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From underdog to trailblazer: A study of the evolution of trans rights in Malta

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CIES - ISCTE-University Institute of Lisbon

Mês, 2023



SOCIOLOGIA  
E POLÍTICAS PÚBLICAS

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Department of History

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## Summary

Until 2012, Malta offered minimal protection for trans individuals, falling behind many European countries. However, a significant shift occurred after the newly elected Labour Party took office in 2013, displaying a newfound commitment to LGBTIQ rights. By 2015, Malta had implemented the Gender Identity, Gender Expression, and Sex Characteristics (GIGESC) act, establishing itself as a pioneer in trans rights in Europe. This groundbreaking legislation facilitated legal gender recognition without the need for medical diagnoses or surgeries and introduced a third gender option on official documents. Malta's progressive stance gained international recognition, positioning the country as a global model in the trans rights movement.

To analyse the factors leading to the approval of the GIGESC act in Malta, I conducted interviews with nine representatives from various organizations, including government bodies, associations that work directly with trans people, youth organizations, and members of a political party. My objective in this thesis is to comprehend the conditions that paved the way for Malta's approval of the GIGESC act. Utilizing thematic content analysis, I explored the influence of international organizations, the role of the LGBTIQ Consultative Council, the impact of activism, the political will behind the legislation, and the influence of the Catholic Church.

Keywords: Trans, legal gender recognition, Europe

## Resumo

Até 2012, Malta oferecia proteções mínimas para pessoas trans, ficando aquém de outros países europeus. No entanto, ocorreu uma mudança significativa após o Partido Trabalhista, recém-eleito, assumir o poder em 2013, mostrando um novo compromisso com os direitos LGBTIQ. Em 2015, Malta implementou a Lei de Identidade de Género, Expressão de Género e Características Sexuais (GIGESC), estabelecendo-se como pioneira nos direitos trans na Europa. Esta legislação inovadora facilitou o reconhecimento legal de género sem a necessidade de diagnósticos médicos ou cirurgias e introduziu uma terceira opção de género em documentos oficiais. A posição progressista de Malta foi reconhecida internacionalmente, colocando o país como um modelo no movimento de direitos trans.

Para analisar os fatores que levaram à aprovação do "GIGESC act" em Malta, conduzi entrevistas com nove representantes de várias organizações, incluindo uma entidade governamental, associações que trabalham diretamente com pessoas trans, organizações juvenis e membros de um partido político. O meu objetivo nesta tese é compreender as condições que possibilitaram a aprovação desta lei em Malta. Através de análise de conteúdo temática, explorei a influência de organizações internacionais, o papel do Conselho Consultivo LGBTIQ, o impacto do ativismo, a vontade política por trás da legislação e a influência da Igreja Católica.

Palavras-chave: Trans, reconhecimento legal de género, Europa

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## **Glossary of Acronyms**

CoE – Council of Europe

ECHR - European Convention on Human Rights

ILGA Europe- the European Lesbian, Gay, Bisexual, Trans, and Intersex Association

GIGESC – gender identity, gender expression and sex characteristics

LGBTIQ – Lesbian, gay, bisexual, trans, intersex and queer

LGR – Legal gender recognition

NGO – Non-governmental organization

PN – Nationalist Party

SOGI - Sexual orientation and gender identity

SOGIGESC– Sexual orientation, gender identity, gender expression and sex characteristics

WPATH - World Professional Association for Transgender Health



## Introduction

The World Professional Association for Transgender Health (WPATH) advocates for individuals' right to freely express their gender identity and obtain identity documents consistent with it, emphasizing the positive impact of legal gender recognition on mental health (WPATH, 2017). This aligns with the Yogyakarta<sup>1</sup> Principle 3, which highlights the necessity for legal gender recognition based on self-determination, without trans people being compelled to undergo medical procedures (Yogyakarta Principles, 2007). WPATH also calls for recognition of diverse gender identities, proposing options like X, NB, or Other, in addition to Male or Female (WPATH, 2017).

However, most trans, and non-binary individuals worldwide encounter difficulties obtaining official documents that reflect their gender identity. Due to unclear laws, many trans individuals are unable to change their gender marker on official documents. (Open Society Foundations, 2014).

To illustrate Lesbian, gay, bisexual, trans, intersex and queer (LGBTIQ<sup>2</sup>) rights variations across Europe, the European Lesbian, Gay, Bisexual, Trans, and Intersex Association (ILGA Europe) developed the Rainbow Map. The percentages on the map represent non-discrimination laws, hate crime legislation, legal gender recognition, and family policies in different countries. In 2011, Malta scored 0%, behind 33 other countries, showing the absence of protection for LGBTIQ individuals. Nonetheless, the country committed to improve LGBTIQ rights and by 2016, Malta was the first country positioned on the Rainbow map with an 88% score. This is a position that Malta keeps till today and reveals the significant progress in LGBTIQ rights the island made, becoming a model for other countries to emulate.

The most significant milestone for Malta was the approval of the Gender Identity, Gender Expression, and Sex Characteristics (GIGESC) Act, which allowed Malta to position itself as the European leader of the trans movement. The Act was unanimously approved by the Maltese parliament and guarantees the right to gender identity, bodily integrity, and physical autonomy. This law allows trans people to update their identification documents without requiring a medical diagnosis or any gender reassignment surgeries, and it introduces a third gender option ("X") on documents.

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<sup>1</sup> The Yogyakarta Principles are a set of international human rights principles addressing matters of sexual orientation, gender identity, and gender expression, providing guidance on the protection of the rights of LGBTI individuals. These principles are named after Yogyakarta, the Indonesian city where the principles were adopted. (Yogyakarta Principles, 2007).

<sup>2</sup> Trans rights are intertwined with the broader spectrum of LGBTIQ rights, with overlapping concerns and challenges (Deguara, 2020). I will use the term LGBTIQ to encompass the diversity of the movement throughout this thesis.

To analyse the circumstances that brought the GIGESC act to Malta, I interviewed 9 different representatives of organizations ranging from governmental organizations, associations that work directly with trans people, youth organizations, and members of a political party.

The interviews were analysed through thematic content analysis (Maroy, 1997).

My goal with this thesis is to understand the factors that created conditions for Malta to approve the GIGESC act, namely the impact of international organizations, the role of the LGBTIQ Consultative Council, the pressure developed by activism, the political will behind this approval and the influence of the Catholic Church.

This thesis has 5 chapters. In the first one, I define key concepts beginning with gender and following by the importance of legal gender recognition. In the second one I explore the global context of trans rights. In the third chapter I introduce the Maltese context, I take a deep dive into Malta's legal achievements and the influence of the Church in Malta. The fourth chapter describes the methodology I used for this research. The fifth chapter is dedicated to the analysis of the five dimensions I chose to answer my research question: the impact of international organizations, the role of the LGBTIQ Consultative Council, the pressure developed by activism, the role of political parties, and the influence of the Catholic Church. In the conclusion chapter I will present a summary of the results.

## **1. Gender identity and legal gender recognition**

To begin my research, I will start by defining key concepts. It is fundamental to understand legal gender recognition and its importance for trans people, as well as the concepts related to it. I will begin by introducing the concepts of gender and sex, and establish the relation between the two terms, to then be able to build on other concepts. Finally, I will follow with the importance of legal gender recognition.

### **1.1. Gender identity and other concepts**

Sex is commonly determined at birth, or even earlier through ultrasounds, based on the external appearance of genitalia. Sex is typically classified as male, female, or intersex. Although sex is usually assigned based on the appearance of external anatomy, sex is the combination of several biological indicators, such as sex chromosomes, hormones, internal and external reproductive organs, external genitalia, and secondary sex characteristics (APA, 2021; Ilga Europe, n.d.).

Gender is a socially constructed concept that distinguishes the cultural attributes, roles, behaviours, and expectations associated with being a certain sex. It encompasses the meanings and roles societies attribute to individuals based on their perceived gender, with these roles being subject to change and variation across different cultures and historical contexts. Gender is performative, implying that it is not an inherent trait but something that individuals actively negotiate and construct throughout their lives in response to social influences (West & Zimmerman, 1987; Pereira, 2012). Gender is not fixed and is subject to change and variations across different cultures and historical contexts. This understanding of gender challenges rigid binary definitions, allowing for diverse gender identities and expressions. Gender roles are socially constructed and distinguish the cultural attributes, roles, behaviours, and expectations associated with a certain gender (Torres, 2018).

It is important to note that sex and gender, despite often mistakenly considered interchangeable, are distinct concepts. Sex pertains to biological attributes, while gender is shaped by cultural factors. “Male” and “female” denote sex. The common tendency to use the words “sex” and “gender” interchangeably stems from the misconception that physical sex dictates gender identity—that is, assuming that someone with a male body is inherently a man and someone with a female body is inherently a woman.

Although, for many individuals, their gender identity matches the sex assigned at birth (referred to as cisgender), for trans and nonbinary people, their gender identity may differ to various extents from the sex they were assigned at birth (APA, 2021)

According to the Yogyakarta Principles, gender identity can be defined as the following:

“Gender identity is understood to refer to each person’s deeply felt 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 or function by medical, surgical or other means) and other expressions of gender, including dress, speech and mannerisms.” (Yogyakarta Principles, 2007, p. 6)

Gender identity represents an individual's profound and inherent feeling of being a girl, a woman, a boy, a man, or identifying with alternative genders like, for example, genderqueer or gender neutral. This sense may or may not align with the sex assigned at birth. As it's an internal aspect of a person, it is not always observable to others (APA, 2021).

Gender expression encompasses the outward, visible aspects of an individual's gender identity, such as clothing choices, makeup, and hairstyle, as well as specific behaviours reflecting their gender. Whether these expressions align with a person's gender identity or not is termed as gender conformity or nonconformity, respectively (APA, 2021).

Trans refers to people whose gender identity differs from the one assigned at birth (Ilga Europe, n.d.). As Susan Stryker explains “Some people move away from their birth-assigned gender because they feel strongly that they properly belong to another gender in which it would be better for them to live; others want to strike out toward some new location, some space not yet clearly defined or concretely occupied; still others simply feel the need to get away from the conventional expectations bound up with the gender that was initially put upon them.” (Stryker, 2008, p. 1). Trans individuals display a rich array of identities, with some pursuing medical interventions, and others not, to align their bodies and gender expressions with their gender identity (Saleiro, 2022). Every person has the right to determine their own gender identity and the terms, if any, that accurately portray their true selves. Various regions use a diverse range of terms to describe gender identity (Open Society Foundations, 2014). Throughout this dissertation I will use the word “trans” as an umbrella term to comprehend this diversity.

Queer is a term that was reappropriated, and it reconfigures and disrupts sex categories and previously negative labels for homosexual people. Throughout this thesis I will use queer to encompass any gender expression, identity or behaviour that falls beyond hetero and cisnormativity (Butler, 1999).

In Western society, there is a strong adherence to the belief that only two sexes exist. This perspective is deeply ingrained and even reflected in the language, leaving little room for alternative possibilities. (Fausto-Sterling). This also leads people to believe that there are only two genders (Striker, 2008). Additionally, public spaces are very gendered and divided between the categories of male and female, leaving no space for non-binary people (Kriva, 2019).

Non-binary functions as an umbrella term to describe a variety of gender identities and gender expressions that do not fall into the gender binary, meaning, beyond woman and man. The experience of non-binary people is diverse and there are a multitude of gender non-binary identities (Kriva, 2019; Yeadon-Lee, 2016). Some other terms non-binary people may use to describe themselves are genderqueer, agender, non-gender, neutrois, gender fluid, gender neutral, androgyne, bi-gender, and demi-gender (Yeadon-Lee, 2016).

Non-binary gender identities and expression have existed for a long time in a variety of international cultures (Yeadon-Lee, 2016; Richards et al., 2016). Often non-binary people use gender-neutral pronouns such as they/them. Given these factors, it is appropriate to follow the "ask" etiquette (Richards et al., 2016), which entails inquiring about people's preferred language and gender experiences.

The binary conception of gender strongly impacts the lives of non-binary people in society and in legal areas. Since they don't fit into the binary definitions of gender male or female, their ability to experience basic human rights can be compromised. The legal recognition of a third gender can provide legal dignity, legitimatization, and protection for non-binary people. This also allows the non-binary identity to be as valid as that of a woman or a man. The demand for fair treatment in public and private spaces would be strengthened by this legal recognition (Kriva, 2019).

Keeping in mind this diversity, I will use the term non-binary throughout this thesis to refer to people whose gender identity doesn't conform to the gender binary.

## **1.2. Legal Gender Recognition**

Legal identification plays a crucial role in various essential aspects of everyday life, including job applications, housing rentals, banking, and voting. Consequently, trans, and non-binary individuals face significant risks of marginalization and discrimination if their official documents do not align with their gender identity and expression (Open Society Foundations, 2014; Saleiro, 2021).

Gender identity constitutes a personal aspect of individuality, falling within the realm of private life. When trans individuals cannot update their name or gender details to align with their identity, they are consistently identified as trans in their daily interactions. This infringes upon their right to privacy, a fundamental protection outlined in Article 17 of the International Covenant on Civil and Political Rights. Many countries' domestic legislation also explicitly safeguards the right to privacy. (Open Society Foundations, 2014).

The FRA's study (FRA, 2014) on transgender people's circumstances in the EU came to the following conclusions:

“The lack of identity documents that conform with one’s gender identity or expression can lead to discrimination. One in three trans respondents felt discriminated against when showing their identification card or other official document that identifies their sex. Almost nine in 10 (87%) say that easier legal procedures for gender recognition in their preferred gender would help them to live a more comfortable life.” (FRA, 2014, p. 11).

The majority of trans and non-binary individuals globally face challenges in obtaining official documents that align with their gender identity. The absence of clear laws means trans individuals can't change their gender on official documents. In countries with legal gender recognition, some are excluded due to marriage or parenthood. They often face the dilemma of choosing between divorce and legal recognition of their affirmed gender (Open Society Foundations, 2014).

This discrepancy between legal documents and gender identity has been recognized as a human rights issue, leading to advocacy efforts by activists, politicians, international human rights organizations, and medical professionals. Legal sex and name changes for trans people on official papers have been made more widely known as a global civil and political rights concern in the last ten years by the enactment or improvement of laws in numerous nations (Moleiro & Pinto, 2020).

Different states have different regulations regarding legal gender recognition (LGR). These rules often prioritize proof of genital surgeries but can also include other factors such as medical treatments, sterilization, parenting intentions, consistent gender expression, divorce, or medical diagnoses. Additionally, LGR procedures vary in complexity, with some requiring only administrative processes and others involving judicial trials (Moleiro & Pinto, 2020).

In 2011, Europe was focusing in celebrating the first law in a European Country, Portugal, that didn’t force trans people to change their body to get legal gender recognition (Saleiro, 2021). However, Argentina got further ahead and in 2012 became the first nation to formally recognize a person's gender identity without any restrictions or prerequisites, implementing LGR administrative procedures based on the principle of self-determination (Moleiro & Pinto, 2020; Saleiro,2021).

The World Professional Association for Transgender Health (WPATH, 2017) emphasizes the importance of allowing individuals to freely express their gender identity, irrespective of societal expectations. WPATH recognizes everyone's right to identity documents consistent with their gender identity. Having such documents is crucial for trans people to access equal rights and opportunities in areas like accommodation, education, employment, healthcare, travel, daily transactions, and safety. WPATH advocates for trans individuals to receive the gender recognition they deserve, regardless of their appearance or identity.

Legal gender recognition (LGR) reduces suicide rates among trans individuals and improves overall well-being. In Argentina LGR led to positive changes in education, healthcare, work, security, and civil rights, empowering the trans community (Moleiro & Pinto, 2020; Saleiro, 2021).

Additionally, the Yogyakarta Principle 3, emphasizes the necessity for Legal Gender Recognition based on the principle of self-determination. Self-determination is extremely important for trans people as it refers to the fundamental right to control and make decisions about one's own gender identity and expression without external interference or coercion.

“Everyone has the right to recognition everywhere as a person before the law. Persons of diverse sexual orientations and gender identities shall enjoy legal capacity in all aspects of life. Each person’s self-defined sexual orientation and gender identity is integral to their personality and is one of the most basis aspects of self-determination, dignity and freedom. No one shall be forced to undergo medical procedures, including sex reassignment surgery, sterilisation or hormonal therapy, as a requirement for legal recognition of their gender identity. No status, such as marriage or parenthood, may be invoked as such to prevent the legal recognition of a person’s gender identity.” (Yogyakarta Principles, 2007).

