

MALTA

ATT Nru LV tal-2016

ATT maħruġ b'liġi mill-Parlament ta' Malta.

ATT li jafferma li l-persuni kollha għandhom orjentazzjoni sesswali, identità tal-ġeneru u espressjoni tal-ġeneru, u li l-ebda kombinazzjoni ta' dawn it-tliet karatteristiċi ma tikkostitwixxi diżordni, marda, defiċjenza, diżabilità u, jew nuqqas ieħor; u biex jipprojbixxi prattiċi ta' konverżjoni bħala prattiċi qarrieqa u malinni jew interventi kontra l-orjentazzjoni sesswali, l-identità tal-ġeneru u, jew l-espressjoni tal-ġeneru.

ACT No. LV of 2016

AN ACT enacted by the Parliament of Malta.

AN ACT to affirm that all persons have a sexual orientation, a gender identity and a gender expression, and that no particular combination of these three characteristics constitutes a disorder, disease, illness, deficiency, disability and, or shortcoming; and to prohibit conversion practices as a deceptive and harmful act or interventions against a person's sexual orientation, gender identity and, or gender expression.

Nagħti l-kunsens tiegħi.

(L.S.)

**MARIE-LOUISE
COLEIRO PRECA
President**

9 ta' Diċembru, 2016

ATT Nru LV tal-2016

ATT li jafferma li l-persuni kollha għandhom orjentazzjoni sesswali, identità tal-ġeneru u espressjoni tal-ġeneru, u li l-ebda kombinazzjoni ta' dawn it-tliet karatteristiċi ma tikkostitwixxi diżordni, marda, defiċjenza, diżabilità u, jew nuqqas ieħor; u biex jiġi jipprojbixxi prattiċi ta' konverżjoni bħala prattiċi qarrieqa u malinni jew interventi kontra l-orjentazzjoni sesswali, l-identità tal-ġeneru u, jew l-espressjoni tal-ġeneru.

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità tal-istess, ħarġet b'liġi dan li ġej:-

1. It-titolu ta' dan l-Att huwa l-Att tal-2016 dwar l-Affermazzjoni tal-Orjentazzjoni Sesswali, l-Identità tal-Ġeneru u l-Espressjoni tal-Ġeneru. Titolu fil-qosor.

2. F'dan l-Att, sakemm ir-rabta tal-kliem ma teħtieġx Tifsir xort'oħra:

"diżordni mentali" tfisser disfunzjoni mentali jew ta' mgħiba sinifikanti, murija b'sinjali u, jew sintomi li jindikaw distorsjoni fil-funzjonament mentali, inkluż disturbi f'xi qasam wieħed jew aktar tal-ħsieb, burdati, rieda, perċezzjoni, fehma, orjentament jew memorja li jkunu daqstant preżenti hekk li jitqiesu li jkunu patoloġiċi kif klassifikati fi *standards* mediċi u dijanjostiċi aċċettati internazzjonalment, bl-esklużjoni ta' kwalunkwe forma ta' patoloġizzazzjoni tal-orjentazzjoni sesswali, identità tal-ġeneru u, jew espressjoni tal-ġeneru hekk kif jistgħu jkunu klassifikati taħt il-lista tal-Klassifikazzjoni Internazzjonali tal-Mard jew klassifikazzjonijiet simili oħra rikonoxxuti internazzjonalment, u "mard mentali" għandha tinftiehem b'dan il-mod, u għall-fini ta' kull haġa li għandha x'taqsam ma' proċedimenti kriminali, għandha tinkludi "genn" kif dan jinftiehem għall-fini tal-Kodiċi Kriminali;

"espressjoni tal-ġeneru" tirreferi għall-manifestazzjoni ta' kull persuna tal-identità tal-ġeneru tagħha, u, jew dik li hija perċepita mill-oħrajn;

"identità tal-ġeneru" tirreferi għall-esperjenza tal-ġeneru interna u individwali ta' kull persuna, li tista' tikkorrispondi jew ma tikkorrispondix mas-sess assenjat mat-twelid, inkluż is-sens personali tal-ġisem (li jista' jinvolvi, b'għażla ħielsa, tibdil fl-apparenza tal-ġisem, u, jew funzjonijiet permezz ta' mezzi mediċi, kirurġiċi jew xort'oħra) u espressjonijiet oħra tal-ġeneru, inkluż l-isem, l-ilbies, id-diskors u l-komportament;

