

Social Dialogue and Decent Work in Malta

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Abstract

This article investigates the relationship between social dialogue and decent work in Malta. The Maltese economy, which is passing through considerable restructuring, is growing at a faster rate than the EU average, and is creating sufficient jobs to keep unemployment at a low level. However, a number of challenges threaten these positive trends and put pressure on the country's future economic and social wellbeing. Social dialogue plays a fundamental role in improving Malta's economic performance while enhancing working conditions. At a policy level, social partners push forward their interests through various means such as the participation on official bodies, fora and mass media, and the drafting of policy documents. Collective bargaining also plays a major role in improving working conditions in Malta. Social partners are faced with the challenge of remaining strong and relevant. They need to invest more on capacity-building and on educating workers. Increased trust between social partners would create more synergies required to confront emerging labour market realities. An overhaul of the employment and industrial legislation may provide a better framework through which social dialogue takes place, with the consequent positive effects on decent work.

1. Introduction

Back in 1999, the International Labour Organisation (ILO) described 'decent work' as "not just the creation of jobs, but also the creation of jobs of acceptable quality"¹.

¹ International Labour Organisation, "Report of the director-general: Decent work", Presented in the 87th Session of the International Labour Conference, 1-17 June 1999, <http://www.ilo.org/public/english/standards/relm/ilc/ilc87/rep-i.htm>

This early reference to decent work, which according to Eurofound² marks the coining of the term, recognises that different societies may understand quality of employment differently. “It could relate to different forms of work, and also to different conditions of work, as well as feelings of value and satisfaction”³. The concept of decent work tends not to feature prominently on the Maltese public agenda. It is rarely mentioned in the national media, apart from the occasional reference to the International Labour Organisation’s Decent Work Agenda. However, this does not mean that the Maltese are not interested in the quality of work. Indeed, the concept of precarious work, which may be viewed as the antithesis of decent work, has gained prominence in Malta over the past years, in particular in the aftermath of the international economic recession. Whereas some aspects relating to the quality of work have traditionally been given considerable importance in Malta, others started attracting the attention of social partners and policy makers more recently.

This paper seeks to shed light on the quality of employment in Malta and how social dialogue is used to promote it. This is done by first highlighting the country’s socio-economic context in which the examined relation between social dialogue and decent work takes place. Subsequently, the main social partners are introduced and the various ways and levels through which they influence the quality of employment in Malta are discussed. Finally, a number of major challenges facing social dialogue and decent work are analysed.

2. The context in which social dialogue and decent work takes place

In order to understand the specific relationship between social dialogue and decent work in Malta, it is useful to get an overview of the country’s socio-economic and labour market situation.

² Eurofound, “Decent work”, *European Foundation for the Improvement of Living and Working Conditions*, 2012, <https://www.eurofound.europa.eu/observatories/eurwork/industrial-relations-dictionary/decent-work>

³ International Labour Organisation, *op.cit.*

The country's economy emerged relatively unscathed from the 2008 recession. According to recent projections of the Central Bank of Malta⁴, the country's real GDP growth was expected to peak in 2015 with a growth of 4.1% and then ease to 3.4% in 2016 and 3.2% in 2017. Investment through EU co-financing and private consumption is among the drivers of this growth. Malta's GDP figures are better than the EU average, but the country's GDP per capita is still lower than that of several EU countries and in 2014 stood at 84% of the EU average⁵. Over the last years Malta has been going through considerable economic restructuring. The manufacturing sector has decreased in size and has moved from low tech and low-value added ventures (such as the clothing industry) to more high-tech and high-value added enterprises such as pharmaceuticals. The government is keen to expand the manufacturing sector through "new activities such as aviation and its ancillary services, ICT, life sciences and industrial research and development"⁶. However, not much investment and growth took place in manufacturing in recent years. According to the Malta Chamber of Commerce, Enterprise and Industry, in order to secure the survival of manufacturing in Malta there is urgently needed to be more "investment support; efficient and competitive - transportation links; skilled labour force at competitive wages; stable energy at competitive rates; and, smart regulation"⁷. The services industry continued expanding at a steady rate. The tourism industry is performing very well and has been registering growth records over the last years. For example, in January 2016, there was a significant 15.0% increase in total inbound visitors in Malta over the same month in 2015⁸. Malta's

⁴ Central Bank of Malta, "Economic projections for 2015 – 2017", 2015, <http://www.centralbankmalta.org/file.aspx?f=11293>

⁵ Eurostat, "GDP per capita in PPS", 2016b, <http://ec.europa.eu/eurostat/tgm/table.do?tab=table&init=1&plugin=1&pcode=tec00114&language=en>

⁶ Times of Malta, "President launches National Trade Union Forum", 23 July 2014b, <http://www.timesofmalta.com/articles/view/20140723/local/president-launches-national-trade-union-forum.528913>

⁷ Times of Malta, "Manufacturing still has role to play", 17 July 2014a, <http://www.timesofmalta.com/articles/view/20140717/business-news/Manufacturing-still-has-role-to-play.528071>

⁸ Malta Independent, "Double-digit growth rates achieved in inbound tourism performance for January", 29 February 2016, <http://www.independent.com.mt/articles/2016-02-29/local-news/Double-digit-growth-rates-achieved-in-inbound-tourism-performance-for-January-6736154088>

financial services sector is also performing well. “An auspiciously-timed revolution in Malta’s financial services industry has seen the country emerge as one of the EU’s most attractive finance centres, using its agility to create innovative products and capitalising on the skills of its highly-trained workforce”⁹. Other ICT related sectors such as internet gaming and call-centres have also grown in recent years. Despite these developments and the effort of past governments to reduce its size, the public sector still employs around 26% of all workers¹⁰ and is a considerable burden on public finances.

In line with the GDP growth, Malta’s employment levels have been steadily increasing over the last decade, reaching an employment rate of 62.4% in 2014 when compared to a slightly higher 64.8% among the EU-28¹¹. Malta has one of the lowest unemployment rates in Europe, which stood at 5.3% in 2015¹². The positive trends in the labour market are reflected in the fact that workers in Malta are considerably less likely than EU workers in general to feel that they might lose their job over the next 6 months, and are more likely to feel that if they were to lose or quit their job, it would be easy for them to find a job of similar salary¹³. However, these positive findings hide the fact that the country’s labour market has traditionally been characterised by a low female activity rate. Successive governments have invested considerable resources to address this issue. The current government started providing free childcare to all families in which both parents are employed.