Additionally, WPATH recognizes how medical barriers can be harmful for trans people’s mental and physical wellbeing, further supporting self-determination. Medical requirements hinder legal gender changes, such as diagnosis, therapy, surgeries, or letters from doctors (WPATH, 2017). WPATH opposes any barriers to altering gender markers on documents.

Governments should remove obstacles to gender recognition and establish transparent, affordable, and accessible administrative procedures that support individuals' right to self-determination when requesting changes in gender markers on identity documents (WPATH, 2017). Additionally, gender recognition for trans youth, and underage people should be available. It's also important to emphasize the need for recognizing diverse gender identities and propose options like X, NB (non-binary), or Other, in addition to Male or Female (WPATH, 2017).

Further I will explore the conditions which allowed Malta to create LGR accessible.

## **2. Trans rights in the global context**

Trans people have historically faced obstacles to see their identities recognized. It is therefore important to analyse the historical International and European context regarding the rights of trans people.

Starting with international recommendations, it is imperative to mention the Yogyakarta Principles, which in 2007, became the reference document on human rights regarding sexual orientation and gender identity (Saleiro, 2022). Later, ten new principles were added in 2017 to address gender expression and sex characteristics. These documents highlight the primary responsibility of states to implement human rights and offer detailed recommendations on how to achieve this goal (Yogyakarta, 2017). The principles stated in these documents assert the right to equality and non-discrimination concerning sexual orientation, gender identity and expression, and sex characteristics. Furthermore, they also outline key intervention areas such as social services, housing, healthcare, education, and the labor market (Saleiro, 2022).

Everyone has the right to recognition everywhere as a person before the law. Persons of diverse sexual orientations and gender identities shall enjoy legal capacity in all aspects of life. Each person's self-defined sexual orientation and gender identity is integral to their personality and is one of the most basic aspects of self-determination, dignity, and freedom. No one shall be forced to undergo medical procedures, including sex reassignment surgery, sterilization or hormonal therapy, as a requirement for legal recognition of their gender identity. No status, such as marriage or parenthood, may be invoked as such to prevent the legal recognition of a person's gender identity. No one shall be subjected to pressure to conceal, suppress, or deny their sexual orientation or gender identity.

In 2008, the United Nations released a document titled "Statement on Human Rights, Sexual Orientation and Gender Identity," in which they emphasized the principle of non-discrimination. This principle asserts that every individual has equal access to human rights, regardless of their gender identity or sexual orientation. The statement also condemned any violation of human rights that stems from a person's gender identity or sexual orientation (United Nations, 2008).

Additionally, on June 30, 2016, it was decided to establish the position of an Independent Expert in the Human Rights Council Resolution on "Protection against violence and discrimination based on sexual orientation and gender identity." The Independent Expert's role is to be responsible for assessing the implementation of international human rights agreements related to combating discrimination and violence against people based on their sexual orientation or gender identity. The expert was also tasked with identifying and addressing the root causes of such discrimination and violence (United Nations, 2016). The Experts have made several recommendations directed to States over the course of their mandates regarding legislation, administrative processes, and the implementation of public policy. (Saleiro, 2022).

The emphasis will now be on the context of Europe, where Malta is integrated.

The Council of Europe also plays an important role through the recommendations it issues its member states. Established in 1949, it is the leading human rights organization in Europe, consisting of 46 members, including 27 members of the European Union. All members have ratified the European



Convention on Human Rights (ECHR), committing to uphold and ensure the recognition and implementation of the fundamental freedoms and rights outlined in it (CoE, 2022). The Convention includes several articles that outline fundamental rights and freedoms, such as the Right to Life, Prohibition of Torture, Prohibition of Slavery and Forced Labor, Right to Liberty and Security, Right to Respect for Private and Family Life, Freedom of Assembly and Association, and Prohibition of Discrimination (CoE, 1950).

As Saleiro (2022) explains, Member States have a duty to ensure that these rights and liberties are upheld at the national level by enacting laws, regulations, and other measures required to ensure the full application of the ECHR and establishing an appeal system to address alleged infringement of rights and liberties. The author explains that the Parliamentary Assembly of the Council of Europe has played an important role in promoting and protecting LGBTIQ rights through the approval of recommendations and opinions since 1981. Although these documents are not binding, they affirm LGBTIQ rights and have a declaratory role with the Council of Ministers to affirmation of these rights. In 2010, the Committee of Ministers of the Council of Europe adopted the recommendation CM/Rec(2010)5 that includes specific measures to combat discrimination and hate speech against LGBTIQ people.

When speaking about the Council of Europe, it's important to mention the concept of 'Pink Agenda' which is a collection of intricate political and legal measures intended to advance a queer-friendly perception of Europe (Ammaturo, 2015). The goal of the "Pink Agenda" is to recognize European exceptionalism on human rights as a distinctive cultural, political, and legal characteristic of the entire continent by highlighting its singularity in LGBTIQ+ rights protection. The Council of Europe plays a critical role in noticing homophobic and intolerable "others" both inside and outside of Europe's borders and in projecting the image of Europe as a tolerant, open, and respectful continent for LGBTIQ+ people (Ammaturo, 2015).

Consequently, the defence of LGBTIQ rights within the framework of the Council of Europe aids in the construction of a moral hierarchy between insiders and outsiders that serves as the foundation for the concept of European citizenship (Ammaturo, 2015). Further ahead, I will explore the relation of the Council of Europe with Malta.

Delving into the context of the European Union, it is important to mention the significant impact of the Treaty of Lisbon (2007), which reformed the Maastricht Treaty (1992) and the Treaty of Rome (1957), which formed the European Union's constitutional basis. However, despite the recent reform, neither of the European Union's core treaty documents (the Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU)) refer gender identity, gender expression or sex characteristics (European Commission, 2018).

In the Treaty on the Functioning of the European Union one can read:

#### Article 10

In defining and implementing its policies and activities, the Union shall aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. (OJ C 326, 26.10.2012, 7)

#### Article 19

Without prejudice to the other provisions of the Treaties and within the limits of the powers conferred by them upon the Union, the Council, acting unanimously in accordance with a special legislative procedure and after obtaining the consent of the European Parliament, may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. (OJ C 326, 26.10.2012, 10)

Therefore, even though the Union's primary legislation is becoming more aware of the injustices encountered by women and lesbian, gay, and bisexual individuals, it still does not formally support trans and intersex people. (European Commission, 2018).

The Charter of Fundamental Rights of The European Union protects its citizens from discrimination in an extensive list of categories, however, it fails to explicitly mention gender identity and sex characteristics. (European Commission, 2018):

#### Article 21 - Non-discrimination

Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited. (OJ C 326/400, 26/10/2012, 10)

Even though trans people are not mentioned in the core documents that serve as the European Union's guiding principles, trans people are included in secondary legislation. However, their protection remains anchored in sex equality and non-discrimination (European Commission, 2018).

Most trans-oriented jurisprudence to date has focused on incorporating trans experiences into Directive 79/7/EEC, which emphasizes treating men and women equally in matters of social security.

#### “Article 1

The purpose of this Directive is the progressive implementation, in the field of social security and other elements of social protection provided for in Article 3, of the principle of equal treatment

for men and women in matters of social security, hereinafter referred to as 'the principle of equal treatment'." (OJ L 6, 10.1.1979, 24)

The Directive 2006/54/EC134 defends the principle of equal opportunities and equal treatment between genders in matters of employment and occupation, and includes trans people:

"The Court of Justice has held that the scope of the principle of equal treatment for men and women cannot be confined to the prohibition of discrimination based on the fact that a person is of one or other sex. In view of its purpose and the nature of the rights which it seeks to safeguard, it also applies to discrimination arising from the gender reassignment of a person." (OJ L 204, 26.7.2006, 23)

The "Goods and Services Directive" (2004/113/EC135) executes the principle of treating men and women equally in terms of access to and provision of goods and services. Both the Council of Ministers and the European Commission interpreted Directive 2004/113/EC to protect "gender confirmation" at the time it was adopted (European Commission, 2018).

Two other sections of EU secondary legislation also legally recognize gender identity: Recast Qualification Directive (Directive 2011/95/EU138) and Victims' Rights Directive (Directive 2012/29/EU139). The first one regulates aspects of subsidiary protection and asylum while the second one establishes minimum guidelines on the rights, support, and protection of victims of crime (European Commission, 2018).

### **3. The situation of Trans people in Malta**

#### **3.1 Brief Contextualization of Malta**

Malta is home to approximately 500,000 people. (Eurostat, 2023). The country is an archipelago composed by three main islands, Malta, Gozo, and Comino, have a combined land area of 316 km<sup>2</sup> in the Mediterranean Sea (Galea, 2007).

Malta was part of the British Empire since 1800 (Marovich-Old, 2018). It was a "fortress colony," and it was well appreciated by the British Mediterranean Fleet. Malta's economy was dependent on British military expenditures, and the British always valued the island highly from a strategic standpoint. According to Zammit, E.L. (1981), the century-and-a-half-long period of British sovereignty over Malta is especially noteworthy since many distinctive characteristics of Maltese social, political, and economic life during this time became strongly entrenched.

Harwood (2014) explains that Malta gained independence from the United Kingdom in 1964 and inherited a very polarised party system. The two parties are the social democrats, represented by the Labour Party, and the Christian Democrats represented by the Nationalist Party. Since the independence of Malta, both parties have alternated power. When a party reaches power, it governs with a large majority of seats in the parliament, despite how small the difference of votes was.

### **3.2 The Influence of the Church in Malta**

The Catholic Church plays an important role in the country's political path. In the constitution of Malta Catholicism is considered the religion of Malta and 'the authorities of the Roman Catholic Apostolic Church have the duty and the right to teach what principles are right and which are wrong' (Constitution of Malta 1964: Art. 2.2 as cited by Harwood, 2014, p.118).

The Church's power was further solidified after independence, when the Maltese governments signed many agreements with the Vatican. One of these agreements placed the Church's tribunals above the country's civil courts regarding cases of marriage dissolution (Harwood, 2014). At this time, the Church's power was strong enough to influence political leaders, and those who opposed its stance on sensitive issues faced repercussions. (Pace, 2012)

According to Harwood (2014), there was antagonism between the Labour Party and the Catholic Church led which led to an even bigger polarisation of the parties. The Nationalist Party was associated with Christian values and the Labour Party with secularism.

Several authors point out that even though the Church's strength and presence have been decreasing, its importance remains (Bradford and Clark, 2012; Harwood, 2014). "Weekly church attendance hovers at around 50 percent of the population and religious events and symbols are standard aspects of daily life." (Harwood, 2014, p.118). Additionally, the author cites a European Union survey conducted in 2011 revealed that 30 percent of Maltese citizens consider Christianity as a central part of their identity.

One author points out how growing up in a catholic environment tends to create a paradox between people's religion and being queer for those who are not cis and heteronormative (Deguara, 2020). This conflict begins with what is taught in the Church. Catechism states that same-sex relationships are "objectively disordered", "a grave depravity", "contrary to the natural law" and demands that those attracted to same-sex people should live in celibacy (Deguara, 2020). Trans rights are intertwined with the broader spectrum of LGBTIQ rights, with overlapping concerns and challenges and for many Catholics, their religion has more than just cultural or symbolic meaning. It is a part of their identity and their spirituality (Deguara, 2020). Thus, revealing one's sexual orientation or gender identity in a catholic place can be difficult.

Nonetheless, the divorce referendum in Malta may have initiated a process of modernization within the Church, prompting discussions about accommodating the changing societal norms regarding divorce and relationships (Pace, 2012).

During the 2011 divorce referendum, the Church, along with the ruling Nationalist Party, opposed the introduction of divorce legislation. However, despite their opposition, the referendum passed with 53.2% in favor. This surprising result indicated a growing secularization in Maltese society and challenged the Church's influence (Pace, 2012).

The Church's involvement in the campaign was controversial. Some priests made strong statements against divorce, leading to public criticism. The Bishop of Gozo, initially conservative on divorce, later expressed a more open stance, suggesting a possible shift within the Church toward accommodating changing societal norms (Pace, 2012).

Overall, the referendum highlighted the declining influence of the Catholic Church in Malta and suggested a potential need for the Church to adapt to modern societal changes, signifying a shift in the Church's traditionally rigid stance on issues such as divorce and relationships. The referendum may have initiated a process of modernization within the Church, prompting discussions about accommodating the changing societal norms regarding divorce and relationships (Pace, 2012).

### **3.3 Malta's achievements**

The ILGA Europe created a map to better demonstrate LGBTIQ rights differences throughout Europe. The percentages shown on the map relate to the countries non-discrimination and hate crime laws as well as legal gender recognition and family policies. According to ILGA Europe (2022), Malta currently ranks the highest in the Rainbow Map, with an 92% score. Malta appears on top of the charts and is the most advanced country on LGBTIQ matters, thus creating a model for other countries to follow. To put it in perspective, Malta's score is 18% higher than Denmark which is next on the chart both with a 74% score. Furthermore, when compared to the first Rainbow Map, Malta had a total score of 0% (Rainbow Map, 2011), indicating its low performance in protecting the rights of LGBTIQ people. From 2013, this figure started to shift. The following are the main achievements that happened in Malta.

When Malta reached its independence, Malta inherited the British penal code, which considered homosexuality a criminal offence. In 1973 homosexuality was decriminalized by a Labour government. Despite that, there was very little progress in the following years to promote the inclusion of LGBTIQ people, which were often hiding Harwood (2014).

Galea (2020) explains how, after a long period without any proactive legislation regarding LGBTIQ rights, a small group of volunteers began its actions in 2001. They established Malta LGBTIQ Rights Movement (MGRM) in that year, the first LGBTIQ organization on the island. After the creation of MGRM, the first survey about harassment and discrimination suffered by LGBTIQ people in Malta

occurred. In 2005, the first Pride event took place in Malta, a march organized by the MGRM which featured the slogan “No Homophobia.... Imagine That!”. The goal was to alert authorities to have the mistreatment of people based on their sexual orientation and gender identity forbidden (Galea, 2020).

Trans individuals in Malta were not legally acknowledged until 2004. Until then, courts frequently recognized the infringement of the right to privacy concerning their situation. Malta's Parliament passed Act XVIII of 2004, creating a process to amend birth certificates and other official documents to align with gender reassignment (Refalo & Cachia, 2010). Even though there were legal administrative procedures for change of name and legal gender in official documents, gender identity disorder diagnosis, sterilization (or proof of infertility), divorce (or single status) and medical interventions were required (Ilga Europe 2011). This happened until 2015, when the GIGESC act was introduced.

Joanne Cassar, a trans woman who had undergone gender reassignment surgery in 2005 and having her gender legally recognized, faced obstacles in marrying her male partner (Ilga Europe, 2014). In 2007, a significant legal development occurred in Malta when a court ruled that she and her partner had the right to marry under the Marriage Act. Despite this ruling, the Director of Public Registry appealed the decision, leading to an ongoing legal battle. Maltese courts urged the state to establish a formal procedure for changing legal status in such cases (Refalo & Cachia, 2010).

In 2012 Malta improved its protection based on sexual orientation and gender identity. With the addition of the grounds to the Criminal Code in relation to hate crimes and hate speech; the improvement of equality legislation through the first explicit inclusion of the ground of gender identity; and the expansion of the national equality body's mission to cover both grounds (Ilga Europe, 2013).

In 2013, major changes started coming to Malta, with positive LGBTIQ advancements. Political reform regarding gender identity and sexual orientation was brought about by the general election in March. A new left-wing political majority resulted in a significant advancement in the areas of family law and legal gender recognition.

By 2013, Joanne Cassar's case reached the European Court of Human Rights, where the PN argued that she was still considered a man, hindering her right to marry. Following the change in government, the Labour parliamentary majority immediately amended the Civil Code, allowing post-operative trans people to marry someone of the “opposite gender” and stipulating that they will be treated as belonging to the “acquired sex” for all civil status purposes. Consequently, Ms. Cassar withdrew her case from the European Court of Human Rights (Ilga Europe, 2014).

