

to the:  
Maltese Ministry for Social Dialogue,  
Consumer Affairs and  
Civil Liberties

## **TGEU submission to the Public Consultation on the Gender Identity, Gender Expression and Sex Characteristics Act**

Berlin, 30 November 2014

Hereby Transgender Europe wishes to reply to the Public Consultation held by the Maltese Ministry for Social Dialogue, Consumer Affairs and Civil Liberties on the Gender Identity, Gender Expression and Sex Characteristics Act (further-on referred to as 'the Act').

Transgender Europe – TGEU is a Europe-wide not-for-profit umbrella organisation working for the equality of all trans people. TGEU is registered under German law with currently member organisations in 38 countries.

TGEU has developed a significant body of expertise on legal gender recognition and European institutions, governments and other human rights NGOs have sought its advice. In the last years TGEU has been closely following the development of the Act through its different stages and has, upon invitation, advised the LGBTI Council. This places TGEU in the position to comment on the present proposal.

**TGEU welcomes the proposed Act as ground-breaking with its consequent focus on the respect for the human rights of trans people, but wishes to highlight concerns over the procedure for minors and issues of privacy protection in relation to the Gender Register.**

The proposed text of the Gender Identity, Gender Expression and Sex Characteristics Act is setting a new benchmark for lawmakers in Europe on the recognition and protection of trans people in gender recognition procedures and other areas of life.

If adopted it will be a European first to legally codify the right to gender identity of each person. The envisioned procedure would fulfil, if adopted, the Council of Europe standards for gender recognition procedures to be "quick, transparent and accessible". TGEU encourages other states to review and reform their legislation with the same aim and in this spirit.

### **The notary procedure**

The proposed notary procedure is based on a person's self-determination and omits any medical aspects. It thus delivers a key task of gender recognition that is to quickly enable the individual to pursue their lives without further interference. In contrast to involving a court or panel, this procedure is fast, simple and cost-effective and hence better suited for a quick change of documents.

## **Minors**

However, it is regrettable that minors shall not be able to benefit from this simplified procedure in the same extent. In a very time-sensitive period of their lives, when they are dependent from the goodwill of parents or guardians, who may be ignorant or hostile to a minor's true gender identity, underage trans people need quick, accessible and transparent gender recognition procedures.

Monitoring of the foreseen procedure should therefore pay close attention to these principles and particularly ensure the right of the child to be heard in all matters that concern them (UNCRC) and to prevent any unnecessary delays or attempts to outweigh the child's best interest by for example social expectations.

## **Privacy Protection**

As one of the essential purposes of gender recognition legislation is privacy protection, the disclosure prohibition foreseen, including fines for disclosing information about a person's legal gender recognition, are to be welcomed. The to be established Gender Register however should remain under close scrutiny for any potential risks of breach of privacy or confidentiality.

The right to rectify key state and non-state documents will help to prevent situations in employment, education, travel and other areas where inconsistent documents may lead to unwanted disclosure and discrimination.

## **Other areas of life**

TGEU welcomes measures foreseen in areas of health, non-discrimination and criminal justice as important to complement the gender recognition provisions and thus curb major factors leading to discrimination and inequality.