

# Strengthening Involvement

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## Case Study

*Malta Report*

UHM Voice of the Workers

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## Introduction

During the last few years, Malta has been experiencing an unprecedented economic growth, that has embraced all the major economic sectors. Although microstates like Malta are more vulnerable to external factors, it is also true that positive economic effects quickly and strongly impact the society. The 2008/2009 international financial crisis had limited impact on the system when compared to other fellow EU Countries, mainly because of a solid banking and financial sector that was not exposed to high risk investments. Since 2013, the economy has progressively gained momentum, led by specific sectors like financial services, IGaming, maritime and aviation services, tourism and construction. The benefits of such growth have not only spilled over to other economic sectors, but they have translated also in higher employment and lower unemployment levels. Today, Malta is one of the best EU performers when it comes to employment indicators and has become a point of attraction for foreign workforce. As a consequence of this situation, there are no cases of collective redundancies that can be analyzed. Malta in fact has an almost absent social dialogue at sectoral level due to the strength and success at company levels, whilst as a small country sector impacts are often addressed from a national perspective. This does not mean that there are no relevant cases to be analyzed within the scope of the project. The focus of Strengthening Involvement is in fact to assess and share experiences on failures to properly implement policies and legislation on consultation and information and how workers have reacted and reorganized to address these challenges. While other partners have presented cases whereby during restructuring, mergers, acquisitions and collective redundancies, information and consultation was not provided according to law, in Malta there are cases where the information and consultation were not provided or implemented, although it did not have a direct link with restructuring or mergers. The lack of adequate information and consultation means preventing basic rights, connected to the working conditions of the individuals rather than on their employment status. The capacity of reactions of trade unions, together with their ability to planning and preventing cases where workers' rights are eroded are essentials. In this context, UHM Voice of the Workers presents three different cases related to different areas such as: recognition of workers' representatives; consultation on collective agreements; access to information related to working conditions.

## Case 1: Recognition of workers representation

Since 2015, Malta Public Transport (MPT) is the private company in charge of delivering public bus services in Malta and employs over 1,300 people operating 380 route buses. MPT is owned by Autobuses de Leon, that is part of the AESA – ALSA group, one of the Spanish leaders in the sector. UHM Voice of the Workers had been claiming for a number of months that it enjoyed the majority of workers, hence it should be the recognized union tasked with negotiating the collective agreement according to the national legislation.

The company did not grant this right to UHM and the workers immediately but it took a number of actions that, although legitimate, contributed to create a friction with the workforce and their representatives as they delayed the whole recognition process. The situation reached a standstill until December 2015.

UHM Voice of the Workers in fact decided to escalate the controversy and promoted an industrial action involving the drivers who were instructed not to process any payment operations during their shift. The company had a strong reaction as the whole ticketing system is based on a key role of the drivers and the situation could escalate even further.

During the same day of the industrial action, UHM Voice of the Workers was hosting the annual general meeting of EZA (European Centre for Workers' Questions): a network of 73 workers' organizations from 30 European Countries. During the event, UHM informed the other union representatives about the critical situation of the public transport issue and during that occasion it emerged that the Union Sindical Obrera (USO), which was one of the participants to the EZA meeting in Malta, was also the union representing the workers of the mother company in Spain.

With the help and support of Solidarnosc, that is an active member of EZA, UHM Voice of the Workers called an urgent press conference where representatives of USO and Solidarnosc made strong statements in favor of the rights of recognition of union representation.

This intervention triggered a positive mechanism that led to the immediate recognition of UHM and within a few months, to the signature of a new collective agreement.

### Key points

Limitation of rights and access to information/consultation does not occur only in situations of restructuring, mergers, acquisitions, but it is relevant in all circumstances

Access to information is directly linked to workers representation and their right to be recognized as such. The access to information is possible under the condition that the right of workers to choose any organisations to represent their interest is not under threat. This case shows how lack of recognition means for workers to be denied access to relevant information about the future employment and economic prospects of their company.

Dealing with employers with international ramifications necessarily requires trans national union coordination and act at international level with a strong connection with fellow unions in countries where the same company (or group) operates.

### Recommendation

Mirroring the employer in terms of international presence, establish contacts with unions that are active with the same employer or group in other countries.

## Case 2: Access to information on Collective agreement

In Malta, Educators had been represented for over 100 years by a single teachers union: the Malta Union of Teachers. In June 2017 elections for new president was held within the Malta Union of Teachers (MUT). At that time, there were simultaneous negotiations for four collective agreements (Sectoral, 2 Post Secondary, Government entities & a Church Schools).

The new presidency committed to to close such agreements within 6 months from the elections and with a promise of 20% increase in wages.

In December 2017, a Sectoral agreement was signed regulating the framework for all schools in Malta. However, this agreement was signed without taking members approval and without disclosing to the workers all the clauses that were agreed between the Government and the Union.