In 2013, the Minister of Social Dialogue, Consumer Affairs, and Civil Liberties formed the LGBTIQ Consultative Council as an advisory body. It is comprised of numerous civil society organizations. The main objectives are to advise the government on matters that affect LGBTIQ people and, in collaboration with the Minister, propose laws, policies, and other initiatives to further the rights of this

population. Currently the Council works under the Ministry of Home Affairs, Security, Reforms & Equality. (Government of Malta, 2023).

In 2014 Malta developed remarkable legal changes. The Civil Unions Act, proposed in 2013, was approved by the parliament in April, allowing same-sex and heterosexual couples to create a union with all the rights and responsibilities associated with marriage, including joint and second-parent adoption. While the Catholic Church and the opposition Nationalist Party (PN, center-right) supported civil unions, they contested the bill's provision enabling same-sex couples to adopt jointly. Furthermore, the President of Malta during that time, George Abela, had urged members of parliament to "defend the natural family" by refusing to grant same-sex couples family rights in January. Despite this, Prime Minister Joseph Muscat, stood his ground stating that this bill is in the children's best interests (Ilga Europe 2015).

Ultimately, the bill passed with the support of all 37 of the present Labour Party members of parliament and the abstention of all 30 National Party members of parliament and upheld the rights to joint adoption (Ilga Europe 2015).

Decision makers advocated harmonizing legal gender recognition processes with the highest human rights standards. As explained by ILGA Europe (2015) in August, the Employment and Industrial Relations Act was changed to make it illegal to discriminate in the workplace based on gender identity. Additionally, the Constitution was changed to forbid discrimination based on gender identity and sexual orientation. This decision was unanimous. This made the country the first in Europe to constitutionally outlaw discrimination based on gender identity. (Ilga Europe, 2015).

To streamline legal gender recognition processes and bring them into compliance with human rights norms, Civil Liberties minister Helena Dalli introduced a draft of the Gender Identity, Gender Expression, and Sex Characteristics Bill in October 2014. The bill was drafted in cooperation with the LGBTIQ Consultative Council (Ilga Europe, 2015).

In 2015, Malta achieved a groundbreaking milestone by approving the GIGESC act, an innovative law that provided significant protection for trans people (Ilga Europe, 2016). This marked a pivotal moment in the country's history, establishing a law that was truly transformative.

The Gender Identity, Gender Expression, and Sex Characteristics Act was unanimously approved by the Maltese parliament and ensures that everyone has the right to gender identity, bodily integrity, and physical autonomy (Ilga Europe, 2016)

The law enabled trans people to update their birth certificates and other forms of identification without getting a medical diagnosis or undergoing gender reassignment surgery. Trans people could state their gender in a notarial deed. Minors could change their gender marker provided their parents agreed and did so in accordance with a specific court procedure.

The proposal would also make it illegal to do any non-medically necessary interventions on a child's sex characteristics and includes gender expression and sex characteristics among the reasons for protection from discrimination under the Criminal Code. The GIGESC Act made Malta the first nation in the world to implement such rights for intersex people, forbidding any needless surgical surgery on a person's sex characteristics without their agreement (Ilga Europe, 2016).

Additionally, a third option would be added for identity documents. Along with male and female, a third option designated "X" would be made available, denoting an undeclared sex or gender (Ilga Europe, 2016). Malta is the only country in the European Union where anyone can obtain legal recognition of a third gender without needing to undergo surgical, medical, psychological, hormonal or any other treatment (Kriva, 2019). Malta's gender identity, gender expression and sex characteristics act was considered groundbreaking as it challenges the idea that a family is composed of a woman and a man (Kriva, 2019).

According to the author, the most important changes for the citizens of Malta "(a) the recognition of their gender identity, (b) the free development of their person according to their gender identity, (c) be treated according to their gender identity and be identified accordingly in their official documents." (Kriva, 2019, p.15). Furthermore, the GIGESC act creates equality policies and is translated into an improvement in the protection of non-binary people. Through anti-discrimination policies and based on self-determination it allows for gender change to occur quickly and creates the conditions for a more equal society (Kriva, 2019)

Additionally, The GIGESC act, added sex characteristics and gender expression to the list of grounds for bias-motivated speech and assault (Ilga Europe, 2016).

Carmelo Abela, minister of home affairs and member of the Labor Party (PL), announced in November 2015, that 40 people had officially changed their gender since the GIGESC Act's passage (Ilga Europe,2016).

The GIGESC Act, also granted persons with refugee or protected status a right to legal recognition Europe (2016),

The GIGESC act was the impetus for numerous other key initiatives, including a comprehensive LGBTIQ Equality Strategy and Action Plan for the years of 2015 to 2017 designed to address various aspects of equality and rights for LGBTIQ people (Government of Malta, 2015), and a wide-ranging education policy for trans, gender variant, and intersex children. It was immediately recognized as an example of best practice internationally.

The action plan encompasses the several areas right to equality and freedom from discrimination; right to education; right to health; equality in sport; right to private and family life; freedom from hatred; LGBTIQ civil society; right to seek asylum; promotion of LGBTIQ equality on an international level; and other LGBTIQ measures. 50 measures were set out in the Strategy under the thematic areas.



The Maltese government's reforms helped them move up to the top spot on the ILGA-Europe Rainbow Europe Index.

Hate crimes motivated by sexual orientation and gender identity were covered in the LGBTIQ Action Plan 2015-2017. It included pledges to evaluate the current procedures for handling hate crimes, guarantee police are properly trained, and put-up suitable referral services for victims (Ilga Europe, 2016).

In this year, Malta became the first European country to implement an education policy focusing on the needs of trans, gender-variant and intersex children. The policy includes provisions for confidentiality, support, adequate facilities, the possibility to amend documentation and access to information. Nonetheless, implementing this policy came with some backlash, as some parents objected these teachings and formed a Facebook group titled 'Parents and teachers against gender indoctrination of our children in schools' (Ilga Europe, 2016).

According to ILGA Europe (2017), the drafts of the Equality Bill were introduced to parliament on December 12, 2016. The proposed Equality Bill called for expanding the definition of discrimination and introducing the idea of intersectionality, which would enable anyone to file a claim for discrimination when they are subjected to unfair treatment based on two or more linked identities.

In 2016, the GIGESC act was amended to make 'conversion therapy' and other practices that aim to alter a person's sexual orientation, gender identity, or gender expression illegal. The opposition Nationalist Party (PN) supported the legislation as well. This amendment was approved by the parliament in a final vote on 5 December after passing the second reading stage on 18 October. The Act makes unlawful conversion practices illegal. If the activity is carried out on a young, impressionable individual under the age of 16, the fine and probable prison term increase. The law also affirms that there is no such thing as a disease or ailment of any type based on one's sexual orientation, gender identity, or expression. Malta become the first nation in Europe to criminalize conversion therapy. Charles Scicluna, the archbishop of Malta, said that conversion therapy does not respect human dignity on the 22nd of February (Ilga Europe, 2017).

Additionally, the GIGESC act Amendment Act's provisions also forbade the pathologization of any aspect of sexual orientation, gender identity, or gender expression, and they lowered the minimum age requirement from 18 to 16 for an individual to independently request a change of gender on official documents (Ilga Europe,2017).

Finally, this amendment also came to permit non-Maltese detainees to have their gender identity recognized in detention facilities. The act was approved in a final legislative vote on December 5 and permits inmates to be held in facilities that match their actual gender (Ilga Europe, 2017).

Previously in that year, in July 2016, seven transgender inmates filed a lawsuit against the head of prisons and Minister for Home Affairs Carmelo Abela (PL). Due to the marker on their identity cards,

the prisoners—all trans women—were being housed in the prison's male division and sought damages. The convicts who had access to formal gender recognition processes were transferred to the female portion of the prison in August and the case led to the introduction of a new prison policy. The policy was introduced by the Minister of Home Affairs Carmelo Abela (PL) and the Minister of Civil Liberties Helena Dalli (PL) and aims to ensure that all inmates are treated fairly. For instance, prisoners are housed in accordance with their lived gender, preferred pronouns are used by staff, searches are conducted in accordance with the prisoner's gender, and information and training are provided for both staff and inmates (Ilga Europe, 2017).

After the GIGESC Act was enacted by Parliament in 2015, the non-binary "X" gender option on official papers became permitted. However, to provide the choice for passports and identity cards, Identity Malta, a government organization, had to modify its internal processes (Times of Malta, 2017). In 2017, the Maltese government finally adopted the X gender marker on official documents, which opened the door for gender-neutral markings on people's passports and identity cards (Ilga Europe, 2018).

In 2018, the second "LGBTIQ Equality Strategy and Action Plan" for Malta was introduced by the government in September and covers the years 2018 through 2022, creating several dimensions of equality and rights concerning LGBTIQ people in Malta. The Human Rights and Integration Directorate developed the Action Plan in close collaboration with the LGBTIQ Consultative Council. The government established the SOGIGESC Unit under the Human Rights and Integration Directorate in June 2018, with the aim to oversee the Strategy and Action Plan (Ilga Europe, 2019). The SOGIGESC Unit is responsible for supervising government policies concerning LGBTIQ equality and offering assistance to various Ministries and Departments. It considers intersectional factors such as aging, migration, and disability. Annual reports are published to document the unit's advancements in meeting the established goals (Ministry for Home Affairs, Security, Reforms and Equality, n.d.).

In 2018, the first and only Gender Wellbeing Clinic in Malta opened on November 12 and offers state-funded, multidisciplinary trans healthcare services. Counseling, endocrinological evaluation, speech therapy, and the free administration of hormonal medication are among the services offered. Additionally, the Clinic recommends patients for surgeries that are carried out in Malta. Bringing a surgeon to Malta on a regular basis or setting up protocols with foreign hospitals and patients undergoing surgery overseas were two solutions investigated for other surgeries. The community had long supported and warmly embraced the establishment of the Gender Wellbeing clinic (ILGA Europe, 2019.)

The clinic was successful in serving trans patients with counseling, hormone therapy, and other gender affirming medical care having had received over 125 referrals as of November 2019 (Ilga Europe, 2020).

The government of Malta unveiled new regulations for transgender healthcare services on January 7, 2019. These regulations were the result of extensive consultations with civil society and other important stakeholders that took place the previous year. Primary care, gynecologic and urologic care, reproductive choices, voice and communication therapy, psychological support, psychiatric care, psychotherapy, and hormonal and surgical treatment are a few of the services offered. A multidisciplinary team, including pediatric specialists, will offer care to ensure that the needs of trans children and youth are met (Ilga Europe, 2020).

In 2020, the government indicated that it would assist financially Malta's ambition to host EuroPride 2023 (Ilga Europe, 2021).

Despite having in common a very catholic society, Poland contrast tremendously with Malta as its political discourse is marked with transphobia and homophobia (Barczyszyn-Madziarz & Norström). In 2021, following the enactment of a propaganda law in Hungary and ongoing attacks on the LGBTIQ minority in Poland, Malta, and its Member of the European Parliament Cyrus Engerer took the lead on the European Parliament's motion to designate the EU an LGBTIQ Freedom Zone as explained by Ilga Europe (2022).

Additionally, the Gender Well-being Clinic in Malta reported in March that since its founding in 2018, it had accepted 200 trans patients (Ilga Europe, 2022). The Cabinet approved and released the Maltese Government Guidelines on the Recognition of Sex, Sexuality, and Gender in November (Government of Malta, 2021).

The adoption of the Equality Act, which would increase the rights safeguards for LGBTIQ persons, remains in limbo as stated by Ilga Europe (2022).

#### **4. Methodology**

In my research, I departed from the initial question “What were the factors that led Malta to advance trans rights?”. My goal was to understand the factors that influenced Malta’s path and allowed for this shift in legislation, from being at the bottom of Ilga Europe’s Rainbow map in 2012 to being a global leader in trans rights from 2015 onwards (Ilga Europe, 2012)

To answer my initial research question, I followed a qualitative methodology (Weiss, 1995) based on semi-structured interviews. I conducted semi-structured interviews with representatives of organizations relevant to my research.

In semi-structured interviews, a framework of key areas and questions is established, informed by the literature review and research objectives. However, interviewees are granted the freedom to elaborate on their responses and discuss topics in a manner that suits them best, for example being able to share specific details about their advocacy work (Weiss, 1995). Accordingly, a script featuring several dimensions (Appendix A) was formulated for use during discussions with these organizations.

The analysis of the interviews involves interpretation, and summarizing with the findings are supported by quotations (Weiss, 1995). I analysed the discourse using a thematic content analysis (Maroy, 1997).

I interviewed 9 different persons from a wide range of organizations, with 5 organizations being present in the LGBTIQ consultative council. Outlined below is the description of the organizations that took part in the study:

Entity	Scope of the organization
MGRM	LGBTIQ association Member of the LGBTIQ Consultative Council
LGBTI+ Gozo	LGBTIQ association Member of the LGBTIQ Consultative Council
Aditus Foundation	Human Rights association Member of the LGBTIQ Consultative Council
Drachma Parents' Group Malta	Catholic parents, relatives, and friends of LGBTQ individuals Member of the LGBTIQ Consultative Council
AD LGBTIQ	Consultative body to the Green Party, focusing on LGBTIQ matters Member of the LGBTIQ Consultative Council
Labour Youths	The youth organisation of the Labour Party
National Youth Council	Platform for dialogue among young people and decision-makers, representing the interests of the Maltese youth
The Sexual Orientation, Gender Identity, Gender Expression and Sex Characteristics (SOGIGESC) Unit	Unit within the Ministry for Home Affairs, Security, Reforms, and Equality oversees government policies related to LGBTIQ equality and provides support to other Ministries and Departments
Sexual orientation and gender identity (SOGI) Unit of the Council of Europe	Provides technical support and expertise to member states relating to sexual orientation or gender identity

Table 1. Characterization of the entities interviewed.

The following is a brief description of each organization’s mission and scope of work:

MGRM, founded in 2001 by volunteers, started with a helpline and a mission to combat stigma against the LGBTIQ community despite limited resources. Over 22 years, it evolved into a registered organization, actively participating in European networks like ILGA-Europe and Transgender Europe. MGRM contributed to major legal advancements in LGBTIQ rights. They raised awareness through media, campaigns, and events like the annual Pride March. Their National Gay Helpline grew into the Rainbow Support Service, offering various services including counselling and legal advice. MGRM's work fostered acceptance and support for LGBTIQ individuals, and it played a pivotal role in the growth of the LGBTIQ movement in Malta (MGRM, n.d.).

LGBTI+Gozo, established in 2015, is the only queer organization in Gozo, focusing on promoting equality and providing a safe space for queer Gozitans. Through social events, awareness campaigns, and educational programs, the organization fosters pride and acceptance. They offer services to queer youth, elders, and parents of queer individuals. The organization advocates for equal rights in healthcare, work, and safety for queer people in Gozo. They are affiliated with several international and national entities including the National Youth Council of Malta, Ilga-Europe, TGEU, and IGLYO (LGBTI+ Gozo, n.d.)

Aditus Foundation, established in 2011, is a non-governmental organization dedicated to monitoring, reporting, and acting on access to human rights in Malta. Their mission involves analyzing access to human rights recognition and enjoyment, advocating for a society where everyone can access and enjoy their fundamental human rights. They emphasize access to justice and remedies in case of violations. While their primary focus is Malta, they also work to highlight the regional and international dimensions of human rights in the country. Aditus Foundation is an active member of several international organizations, including the European Council on Refugees and Exiles, Platform for International Cooperation on Undocumented Migrants, European Network on Statelessness, and the International Detention Coalition (Aditus Foundation, n.d.)

Drachma is an inclusive and supportive community that welcomes people of all sexual orientations and gender identities, including LGBTQ+ individuals and their allies. It provides a safe space for members to come together, pray, and engage in meaningful discussions about topics such as sexuality, gender, faith, and spirituality. The Drachma Parents Group is a specific part of this community, consisting of Catholic parents, relatives, and friends of LGBTQ+ individuals. They regularly gather to pray, share their faith experiences, and find strength in their solidarity. The group's mission includes supporting LGBTQ+ individuals, promoting unity, inclusion, and love within the community. They achieve this by welcoming one another, praying together, and offering mutual understanding and encouragement. Additionally, the group strives to foster dialogue, build bridges within the Church and society, and advocate for openness and respect towards LGBTQ+ persons (Drachma, n.d.).

