

Chapter 20

Malta: moving away from confrontation

Manwel Debono and Godfrey Baldacchino

Malta is a small country with a land area of just 316 km², located in the middle of the Mediterranean Sea, between Italy and Libya, comprising three inhabited islands with a total resident population of about 440,000. The country achieved independence from the United Kingdom in 1964 after serving essentially as a fortress economy throughout most of its history (Pirota 2001). Coupled with its small size, this means that manufacturing was essentially non-existent and the Colonial Government was by far the major employer (Zammit 1984). The country has a British-style ‘Westminster-Whitehall’ political system with just two major political parties in Parliament between 1966 and 2007: the Labour Party, which has been in government since 2013, and the Nationalist Party, currently in opposition. Over the past 30 years, the country’s economy has undergone a dramatic transformation, with a decline in the wave of export-led manufacturing fuelled by foreign investment and technology that characterized the period between the first national development plan (1959–1964) and the mid-1980s, and in which the labour-intensive and female worker-dominated sub-industries of textiles and clothing featured prominently. These have now been replaced by a diversified service sector, including tourism, transshipment, financial services, aircraft maintenance and electronic gaming.

The development of collective bargaining in Malta is inevitably related to the structure of the economy, the macroeconomic performance and the labour market situation. Malta’s economy has recovered quickly from the negative effects of the international economic recession of 2008. It registered the highest GDP growth at constant prices (6.3 per cent) in 2015 across the European Union (EU) (European Commission 2016). Between 2001 and 2015, real wage growth averaged 1.9 per cent a year, higher than most other EU countries. Meanwhile, the unions have also helped to keep income inequality at a lower level than in most other EU member states (Appendix A1.E). These positive economic trends have been accompanied by a steady decline in unemployment, resulting in an unemployment rate of just 4.3 per cent in the last quarter of 2016, among the lowest in the EU (Eurostat 2017). There has also been a decline in involuntary part-time work, which reached a relatively low 10.3 per cent as a percentage of total part-time work in 2016 (Eurostat 2017). These positive figures, however, need to be seen alongside the low female activity rate, which has been rising steadily but was still 55.5 per cent in 2016 (Eurostat 2017), and the high levels of public sector employment: 27 per cent of all workers were employed in the public sector in 2015 (Eurostat 2017).

Malta has a largely voluntarist collective bargaining system in which there is free collective bargaining between unions and employers, without much state intervention through

Table 20.1 Principal characteristics of collective bargaining in Malta

Key features	2000	2018
Actors entitled to collective bargaining	Unions (directly) and employers, or their representatives, with collective agreements normally having a three-year coverage.	Unions (directly) and employers, or their representatives, with collective agreements normally having a three to five year coverage.
Importance of bargaining levels	100% at enterprise level in the private sector; industry-wide agreements in the public sector but negotiated and signed collectively, as one package deal.	
Favourability principle/derogation possibilities	The favourability principle does not exist in Maltese industrial relations. Any derogation from collective agreements or the law can only take place under special circumstances with the approval of the Director of the Department of Industrial and Employment Relations.	
Collective bargaining coverage (%)	60 (2002)	55.8 according to survey data
Extension mechanism (or functional equivalent)	None	
Trade union density (%)	60.3	33.8 according to survey data
Employers' association rate (%)	63.3 (2003)	60 (2008)

Source: Authors' compilation and Appendix A1.

regulations. The Employment and Industrial Relations Act (EIRA; Laws of Malta 2002) provides the general framework in which industrial relations are conducted in Malta, and more recently, the Recognition of Trade Unions Regulations (2016) has helped to reduce tensions among unions. Furthermore, over the years there have been some important developments that have affected industrial relations, such as the setting up of the Cost of Living Allowance (COLA) mechanism in 1990, a mandatory annual salary increase given to all employees. Collective bargaining in the private sector is carried out between unions and employers at enterprise level, without the direct involvement of employers' associations. There is one important industrial collective agreement, that for public service employees. While most collective agreements in the private sector have a three-year span, those in the public sector now cover five years (see Table 20.1).

Accession to the EU quietly ushered in a new era of labour relations in Malta. A confrontation-based union culture, bred out of and fashioned on the twentieth century British model, has steadily evolved into a more continental one, premised on social partnership (Vassallo 2015). This trend is also evidenced by the steady decline in industrial action (see Appendix A1.I), particularly in the private sector. The increasing emphasis on social partnership has been influenced not only by the EU's ideals, but also by a growing realisation among the social partners themselves that, in the contemporary world of work, confrontation often results in negative unintended consequences. Having said that, elements of the traditional confrontational system may lurk in the limited industrial actions in the public sector, usually restricted to the strategic industries of health and education, as well as public transport, to the general consternation of local employers. In-fighting between trade unions for recognition is one of the causes of such localised disputes.

Industrial relations context and principal actors

Various countries have seen trajectories of union organisation and collective bargaining emerge from two broad and contrasting employment clusters. The first cluster includes private sector workplaces with large and skilled workforces, driven by experiences of collective working-class consciousness and anti-capitalist ideas. The second is the public sector, with industrial, technical, clerical and professional grades concerned with protecting workers' rights and improving working conditions from the power base of a service monopoly that is immune to market forces, but vulnerable to political pressure. Malta conforms to these dual trends. What makes the Maltese case idiosyncratic is that the thrust towards both these developments was born in the late nineteenth century, during the heyday of British colonialism. The British administration created the conditions for both an English-speaking public service and a commercial and mercantile proletariat, which explains the origins of unionism and collective bargaining in Malta. With the arrival of the British administration a civil service and an ancillary public sector developed and contributed to the birth of a new middle class fluent in English (the language of administration) (Pirrotta 1996). Meanwhile, drydocks were built and became a large employer in Malta.

