.4. Recommendations.***

- Many children within the system are losing out. Changes such as the **greater use of multimedia, onscreen learning and ICT need to be more accessible.** These skills are essential for the disabled child, but all children will benefit.
- There is a need to **review the inclusion of children with disabilities in mainstream education** and to design an education system that includes all children and ensures that they all have the opportunity to learn the core skills they need for today's and tomorrow's world. The consequences of not giving the opportunities to our children are too costly for the individuals who are in the forefront of unemployment and poverty.
- **Specialised Instructors** are needed in some fields. It was reported in the press recently that there are no teachers teaching braille.
- **Financial and other incentives to aid post-secondary students** will motivate more students with disability to participate.

In post-secondary education disabled students benefit from all financial and other aids as do all Maltese students. They can also benefit from a “Continuous Education Training and Research Programme” (PEKTUR), administered by KNPD.

### **IV.3. EMPLOYMENT (article 27)**

IV.3.1. It is clear that **people with disabilities** are considerably **less likely to participate** in the labour market in Malta. During the period 2006-2010 the NAO reports that the participation of Registered Disabled Persons ( RDP) are lower when compared to non-disabled people being **14.6% compared to 48.0%**. Malta has a lower participation rate of registered unemployed as compared with other EU countries.

Although legislation stipulates that firms in Malta employing 20 or more persons have to employ people with disability, proportionately this is not being complied with. The Maltese government, by far being the main biggest employer, does not adhere to this law (Employment Handicapped Person Act 1969).

The training for employment of people with disabilities is mainly given by Employment Training Corporation (ETC); Agenzija SAPPOR (Government Entity) Inspire and Equal Partner’s (NGOs working with the intellectually disabled people).

Employment Training Corporation (ETC) provides various measures to enhance employment opportunities to disabled persons. These include:

- Registered Disabled Persons (RDP) Unit within the Supported Employment Service. This Unit offers job placements and training.
- Providing professional advice to potential employees and employers;
- Job Exposure Schemes;
- Improving job prospects;
- Introducing Registered Disabled Persons to the needs in the job market.
- ETC through various Government and EU funded projects trains and informs Registered Disabled Persons with tools to enter the employment market,

#### ***IV.3.2. Training offered:***

- Job Search Seminar - a course that introduces basic skills to job seeking disabled persons.
- Job skills - a course in life and job seeking skills.
- Job club - a course that assists RDPs to acquire skills to facilitate search to enhance job opportunities.

This training helps the individual disabled persons access the employment market. Unfortunately as people with disability are likely to either not getting employed or if employed will be employed for a short period, it is an added frustration to their egos.

#### ***IV.3.3. Schemes offered***

Bridging the Gap Scheme (BTG)

Employment Aid Programme (EAP)

Wage subsidies are offered to employers employing disadvantaged individuals including disabled people. It is to be noted that employment is not maintained for the majority of participants after the programme expires.

Potential employers are informed of the various schemes offered. However, most are reluctant to employ due to ignorance on issues related to disabilities. KNPD states that although such schemes exist the majority of employers are not aware of such schemes (NAO). It is also apparent that if EU funding were to cease, most schemes would not necessarily attract Central Government funding.

The NAO audit 2012 states: “Contrary to the situation pertaining to mainstream applicants, training courses provided by the Corporation are not significantly contributing to the employment of RDPs”.

In the circumstances the question arises to whether ETC is allocating the appropriate resources for broadening the participant’s role. Such programmes and schemes certainly enhances RDPs the experience for work and prepares them for future employment.

It is however mentioned in the NAO report that a **low percentage of RDPs attended such opportunities.**

In the same report it is also mentioned that without fostering a National Culture on the principles of inclusion and equal opportunities, employers will be reluctant to employ people with disability.

#### ***IV.3.4. Comprehensive Assessment***

There is **no mechanism for a fully comprehensive assessment of RDPs.** Lack of appropriate knowledge of the degree of disability, including skills are detrimental to identify proper work and what work environment will be beneficial to both employer and employee as it is an important tool for the preparation of Disabled Persons into the work market.

KNPD states “that it there is a right for a comprehensive assessment. Such will help the disabled person as well as the employers understand more to the advantage of all, personal abilities and skills”.

**Data on disability should be integrated, keeping in mind relevant privacy obligations.** Disability Registers kept by Social Services, KNPD and ETC do not correspond. There is **no single definition of disability**.

The 2011 National Census had related questions in this aspect. As yet the results of the census have not been published. Once published, this data will provide a comprehensive analysis of the situation of persons with a disability or longstanding health condition.