⁹ The Guardian, “Financial services done right”, 20 November 2015, <http://www.theguardian.com/the-report-company/2015/nov/20/financial-services-done-right>)

¹⁰ National Statistics Office, “Gainfully occupied population: September 2015”, 2016, p.11, http://nso.gov.mt/en/News_Releases/View_by_Unit/Unit_C2/Labour_Market_Statistics/Documents/2016/News2016_040.pdf

¹¹ Eurostat, “Employment rates by sex, age and citizenship (%)”, 2016a, <http://ec.europa.eu/eurostat/data/database>

¹² Eurostat, “Unemployment rate by sex and age - annual average (%)”, 2016c, <http://ec.europa.eu/eurostat/data/database>

¹³ Eurofound, “Sixth European Working Conditions Survey 2015”, *European Foundation for the Improvement of Living and Working Conditions*, 2016, <http://www.eurofound.europa.eu/surveys/data-visualisation/sixth-european-working-conditions-survey-2015>

“Employment growth is projected to moderate somewhat in 2016 and 2017, but it is set to remain robust and thus help to keep the unemployment rate at low levels¹⁴.

Malta appears to have one of the largest shadow economies in Europe, estimated to be about a quarter of the GDP¹⁵ ¹⁶. According to a recent Eurobarometer survey on undeclared work, nearly a quarter (23%) of persons in Malta have purchased undeclared goods or services in the year preceding the study, while a comparatively high 9% of the survey participants admitted to be employed without a formal written contract¹⁷. The hospitality and construction sectors seem to experience more undeclared work than other sectors. Indeed, the Law Compliance Unit within Malta’s public employment services organisation tends to find most infringements in these two sectors. One should also note that infringements consisting of the employment of unlicensed foreigners grew substantially in recent years and reached 734 in 2014¹⁸.

Malta is one of the European countries with a national minimum wage, which, at €168.01 per week, is higher than that of several other EU countries¹⁹. In 2012,

¹⁴ Times of Malta, “EU expects Malta economic growth to moderate but remain above long-term average”, 5 November 2015, <http://www.timesofmalta.com/articles/view/20151105/local/eu-expects-malta-economy-to-moderate-but-remain-above-long-term.591039>

¹⁵ Schneider, Friedrich, “The shadow economy in Europe, 2011”, 2011, p.15, https://www.atkearney.de/documents/856314/1214702/BIP_The_Shadow_Economy_in_Europe.pdf/cd3277da-74c3-4a35-9ac4-97f7a0e93518

¹⁶ Murphy, Richard, “Closing the European tax gap - A report for group of the Progressive Alliance of Socialists & Democrats in the European parliament”, 2012, p.11, http://www.socialistsanddemocrats.eu/sites/default/files/3842_en_richard_murphy_eu_tax_gap_en_120229_0.pdf

¹⁷ European Commission, “Eurobarometer: Undeclared work in the European Union report”, 2014, p.13, ec.europa.eu/public_opinion/archives/ebs/ebs_402_en.pdf

¹⁸ Employment and Training Corporation, “Annual report 2014”, 2015, p.15, https://secure.etc.gov.mt/homedir/temp/ETC_Annual_Report_2014.pdf

¹⁹ Fric, Karel, “Statutory minimum wages in the EU 2016”, *European Foundation for the Improvement of Living and Working Conditions*, 2016, <http://www.eurofound.europa.eu/observatories/eurwork/articles/working-conditions-industrial-relations/statutory-minimum-wages-in-the-eu-2016>

Minimum wage earners represented some 6% of the gainfully occupied in Malta²⁰. All workers, including those on the minimum wage receive annual wage increments based on the Cost of Living Adjustment (COLA). It has been reported that the minimum wage increased by €1,000 over a four-year period due to the COLA mechanism²¹. Despite this, it has been argued that the COLA has not managed to protect the purchasing power of low income workers²² and that, while the government speaks about helping to develop high value-added jobs, the competitiveness of Maltese firms is still too dependent on low wages. While the division among the poor and the rich has in the last generations been comparatively contained, the situation appears to be worsening. According to EU statistics, between 2008 and 2014, Malta had the fourth largest increase in poverty across the EU, with the rate increasing from almost 20% in 2008 to 23.8% in 2014²³ ²⁴. This figure drops to 16% when one considers the social benefits given to vulnerable people²⁵. The proportion of persons at risk of poverty rises up to a third among disabled people²⁶. A Eurobarometer report²⁷ focusing on poverty and social exclusion and published in 2010, indicates that poverty in Malta is particularly felt in

²⁰ Debono, James, “9,183 earning the minimum wage”, *Maltatoday*, 8 October 2012, <http://www.maltatoday.com.mt/news/national/21616/9-183-earning-the-minimum-wage-20121006#.VvkV4Hqhvc>

²¹ Borg, Bertrand, “PL plans to freeze all salaries – minister”, *Times of Malta*, 28 September 2012, <http://www.timesofmalta.com/articles/view/20120928/local/pl-plans-to-freeze-all-salaries-minister.438770>

²² Dalli, Miriam, “Minimum wage should increase to €180 per week, Caritas proposes”, *Maltatoday*, 16 March 2012, <http://www.maltatoday.com.mt/printversion/16832/#.VvodIXqhvc>

²³ TVM, “Poverty in Malta increased by 4% in the last 6 years”, 2015, <http://www.tvm.com.mt/en/news/poverty-in-malta-increased-by-4-in-the-last-6-years/>

²⁴ National Statistics Office, “Statistics on income and living conditions 2014: Salient indicators”, 2015b, p.1, http://nso.gov.mt/en/News_Releases/View_by_Unit/Unit_C1/Living_Conditions_and_Culture_Statistics/Documents/2015/News2015_167.pdf

²⁵ TVM, *op. cit.*

²⁶ Muscat, Caroline, “Third of people with disability at risk of poverty”, *Times of Malta*, 3 December 2014, <http://www.timesofmalta.com/articles/view/20141203/local/Third-of-people-with-disability-at-risk-of-poverty.546652>

²⁷ European Commission, “Eurobarometer: Poverty and social exclusion report”, 2010, pp.26,45 ec.europa.eu/public_opinion/archives/ebs/ebs_355_en.pdf

relation to finding decent housing at a reasonable price and paying utility bills. It is interesting to note that before the last general election, the Labour Party (which was then in Opposition) spoke in favour of a 'living wage' meant to help raising the living standards of many households in Malta; however, the concept appears to have been dropped after the election.