An Imperial Government Workers Union (IGWU) was set up in 1916, influenced by British trade unionism. An IGWU Secretary, Reggie Miller, left that union to set up a new General Workers Union (GWU) in 1943, with militant drydocks workers at its core. It remains Malta's largest union, social democratic in outlook. A second general union, the Union of United Workers (Union Haddiema Maghqudin, UHM), arose from a series of mergers in the late 1970s as a non-left-leaning response to the GWU (Baldacchino 2009). In parallel, professional educators in the public sector¹ were taking their own mobilisation initiatives. Malta's first registered union was the Malta Union of Teachers (MUT), set up in 1919, and still in operation as both a union and a professional body (Cassar 2009). The IGWU-GWU and MUT represent the two historical strands of Maltese unionism: the first is mass-based, often socially progressive and anti-clerical, with mainly male, industrial or blue-collar members; the second is 'elite-based', socially conservative, with white-collar or graduate, and now mainly female, members. The members of these two broadly defined factions have tended towards different political party allegiances, with the GWU supporting the Malta Labour Party (MLP), while the professional classes and graduate employees tend to support the more Christian-Democratic Nationalist Party (NP).

The general architecture of collective bargaining in Malta is characterised by the wide diversity in the basis of union membership. There are two catch-all general unions, GWU and UHM, which by themselves comprise 80 per cent of all union members reported by unions to the state in their statutory annual returns. There is only one industry-wide union, the Malta Union of Bank Employees (MUBE). There are no subnational or regional unions. There are two company-based unions, each recruiting

1. The Maltese public sector encompasses all government organizations and their employees, as distinct from the private sector, which comprises private companies, non-government organizations and their employees. While the public sector employs some 50,000 workers, the public service by itself, consisting of government ministries and departments, employs around 30,000 (Office of the Prime Minister, n.d.).

Table 20.2 Union membership by confederation (2007 and 2015)

Confederation	Affiliated unions in 2015	Number	Declared membership	
			June 2007	June 2015
FORUM	Malta Union of Teachers, Airline Pilots Association, Union of Cabin Crew, EneMalta Professional Officers Union, Union for Public Sector Architects and Civil Engineers (Union Periti u Inġiniera tas-Servizz Pubbliku), Malta Union of Midwives and Nurses, Central Bank of Malta Employees Union (Union Haddiema Bank Ċentrali), Union for Professionals of Malta's Authority for the Environment and Planning (Union Professionisti tal-Awtorita Maltija dwar l-Ambjent u l-Ippjanar), Engineering Resources Limited Senior Staff Union, Association of Airline Engineers (Malta), University of Malta Academic Staff Association, Technical and Clerical Staff Union of Malta Planning and Environment Authority	12	3,385	13,653
General Workers Union	(Considered to be its own confederation)	1	45,993	49,894
CMTU	Lotto Receivers Union, Union of United Workers (Union Haddiema Magħqudin), Malta Union of Bank Employees, Malta Chamber of Pharmacists (Kamra tal-Ispizjara), University of Malta Workers Union (Union Haddiema Università ta' Malta), Medical Association of Malta, Malta Union of Professional Psychologists	7	37,281	29,819
None	Malta Air Traffic Controllers Association, Malta Psychological Association, Malta Dockers Union, Professionals and Services Employees Union, Union of TEFL Teachers, Water Services Corporation Professional Staff Union, Care Workers Union, Malta Transport Employees Union, Malta Union of Tourist Guides	9	1,358	648
Total		29	88,017	94,014

Source: Government Gazette (2007, 2015).

all categories of workers from a specific workplace. The remaining 24 unions base their recruitment on the classic definition of a trade or profession. In about half of these cases, the designation of the profession is narrow enough to implicitly denote employees who work at just one employer, be it the state, a public corporation or a private employer. The dominant rationale for union organisation in Malta, and in true British tradition, remains the trade or employment class or profession: this is the organising principle for 24 out of the 28 unions currently on the register. Apart from the two general unions, only one union, the MUBE, accepts members of *any* class but within a specific industry, in this case, banking and finance; and only one other union, the Union Haddiema Bank Ċentrali (UHBC), operates as a house union, each accepting employees belonging to any class of employment if they work for a particular employer.

In June 2015, 29 unions were registered in Malta, with a total declared membership of 94,014 (see Table 20.2). These include various persons who are not in the labour force, including at least 11,000 pensioners who are members of the GWU and UHM (Chapter 452 of the Laws of Malta 2002 lays down that a union is only obliged to have workers constitute a *majority* of its membership). Apart from the GWU, which with 49,000

members has its own sections and behaves as a confederation unto itself, most of the remaining 28 unions are affiliated with one of two local confederations. With 26,000 members, the UHM is the largest member of the Confederation of Malta Trade Unions (CMTU), set up in 1959, and now including six other unions as its members. The second confederation is the Forum of Maltese Unions (Forum Unjons Maltin, FORUM) that was set up in 2004. FORUM consists of twelve unions, the largest of which is the MUT with 8,800 members. On the employer side, the main organisation is the Malta Employers Association (MEA). The MEA, set up in 1965 after a merger, is the national voice for employer interests and provides expert advice in support of employer bargaining and policy development. There is also a Malta Chamber of Commerce, Enterprise and Industry, set up as early as 1848, to promote the interests of the commercial classes and small-to-micro enterprises, which dominate the local economy. Collective agreements in Malta are concluded at enterprise level, so, unlike unions, employers' associations play a marginal role during collective bargaining; they tend to be consulted if and when required and do not sign collective agreements.

