**Malta Input - Report by the Independent Expert on the enjoyment of all human rights by older persons**

**3 March 2023**

The Permanent Mission of the Republic of Malta to the UN in Geneva would like to present the following input to the Report by the Independent Expert on the enjoyment of all human rights by older persons, pursuant to the latter’s request for input dated 13th January 2023.

**1. Legal, policy and institutional frameworks: Is there a non-discrimination law that prohibits discrimination based on age? Is there a legislation on violence against persons and/or domestic violence that includes violence, abuse and/or neglect of older persons? Does the law establish a specialised independent body receiving complaints of discrimination based on age? Is there a national plan, policy or strategy to address violence against older persons, that is overseen by a national mechanism to monitor and implement it? Please provide detailed information and relevant documents, if applicable.**

Maltese law includes the Equality for Men and Women Act which discriminates any form of ‘discrimination’ based on sex or because of family responsibilities, sexual orientation, age, religion or belief, racial or ethnic origin, or gender identity, gender expression or sex characteristics. At the same time, there is the Protection of Vulnerable Older Persons and Adult Persons with Disability which is under a ‘public consultation’ notice. This Act makes elder abuse illegal whereby ‘abuse’ means any offensive treatment whether physical, sexual, mental, emotional, psychological, material or any combination thereof, that causes or is reasonably likely to cause the victim severe physical or psychological harm or material loss to his estate, including acts or threats of physical or sexual violence, acts that violate sexual integrity, degrading or humiliating conduct, repeated insults, ridicule, name calling, emotional threats, invasion of privacy, limitation of liberty and economic abuse through deprivation of financial resources or disposal of assets and property. Yes, the law does establish specialised independent bodies receiving complaints of discrimination based on age. These bodies constitute The Commissioner for Older Persons and the National Commissioner for the Promotion of Equality. Elder abuse falls within the parameters of the *Maltese National Strategic Policy for Active Ageing* (https://mfaa.gov.mt/wp-content/uploads/2022/11/NSPActiveAgeing2023

-30.pdf) for the period 2023 - 2030 which lies under the auspices of the Ministry for Active Ageing which comments as follows:

[Elder abuse] remains relatively hidden compared to other policies on mistreatment such as domestic violence, hate speech and child abuse. While presently one finds better levels of awareness of elder abuse in Malta, until there is a dedicated convention on the human rights of older persons, the legal profession and public prosecutors must tap and rely on the various rights found principally in the United Nations’ *International Covenant on Civil and Political Rights* and *Convention on the Rights of Persons with Disabilities*. Judicial courts have a key and primary responsibility in not only recognising and responding to elder abuse but also in its prevention.

The 2023-2030 Strategy includes three recommendations as far as elder abuse is concerned – namely (i) obliging professionals who come into contact with older persons to report abuse suspicions they may have, without facing prosecution if the suspicion turns out to be ill-founded with training given to professionals shall include how to spot signs of abuse and how to report it, and (ii), implementing rigorous training programmes in all areas of ageing welfare to facilitate the effective identification and prevention of abuse and implement appropriate response via a centralised active ageing website that include a clear method of reporting and launching awareness campaigns targeting the general public.

**2. Manifestations of violence: what forms of violence, abuse and neglect are older persons facing? In which settings does it happen? Please provide detailed information.**

As is the case globally, and as references in the study titled  [*Violence on Older Women and Men*](https://ncpe.gov.mt/en/Documents/Projects_and_Specific_Initiatives/Forms%20of%20Violence/Report%20-%20Violence%20Elderly.pdf)*- A Qualitative Perspective*

(https://ncpe.gov.mt/en/Documents/Projects\_and\_Specific\_Initiatives/Forms%20of%20Violence/Report%20-%20Violence%20Elderly.pdf), the forms of violence, abuse and neglect that older persons in Malta occur in both the community and residential long-term care settings face and include

* Physical abuse: the infliction of pain or injury, physical coercion, or physical or drug induced restraint.
* Psychological or emotional abuse: the infliction of mental anguish.
* Financial or material abuse: the illegal or improper exploitation or use of funds or resources of the older person.
* Sexual abuse: non-consensual sexual contact of any kind with the older person.
* Neglect: the refusal or failure to fulfil a caregiving obligation. This may or may not involve a conscious and intentional attempt to inflict physical or emotional distress on the older person.