Apart from the need to continue increasing the female activity rate and tackling the shadow economy and the rising poverty levels, Malta faces other challenges such as curbing the high levels of early-school leaving, boosting the overall skill levels in line with future needs, decreasing national debt, increasing the sustainability of the healthcare and pension systems, reducing the reliance on fossil fuels and improving the environment.

3. Social dialogue in Malta

3.1 Trade unions and employers' associations

In 2015, according to the Registrar of Trade Unions²⁸, there were 29 registered unions with a total of 94,014 members. The largest union is by far the General Workers' Union (GWU) with 53% of all union membership, while the second largest is the Union Haddiema Maghqudin (UHM) with 27% of all union members. The UHM is one of seven unions affiliated with the Confederation of Malta Trade Unions (CMTU), which together comprise 32% of union members in Malta. Another group of 12 unions comprising 15% of all union membership are affiliated with the Forum of Maltese Unions, the most recently formed trade union confederation.

The Registrar of Trade Unions (2015) also lists 14 employers' associations with 9,547 members²⁹. The three main ones are the Malta Chamber of Small and Medium Enterprises (GRTU), the Malta Employers' Association (MEA) and the Malta Hotels

²⁸ Registrar of Trade Unions, "Report by the registrar of trade unions 2014-2015", *Government Gazette*, 2015, p.14,914
<http://www.gov.mt/en/Government/Government%20Gazette/Notices/Documents/Trade%20Unions%20reports%20Gaz%206.11.pdf>

²⁹ *Idem*.

and Restaurants' Association (MHRA) (with 8,155, 523 and 390 members respectively). The Malta Chamber of Commerce, enterprise and Industry (MCCEI) is another major employers' association which, while not being registered with the Registrar of Trade Unions, has over 1,100 members³⁰.

“Malta’s industrial relations system has been modelled on that of Britain, the former colonial power...As a result, the established model of industrial relations in Malta is that of voluntary, bipartite, collective bargaining at enterprise level in a traditionally polarised, adversarial relationship between employers and trade unions”³¹. Despite this, “over the years, trade unions have resorted progressively less to industrial action in favour of consultation and social dialogue”³². Indeed, social dialogue nowadays plays a major role in influencing the quality of work in Malta in various ways. The following sections discuss the influence of social dialogue at policy level and at the level of collective bargaining.

3.2 Social dialogue at policy level

The major social partners are represented on a number of official boards and committees, foremost of which the Malta Council for Economic and Social Development (MCESD), the country’s highest organ for tripartite concertation. The Council provides a forum for social consultation where matters of national importance that affect Maltese workers and their families are discussed by the social partners and at times with the participation of the civil society. It has become customary for the government to present its annual pre-budget document to the MCESD for discussion and feedback from unions and employers’ associations. This procedure has virtually eliminated the social tension that used to accompany annual government budgets. Topics such as the employment law, utility tariffs, and business

³⁰ Malta Chamber of Commerce, Enterprise and Industry, “Linkedin profile”, n.d.a, <https://www.linkedin.com/groups/3073592/profile>

³¹ Zammit, Edward, “Capacity building for social dialogue in Malta”, *European Foundation for the Improvement of Living and working Conditions*, 2006, p.2, http://www.eurofound.europa.eu/sites/default/files/ef_publication/field_ef_document/ef0651en4.pdf

³² Debono, Manwel and Borg, Anna, “Malta: Industrial relations profile”, *Bollettino Adapt*, n.d., p.3., http://www.bollettinoadapt.it/old/files/document/5118MALTA_INDUSTRIAL.pdf.

inspections have also been recently discussed in this forum. The MCESD, which plays an important role at the country's policy level, helped social partners to depart "from the divisive policies and the political polarisation of the previous era and from the informal, ad hoc relations among actors, which often predominate in a small-scale society"³³.

The major social partners are also represented on the Employment Relations Board (ERB), which advises government on matters relating to employment law. For example, the ERB has been recently consulted on changes required in the Industrial Tribunal following a Constitutional Court's ruling that the tribunal's current set up was unconstitutional. Besides, social partners are represented on other government entities, such as the Occupational Health and Safety Authority, the National Employment Authority, the Gozo Regional Committee, the public employment service organisation, and the Building Industry Consultative Council. Through such participation, trade unions and employers' association are able to voice their ideas and concerns about a wide variety of aspects that may impact decent employment. A National Forum of Trade Unions that was set up in 2014 through the intervention of the President of Malta and the Centre for Labour Studies, will be briefly discussed further down.

Malta's trade unions and employers are also affiliated to European and international organisations. For example, the GWU, CMTU and FORUM are affiliated to the European Trade Union Organisation, while the GWU is also affiliated to the International Trade Union Confederation. Besides, the individual sections of the general unions and the smaller unions are affiliated with their respective international trade secretariat³⁴. Similarly, Maltese employers' associations have foreign affiliations. For example, the Malta Employers Association is affiliated with the International Organisation of Employers (I.O.E.) and the European Centre of Employers and Enterprises providing Public Services (C.E.E.P.), while the MCCEI is affiliated with BusinessEurope and Eurochambres among others. Malta's main unions and employers also participate in ILO activities. Joining the European Union

³³ Zammit, Edward, *op.cit.*, p.10.

³⁴ *Ibidem*, p.12.

resulted in a significant increase of activities outside the country, which are testing their human resource capacity. Despite struggling with limited resources, social partners “all see many advantages in such activities, including information sharing, gaining experiences and mobilising international support where necessary. In times of domestic crisis, both the unions and employer organisations have sought and usually obtained support from the international organisations to which they are affiliated”³⁵.

