

Disability and vulnerable groups: the work conducted within the realms of the Public Administration

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Public Administration should have at its heart the improvement of the lives of the people whom it serves.

This is especially important in the area of disability, where attitudes have moved towards a more rights-based approach, rather than a charity model. This means that the Public Administration is tasked with ensuring that the rights of persons with disability are protected, they are given adequate resources, and effective support services. This is achieved mainly through legislation and policy formation, of which there is plenty. The crucial part however is that persons with disability are not seen as passive recipients of supportive legislation and policy, but are fully engaged in its formulation. This article will review the legislation and policy related to the disability sector since the beginning of this millennium, showing how Governments have adapted to the change in attitudes towards persons with disability in relation to their rights.

Establishing the Rights of Persons with Disabilities: a chronological analysis

According to the United Nations Convention for the Rights of Persons with Disabilities, Disability

(UNCRPD) is defined as “long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others” (UNCRPD, 2006). In the year 2000, the first

piece of legislation passed by the Government of Malta was the Equal Opportunities (Persons with Disability) Act, with the intention of legally establishing the Commission which had been founded in 1987, creating safeguard mechanisms to protect the rights of persons with



disabilities. This Act was amended in 2011 to align it with the United Nations Convention for the Rights of Persons with Disabilities. Following these amendments, in 2012 the Government signed and ratified the Convention for the Rights of Persons with Disabilities.

In 2014, the Government together with the Kummissjoni Nazzjonali Persuni b'Dizabilita' and 'Kumitat Soċjeta' Ġustà' drafted and launched

the first National Policy for the Rights of Persons with Disabilities. This policy led to several reforms in the disability sector's legislative framework, legislations such as the Maltese Sign Language Act, Autism Empowerment Act, Concession for parking for Blue Badge Holders Act, a legal notice to strengthen the access for all guidelines in the built environment, and another legal notice to establish Aġenzija Sapport as a separate entity from

the Foundation for Social Welfare Services (FSWS).

After the signing and ratification of the United Nations Convention for the Rights of Persons with Disabilities, the Government began the implementation of this Convention with a Bill to ensure that persons with disabilities could be active participants in various Government Entities, boards, and Authorities, including Transport



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Malta, Malta Statistics Authority, Refugees Commission, National Commission for the Promotion of Equality, the Commission for Voluntary Organisations and the Broadcasting Authority (Dalli, 2015).

The Equal Opportunities Act was revisited in 2016, with the most far-reaching reforms being applied, transforming the Kummissjoni Nazzjonali Persuni b'Diżabilità into the Commission for the Rights of Persons with Disability. This was not purely a cosmetic change in the Commission's name but created the path for the Commission to lead the disability sector's regulatory framework. Instead of a Chairperson and a board of Directors nominated by different Ministries, the role of a Commissioner for the Rights of Persons with Disabilities was introduced, and the board of Directors was changed to a Council of relevant stakeholders, including the University of Malta (Disability Studies Department), a representative of Aġenzija

Sapport, and a number of persons representing civil society, most of whom were persons with disabilities themselves. This showed some commitment to the underlying principle of the UNCRPD, 'Nothing About Us Without Us'. Other amendments included the addition of a Bill of Rights to create stronger safeguards for persons with disabilities and an article related to health and wellbeing. Possibly the most important amendment to the Equal Opportunities Act was Article 37, a supremacy clause stating "When another law is inconsistent with this Act, this Act shall prevail when such inconsistency regards the rights of a person with a disability."

During the period from 2016 to 2022, many changes were made to the work of the Commission for the Rights of Persons with Disability, to give it the remit of regulation for the disability sector. This meant that services previously provided by the Commission were transferred

to Aġenzija Sapport, including the Servizzi Għajnuniet Speċjali later known as the Empowerment Scheme, the Vehicle Tax Exemption Scheme, the Grant Scheme (VAT refund), the Vehicle Road Licence Exemption Scheme and the Blue Badge Scheme. This avoided the possibility of a conflict of interest whereby the Commission would be monitoring and regulating the services provided by itself.

In 2015, the Lino Spiteri Foundation (LSF) was formally established to "provide a variety of soft skills and on-the-job training that maximizes the opportunity for individuals to reach their fullest potential as well as providing initial registration, advisory assistance and job search support to each registered disabled person" and "to keep close corporate relations with employers, LSF strives facilitating the recruitment process on a one-stop-shop basis as well as assist with the retention or development within the company long term."



(LSF, 2015). In 2021, the Minister of Finance, in charge of the Disability sector moved legal amendments to the Employment Act so that companies (enterprises) employing more than 20 employees, should have 2% of its workforce as persons with disabilities, companies failing to reach this quota will be subjected to a contribution exceeding 2.4K Euros (Meilak, 2021a).

Another milestone was reached when the Criminal Code was amended by Parliament so that any incitement to violence or hatred

against the elderly or persons with disability became a crime (Times of Malta , 2021). In the same year, the Parliament of Malta enacted the United Nations Convention for the Rights of Persons with Disabilities Act (2021) with the intention of “making provision for the possibility of civil actions based on claims alleging discrimination based on disability in respect of the substantive Articles of the United Nations Convention on the Rights of Persons with Disabilities, as well as to provide for other matters in respect of the implementation

of the said Convention.” In alignment with the enactment of the United Nations Convention for the Rights of Persons with Disabilities Act, Parliament approved a further amendment to the Equal Opportunities (Persons with Disability) Act (2021) as to “to provide for matters ancillary or consequential thereto, in particular, to ensure fulfilment of Malta’s obligations in terms of the United Nations Convention on the Rights of Persons with Disabilities and the United Nations Principles relating to the Status



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of National Institutions (the Paris Principles), and more specifically in relation to the structure and functions of the Commission for the Rights of Persons with Disability, in general, and in respect of investigations, compliance and enforcement, redress mechanisms ensuring access to justice, as well as concerning the Commission's market surveillance function about Directive (EU) 2019/882 on the accessibility requirements for products and services (European Accessibility Act)".