**3. Intersectionality: how does violence, abuse and neglect affect specific groups of older persons (e.g. older women, older LGTBI persons, older persons belonging to ethnic and indigenous groups, older refugees and internally displaced persons, older persons with disabilities, etc.) Please provide detailed information.**

As is the case globally, that interface between intersectionality and elder abuse follows the double jeopardy thesis, meaning that the risk of elder abuse increases with higher levels of vulnerability, especially if one resides in residential long-term care facilities. However, there are no studies that evidence intersectionality in elder abuse in Malta.

**4. Data: are data available at national and local level about violence, abuse and neglect of older persons? Are national surveys about violence including experiences of older persons? If available, please provide figures and data.**

There is sparse data available at national or local level about violence, abuse and neglect of older persons although a national qualitative study on elder abuse in Malta titled [*Violence on Older Women and Men*](https://ncpe.gov.mt/en/Documents/Projects_and_Specific_Initiatives/Forms%20of%20Violence/Report%20-%20Violence%20Elderly.pdf)*- A Qualitative Perspective -* https://ncpe.gov.mt/en/Documents/Projects\_and\_Specific\_Initiatives/Forms%20of%20Violence/Report%20-%20Violence%20Elderly.pdf). Welfare statistics on domestic violence report that in 2021 there were 134 cases (33 male and 101 females) of new & re-contact cases of domestic violence involving persons aged 60 years plus. Crime statistics reported 198 cases of victims of crime aged 60-plus of domestic violence, of which 113 were females and 85 were males, in the same year.

**5. Access to justice: how does the State fulfil its obligations to ensure older persons’ access justice, and to obtain remedies and reparations, when their human rights have been violated as a result of violence, abuse and neglect?**

The State fulfils its obligations to ensure older persons’ access justice, and to obtain remedies and reparations, when their human rights have been violated as a result of violence, abuse and neglect, via new forms of deterrent measures incorporated in the Maltese Criminal Code, that deal specifically with abuse. This new legislation included innovative concepts to ensure maximum protection for older persons, even from relatives, so as to safeguard their best interests. Another noteworthy legislation concerns the possibility whereby persons convicted of crimes where older persons are victims will be automatically liable for damages upon sentencing. Hence, eliminating the need for the older person to pursue the perpetrator for damages through a civil case.

**6. Access to information: How do you raise awareness about violence against older persons in the public? How does information about access to essential services (e.g. healthcare, legal assistance, social services, access to shelters) is made accessible and available for older persons?**

Campaigns that raise awareness about violence against older persons are carried out at different months of the year but especially in the build-up of the 15th of June World Elder Abuse Awareness Day. This day always includes a number of events whose aim is to increase awareness on elder abuse.

**7. Please provide examples of good practices for preventing, monitoring and address violence and abuse against older persons.**

The Maltese government has launched an ‘Protection of Vulnerable Older Persons and Adult Persons with Disability’ Act for public consultation. This Act endeavours to provide or arrange for assistance for older adults and adults with disability who are in need of assistance; and to provide them with protective intervention when in need of protection. This Act is to be administered in accordance with the following guiding principles:

(a)    an adult is entitled to live in the manner he or she wishes and to accept or decline assistance offered by the Director, provided the adult has capacity to make reasonable decisions respecting those matters and does not cause harm to others;

(b)   and adult who is in need of assistance or protection should receive the most effective but least restrictive or intrusive assistance or protective intervention, as the case may be;

(c)    in relation to the provisions of assistance or protective intervention to an adult who is in need of assistance or protection, as the case may be, the paramount consideration shall be the best interest of that adult;

(d)   an adult who is in need of assistance or protection shall be involved to the fullest practicable extent in decisions relating to that adult;

(e)    assistance or protective intervention provided to an adult who is in need of assistance or protection, as the case may be, should address the specific needs of the adult and be reviewed and revisited as the adult’s need or circumstances change.

The Act provides or arranges for assistance for an adult where: (i) it is believed on the basis of an investigation that the adult is in need of assistance; (ii) the assistance is provided or arranged in accordance with a case plan; and (iii) either the adult has capacity to consent and consents for the provision of such assistance, or where the adult has a curator, the adult’s curator consents for such assistance. Assistance may include:

(a)    further assessment and case planning;

(b)   the provision of counselling and other social work;

(c)    the provision of speech and hearing therapy;

(d)   the provision of occupational therapy and physiotherapy;

(e)    the provision of respite care and day care;

(f)     socio-recreational activity and vocational training;

(g)   homemaking, nutritional and social support services;

(h)   legal counsel and financial management services;

(i)     application for trustee or curator functions;

(j)     residential accommodation and personal or nursing care; and

(k)    any other service that may support the adult’s safety and well-being: