

Malta

Last update: January 2013

PART 1 – NATIONAL FRAMEWORK

Overview

National social dialogue	Principal Level of Collective Bargaining		Enterprise
	Workplace Representation		Union
	Board-level Representation		No
National worker representation	In Malta it is the union – provided it is recognised (that is the employer is willing to negotiate with it) – that normally represents the employee at workplace level. However, EU directives have led to new arrangements for non-unionised employees. Nevertheless, it does not seem that these have been taken up to any extent. Hence, clear primacy is still given to the union.		
Principal legal documents on H&S	In acceding membership in the EU, Malta implemented an array of regulation in line with the requirements – amongst others the OHS framework. As such, the Occupational Health and Safety Authority Act (Act XXVII of 2000) and Chapter 424 of the Laws of Malta cover those issues. This act was brought fully into force on 29th January 2002 and is applicable to all public and private sectors. It was amended by Act XXXII of 2007 and Legal Notice 426 of 2007.		
Public authorities on H&S	The Ministry for Social Policy. The Occupational Health and Safety Authority and its Occupational Health and Safety Officers.		
Employers' obligations on H&S	It is the duty of an employer to ensure the health and safety at all times of all persons who may be affected by the work being carried out for his undertaking. Moreover, the employer needs to ensure that at work places wherein a sufficient number of workers are employed, there shall be elected, chosen or otherwise designated a person or persons to act as the Workers' Health and Safety Representative or Representatives, and who shall be consulted in advance and in good time by the employer on matters which may affect occupational health and safety. The Workers' Health and Safety Representatives need to be consulted when promoting and developing preventive and protective measures to ensure health, safety and welfare at the workplace.		
Worker representative bodies on H&S	Workers' Health and Safety representation is a relatively recent concept, and the strategy being implemented in relation to it is bringing constant improvements in the situation. Undertakings are in the process of implementing the legislation. Today, there is no legal obligation for health and safety committees in Maltese legislation. Collective agreements govern disputes between employers, reps and workers, and a number of agreements entered into with a trade union also lay down the procedures for electing employee safety reps. Recently, a new collective agreement was signed for the public service which is committing the government to introduce HS reps.		
Organisation of the social dialogue on H&S issues within the country	<i>Actors involved</i>	<i>Their role</i>	<i>Scope of influence</i>
	OHS and its Board (including 2 trade union members)	Consult, participate in decision making ("working with others") in order to gather feedback on policies, generate commitment and obtain consensus.	National
	Trade Unions	Negotiate in sectoral and collective agreements	National, sector and enterprise level
Specialized H&S bodies on regional, sectorial or another level	<i>Name</i>	<i>Setup conditions</i>	<i>Composition</i>
	Given the country's size, there are no regional employee safety reps.	N/R	N/R
			<i>Role and functions</i>
			N/R