The trade unions’ contributions to social dialogue at policy level vary considerably according to their size. Indeed, the two general unions are much more active at a national policy level than the smaller unions. In particular, the GWU is able to share its ideas through two national newspapers, L-Orizzont and it-Torca, the first published on week days with a circulation of around 23,000 and the second published on Sundays only with circulation of around 30,000³⁶. While these newspapers have been printed for several decades, in recent years, the union also set up an online news portal inews.com which has more appeal to the younger population. Over the years, the GWU has organised national campaigns to promote the well-being of employees and their families. One of the most successful and recent campaigns concerned precarious employment. This campaign, set up in 2013, included among others a tailor-made website <http://stopprecariouswork.com/> and specific research commissioned to shed light on the phenomenon in Malta. The campaign managed to put the concept of precarious employment on the public agenda and highlighted that such practices are particularly evident in the security, cleaning and care working sectors. While in 2005 there were no articles referring to precarious employment or precarious work in the Times of Malta, Malta’s most accessed website, the number increased to over 250 articles in 2013³⁷. The Labour Party, which won the general election in 2013, included measures to reduce precarious employment in its electoral manifesto, and the current government started implementing policies in such direction. For instance, in order to reduce precarious employment through public procurement, a number of changes have been

³⁵ *Idem*.

³⁶ Press Reference (n.d.). Malta. Weblink: <http://www.pressreference.com/Ky-Ma/Malta.html>

³⁷ Debono, Manwel and Marmara, Vincent. *Perceived precarious employment in Malta*, Malta, University of Malta, Unpublished document, 2016.

implemented to ensure that subcontracted workers receive decent wages, and to blacklist contractors who carry out precarious practices. Interestingly enough, the MEA pronounced itself in favour of establishing a minimum rate of payment for employees working on government contracts as a means of continuing to tackle precarious employment³⁸.

The UHM has also been particularly influential at a national level in the promotion of decent working conditions in recent years. For example, in the run up to the 2013 general elections, it drafted an employment policy entitled “The next leap: From labour market programmes to active labour market policy” (also known as Jobs Plus) in which measures were proposed to ensure the development of a flexible and productive labour market. The document considers active labour market policy as key to combat social inequalities and improve working conditions. It views skill improvement as a major contributor to increase the collective bargaining power of workers. In a rare show of unity among important stakeholders in the labour market, the document was endorsed by trade unions, employers’ associations and the major political parties in Malta. The new Labour Government started implementing the policy as soon as it was elected. Indeed, in order to translate such policy it into strategy and implement it, one of the authors of the policy was given the posts of Chair of the Government’s Jobs Plus policy and the Chair of Malta’s public employment service organisation, which has recently changed its name from Employment and Training Corporation to Jobsplus.

Smaller unions leave a weaker impact at a national policy level than the two general ones. However, several of the smaller unions manage to influence government in their respective sectors. For example, the Malta Union of Teachers has helped to shape the educational sector in Malta through its strong presence at a national sectoral level. It also recently started publishing an annual peer-reviewed journal of educational matters, among others. Most trade unions hold conferences and training events for their members. However, the larger unions have more organised training

³⁸ Times of Malta, “Government must establish minimum rate of payment”, 20 October 2013, <http://www.timesofmalta.com/articles/view/20131029/local/Government-must-establish-minimum-rate-of-payment.492363>

programmes. One should also note that while most of the unions and employers' associations have websites through which they promulgate their message, the more organised social partners have particularly informative websites which include policy papers and up-to-date information for their members and at times the general public.

Similar to the largest unions, the most prominent employers' associations are also active at a national policy level in other ways, apart from their participation in government-organised national fora. While they do not publish newspapers, they do publish information both for their members (often in the form of newsletters) and for the larger public, including policy makers. For example, the GRTU publishes annual Business Performance surveys that shed light on how business is performing in Malta. The larger associations issue brief press releases and more detailed policy proposals and position papers on topics affecting employers and the employment relationship. The MEA is one of the more active employers' associations in this regard. For example, in 2015 it published a position paper³⁹ entitled "The state of social dialogue & industrial relations in Malta" in which it raised a number of concerns relating to social dialogue that were expressed by its members. The larger employers' associations also have a visible presence on mass media. They contribute regularly with articles on newspapers. Besides, they take part regularly in TV debates and programmes. The MEA even produces its own TV programme that is broadcast on the national TV station (TVM) and is also placed on Youtube. Employers' associations are also active in the organisation of public events. For example, in 2015, the MCCEI organised around 15 events in the form of conferences, seminars, information meetings and so on⁴⁰. In recent years, some employers' associations have been particularly vociferous at a national level about specific policy topics. For instance, the GRTU is known for its crusade against government's over-bureaucratisation; it is probably partly through its pressure that the current government has set up the office of 'Commissioner for Simplification and Reduction of Bureaucracy'. Another example is that of the MHRA which has put considerable pressure over the government (especially the previous one) to reduce

³⁹ Malta Employers' Association, "The state of social dialogue and industrial relations in Malta", 2015, <http://www.maltaemployers.com/loadfile/f3a55822-c043-41ae-aa74-d0e5c9f8d847>

⁴⁰ Malta Chamber of Commerce, Enterprise and Industry, "2015 Events", 2015, <http://www.maltachamber.org.mt/content.aspx?id=386383>

utility tariffs that they argued harm the tourism industry. Again, such pressure probably affected the electoral promises of the current government, resulting in the reduction of such tariffs.

3.3 Social dialogue through collective bargaining

In line with the Anglo-Saxon model, Malta's Employment and Industrial Relations Act (2002) leaves considerable space for trade unions and employers to regulate specific working conditions through collective agreements. Collective agreements in Malta are almost always carried out at company rather than at sectoral or cross-sectoral level. The union that has the majority of employees as its members has the right to carry out collective bargaining with the employer. Employers' associations are not directly involved in collective bargaining – however, they are consulted when employers encounter difficulties in such process.

