

Access to Justice

1. In 2015, Malta witnessed a number of developments as far as legislation on elder abuse is concerned. In its drive to enact legislation that protects older persons from elder abuse, the Parliamentary Secretariat for Persons with Disability and Active Ageing introduced new forms of deterrent measures that were incorporated in the Maltese Criminal Code, specifically dealing with abuse, which so far had been defined in a very broad manner, in order to encapsulate all forms of abuse but with special focus on maltreatment of older persons. This new legislation included innovative concepts to ensure maximum protection for older persons, even from relatives, so as to safeguard their best interests. The Parliamentary Secretariat combined civil and criminal concepts to achieve higher levels of protection in more expeditious and effective terms, without the need to resort to either criminal or civil proceedings, which are generally very time-consuming, expensive and disheartening. To cite the then Parliamentary Secretary responsible for Active Ageing, “government’s efforts to deter elder abuse is only the beginning...we are in the process of drafting the second batch of amendments...[which] will make a substantial difference by enhancing professional and public awareness of elder abuse and establishing a range of legal remedies that protect older people”. Another noteworthy legislation concerned 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.
2. In 2016, the Parliament also ratified the *Commissioner for Older Persons Act* which mandated oversight of the appointment of a Commissioner for Older Persons to oversee and ensure an adequate implementation of the recommendations inherent in both international and national policy plans and strategies of which the Maltese State is signatory of.
3. The State provides Legal Aid to anyone irrespective of age.
4. The State envisions access of a justice system to all low-income persons to defend their rights and have their voices heard for their basic needs and improve their quality of life. The mission of Legal Aid is to ensure that the low-income persons are professionally and legally represented in a broad spectrum of litigations, defence and advocacy in a democratic society. Legal aid is important in providing access to justice by ensuring equality before the law, the right to counsel and the right to a fair trial by older people. It is central in giving equality, irrespective of age, before the law in a democratic society.
5. The key challenge is that many older persons often require a high degree of assistance to access justice. In this respect, the State offers complimentary Social Work assistance to all persons above the age of 60. The aim of this service is to provide psychological support, guidance and assistance to senior citizens. Reports on senior citizens having acute conditions who are residing in residential homes is also part of this service.
6. The good practice consists in the complimentary social work service provided to all older persons in Malta, whether dwelling in the community or residing in care homes and long-term care facilities.
7. The key provision is the office of the Commissioner for Older Persons. This Office is guided by the following general principles: (a) the best interests of older persons are paramount; (b) all older persons are to be treated with dignity, respect and fairness; (c) older persons

with disability and, or disadvantaged social circumstances should enjoy the same quality of life as all other older persons; (d) older persons and their families are to be provided with opportunities to participate in decisions that affect them and in defining, planning and evaluating services to older persons; and (e) government, families and communities share the responsibility for the promotion of the development and well-being of older persons

8. *The National Strategic Policy for Active Ageing: Malta 2014 - 2020* recommends the State to (i) strengthen the remit of the National Council for the Elderly to represent the requirements and needs of older persons through popular as well as educational strategies; (ii) support the Office of the Commissioner for Older Persons in promoting awareness of the rights of older persons; and (iii) encourage more Local Councils to set up a sub-committee for active ageing to work towards the improvement of the quality of life of older persons in that locality.
9. The justice system functions in accordance with the principles of independence and impartiality through
 - the Employment and Industrial Relations Act
(https://ncpe.gov.mt/en/Documents/Rights_and_Obligations/Equality_Laws/chp_452.pdf)
 - Equality for Men and Women Act
(https://ncpe.gov.mt/en/Documents/Home/Welcome/Chp.456_updated%202015.pdf),
 - Equality Act
(https://meae.gov.mt/en/Public_Consultations/MSDC/Documents/2015%20HREC%20Final/Bill%20-%20Equality%20Act.pdf)