Employee relations in Malta are conducted within the general framework set by the Employment and Industrial Relations Act (EIRA; Laws of Malta 2002), which is complemented by other regulations, including several orders regulating wages. The legislation, which was developed through lengthy consultations with the social partners, has been accredited with helping to maintain industrial peace in the country. Among other things, EIRA (2002) restricts collective bargaining to places of work at which workers are unionised, thus affecting the industries covered by collective agreements. In recent years, there have been calls, especially from the MEA, for an overhaul and streamlining of EIRA. The Recognition of Trade Unions Regulations (2016) state that a union shall have the right to request recognition from the employer as the sole collective bargaining union when it has more than 50 per cent of the employees concerned as its members. The regulations also state that 'once a union is recognised as the sole collective bargaining union, no other union may intervene on a collective matter relating to the employees concerned with the employer, and conversely, no employer shall discuss collective matters relating to the employees concerned with a union other than the recognised union' (Laws of Malta 2016: 2). Furthermore, Malta has a wage-indexation system that plays an important role in foregrounding the country's industrial relations and collective bargaining. The National Agreement on Industrial Relations (1990) established a mechanism based on the inflation rate that determines the annual mandatory COLA which is given to all employees, including minimum wage earners. COLA is based on the inflation rate over the previous twelve months, as calculated by the Retail Price Index (RPI), which is a measure of inflation based on monthly changes in the cost of purchasing a constant representative basket of consumer goods and services. 'The basket of consumption items considered for the RPI is reviewed periodically, in line with the Household Budgetary Survey (HBS)' (National Statistics Office, NSO 2018: 6). COLA is taken into consideration during collective bargaining. Before this agreement was concluded, industrial relations in Malta suffered from considerable instability brought about by the then government practice of mandating annual discretionary cost of living grants during the Budget Speech over and above the increases stipulated by collective agreements (Ministry for Finance 2013).

Extent of bargaining

This section assesses and explains the level and development of collective bargaining coverage and its sectoral diversity. According to the data in Appendix A1.A, bargaining coverage stands at around 63 per cent in Malta, but the figure has been claimed to be lower, at 55.8 per cent (Debono 2015) and might even be below 50 per cent (Baldacchino and Gatt 2009). These substantial statistical differences are partly attributable to data collection methodologies, but might also be indicative of unreliable data. While these data issues are one part of the explanation, the decline in union density is also important. Again, while in 2012 union density was 52.9 per cent, according to the data in Appendix A1.H, a national stratified survey of attitudes to unions suggests that union density currently stands at a considerably lower level, for example, at 33.8 per cent in 2014 (Debono 2015). Thus, in line with the general trend across the EU, union density in Malta has been on the decline in recent years. This in turn explains the decline of bargaining coverage (Baldacchino and Gatt 2009), which contrasts with the data in Appendix A1.H. Collective agreements are legally binding on all the employees they cover, even those who are not union members, if such agreements do not provide conditions below the minimum national standards stipulated in EIRA. There is no legal procedure for extending collective agreements to companies that were not signatories of the original agreement. Such a practice has never been adopted in Malta and would be considered negatively by both unions and employers for the same reason that collective bargaining is normally carried out at enterprise rather than industry-wide or cross-industry level: it would eliminate the current flexibility that social partners have in adapting working conditions and benefits according to the circumstances and needs of the specific company.

The EIRA (2002) restricts collective bargaining to unionised workplaces. Put differently, the extent of bargaining is driven by trade union organisation, presence and ability to mobilise at workplaces. At the same time, one might argue that the private-sector workers who might need union protection most are not likely to be union members. Those on fixed-term contracts, casual employees, including many young people and women, foreigners, and many who are notionally self-employed but depend on one contractor are largely non-unionised, some fearing that union membership may jeopardise their current or future employment. Furthermore, the younger generation, generally comprising well-educated workers, are driven by more individualistic notions of advancement and negotiation. They believe in merit-based progression and do not wish to have anyone allegedly push their interests on their behalf; nor do they wish to find their conditions of employment collapsed within larger, general categories as may often result from union involvement (Baldacchino *et al.* 2003). These cohorts are matched by strategic human resource management cadres that implicitly or explicitly dissuade workers from opting for union membership as a solution to their work-based concerns.

The fact that collective bargaining coverage is still higher than union density must be attributed to the high coverage level in the public sector. By default, both Maltese general unions, the GWU and the UHM, wield considerable power in the public sector, in which around 98 per cent of employees are covered by collective bargaining (Greenland 2011).