As a reaction to this grave shortcoming in the social dialogue process that had prevented workers from accessing information that is relevant for their future, in January 2018 several ex MUT council members decided to create a new union.

ILO defines social dialogue as ‘all types of negotiation, consultation or simply exchange of information between, or among, representatives of governments, employers and workers, on issues of common interest relating to economic and social policy.’

Social dialogue is therefore based on workers' consultation. The lack of this crucial element creates a serious breakdown in the correct relations

This negative situation however led workers to find alternative solutions and organize themselves into a structure that would guarantee a higher and deeper access to all the information, hence putting solid basis for workers' participation. In doing so, the new union has found of great benefit the opportunity of sharing resources with an established union such as UHM Voice of the Workers. The latter union in fact offers a service level agreement in which new unions can establish themselves easily thus having the backing and expertise of this established general union.

Thanks to the service level agreement with UHM, UPE now has a premises to work from, the use of a call centre, legal advice and assistance and other basic components that allow a union to function. Today, UPE is a bottom up structure, with high participation of its members and is becoming a point of reference in representing teachers interests in Malta.

#### Key points

Exchange of information is the most basic process of social dialogue

Consultation is a means by which the social partners not only share information but also engage in more in-depth dialogue about issues raised; while consultation itself does not carry with it decision-making power, it can take place as part of such a process.

Collective bargaining as one of the most widespread forms of social dialogue; consists of negotiations between an employer, a group of employers or employers' representatives to determine the issues related to wages and conditions of employment. Workers need to have access to this information so as to be able to take informed decisions

Not only limited to private undertakings, access to information and consultation is a basic principle of any worker irrespective of the employer's legal status, dimensions or turnover.

#### Recommendations

Access to information does not stop to workers' representatives, but there shall be in place an effective dialogue and equal access to information to all workers, so that they can critically assess the situation

Solidarity between unions and sharing of resources should be increased in view of the challenges posed by the evolving scenario.

Keeping members informed at all times is crucial especially in this digital age and for this reason, workers' representatives need to find innovative ways to communicate with workers.

### Case 3: Access to employment contracts

In Malta, workers who are recruited are registered by the employer with the National Employment Service named Jobsplus. The registration form that needs to be signed by the employee, contains generic information and a very concise definition of the position and function. This is the document that all employees in Malta have seen and signed, however this does not necessarily mean that the workers have also seen a proper employment contract indicating the specific rights and obligations of the counterparts. While the Law is protecting and regulating those employment, even in absence of a signed contract, the right of the employee to be informed about his working conditions is completely breached.

In addition to this category of workers there are those who although they signed an employment contract, the same contract contains obligations that are not in line with the national framework. A sample survey conducted by UHM Voice of the Workers has shown that a number of contracts in various sectors were in breach of the National regulations applicable.

Young people as well as other categories of workers are likely to suffer from this situation as they will not be aware of their working conditions, hence they will not be in a position to assess any aspect of their employment relations. There are specific sectors of the Maltese economy that present specific aspects such as seasonality, lack of unionisation or limited dimensions of the economic operators, that most of the time are not providing the employees with any information about their working conditions beyond some verbal agreement. The responsibility however is not to be given to the employers, especially Micro and Small enterprises, that seldom have the competence and knowledge to redact a contract that fully reflects the applicable regulations.

To deliver new and more effective rights to the European citizens and workers, the European Commission has put forward the European Pillar for Social Rights, a policy based on 20 principles which should be the minimum standard put in place by all EU countries. Principle seven is particularly relevant, being in fact on “Information about employment conditions” and stipulating “ Workers have the right to be informed in writing at the start of employment about their rights and obligations resulting from the employment relationship, including on probation period”.

UHM work is aimed at fulfilling this principle and consists of a strong lobbying exerted on the Government since 2016, in order to facilitate access to information that is crucial for the realization of the project. On its part, UHM Voice of the Workers has conducted all the preliminary works, especially vis-à-vis the technological challenges involved in this project.

Access to information on contracts should embrace the latest technology and enable users, being it workers, employers or other stakeholders, to operate an interactive database which will provide with the minimum working conditions applicable by Law to a specific position and a specific sector within the Maltese jurisdiction.

Finally as it has been explained in the introduction, the Maltese economy is growing at such a pace that the system has now reach a situation of full employment and in order to sustain such growth it needs to import foreign workforce. At the moment the 20% of the working population circa is made of other EU and Non EU citizens, but this number is expected to increase over the next years, hence leading to situations where workers would find it more difficult to access information about their working conditions.

#### Key point

All workers must be adequately informed not only on the aspects defined by the EC Directive 2012/14, but also on their current working conditions and they have to be in a position to easily assess whether the clauses imposed are in line with the legislation.

#### Recommendation

Conduct an assessment in each Country of the situation with regards to implementation of principle 7 of the European Pillar for Social Rights and start putting pressure on Governments to implement or facilitate the transformation of this principle into facts.