**Malta’s Input for the Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity**

**23 May 2019**

1. **Key areas in which people (in your country, region or worldwide) suffer socio-cultural and economic exclusion as a result of violence and discrimination on the basis of sexual orientation and/or gender identity; in particular,**
2. **What knowledge, including data, exists in the State planning bases in relation to socio-cultural and economic exclusion based on sexual orientation and gender identity, including levels of poverty, homelessness, education, employment, health, political participation and any other relevant social indicator?**

The latest empirical data on discrimination and violence experienced by LGBT persons in Malta stems from the EU Fundamental Rights Agency LGBT Survey conducted in 2012. This survey is due to be repeated in the coming weeks and should provide insight into the impact of legislation and policy enacted since 2013. Malta’s last census data is not inclusive of sexual orientation and gender identity.

Malta introduced civil unions at par with marriage in 2014 and marriage equality in 2017. Close to 300 same-sex couples have benefitted from this legislation to date. Malta revised its legal gender recognition legislation in 2015 through the Gender Identity, Gender Expression and Sex Characteristics Act (540) and to date around 110 persons, including 2 minors have benefitted from this legislation.

* 1. **How are individuals, groups or communities differently affected, based on their sexual orientation and/or gender identity?**

Malta has a robust legal and policy framework where LGBTIQ equality is concerned. The process of mainstreaming LGBTIQ inclusion across all sectors is ongoing. Despite this, LGBTIQ students continue to experience bullying, homophobia and transphobia in schools and positive representations of LGBTIQ persons in educational curricula need to be further encouraged. LGBTIQ persons are also less likely to benefit from sexuality and relationships education that is relevant to them.

* 1. **What are the main barriers in ensuring equal access to education, health care, employment and occupation, housing and other relevant sectors?**

In September 2018, Malta adopted an LGBTIQ Equality Strategy and Action Plan 2018-2022 which lays out over 50 measures aimed at promoting and safeguarding equality for LGBTIQ persons. A SOGIGESC Unit was established within the Human Rights and Integration Directorate tasked with the implementation and monitoring of the Action Plan. The SOGIGESC unit works closely with other ministries and departments.

The main challenges are the rolling out of training to service providers in different sectors to ensure equal treatment of LGBTIQ persons in all spheres including education, health, social services and employment among others.

1. **Root causes and structural factors responsible for marginalisation and socio-cultural and economic exclusion, such as laws, public policies, institutional practices, organizational behaviours, and prevailing ideologies, values and beliefs?**

Malta’s legislative and policy framework has led to increased acceptance and inclusion of LGBTIQ persons in Maltese society. Access to adoption and reproductive health services is now enshrined in law. Processes for Legal Gender Recognition have been simplified and are more easily accessible, including to minors. In November 2018, Malta also set up the Gender Wellbeing Clinic, providing trans specific health care through the National Health Service.

1. **State efforts to address socio-cultural and economic exclusion through legislation, policies, data gathering, and other means, for example:**

Between April 2013 and 2019 the Maltese Government took a number of initiatives aimed at addressing inequalities in legislation and policy affecting LGBTIQ persons. These include:

* The Gender Based Violence and Domestic Violence Act (Act No VIII of 2018).
* The Marriage Act and other Laws (Amendment) Act that was introduced in order to remove all distinction between different-sex and same-sex couples before the law (Act XXIII of 2017)
* The Affirmation of Sexual Orientation, Gender Identity and Gender Expression Act that was enacted to end harmful practices and affirm that all sexualities and genders are equal before the law (Act LV of 2016)
* Two amendments that were effected to the Gender Identity, Gender Expression and Sex Characteristics Act – the first to ensure that the provisions of the Act fully apply to adopted persons (Act XX of 2015) and the second to ensure that the effects of the Act extend to persons in detention (regardless of nationality), as well as depathologise all sexual orientations, gender identities and gender expressions (Act LVI of 2016)
* A legal notice introduced in vitro fertilisation (IVF) leave for all couples regardless of their sexual orientation (LN 156 of 2017)
* A legal notice introduced the right to convert civil unions into marriage (LN 382 of 2017)
* A legal notice introduced ‘gender identity and sex characteristics related conditions’ in the entitlement schedule relative to the National Health Service (LN 44 of 2018). A consultation to ensure the best healthcare services on these grounds was subsequently launched.
* Bilateral protocols were concluded with countries that legally recognise same-sex parenting, opening the door for international adoptions by Maltese same-sex couples.
* Gender neutral toilets were introduced throughout Government, Parliament and the Courts.
* The ‘X’ marker was introduced as an alternative option to ‘M’ or ‘F’ on identity cards and passports.
* A Trans, Gender Variant & Intersex Inmates Policy was launched to guarantee that the effects of the gender recognition legislation extend to inmates at correctional facilities.
* The Trans, Gender Variant & Intersex Students in School Policy was introduced to provide guidelines on how to implement the provisions of the GIGESC Act in Schools.
* The Gender Identity, Gender Expression and Sex Characteristics Act (CAP 540) that granted the right to the recognition of one’s gender identity and the right to bodily integrity and physical autonomy.
* The adoption of constitution provisions banning discrimination on the grounds of sexual orientation and gender identity (Act No X of 2014)
* The Civil Union Act (Act No. IX of 2014) which granted recognition of all couples at par with marriage including parenting rights as well as recognising marriages between same-sex spouses entered into in 3rd countries.
* The establishment of the LGBTIQ Consultative Council composed of representatives of all organisations active in the field of LGBTIQ Rights.
* The Embryo Protection Act’s de facto exclusion of lesbians from the possibility of receiving treatment was deemed to be unconstitutional and Act XXIV of 2018 was adopted to redress the discriminatory provisions. It also allow for the preservation of gametes of trans and intersex persons needing to undergo gender affirmation surgeries;
* The LGBTIQ Action Plan 2015-2017 adopted in July 2015 which included a range of measures that addressed inequalities faced by the LGBTIQ community; The new LGBTIQ Action plan covering the period 2018 to 2022 was launched in September 2018.
* The inclusion of ‘Gender Identity and Sex Characteristics Conditions’ in Schedule V of the Social Security Act in February 2018 paved the way for the setting up of the Gender Wellbeing Clinic in November 2018.
  1. **Destitution and poverty;**

Malta has a healthcare system that is free of charge at the point of access. As mentioned above, as of 2018, Trans and gender variant persons can now access a range of medical treatments through the National Health Services and surgical interventions should also be gradually introduced. This greatly reduces the financial burden on trans and gender variant persons.

Malta also provides a grant to assist adoptive parents up to a maximum of Euro 10,000.

Malta also provides a range of social benefits to which LGBTIQ persons can recur if eligible. A specific unit within the Public Employment Body also provides support to vulnerable groups, which can include trans persons among others.

* 1. **Current efforts by States to address bullying and exclusion of LGBT people from education, including in education curricula teacher training, measures to promote continuing education or reinsertion in education settings and vocational training;**

There are a number of initiatives currently being implemented or rolled out. These include:

* Training to the National Student Support Service professionals on LGBTIQ issues in education;
* The Trans, Gender Variant and Intersex Student in Schools policy adopted in 2015;
* The Addressing Bullying Behaviour in Schools Policy launched in 2014 which is inclusive of homophobic and transphobic bullying;
* LGBTIQ inclusive books being gradually introduced in schools by the National Literacy Agency;
* A project aiming to pilot an intra-curricular and whole school approach to LGBTIQ inclusion, due to be launched in the next scholastic year;
* The development of a teacher training module to be provided through the Institute for Education;
* The development of a training module to be provided through the University of Malta;
* *A Policy on Inclusive Education in Schools: Route to Quality Inclusion* and *A National Inclusive Education Framework* which are inclusive of LGBTIQ issues.
  1. **Homelessness among LGBT people, particularly youth, and inclusion in shelter programs;**

This is not a significant problem and when such situations arise they are dealt with on a case-by-case basis by the Foundation for Social Welfare Services. In general, acceptance by parents of LGBTIQ children is perceived to be increasing and less problematic. Drachma Parents is a civil society organization providing peer support to parents of LGBTIQ children. The government also provide funding to the Malta LGBTIQ Rights Movement Rainbow Support Service, providing social work and counselling support.