Collective agreements in Malta tend to have a similar format based on a model agreement signed in 1967 between the General Workers' Union and the Malta Employers' Association⁴¹. Over the past fifty years there have inevitably been developments in the clauses reflecting the changing nature of work. For example, contemporary agreements normally have clauses about health and safety and are increasingly including clauses about sexual harassment and bullying⁴². Career development is another arising topic of interest in collective agreements. It is unfortunate that to-date there is no structure in place through which regular comprehensive and comparative analysis of the content and process of collective agreements is carried out. While social partners are obliged by law to deposit a copy of their collective agreements at the Department of Industrial and Employment Relations (DIER), these are hardly ever examined, apart from analyses of wage trends carried out periodically by the Central Bank of Malta. This lacuna has consequences on social dialogue and decent work in general as it is difficult to

⁴¹ Greenland, Cory, *Collective agreements from a legal perspective*, Malta, University of Malta, 2011, p.20, <https://www.um.edu.mt/library/oar/handle/123456789/4829>

⁴² *Ibidem*, p.101.

examine trends in the content of such agreements or establish examples of good practice that can facilitate the improvement of working conditions in Malta.

About 55.8% of employees in Malta work in organisations covered by collective agreements⁴³. Since virtually all collective agreements are carried out at company level, the coverage is considerable, albeit slightly lower than the EU average of 61%⁴⁴. While virtually all the employees in the public sector (86.7%) are covered by collective agreements, the figure drops to 35.8% in the private sector⁴⁵. Trend data indicates that the number of collective agreements is on the decline, shrinking in the private sector from 212 in 1995 to 168 in 2008⁴⁶. Collective agreements are more common in larger private sector organisations than in smaller ones, increasing from a coverage rate of 3.7% in companies with less than 10 employees to 71.6% in companies employing 250 persons or more⁴⁷. One should note that about 70% of Maltese businesses are family owned or controlled⁴⁸, while 97% of all businesses are micro-enterprises, employing less than 10 persons⁴⁹. Working conditions in these companies tend to be less directly influenced by social dialogue. Whereas the majority of employees in the economic sectors of education, health, social work activities and public administration are covered by collective agreements, few employees in wholesale, retail, accommodation and food service sectors are covered by such agreements⁵⁰. Individual contracts predominate in the latter sectors.

⁴³ Debono, Manwel, *A national survey on trade unions in Malta – November 2015*, Malta, The President's Foundation for the Wellbeing of Society and the Centre for Labour Studies, 2015, p.1.

⁴⁴ European Commission, *Industrial relations in Europe 2014*, Luxembourg, Publications Office of the European Union, 2015, pp.28-29.

⁴⁵ Debono, Manwel, 2015, *op.cit.*, p.1.

⁴⁶ Baldacchino, Godfrey and Gatt, Rebecca, "Thirteen years later: Trade unions in the Maltese private sector revisited", *Bank of Valletta Review*, 2009, vol.40, pp. 29-45.

⁴⁷ Debono, Manwel, 2015, *op.cit.*, p.1.

⁴⁸ Malta Independent, "Family business act to help family-owned businesses survive transition, improve governance", 23 March 2015a, <http://www.independent.com.mt/articles/2015-03-23/local-news/Family-Business-Act-aims-to-help-family-owned-businesses-survive-transition-improve-governance-6736132584>

⁴⁹ National Statistics Office, "Business demographics: 2009-2014", 2015a, p.1, http://nso.gov.mt/en/News_Releases/View_by_Unit/Unit_B4/Business_Registers/Documents/2015/News2015_084.pdf

⁵⁰ Debono, Manwel, 2015, *op.cit.*, p.1.

One should also note that until 2015, members of the armed and police forces, the department of civil defence and prison wardens were legally precluded from setting up or joining a trade union, thus preventing them from taking part in collective bargaining.

As in other EU countries⁵¹, membership levels are contentious topic in Malta. Turf wars occur between competing trade unions that claim the right to conclude collective agreements in specific places of work. Such conflicts often emerge from disagreements over what constitute 'membership majorities' – whether it is the majority of all workers, or of workers in particular occupations, or particular branches of the organisation. Other conflicts arise from unclear membership figures. Often, such conflicts end up in front of the Director of the Department of Industrial and Employment Relations, or the industrial tribunal. Apart from antagonising trade unions against each other, conflicts slow down the collective bargaining process, with negative consequences on the workers and at times also on employers and the productivity of their firm.

4. Challenges relating to social dialogue and decent work in Malta

The ILO⁵² lists four preconditions for sound social dialogue, namely, “strong, independent workers' and employers' organizations with the technical capacity and access to relevant information to participate in social dialogue; political will and commitment to engage in social dialogue on the part of all the parties; respect for the fundamental rights of freedom of association and collective bargaining; and an enabling legal and institutional framework.” This section reflects on a number of important challenges relating to these preconditions that should be addressed in order to increase decent work in Malta through social dialogue.

⁵¹ Carley, Mark, “Trade union membership 2003-2008”, *European Foundation for the Improvement of Living and Working Conditions*, 2009, <http://www.eurofound.europa.eu/observatories/eurwork/comparative-information/trade-union-membership-2003-2008>

⁵² International Labour Organisation, “Tripartism and social dialogue”, n.d., <http://www.ilo.org/global/topics/workers-and-employers-organizations-tripartism-and-social-dialogue/lang--en/index.htm>

4.1 Strengthening social partners and their operations

Further capacity-building of social partners would help them deal better with an increasingly complex world of work. Trade unions in Malta, especially smaller ones are under resourced. Even the larger social partners experience capacity-limitations when dealing with policy issues at national and EU level. Unions and employers' associations need to develop more research-based policies. Social partners rely heavily on their membership fees, which constrain their ability to embark on new initiatives⁵³. There needs to be a collective effort, if possible with the assistance of Government and EU funds, in order to increase social partners' technical capacity and access to relevant information, such as foreign and local examples of good practice. Social partners also need to find ways of pooling their resources; as will be discussed below, this is difficult due to issues of trust. On the other hand, employers' associations "often appear to be more united in their goals and strategies"⁵⁴, and seem to find it easier to collaborate on common ventures than unions. An interesting example of such collaboration is the Malta Business Bureau, which represents the MCCEI and the MHRA "in Brussels and Malta, focusing on EU advocacy work in relation to evolving EU policy, regulatory and legislative initiatives affecting the local business scenario, by liaising directly with several European and local counterparts"⁵⁵.

Trade unions face an important challenge of remaining strong and relevant. There is a 'megatrend' across the European Union of decreasing trade union density and raw membership⁵⁶. As stated earlier, trade unions have an important and visible presence in Malta. However, a recent survey about Malta's trade union membership levels questions the official membership figures reported through administrative data held by trade unions that have been largely taken for granted in previous years.

