



# The EU Mutual Learning Programme in Gender Equality

## Preventing sexual harassment

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Comments paper – Malta



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# Prevention of Sexual Harassment in Malta

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## Abstract

There is a relatively strong legal framework dealing with Sexual Harassment (SH) after the fact, i.e. after the harassment happened, but very few cases are reported to the authorities. Schools and educational institutions do have a vehicle where Sexual Harassment prevention could be taught to the pupils, but these are utilised in a very limited manner. Although there are at least two state institutions that are tasked with dealing with SH (among other gender-based violence cases and discrimination) there is no concentrated plan of action in preventing SH. Most of the ground work on SH prevention, be it in streets, places of work or schools are done by NGOs on project basis, sometimes in cooperation with state institutions.

## Introduction

There is no question that Sexual Harassment (SH) is a serious problem in Malta, with little concentrated and comprehensive plan of action to prevent it. In this paper, I will provide a brief analysis of the current legal framework dealing with SH, with reference to educational policies/curriculum tackling SH prevention and finally give an overview of how that translates on what is happening “on the ground”.

## 1. Legal Framework

Sexual Harassment is a crime in Malta and it is covered by means of articles (249 to 251 including a number of sub-articles) of the Criminal Code (chapter 9)<sup>1</sup> that can tantamount to a six months prison term and/or a fine of up to ten thousand euros. Many of these articles and sub articles went through changes between 2014 and 2019 whilst the country was implementing the Istanbul Convention. It is beyond the scope of this paper to go through these articles in greater detail, but it is fair to say that SH as a criminal act and it is reasonably dealt with at law and cases of SH can be reported directly to the police that are bound to investigate and prosecute.

Sexual harassment at the place of work is covered in the chapter 452 of the Laws of Malta, Employment and industrial Relations act.<sup>2</sup> Again, the articles are fairly

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<sup>1</sup> <https://justice.gov.mt/en/pcac/Documents/Criminal%20code.pdf>

<sup>2</sup> <https://legislation.mt/eli/cap/452/eng/pdf>

comprehensive and if found guilty, the perpetrator can be fined up to ten thousand Euros and/or up to six months in prison (or both). The victim also have the option to take their case to the Industrial Tribunal, however this needs to be done within four months of when the incident took place.

Maltese law also establishes two institutions that tackle SH, notably the Commission for Domestic Violence and Gender Based Violence (CDGBV) and the National Commission for Promotion of Equality (NCPE).

Both institutions run occasional awareness campaigns on various issues related to equality and gender based violence, including SH. Cases of SH can also be reported to NCPE, who has a power to investigate such cases, although this rarely happens. Worth noting that in 2021 only one case of sexual harassment was reported directly to NCPE.<sup>3</sup> Also, both institutions, but specially CDGBV try to involve NGOs in their activities and have done so in a number of projects on Gender based violence.

Similarly, the number reported to the police is rather small and the date is not made publicly available. The police releases all crimes of sexual nature divided into six categories and sexual harassment is not one of them.<sup>4</sup>

## 2. Education

Personal, social and carrier development (PSCD) classes are the vehicle used by Maltese schools to realise curriculum on a wide range of topics, from substance abuse, personal relationships, sex and growing up and so on. There is an overlap between the topics and issues, so, for instance, sexual abuse could be part of lessons tackling bullying, but could also be part of lessons on sexual health, love and other possible topics.

Sexual harassment is bundled with bullying, i.e. it is tackled not as a separate topic. This can be seen through Managing Behaviour in Schools policy document, that deals with all kind of undesired behaviour in schools and where SH is not singled out.<sup>5</sup>

## 3. Situation on the ground

As mentioned before, most of the work on prevention of SH is done by NGOs and other institutions on project basis.