* 1. **Coverage by social security and benefits, as well as public and private health insurance (Taking into account survivor’s pensions for same-sex couples, insurance coverage for gender affirming care, social housing for LGBT youth and older persons etc.);**

LGBTIQ persons have the same access to social security benefits as other persons. The LGBTIQ Equality Strategy and Action Plan sets out the need for inclusive care for older LGBTIQ persons and to this aim, efforts have been initiated to ensure that service providers are adequately trained. Gender Affirming Care is provided through the Gender Wellbeing Clinic and upskilling of the multi-disciplinary team delivering the service is ongoing.

* 1. **Equal access to health (including through training and sensitisation of health care personnel), regardless of sexual orientation, gender identity or expression;**

Over the next two years, the SOGIGESC Unit in collaboration with the Ministry for health and other partners will be rolling out a project aimed at providing training to various groups employed within the health sector including doctors, nurses, receptionists and emergency personnel.

1. **Complaints mechanisms available and accessible to LGBT people facing discrimination.**

Malta introduced sexual orientation and gender identity anti-discrimination provisions in the Constitution in 2014. In 2012, Chapter 456 of the Laws of Malta – Equality for Men and Women Act was amended to cover additional grounds of discrimination, including sexual orientation and gender identity. In 2015, these were extended to also include Gender Expression and Sex Characteristics. To this end, equal treatment was further safeguarded on these grounds in relation to employment and education. By virtue of this legislation, the National Commission for the Promotion of Equality (NCPE) is empowered to safeguard and promote equality in these areas.

Moreover, also in 2012, through Act VIII of 2012, various articles of the Criminal Code (Cap. 9 of the Laws of Malta), namely Articles 82A, 82C, 83B, 222A, 251D and 325A were amended so as to include the prohibition of violence or hatred on the basis of sexual orientation. Article 6 of the Press Act (Cap. 248 of the Laws of Malta) was also amended along these same lines.

1. **Actions to ensure socio-cultural and economic inclusion based on sexual orientation and gender identity in measures undertaken to ensure implementation of the Sustainable Development Goals at the national and regional levels;**

All measures mentioned in the response to question 3 are equally relevant in ensuring implementation of the SDG’s for LGBTIQ persons.

1. **Actions taken to raise public awareness and sensitisation on issues of sexual orientation and gender identity, in order to promote the meaningful socio-cultural and economic inclusion of LGBT people;**

* Government provides financial support for the Pride March;
* Participation of the civil service and of politicians in Pride March;
* Frequent reference to LGBTIQ equality by leading politicians including the Prime Minister;
* Condemnation of incidents where conversion practices were being advocated for by Minister for European Affairs and Equality;
* A Rainbow Laces Campaign in collaboration with the Malta Football Association to address homophobia in sport;
* Organisation of a celebration on the occasion of IDAHOT 2019 hosted at the Office of the Prime Minister;

1. **Services provided by civil society to excluded and marginalised LGBT people.**

Through a Public Social Partnership with the Ministry for the Family, Children’s Rights and Social Solidarity, the government funds the provision of social services including social work support, counselling, legal advice training and consultancy services, and work with young people. The Rainbow Support Service also runs a support group for trans prison inmates. The Rainbow Support Service also teamed up with the Foundation for the Wellbeing of Society to set-up a Rainbow Family Network bringing together same-sex parents and parents of trans children and youth. The Allied Rainbow Communities (ARC) also organizes a number of social events that provide a safe space for LGBTIQ persons to get together. ARC also focus on advocacy on HIV prevention and treatment, the introduction of PrEP and PEP and addressing the ongoing stigma related to being HIV+.