Table 20.3 Collective agreements in the private sector (2008)

NACE Code	Economic activity (by industry)	Collective agreements	
		Number of firms	Percentage of employees covered
01	Agriculture, hunting and related services	0	0.0
05	Fishing, fish farming and related services	0	0.0
10–14	Mining and quarrying	1	4.1
15–37	Manufacturing	61	47.1
40–41	Electricity, gas and water supply	0	0.0
45	Construction	3	7.1
50–52	Wholesale and retail trade, repair of motor vehicles and motorcycles, personal and household goods	16	4.2
55	Food and accommodation	15	15.6
60–64	Transport, storage and communications	12	44.4
65–67	Finance and insurance intermediation	9	66.1
70–74	Real estate, renting and business activities	13	13.5
80	Education	10	58.1
85	Human health and social work	8	12.6
90–93	Other community, social and personal services	13	15.3
	Total	161	26.7

Source: Baldacchino and Gatt (2009).

The largest collective agreement in this sector is the agreement for employees in the public service, which affects some 30,000 workers. While previous agreements were five years in duration, the latest public sector collective agreement, signed in April 2017, covers a period of eight years (Government of Malta 2017). When collective agreements are not renewed, they remain valid; unions normally start negotiations with the employer on a new collective agreement either before or after the expiry of the existing one. There is no law enforcing the retroactivity of agreements signed after the expiry of previous ones, but employers sometimes concede this mechanism.

The fact that collective bargaining is restricted to unionised workplaces explains the strong differences in bargaining coverage across industries. Table 20.3 provides a snapshot of the respective penetration of unions in the Malta private sector by NACE economic category in 2008, as measured by the securing of collective agreements. In total, including the public sector, there are around 200 collective agreements, with those in the private sector concentrated mainly in the few dozen or so manufacturing firms that employ more than 100 employees, along with traditional service sectors, such as retail banking, some large hotels and formal education. There are no collective agreements in the primary sector, which is characterised by self-employed persons and family-owned micro-enterprises. For the same reason, hardly any wholesale and retail employees are covered by collective agreements. Manufacturing has traditionally been strongly covered by collective agreements, as are the predominantly white-collar

industries of education and finance and insurance. The latter consists of a few large banks that are covered by collective agreements and an increasing number of small organisations not covered by collective agreements. Collective bargaining coverage is generally correlated to organisational size, with workers in larger organisations being much more likely to be unionised than those in smaller organisations. Collective agreements in the private sector usually remain in force for three years, though some have a longer duration. For example, the recent agreements signed in banking with the Bank of Valletta (2015) and HSBC (Malta) (2016a, 2016b) cover a five-year period. Just over a quarter of the full-time private sector labour force (26.7 per cent) benefited from collective agreement coverage in 2008, down from a coverage of 32.9 per cent for the same category of workers in 1995 (Baldacchino and Gatt 2009).

Security of bargaining

No legal or institutional support is given by either the employers or the state towards union efforts to recruit or retain members. Legislation has traditionally been silent on union recognition. Still, the collective bargaining process is assisted, or indirectly secured, by collective agreements that regulate union membership fees. Indeed, collective agreements normally specify that the employer shall deduct the membership fees of union members from salaries, on written instructions from the employees concerned. This 'check off' system ensures that unions receive their monthly fees regularly. Some workers prefer to pay union dues directly, however, thus preventing their employer from knowing whether they are unionised and, if so, with which union. Thus the unions' strength is derived primarily from their organisational power and influence, based on number of members. Indeed, the largest unions are also the strongest. They tend to be active not only at enterprise level, but also at national level. Smaller unions rely on other considerations to achieve strength in bargaining, such as their members' specialisation and their ability to focus on specific workplaces or small groups of employees: unions with more highly qualified members tend to have greater bargaining power, albeit in restricted areas of the economy. The ability to carry out industrial action, which has traditionally been a major source of union strength, is safeguarded by law. Strike legislation is fairly lax. Unions and employers' associations are bound by law to give notice by declaring a 'trade dispute' in advance of strike action or lockouts. The Director of the Department of Industrial and Employment Relations (DIER) is legally empowered to investigate trade disputes, even before they are registered.

In practice, collective bargaining in Malta is currently characterised by a huge contrast between the private and public sectors. In the former, other than in a few medium-sized factories, four banks, church-run schools and hotels, union membership is barely strong enough for any union to reach the critical '50 per cent + 1' threshold and thus claim representative rights, which would then lead to collective bargaining, as stipulated by law (Baldacchino 1996; Baldacchino and Gatt 2009). Having said that, while in general unions need to have the majority of employees as their members in order to be able to negotiate on their behalf, in other situations, particularly in German-owned firms, unions have been invited by enterprise management to negotiate for the purpose of collective bargaining, even when no single union has been able to claim to represent

50 per cent or more of the workers that would be covered by collective bargaining. The MEA has urged the adoption of statutory measures on union recognition. Some of the most common industrial relations disputes do not involve disagreements with the employer but constitute ‘turf wars’ between different unions competing for recognition as legitimate bargaining agents. Discussions between government and the social partners led to the enactment of the Recognition of Trade Unions Regulations (2016), which are supposed to reduce inter-union recognition disputes by providing a clearer definition of union membership and guidelines for the arbitration of such disputes. These regulations also increase the security of the collective bargaining process by stating that, once a union has been recognised as the sole collective bargaining union, no other union may discuss collective matters with the employer and conversely, no employer shall discuss such collective matters with another union.

