

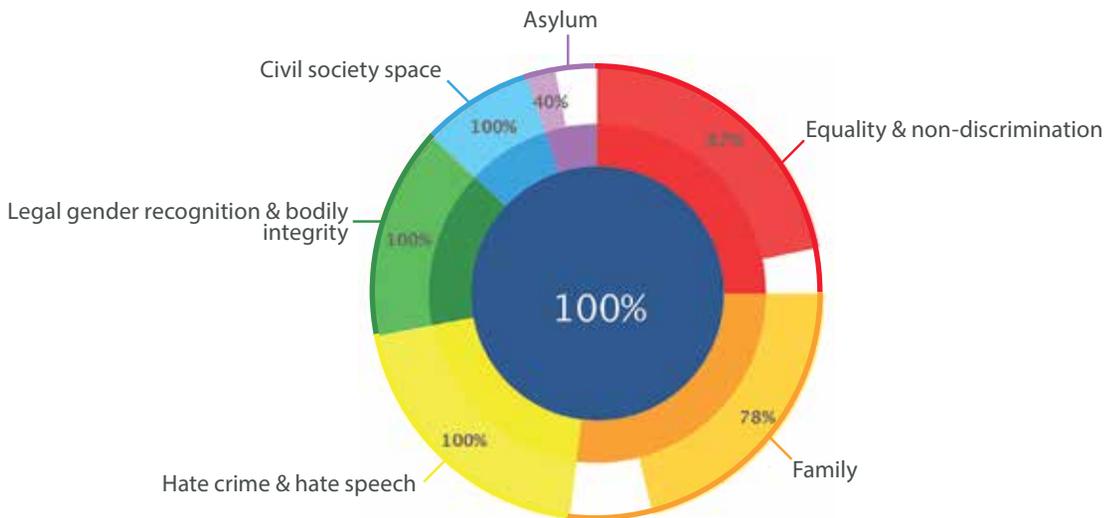
Malta



Malta continued to legislate for greater equality in 2016, adding to existing standards and also establishing new anti-discrimination measures. The first adoption was finalised following the introduction of joint adoption for same-sex couples in 2014. The age at which individuals can independently opt for legal gender recognition under the 2015 legislation was reduced from 18 to 16-years of age. Following additional amendments to the 2015 Gender Identity, Gender Expression and Sex Characteristics Act, trans prisoners will now be able to be housed according to their lived gender. Trans identities are also no longer classified as a mental illness or disorder. A policy on trans, intersex and gender variant inmates was also launched in the summer. One of the remaining legal gaps in terms of family is the lack of equal marriage for same-sex couples, a change that the prime minister pledged support for during the year, and was backed by public opinion polls. But the most high-profile change in 2016 was the fact that Malta became the first country in Europe to outlaw so-called 'conversion therapy', introducing fines and prison sentences for those who offer these harmful practices.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.

Legal and policy situation in **Malta** as of 31 December 2016



In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- Finalising and adopting legislation that expressly protects against discrimination on the grounds of SOGISC (sexual orientation, gender identity, sex characteristics) when accessing goods and services.
- Ensuring marriage equality for all.
- Introducing and implementing laws and policies on asylum that guarantees effective protection on all SOGISC (sexual orientation, gender identity, sex characteristics) grounds.

Age of consent

- The Domestic Violence and Gender Based Violence Bill reached the first reading stage in November. One of its provisions includes lowering the age of consent to 16 years of age, following a proposal put forward in October by an inter-ministerial committee.

Bias-motivated speech

- A trans activist was the target of transphobic social media posts in October. The online comments appeared after the trans activist joined a counter-protest against a gathering arranged by the 'Maltese Patriots' group, who opposed the establishment of mosques in several Maltese towns. Minister for Education Evarist Bartolo (Labour Party; PL) later commented on Facebook that "...these attacks are absolutely unacceptable".

Bodily integrity

- The Intersex Treatment Protocol review board was appointed and held its first meetings in 2016. The working group is chaired by chief paediatric endocrinologist Dr John Torpiano.

Education

- LGBTI MGRM and the aditus Foundation, together with the civil liberties and education ministries, conducted a review of the Trans, Gender Variant and Intersex Students policy. The report was presented at a seminar held at the end of February.