ADPD, is Malta's Green Party, formed in October 2020 through a merger of the Democratic Alternative (AD) and the Democratic Party (PD). The party advocates for social and ecological justice, aiming for a progressive and sustainable future. Within this framework, AD LGBTIQ serves as a consultative body to the party, focusing on LGBTIQ matters. They are represented in the LGBTIQ Consultative Council to the Government of Malta and work to create an inclusive space promoting equality and diversity within a green political context. (ADPD, n.d.).

The Labour Party was founded in 1920 to advocate for the rights of Maltese workers amid social discrimination and colonial oppression. Despite initial challenges and political changes, the party gained strength, championed women's suffrage, and pushed for Malta's independence. The Labour Party is the youth organisation of Partit Laburista (Partit Laburista, n.d.).

Founded in 1992, The National Youth Council (KNŻ) in Malta is an officially appointed body by the government. It operates as a voluntary NGO, serving as a significant player in Maltese civil society. KNŻ acts as a platform for dialogue among young people and decision-makers, representing the interests of the Maltese youth. Their objectives include promoting cross-sectoral youth policy, influencing regional and international youth policies, enhancing youth participation in societal and decision-making processes, and advocating for equal rights and opportunities among young people. The organization's work encompasses areas such as youth advocacy and empowerment, public health, human rights, and national representation (Maltese National Youth Council n.d.).

The Sexual Orientation, Gender Identity, Gender Expression and Sex Characteristics (SOGIGESC) Unit within the Ministry for Home Affairs, Security, Reforms, and Equality was established in June 2018 and oversees government policies related to LGBTIQ equality and provides support to other Ministries and Departments. Currently, it focuses on implementing the LGBTIQ Strategy and Action Plan 2023-2027, encompassing over 50 measures aimed at promoting equality in areas like employment, education, health, and sports. The unit addresses intersectional aspects such as aging, migration, and disability. Annual reports have been published, detailing the unit's progress in achieving the set targets (Ministry for Home Affairs, Security, Reforms and Equality, n.d.).

The Council of Europe is an organization comprising 46 member states. Its main mission is to promote democracy, human rights, and the rule of law across Europe and beyond. The Council has developed over 200 legally binding international treaties, including the European Convention on Human Rights (ECHR), to protect people from threats such as torture, violence, and sexual abuse. The Council of Europe (CoE) works toward its objectives by monitoring and advising states to meet common European standards and collaborating with expert bodies (Council of Europe, n.d.).

All the organizations representing LGBTIQ people from the sample, are members of the LGBTIQ Consultative Council, which was created in 2013, and is made up of LGBTIQ non-governmental

organizations, labour unions, and equality working groups of political parties. It strives to integrate recent legislative and policy reforms made in Malta into service provision and daily living.

The representative from the Council of the Europe, is Maltese and has been involved in the early stages of the evolution of trans rights in Malta as an activist, having also worked for MGRM. Therefore, I will refer to the representative as the representative from the Council of the Europe/ MGRM.

Interviews were conducted from June to August of 2023. Most interviews were conducted online via the platform Google Meet because of the geographical constraints. Through my work I met the representative of National Youth Council of Malta whom I interviewed in person.

In September of 2022, there was a conference in Portugal called Let's Change the Pace, organized by the European Network of Parents of LGBTI+ Persons. In this conference, I met several activists from Malta whom I later interviewed. Additionally, I visited MGRM in April of 2023. This put me in a privileged position to conduct my research, as it allowed me to meet several people personally, before conducting the interviews online.

I usually inquired with the individuals I was interviewing whether they knew of any other contacts who might be suitable for contributing to the objectives of my thesis. Some of the people I contacted through Instagram and others through email.

All interviews were recorded with the permission of the interviewees, and then I transcribed the recordings using a free online software. Afterwards, I reviewed and made any necessary corrections to the transcriptions. The interviews duration averaged 1 hour. It should be mentioned that there were no rewards or incentives for involvement, and participation in the study was entirely voluntary. English was used for all communication throughout the interviews.

When analyzing the interviews, it is also important to refer that I am not Maltese. Even though I have visited Malta, I am Portuguese, therefore my approach comes from a place of someone who is not a national. Nonetheless, I consider myself non-binary, so the topic of legal gender recognition is close to my heart. Additionally, I am a member of IGLYO's advocacy panel, and I was president of rede ex aequo, the largest LGBTIQ youth organization in Portugal, which brought me a deeper understanding of activism, specifically the scope of queer activism in the European and the Portuguese context.

## **5. What caused Malta to become a trailblazer in trans rights in Europe**

Understanding the notable advancements in trans rights in Malta requires considering multiple important aspects. The variety of answers I received from those I spoke with on Malta's advances highlighted how intricate this development has been. It is evident that multiple interconnected causes have contributed to the advancement of trans rights in Malta, reflecting the complex nature of this development as opposed to a single cause.

I will divide my explanation in five main groups, the impact of international organizations, the pressure developed by activism, the political will behind this approval, the role of the LGBTIQ Consultative Council, and the influence of the Catholic Church.

Already in 2004, there were provisions in the civil code that allowed trans people to be recognised on their official documents. These provisions were, however, extremely restrictive, evasive, costly, and only limited to those who fulfilled the surgical requirements (Refalo & Cachia, 2010).

These measures were inefficient in addressing trans people needs. As present in the Council of Europe Recommendation CM/ Rec(2010)5 the Committee of Ministers of the Council of Europe states “Member states should take appropriate measures to guarantee the full legal recognition of a person’s gender reassignment in all areas of life, in particular by making possible the change of name and gender in official documents in a quick, transparent and accessible way” and the measures established in Malta before 2015 were far from meeting the fast, clear and accessible requirements the Council of Europe mentions.

For trans people in Malta the GIGESC act in 2015 was extremely important as it simplified the process of legal gender recognition and granted the protection of sex characteristics for intersex<sup>3</sup> people. This also marks a major shift in the country as it meant legal gender recognition was no longer dependant on a person’s physical transition, but rather allowed self-determination.

I will start this analysis by addressing how International Organizations play a role in shaping Malta’s global image and how Malta also plays a role in the Council of Europe.

### **5.1 The impact of International Organizations**

Both the representative for Aditus Foundation and the representative for the Council of Europe/MGMR shared some insights on how international organizations helped pushed Malta’s trans rights forward.

Mechanisms that compared Malta to other countries within Europe generated the will to create change:

At some point, what really worked and what the government kept referring to as a main factor in making them change their mind and doing what they did were the reports by the Fundamental Rights Commission and what they did were the reports by the Fundamental Rights Agency (FRA) of the EU where Malta kept being listed at the bottom of the list in terms of protection, anti-discrimination, marriage equality, Malta kept being listed at the real bottom

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<sup>3</sup> Protection of sex characteristics for intersex people is not under analysis in this dissertation.



of the list, public perception, hate speech, hate crimes. So over there, that helped as well, so that the shaming over there, it did work, yes. (Representative for Aditus Foundation)

This reports that negatively compared Malta to other countries creating a sense of shame. In fact, FRA showed in a report that Malta was very behind in trans rights, particularly in schools: “In Malta, the Gay Rights Movement studying homophobic bullying, harassment and violence by students and teachers found that transgender students were likely to drop out of school or skip classes because of the bullying, harassment or lack of understanding by teachers and students.” (FRA, 2009, pp. 69-70). The representative believes that reports such as this one helped Malta realize they were behind its peers in terms of LGBTIQ rights, creating a sense of urgency to catch up and align its policies with international standards.

In 2010 MGRM created a position paper which made references to judgements from the European Court of Human Rights and the European Court of Justice of the European Union:

“Our position paper in 2010, (referring to her time in MGRM) for example, made significant references to judgments both of the European Court of Human Rights and the European Court of Justice of the European Union. This was for us the major, I would say, impact.” (Representative of the Council of Europe/MGRM)

When the LGBTIQ Consultative Council started creating new policies, there was a very important document produced by the Council of Europe that provided a standard for guiding policies developed in Malta, the Recommendation CM/Rec(2010)5 of the Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity:

“In terms of, for example, the education policy, there the Recommendation CM/Rec(2010)5, for example, was quite important as a reference document, as a standard. Because that recommendation includes a section on education. So, there it was also significant when it came to the policy.” (Representative of the Council of Europe/MGRM)

The Council of Europe provided a point of reference and standards for the legislation built in Malta even though associations weren't developing a lot of direct work with them.

“So, they were a point of reference for advocacy, for setting the standards in our legislation. But in terms of the Council of Europe as a body, we were quite distant from that.” (Representative of the Council of Europe/MGRM).

Despite having used that Recommendation, NGO's proximity to the Council of Europe was indirect, as they were working closely with organizations such as ILGA Europe, Organisation Intersex International Europe (OII Europe), and Transgender Europe.

"In terms of NGO work, we didn't really work very closely with the Council of Europe. It was secondary in the sense that as NGOs we were affiliated with ILGA Europe, Transgender Europe, and of course both those, the OII Europe and all of those platforms have close ties with the Council of Europe." (Representative of the Council of Europe/MGRM)

When the LGBTIQ Consultative Council was developing the GIGESC act, they consulted Transgender Europe to understand better how to create a process where children can access gender identity recognition:

There were some issues where we also consulted with Transgender Europe, for example. Particularly in relation to access to gender identity for minors, for children. Particularly smaller children. And that was also very useful for us. And what was also very useful was the checklist that Transgender Europe had with the various elements that a law that reflected good practice should include. So that was also very useful to guide us. (Representative of the Council of Europe/MGRM)

Therefore, the NGOs in Malta were mainly communicating with international organizations whose mission focused on developing trans rights. Additionally, since Malta did not have a court judgement, their link to the CoE was not as strong as in some other countries.

In some other member states of the Council of Europe, the sort of the link between the Council of Europe and the member states is more direct, generally because there is a court judgment, right? So, in terms of execution of judgments, whereas we did not have that in Malta. There was no Maltese case that could sort of, let's say, open doors for us. Although, of course, European court judgments are applicable to all the member states in terms of the rights. (Representative of the Council of Europe/MGRM)

Malta goes beyond the existing standards that the Council of Europe developed regarding trans rights:

I think if you had to look at all the 46 Council of Europe member states, as can be seen from the ILGA Europe Rainbow Index, Malta has placed first since October of 2015. So, in general, the policy and legal framework in Malta is more comprehensive than in other member states. So you could say we meet the minimal requirements. We actually exceed the minimum requirements that the Council of Europe is generally tasked with monitoring. (Representative of the Council of Europe/MGRM)

Malta stands out far well when compared to numerous other Council of Europe member states, and since there are ongoing reviewing policies in place, Malta is not dependent on the Council of Europe to create change:

But in general, because we compare quite positively with many other Council of Europe member states, generally, we've also, in a sense, Malta has introduced its first LGBTIQ strategy in action plan in 2015. And we're now on our third strategy. So, there is, in a sense, an internal standard setting process that is being undertaken. We don't necessarily, in a sense, require the push of the Council of Europe to generate momentum. I think that is more useful in countries where progress is a little bit more difficult and where there is less, perhaps, political will. (Representative of the Council of Europe/MGRM)

Although often, external pressure can help identify gaps in legislation and encourage countries to address them, Malta already has a very comprehensive framework for trans rights and goes beyond the minimum requirements the CoE sets. Additionally, with the trans movement being organized and having political will to keep ensuring the rights of trans people, Malta is not dependent on the push of the CoE to keep improving trans rights.

Nonetheless, Malta receives ECRI (European Commission against Racism and Intolerance) visits and they are expecting to receive recommendations from them:

But we also have ECRI (European Commission against Racism and Intolerance) visits. Actually, Malta had a visit by ECRI earlier this year, in June, I think. I haven't seen the report yet. I don't know if it's been published. Usually, it takes a while. But I'm sure there will also be recommendations there. I know, for example, the issue of asylum seekers and how asylum claims are adjudicated; Detention conditions, reception conditions is a problem that NGOs have been raising. So, of course, there are areas for improvement still. (Representative of the Council of Europe/MGRM)

The goals of ECRI are to assess the efficacy of member states' laws, policies, and other initiatives to combat racism, racial discrimination, xenophobia, antisemitism, and intolerance while suggesting additional local, national, and European measures (Council of Europe, n.d.).

As will later be mentioned by some representatives of organizations defending the rights of trans people, rights of trans refugees and trans asylum seekers are not yet fully assured in Malta. The ECRI visit to Malta may provide guidance on how to account for them as well. Consequently, this also shows how there is still room for improvement in Malta.

Additionally, the Council of Europe can be an important platform for Member States to discuss important future steps, especially when working on the recognition of non-binary people.

I think Council of Europe spaces are useful to share good practices, to discuss areas which are still developing. So, for example, recognition of non-binary people. This is an area which is still not yet well addressed in many Council of Europe member states. So, this is an area where exchanges between member states are actually quite useful, because we can discuss what the issues are. There are also quite significant cross-border impacts. So, this is useful. (Representative of the Council of Europe/MGRM)

Nonetheless, the Council of Europe often uses Malta as an example for trans rights.

So, of course, Malta is often mentioned as a good practice example in relation to this. It's more because the Council of Europe uses the progress that is made in member states to highlight good practices than anything else. (Representative of the Council of Europe/MGRM)

Additionally, Malta is used to having delegations come to understand better the work of Malta in developing trans rights.

When I was working with the SOGIGESC Unit in Malta, we hosted a number of study visits. Some that were financed by the Council of Europe and others that were financed by the EU Commission. So, we would have delegations from various countries that were considering introducing gender identity legislation to come to Malta. And we would organise a one or two day programme for them where they would meet different stakeholders. So, Malta is used in this sense. (Representative of the Council of Europe/MGRM)

The Council of Europe aims to identify European countries that defend exceptionally LGBTIQ rights (Ammaturo, 2015). With the advancement of trans rights, Malta is now catching attention on a global

scale. The country is receiving overwhelming support and positive recognition from international organizations, other European nations, and human rights advocates, that visit the country to develop better legislation for themselves. The island therefore is the perfect example of a small Catholic country, that used to lack legal gender recognition for everyone, succeeding to implement trans rights. The Council of Europe has noticed it and can use it to promote the image of Europe as “a tolerant, open, and respectful continent for LGBTIQ+ people” (Ammaturo, 2015).

In a way this almost creates a symbiotic relationship between the Council of Europe and Malta. The Council of Europe uses Malta as an exemplary case regarding trans rights. And Malta uses this international recognition to enhance the country’s image. By supporting trans rights, Malta is no longer “ashamed” of their international position regarding LGBTIQ rights, but rather proud of the country’s advancements.

## **5.2 Activism**

Though my conversations with representatives of political parties, the government, Maltese organizations defending trans rights, and youth organizations, it was clear that although the major legislation changes regarding LGBTIQ rights started after the newly elected Labour Party took office in 2013, most of the work had already started years prior, with activism.

Several representatives of organizations representing the rights of trans people, the representative of the SOGIGESC Unit, and the representative of the Labour Youths, mentioned the case of Joanne Cassar. She was a Maltese trans woman who in 2006 wished to marry her fiancé but was refused to marry on the basis that the Marriage Act prohibited unions between persons of the same sex (Malta Today, 2013). She fought her case all the way up to the European Court of Human Rights until she settled in 2013 with a financial compensation granted by the newly elected labour government that promised her marriage equality (Galea, 2020).

Joanne Cassar’s court case brought attention to trans matters in Malta in 2008.

I would say the cataclystic change came about when in 2008 or 2009 there was a trans woman, her name was Joanne Cassar, who wanted to marry her husband. But then when it came to applying for marriage, she was not allowed, and she made a case against the courts of Malta. And once again the courts did not allow this to happen. So obviously Joanne did not stop there, and she put it up for the European Court of Human Rights because she was being denied her right to marry. (Representative of the SOGIGESC Unit)

Her decision to take legal action, demonstrated her determination to challenge discriminatory laws and fight for her rights. By persisting with the case all the way until the European Court of Human Rights she showcased Malta how trans rights needed a reform.

Joanne Cassar's legal battle against the Maltese government highlighted the struggles faced by trans people in Malta. Her case showcased the challenges trans people often encountered when seeking legal recognition and equal treatment under Maltese law, before the GIGESC act.

