



European network of legal experts in gender equality and non-discrimination

FLASH REPORT

Country:	Malta
Title:	Gender balance in Parliament
Date:	28 May 2019
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<u>Context</u>	
Issue at stake:	A consultation document "Gender Balance in Parliament: Reform" was launched in order to receive proposals to challenge the under-representation of women in Parliament.
Grounds of discrimination:	Gender
Field of application:	Other field
Source:	Policy development

Content

Policy development: A consultation document "*Gender Balance in Parliament: Reform*", drafted by the Technical Committee for the Strengthening of Democracy, was presented with the aim to tackle the under-representation of women in parliament. The document contains legislative proposals for Constitutional amendments.

It proposes a Gender Corrective Mechanism which respects the current electoral system which is established by the Constitution of Malta and regulated by the General Elections Act.¹ The electoral system is that of the Proportional Representation of the Single Transferable Vote (STV), which involves a somewhat complex procedure. Voters are divided among 13 electoral divisions, and may elect five Members of Parliament by putting down their preferences on the ballot sheet in a numerical order, with the possibility of choosing candidates from different political parties. The candidate reaching the established quota of votes for that particular electoral division will be elected. Candidates may also be elected to Parliament, following the applicability, where necessary, of the corrective mechanisms in place in order to reflect better proportionality and governability. The Constitutional amendments being proposed in this consultation document seeks to introduce a mechanism that is triggered once the already established electoral process is concluded. This is done in order to get a clear and complete picture of the proportion of seats held by Members of Parliament on the basis of sex, such that the percentage of the underrepresented sex is established. The proposed amendments make reference to "the under-represented sex" in a way that they do not interpret the current scenario in Malta which up until now, was always the female sex, as a general rule that may never change. This principle made it possible to draft Constitutional amendments that are applicable according to necessity and according to social trends which the country may be experiencing at that particular moment in time. Thereby ensuring that irrespective of the under-represented sex at the time, this mechanism will ensure a more balanced gender

¹ General Elections Act Chapter 354 Laws of Malta
<http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8824&l=1> accessed 28 May 2019.

representative Parliament. These proposals are not to be interpreted as giving absolute and unconditional priority to one sex over the other, since the proposed mechanism will be applied in favour of the under-represented sex, which may be one of both sexes. The proposed amendments may lead to two particular scenarios: I. In the eventuality that the under-represented sex obtains a percentage of less than 40 % the mechanism will be applied in a way to bring the percentage representing the under-represented sex nearer to 40 %; II. In the eventuality that the under-represented sex obtains a percentage equivalent to, or more than 40 %, the proposed mechanism does not apply.

The proposed concept is not to be considered on the same basis as reserved seats for various reasons. Primarily, as already mentioned, the number of existing seats will continue to be filled by Members of Parliament elected through the existing process. When necessary the corrective mechanism will be applied to give an opportunity to candidates from the under-represented sex to gain experience, exposure and influence in decision-making in order to garner a critical mass that will eventually render corrective measures unnecessary. Additional seats imply that incumbents who do not belong to the underrepresented sex are not put at a disadvantage and they will have the same opportunity to be elected through the existent process. The additional 12 seats provided by the proposed Constitutional amendments are the maximum seats applicable in proportion to the percentage of Members of Parliament representing the under-represented sex.

The proposed 'Gender Corrective Mechanism' will be applied following the applicability of article 52 of the Constitution,² including the 'Corrective Mechanism'. In this respect, it is to be noted that both the majority rule and as well as the proportionality between the first preference votes and number of seats, will already be achieved prior to the application of the 'Gender Corrective Mechanism'. Therefore, it is deemed that the 'Gender Corrective Mechanism' should not disturb the already achieved proportionality and would rather confirm the same difference in seats between the Governing party and the Opposition, as expressed by the electorate. Through this proposal, it is hoped that the percentage of Members of Parliament of the 'under-represented' sex will be as close as possible to 40 %.

Key points of analysis: Although the several legislative proposals are not targeted only at women but on reaching a gender balance, by focussing on the under-represented sex in Parliament, the current situation in Malta is such that the proposed Constitutional amendments will only effect women in the foreseeable future. The laws aim at achieving a critical mass of 33 % of women in Parliament. The scope of this corrective mechanism is for both sexes to reach at least 40 % of the seats. The gender with less than 40 % of the seats would be able to gain a maximum of a further 12 seats – shared equally across the political parties in Parliament, with six parties in the Government and six in the Opposition.

Internet link source:

https://meae.gov.mt/en/Public_Consultations/OPM/Pages/Consultations/GenderBalanceinParliament.aspx accessed 4 April 2019.

² Constitution of Malta
<http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8566&l=1> accessed 28 May 2019.