In 2017 two NGOs, Men Against Violence and Women's Rights foundation, conducted a survey as a part of the project on prevention of SH at the place of work. This survey found that three quarters of all respondents either experienced or witnessed SH at

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<sup>3</sup>[https://ncpe.gov.mt/en/Documents/Our\\_Publications\\_and\\_Resources/Annual\\_Reports/NCPE\\_Annual\\_Report\\_2021.pdf](https://ncpe.gov.mt/en/Documents/Our_Publications_and_Resources/Annual_Reports/NCPE_Annual_Report_2021.pdf) , p.34

<sup>4</sup> <https://lovinmalta.com/malta/sexual-offences-in-malta-heres-how-many-cases-were-reported-in-2021/>

<sup>5</sup><https://education.gov.mt/en/resources/Documents/Policy%20Documents/Managing%20Behaviour%20in%20Schools%20Policy.pdf>

place of work, with the vast majority of them being women<sup>6</sup>. It also found that roughly 90% of all respondents did not know how to deal with SH at work place or were not aware of the SH policies at their place of work.<sup>7</sup>

The second part of the project was offering/providing a no cost training to businesses and companies on prevention of SH at the place of work, however although it was widely advertised on social and printed media, it received little interest. Worth noting that it was unions that expressed most interest and readiness to organise training for their members.

More recently, the University of Malta, Department of Gender and Sexualities, participated in DAPHNE funded EU project dealing with sexual harassment in schools by employing a “bystander approach” as SH prevention tool. As part of the project, three classes in three different schools received a detailed training on employing this Bystander approach as a prevention technique. Three months after the project ended, two out of three schools run SH awareness projects on their own initiative.

In summer of 2020, inspired by the “metoo” movement, women members of the largest social media group dedicated to women’s issues, Women For Women Malta, experienced a wave of anonymous posts with women recalling their experiences of sexual abuse, sexual assault and SH.<sup>8</sup> This outpour of horrific stories received some media attention, but it did not result in any organised effort to affect policy changes.

## 4. Comparison to Denmark and Netherlands & conclusion

As can be seen from above, the efforts to prevent SH in Malta pale in comparison to the activities taking place in Denmark and Netherlands as described in their countries reports. Much of the behaviour that falls under definition of SH elsewhere has been normalised in Malta to such extent that it is considered by many, if not most, as part and parcel of life. Apart from the rare high-profile cases that reach the courts<sup>9</sup>, there is little discussion in the media (or elsewhere) about it, and even less concentrated and holistic effort to prevent SH in the country. Offences of sexual nature, inclusive of SH, remain a taboo in Malta, a country where 85% of the population would not report sexual offences.<sup>10</sup>

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<sup>6</sup> <https://timesofmalta.com/articles/view/75-per-cent-of-women-sexually-harassed-at-work.667751>

<sup>7</sup> <https://timesofmalta.com/articles/view/80-have-experienced-or-witnessed-sexual-harassment-at-work-in-malta.655319>

<sup>8</sup> <https://www.independent.com.mt/articles/2020-07-26/local-news/Metoomalta-Women-find-courage-to-speak-up-about-sexual-assault-in-Malta-6736225469>

<sup>9</sup> <https://timesofmalta.com/articles/view/transport-malta-official-clint-axisa-charged-with-sexual-harassment.937089>

<sup>10</sup> <https://timesofmalta.com/articles/view/85-of-maltese-unlikely-to-report-sexual-offenses.649066>

Sexual Harassment is only just a part of a wider problem of gender inequality deeply rooted in patriarchal cultural structures. Whilst these roots are common and the same for most and all societies, the way they present themselves in individual states are different and require a local intervention. The role of EU in prevention of SH directly lies in encouraging, supporting and financing cooperation between countries experts, state players and NGOs in exchanging experiences, ideas and good practices that can be then adjusted and adopted in members countries to fit their cultural and social settings.

One of the main aspects of it should be supporting and encouraging programmes that work directly with men and boys. Engaging men and boys into issues related to gender inequality, gender-based violence, sexual harassment and whole plethora of related issues, in a concentrated and holistic manner across EU, would, in a long run, make the world of difference.

From personal experience of what works in practice I only have two recommendations to make:

- a) The Bystanders approach is highly effective tool in preventing SH. In any situation where SH is happening, the victim is the person with the least power to do anything about it. Encouraging bystanders to recognise SH and to take action re-balances power in favour of the victim.
- b) Unions and employers associations can both see benefits of SH prevention at place of work. Including them in the process might aid the efforts in SH prevention.