"orjentazzjoni sesswali" tirreferi għall-kapaċità ta' kwalunkwe persuna li jkollha emozzjonijiet profondi, attrazzjonijiet affezzjonali u sesswali lejn, u relazzjonijiet intimi u sesswali ma', persuni ta' ġeneru differenti, tal-istess ġeneru jew ta' aktar minn ġeneru wieħed;

"persuna vulnerabbli" tirreferi għal kwalunkwe persuna:

(a) ta' taħt is-sittax-il sena; jew

(b) li tbatu minn diżordni mentali; jew

(ċ) ikkunsidrata li tkun partikolarment taħt riskju mill-qorti kompetenti wara li tkun ħadet f'kunsiderazzjoni l-età tal-persuna, il-livell ta' maturità tagħha, saħħitha, diżabilità mentali, kundizzjonijiet oħra illi jinkludu kwalunkwe sitwazzjoni ta' dipendenza, l-istat psikoloġiku u, jew l-istat emozzjonali ta' dik il-persuna;

"prattiċi ta' konverżjoni" tirreferi għal kwalunkwe trattament, prattika jew sforz sostnut li l-għan tiegħu hu dak illi jibdel, irażżan u, jew jelimina l-orjentazzjoni sesswali, l-identità tal-ġeneru u, jew l-

espressjoni tal-ġeneru ta' persuna; dawn il-prattiċi ma jinkludux -

(a) kwalunkwe servizz u, jew intervent relatat mal-esplorazzjoni u, jew żvilupp ħieles ta' persuna u, jew affermazzjoni tal-identità fir-rigward ta' waħda jew aktar mill-karatteristiċi li huma affermati minn dan l-Att, permezz ta' *counselling*, servizzi psikoterapewtiċi u, jew servizzi simili; jew

(b) kwalunkwe servizz tas-saħħa relatat mal-iżvilupp ħieles u, jew l-affermazzjoni tal-identità tal-ġeneru u, jew l-espressjoni tal-ġeneru ta' persuna; u, jew

(ċ) kwalunkwe servizz ta' saħħa li jingħata għall-kura ta' diżordni mentali;

"professjonist" tirreferi għal persuna li tkun fil-pussess ta' kwalifika uffiċjali u, jew ta' *warrant* ta' prattika bħala *counsellor*, edukatur, terapista tal-familja, prattikant mediku, infermier, patologu, psikjatra, psikologu, psikoterapista, *social worker*, u, jew *youth worker*.

3. Dawn li ġejjin jitqiesu bħala reati kriminali -

Prattiċi illegali ta' konverżjoni.

(a) li xi persuna:

(i) twettaq prattiċi ta' konverżjoni fuq persuni vulnerabbli; jew

(ii) twettaq prattiċi ta' konverżjoni b'mod involontarju u, jew sfurzati fuq persuna; jew

(iii) tirreklama prattiċi ta' konverżjoni; u, jew

(b) li professjonist:

(i) joffri u, jew iwettaq prattiċi ta' konverżjoni fuq kwalunkwe persuna irrispettivament mill-fatt jiġix ikkumpensat għal tali servizzi; jew

(ii) jirreferi kwalunkwe persuna għand persuna oħra sabiex din twettaq prattiċi ta' konverżjoni fuq xi persuna.

4. (1) Kull minn jinsab ħati taħt id-dispożizzjonijiet tal-artikolu 3(a) jehel, meta jinsab ħati, multa ta' mhux anqas minn elf euro (€1,000) u mhux aktar minn ħamest elef euro (€5,000), jew priġunerija għal żmien mhux anqas minn xahar u mhux aktar minn ħames xhur, jew dik il-multu u priġunerija flimkien:

Kriminalizzazzjoni ta' prattiċi ta' konverżjoni.

