

MALTA

Most questions require a reply based on the following codification:

a. Yes, already done <input type="checkbox"/>	b. Yes, work is in progress <input type="checkbox"/>	c. We intend to work on this <input type="checkbox"/>	d. Position non determined <input type="checkbox"/>	e. No <input type="checkbox"/>
---	--	---	---	--------------------------------

Section I – Implementation and dissemination of the Recommendation

1. How would you assess the status of implementation of the Recommendation in your country?

Fully satisfactory Adequate Insufficient Absent

Please explain your reply.

Malta is conducting an ongoing examination in order to address discrimination of the grounds of sexual orientation or gender identity. Currently laws are also being examined in order to eradicate any discrimination contained therein.

2. Has a review been carried out of existing legislative and other measures which could result directly or indirectly in sexual orientation or gender identity discrimination?

a. b. c. d. e.

Please explain and, if appropriate, provide examples of any such measures found:

Certain laws have already been amended in order to include the prohibition of hate crimes. However this exercise has as yet not been finalised and the examination/sis/are still being conducted.

Are there measures in place to redress any such discrimination?

a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices:

First and foremost, the Constitution of Malta delineates that every person in Malta is entitled to the fundamental rights and freedoms of the individual, whatever his sex. Secondly, the Criminal Code (Cap. 9 of the Laws of Malta) has recently also been amended accordingly to include the prohibition of discrimination on the basis of sexual orientation. This issue is also included in the European Convention Act (Cap. 319 of the Laws of Malta) and in the Press Act (Cap. 248 of the Laws of Malta).

3. Have legislative and other measures against discrimination on grounds of sexual orientation or gender identity been adopted and implemented since the adoption of CM Recommendation 2010(5) (including the possible establishment of national action plans, the inclusion of the Recommendation in existing plans, or the creation of cross-sectoral working groups for its implementation)?

a. b. c. d. e.

If appropriate, please provide examples of measures adopted or in preparation.

In 2012, Chapter 456 of the Laws of Malta – *Equality for Men and Women Act* was amended to cover additional grounds of discrimination, including sexual orientation and gender identity. To this end, equal treatment was further safeguarded on these grounds in relation to employment and education. By

virtue of this legislation, the National Commission for the Promotion of Equality (NCPE) is empowered to safeguard and promote equality in these areas.

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

4. Are there measures in place to collect and analyse relevant data on discrimination on grounds of sexual orientation?

- a. b. c. d. e.

Are there measures in place to collect and analyse relevant data on discrimination on grounds of gender identity?

- a. b. c. d. e.

Are there measures in place to collect and analyse relevant data on hate crimes and hate-oriented incidents, where the sexual orientation or gender identity of the victim is reasonably suspected to have constituted a motive for the perpetrator?

- a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices:

NCPE carried out a qualitative study to analyse the experiences of LGBT persons, as part of an EU co-funded project VS/2010/0569 - *Think Equal*. This study was aimed at identifying the nature and extent of the discrimination experienced by 25 respondents in the spheres of employment, housing, healthcare, education, the provision of goods and services, insurance, public services and other areas. This study also describes experiences of violence, humiliation and victimisation on the grounds of sexual orientation or gender identity and expression. The levels of knowledge and awareness on current anti-discriminatory provisions and preferred methods of assistance are also presented.

5. Do effective legal remedies for victims of sexual orientation or gender identity discrimination exist (including sanctions for infringements and adequate reparation for victims)?

- a. b. c. d. e.

If so, are there measures in place to raise awareness and facilitate access of victims to such remedies?

- a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

NCPE published an 'Information Booklet' to assist potential victims of discrimination. The aim of this booklet is to serve as a first reference tool for the general public, since it provides a useful list of organisations that are actively providing services to victims of discrimination. The services covered are varied and the six grounds of discrimination are covered, including sexual orientation. In addition, a list of frequently asked questions provides a description of issues related to discrimination. This booklet was published as part of the EU co-funded project VS/2010/0569 *Think Equal*.

6. Which obstacles, if any, have been encountered in the implementation of the Recommendation?

The obstacles encountered were more related to culture rather than to the actual law. In fact, it was the cultural ideas and mentalities that exist in Malta and also the lack of awareness of LGBT rights that brought about obstacles.

7. Has the Recommendation, including its Appendix, been translated in all your national languages?
a. b. c. d. e. **In Malta, the English language is one of our national languages, so there was no need to translate this Recommendation into Maltese as well.**

8. Which steps have been taken to ensure dissemination of the Recommendation and its Appendix as widely as possible?

The Recommendation and its Appendix were disseminated between various authorities, and also NCPE initiated various awareness campaigns on the matter.

Section II – Implementation of the specific provisions in the Appendix

I. Right to life, security and protection from violence

9. Are there measures in place to ensure an effective, prompt and impartial investigation into alleged cases of crimes and other incidents, where the sexual orientation or gender identity of the victim is reasonably suspected to have constituted a motive for the perpetrator?

a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

NCPE assists persons who feel discriminated against on the grounds of sexual orientation and gender identity in employment and education, by investigating their complaints. NCPE provides independent assistance and carries out independent investigations in relation to alleged discriminatory incidents that are lodged with NCPE. The complaints procedure followed by NCPE is delineated in *Legal Notice 316 of 2011 – Procedure for Investigation Regulations*.