⁵³ Zammit, Edward, *op. cit.*, p.7.

⁵⁴ Debono, Manwel and Borg, Anna, *op. cit.*, p.3.

⁵⁵ Malta Chamber of Commerce, Enterprise and Industry, "Malta Business Bureau", n.d.b, <http://www.maltachamber.org.mt/content.aspx?id=190256>

⁵⁶ Eurofound, *Industrial relations and working conditions developments in Europe 2013*, Luxembourg, Publications Office of the European Union, 2015, p.22.

While the typically quoted range of trade union membership density in Malta fluctuates between 55-59% of employees, Debono⁵⁷ found that only 33.8% of Maltese employees are currently union members. Besides, while collective agreements cover virtually all the public sector, the figure shrinks to just over a third of the private sector, reflecting low membership rates in the private sector⁵⁸. Trade union leaders need to increase their presence at the shop floor level, especially in the emerging services sectors and in small private organisations that tend not to be unionised. Trade unions appear not to be sufficiently geared to assist atypical workers. For instance, while the percentage of working women joining trade unions is higher than that of men, the top officials of all unions in Malta are almost all men. This situation needs to be improved if one wants to assist more effectively unionised women. Trade unions also need to focus more on the growing number of foreign workers and workers in atypical contracts.

In general, collective agreements in Malta appear to reflect the traditional mind-sets of both employers and unions, which often do not pay sufficient attention to issues such as work-life balance, working conditions that go beyond the most obvious ones, and care for atypical workers and atypical contracts. In recent years, unions became more conscious about the need to moderate wage demands, especially in the private sector, due to concerns relating to competitiveness and the threat of collective redundancies, or companies' relocation or closure. But there needs to be more creative thinking about ways of increasing employee's wellbeing while improving (or at least maintaining) competitiveness.

One may argue that the unions' most important roles consist of acting as a watchdog on employers, ensuring social justice, and educating their members. Over the years, trade unions in Malta have proved to be efficient in defending the rights of their members within organisations, through collective agreements and other actions. As we have seen above, they have also contributed substantially towards the improvement of social justice. However, insufficient effort has been exerted on educating their members and workers in general. It is of concern that over a fifth

⁵⁷ Debono, Manwel, 2015, *op. cit.*, p.1.

⁵⁸ *Idem.*

(22%) of employees in Malta are unsure whether they have a collective agreement at their workplace⁵⁹. This lack of awareness regarding trade unions may also reflect lack of awareness about employment rights and obligations. Decent work can be promoted much better when employees are properly educated on both their rights and duties. Employers complain of overly-high employee expectations that do not reflect the organisations' performance and the international circumstances in which organisations operate⁶⁰. A better appreciation of the world of work would lead to more realistic employee expectations that do not jeopardise organisational competitiveness. This would in turn also facilitate the collective bargaining effort of trade unions. In recent years, trade unions appear to have increasingly adopted the problematic practice of going back to their union members after having concluded collective negotiations with the respective employers, for a vote of acceptance of such agreements. This practice is resulting in situations where agreements reached between unions and employers are turned down. This in turn increases uncertainty among employers who become more reluctant to concede points during negotiations, since they fear that the unions will go back to the negotiation table after such negotiations are concluded⁶¹. Unions are suffering from the shifting loyalties of their members, whose apparent decrease in commitment to their union is resulting in the switching of unions if their expectations are unmet. This situation is in turn leading to more friction among unions. Such behaviours reflect a diffused problem of "deteriorating work ethic" that "does not bode well for the country's economic future as one of the pillars of our competitiveness and attraction as an investment destination has always been our reputable work ethic"⁶². Trade unions must invest more in educating and training their members to acquire the right employment and social values that may lead to long-term benefits, rather than short-term gains. Unions should play a more prominent role in containing what MEA⁶³ defines as the "growing culture of entitlement". Apart from educating and training members, unions should also train their officials, in particular shop stewards, who are in daily contact with workers and who mediate between unions, employees and employers.

⁵⁹ *Idem*.

⁶⁰ Malta Employers' Association, 2015, *op. cit.*, p.4.

⁶¹ *Ibidem*, p.9.

⁶² *Ibidem*, p.4.

⁶³ *Idem*.

4.2 Increasing trust among social partners

Social partners also face the challenge of collaborating better among themselves. It has been noted that there is insufficient trust among social partners in Malta⁶⁴. There exist strong rivalries among unions, especially between the largest two trade unions, namely the GWU and the UHM, which are too often at loggerheads with each other. Turf conflicts are common, where unions accuse each other of poaching members, and where two unions vie for sole representation of a place of work. Unfortunately it is also common for unions to criticise each other publicly through different mass media. The setting up of a Trade Union Council (TUC) could strengthen the trade union movement in Malta by “enabling unions to speak with one voice at national and international level; offering the possibility of dealing internally with inter-union disputes; creating an environment conducive to a healthier discussion; and pooling resources for the training and education of trade union members”⁶⁵. However, over the years, calls from different unions to set up such TUC have always been rejected⁶⁶. “While all unions agree, in principle, about the need to set up a trade union council, they are still unable to find common ground on which to establish such an institution”⁶⁷. In a small society like Malta, organisations’ antagonism might more strongly reflect leaders’ clash of personalities than in larger less personal societies. Unfortunately, the recent changing of the main trade unions leaders in Malta does not appear to have brought about substantial changes in their attitudes.

