



Malta



Malta enhanced its protection on the grounds of sexual orientation and gender identity through: (i) the inclusion of the grounds in the Criminal Code in relation to hate crime and hate speech; (ii) the improvement of equality legislation through express inclusion of the ground of gender identity for the first time; and (iii) the extension of the remit of the national equality body to cover both grounds. However, the country failed to extend equality in the area of partnership and parenting. The adopted IVF law entitled *Embryo Protection Act* expressly excludes lesbian couples and single women from access to fertility treatment, while the proposed cohabitation bill, while open to same-sex partners, was greatly criticised by LGBTI civil society due to its weak set of rights, and its disregard of same-sex partners' family life.

Bias motivated speech

- In May, Gozo Bishop Mario Grech published a pastoral letter that said that “A family is built on a relationship between man and woman, based on the permanent bond of marriage [...] to procreate, raise and educate children.” He then added that “[Recognition of unmarried couples as families] is nothing but blindness. Those who live together are not a family, and while they have every right for the state to respect their individual rights, it is also the state’s duty to recognise the family for what it is and develop policies in favour of the family.”

Bias motivated violence

- In January, a teenage lesbian couple was attacked in the town of Hamrun. They were sitting on a bench kissing when two young men approached them. First they shouted insults and then physically attacked one of the lesbians, eventually head butting the girl causing her a nose fracture. Her girlfriend was also pushed to the ground and left with scratches. A 35-year-old woman joined the boys in the incident. Afterwards, the teenage girl was taken to a health centre. The case was later brought to court, and in June, the boys were sentenced to fines amounting to €500, while the 35-year-old woman was fined €50.
- In February, an off-duty bus driver attacked two lesbian passengers on a bus. The incident was caught on camera and uploaded on YouTube. The driver was charged of causing injury and disrupting public order. The bus company Arriva sacked the driver after the incident and emphasised that they have a zero tolerance policy on violence on any grounds.
- In June, the Parliament amended the *Criminal Code* regulating hate crimes, extending the scope of the law also to sexual orientation and gender identity. Prime Minister Lawrence Gonzi announced that the law was amended as a result of two violent incidents, which seem to have been provoked by homophobic motives. “Laws, that are a reflection of our values, should be enforced and all institutions are to avoid discrimination and respect people”, the Prime Minister stated.

- In October, a man from Mellieħa (a rural town) who had deliberately ran over an Australian tourist with his car in 2004 was conditionally discharged by Magistrate Carol Peralta in spite of his causing permanent disability to the tourist. The court ruled that the victim had taunted the aggressor while in a drunken state, calling him “gay”. In his judgement, Magistrate Peralta justified his decision by stating that “The incident happened in Mellieħa, and before fellow villagers, so the insinuation that the accused was ‘gay’ – even if there is nothing wrong with that – perhaps in the accused’s psyche and other villagers’, was not acceptable.”

Diversity

- In March, the Millennium Chapel in collaboration with the Drachma Parents’ Group organised a seminar for parents of LGBT people. The seminar was mainly intended to facilitate a conversation around the understanding of sexual and gender diversity, and to assist parents to come to terms with their children’s ‘sexual identity’.
- In July, Vodafone launched a publicity campaign that included billboards featuring a lesbian couple under the slogan “Who is your number 1?” The campaign did not pass unnoticed, and while the majority of the comments were positive, some were upset by the campaign. In response, Monique Brinciau, a Vodafone Malta representative said: “These two particular girls can be anything from sisters, best friends and, yes, they could also be in a relationship.”

Employment

- In January, a report by the Centre for Labour Studies of the University of Malta found that although awareness about discrimination in the workplace seems to be increasing in Malta, trade unions may still need to be convinced about their role in ensuring an equitable and inclusive workforce. The report stated that the issue of sexual orientation at the workplace was not given much attention by the unions interviewed. It was remarked that workers rarely go to the unions with complaints about this type of discrimination because it is still regarded as “a sensitive issue”.

- In May, Tony Zarb, the General Secretary of the General Workers' Union, expressed his support of the extension of protection of the *Criminal Code's* provisions against violence to LGBT people, while reaffirming his union's continued support in the fight against homophobia.

Equality and non-discrimination

- In June, the Parliament enhanced the remit of the Commission for the Promotion of Equality (NCPE), the equality body, to include sexual orientation and gender identity among other grounds. This followed the amendment of *Chapter 456 Equality for Men and Women Act* to which the grounds of sexual orientation and gender identity were expressly added. The NCPE has a number of functions including the monitoring of employment adverts and other communication in media to ensure compliance with anti-discrimination legislation.

