



**European Commission**  
Justice

## Exchange of good practices on gender equality



**Reducing the gender pay gap**  
Berlin, 5-6 December 2011

### Comments paper - Malta

# Gender Pay Gap: a comment from Malta

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## 1. Introduction

Although it has a low female activity rate, Malta's official Gender Wage Gap (GPG)<sup>1</sup>, computed on the basis of the four-yearly Structure of Earnings Survey (SES) is one of the lowest in the EU. On the basis of the last Structure of Earnings Survey [SES] study, the gap for 2008 was registered at 8.6. For 2009, the latest figures available, it is calculated that it fell to 6.9. In previous years, official statistics had even pegged the Gap at a lower level. In 2006, the gender pay gap the NSO reported that the GPG was 3 per cent in Malta, which at the time was said to be the lowest amongst all EU 27 countries, whose average stood at 15. The highest registered value for that year was that of Estonia at 25 per cent.<sup>2</sup> In actual fact, the Eurostat figure for 2006 for Malta stood at 5.2%, with Italy registering the lowest figure, at 4.4%. Within Malta, these figures have been extensively contested. A study by NCPE, the National Commission for the Promotion of Equality carried out in 2006 insisted that the Malta GPG should be considered as being 15.7 % on a basic pay basis and a gap of 23.2 % on a basic pay plus supplementary pay basis.<sup>3</sup> The NCPE discussed the matter again in a contribution to a Sunday magazine in 2010, again claiming that NSO figures are doubtful.<sup>4</sup> A lengthy meeting with NSO however confirms that NSO minutely follow Eurostat methodology and NSO findings within these parameters are methodologically sustainable<sup>5</sup>, even though the nature of the statistic, as an aggregate, presents problems that will be discussed below.

### 1.2 The legal framework

The Employment and Industrial Relations Act of 2002, (Laws of Malta Chapter 452, henceforth EIRA)<sup>6</sup>, defines 'pay' in line with the Recast Directive 2006/54/EC. Articles 26 and 27 of EIRA provide for no less favourable terms of payment for the same work or work of equal value, and that employees in the same class of employment are entitled to the same rate of remuneration for work of equal value. The amended Equal Treatment in Employment (ETE) Regulations of 2004 also impose the duty on the employer 'to ensure that for the same work or for work to which equal value is attributed, there shall be no direct and indirect discrimination on grounds of sex with

<sup>1</sup> CPC=(unadjusted) Gender Pay Gap expressed in % with one decimal digit behind the comma =(gross hourly earnings of male paid employees – gross hourly earnings of female paid employees)/gross hourly earnings of male paid employees.

<sup>2</sup> [http://www.nso.gov.mt/statdoc/document\\_file.aspx?id=2186](http://www.nso.gov.mt/statdoc/document_file.aspx?id=2186), Accessed 20 November 2011.

<sup>3</sup> Can be accessed under 'Gender Pay Review' in [https://secure2.gov.mt/socialpolicy/SocProt/equal\\_opp/equality/resources/research\\_outcomes.aspx](https://secure2.gov.mt/socialpolicy/SocProt/equal_opp/equality/resources/research_outcomes.aspx). Accessed on 20 November 2011.

<sup>4</sup> Sunday Circle, October 2010. Can be accessed under 'Show me the Money' at [https://secure2.gov.mt/socialpolicy/SocProt/equal\\_opp/equality/news\\_events/latest\\_news.aspx](https://secure2.gov.mt/socialpolicy/SocProt/equal_opp/equality/news_events/latest_news.aspx). Accessed on 20 November 2011.

<sup>5</sup> A full review was undertaken by the present writer and a research official from the Ministry of Social Policy, Dr Maya Milyanic Brinkworth, for this purpose on 21 November 2011.

<sup>6</sup> Can be accessed on [http://ec.europa.eu/internal\\_market/finances/docs/actionplan/transposition/malta/d21.1-ml-mt.pdf](http://ec.europa.eu/internal_market/finances/docs/actionplan/transposition/malta/d21.1-ml-mt.pdf). Accessed on 21 November 2011.

respect to all aspects and conditions of remuneration'.<sup>7</sup> Employers must ensure 'that where a job classification system is used for determining pay, it shall be based on the same criteria for both men and women and so drawn up as to as to exclude any discrimination on grounds of sex'. The ETE Regulations allow the possibility for collective agreements to exceed the minimum requirements they establish.<sup>8</sup>

These legal provisions are tight enough as far as they go. The regulations indeed provide for the possibility that anything that goes counter to them can be annulled by the Industrial Tribunals and the Courts. They also insist on the duty of employers to ensure equal pay but the same regulations do not oblige collective agreements specifically to include equal pay provisions. In reality though, contracts of work are confidential documents between employers and their employees and in the private sector remuneration issues are not transparent. Studies on the actual implementation of these regulations are therefore very difficult, and consequently absent except for some the odd study comparing collective agreements. The possibility of complaining an alleged breach is supported by law and corrective provisions in the form of compensation and removal of any discriminatory clauses in collective agreements is possible. But, as has been already indicated, it is not the provisions of the collective agreements which is at stake here, but the way these are implemented in real life.