Having said that, in 2014, the President of Malta together with the Centre for Labour Studies managed to get all the trade union in Malta together to form the “National

⁶⁴ Rizzo, Saviour, *Not quite there: Europeanising Malta’s industrial and employment relations*, in P. Xuereb (ed.), *Malta in the European Union: Five years on and looking to the future*, 2009, p.22, http://www.um.edu.mt/europeanstudies/books/CD_CSP5/contentstext.html

⁶⁵ Rizzo, Saviour, “No agreement on proposal to form trade union council”, *European Foundation for the Improvement of Living and Working conditions*, 2006, <http://www.eurofound.europa.eu/observatories/eurwork/articles/no-agreement-on-proposal-to-form-trade-union-council>

⁶⁶ *Idem.*

⁶⁷ *Idem.*

Trade Union Forum”, a platform through which trade unions can interact and develop projects based on common interests. Until now, a number of seminars and meetings have been organised on topics of interest to the unions. A survey about the attitudes of the Maltese population towards trade unions has also been carried out and was presented to the unions for discussion. Some stakeholders argue that the Forum should be used to support the drafting of a code of ethics that would help to ensure “a harmonious environment characterised by mutual respect and ethical trade union behaviour”⁶⁸. Such code of ethics could deal with thorny issues such as poaching, the promising of unrealistic benefits to employees, and public statements that increase animosity among unions. Whereas the acceptance of such code by all unions would prove challenging due to their different perspectives and interests, its implementation would be even more difficult since it would require some form of permanent structure to resolve arising problems. It is interesting to note that employers themselves want better relations among unions. According to MEA⁶⁹, union recognition is the industrial relations issue requiring the most urgent action. MEA lamented that “employers are fed up of suffering the consequences arising from disputes in which they are not involved. Employers cannot sit around a negotiating table when the agenda of the union is not the welfare of its members and sustainability of the enterprise, but self-preservation by fending off rivals”⁷⁰.

In recent years, Malta has enjoyed a rather calm industrial climate. While the number of industrial disputes fluctuate from one year to another, strikes have become quite rare. For example, no strikes were registered in 2013 and “the only industrial action of note...[was] a lock-out that affected 7 workers and resulted in 154 man days lost”⁷¹. This stable industrial climate can be attributed to the unions’ and employers’ preference to collaborate together and avoid costly confrontative action. The DIER has also played a major role in solving industrial disputes. In 2013, the DIER intervened on 57 industrial disputes, helping the parties to reach agreement in 47

⁶⁸ Times of Malta, 2014b, *op. cit.*

⁶⁹ Malta Employers’ Association, 2015, *op.cit.*, p.18.

⁷⁰ *Idem.*

⁷¹ Department of Industrial and Employment Relations, “DIER Annual report 2013”, 2014, p.6, <https://dier.gov.mt/en/About->

DIER/Archives/DIER%20Annual%20Reports/Documents/Annual%20Report-DIER%202013.pdf

cases, a success rate of 82%⁷². Despite the above, it has been argued that the level of trust between trade unions and employers' associations is insufficient. While social dialogue in Malta is institutionalized through structures such as MCESD, ERB and others, there does not exist "a spirit of the social compromise evident in other European countries"⁷³. As a case in point, Rizzo mentions the debates about the rigidities of the labour market which arise from time to time and in different shapes, such as the discussion about 'flexicurity' that was prominent a few years ago. Whereas trade unions did not accept the relaxation of the employment contract as implied by the notion of flexicurity, employers tended to view flexicurity as an excuse to award more rights for workers while increasing costs to employers. In the end, "rather than providing an opportunity for the social partners to find common ground, the issue of flexicurity seems to have reinforced the 'us' and 'them' dichotomy between representatives of capital and labour"⁷⁴.

The ideal high trust relationship between trade unions, employers' associations and government is also difficult to achieve. Over the years, unions and employers' associations have accused the government of not consulting MCESD "on some of the most important national issues, making the council 'a talking shop'"⁷⁵. More recently, MCCEI bluntly called the council "a rudderless, irrelevant and inconsequential national institution"⁷⁶. In line with such perspective, the MEA more diplomatically stated that "the MCESD should live up to its name as a consultative body and be more than a venue for presentations by Ministers; members need to be more proactive and set the agenda themselves"⁷⁷. Over the past year, employers complained that government did not consult them on issues such as the implementation of measures to employ persons with disability and changes in the

⁷² *Idem*.

⁷³ Rizzo, Saviour, 2009, *op.cit.*, p.22.

⁷⁴ *Idem*.

⁷⁵ Farrugia, Christine and Debono, Manwel, "Social partners present proposals for reform of economic and social council", *European Foundation for the Improvement of Living and Working Conditions*, 2008, <http://www.eurofound.europa.eu/observatories/eurwork/articles/social-partners-present-proposals-for-reform-of-economic-and-social-council>

⁷⁶ Malta Chamber of Commerce, Enterprise and Industry, "Economic vision for Malta 2014–2020", 2014, p.26, <http://www.maltachamber.org.mt/common/fileprovider.ashx?id=635422426516901250>

⁷⁷ Malta Employers' Association, 2015, *op.cit.*, p.16.

maternity leave regulations⁷⁸ among others. The most damaging failure of the MCESD, both with regards to economic impact and morale among social partners, was arguably its inability to achieve a social pact in 2005⁷⁹. The Government made some amendments to the Council resulting among others in the inclusion of the Forum of Maltese Trade Unions and the setting up of the Gozo Regional Committee, but resisted radical changes proposed by some social partners such as the re-establishment of the Council as a decision-making body in addition to being a consultative one, or the exclusion of the government from the council⁸⁰; the latter suggestion was put forward again as recently as 2014⁸¹. The prevalent lack of trust between unions, employers' associations and the government persisted after the 2013 elections and was evident in seemingly small issues that leave scars on social partners' relationships – like a much publicised incident in 2015 in which the general secretary of the UHM was not allowed to take with him his mobile phone to a meeting with the Home Affairs Minister, an action condemned not only by trade unions but also by employers' associations⁸².

Considering the above-mentioned difficulties on reaching wide-ranging agreements on employment policy, it is ironic that during the discussion of the opt-out clause in the European Working-Time Directive (EWTD) in 2012, in a rare demonstration of unanimity, trade unions, employers and political parties agreed that Maltese workers should retain the prerogative to work longer hours. There was a consensus that lack

⁷⁸ *Ibidem*, pp.16-17.

⁷⁹ Debono, Manwel, "Union collaboration does not result in social pact", *European Foundation for the Improvement of Living and Working Conditions*, 2005: <http://www.eurofound.europa.eu/observatories/eurwork/articles/union-collaboration-does-not-result-in-social-pact>

⁸⁰ Farrugia, Christine and Debono, Manwel, *op. cit.*

⁸¹ Rizzo, Saviour, "Malta: Role of the national institution for social dialogue", *European Foundation for the Improvement of Living and working Conditions*, 2015b, <http://www.eurofound.europa.eu/observatories/eurwork/articles/industrial-relations/malta-role-of-the-national-institution-for-social-dialogue>

⁸² Malta Independent, "Union leader who was not allowed to have mobile phone for meeting with minister gets support", 26 February 2015b, <http://www.independent.com.mt/articles/2015-02-26/local-news/Union-leader-who-was-not-allowed-to-have-mobile-phone-for-meeting-with-minister-gets-support-6736131268>

of flexibility to adapt working hours according to needs, would reduce employees' pay packet and negatively affect Malta's competitiveness. Economic interests were given priority over health and safety concerns. It is no wonder that some 29.3% of Maltese work over 40 hours per week, when compared to a much lower 23.1% EU average⁸³. Indeed, one may here note that occupational health and safety in Malta has traditionally not been particularly high on the public agenda.