Moreover, prohibition of violence or hatred on the basis of sexual orientation is also dealt with, from a penal aspect, under various articles of the Criminal Code (Cap. 9 of the Laws of Malta), as aforementioned.

10. Are there measures in place to ensure that a bias motive related to sexual orientation may be taken into account as an aggravating circumstance?

a. b. c. d. e.

Are there measures in place to ensure that a bias motive related to gender identity may be taken into account as an aggravating circumstance?

a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

There are various articles in the Criminal Code (Cap. 9 of the Laws of Malta) which specifically deal with the prohibition of discrimination that is aggravated or motivated on the grounds of gender identity and/or sexual orientation amongst others. Moreover, Article 83B of the same Criminal Code reads as follows –

The punishment established for any offence shall be increased by one or two degrees when the offence is aggravated or motivated, wholly or in part by hatred against a person or a group, on the grounds of gender, gender identity, sexual orientation, race, colour, language, ethnic origin, religion or belief or political or other opinion within the meaning of sub-articles (3) to (6), both inclusive, of article 222A.

11. Are appropriate measures taken to ensure that victims and witnesses of sexual orientation- or gender identity-related hate crimes and incidents are encouraged to report them?

- a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

See above question 9

12. Do training programmes and procedures exist to ensure that the police, judiciary and prison officials possess the knowledge and skills to identify such crimes and incidents and provide victims and witnesses with adequate assistance and support?

- a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

NCPE carried out cross-organisational training, as part of the EU co-funded project *Strengthening Equality beyond Legislation VS/2009/0405* with various entities with the aim of providing more information on different facets related to equal treatment and discrimination on the 6 grounds, including sexual orientation. This training addressed the contexts and working practices of the entities by using various case studies and other examples that are relevant to the particular entity. Particularly, entities that attended this training include equality bodies; as well as representatives from the Office of the Ombudsman, the Office of the Attorney General, the Industrial Tribunal, the Malta Police Force and the Armed Forces of Malta.

13. Are there specific measures in place to ensure the safety and dignity of lesbian, gay, bisexual and transgender persons in prison or in other ways deprived of their liberty, in accordance with paragraph 4 of the Appendix to the Recommendation?

- a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

In Malta, the same principles in relation to persons in prison or who are deprived of their liberty are afforded to everyone. Whether one is a straight person or a gay person, one is still afforded the same rights and freedoms.

14. Have appropriate measures been taken to combat all forms of “hate speech” against lesbian, gay, bisexual or transgender persons, in accordance with Article 10 of the European Convention on Human Rights and with paragraph 6 of the Appendix to the Recommendation ?

- a. b. c. d. e.

If so, have specific measures been taken to raise awareness of public authorities/ institutions of their responsibility to refrain from statements which may reasonably be understood as legitimising hatred or discrimination against lesbian, gay, bisexual or transgender persons ?

- a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

Article 82A of the Criminal Code (Cap. 9 of the Laws of Malta) deals with the prohibition of violence and hatred on the basis of various factors, including gender identity and sexual orientation. It also includes words and printed material as means through which such discrimination is prohibited. The article reads as follows:

Whosoever uses any threatening, abusive or insulting words or behaviour, or displays any written or printed material which is threatening, abusive or insulting, or otherwise conducts himself in such a manner, with intent thereby to stir up violence or hatred against another person or group on the grounds of gender, gender identity, sexual orientation, race, colour, language, ethnic origin, religion or belief or political or other opinion or whereby such violence or racial hatred is likely, having regard to all the circumstances, to be stirred up shall, on conviction, be liable to imprisonment for a term from six to eighteen months.

II. Freedom of association

15. Are there measures in place to ensure that freedom of association (including access to public funding available for non-governmental organisations) can be enjoyed without discrimination on grounds of sexual orientation or gender identity?

- a. b. c. d. e. **Freedom of association is enshrined in Articles 32 & 42 of the Constitution. With regards to access to public funding available for non-governmental organisations, it is good to note that NCPE is government-funded. However, in Malta there are also other movements who promote LGBT rights. If these qualify as NGO's, then they would benefit from state funding.**

If any, please provide examples of limitations or exceptions to the guarantees set out in Paragraphs 9 and 10 of the appendix to the Recommendation and indicate whether any measure to review or lift such limitations or exceptions is in preparation:

The movements in question have to qualify as NGO's in order to benefit from state funding.

16. Are there specific measures in place to effectively protect defenders of human rights of lesbian, gay, bisexual and transgender persons against hostility and aggression, including when allegedly committed by state agents, in accordance with the Declaration of the Committee of Ministers on Council of Europe action to improve the protection of human rights defenders and promote their activities?