## 2. Transferability issues

There are a number of characteristics in the practices followed in Germany and in Austria that, if transferred to the Malta scene, would result in considerable improvement. These can be listed as follows:

- a) The ready availability of an instrument that can be used to compute the Gender Pay Gap at the level of the individual entity, be it a small or a large company. The analysis of practices in Malta referred to above, held in preparation for this meeting, showed that the exercise is undertaken for Malta as a whole, using a multi-stage sampling procedure that is then generalised on to the total working population. The result is an important statistic, but it can hide gross disparities at the level of the single economic enterprise. The ready availability of an instrument, whether complex like *Logib* or a simpler 'Income Reports' method like that used in Austria, would allow employers, at least, to be able to assess themselves regularly on their performance.
- b) The transparency rights inbuilt into the Austrian model, at least at the level of the Work Councils, brings issues of Gender Pay Gap accountability closer to the individual worker. Secrecy and lack of transparency, under the guise of confidentiality, are often used to hide market imperfections. Employees themselves are often tempted to hide their income because they fear that disclosure might endanger what they might perceive to be hidden advantages they enjoy whilst the opposite could be the case. Transparency is of paramount importance in this matter, and all the attributes and instruments that make it more evident and enforceable is undoubtedly a gain.

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<sup>7</sup> Legal Notice 338 of 2007. Can be accessed on <http://www.doi.gov.mt/EN/legalnotices/2007/10/LN%20338.pdf>. Accessed on 21 November 2011.

<sup>8</sup> A broad review can be found on <http://www.non-discrimination.net/content/media/LR-1-MT-1.pdf> Accessed on 21 November 2011.

- c) The discussions by all concerned, including the social partners, of the Gender Pay Gap generated by the amendment to the Austrian Equal Treatment Law<sup>9</sup> is very positive. This awareness raising impetus is bound to lead to a narrowing of the gap within companies in a natural way. Recognition of gaps without enforcement measures for them to be corrected is likely to increase alienation rather than reduce it. The Austrian case clearly shows that bias is likely to remain as long as it is hidden. With analysis though, income reports and the exposure of gaps, it is more difficult for such bias to be sustained in the long term.
- d) Negative aspects from the German and Austrian real life practices also exist. Paramount among these is the fact that part-time work is paid at a lower rate than the same work undertaken on a full-time basis, thus increasing the gender pay gap. Irrespective of which gender is affected by such practices, this obviously carries negative consequences. In the context of 'just-in-time' practices, it is not unlikely that the marginal revenue for the employer derived from part-time work is higher than the marginal revenue derived from full-time work. This is the case because of a number of factors: idle time can be substantially minimised, training costs are relatively low because part-time employees are recruited on the basis of skills already in their possession etc. Paying part-timers less than full-timers for a standard one-hour unit of work is therefore doubly exploitative. Perhaps as Malta continues to attract more part-time female activity to allow females to experience a better family-work balance, this pitfall could be avoided.
- e) The lack of an Action Plan in the Austrian Equal Treatment Law regarding the income reports is also a negative aspect and the Swedish model provides better chances for improvement.

### 3. Policy debate

A number of considerations can be put forward for discussion:

- a) Malta being a small country does not suffer extensive geographical differences, except for Gozo, the sister island to Malta, which suffers from double insularity. It has been confirmed that regional differences in larger countries are actually taken care of in the compilation of data, to allow policy makers to address issues at regional levels. However, Eurostat publishes statistics at Member State level. This statistic is useful for generic inter-state analysis, but quite limited because (a) it hides regional differences, and (b) it does not allow comparative analysis of regions with similar characteristics across states. It would, for example be extremely interesting to compare the situation in predominantly rural areas across the EU, to compare the situation in small islands of the EU, or across the EU's chain of big cities with similar but not identical economic structures.
- b) For each individual EU Member State, the GPG is computed by Economic Sector, by Age Group and a factor strangely called 'Economic Control' (Private vs. Public). Even so, the methodology is not inclusive of all 'public servants', but this is for a while irrelevant. What is very relevant is the fact that these classifications point to significant gaps at state level which would need to be addressed if highlighted. The figures for Malta by economic sector are clearly illustrative of what is meant here. Whilst the grossed up GPG for 2008 was 8.6, the GPG for sectors B to N

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<sup>9</sup> See Austrian Case Study page 7, penultimate paragraph.

goes up to 18.6 in the same year. In some sectors the GPG soars to over 20. What are the processes at play within these individual sectors? Analysis and highlighting these processes could be conducive to more focused policies that would improve matters more than mere discussion of the grossed up statistic, as can be seen from the following Malta data for 2008 and 2009:

**GPG= (unadjusted) Gender Pay Gap expressed in % with one decimal digit behind the comma = (gross hourly earnings of male paid employees - gross hourly earnings of female paid employees) / gross hourly earnings of male paid employees**

