



29 October 2014

Gender Identity, Gender Expression and Sex Characteristics Act



PUBLIC CONSULTATION

1. Progress so Far

In 2013, following a change of government, the Maltese government reached an out-of-court settlement with Joanne Cassar who until then had no other choice but to fight a legal battle all the way to the European Court of Human Rights for the respect of her right to marry ([Application No. 36982/11](#)). Subsequently it went on to amend the Civil Code to allow trans people to be fully recognised in the acquired gender and be able to marry their opposite sex partner through the *Civil Code (Amendment) Act, 2013* ([ACT No. VII of 2013](#)).

During 2014, the Maltese government adopted another three laws that directly improved the legal protection afforded to trans people, namely:

- *Constitution of Malta (Amendment) Act, 2014* ([ACT No. X of 2014](#)), which introduced the ground of ‘gender identity’ in the list of grounds of non-discrimination found in the Constitution;
- *Procedural Standards in Examining Applications for Refugee Status (Amendment) Regulations, 2014* ([L.N. 161 of 2014](#)) including ‘gender identity’ within the definition of a particular social group for asylum purposes;
- *Equal Treatment in Employment (Amendment) Regulations, 2014* ([L.N. 274 of 2014](#)) including the ground of ‘gender reassignment’ for purposes of sick leave and other rights and protections afforded under the *Employment and Industrial Relations Act*.

2. This Bill

The Government Programme clearly states that the government intends to introduce a law that allows trans people to have their self determined identity respected by law. The Programme also states that government wants to introduce a policy against discrimination across the whole Public Service.

This Bill was thus developed by the LGBTI Consultative Council to meet this goal. In the process, consultations were held with various local and international institutions and organisations to ensure that the law meets current standards and protects trans, genderqueer and intersex people against discrimination.

In a nutshell, the proposal:

- Introduces a right to gender identity for all persons;
- Regulates the procedure for change of legal gender for minors and adults alike;
- Recognises foreign decisions regarding gender identity by a competent court or responsible authority;
- Allows for amendments of gendered characteristics on all official documents (such as the ID card and the passport) or certificates;
- Provides for the privacy of the person whose gender has been rectified on official documents;
- Introduces a positive obligation on government entities to ensure that their services meet the objectives of this Act;
- Provides parents with the possibility to postpone the entry of a gender marker on their children's birth certificate;
- Introduces a right to bodily integrity and physical autonomy for all persons;
- Makes non-medically necessary treatment on the sex characteristics of a person without informed consent unlawful;
- Provides for psychosocial counselling, support and medical interventions related to sex and/or gender;
- Provides for a revision of the protocol regulating sex assignment treatment and/or surgical interventions on the sex characteristics of a person;
- Introduces 'gender expression' and 'sex characteristics' within the list of grounds for aggravated circumstances under the *Criminal Code*; and

- Introduces ‘gender expression’ and ‘sex characteristics’ within the scope of the *Equality for Men and Women Act*.

3. Submission of Input

Submissions must be sent in through the following channels:

Online form: www.msdc.gov.mt/GIGESC

By email: integration@gov.mt

By post: GIGESC Consultation
Ministry for Social Dialogue, Consumer Affairs and Civil Liberties
Barriera Wharf,
Valletta VLT 1971



#GIGESC

All input towards this consultation must be received by **Sunday, 30 November 2014**.

We thank you in advance for your input.

Please be informed that submissions may be published on the webpage of this consultation.