Finally, while legal support for bargaining in Malta is limited, successive governments have strengthened social dialogue by such mechanisms as establishing institutions for tripartite consultation and exchange. Thus, the constitution does recognise the role of unions as social partners, and significant developments have occurred in promoting unions, along with employers’ associations and civil society representatives, in national social partnership institutions, particularly in the recent context of Europeanisation. Foremost among these is the Malta Council for Economic and Social Development (MCESD), a national advisory body set up in its present form in 2001, in which the major unions and employers’ associations are represented. Such institutions play an important role at policy level and may influence employee relations at the workplace through the enactment of laws and the implementation of new government measures. The most significant of these in recent years has been an agreement in 2017 on the provision of real increases to the national minimum wage, the first such increase over and above a cost of living adjustment in 27 years (Times of Malta 2017). The unions’ role at policy level does not necessarily translate into strength at workplace level, however. Indeed, workers join unions if they believe that unions can help them directly at their places of work (Debono 2015), rather than based on the perceived relevance of unions at national or industrial level.

Level of bargaining

Collective bargaining in the private sector occurs at highly decentralised enterprise level. This system has traditionally been preferred by unions and employers over industrial or cross-industry agreements as it provides the opportunity to consider each firm’s specific needs: ‘Enterprise based bargaining is seen as introducing a level of flexibility to wage policy by allowing enterprises which can afford to pay higher wages and to offer better conditions than some others, to be able to do so’ (Zammit *et al.* 2015: 243). This preference for enterprise-level bargaining in the private sector has remained virtually unchanged over the years, apart from one known instance of an industrial agreement involving car importers (Debono and Farrugia 2008). Employers’ associations only give advice, such as legal support, if so requested by individual employers. Collective bargaining is thus a rather local affair, with a union proceeding with negotiations, supported by a ‘committee’ of workers from the company at which the negotiations are

taking place. In the case of large unions, there are attempts at benchmarking conditions of employment across different employers and industries. Thus, as the two general unions, GWU and UHM, sign more than 90 per cent of all agreements, their pressure for extensions and precedents, from one catchment group or industry to another, leads to both 'pattern bargaining' and 'bargaining coordination' across industries, with the understanding that bargaining still takes place at the enterprise level. In the case of other, smaller unions, no such coordination exists.

The main existing exception to decentralised bargaining at company level is the collective agreement for employees in the public service (for example, Government of Malta 2012), which covers many organisations and occupational groups. The last agreement, covering the years 2017–2024 was signed by government representatives and seven unions. Complementing this agreement, there are industry-wide agreements focusing 'mostly on career progression and entry requirements and other specific conditions, in a particular class' of workers (Government of Malta 2012: 5). Among the latter agreements, there is an industrial agreement for teaching grades in the public service that was last signed in 2017. The MUT is the main union carrying out collective bargaining in teaching grades in the public sector, church schools and independent schools. The union also signs minor collective agreements with other related occupations, such as 'student services grades' in the public sector's educational division, and memorandums of understanding on various aspects of working conditions, which complement collective agreements. In general, in the public sector, the union bargaining strategy often involves identifying exceptions to the general rule, such as introducing allowances on an ad hoc basis, which eventually start being negotiated as mainstream. Alternatively, unions are always on the lookout to see whether similar professional or trade groups have secured 'concessions', which can then be lobbied for across wider segments of the labour force.

Depth of bargaining

We now turn to trade union bargaining processes, including the possibility of industrial action. Due to the small size of most unions in Malta, claims are normally formulated centrally, by the top union officials, or the officials in charge of specific sections and their teams in the case of the two general unions. Before starting negotiations, unions review the existing agreement in order to improve it and update it in accordance with any relevant legislative changes. Unions formulate their claims after taking into consideration feedback from their shop stewards, sometimes known as 'delegates', and ordinary members, who are informed before negotiations begin. For example, in the metal industry it is customary for the GWU to issue an announcement on the organisation's notice board to ask for proposals before the start of negotiations. When formulating their claims, unions also consider the particular financial situation of the organisation. For example, unions increased their compensation demands for the new public service collective agreement in response to Malta's positive economic growth. In the case of the industrial agreement for teaching grades in the public service, the MUT's proposals are approved by the Union's Council, which gathers representatives of the various industries. After discussing the document with government, the latter would issue counterproposals.

Negotiations, which are usually initiated by unions, tend to start early if the latter feel that they are going to be difficult or complex, for example when they involve more than one union, such as the collective agreement of public service employees, or when it is deemed that the employer will not concede easily to union demands. By contrast, when unions feel that it would be easy to renew a collective agreement, negotiations may start later. The timing of the commencement of negotiations also depends on the unions' available resources and whether the employer accepts that the agreement will be retroactive. For example, the collective agreement for the support staff section of the Bank of Valletta signed in 2016 by the Bank of Valletta and the GWU was retroactive, backdated to January 2014 (Malta Independent 2016a). Sometimes, when employers do not concede retroactive agreements, they might employ delaying tactics to save money. Thus, unions would start negotiations even six months or more before the existing agreement expires. The industrial agreement signed between the MUT and the government regarding teaching grades is atypical as it does not have a termination date. Thus, negotiations start when the government or MUT feel the need for changes or improvements in the existing agreement. Sometimes the MUT asks the government to start negotiations in anticipation of major reforms that the latter plans to implement in the industry. The agreement in church schools is tied to the industrial agreement for teaching grades in the public service, due to a historical agreement between the Catholic Church and the government in 1993, which resulted in the wages of teachers in church schools being paid by the Maltese government. Thus, negotiations for church schools start when the industrial agreement has been signed.