PART 2 – ENTERPRISE LEVEL: ORGANISATION OF SOCIAL DIALOGUE AND WORKERS' PARTICIPATION ON H&S AT WORK

General organisation and role on H&S issues	Trade unions have to deal directly with management on health and safety issues of high concern. From a trade union perspective, there is a general lack of Health and safety representation in all enterprises in Malta (including in the public service). Nevertheless, it has also been found that workers are now better informed on the subject; although there are still few reps in many workplaces (such as in the private sector). The construction sector is still the sector in which health and safety rules are often disregarded.	
Interaction of H&S representation with the general representation of workers	Trade unions in Malta have been working hard to ensure the implantation of the law that will introduce Workers' Health and Safety representatives at the place of work. This has been going on for a number of years. So at the moment, Malta has still very limited workers' representation on H&S.	
Worker representation bodies on H&S at work		
<i>Implementation of worker representation in H&S on enterprise level</i>	All workers. However, there is very limited representation on H&S	
<i>Thresholds of implementation</i>	No threshold. There is no legal obligation.	
<i>Role of the trade unions</i>	Most reps are trade union members, elected or unelected in accordance with the national legislation.	
<i>Composition, mode of nomination or election of members</i>	TU's are organising courses at the moment to push their activists in the Workers' Health and Safety representative posts which will open soon. Reps will be appointed by election.	
<i>Area of competencies</i>	All matters relating to health and safety. The national Health and Safety Authority lays down the reps' areas of responsibility, rights and obligations.	
<i>Functions</i>	Information, consultation	
Rights of workers' representatives on H&S		
<i>Right of withdrawal, of production stop in case of immediate danger</i>	Yes	
	According to the law, where there is a rep, there is this right in case of imminent danger	
<i>Right to conduct surveys</i>	Yes	
	Nothing prohibits the H&S representatives to conduct a survey	
<i>Right to require external assessments</i>	Yes	
	External experts can be engaged to perform tests or assessments if required.	
<i>Right to lodge an appeal</i>	Yes	
	N/A	
<i>Right to receive training</i>	Yes	
	by legal notice 36 of 2003	
	<i>Amount of training</i>	Not established by law
	<i>Frequency of training</i>	Not established by law
<i>Training providers</i>	Trade unions are taking the initiative, but it is the employer who has the obligation to provide training to the H&S representatives	
<i>Allocated time during working hours to conduct their role</i>	Yes	
	This is provided by the legislation, but the amount of time is not stipulated. Hence, some undertakings tend to restrict this right to the minimum. Moreover, the law ensures Workers' Health and Safety Representatives time off without any loss in pay, and the necessary means to be able to carry out their functions.	
<i>Protection against sanctions, dismissals in the frame of their mandate</i>	Yes	
	According to legislation.	
Link and the nature of the relations between the employee representatives and the trade unions	Most reps are trade union members, elected or unelected in accordance with the national legislation. Trade unions are trying to establish a direct link by pushing their activist in the posts. However, the law says that the safety rep. should not have conflicts of interest. In reality, this is interpreted that any trade union delegate and/or shop steward cannot be representing his colleagues as a safety rep. Also safety reps are legally not allowed to provide information to third parties about the enterprise	

	safety issues; and the trade unions are considered as third parties in this area, even though they represent the workers of that enterprise.
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PART 3 – ASSESSMENT OF THE SOCIAL DIALOGUE AND WORKERS' PARTICIPATION IN THE COUNTRY

Evolution

Significant changes within the various instruments on H&S issues during the last 5 years	Yes	
	<i>Objectives of these changes</i>	Improve health and safety
	<i>Management of these changes</i>	-Legal: introduction of newer laws and most important the introduction of the possibility for labour inspector to issue a fine immediately. -Negotiated: sectoral agreement in Education for the introduction of H&S reps in 2010 & Collective Agreement for pu
	<i>Effects on the improvement or deterioration of the handling of these issues</i>	No effect has yet been seen
Assessment of the achievements on H&S issues through social dialogue	Improving	
	<i>Some important milestones</i>	The last collective agreement, which stipulates the introduction of H&S representatives in the public sector.

Perspectives to achieve a good social dialogue and workers' participation on H&S issues

Missing factors	Political commitment. Effectiveness of the OHS legislation implementation. There is a general lack of Health and safety representatives in all enterprises in Malta (including in the public sector).
Existing key success factors	The establishment of the OHSA and its tripartite board composition, following the adopted legislative EU framework on occupational health & safety. Moreover, the implementation of the OHS regulation has also led to a variety of awareness raising actions on health & safety towards employees and employers. As such, training courses are provided by the trade unions to raise the attention amongst their members.

PART 4 – APPENDICES

Glossary

Workers' Health and Safety Representative	<i>a person, elected, chosen or designated, as prescribed in regulations, to represent workers on all matters relating to the promotion and protection of their occupational health or safety</i>
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Interesting links

- http://ohsa.org.mt

Sources

Trade union contacts	GWU	Carabott Joseph
	FORUM	Casaru Anthony
Other	<ul style="list-style-type: none"> - http://www.worker-participation.eu - Questionnaire replies (2) - OHSa Malta, "Occupational health & safety: consolidating achievement and engaging further commitment. Strategic plan 2007-2012". - Edwin Ward, "Perceptions of health and safety in Malta". - Occupational Health and Safety Authority Act (chapter 424) 	