Family

- In January, the Malta Gay Rights Movement (MGRM) launched its position paper on marriage equality.
- In February, newspapers reported that a Maltese-run Ethiopian orphanage through which several people have adopted children, has decided to stop adoptions by single people. Archbishop Paul Cremona expressed his opinion that it was preferable for children to be adopted by married couples. The Bishop's comments coincided with the belief that this move was intended as a restriction on adoption by LGBT people from church-run orphanages as it became known that some lesbians had adopted children through this channel.
- In March, Jeffrey Pullicino Orlando, a Nationalist MP, came out in favour of marriage equality, thus becoming the first parliamentarian to support MGRM's position.
- In June, the *Cohabitation Bill*, as announced by the government the previous year, was introduced to Parliament. The law was intended to provide civil rights for unmarried couples, both different-sex and same-sex which recognition would hinge on the durability of relationships.

- In July, a third party intervention was submitted by the European Centre for Law and Justice (ECLJ) with regard to the case of *Joanne Cassar v. Malta* (Application no. 36982/11). In their submission ECLJ called on the European Court to take the opportunity to reverse *Goodwin v. UK* arguing that human rights are a reflection of natural law and that the right to marry cannot and should not be severed from biological procreation. It further argued that the fact that the Constitutional Court of Malta ignored *Goodwin* meant that *Goodwin* was wrongly decided. Later in the year, the Maltese government followed the argumentation of ECLJ in its correspondence with the Court.

- In August, Chris Said, Minister for Justice launched the draft *Rights and Obligations of Cohabitants Act* during a designated press conference. The proposed Act laid out a law that recognised same-sex couples for the first time, but fell short of installing a new set of rights that are not already available through private notarial deeds. In its reaction, MGRM stated "It is hugely disappointing that the bill proposed does not accede to most of MGRM's demands and fails to attain even the minimal level of recognition acceptable, that is civil unions at a par with marriage. As things stand, the bill acknowledges those who enter into a de jure cohabitation agreement as next of kin and grants residency rights to those who come from Third Countries but continues to exclude these couples from the government's definition of family".

- In August, the Labour Party accused the government of "institutionalised homophobia". Joseph Muscat, the Party's leader, hit out against comments that Minister Said made during the press conference saying that government had no intention of recognising same-sex partners as family. Muscat went on to affirm that for his party "a family was formed irrespective of the sexual orientation of the persons involved".

- In August, Alternattiva Demokratika – the Green Party, came out in support of MGRM's position on marriage equality and equal access to parenting rights thus becoming the first party to adopt such a position.

- In September, the National Youth Parliament, with 29 votes in favour and 2 abstentions adopted a resolution in

favour of marriage equality, and same-sex parenting including adoption rights. Oriana Farrugia, the Youth Parliament's leader, argued that "If we are granting [same-sex couples] the same rights because they are taxpayers like us, why should we place them even one millimetre below us?" She also added that there was no point in delaying the inevitable.

Foreign policy

- In October, Tonio Borg was nominated as Malta's candidate for the post of EU Commissioner for Health and Consumer Affairs following the resignation of John Dalli. Tonio Borg's nomination was widely contested in view of his previous statements on gays, women's rights, and undocumented immigrants. His positive hearing at the European Parliament did not appease many MEPs and he was thus asked to subscribe to a set of principles as a guarantee prior to his confirmation. Following a letter sent to the European Parliament in which he agreed with the list of principles, he was approved with 386 in favour, 281 against and 28 abstentions.

Public opinion

- In May, a MaltaToday survey found that 41% of Maltese people agree with marriage equality, while 51.2% oppose the introduction of an equal marriage law. Those in favour include 9% who specified that they agree with the introduction of marriage equality but disagree with the couples adopting children. The overall support has increased by 13% since 2007 when the survey was last conducted. The support for equal marriage is strongest among 18-to 34-year-olds, with 60% support.
- According to Eurobarometer 2012, 54% of Maltese believe sexual orientation discrimination is widespread. This is slightly above the EU27 average (46%). 51% believe gender identity discrimination is widespread. This is significantly above the EU27 average (45%). Maltese scored 6.8 on a scale from 1 ('totally uncomfortable') to 10 ('totally comfortable') when asked how comfortable they would feel with an LGB individual in the highest elected political position in their country. This is slightly above the EU27 average (6.6). Maltese scored 5.1 on a similar scale

when asked about a transgender/transsexual person in the highest elected political position in their country. This is slightly below the EU27 average (5.7).

Sexual and reproductive rights

- In July, the government proposed the *Embryo Protection Bill*, which was adopted later in the year with the aim to regulate in vitro fertilisation, and establish strict criteria as to who can accede to this method of procreation. The law limits access to IVF to married and unmarried heterosexual couples in a stable relationship, thus expressly excluding single women and lesbian couples from acceding to it. The law prohibits third party gametes donation as well as surrogacy.

Member organisations of ILGA-Europe

Malta Gay Rights Movement
www.maltagayrights.org