**Public consultation with the Independent Expert on**

**Sexual Orientation and Gender Identity**

**5 February 2020**

**Contribution of the Government of Malta**

1. *What different practices fall under the scope of so called “conversion therapy” and what is the common denominators that allow their grouping under this denomination?*

Malta introduced legislation banning conversion practices in 2016 through the Affirmation of Sexual Orientation, Gender Identity and Gender Expression Act. This does not specify any one practice. It is the intention of such practices which is the common denominator.

These practices could therefore include counselling, psychotherapeutic services and or similar services but also religious practices such as prayer meetings; personal testimonies; bible studies; retreats; exorcisms; etc.

1. *Are there definitions adopted and used by States on practices of so-called “conversion therapy”? If so, what are those definitions and what was the process through which they were created or adopted?*

The legislation defines conversion practices as: any treatment, practice or sustained effort that aims to change, repress and, or eliminate a person’s sexual orientation, gender identity and, or gender expression; such practices do not include

(a) any services related to the exploration, free development and, or affirmation of one’s identity with regard to one or more of the characteristics being affirmed by this Act, through counselling, psychotherapeutic services and, or similar

services, and, or;

(b) any healthcare service related to the free development and, or affirmation of one’s gender identity and, or gender expression;

In coming to this definition, we looked at legislation adopted by other States and also consulted with the relevant professional bodies.

1. *What are the current efforts by States to increase their knowledge of practices of so-called “conversion therapy”? Are there efforts to produce information and data on these practices?*

In 2018 Malta established a Sexual Orientation, Gender Identity, Gender Expression and Sex Characteristics Unit within the Human Rights and Integration Directorate falling under the Ministry for Education. This team reviews relevant literature and initiatives being taken in this field in other States. It also shares Malta’s experience in legislating in this field. It also monitors the national situation and engages with civil society organisations through the LGBTIQ Consultative Council where it becomes aware of such practices in order to determine any action that might need to be taken. No formal research has so far been undertaken to collect data on conversion practices.

1. *What kind of information and data are collected by States to understand the nature and extent of so-called “conversion therapies” (eg. through inspections; inquiries; surveys)?*

No such national data has so far been collected. The information available is generally through monitoring of national media and through first person accounts.

1. *Has there been an identification of risks associated with practices of so-called “conversion therapy”?*

The risks associated with conversion practices are generally those that emerge from relevant international research and relevant professional bodies that in general indicate that conversion practices are not effective and may in fact cause harm.

1. *Is there a State position on what safeguards are needed, and what safeguards are in place to protect the human rights of individuals in relation to practices of so-called “conversion therapy”? This question includes the following:*
2. *Safeguards to protect individuals from being subjected to “conversion therapies”,*
3. *Broader statutory rules or administrative policies to ensure accountability of health care and other providers.*

The primary measure is the Affirmation of Sexual Orientation, Gender Identity and Gender Expression Act which criminalises conversion practices on vulnerable persons including minors by any actor and also bans conversion practices entirely by any person who is in possession of an official qualification and/or a warrant to practice as a counsellor, educator, family therapist, medical practitioner, nurse, pathologist, psychiatrist, psychologist, psychotherapist, social worker, and, or youth worker.

Any person found guilty of such unlawful practices, will be liable to the following:

*4.(1) Any person found guilty under the provisions of article3(a) shall, upon conviction, be liable to a fine (multa) of not less than one thousand euro (€1,000) and not exceeding five thousand euro (€5,000), or to imprisonment for a term of not less than one month and not exceeding five months, or to both such fine and imprisonment provided that the punishment prescribed for under this sub-article shall be increased by one to two degrees in those instances where any person performs conversion practices on a vulnerable person.(2) Any  professional  found  guilty  under  the  provisions  of article 3(a) and, or (b) shall, upon conviction, be liable to a fine (multa) of not less than two thousand euro (€2,000) and not exceeding ten thousand euro (€10,000), or to imprisonment for a term of not less than three months and not exceeding one year, or to both such fine and imprisonment (vide Chapter 567 of the Affirmation of Sexual Orientation, Gender Identity and Gender Expression Act.*

This is complemented by other mainstreaming measures such as those aiming to provide training on LGBTIQ issues to a range of professionals covered by this Act and to mainstream LGBTIQ issues across the school curriculum.

1. *Are there any State institutions, organisations or entities involved in the execution of practices of so-called ‘conversion therapies’? If so, what criteria has been followed to consider these as a form of valid State action?*

Not applicable given that Malta has criminalised conversion practices.

1. *Have any State Institutions taken a position in relation to practices of so-called ‘conversion therapy’, in particular:*
2. *Entities or State branches in charge of public policy;*
3. *Parliamentary bodies;*
4. *The Judiciary;*
5. *National Human Rights institutions or other State institutions;*
6. *Any other entities or organisations.*

Parliament unanimously passed Act LV of 2016 which banned conversion practices.

In October 2018, the then Minister for European Affairs and Equality, Helena Dalli, spoke up against conversion practices promoted by an ‘ex-gay’ during an X factor programme. <https://lovinmalta.com/news/equality-minister-hits-out-at-tvm-for-allowing-gay-conversion-comments-on-x-factor-malta/>

Officials from the Human Rights and Integration Directorate spoke out on a number of occasions against conversion practices; <https://www.independent.com.mt/articles/2019-02-22/local-interviews/Indepth-I-can-proclaim-that-homosexuality-is-a-psychological-disorder-Matthew-Grech-6736204042>

Professional associations such as the Malta Chamber of Psychologists have publicly expressed their condemnation of conversion practices; <https://www.maltatoday.com.mt/lifestyle/television/93394/watch_malta_chamber_of_psychologists_slam_exgay_claims_on_xarabank#.XjLr5mhKjIU>

LGBTIQ Civil Society organisations have denounced conversion practices and have organised protests to oppose them;

The Catholic Church in Malta has also taken a more open stance towards same-sex relationships over the past years; <https://lovinmalta.com/news/news-human-interest/it-cannot-be-bad-to-be-gay-says-priest-on-xarabank-where-there-is-love-and-sincerity-there-is-god/>