Joanne Cassar became a great advocate for trans rights and her story resonated with Maltese society:

The case of Joanne Cassar, which I mentioned, it really touched people's hearts in a very good way. You know, she was a trans woman, she underwent at her own expense under the old legislation the sexual assignment surgery, but still she had problems in getting married. So, she used to appear on TV very often and it really became a case about a woman who wants to get married. So, the packaging was very well done, she was an excellent public speaker, she was a very genuine, honest advocate with no agenda, but just the fact that, you know, I have a boyfriend, I want to get married. And it really was a really valuable contribution. (Representative of Aditus Foundation)

The general perspective from the interviewees was of Joanne as a great advocate for trans rights. She battled her case in court, showing great resilience and determination:

So, she went through the whole national court process over seven years. The lower courts and then the higher courts and all the way up to the constitutional court. She was very outspoken. She was also quite well liked by the general public. And so, she was also a very good ambassador for trans rights. And together with this person there were a few other many trans women I have to say at the time who were also quite visible and quite vocal. (Representative of the Council of Europe/MGRM)

After the Labour Party won the elections in 2013, they reached an agreement and a financial settlement with Joanne to allow trans people to get married.

In fact, one of the first things that the Labour Party did once they came into power, literally one month after, was to reach an agreement with Joanne Cassar, who put a financial settlement, but also an amendment to the legislation to make it clear that recognition of gender identity

extended to all spheres of life, including marriage. (Representative of the Council of Europe/MGRM)

Cassar's case had a major impact on the perception of trans rights in Malta and how everyone should be allowed the right to marriage. Joanne's case brought the public's attention to the necessity of providing trans people with equal rights. Her importance in the Maltese context cannot be overstated; she became a symbol of the struggle for trans rights, sparking a legal battle that ultimately led to significant changes in Maltese law.

There were more factors the activists mentioned for the advancement of trans rights. Several representatives of organizations defending the rights of trans people and the representative of the Council of Europe who was also member of one of those organizations, mentioned how on newspapers and television, awareness was starting to be raised. There were other trans women gaining visibility and being outspoken as well:

There were a few other many trans women I have to say at the time who were also quite visible and quite vocal. (Representative of the Council of Europe/MGRM)

A lot of activists were invited to speak on television, they helped raise awareness by talking about their work but also sharing their personal stories.

And then, you know, us activists, we, some of us, you know, we were also, a lot of our activism inevitably became personal. So, we would, I mean, I was on TV hundreds of times speaking as the lawyer in the NGO but even talking about, you know, my life and my own identity and many activists brought in that personal vibe and it worked, you know, this interplay of human rights standards and personal stories, it works, it always works. (Representative of Aditus Foundation)

The Case of Joanne Cassar, and the activists that were regularly invited to speak up on the news, make it clear that several circumstances in Malta were allowing momentum to build in favour of trans rights.

Additionally, NGOs were already focusing on trans rights. MGRM from the beginning of its creation had trans rights as a priority:

I think trans issues were always one of the main areas that MGRM addressed also because in providing support services we were often approached by trans people or parents of trans children and youth because we were both an advocacy organisation but also a service provider.

So, it was already a focus on our work because as you know trans people tend to be at higher risk of violence, of discrimination, etc. I think the need at the advocacy level as well as service provision was recognised. (Representative of the Council of Europe/MGRM)

MGRM used to draw a manifesto with priorities of the LGBTIQ citizens of Malta prior to the elections in Malta:

And then I guess what we also used to do is prior to any general election, we used to draw up a sort of manifesto. So we used to ask the main political parties in Malta what they planned to do on sort of a list of measures that we thought were needed. Of course, gender recognition and self-determination was one of these. (Representative of the Council of Europe/MGRM)

Back in 2010, MGRM published a position paper with a new proposed Gender Identity Act. Although it was never actually put on the agenda of the parliament, the representative explains that it raised awareness and was an important tool for their advocacy work.

And then some other things. So, in 2010, December of 2010, the MGRM also published a position paper with a new proposed Gender Identity Act. So, this was a project that was funded through IPPF where we sort of contracted an expert, a consultant to draw up this new act. And of course, the document also analyzed the provisions that were in place at the time and looked at good practices around the world. And we had a member of the opposition at the time who agreed to table this new proposed Gender Identity Act in Parliament. But it was never actually put on the agenda. But it did also raise visibility, it gave us the argumentation that we needed in our advocacy efforts. (Representative of the Council of Europe/MGRM)

The representative of the Council of Europe/MGRM highlighted how the work of MGRM was, from its creation, very focused on advocating for trans rights. Their advocacy efforts had been well organized, even having funded projects that allowed them to push for trans rights for several years.

Regarding NGO's work, the representative of the SOGIGESC UNIT recalls the work of Drachma who were working with the Church:

For example, there was an NGO called Drachma, which was mostly focused on conciliating faith and LGBTIQ societies and also they were doing a lot of work with the church. (Representative of the SOGIGESC Unit)



I will explore further ahead how this communication with the Church created better conditions for trans rights to be discussed on the island.

The Representative of Drachma Parents mentioned how the Consultative Council that was formed in 2013 by the Labour Party acted as a main body that allowed for better communication with NGO's. Nonetheless, there were a few key episodes before its creation, that allowed for organisations to work together and develop common responses. In 2011 NGO's were invited to meet at the American Embassy and discuss common practices together:

Actually, the actual event when all players came together happened in 2011 at the American Embassy. The American Embassy took initiative to bring the leaders of the NGOs together to have a day seminar and talk about the issues lying ahead. (...) I think that was a turning point for Malta, because the NGOs had a day of discussion, reflection, team building, interaction with what each group is responsible for, and that was extremely beneficial to create a strategy. And it was built together. (Representative of Drachma Parents)

In 2012, there was an attack on two girls by a bus driver who saw them kissing. Organisations quickly gathered to issue a response to this type of attack. Coincidentally, the incident happened amid public discussion about introducing laws to protect LGBTIQ citizens from hate crimes (Gray, 2012).

And in fact, in 2012, the very first breakthrough, in my opinion, was that there was a case, a particular case, of two lesbians who were on the bus, and they were like thrown off the bus because they were being... There was hate speech, basically. And there was a report in the papers. Immediately, the NGOs on the consultative council said, we need to stand by these two. And within hours, there was a vigil in the same location that same night. So literally, this happened at four around that time, and at eight in the evening, it was in the coldest of months everyone met with a candle (...), and we created an awareness of what is happening, you know. So we say, this can't go on, this can't go on. Hate speech and hate crimes of this sort are not correct. We need to take action. (...). Within a week, the law changed. And so we realized this was the way to move forward. (Representative of Drachma Parents)

Effective communication and response among NGOs are key, as they allow for more visibility and impact. Regarding collaboration between NGO's, there was a common understanding between them about what they were doing which allowed for them to keep redirecting people towards the NGO that could help them best. The great work developed by NGO's allowed for social acceptance to rise in the island:

We would exchange, like if there were parents who went knocking the doors of an NGO, (...) they would refer those parents to us, because we were handling the parent reality. If there were students at university feeling they're being bullied, (...) there was the student organization on campus that we would refer to. (...) So it was a passing over of who was best suited to support that particular individual. And I think there was a very good service being offered by the NGOs that allowed for the social acceptance to happen. (Representative of Drachma Parents)

This means that prior to the creation of the LGBTIQ Consultative Council, although there were no formal structures created, NGOs were already collaborating. By sharing expertise, the NGOs could address a broader spectrum of issues, allowing them to develop a better response to the LGBTIQ citizens of Malta. This indicates that the activism Malta before 2013 was already strong and beginning to organize.

There are more explanations provided regarding the importance of activism towards increasing trans rights in the country and how other factors might have contributed as well.

The representative of the SOGIGESC Unit clearly conveys how activism was dynamic on the island, and how in 2013 there was a change in the government which allowed for a different political stance on trans rights.

So, there was a lot of movements happening at the same time, although not in synchronicity. But somehow, they were adding up to create this momentum. So, when in 2013 there was a change in government and obviously the change in government led to a party change, a change in ideology, it showed that it was more progressive in terms of what they wanted to bring about (Representative of the SOGIGESC Unit)

The change in government allowed for a change in ideology, which opened up the opportunity for trans rights to be recognized on the island.

Additionally, when the civil unions law passed, the LGBTIQ people in Malta celebrated but also protested for it not having been approved unanimously as they wanted to transmit a sense of acceptance to all society:

And I believe that given that you are sending a message as parliamentarians that the LGBTI community and allies, there was a huge manifestation of celebration, first of all. But they were furious because they wanted to send that message to the whole country that at least a message

of acceptance. That this was the first step towards more equal rights and towards acceptance of the LGBTI community within society. (Representative of Labour Youths)

The abstention of a considerable number of deputies was seen as a lack of support to equal marriage. People took it as a message that marriage equality is not important enough for these representatives to take a clear stand. Activists for LGBTIQ rights in Malta were not just seeking legal change, but also social and political acceptance. Therefore, they were unhappy with this result and protested. This might have triggered the Nationalist Party to understanding that their lack of commitment towards LGBTIQ rights need to change, otherwise, they would lose public support.

The representative of the National Youth Council criticizes how people point to the government and celebrate the achievements, forgetting the work civil society organizations built throughout the years.

I mean I find it very easy for some people to say oh look the government did this the government did this but in reality like and the same for the and this extends to like most of the advancements we've had with queer rights it's because people from the community and activists within our community have been pushing for it advocating for it and liaising with ministerial workers and people in power to get these things through (representative of the National Youth Council).

The representative of the National Youth Council mentioned that it is important to remember the work the trans people and the activists working with trans people developed. Further, I will speak about the role of the political parties in developing trans rights.

The representative of a political party recalls that the GIGESC act focuses not only on trans people but also in intersex rights, by including the protection of sex characteristics. Recalling how between 29 November and 1 December 2013, the Third International Intersex Forum, supported by ILGA and ILGA-Europe, took place in Valletta, Malta, bringing the necessity of protecting intersex people into the discussion (OII Europe, 2013).

And then another thing that happened as well related in a way to make the trans rights law actually not just be about gender identity, but be also about sex characteristics was that an intersex, a global intersex meeting was held in Malta in 2013. (representative of AD LGBTIQ)

The representative of the SOGIGESC Unit explains how the GIGESC act changed the paradigm in Malta, allowing self-determination.

Then there was the gender identity bill, which came into law. So that allowed people for self-determination and self-autonomy so that they can declare their gender identity without the need to go through gender reassignment surgeries. And the process was quite pioneering and quite avant-garde as well. And that allowed for people to legally change their gender on their

identity card through a notary declaration by declaring them with a notary. (representative of SOGIGESC Unit)

Additionally, that Malta didn't stop its work after the GIGESC act was approved. He mentions how other changes in legislation came to be but also how the public policies changed to create inclusion for trans people.

(...) So as you can see, there were many, many changes in the legislation that allowed them for people to gain their rights and their recognition. And obviously other policies follow. So it wasn't just about legislation, there was government policies being written and distributed. So, for example, how to address persons with the correct pronouns and certain changes, for example, with having a minimum number of gender neutral bathrooms and restrooms in public service and public departments. (representative of the SOGIGESC Unit)

The representative of LGBTI+ Gozo also agrees with this perspective:

It's not like they've just reached one milestone and stopped there, you know? The legislation is continuing to build. (Representative of LGBTI+ Gozo)

Additionally, the representative of the SOGIGESC Unit mentions how even the private sector wanted to develop more inclusive workspaces.

And obviously this then filtered in other spheres. For example, the private sector wanted to know more about how to become more LGBTI inclusive. So, then the LGBTI and the private sector got in touch with the government on how to create more inclusive policies. (Representative of the SOGIGESC Unit)

Concluding by stating that this led to the socially acceptance to rise further.

So, this created like a filter effect, a multiplier effect throughout in society. So, yes, I mean, even in terms of rights and legislation, this improved the attitudes of a number of people (Representative of the SOGIGESC Unit).

The persistence of activism in several fronts, created conditions for Maltese society to be more opened to discussing trans rights and to accepting trans people. Ahead, I will explore further how the GIGESC act was passed unanimously in the Parliament.

Activism ranging from individuals to civil society organizations allowed the Maltese society to be more aware of the necessity of trans people to see their identities recognized by law.

After the GIGESC law was passed organizations continued developing their work towards promoting the acceptance of trans people.

The representative of Drachma Parents mentioned the case of Willa, she was an eight-year-old trans girl who published a book sharing her story. Although the book was published in 2016 (Ganado, 2016), a year after the GIGESC act was passed, the activist explains that Willa's story impacted greatly the Maltese society as it resonated deeply, allowing people to sympathize with the emotional and social struggles faced by a trans child.

It was the story of a family that was brought out in the public media, and Willa also wrote a book with her own story so that it can be better understood from the perspective of a child who is identifying as trans and the difficulties in being socially accepted, and I think it was a story that hit home even in terms of people understanding the emotional and social impact, you know, on a child basically, a child who had a great way of communicating her reality. And when they see a mother, when they hear a father, when they see a person who's actually going through it, when they see Willa at six years sharing her story, this is, it moves you. You say, maybe I need to learn, you know? (Representative of Drachma Parents)

As the representative explained, Willa's ability to articulate her reality made the story particularly impactful, highlighting the importance of understanding and empathy.

The fact that organizations didn't stop their advocacy efforts in 2015 also created conditions for the GIGESC act to suffer amendments in both 2016 and 2018, further establishing the legal protections for trans people.

The representative of MGRM speaks about the creation the Gender Clinic, after the approval of the GIGESC act and the push that MGRM kept doing after the GIGESC act was passed to open the gender clinic.

Now, so in Malta, we had the GIGESC law, in 2015. Yes, what we didn't have was a gender clinic. So basically, we worked a lot, you know, having meetings with the Ministry of Health, et cetera, to have the gender clinic. I personally also wrote a letter and signed it from around, I think, 30 or 40 trans people, and we sent it to the ministry as well. And yes, it has been opened in November 2018, I think. (Representative of MGRM)

The gender clinic that later opened in Malta specializes in providing healthcare services to trans people, tailored to their needs. This specialized care ensures that trans people receive appropriate medical support and mental health services. It is therefore essential for the overall wellbeing and quality of life of trans people in Malta. It was due to the continuous pressure by NGOs that eventually the Gender Well Being Clinic opened in 2018, signalling that activism in Malta was and is key to generate awareness of the challenges trans people face.

All the interviewees gave a lot of importance to the activism in Malta. Without this previous work to “bring the population on board”, trans issues in Malta would not be made aware of. Overall, the activism in Malta contributed to bring awareness and made the population sensitive to trans matters.

### **5.3 Role of the political parties**

Throughout my interview process it became evident that the Labour Party, that had been in opposition for fifteen years (Encyclopedia Britannica, 2020), coming into power in 2013 was a major and deciding factor for trans rights in Malta.

All the interviewees agreed that the Labour Party coming into power was important for legislation regarding trans rights to evolve so much in a quick period, namely with the approval of the GIGESC act.

The Labour Party coming into power was important for the GIGESC act to be approved. The representative of AD LGBTIQ explained how before the Labour Party coming into power, there was a failed attempt to make legal gender recognition easier:

It was necessary. Labour backbencher, who then became Minister of Education when Labour put the government, Everest Bartolo, had actually put forward a private members bill in 2012 or before then that was for legal gender recognition. It was quite a progressive bill proposal and it was not even considered. So there is an actual clear example of actually a proposal coming, being put forward and then not being considered. So, the change was necessary. (Representative of AD LGBTIQ)

Several representatives of organizations that defend the rights of trans people also stated that Malta wouldn't be seeing anything close to a GIGESC act if it wasn't for the Labour Party to be elected:

Then we'd probably be in the same situation. Because the conservative party had a lot of chances to bring about change. We were, like we were talking to the Labour Party back then, we were also obviously talking to the party government, the conservative party, so they knew the issues, they knew the stories, they saw everything. And still, when they came out once with what they believed to be legislation giving legal recognition to same-sex couples, it was a

disaster. It was a terrible, terrible law, which we all publicly denounced and rejected. So they had their chances to bring about change, but they really flopped badly. You know, they flopped badly in the divorce discussions, they flopped badly in the civil unions' discussion, they really had chances to do the right thing and they just couldn't because they really are conservative. So I think if it had not been for the Labour Party back then, at that crucial time, then today we might only have small victories, like very tiny victories, but nothing major for sure. (Representative of Aditus Foundation)

I doubt it would have happened so fast if this sort of political switch had not happened. So, it's difficult to predict whether it would have happened at all had the Nationalist Party been in power. Unlikely, or it would have taken much, much longer probably. (Representative of the Council of Europe/MGMR)

I think the Nationalist Party who had been in government for what, 25 years were never going to bring the legislative improvements because of the outlook on the traditional family the outlook on the influence that the church has and there was a clear change from the same page so there wasn't really the interest to shake the waters. (Representative of Drachma Parents)

Despite the efforts to see some change regarding the recognition of gender identity in Malta, when the Nationalist Party was in power, changes to simplify gender identity recognition in Malta were unable to come. The main reason appointed for this is the outlook on the traditional family that the Nationalist Party had.