#### ***IV.3.5. Supported Employment***

Malta lacks Supported Employment Structure and personnel to run this structure. This was emphasised by Mr Michael Evans, former President of the European Union of Supported Employment. He was invited to Malta by the Ministry for Justice, Dialogue and the Family in September 2012. The same Ministry has Employment under its auspice.

Considering Art 27 UN CRPD, the state should anticipate a transition period of sheltered employment to a mainstream labour market and to provide a choice until people with a disability are in a better position to find mainstream employment.

#### ***IV.3.6. Comments***

If disabled persons are given an adequate salary, the total cost of the disability 'pension' (55% of the national minimum wage) can be reduced. The disabled themselves will be able to contribute by paying Taxes and National Insurance contributions.

#### ***IV.3.7. Recommendations.***

- The need for **Comprehensive Assessment** has long been felt and awaited. It is evident that without such an assessment the possibility for long term employment for disabled persons is not a possibility for the vast majority.
- **Supported Employment** is to be created and generated. Local Funds should be made available even to NGOs, who have in the past shown that they can manage effectively such schemes. The mentality that these can be available only through EU funds should be reformed.
- The transition from **Sheltered Employment** to inclusion in mainstream employment is lacking, if not inexistent. Again Government should provide funds and schemes to support this purpose.
- **Public funds should be made available to employers in order to fund reasonable accommodation. Information about reasonable accommodation should be made available in a centralized way for employers, and persons with disabilities.**

- **The government should collect more data and sponsor research on employment of persons with disabilities.**

## **VI. Article 29. UN CRPD. Participation in political and public life.**

Voting is a fundamental right in a democracy and people with disabilities have the right to exercise this right in freedom, without feeling in any way restricted, humiliated or discriminated. In Malta, **people who are blind and visually impaired are obliged to vote verbally in front of a group of people representing political parties and the electoral commission.**

In terms of the General Elections Act, “whenever the incapacitated (or the illiterate) turn up to vote, the room is cleared, the voter has to take an oath that s/he is incapacitated and then two assistant commissioners (who are sworn to secrecy) read out the names on the ballot paper”.

Although for a great number of years persons with visual impairment and the blind have insisted on their **right to privacy** like the vast majority of citizens, the law has not been altered. The Organisations even sought their right in the courts of law. However, the courts could not provide a remedy - given the wording of the law - but the presiding judge said he sympathized with the applicants and suggested that the House of Representatives ought to seek a solution to their issue.

Representatives of organizations representing visually impaired people have presented two possible solutions to the authorities.

- a. Requesting a template tool that would enable them to exercise their basic right to a secret vote.
- b. The voting system by which blind or visually impaired person to vote with the assistance of a person of their choice, or ‘trusted friend’.

Both suggestions were not accepted by the Electoral Commission. They insisted that such a situation can be abused.

For the reason that a solution has not been agreed to, the Maltese Government when ratifying the Convention had **reservations** with regard to art. 29 (a) (i) stating that “Malta reserves the right to continue to apply its current electoral legislation in so far as voting procedures, facilities and materials are concerned”, and with regards to (a) (iii): “Malta reserves the right to continue to apply its current electoral legislation in so far as assistance in voting procedures is concerned.”

Considering that the Political Parties all agree on a change to the present Act of Law, it is not plausible that different administrations have neglected to find a solution. **With the commencement of a new administrative government, we demand that such a change can finally be attained.**

## **V. Conclusion**

This report would like to note that thanks to a person centred approach, a notably social investment both by government and NGOs and a reciprocate general public, Malta is moving towards a movement of recognition and opportunities for disabled people. The momentum is in motion, but more has to be achieved for disabled persons to be on the same trail as non-disabled persons.

However, although much has been achieved much more needs to be realised. It is the person with disability and the organisations representing them that should be first in place to discuss with Policy Makers. It is regretted that the KNPD, who are the relevant Authority that represents the Government appoints representatives as to their trust and not of the whole Disability Community. This report demands that a change is made.

## ***Annex***

This report is based on the following published reports:

Inclusive and Special Education Review 2005.

KNPD's National Policy on Disabled Persons, 2009;

ANED Report on the Employment of Disabled People in European Countries – Malta 2009

ANED Report on Equality of Educational Opportunities for Young Disabled Persons – Malta, 2010;

National Policy on Disabled Persons and Employment. 2010

Policy on Independent Supported Living for Disabled Persons in Malta 2011.

Malta National Audit Office Employment Opportunities for Registered Disabled Persons. 2012.