Industrial action is becoming less common. This trend has probably been brought about by the growing realisation that confrontation often results in negative unintended consequences, and that dialogue is more productive in the long term. Having said that, industrial action may take place at any point before, during or after the collective bargaining process to address issues that a union deems of crucial importance. Unions tend not to compromise on safety and security aspects. As expected, the topic is given high importance in metal, but also in education. With regard to the latter, in 2015, all the teaching grades at a particular 'school were ordered by the union to report for work one hour late ... [on a specific day] because of continuous disruptions, threats and serious misbehaviour from individuals or groups of students' (Times of Malta 2015). This led to a conciliation meeting called by the Director of DIER, at which solutions were found to the problems. It is interesting to note that, while industrial action is uncommon, directives are issued regularly in education. These may focus on specific schools, industries or union members. Industrial action is normally taken by the top union officials after consultation with the members that are going to be affected. Unions in general are careful to tackle arising issues in ways that do not affect their members negatively, such as wage losses.

When negotiations are concluded, the final document must be approved by the Union's Council. In metal and banking, the final document has to be approved by the union members or their representatives. In education, when an agreement has been signed, the MUT normally presents the major changes to its delegates. When delegates point out dubious practices – which often stem from misunderstandings on the part of management or employees – that might hinder the agreement, the MUT sorts them out

with management. The MUT also intends to introduce a procedure for its industry-wide agreements giving member representatives the right to vote on the final version of the agreement (one representative for every ten members). If members do not accept the agreement, negotiations with the employer must start again. This practice is viewed negatively by employers who consider it ‘very destabilizing as management can never be certain that the negotiations have been closed’ (Malta Employers’ Association 2015: 8–9). It has been reported that ‘in some cases, management will hold back on conceding points in the collective agreement out of fear that the union will invariably come back with fresh claims even after negotiations have been supposedly finalised’ (Malta Employers’ Association 2015: 9). Unions agree that they need to educate their members to understand the outcome of collective bargaining as a whole package, meaning that if they obtain substantial concessions in one area of the negotiations, this might come at the cost of not receiving concessions in another area. As collective bargaining in Malta takes place mainly at enterprise level, employers’ associations do not play a direct role and are not signatories of collective agreements, although they assist their members when requested.

Degree of control of collective agreements

Collective agreements strongly influence work practices by stipulating the main working conditions and human resource practices.² Collective agreements are not able to determine working conditions across the board, however; market power and certain gaps also come into it. The EIRA leaves considerable discretion to collective agreements to set out terms and conditions of employment. Collective agreements in Malta tend to govern all the normal aspects of employee relations in the private sector. They have the strength of a contract at law; the moral authority of agreements is enhanced by the fact that they are agreed to by both employer and union(s) and are not imposed unilaterally. The reduction of unilateral actions by either party is an important aspect of the degree of control exerted by collective agreements. For example, during an impasse in the negotiations on the 2014–2018 collective agreement at HSBC Bank (Malta), the MUBE cited various alleged unilateral decisions by management as the main points of contention (*Malta Independent* 2016b).

Collective agreements also normally stipulate grievance, dispute or arbitration procedures when there is an alleged infringement of some substantive or procedural aspect. For example, when an employee receives a formal reprimand, there is a period of days in which the employee may give their reply. Employees also have the right to appear in front of a disciplinary board assisted by a trusted person, who may be a shop steward or another trade union official. According to the GWU, very often disciplinary issues in metal are resolved at that stage because of the generally good relations with management. If there is a disagreement, the general manager is sometimes involved. Then, if the issue is still not sorted out, the employee may take the

2. Collective agreements are often written in English. Sometimes there are both English and Maltese versions. When there are issues regarding the interpretation of collective agreements, the English version normally takes precedence due to its greater precision.

case to the DIER Director, and eventually it may end up in front of an industrial tribunal or even a court.

Market power somewhat dents the abovementioned high degree of control of collective agreements. Wage drift, that is the difference between the wage actually paid and the negotiated wage stipulated in a collective agreement, is one phenomenon that regularly impinges on the stability and control offered by collective bargaining in the private sector. For example, Eurostat (2017) indicates that workers in Malta perform more overtime than other EU workers. Apart from the ongoing pressure on the control of collective agreements in prosperous times derived from phenomena such as wage drift, there also exist inverse market pressures in times of economic downturn that reduce the control of collective agreements. For example, Article 42 of EIRA provides that, in exceptional cases, the employer, in agreement with the employees and union representatives, may impose different conditions of employment as a temporary measure to avoid redundancies. In 2009, during the global economic recession, 148 organisations made use of this clause, while in 2015, when the economic climate was much better, only four did so (private correspondence with DIER).

Most working conditions of teachers in the public sector are covered in their industrial agreement. If there are discrepancies between the general and the industrial agreements, the clauses most beneficial to the employees prevail. The public service is also governed by a Public Service Management Code (PSMC), however, which prescribes various conditions of employment to apply to public servants and complements public sector collective agreements. The PSMC contains, among other things, regulations detailing family-friendly measures and the different types of leave. The PSMC also includes detailed procedures on such things as grievances in the public service. In the teachers' agreement there are specific grievances relating to the industry, for example how to deal with a school head who does not follow the proper procedures. The collective agreement of church schools is more detailed than the industrial agreement for public schools because the former are not governed by the PSMC. For example, family-friendly measures are spelled out in the collective agreements of church schools. The conditions of work in public and church schools are very similar. Collective agreements in independent schools are patterned on the church school agreements, although their scope, such as the availability of promotions, tends to be more limited, especially because of private ownership and the smaller size of the organisations concerned.