Throughout the interviews, it was clear that the Labour Party had a lot of political will to ensure trans rights were respected. During the election campaign the Labour Party promised to improve the life of LGBTIQ people by approving marriage equality, trans rights, and intersex rights. They promised to listen to the LGBTIQ community in Malta and address their needs.

The government, well, the political party that eventually became government was very clear in saying, I will give you whatever you want. They made it very clear. They told the community in the run up to the 2013 elections, they told everyone, whatever you want, we're going to give it to you. Marriage equality, trans rights, intersex rights, you know, anything you want, you're going to get it. (Representative of Aditus Foundation)

The Labour Party was elected after the 2013 elections, bringing a new political perspective to Malta that embraced the rights of LGBTIQ people.

There is no denying that the Labour government takes pride in its commitment to LGBTIQ Rights. On the official website of the Labour Party, on top of the page, the first section is called Labour's LGBTIQ+ Rights Legacy. When clicking on it a document opens containing an explanation of the history of LGBTIQ rights in Malta and highlighting how the Party has been the main responsible for these rights being adopted (Partit Laburista, n.d.).

Although all interviewees agree that the Labour party coming into power was important for trans rights to be established in Malta as quickly as they did, some representatives from organizations defending the rights of trans people and the representative of the National Youth Council, hold some reservations regarding the motivations of the party and see this positioning of the Labour Party as a vote catching exercise.

Several representatives of organizations that defend trans rights and the representative of the National Youth Council hold a critical position as they claim that promising the LGBTIQ population changes was a tool used by the Labour Party to cast more votes and win the elections.

But I think it was also a very clever political way of winning the elections because we're speaking about an LGBTIQ plus community that was living in the shadows and not spoken to, not spoken of, you know, ignored forever politically. And finally, we had a political party that was telling us, you know, I'll talk to you, I'll be seen with you, and I'll give you whatever you want. And they were very clever, and they realized that that change in political attitude could result in thousands and thousands and thousands of votes, which it did. (Representative of Aditus Foundation)

The goal was not just to get votes from LGBTIQ people, but also from their families and friends who would want to see their voices heard and their rights, that had long been ignored, legally recognized:

On the other hand I would say that the Labour Party saw this as a vote catching exercise I believe the maths was done that if one says 5% identifies as LGBT add their parents, add their siblings, add their best friends and you have a portion of the voting percentage that if you come out in favour of liberal legislation you will have a winning ticket and they had been in the opposition for too long I believe it was a calculated decision to say let's go for the more liberal view for young people for LGBT people and I think it was a very clear game changer even in their manifesto so it was it was not hidden it was the agenda and then what you get is that the population who wanted these changes even though they were nationalist but they wanted these different choices to be available they voted for for the Labour government whilst the



Labour government had this mandate and very strong mandate they realised that their only success would be if they do it and they do it fast. (Representative of Drachma Parents)

This positioning, and the will to keep making progress, is what allowed the party to keep being in power since 2013.

It's very clear that the progression that we started seeing in terms of queer rights came about with the change to the Labour government. And I have no doubt that this progression is in part why they've been able to win election after election after election ever since. (representative of the National Youth Council)

The motivation behind the Labour Party was therefore to finally get into power. They had been in opposition in a long time and needed a cause that they could use to distinguish themselves from the Nationalist Party. Although in countries, such as Poland, we tend to see this mobilization of people being used to cast votes using an anti LGBTIQ rhetoric (Barczyszyn-Madziarz & Norström), in the case of Malta the opposite happened, and the rhetoric used to cast votes brought about positive change for trans people.

Nonetheless, the representative of MGRM pointed out that the Labour Party didn't just use the LGBTI population to cast votes without delivering on the promise to improve their lives. In this contrasting view, since the government delivers the promise set out, then they did their part, and the people should not feel used.

Some would tell you LGBT people were used by the government to get in power, which I don't agree in the sense that if I'm being used, I am being used if you tell me you are giving me rights, I vote for you and you don't give me the rights. But if you tell me I'm giving you rights, I vote for you, you give me rights, I'm not being used. (Representative of MGRM)

This reflects the sense that the Labour Party is focused on delivering its promise. When a party supports trans rights solely for political gain, it often lacks genuine commitment to the cause. However, the Labour Party delivered on the promise to listen to what queer activists had been defending for a very long time in Malta, creating the LGBTIQ Consultative Council in 2013, which ensured all the legislation drafted had a direct input from the queer community in Malta, and immediately starting to work on the civil unions act and later in the GIGESC act.

Nonetheless the representative from the Council of Europe/MGRM mentions, "in Malta, an issue can win or lose an election", referring to the small difference of votes between parties necessary to

gain power. The creation of the LGBTIQ consultative Council, therefore, may be behind a will to deliver on the promise the Labour Party set out to keep public support, rather than coming from an authentic and true desire for equality.

Finally, one representative of the National Youth Council mentioned that the queer representation inside the structures of the Labour Party is still insufficient.

The queer representation within positions of power and ministerial positions within the Labour government is still infinitesimally tiny compared to the overall body of people who represent the Labour party, I would say. I have no doubt that these were issues which they found easy to win the hearts and minds of people. (Representative of the National Youth Council)

A political party should reflect the diversity of the society it serves. Lack of queer representation, namely trans people, undermines the principles of diversity and inclusion, which the Labour Party has been defending. It sends a message that certain voices and perspectives are still not valued within the party.

In the interview process, approximately half the people, representatives of organizations that defend the rights of trans people, and the representative of the National Youth Council, showed how they saw the Labour Party committing to trans rights to gain a political advantage. Some held a critical position, nonetheless the representative of MGRM felt content with the delivery of the promise to improve trans lives.

All the interviewees mentioned that the GIGESC act didn't face much opposition.

The representative of AD LGBTIQ points several reasons to why the vote of the GIGESC act was unanimous: This law was regarded as more of an administrative procedure that needed to be fixed to include trans people; There was no debate on whether trans people should have the right to self-determination, it was understood as a necessity; The Nationalist Party had received backlash when they did not vote for civil unions; The Nationalist Party had trans people within their own structures and had conversations with trans people which helped to spread awareness about how this change was necessary.

Yeah, I mean, at the end of the day, the bill was voted unanimously by every single member of parliament present on the 1st of April 2015. So, there wasn't really that backlash or opposition. I think that the Nationalist Party had received quite a backlash towards them when they did not vote for civil unions. Additionally, they also themselves were willing to and were having conversations with trans people. And then they also had a candidate for one of their local councils that is a trans man, so they had trans people within their own structures that probably

were having some of those conversations. It was seen as a very different issue, more of just an administrative procedure that needed to be resolved. Yeah, and honestly, it was just a non-issue. There was barely any opposition in any level of society to it. (Representative of AD LGBTIQ)

The representative of the Council of Europe/MGRM takes a deeper explanation in the impact of the abstention of the Nationalist Party in the Civil Unions vote. As the Nationalist Party suffered backlash in the civil unions debate that may have triggered their will to align themselves with public opinion in order not to lose support from voters. As public awareness and acceptance of trans issues increase, the Nationalist Party might be more inclined to support legislation that aligns with the growing social consensus.

I mentioned that in 2014, Malta passed the Civil Unions Act. And when it came to, and that was quite hotly contested, particularly Malta Civil Unions Act was granted the same rights as marriage, including parenting rights. So, it was not, in a sense, a separate list of provisions. It just said whatever applies to married couples applies also to couples in a civil union. And the opposition at the time was opposed to parenting rights and to adoption rights of same-sex couples. So, the lead up to the adoption of that law was quite heated. It was quite widely debated. And in the end, the opposition chose to abstain. So, we have more or less a two-party system. So, if the party in government wishes to push a law forward, then it will pass. And in the aftermath of that decision by the opposition party to abstain, there was quite a backlash. Because I think, in general, Maltese society had moved on to be quite accepting. (Representative of the Council of Europe/MGRM)

To prevent backlash and contestation as happened on the previous vote on civil unions where the PN abstained, the Nationalist Party opted not only not to engage in a very heated discussion over the GIGESC act, but also to support the legislation.

I don't think it was extraordinary that the opposition voted in favour. But, you know, they could have made more, they created more contentious or controversial debate out of it. And they chose not to, because I think of what had happened the year before with the Civil Union legislation. (Representative of the Council of Europe/MGRM)

There was very little contestation of the GIGESC act which even surprised the organizations defending the rights for trans people.

So, in a way, the ground was there for at least public consensus on the issue at the political level. So, the GIGESC Act was passed without an actual vote being necessary because all voted in favour. And of course, once the opposition also stated that it would support the bill, then, although there were, you know, the usual kind of somewhat stupid conversations and questions that arise whenever such laws are being debated. "But, you know, people use this to hide their identities". "Prisoners choose to switch their legal gender to most of the women's section and have access to women." You know, all of these things that come up whenever these things are debated. But in general, the tone was quite contained. And the actual parliamentary subcommittee meetings, with the second reading of the bill, when the parliamentary subcommittee goes through each article of the bill, it went really fast. Like, really, really fast. It only took a couple of sittings, which was extraordinary, actually. So, that was unexpected, even for us. (Representative of the Council of Europe/MGRM)

Since, without the PN opposition, there was no one left in the political sphere that could vehemently oppose to the GIGESC Act, and having both political parties armed with the understanding that the law was necessary, the approval of the law ran without difficulties.

So that helped, in our case, for the law, in a sense, to go through without much opposition. I think, in general, there was an understanding that the bill was necessary, and no one was willing to come out too actively against it. So, in the end, it passed relatively smoothly. (Representative of the Council of Europe/MGRM)

When asked if these rights could be at stake in case a different party was elected all interviewees refused that possibility. Trans rights are not easy to reverse as there are constitutional provisions establishing gender identity as protected ground. However, the two representatives for MGRM and the representative for the SOGIGESC, believe that in an unlikely scenario where the public sentiment towards trans rights shifts, the public policies in place would change. This comes to show how trans rights are extremely dependent on the political will of the government. Additionally, having this conscious present creates a sentiment that the work developed in Malta to bring trans rights to the island must be continuous.

In Malta, it's not so easy anymore to reverse, because in the same sitting that adopted the Civil Union Act, Malta also adopted constitutional provisions establishing gender identity and sexual orientation as protected grounds. And that means that it requires a two-thirds majority to

overturn these provisions. So, although the risk is always there, but it's unlikely. (Representative of the Council of Europe/MGRM)

The representative of AD LGBTIQ reminded that there is protection for SOGISC in the constitution, which was proposed by the Nationalist party. This may show their will to again regain popular support:

We also have the Constitutional Protection for Sexual Orientation, Gender Identity and Sex Characteristics, which was actually proposed by the Nationalist Party in 2014. (Representative of AD LGBTIQ)

This may be associated with the fear of losing support from voters on a matter that has been gaining visibility and social acceptance.

In case a new political party took power in the future, the rights of LGBTIQ people would be protected. Nonetheless, there is the risk that trans people have less resources allocated to their needs.

I believe personally, as myself, that with civil unions and equal marriage, I don't think it will change. But regarding trans protections, I think, for example, if the Nationalist Party goes in government, they will not fund the gender clinic, for example. I don't think they will fund it or else they will decrease a lot the funding. And maybe they make it impossible for under 16-year-olds to change their documents. This is what I believe. I honestly believe that yes, if there is a change in government, they would decrease something for sure or the funding or a change in law. I truly believe that. (Representative of MGRM)

What can happen is that certain things become more difficult. So, for example, inclusive education policies can become more difficult. Access to healthcare can potentially become more difficult. Not so much legal gender recognition itself, but all the little things that make up people's everyday lives could potentially become more complicated. I mean, we do have in Malta an anti-gender movement, which is quite vocal. It's not very big, and at the moment it does not have a lot of necessarily political clout. But because of the amplification by social media, it can still have quite a significant impact. So, if these kinds of groups were to get political backing, then the situation might change considerably. (Representative of the Council of Europe/MGRM)

The representative of the SOGIGESC Unit doesn't believe public support shifting is a likely scenario but reiterates that trans rights should be taken for granted.

But we do not take for granted that, like this has happened in other countries, that there could be a change of narrative because there would be a change in someone in power. So that just takes one person to start using a different discourse, which then they also have been keeping quiet, step up and start enforcing that narrative as well. So that is something that civil society is very aware of and knows that it can never take the rights for granted, whatever rights that are given and solidified in law. It can never be considered like our work is done here (Representative of the SOGIGESC Unit)

The representative of the SOGIGESC Unit provides the example of Italy, where the rights of LGBTIQ people are stepping back.

So, yeah, I mean, our neighbours, Italy, we are seeing it happening with, for example, rainbow families not being recognized anymore and the type of discourse being used. So it's a very dangerous discourse. And in fact, we are having people approaching Malta, like looking to make Malta their home because they don't feel safe there anymore. But this does not mean that Malta is exempted from this from happening as well. (Representative of the SOGIGESC Unit)

The Labour Party came into power with the promise of bringing rights for the LGBTIQ people of Malta. Regardless, it is important to remember that political climates can shift. Malta has introduced protections to ensure that the rights of queer people are not at stake again. But if a party that doesn't prioritize trans people comes into power, services to trans people might see their funding reduced. Therefore, even though it is unlikely that the protections currently in place rollback, the trans community still might face vulnerability.

Although there are legal protections in place, and most interviewees don't consider a change in the political will likely to happen, some, including the two representatives for MGRM, and the representative of the SOGIGESC Unit, reiterate that they are aware that trans rights can't be taken for granted.

Countries that lead in LGBTI rights are often seen as progressive and inclusive on the global stage (Ammaturo, 2015). This reputation can enhance the country's image, making it more attractive for tourists, investors, and businesses. Although this may not have been the Labour Party's initial main motivation to drive LGBTI rights in the country, there's no doubt that on an international level Malta has been gaining more and more attention as global leader for LGBTI Rights. The representative of LGBTI+ Gozo believes they would not see a change back in this legislation because there is a common understanding that Malta being a trailblazer in LGBTIQ rights is good for the country's image.

I would say that regardless of political, you know, position or agenda, the idea of Malta as this, you know, trailblazer in terms of LGBT issues is something that I think politicians across the board want to uphold. You know and keep going. Because it's good for Malta, you know, in a sense, I mean, we're hosting EuroPride now, you know, which benefits a lot of people besides just LGBT people, you know. (Representative of LGBTI+ Gozo)

#### **5.4 LGBTIQ Consultative Council**

The LGBTIQ Consultative Council was established in 2013, immediately after the Labour Government came into power, with the purpose to advise the government on matters that affect LGBTIQ people and, in consultation with the Minister, to propose laws, policies, and other initiatives to improve LGBTIQ people's rights (Maltese Government, 2015).

From the conversations with the interviewees, all agreed that the establishment of the Council had a major impact in developing trans inclusive laws and that action of the council was quick and efficient.

The first laws developed by the Council were approved fast. Considering that the Council was step up in April 2013 and by 2014 we were already seeing results being implemented. This shows the urgency that the Labour Party had in delivering its promise of granting more rights to the queer population of Malta.

And then the Labour Party also set up an LGBTI consultative council to advise the Minister for Equality at the time on LGBTIQ issues. And the first task that the consultative council was tasked with was actually the civil union law. So that was worked on in 2013-2014, the Civil Unions Act was passed in 2014, and immediately after, the consultative council was tasked with drawing up the gender identity, gender expression and sex characteristics act. (Representative of the Council of Europe/MGMR)

The representative of AD LGBTIQ explains the idea behind the council:

The Consultative Council was formed in 2013 by Helena Dali's office, and you can say there was a big input from the council into drafting the laws themselves. (Representative of AD LGBTIQ)

I wanted to understand the importance of the council in developing the Gender Identity, Gender Expression and Sex Characteristics Act, and how different organizations got together to create common understanding.