Equality and non-discrimination

- On 12 December, the draft Equality Bill and the draft Human Rights & Equality Commission Bill were presented to parliament. Under the proposed legislation, an independent equality commission (based on the Paris Principles) will be set up and the head of the body will be elected by parliament. The proposed Equality Bill suggests widening the definition of discrimination and also introducing the concept of intersectionality, allowing individuals to take a discrimination case when they are treated unfairly on the basis of two or more combined identities. If the Equality Bill is passed, church-run schools

will no longer be able to exclude non-Catholics from teaching posts, in an example cited by the civil liberties ministry. The laws were still pending at the end of 2016.

Family

- At an event marking International Women's Day in March, Prime Minister Joseph Muscat (PL) confirmed his support for marriage equality, saying that he was in favour and that "...the country is ready for a debate about it."
- On 12 July, the Family Court approved the first adoption by a same-sex couple since the introduction of joint adoption under the 2014 Civil Unions Act.

Foreign policy

- The priorities for the 2017 Maltese presidency of the Council of the EU were outlined at the Employment and Social Affairs Council on 9 December, and included a commitment to focusing on LGBTIQ issues (through a High Level Ministerial Conference and other planned initiatives, including around IDAHOT in Brussels in 2017).

Freedom from torture, cruel, inhuman or degrading treatment

- After a period of public consultation ended on 15 January, the Affirmation of Sexual Orientation, Gender Identity and Gender Expression Bill was tabled for its first reading in parliament in February. It proposed criminalising so-called 'conversion therapy' or treatments that attempt to change a person's sexual orientation, gender identity and/or gender expression. On 24 February, the opposition Nationalist Party (PN) announced they would vote in favour of the bill. It passed the second reading stage on 18 October and was approved by parliament in a final vote on 5 December. The Act criminalises unlawful conversion practices, with the fine and potential prison sentence increasing if the practice was carried out on a vulnerable person under the age of 16. The law also confirms that no sexual orientation, gender identity or expression constitutes an illness or disease of any kind. Malta is the first country in Europe to outlaw conversion practices.
- A position paper from the Catholic Church, published on 20 February, stated that if the proposed bill to outlaw

conversion therapy was passed, it would "...affirm the superior legal status of homosexuals over heterosexuals". It put forward the opinion that the bill was discriminatory as it "...will be a crime to assist a person with homosexual orientation to become heterosexual, but perfectly legitimate to assist a heterosexual to become homosexual". This paper attracted public criticism from politicians including Civil Liberties Minister Helena Dalli (PL). On 22 February, Archbishop of Malta Charles Scicluna stated that conversion therapy did not respect human dignity.

Human rights defenders

- Civil liberties minister Helena Dalli was presented with a Hero of the Year award at the European Diversity Awards in London. The award recognised her work for the LGBTIQ community, following a nomination by NGO TGEU.

Legal gender recognition

- The Gender Identity, Gender Expression, and Sex Characteristics (GIGESC) Act and other laws (Amendment) Bill proposed amending the 2015 GIGESC Act to allow non-Maltese detainees to have their gender identity recognised in detention facilities. This law allows prisoners to be housed in facilities that correspond with their true gender; the act was passed in a final parliamentary vote on 5 December.
- The provisions of the Act amending the Gender Identity, Gender Expression and Sex Characteristics Act also prohibited the pathologisation of any form of sexual orientation, gender identity and gender expression and reduced the age a person must be to independently request a change of gender on official documents from 18 to 16 years of age.

Police and law enforcement

- Seven trans prisoners sued the Minister for Home Affairs Carmelo Abela (PL) and the director of prisons in July. The prisoners, all trans women, sought damages as they were being held in the male section of the prison due to the marker on their identity cards. In August, at the launch of a new prison policy (see below), Minister Abela

confirmed the prisoners who had access to legal gender recognition procedures had since been moved to the female section of the prison.

- A trans, gender variant and intersex inmates policy was launched for prisoners on 18 August by the Minister for Home Affairs Carmelo Abela (PL) and the Minister for Civil Liberties Helena Dalli (PL). The policy aims to ensure that all inmates are treated fairly, for example by housing prisoners according to their lived gender, use of preferred pronouns by staff, ensuring searches are carried out in accordance with the prisoner's gender and providing information and training for staff and inmates.
- The Maltese government requested that the TAHCLE (Training Against Hate Crimes for Law Enforcement) programme be implemented in the country. The ODIHR department responsible for implementing the capacity building programme carried out a preparatory visit in December.

Public opinion

- The results of an opinion poll carried out by iSurvey for the *Malta Independent* were published by the newspaper in April. When asked if they were in favour of equal marriage, 61% of the 600 respondents said yes. 25% of those surveyed said they opposed marriage equality, 10% said they had no opinion, while just under 4% opted for 'don't know' as an option.