

The NCPE – safeguarding equality in Malta

Protection against discrimination is enshrined in the Constitution of Malta, whilst specific legislation safeguards equality rights and responsibilities in particular spheres of life. Yet, the National Commission for the Promotion of Equality (NCPE) is regularly contacted by members of the public to inform themselves on what constitutes discrimination as well as on the process linked to investigation of such cases.

Among these, dismissal from employment due to pregnancy; sexual harassment by colleagues; racial discrimination; discrimination in the access to and supply of goods and services; unequal pay to work of equal value on the basis of gender; and much more.

The NCPE, as an equality body, works to investigate cases of alleged discrimination to ensure that equality is restored. This is a crucial aspect of the NCPE's work and, as the NCPE Commissioner, I have the power and responsibility to investigate any complaints alleging discrimination.

To name a few, the NCPE had a complainant claiming that she had been unfairly dismissed due to her being pregnant. The complainant said that on the day she informed directors of her pregnancy, an issue arose regarding one of her tasks. The complainant confronted the Director, who allegedly laughed and told her to look for a new job. The complainant further reiterated that she had not received any verbal or written warnings, and that the directors were creating 'incidents' to terminate her employment once they were informed that she was pregnant.

A close examination of the version of events provided by the parties indicated that the complainant was dismissed after she revealed her pregnancy, and was summarily dismissed for reasons which, in the Commissioner's opinion, did not warrant such dismissal.

Another complainant alleged that whilst contemplating a move to Malta, she contacted the Department of Health in March 2016 to inquire about treatment available to EU citizens with regards to gender reassignment. At that time, Complainant was informed by the Department of Health that her gender reassignment treatment and hormone regime would not be treated in Malta but was available in private clinics.

According to the complainant this contravened Articles 1 and 25 of the European Convention on Human Rights (ECHR) and went against ECHR case law¹ which states that this type of treatment should be provided through National Insurance. Following the investigation, the Commissioner concluded that on close examination of the facts of this case and of the relevant laws and case law, it was evident that Complainant had been indirectly discriminated against on the basis of gender. In this context, in February of 2018, a [legal notice](#) introduced 'gender identity and sex characteristics related conditions' in the entitlement schedule relative to the National Health Service (NHS). The range of services was reviewed and in 2022 breast surgery for transgender and gender variant persons was included in the services provided.

Moreover, should the NCPE become aware of any alleged discriminatory act in various spheres of society, the Commissioner may consider initiating an ex-officio investigation on any such matter falling within the NCPE's remit. For instance, an ex-officio investigation was initiated following information received by a number of sources regarding a set of bye-laws implemented by several local councils that were potentially discriminatory on the basis of race and ethnic origin.

The main allegation was that said bye-laws were introduced to target predominantly African migrants. Whilst the NCPE's Commissioner acknowledged challenges brought by migration, she further reiterated that seeing migrants' presence in a locality as a problem leads to this specific social group being perceived as a threat simply because of cultural background or skin colour. Moreover, the Commissioner encouraged the relevant authorities to address the specific needs of migrants rather than target them by implementing such bye-laws, as these contribute to fuelling racism. The Commissioner, therefore, declared all bye-laws addressing loitering as 'the persistent presence of any person for no apparent reason' to be indirectly discriminatory on the basis of race and ethnic origin.

Moreover, the NCPE's work is not only limited to the investigation of complaints. The NCPE provides input to Government laws, policies and strategies issued for public consultation to ensure that the impact of the proposed actions is not directly or indirectly discriminatory on

¹ Case number 27527/03, 'L vs Lithuania' decided by the ECHR on 11th September, 2007

different social groups. The NCPE also proposes the integration of measures that can combat discrimination and achieve equality in practice in the measures and actions proposed.

Training is a key component in supporting equality and diversity among different stakeholders, and as such the NCPE provides training to various groups. Requests for training are discussed with the organisation which requests it in order to ensure that the training meets the needs of the organisation.

To disseminate information on rights and responsibilities related to equal treatment, the NCPE also develops awareness-raising campaigns, and replies to requests for information by the general public. For more information on the Commission's work, one may visit the NCPE's website – www.ncpe.gov.mt.

“Equality Bodies are recognised as the cornerstones of national equality infrastructures” explains the European Network of Equality Bodies (EQUINET). Indeed, the NCPE's endeavours are relentless and as we mark **Zero Discrimination Day** on **1st March**, the NCPE is committed to continue working to safeguard equality in Malta whilst calling for a joint effort by different actors to combat discrimination and promote equality.

The National Commission for the Promotion of Equality (NCPE) can be contacted on: 2276 8200, equality@gov.mt or NCPE's social media platforms (Facebook, Instagram, and Twitter - NCPE.Malta)

1st March 2023