The LGBTIQ Consultative Council allowed the creation of a common understanding between organizations:

I think the LGBTI Consultative Council played an important role. Because not all LGBTI NGOs that were present at the time, in a sense, had the same level of understanding of gender identity issues. Gender expression or sex characteristics, for that matter. So I think it was really important to have a forum, a platform, where we could all come together and discuss queries, concerns, and make sure that everyone was on the same page. There were some issues where we also consulted with Transgender Europe, for example. Particularly in relation to access to gender identity for minors, for children. Particularly smaller children. And that was also very useful for us. (Representative of the Council of Europe/ MGMR)

Yes, in the beginning it was very fruitful, mostly because it helped the LGBT community, the NGOs, to be open and sincere with one another and also critical of each other's activism, also because it helped us understand the underlying tensions that existed even among the NGOs themselves, because sometimes you're competing for funds, sometimes you're competing for TV slots or radio slots, so we determined what each group's main focus area will be, and this was a very important work, it took a lot of openness and maybe the fact that we know each other helps, it's a small community, and we agreed that each NGO will have a particular priority. (Representative of Drachma Parents)

This platform provided a base for activists and organizations to develop a common understanding of the direction the trans advocacy movement should take. All agreed that the Council had a key role, and it allowed for better communication between organizations working the rights of trans people.

The LGBTIQ Consultative Council allows diverse organizations, representing different aspects of society, to participate in decision-making processes. This collaboration ensures that a wide range of perspectives are taken into consideration. Trans rights encompass a wide array of matters, including healthcare access, legal gender recognition, education, and employment (WPATH, 2015). Therefore, only by bringing together various organizations can comprehensive policies addressing the needs of trans people be developed. A collaborative platform ensures that all these aspects are considered and integrated into the legislation developed.



It is important to highlight that organizations defending the rights of trans people shared different perspectives about their communication with the government, and how their work was impacted by being present in the Council. Some activists found it positive to have this council in the first years, but were critical about the council's current role, and one political party representative believed a new purpose of the council has been established.

The LGBTIQ+ Strategy and Action Plan 2023–2027 expands on earlier initiatives by focusing on sectors like education and health where interventions have begun but more work is still needed. Additionally, this strategy points out areas and gaps where more focused efforts are needed to bring about change. Following multiple stakeholder engagements with LGBTIQ+ Civil Society organizations, government agencies and public bodies, academic institutions, trade unions, and the commercial sector, the Human Rights Directorate (HRD) developed the measures that were ultimately identified. It was reviewed and confirmed by the LGBTIQ Consultative Council (Directorate for Human Rights, 2023). With the new strategy, the representative of the political party believes that now he sees the purpose of the Council as being more defined:

I think there were a couple of years where the purpose of the Consultative Council was a bit confusing. But now I feel like with the new action plan, there is a renewed purpose.  
(Representative of AD LGBTIQ)

With a defined strategy, it is easier for organizations to understand what priorities they should be tackling. Therefore, the creation of the action plan is considered important by the representative of the political party, to keep the Council's role relevant.

Both the representative of the SOGIGESC Unit and the representative of the Labour Youths organization consider the communication with NGO's and civil society to be a success.

It still functions as a way for the government and the ministry to consult, to seek advice. It also has the responsibility, I would say, or the possibility to propose changes, to propose any amendments that need to be taking place, for example, or to bring about issues that are taking place that the government may not be aware of. So that is why it's important to keep an open door policy between the Consultative Council, NGOs and grassroots levels and the ministry that is responsible for equality. (Representative of the SOGIGESC Unit)

We have great communication with NGOs and advocacy and civil society in general in this regard. (Representative of Labour Youths)

There's no doubt that the LGBTIQ Consultative Council was an important tool for the GIGESC act to be developed. The idea of having a bridge between the government and NGOs allowed them to voice their needs and be heard. One activist mentioned that this idea should be implemented elsewhere.

Because it was new for everybody, everybody who had the equal say, and we had our voices channeled both in terms of with the government officials, with the PR people and the media people, there was like a level playing field, you know, but then we picked up momentum, it worked, this was something that we could say Malta should export as a concept, it really worked, because the difficulties were important to face in a small group, and then you can work with it to collaborate, but with time it became less significant. (Representative of Drachma Parents)

Nonetheless, this activist was still reticent about the council's current role. Several activists believe the work of the LGBTIQ Consultative Council is becoming less valuable and say that this structure should be rethought.

More recently, so looking now back, the last years, unfortunately, it was a bit different, it became a bit like a rubber stamping of the government at the time, so the result there of the consultative council I think was very beneficial in the early stages until certain groundwork was put in place, and in a way, it could have stopped there, you know, but it still continues, it still exists, the coordinator of the draft appearance is involved, but there needs to be a different, how do you say, maybe more clear terms of reference, I would put it that way, clearer terms of reference of the consultative council really is. (Representative of Drachma Parents)

The council has evolved throughout the years. And now we're at a point where we feel the need to revise our working methods and how the council actually operates. As an idea, we all think it's a very good idea. The fact that you have a formally recognized structure, so a structure that the government recognizes and composed of civil society organizations and others who are experts in the field. And that our role, our main role is to advise governments on issues, but also to flag concerns and to keep up the pressure. So, I think as an idea, as a concept, it's a very good idea. We're all very happy that it's there. (Representative of Aditus Foundation)

This close relationship with the government can be risky, as NGO's may lose their distinct identity as an independent organization. If they become too aligned with the government, they may avoid criticizing it:

The dangers of having this kind of structure, and this we noticed from the very beginning, the dangers of it is that is when NGOs lose their identity as civil society organizations, and they feel or they are made to feel that they are part of the government's structure. Because by being part of a dialogue which is so intimate and so close with government, inevitably there is the risk of NGOs sacrificing their strong public voice, their advocacy, their criticisms, etc. (Representative of Aditus Foundation)

Independence is crucial for NGOs to voice different opinions, challenge government policies, and advocate for marginalized or unpopular causes. Maintaining a healthy distance from the government allows NGOs to preserve their autonomy and integrity, ensuring they can effectively represent the interests of the population and maintain their critical and independent voice.

The representative of Aditus Foundation showed dissatisfaction with the communication with the government regarding intersecting issues, leading to the resignation of Aditus Foundation twice from the LGBTIQ Consultative Council.

We resigned in I think 2013, that was when the government decided to try to push back a boat of refugees straight that had just arrived, and the government wanted to push them back to Libya. So, in protest we resigned from the council saying this is unacceptable, you cannot have this two-way approach to human rights, this is in 2013, and then we joined again, and then in 2020. In 2020 we quit also for refugee issues because in 2020 the government was adopting a really bad policy of detention, we tried to engage in dialogue to resolve it, they refused to speak, so we said stop, we can't do this anymore, and we quit. (Representative of Aditus Foundation)

Defending the rights of refugees aligns with the Labour government's broader goals of promoting human rights. As such, defending the rights of refugees should also be a priority of the government. As a way of protest for this lack of commitment towards refugees' rights, the activists organization resigned twice from the Consultative Council.

The representative of Aditus Foundation speaks about this contrasting position of the government, which in his view, is very open to LGBTIQ matters but very hesitant about issues concerning refugees. He mentions a lack of intersectionality from the government on these issues:

When the issues affect refugees and migrants, then the government is not very willing to talk to us. Because over there the government feels that it's not an LGBT issue, it's a migration issue. And the migration issue is conversation with NGOs, it doesn't happen, it's a bad relationship, it's challenging, it's difficult. If there are issues which don't affect migrants and refugees, then yes, it's open dialogue, the government is happy to be seen with us, it's a very strange relationship. So, it really depends on what the issues that we're talking about. Because, as I said, the government still wants to be seen as much as possible to be rainbow friendly. This year Malta is hosting Europe Pride and there's this whole national campaign about how great Malta is for the community. So, the government still wants to enjoy that kind of reputation. (Representative of Aditus Foundation)

The activist criticizes this lack of intersectionality from the government and mentions how the government wants to be seen as progressive and “rainbow friendly” while not committing to the rights of refugees and asylum seekers.

The representative of LGBTI+ Gozo shared a very positive, and contrasting view of the communication between the government and the council.

So, they're constantly in communication with the consultative council. (...) And most importantly, I think that they listen to the needs of the community. (Representative of LGBTI+ Gozo)

The representative of LGBTI+ Gozo mentioned that the governments listens to the needs of LGBTIQ people. Additionally, the representative mentions how NGOs are invited to represent Malta in international events such as big Prides. For the representative, this is an important way to keep NGOs in the front line.

And I mean, they're also constantly inviting NGOs to represent Malta, you know, which I think is really great because it's putting queer people to the front, you know, and LGBT people are able to represent ourselves, you know, as Malta's people. So, for example, the parliamentary secretary recently went to Pride in Spain and Vienna as well, and, you know, delegates from different NGOs and LGBT organizations here in Malta were able to join. So they keep those lines of communication open and allow us to be at the forefront, you know, instead of representing themselves with administrators or people who work within their own sector. You know, they're

using the resources that we have as NGOs. So yes, they've been wonderful in supporting us.  
(Representative of LGBTI+ Gozo)

However, when the government invites NGOs to speak in events in other countries, they are not just giving them a free traveling ticket. NGOs possess expertise, and knowledge and can explain the challenges faced by the LGBTIQ community in Malta. When NGOs are invited to represent the country, it can demonstrate a willingness to engage with civil society, uphold human rights, and work collaboratively with advocacy organizations. This positions the country as a champion of human rights, which can enhance its global reputation, fostering international partnerships and cooperation. Therefore, the government is actively using LGBTIQ rights with the intention of creating a more attractive image of Malta.

The representative of Aditus Foundation mentioned how the relationship between the government and the members of the council has changed throughout the years, pointing less receptivity from the government and associating their actions to Pinkwashing:

Although today, because the political environment is very different, the relationship with the council has also become very different. There no longer is this openness and this transparency, which we saw in the beginning. So, the willingness to engage and to cooperate, it's a bit different nowadays. Now, we have the suspicion that it might become pinkwashing rather than being a truly consultative body. (Representative of Aditus Foundation)

The representative of MGRM mentions how there are areas where the communication between the government and organizations is not so easy to establish:

I think it's still the same in the sense that there is the Consultative Council. When we have issues, we email the government. Then it depends on which ministry and which topics are we talking about. Because some ministers are more open, others aren't. Also, things changed because in the sense I think there is less communication on certain ground with certain ministries. Because there was a lot of political problems during the last years. When there was a lot of protests in the street, the government resigned and the prime minister resigned. For example, to meet the Ministry of Education. We didn't even meet because there has been so many ministers changing. We didn't even meet with them. It was COVID, so we are still adjusting basically. (Representative of MGRM)

NGO's losing their voice and their criticizing power might be a united consequence of this proximity with the government. Nonetheless, the choice to ignore refugees seems to be clear coming from the government. The representative of Aditus Foundation comments on how the actions from the government might be turning into pinkwashing.

Activists tend to be more critical of the LGBTIQ consultative council, rather than political party representatives and government representatives.

## **5.5 The influence of the Church**

The Church has a big influence in Maltese life. Nonetheless, the Church received backlash when advocating against the divorce referendum and civil unions granting the same rights to same sex couples. The interviewees point this as the factors that led to the Church wanting to remain silent about diverse topics in the Maltese society. At the same time, Drachma was creating bridges between the LGBTIQ religious community in Malta and the Church. This communication led to more understanding and acceptance within the Church.

The Catholic Church plays an important role in Maltese life (Hardwood, 2014; Deguara, 2020; Pace, 2012). Even for a person that is not catholic, the presence of the Catholic Church can be felt on the island, as the government representative puts it:

Obviously, yeah, I mean, the church has a huge influence on Malta's way of life, the lifestyle, the culture. I would say it's inbred. And even if you're born in Malta and brought up as an atheist, you're still going to have the Catholic, the Roman Catholic influence somehow, because you're going to see it in the villages, you're going to see it in the towns. I mean, it's everywhere. And it's because it's also celebrated in terms of like traditions and festas, pretty much like Mediterranean countries as well. Like they do it in Italy, Spain, where it becomes like also a touristic attraction. (Representative of the SOGIGESC Unit)

The Church as a Religious institution has historically played a significant role in shaping public opinion and influencing societal attitudes in Malta. As the representative of the SOGIGESC Unit demonstrates the Church can have a massive influence in Maltese citizens, even when someone is not catholic. With this massive presence, it is likely that if the Church positions itself against something, society will follow the Church beliefs.

In 2011 Malta held a referendum to understand if the population wanted to see divorce legalized in Malta. The Catholic Church was against the approval of divorce:

The Catholic Church had campaigned quite heavily against the introduction of divorce. And the referendum won, (divorce) was introduced. So, it was a yes for divorce. Marginally, but it passed. But that also led to quite a lot of backlash on the Catholic Church. And so, after 2011, the Catholic Church was also a little bit more hesitant to be too vocal about issues that were divisive. (Representative of the Council of Europe/MGMR)

The Church campaigned heavily against the legalization of divorce in Malta:

And then there was the divorce referendum that the church lost, even if they spent one million euros on it. And from there, the church took a bit of a step back, because whatever they say, people are not really giving them importance. (Representative of MGRM)

Most representatives of organizations defending the rights of trans people pointed the divorce referendum event as a key reason why the Church did not oppose to trans rights. The Church understood that being very vocal about certain issues could bring them a lot of backlash. Therefore, the church did not position itself in trans rights as vocally as in some other matters.

To be honest, they were not as vocal as we expected them to be. They were much more vocal a few years before on the divorce campaign and eventually in the civil unions campaign, like the marriage equality issues discussion. On trans issues, they were not as public as we suspected they might be, and I think it's because in the divorce discussion, they suffered a bit of a backlash in terms of their reputation and their image, and I don't think they wanted to engage again in such a difficult subject and lose out ultimately. (Representative of Aditus Foundation)

The National Youth Council representative also commented on how the Church was not vocal about trans rights, criticizing how the church defends human rights for all individuals but doesn't explicitly mention LGBTIQ people. Finally, the representative recalls that there a few people within the institution that don't support trans rights.

So, the church has sort of at least from a leadership perspective taken a very non-committal approach to anything since that incident (since the divorce referendum). Leadership never takes stances it's more of like peace and love to all but we're not going to specify who said people are. And however, there are very vocal people within the religious community who are being platformed by certain people and they have very exclusionary viewpoints when it comes

to gay people, when it comes to trans people, when it comes to just queerness in general. So, I would say there are very vocal actors within the church but the church itself takes no position.  
(Representative of the National Youth Council)

It is possible to think of silence on LGBTIQ matters as an implied support of discrimination. If a religious institution does not actively combat negative views or discriminatory actions against LGBTIQ people, it can perpetuate harmful stereotypes and discrimination within society. As mentioned, a few people within the institution feel comfortable speaking up against LGBTIQ rights. Therefore, the Church lack of positioning can also be harmful.

Only one interviewee, the representative of MGRM, mentioned how the sexual abuses on children may also have impacted public perception of the Church in Malta and discredited the institution.

Remember that some years back, Malta was shocked with abuses on children from the church. That's when I was young. So maybe this was 20 years ago. And from a country which was obsessed with religion, when we got to know about the abuses, something changed.  
(Representative of MGRM)

People expect religious leaders to uphold high ethical and moral values. When finding about abuses in the Church, the population of Malta felt shocked and lost trust in the institution, as they wondered about its integrity. Therefore, the Church may have lost some influence with these scandals.

The representative of AD LGBTIQ recalled that the Church position itself during the civil unions:

The church was a bit more vocal when it came to equal marriage, but on trans issues, at least back in 2015, it was kind of more seen as, well, God made these people this way, kind of rhetoric. (Representative of AD LGBTIQ)

The Labour Youths representative attributes this to the Church changing its own view.