A 1874

Iżda l-piena stabbilita taħt dan is-subartikolu għandha tiżdied minn grad sa żewġ gradi f'dawk l-istanzi meta persuna twettaq prattiċi ta' konverżjoni fuq persuni vulnerabbli.

(2) Kull professjonist li jinsab ħati taħt id-dispożizzjonijiet tal-artikolu 3(a) u, jew (b) jehel, meta jinsab ħati, multa ta' mhux anqas minn elfejn euro (€2,000) u mhux aktar minn għaxart elef euro (€10,000), jew prigunerija għal żmien mhux anqas minn tliet xhur u mhux aktar minn sena, jew dik il-multa u prigunerija flimkien.

Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru 458 tal-5 ta' Diċembru, 2016.

ĠENSU GALEA
Deputy Speaker

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

**MARIE-LOUISE
COLEIRO PRECA
President**

9th December, 2016

ACT No. LV of 2016

AN ACT to affirm that all persons have a sexual orientation, a gender identity and a gender expression, and that no particular combination of these three characteristics constitutes a disorder, disease, illness, deficiency, disability and, or shortcoming; and to prohibit conversion practices as a deceptive and harmful act or interventions against a person's sexual orientation, gender identity and, or gender expression.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same as follows:-

1. The title of this Act is the Affirmation of Sexual Orientation, Gender Identity and Gender Expression Act, 2016. Short title.

2. In this Act, unless the context otherwise requires: Interpretation.

"conversion practices" refers to any treatment, practice or sustained effort that aims to change, repress and, or eliminate a

A 1876

person's sexual orientation, gender identity and, or gender expression; such practices do not include -

(a) any services and, or interventions related to the exploration and, or free development of a person 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; or

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

(c) any healthcare service related to the treatment of a mental disorder;

"gender expression" refers to each person's manifestation of their gender identity, and, or the one that is perceived by others;

"gender identity" refers to each person's internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body (which may involve, if freely chosen, modification of bodily appearance and, or functions by medical, surgical or other means) and other expressions of gender, including name, dress, speech and mannerisms;

"mental disorder" means a significant mental or behavioural dysfunction, exhibited by signs and, or symptoms indicating a distortion of mental functioning, including disturbances in one or more of the areas of thought, mood, volition, perception, cognition, orientation or memory which are present to such a degree as to be considered pathological in accordance with internationally accepted medical and diagnostic standards, with the exclusion of any form of pathologisation of sexual orientation, gender identity and, or gender expression as may be classified under the International Classification of Diseases or other similar internationally recognised classifications, and "mental illness" shall be construed accordingly, and for the purpose of any matter related to criminal proceedings, it shall include "insanity" as understood for the purpose of the Criminal Code;

Cap. 9.

"professional" refers to a person who is in possession of an official qualification and, or a warrant to practise as a counsellor, educator, family therapist, medical practitioner, nurse, pathologist, psychiatrist, psychologist, psychotherapist, social worker, and, or youth worker;

"sexual orientation" refers to each person's capacity for

profound emotional, affectional and sexual attraction to, and intimate and sexual relations with, persons of a different gender, the same gender or more than one gender;

"vulnerable person" refers to any person:

- (a) under the age of sixteen years; or
- (b) suffering from a mental disorder; or
- (c) considered by the competent court to be particularly at risk when taking into account the person's age, maturity, health, mental disability, other conditions including any situation of dependence, the psychological state and, or emotional state of that person.

3. It shall be unlawful -

Unlawful conversion practices.

- (a) for any person to:
 - (i) perform conversion practices on a vulnerable person; or
 - (ii) perform involuntary and, or forced conversion practices on a person; or
 - (iii) advertise conversion practices; and, or
- (b) for a professional to:
 - (i) offer and, or perform conversion practices on any person irrespective of whether compensation is received in exchange; or
 - (ii) make a referral to any other person to perform conversion practices on any person.

4. (1) Any person found guilty under the provisions of article 3(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:

Criminalisation of conversion practices.

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.

A 1878

(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.

Passed by the House of Representatives at Sitting No. 458 of the 5th December, 2016.

ĊENSU GALEA
Deputy Speaker

RAYMOND SCICLUNA
Clerk of the House of Representatives

