

Strengthening Involvement

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National Legislation on Information and consultation in Malta

Country Report

UHM Voice of the Workers

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The **European Directive 2002/14/EC** establishes a general legal framework for informing and consulting employees, making it a requirement for employers to inform and consult employees and the workers' representatives in three specific areas:

- the recent and probable development of the undertaking's;
- the situation, structure and probable development of employment;
- decisions likely to lead to substantial changes in work organisation or in contractual relations.

The Directive was transposed into Maltese law through Legal Notice 10 of 2006. The provisions of the directive apply only to undertakings with 50 workers or more, excluding those falling under the Merchant Shipping Act.

The Legal Notice specifies:

- The general duties for the employers
- The minimum standards for the provision of information and consultation
- The rights and obligations for the workers' representatives

The Legal Notice establishes that employees can defer disputes related to this regulation to the Industrial Tribunal.

The **OSH Framework Directive 89/391/EEC** is the main [Legislation](#) for worker information and consultation on OSH on a European level and it was transposed into Malta when the Act for the Promotion of Occupational Health and Safety was repealed and replaced with an updated Act XXVII of 2000, known as the Occupational Health and Authority Act.

The OHSA system is strongly based on the concept of tripartite social dialogue.

Cross-industry level

In Malta there are three main tripartite consultative bodies formed from by the Employment and Industrial Relations Act

1. the Employment Relations Board
2. the Malta Council for Economic and Social Development
3. the Occupational Health and Safety Authority

1. Employment Relations Board

The Employment Relations Board (ERB) serves as a consultative tripartite group to the government on various labour legislation issues such as issues relating to employment at both the national and sectoral level. These include wage payments, overtime, holidays, and work hours.

it is composed of 12 members and regulates its own procedure and it comprises of a separate independent Chairperson. The Government appoints four representatives, namely the Deputy Chairperson and three other members are appointed by the government. Four representatives are worker representatives and the remaining four representatives represent the employers.

2. Malta Council for Economic and Social Development

The MCESD (Malta Council for Economic and Social Development) consults and advises the government on sustainable economic and social development pertaining to Malta. It also provides a forum for social dialogue and consultation between social partners and appropriate civil society organisations. It was established in 1988 but was only given legal status through ACT XV (Chapter 431) of the Employment and Industrial Relations Act 2001.

The Council currently comprises of 20 members, headed by a Chairperson appointed by the Prime Minister in consultation with employer and union representatives on the Council. The Deputy Chairperson is the Principal Permanent Secretary of the Civil Service. Four government ministries have their Permanent Secretaries represented on the Council. Employers are represented by the Presidents of the five main employer organisations. The remainder are representatives of the various Maltese trade unions.

The Council serves as a tool for analysis and where appropriate, a catalyst for change. It focuses on issues pertaining to economic and social relevance by bringing together the Government, Employers and Workers to ensure that the interests of all parties are represented. Topics discussed by the Council are put forward by Social Partners, and, therefore, consist of contemporary workplace issues. At the same time, the Government through its representatives puts forward discussions that form the basis of national policy.

3. Occupational Health and Safety Authority

The Occupational Health and Safety Authority (OHSA) seeks to ensure that OSHA Act XX vii (2002), which sets out the health and safety protection standards, is being adhered to.

The OHSA is made up of nine members headed by a Chief Executive. Five are government officials, while two represent the employer's interests and a further two the interest of workers. They are supported by an executive comprising a further 25 members.

OHSA functions include: establishing consultative strategies on national policies regarding occupational health and safety; advising the government on occupational health and safety on related regulations; promote the dissemination of information and best practice relating to occupational health and safety; and

carry out investigations on accidents or matters relating to occupational health and safety [OHSa Malta].

OHSa's work is grouped according to five major areas:

- construction, quarrying and mineral extraction;
- machinery, equipment, plant and installation including Control of Major Accidents Hazards (COMAH);
- chemical and biological agents;
- radiation protection;
- general and accident investigation.

During the process of accession to the European Union , between 1999 and 2003, the Maltese Government set up the Malta EU Steering and Action Committee (MEUSAC) to serve as a focal point which gave the civil society and the social partners an opportunity to mould Malta's position in various aspects of the acquis.

MEUSAC was reactivated in 2008 and the Maltese Government identified three main functions: information on EU affairs, consultation and support to funding.

MEUSAC steers a structured consultation process primarily through its core group, sectoral committees and open consultation. MEUSAC engages senior government officials, representatives of National and European Parliaments and EU Advisory bodies, the constituted bodies, civil society and other stakeholders.

On May 30, MEUSAC was set up as an Agency in terms of the Public Administration Act (LN 154/2017).

It is important to mention MEUSAC, because it is an active forum with extensive and effective consultation powers whereby trade unions play an active role, along with other stakeholders, in defining the Maltese position vis-à-vis new directives or policies being discussed at EU level. It is an effective way for unions to make the workers' voice heard on matters that will have direct effect on the working relationships.

Recommendations

- Trade unionists have to be better informed about their rights to information and consultation
- Case studies depicting positive and negative results of information and consultation are very useful
- International meetings and workshops allowing the free exchange of views and experiences can play a very positive role in generating ideas how one may face common problems.