I believe that the position of the church has drastically changed from, let's say, 10 years ago. I believe it's now more accepting. Even the Pope has spoken in favor of the LGBTI community.  
(Representative of the Labour Youths)

When a religious leader shows support towards an underrepresented community it can develop a sense of inclusion and acceptance. Regarding the situation in Malta the Labour Youths representative also mentions the important work of Drachma, that works closely with the Church in Malta.



And the Drachma parents, they give support to other parents who their children are coming out and stuff. But they are kind of affiliated to the church, to the Catholic church. So yeah, I think there has been, with the help of the organizations, the social change, the new laws, there has been a change or at least a forced change for sure on the church's position. But I think it's not just a forced change. I think it's more of a realization that a society has different people in it, it's diverse. And if you really want the church to be about people and if you really want the church to practice what it preaches, to love, above all, the society (...) that if we want to love God, then we have to show love and respect to society, to the other person. (Representative of the Labour Youths)

Drachma Parents worked closely with the Church in Malta. Drachma Parents, composed by catholic parents of LGBTIQ people started very early conversations with the Church. One activist explains how the process of communicating with the archbishop took form. Even though the archbishop did not respond in the beginning, persistence led to the Auxiliary Bishop notice their requests and meet with them.

Yeah, I think from way in the beginning, 2008, when Drachma was formed, the Drachma Parents primarily took a very specific action. I used to write to the Archbishop at that time regularly about what was happening in families. So, I would report about the type of stories that the families would say in our group and what was happening in parishes, what was happening in schools, church schools to make the Archbishop aware. The first three years, four years there was no response, very negligible. But there was and then the Auxiliary Bishop, who is the existing Bishop of now, he had started to work as an Auxiliary Bishop in about 2000, 2011 and 2012. So he became more aware of what was happening and in 2014 when there was the Civil Union bill in process, we were in touch with him so that as much as possible he understands the need for this legislation and would support it so to say, allow it to happen. (Representative of Drachma Parents)

This communication led to the Archbishop understanding the need for Civil Unions in Malta. Although the positioning of the ecclesiastical institution differs, he still understood the necessity of allowing people the right to access Civil Unions.

And in honesty he understood that the Civil Union was necessary to give rights to partners for each other's well-being. So even for hereditary when one is in hospital that the other one can

go. So, the human element was very well understood by the Archbishop and could understand as well that in society this was a needed thing. It was not going to be waving the flag, yes great, let's do this, because the position of the Church as an institution was that a marriage or union of the sort would be between a man and a woman. But to be fair, the Archbishop at that time was very understanding of the need of these people and didn't create any conflicts, any arguments. (Representative of Drachma Parents)

After the civil unions were approved, the Archbishop held a mass for the local LGBTIQ Catholic community.

In fact, in 2014 since it was the 10th year anniversary of Drachma LGBT, they invited the Archbishop to celebrate the mass of the 10 year anniversary in the Mdina Church, which was the old city and this was just a few days after the civil union law was into place. So there was a lot of anger in multi-society and the Archbishop wanted to calm that anger by saying this was important. In fact, saying mass for the Drachma community was a gesture, a token of support for the rights of LGBT people. And this was understood in society as the church is moving with the times. It's catching up. It's becoming more just. I think the Archbishop received a lot, a lot of criticism for this. He was massacred from many angles. But he believed that it was the right thing to do. It was mass at the end of the day. He has a right to say mass for a community and he did that for so many other communities. Why not the LGBT community? So there was no hesitation in his conscience at all. (Representative of Drachma Parents)

The Archbishop bought a copy of a book that served as a resource and tool for parents that addressed questions they might have regarding how to accept their kid's sexuality and gender identity.

For instance, when we issued a book in 2016, the Drachma parents issued a book with the 50 questions that us parents face and we tried to answer and all this. So as we presented it to him, he bought a copy for each parish to make sure that in each parish there was this reference book that was in Maltese, it was the first time there was a book in Maltese, with testimonies of parents, with the facts that you know, like the questions and answers, with various answers, so it's not just one answer, but the one that makes sense for your family or for your parish. (Representative of Drachma Parents)

For the activist, this meant that the Archbishop trusted the work of Drachma Parents and the communication between them remains active today.

And this was a big show of confidence in the work of Drachma. And this continued. So, when we had issues coming to us, we would address them with him. And when he was aware of issues that needed to be addressed by us, he would include us. And this ongoing collaboration continues today, thankfully. (Representative of Drachma Parents)

The size of Malta and how this communication with the Church is easier than for bigger countries, with more representatives.

The fact that they are so few makes communication very good. You know like Drachma's history was able to make good communication in roads with the bishops because they are a handful of people. If you are in Poland and you have hundreds of bishops, you know it's impossible to kind of get their attention together. (Representative of Drachma Parents)

This relationship took time to establish and mentions that nowadays, when they have something important to discuss, it's easy to reach the Archbishop.

It takes time (to build this communication). (...) When we call to make an appointment to the archbishop because there is something important to discuss they within a month that meeting happens. (...) A very cordial meeting, atmosphere of openness, honesty and collaboration and this is not common. This is not common in any part of the world I have met many parents but it is definitely not common. (Representative of Drachma Parents)

This communication is also what allowed the GIGESC act and civil unions to come into place. The representative of Drachma Parents believes that the church is a very strong political force that, if opposed to civil unions and the GIGESC act, could block it from pass:

I do say that the legislative changes were also because there was this atmosphere you know because otherwise the church is a very strong force. It's another political force. It's big. So you could have the government say a lot of things but if the church institution wanted to stop that process there were ways to do it and they chose not to then it means that the dialogue was working. (Representative of Drachma Parents)

Finally, the representative of Drachma Parents mentioned the divorce referendum, and how the church being against the divorce in Malta, and then realizing the population wanted this change, allowed for communication to begin.

The church was so surprised with a strong number of people who wanted divorce and then they went all quiet it was like we cannot be vocal anymore like this we have it wrong we need to stay and listen and that that staying and listen basically created the atmosphere for society to move to the next step calmly without fighting in the streets without protests, it was quite smooth. (Representative of Drachma Parents)

Finally, for the representative of LGBTI+ Gozo the presence of the bishop played an important role in signaling inclusivity to the community, as he came to bless LGBTI+ Gozo's office.

When we opened the office space, the bishop of Gozo came and blessed the space (LGBTI+ Gozo's office), which was huge, especially for people who grew up here, who came out here, to see that acceptance of the church. (Representative of LGBTI+ Gozo)

The Church can play an important role in signaling acceptance to a community.

As mentioned previously, the Church can have a strong influence on Maltese society, therefore, its lack of positioning about the GIGESC act and the recognition of the Archbishop of Malta of LGBTIQ people in the island through celebrating a mass, contributed to an opportunity in the political sphere to bring the GIGESC act to the table.

## Conclusions

My goal with this thesis is to comprehend what caused Malta to become a trailblazer in trans rights in Europe. I analysed five key dimensions, namely the impact of international organizations, the role of the LGBTIQ Consultative Council, the pressure developed by activism, the political will behind this approval and the influence of the Catholic Church.

The Council of Europe aims to identify European countries that defend exceptionally LGBTIQ rights (Ammaturo, 2015). With the advancement of trans rights, Malta is now catching attention on a global scale. The country is receiving overwhelming support and positive recognition from international organizations, other European nations, and human rights advocates, that visit the country to develop better legislation for themselves. The island therefore is the perfect example of a small Catholic country, that used to lack legal gender recognition for everyone, succeeding to implement trans rights. The Council of Europe has noticed it and can use it to promote the image of Europe as “a tolerant, open, and respectful continent for LGBTIQ+ people” (Ammaturo, 2015).

In a way this creates a symbiotic relationship between the Council of Europe and Malta. The Council of Europe uses Malta as an exemplary case regarding trans rights, helping the CoE develop a queer friendly perception of Europe which matches with the strategy of the “Pink Agenda” (Ammaturo, 2015). Malta uses this international recognition to enhance the country’s image. By supporting trans rights, Malta is no longer “ashamed” of their international position regarding LGBTIQ rights, but rather proud of the country’s advancements.

Before the LGBTIQ Consultative Council was founded in 2013, NGOs already worked well together, exchanging knowledge, and tackling a variety of LGBTIQ matters. This activism laid the groundwork for a more organized approach. Effective communication among NGOs led to increased visibility and social acceptance. Key events, such as Joanne's Cassar fight to be allowed to marry, passing through several legal battles, brought trans rights to prominence, and eventually resulted in changes to Maltese law.

The abstention of the Nationalist Party deputies on the vote for civil unions led to protests, pushing the party to change its positioning with fear of losing public support. Therefore, the persistent of individuals and organizations advocating and championing for trans rights, paved the way for the GIGESC act to be unanimously passed by Parliament. The ongoing advocacy led to amendments of the GIGESC act, strengthening legal protections for trans people and shaping public policies. Every interviewee emphasized the vital role of activism in raising awareness and bringing the public's attention and support for trans rights in Malta. This resilient and organized activism proved to be a deciding factor in achieving a process of legal gender recognition based in self-determination.

The Labour Party's rise to power in Malta in 2013 played a pivotal role in advancing trans rights. During the election campaign, the party promised to address LGBTIQ matters, including trans rights.

Addressing the LGBTIQ population in Malta which had long been ignored, allowed the party to gain significant public support, and finally being elected after 15 years in opposition. This revealed a scenario where a positive discourse towards LGBTIQ rights can mobilize voters. The party's subsequent actions, such as creating the LGBTIQ Consultative Council and passing the GIGESC Act, showcased their commitment to upholding the promises previously established. However, there are differing opinions among organizations that defend trans rights regarding the party's motivations. Some representatives that defend trans rights these efforts as politically driven, aimed at gaining votes, while others acknowledge the party's fulfilment of its promises.

The unanimous approval of the GIGESC Act was made possible due to two main reasons. First, its perceived administrative character deemed it as something necessary. Secondly, as the Nationalist Party suffered backlash in the civil unions debate, they become more willing to support LGBTIQ matters, to align themselves with public opinion in order not to lose support from voters.

The Labour Government established the LGBTIQ Consultative Council in 2013, which was essential in the advancement of transgender rights. It moved swiftly to develop laws and policies in response to the pressing need to advance LGBTIQ rights. The Council is composed of several organizations, facilitating communication, and understanding within the trans advocacy movement. They have created comprehensive policies that address trans healthcare, legal gender recognition, and educational opportunities, and played a significant role in the development of the GIGESC act. To develop the act they used international recommendations, upholding the highest standards. The direct involvement of civil society organizations that defend the rights of trans people in the production of the GIGESC act, allowed it to be extremely comprehensive. One representative even mentioned that this model should be reproduced.

Nonetheless, despite the great work developed in the beginning of the LGBTIQ Consultative Council, there are differing views regarding its current efficiency. While some see it favourably and value the communication with the government, others voice reservations. Close ties with the government may increase the risk of loss of the NGOs independence and can therefore harm their ability to criticize the government when necessary. Furthermore, the Labour Party appears committed to upholding LGBTIQ rights, but the government's willingness to support LGBTIQ concerns contrasts to its resistance to supporting refugee rights, casting doubt on the government's commitment to advance human rights. NGOs representing Malta at international events strengthen the country's good human rights image, but this can be a tactic to improve the global reputation. Some activists accuse the government of "pinkwashing," using trans rights to improve Malta's reputation but ignoring refugees' rights.

The Catholic Church has significant influence in Malta, impacting public opinion and societal attitudes. Historically, the Church's takes a stance on issues that shape Maltese society. In 2011 for

example during the divorce legalization referendum, the Church's opposition was evident. However, the approval of divorce led to a lot of backlash leading the Church to remain relatively silent in divisive topics.

Additionally, Drachma Parents, a group of Catholic parents of LGBTIQ people have led persistent efforts to dialogue with Church leaders, ultimately creating understanding and acceptance. The Church's stance on trans issues has evolved through communication, highlighting the importance of dialogue in navigating sensitive topics within religious contexts.

This multitude of factors led to a tremendous paradigm shift in Malta, which allowed the GIGESC act to be approved and for the rights of trans people to have since then continuously been considered in Malta, which now proudly stands at the forefront of trans rights at the EU, CoE, and internationally.

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## **Appendices**

### **Appendix A – Interview Script**

#### **Interview Script - Why is Malta a global leader for trans rights?**

Characterization of the association/interviewee

Association:

Year of foundation of the association:

Interview:

Position in the organization:

Time in this position:

LGBTI Activism time:

Mission of the organization:

#### **Main question**

From your perspective, to what do you believe Malta's advancement in trans legislation is due to? / What caused Malta to become a global leader for trans rights?

#### **Organization**

What is the role of your organization? What do you fight for? What projects do you have?

Are there revindications for gender identity that your organization has that are still not in the Maltese legislation?

#### **Communication with the government**

Is there a channel of communication between your organization and the government? Do you feel listened to? How do you communicate with them?

#### **LGBTIQ Consultative Council**

Did your organization have an active role in the elaboration of the trans specific laws? If so which ones?

Do you believe the legislation is being put into practice? If not, what is not being put into practice? What should improve?

#### **Public policies**

What public policies have been developed for trans people (in education, health, social services...)?

What are the main areas where the rights of trans people are preserved? What are the areas where they are less preserved?

### **Actors that influenced the legislation**

To what factors do you believe the approval of the Gender Identity, Gender Expression and Sex Characteristics act is due to?

### **The role of activism**

Do you believe activism was important in Malta to generate change – such as the approval of the Gender Identity, Gender Expression and Sex Characteristics act and the introduction of the X Marker on ID and Passport?

Do you consider the activism in Malta to be well organized?

Were there discussions between the government and activists to understand what was needed?

Were testimonials from trans people important?

### **Role of the political parties**

Do you think the government shifting from the Nationalist party to the Labour party was important for this legislation to be approved?

### **The role of the church**

Did the church position itself during the voting process of the Gender Identity, Gender Expression and Sex Characteristics act?

What was the position of the church throughout this legislation change?

### **Legislation changed fast and for everyone**

From 2013 to 2022 Malta's legislation changed dramatically. At what factors do you attribute this fast change?

Were there any obstacles? How were they surpassed?

This law was groundbreaking as it included self-determination for young people. Were there any obstacles to pass this legislation as it includes minors?



Are you aware of any other countries using Malta as an example to improve their own legislation?

### **Council of Europe**

What influence does the Council of Europe have in Malta? What influence did Malta have for the Council of Europe?

Does the Council of Europe use Malta as a global reference for trans rights?

Is Malta a reference in other fields?

Did you communicate during the draft of the gender identity bill?

In the Council of Europe's perspective, what influence did the associations, civil society, the church, the political parties have in changing this law for trans people?

Are there still recommendations the Council of Europe believes Malta should adopt?

### **For the future**

What are the steps Malta stills needs to take to provide a better life for its trans citizens?

Considering these achievements happened after a change in the party in power in Malta, do you believe these rights could be at stake in case there is a different party elected?

Do you believe the mentality of Malta's population in relation of the gender system has changed?  
(considering the addition of the X as a gender marker)

Ask for documentation of the organization about trans matters.

Ask for advice regarding other organization or individuals to interview and request their contact.

**Thank you so much!**

## Appendix B – Informed Consent

### Informed Consent

The present study arises within the framework of a master's degree thesis developed at ISCTE – University Institute of Lisbon. The research's main objective is to better understand Malta's trans rights legislation.

This study is being developed by C. Ferreira Tavares ([tavaresferrei@gmail.com](mailto:tavaresferrei@gmail.com)) and supervised by Sandra Saleiro ([sandra.saleiro@iscte-iul.pt](mailto:sandra.saleiro@iscte-iul.pt)), whom you can contact if you want to clarify anything or share a comment.

Your participation in the study will be highly valued as it will contribute to broadening the knowledge in this field of science. It consists of answering an interview, which will be recorded, to keep accuracy when referring to the collected facts. The interview will be conducted online via the platform Google Meet. You will need to identify yourself and the organization you represent. There are no expected significant risks associated with participating in the study. Participation in the research is strictly voluntary: you can freely choose to participate or not to participate. If you have chosen to participate, you may discontinue participation at any time without giving any reason.

I declare that I understood the objectives of the interview, explained to me by the researcher, that I was allowed to ask all the questions about the present study, and that I received an enlightening answer for all of them, for which I accept to participate in the study.

Date: \_\_\_/\_\_\_/\_\_\_

Name: \_\_\_\_\_

Signature: \_\_\_\_\_