Lack of detail within the national industrial relations legal framework, along with a low degree of control exercised by collective agreements over union recognition, has over the years resulted in considerable conflict between unions. Such disputes have been rare in compulsory education and metal because of the dominance of the MUT and the GWU in these industries. On the other hand, recently there was a high-profile dispute between the GWU and the MUBE in banking. In 1994, the GWU lost the right to represent employees at one of the largest banks in Malta, the Bank of Valletta, to the MUBE. In 2014, however, the GWU claimed that it had regained the majority of clerical and management staff as its members (Rizzo 2014). This claim was contested by the MUBE before the DIER Director and the industrial tribunal. Verification of union membership, however, led the GWU to acquire sole recognition of clerical and management staff.

As often happens in such cases, the matter was brought into the public domain as the unions berated each other on mass and social media (Vella 2013). The coming into force of the Recognition of Trade Union Regulations (Laws of Malta 2016), as referred to above, has clarified the procedures involved in trade union recognition, thus reducing the potential for conflict between unions.

Scope of agreements

Collective agreements are based on a model agreement developed in 1967 by the GWU and the MEA as a way of creating harmony in their operations (Greenland 2011). Contemporary agreements retain the standard operating structure and elements of the model agreement. In line with the basic template, these agreements establish the framework within which the agreement is signed.

Collective agreements normally include substantive provisions setting the terms and conditions for individual workers. The wage structure and wage scales are traditionally the most important topic of collective bargaining; monetary issues have remained a top priority in collective agreements, irrespective of external economic and political changes. Details of bonuses, allowances and grants are also found in collective agreements. Working time is another topic normally included. While agreements may or may not include COLA, those that do not end up being more expensive for employers; whatever they agree on specific annual wage increases, they eventually have to factor in the annual COLA increases. During the global recession, the MEA was among the employers' associations that highlighted the destabilising effect of the COLA mechanism on the private sector (Malta Employers' Association 2009). In recent years, however, there has hardly been any public debate about COLA, probably because the Maltese economy is growing rapidly. The Maltese government has resisted EU recommendations to reform the wage indexation system, arguing that it has a net positive effect on competitiveness (Ministry for Finance 2013). Faced with ever increasing public sector expenditure, in order to curb wage increases the government, through its Industrial Relations Unit (IRU), has started to include clauses in public sector collective agreements stating that salary increases shall be inclusive of COLA for the period covered by the agreement.

Collective agreements in the private sector normally include provisions on the types and quantity of leave, seniority and retirement age. Performance-based management systems linking financial rewards to employees' individual performance and the organisation's financial results have existed for many years in collective agreements in banking. In a bid not only to attract but also to retain employees, private employers are increasingly focusing on more innovative packages that enhance their employees' commitment. Thus, medical benefits, including health insurance, health and safety provisions, physical fitness and childcare facilities or assistance are increasingly finding their way into collective agreements in the private sector.

Other substantive provisions may be included, depending on the nature of the organisation. For example, collective agreements at banking institutions sometimes include sections on financial facilities for employees, including housing loan subsidies

and profit-sharing schemes. Provisions on long-service bonuses and early retirement schemes also exist in collective agreements in banking, reflecting the need to retain experienced workers, but also to shed excessive staff and make banking organisations leaner. As hinted earlier, health and safety issues are given importance in the relatively dangerous metal industry. Due to the large size of the public sector and emerging needs in different departments, the collective agreement includes the working practice of ‘structured mobility’, which offers ‘the employees the opportunity of exposure, experience and sustainable development which at the same time addresses the various work exigencies and work practices of the different departments’ (Government of Malta 2012: 14). The teachers’ agreement in the public sector includes all aspects of working conditions of the grades represented by the MUT, such as job descriptions, allowances (but not salaries, which are covered by the main public sector agreement), teaching loads, number of students per class and special duties.

It is unusual for unions to ask for changes in work conditions or organisational procedures while collective agreements are still in force. Nevertheless, over the years, the MUT has signed various memorandums of understanding, outside the main collective agreements, that affect teachers’ working conditions at the various grades.

The topics covered by most clauses in collective agreements in the private sector have not changed much over the years because they deal with basic procedural aspects that have retained their relevance across time. These include: absence from work, discipline, grievances, dispute procedures and industrial action, recruitment, promotions, demotions, redundancies and reemployment following redundancies. As stated earlier, collective agreements in the public service do not include details of procedures that are covered in the PSMC.

Contemporary collective agreements have increased their focus on issues related to the context of work, such as gender equality and work–life balance. Joining the EU has boosted the general public’s awareness of the importance of such issues. It is interesting to note that while most workers in metal are men, collective agreements focus on such aspects nevertheless. While family-friendly measures in the public service have, over the years, remained better than those in the private sector, they are governed by the PSMC rather than by collective agreements. Banking also tends to have good family-friendly measures. For example, flexible working arrangements, career breaks and medical health checks were introduced in the collective agreement signed between the MUBE and the Bank of Valletta covering the period 2011–2013.