4.3 Revising the employment and industrial legislation

The Employment and Industrial Relations Act (EIRA)⁸⁴ lays down the general framework within which employment and industrial relations may take place in Malta. EIRA was developed after a long period of consultation with the social partners stretching at least 10 years and which included a series of well-attended national conferences and the submission of comments by individuals and organisations⁸⁵. EIRA was inspired by: the need to support economic progress while enhancing the quality of life, address gender and skills gaps in the labour market, upgrade features in previous legislations, upgrade Malta's ratifications of international conventions, harmonise national legislation with the European Union's *acquis communautaire*, recognise professional conciliators which are distinct from the DIER, acknowledge the consultative function of the MCESD, and fulfil various pledges included in the Nationalist Party's 1998 Electoral Manifesto⁸⁶. EIRA consists of two main sections, the first one dealing with employment relations and the second one dealing with industrial relations. Besides, it is complemented by subsidiary legislation consisting of regulations about various aspects of work and wage regulation orders. The legislation has provided the framework that has ensured the minimum employment conditions for the ever growing labour force in Malta. It has also been credited with the promotion of relative industrial peace over the past 14 years.

⁸³ Eurofound, 2016, *op. cit.*

⁸⁴ Government of Malta, "Employment and industrial relations act", 2002, <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8918>

⁸⁵ Baldacchino, Godfrey, *Malta's new labour law – at a glance*, in G. Baldacchino, S. Rizzo, & E. Zammit (Eds.), *Evolving industrial relations in Malta*, Malta, Agenda, 2003, p.212.

⁸⁶ *Ibidem*, pp. 213-214.

One can view employment legislation as a balancing act in which the government tries to accommodate the divergent interests of employers and employees. As an example, one may consider the development of legislation relating to atypical workers, who are prone to experience less favourable working conditions. The government has pushed forward legislation meant to increase organisational flexibility and competitiveness, while trying to protect the working conditions of atypical workers. Thus, through the Temporary Agency Workers Regulations (2010), the government aimed to enhance the rights of temporary agency workers and to assist the growth of temporary work agencies, which until then were nearly non-existent in Malta. Besides, the Overtime Regulations (2012) introduced the concept of 'annualised hours' in the Maltese employment law framework, through which employees may work extra hours during periods of high activity which would then be exchanged for fewer working hours during periods of less activity. On the other hand, several regulations were also enacted to protect and improve the working conditions of atypical workers. For example, the Part-Time Employees (Amendment) Regulations (2010) granted the right of pro-rata benefits to all part-time employees including those whose part-time employment is not their principal employment. Besides, the Employment Status National Standard Order (2012) was enacted to curb the abuse of bogus self-employment that occurs when persons are given the conditions of self-employed when in practice they work as employees.

Indeed, over the years, EIRA has been amended several times and complemented by other regulations. However, the need is increasingly being felt to overhaul the legislation and make it more relevant to the changing socio-economic conditions. From time to time, specific issues relating to employment and industrial relations make headlines, such as the recent one regarding the composition of the industrial tribunal, which was declared as unconstitutional by Malta's Constitutional Court. In September 2014 the Malta Employers' Association suggested a wide-ranging set of proposals to amend EIRA. The document covered various aspects of the law and proposed important amendments some of which are long overdue. It included proposals regarding legal definitions, union recognition, protection of wages, public holidays, the industrial tribunal, the DIER, leave entitlements, COLA mechanism,

retirement age and other aspects⁸⁷. However, the report was overshadowed by a specific controversial proposal that self-inflicted sickness should not be eligible for sick leave, which provoked harsh criticism from trade unions and reduced support for its implementation⁸⁸. Despite this, work is underway to reform EIRA.

Apart from improving the work-related legislation, the need is also felt to strengthen its enforcement. In relation to this point, a Eurobarometer focusing on undeclared work indicated that 37% of Malta's respondents consider the lack of control of authorities as a prime motivating factor for undeclared work practices⁸⁹. Insufficient resources and disjointed enforcement by different government authorities (in particular the DIER, the public employment services organisation, and OHSA) are major barriers against effective enforcement. A white paper was recently issued to reform business inspections by: improving policy outcomes; enhancing compliance; carrying out more relevant inspections; reducing inspections and the related burdens for businesses⁹⁰. Following a public consultation exercise, it was decided to set up a Central Inspection Coordination Unit to co-ordinate and set standards for inspections. It is hoped that these developments boost the effectiveness of law enforcement.

5. Conclusion

This article shed light on the relationship between social dialogue and decent work in Malta. A number of challenges faced by social partners were also highlighted and discussed. While the specific dynamics linking social dialogue and decent work are inevitably different from one country to another, it is hoped that this article leads to

⁸⁷ Malta Employers' Association, "Proposed amendments to the employment and industrial relations act 2002", 2014, www.maltaemployers.com/Portals/22/EIRA%20Proposals%202014.pdf

⁸⁸ Rizzo, Saviour, "Malta: Heated debate on proposed changes to Employment and Industrial Relations Act", *European Foundation for the Improvement of Living and working Conditions*, 2015a, <http://www.eurofound.europa.eu/observatories/eurwork/articles/working-conditions-industrial-relations-law-and-regulation/malta-heated-debate-on-proposed-changes-to-employment-and-industrial-relations-act>

⁸⁹ European Commission, 2014, *op. cit.*, p.101.

⁹⁰ Office of the Prime Minister, "Improving business inspections", 2015, <https://opm.gov.mt/en/PublicService/Documents/Inspections%20Reform%20Digital.pdf>

further discussion on how trade unions and employers may improve working conditions in their respective countries.

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