As previously stated, in 2014, the Government, together with the Commission for the Rights of Persons with Disability, launched the first National Policy for the Rights of Persons with Disability (Balzan, 2014). and began working to create the first National Strategy for the Rights of Persons with Disability, drafted by persons with disabilities with a substantial consultation period. In 2021, the Strategy was open to public consultation and subsequently approved by the Cabinet of Ministers. The strategy encompasses 13 objectives and 63 action points, with short, medium, and long-term goals, and it was entitled Freedom to Choose, and

the period of implementation was set for nine years (2021-2030) (Ministry for Inclusion and Social Wellbeing, 2021). The objectives included are "reforms and equality; research and data-gathering; awareness on disability; accessibility; participation in culture, entertainment, recreation and sport; relationships, family, sexuality, and parenthood; informal, formal, and non-formal education; healthcare; work and employment; independent and community life, and de-institutionalisation; participation in political and public life; disaster risk management and reduction; and regional and international efforts" (Meilak, 2021b). These objectives are enshrined in the United Nations Convention for the Rights of Persons with Disabilities.

Over the last nine years, the Government, through Aġenzija Sapport, has opened up six small homes within the community and worked on providing a number of new services for persons with disabilities and their families. There was an increase in the funds allocated for the Independent Community Living Scheme also known as the Personal Assistant

Fund which now stands at an investment of €4.2 million, which directly improves the lives of persons with disabilities and their families. Aġenzija Sapport also introduced services such as the 'Way to Work' and 'Sharing Lives', which improve not only employability skills but also empower persons with disabilities to lead more independent, sociable lifestyles. Aġenzija Sapport also invested in other Day Services which are provided to persons with disabilities who were not able to or did not have the opportunity to, enter the labour market. A 'Skills Space' service was opened in Sliema and the agency began to offer its services in Gozo for the first time from the Għajnsielem Hub whilst Commission for the Rights of Persons with Disability (CRPD) services in Gozo were provided by the school in Sannat.

In 2015, the Government worked with the Social Security Department to strengthen the financial assistance provided to persons with disabilities. The Government at the time understood that a change in terminology was necessary. Thus the word 'pension' was changed to 'assistance'. The Government

created three streams of disability allowance: the Disability Assistance, the Severe Disability Assistance, and Increased Severe Disability Assistance. The Disability Assistance was aimed at persons “16 years of age and over suffering from either, a total paralysis or a permanent total severe malfunction, or else a permanent total disability through the amputation of one of the upper or lower limbs. The Disability Assistance is also awarded to a person who has a hearing and speech impairment” (Department of Social Security, no date, a). The Severe Disability Assistance was targeted at persons “with a physical disability who is 16 years of age and over that can be engaged in a gainful occupation. (Department of Social Security, no date, b) and the

Increased Severe Disability Assistance is targeted at “a person who is 16 years of age and over and is unable to work” (Department of Social Security, no date, c).

These three streams were created to settle three issues which, in the past, were not addressed. The first was to allow persons who had only one of the upper or lower limbs amputated to be eligible for Disability Assistance. Before this amendment, both upper or lower limbs must have been amputated to qualify. The second was to allow persons receiving a Disability Assistance to enter gainful employment whilst still receiving the Disability Assistance (in acknowledgement that the payment should be given



to cover the additional costs of impairment which still exist, whether employed or unemployed). Previously, once employment was gained, the additional payment was forfeited. The third issue, which was gradually introduced over a period of three years, allowed for persons with a disability who could not be employed to receive an allowance at par with the National Minimum Wage.

Over the next decade, the Government should be steering in a direction towards de-institutionalization and creating more robust community services. De-institutionalisation is important in that it leads to a more independent lifestyle, with the appropriate level of support to make their own decisions about their lives. If de-institutionalisation is to happen in Malta it will be over a considerable period and will require not only the essential support services to be put in place, but also a change in societal perceptions to accept that persons with disability living independently with the right support provided is a healthy and improved lifestyle. With this in mind, the National Strategy allows nine years for the right strategy to be formulated. CRPD is conducting wide-ranging research to look into the current situation in Malta, the perceptions of people with disabilities who live in institutions, and also those who have moved out of institutions to live within the community. This research will also look at other country models where the process of de-institutionalisation has already taken place to assess the requisite processes and problems encountered along the way.

Conclusion

The last years have shown that the Government of Malta has been very busy in enacting legislation related to the disability sector.

It is also crucial to highlight the importance of consultation at every stage directly with persons with disability, to ensure that all the necessary details are included, since this may ultimately mean the success or failure of a scheme. This is an important notion for Governments to achieve successful improvements in the lives of persons with disability. This was indeed the experience in the drafting of the UNCRPD, the drafting and amendments made to the Equal Opportunities Act, the Convention on the Rights of Persons with Disabilities Act, the design of the National Policy for the Rights of Persons with Disability and the National Strategy for Persons with Disability. The Government has followed this modus operandi specifically in ensuring ‘Nothing about Us without Us’ has been followed by both Aġenzija Sapport and CRPD. Both institutions are led by persons with disability who can understand the finer details and are committed to bringing about results on the ground as well as through policy and legislation.

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