Certain elements in collective agreements have been developed to accommodate the specific needs of some industries. Thus, in view of the higher accident rates, some collective agreements in metal entitle employees to much longer periods of sick leave in cases of serious illness, work-related injuries and hospitalisation than those envisaged nationally in law.

While collective agreements in both the public and private sectors increasingly include clauses regulating training, the topic was particularly developed in the collective agreement for employees in the public service (2011–2016), which also affected teachers

(Government of Malta 2012: 19). All the clauses on training were removed from the last collective agreement, covering 2017–2024, as detailed information can be found in the PSMC. Three important factors appear to have contributed to the high emphasis on training in the public sector. First, the government wants to be a model employer in order to boost training levels, which are lower than the EU average. Second, the government is aware of the tight labour market situation and would like to retain its employees; training and professional development opportunities have a positive effect on morale and career progression and therefore retention. Third and finally, unions in the public sector are traditionally more assertive in their collective bargaining demands than those in the private sector, mainly because there is no fear that high demands may backfire and result in redundancies.

Conclusions

This chapter has highlighted several trends in industrial relations and collective bargaining in Malta. There has been a gradual departure from the British-style antagonism between trade unions and employers and the resulting confrontational bargaining. The change in style is apparent from the downward trend in the number and intensity of strikes and the greater propensity for unions to discuss with employers, both at company level and at a national tripartite level. Unions are trying to adapt to a changing landscape in which employment is more volatile and confrontation can quickly lead to unintended negative consequences for both the organisation and its employees. The influence of ‘Europe’, aligned with local initiatives towards social dialogue at the macro-level, has also generally improved employment relations in Maltese workplaces.

Collective bargaining has steadily improved the working conditions of a large proportion of workers, while maintaining a stable industrial relations climate in which companies have generally maintained their competitiveness. A dual landscape in collective bargaining between the private and public sectors has, however, evolved over recent decades. On one hand, virtually all public sector workers are covered by collective agreements, and most public sector management is engaged in regular discussions, consultations and negotiations with unions. On the other hand, the private sector is increasingly struggling to maintain an industrial relations climate in which unions are seen as natural players. Indeed, unions have to date been unable to stop the declining coverage of collective bargaining in the private sector. They have remained virtually absent from traditionally non-unionised industries, such as construction, retail, agriculture and fishing. Their manufacturing strongholds are destined to continue shedding workers. Furthermore, the unions have been unable to infiltrate emerging industries such as financial services and electronic gaming, in which the proportion of foreign workers is significant. With over 40,000 foreign workers in Malta reported in 2018 (one-fifth of the labour supply) the scope of collective bargaining is under strain (Micallef 2018).

Because of these and other factors, collective bargaining coverage is likely to continue to shrink and the unions’ role at enterprise level will diminish if they do not manage to find innovative ways of reversing the trend. Unions need to become more open and proactive

towards non-traditional members, including foreigners and young people, while seeking a presence in emerging hi-tech service industries, such as artificial intelligence and distributed ledger (blockchain) technologies. Unions also need to collaborate better with each other, reducing inter-union conflict and building trust, to overcome capacity barriers and confront common challenges jointly and effectively.

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All links were checked on 20 September 2018.

Abbreviations

AAE	Association of Airline Engineers (Malta)
ALPA	Airline Pilots Association
BOV	Bank of Valletta
CMTU	Confederation of Malta Trade Unions
COLA	Cost of living allowance
DIER	Department of Industrial and Employment Relations
EIRA	Employment and Industrial Relations Act
EPOU	Enemalta Professional Officers Union
EU	European Union
GWU	General Workers Union
HSBC	Hongkong and Shanghai Banking Corporation
IGWU	Imperial Government Workers Union
IRU	Industrial Relations Unit
LRU	Lotto Receivers Union
MAM	Medical Association of Malta
MATCA	Malta Air Traffic Controllers Association
MCESD	Malta Council for Economic and Social Development
MCP	Kamra tal-Ispizjara (Malta Chamber of Pharmacists)
MDU	Malta Dockers Union
MEA	Malta Employers Association
MLP	Malta Labour Party
MPA	Malta Psychological Association
MTEU	Malta Transport Employees Union
MUBE	Malta Union of Bank Employees
MUMN	Malta Union of Midwives and Nurses
MUPP	Malta Union of Professional Psychologists
MUT	Malta Union of Teachers
MUTG	Malta Union of Tourist Guides
NACE	Nomenclature Statistique des Activités Économiques dans la Communauté Européenne (Statistical Classification of Economic Activities in the European Community)
NP	Nationalist Party
NSO	National Statistics Office
PL	Partit Laburista (Labour Party)
PSEU	Professionals and Services Employees Union
PSMC	Public Service Management Code
TEFL	Teaching English as a Foreign Language

UCC	Union of Cabin Crew
UHBC	Union Haddiema Bank Ċentrali (Central Bank of Malta Employees Union)
UHM	Union Haddiema Magħqudin (Union of United Workers)
UMASA	University of Malta Academic Staff Association
UPAP	Union Professionisti tal-Awtorita Maltija dwar l-Ambjent u l-Ippjanar (Union for Professionals of Malta's Authority for the Environment and Planning)
UPISP	Union Periti u Inġiniera tas-Servizz Pubbliku (Union for Public Sector Architects and Civil Engineers)
UTAC	Technical and Clerical Staff Union of Malta Planning and Environment Authority
UTT	Union of TEFL (Teachers of English as a Foreign Language) Teachers