NACE REV. 2	2008	*	2009	*
<b>B to N</b>	18.6		16.3	
<b>B to S (-O)</b>	8.6		6.9	
<b>B to S (optional)</b>				
<b>B</b>	-2.1	u	-1.9	u
<b>C [Manufacturing]</b>	29.1		30.8	
<b>D</b>	8.3		9.0	
<b>E</b>	11.1		13.1	
<b>F</b>	-6.1		-8.2	
<b>G [Wholesale &amp; Retail; repair of motor vehicles &amp; motorcycles]</b>	24.3		22.1	
<b>H</b>	15.1		15.0	
<b>I</b>	14.1		14.1	
<b>J [Information &amp; Communication]</b>	18.5		15.8	
<b>K [Financial &amp; Insurance Activities]</b>	21.5		22.0	
<b>L</b>	9.2	u	7.9	u
<b>M [Professional, scientific &amp; technical services]</b>	20.4		16.7	
<b>N</b>	20.1		21.5	
<b>O (optional)</b>				
<b>P</b>	14.5		12.1	
<b>Q</b>	5.3		5.6	
<b>R</b>	4.8		3.5	
<b>S</b>	4.5	u	4.4	u

**GPG= (unadjusted) Gender Pay Gap expressed in % with one decimal digit behind the comma = (gross hourly earnings of male paid employees - gross hourly earnings of female paid employees) / gross hourly earnings of male paid employees. From 2008 on: NACE Rev.2 aggregate B to S (-O).**

Age Classes	2008	*	2009	*
<b>-25</b>	-0.6		-0.7	
<b>25-34</b>	0.6		0.6	
<b>35-44</b>	2.6		-1.4	
<b>45-54</b>	11.2		8.8	
<b>55-64</b>	-1.6		-1.6	
<b>65+</b>	33.4	u	33.6	u

*Notes:*

- \* If needed put one of the following flags:
- = "not applicable" or "real zero" or "zero by default"
- : = "not available"
- :c = "confidential"
- 0 = "less than half of the unit used"
- b = "break in series (see explanatory texts)"
- i = "see information attached in explanatory texts"
- p = "provisional"
- u = "unreliable"

- c) What is strikingly missing in the sub-analysis of GPG, at least in Malta, is the computation of GPG by 'professional status' or 'type of occupation'. Computing the GPG by Economic Segment is important, but micro-analysis by **type of occupation** would allow one to minutely scrutinise what is happening at the level closest to the individual, and therefore closest to where action is probably most necessary.
- d) Inter-state comparison shows that it is likely that in some instances the GPG tends to increase the higher female activity rates are. This is NOT always the case: Denmark [DK] has 73.1% female employment rate in 2009 and only 16.9 GPG in the same year, while Germany [DE] has 65.2% and 23.2%, UK 65 and 20.4, the Netherlands 71.5 and 19.2% and Slovenia 63.8 and only 3.2. But the impression that socio-economic development can be a cause of larger disparities between males and females does exist. It is even commented upon on the Eurostat website where GPG is presented.<sup>10</sup> It could be argued, and in fact it has been argued, that this is the case because family-work balancing mechanisms have not been put in place in the more advanced European societies. Again there are exceptions to this: France is one such country where the employment rate is 59.9 and the GPG only 16%. It is also argued however that even if these are in place, higher female activity rates would still result in a higher GPG. One keeps asking: what are the factors at play? Is it education? This is a dilemma that needs to be addressed.<sup>11</sup> It is submitted that perhaps the key to a more plausible solution is the computation of GPG by type of occupation [professional status], as explained above since the data by economic segment does not, and indeed cannot, provide the required information.

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[http://epp.eurostat.ec.europa.eu/statistics\\_explained/index.php/Gender\\_pay\\_gap\\_statistics#Gender\\_pay\\_gap\\_levels](http://epp.eurostat.ec.europa.eu/statistics_explained/index.php/Gender_pay_gap_statistics#Gender_pay_gap_levels). Accessed on 22 November 2011.

11 The low GPG for Malta exhibits aspects of this dilemma. Qualitative analysis of the figures suggest the following reasons for it to be so low in a situation where female participation rate is relatively low:

- i. The Educational structure of the labour force may be the main contributing factor. The pay gaps at the lowest scales of employment structure or lowest levels of educational attainment would be narrower than at the higher end of the scale. The more there are less educated persons in the labour force the lower is the gap likely to be.
- ii. Legal framework and industrial relations within MS differ significantly – Malta has the lowest maternity leave entitlement (14 weeks) of all MS and the impact of maternity is thus less significant to the employer.
- iii. The public sector is not included in the analysis. Equal pay for equal work is guaranteed in public sector activities, but this does not feature in the final figure, which is based on NACE Rev. 2 in which Category 'O' is exempted, thus producing a figure which is mainly based on privately owned enterprises. In view of the lack of legal provisions enforcing transparency, the date for the resulting GPG is practically impossible to verify.