- a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

N/A

17. Have measures been taken to ensure that non-governmental organisations defending the of human rights of lesbian, gay, bisexual and transgender persons are appropriately consulted on the adoption and implementation of measures that may have an impact on the human rights of these persons?

- a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

NCPE have created various awareness campaigns on the issue. They also provide adequate information to the public. Following all this, then everyone is free to act as s/he wishes to.

III. Freedom of expression and peaceful assembly

18. Are there measures in place to ensure that freedom of expression, including freedom to receive and impart information on subjects dealing with sexual orientation or gender identity, can be enjoyed without discrimination on grounds of sexual orientation or gender identity?

- a. b. c. d. e. **(Article 41 Constitution)**

Are there measures in place to ensure that freedom of peaceful assembly can be enjoyed without discrimination on grounds of sexual orientation or gender identity?

- a. b. c. d. e. **(Article 42 Constitution)**

If specific limitations or exceptions regarding such freedoms are in place, please provide examples and indicate whether any measure to review or lift such measures is in preparation:

With regards to the freedom of expression, one finds certain exceptions in Article 41(2) of the Constitution which reads as follows –

Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of subarticle (1) of this article to the extent that the law in question make provision –

(a) that is reasonably required -

*(i) in the interests of defence, public safety, public order, public morality or decency, or public health; or
(ii) for the purpose of protecting the reputations, rights and freedoms of other persons, or the private lives of persons concerned in legal proceedings, preventing the disclosure of information received in confidence, maintaining the authority and independence of the courts, protecting the privileges of Parliament, or regulating telephony, telegraphy, posts, wireless broadcasting, television or other means of communication, public exhibitions or public entertainments; or*

(b) that imposes restrictions upon public officers, and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

With regards the freedom of association, certain exceptions are laid down in Article 42(2) of the Constitution which reads as follows –

Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this article to the extent that the law in question makes provision -

(a) that is reasonably required -

*(i) in the interests of defence, public safety, public order, public morality or decency, or public health; or
(ii) for the purpose of protecting the rights or freedoms of other persons; or*

(b) that imposes restrictions upon public officers, and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

19. Do law enforcement authorities take appropriate measures to protect participants in peaceful demonstrations in favour of the human rights of lesbian, gay, bisexual and transgender persons?

- a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The Police attend every demonstration that takes place to ensure the safety of the participants. If the organisers of the demonstration wish even more Police to attend, then a request in this manner would be forwarded to the Commissioner of Police for his consideration.

Moreover, if during any demonstration, some form of aggression occurs (both against or by the participants of the same demonstration), then the Police are duty-bound to prosecute the perpetrators.

IV. Right to respect for private and family life

20. Have measures been taken to ensure that criminal law provisions which, because of their wording or scope, may lead to a discriminatory application with respect to sexual orientation or gender identity are either repealed, amended or applied in a manner which is compatible with the principle of non-discrimination?

- a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

Article 4(b) of the Interpretation Act (Cap. 249 of the Laws of Malta) states as follows – “...words importing the masculine gender shall include females...”.

21. Are there measures in place to ensure that personal data referring to a person’s sexual orientation or gender identity are not collected, stored or otherwise used, except where this is necessary for the performance of specific, lawful and legitimate purposes, and that existing records that do not comply with this principle are destroyed?

- a. b. c. d. e.

Please provide examples of exceptions to this principle, if any:

Personal data referring to a person’s sexual orientation or gender identity is defined under the Data Protection Act (Cap. 440 of the Laws of Malta) as sensitive personal data. The latter means “*personal data that reveals race or ethnic origin, political opinions, religious or philosophical beliefs, membership of a trade union, health, or sex life*”.

Article 12 of the same Act then goes on to state as follows:

(1) Subject to the other provisions of this Act no person shall process sensitive personal data: Provided that such personal data may be processed in those cases provided for under subarticle (2) and under articles 13 to 16 or as may be prescribed by the Minister having regard to an important public interest.

(2) Sensitive personal data may be processed if the data subject:

(a) has given his explicit consent to processing; or

(b) has made the data public.

22. Are appropriate measures available to guarantee full legal recognition of a person’s gender reassignment in all areas of life in accordance with the provisions of paragraph 21 of the appendix to the Recommendation?

- a. b. c. d. e.

Have prior requirements for legal recognition of a gender reassignment been reviewed in order to remove any abusive requirements?

- a. b. c. d. e. **(Article 257A of the Civil Code (Cap. 16 of the Laws of Malta))**

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

See above.

23. Once gender reassignment has been completed and legally recognised, is the right of a transgender person to marry a person of the sex opposite to their reassigned sex effectively guaranteed?

- a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

A Cohabitation Bill has been presented to the Maltese Parliament and is presently in its first reading.

24. Where national legislation recognises registered same-sex partnerships, are their legal status, rights and obligations equivalent to those of heterosexual couples in a comparable situation?

- a. b. c. d. e.

If national legislation does not recognise nor confer rights to registered same-sex partnerships and unmarried couples, has the possibility been considered to provide same-sex couples with legal or other means to address the practical problems related to this fact in their lives?

- a. b. c. d. e.

Please provide examples:

A Cohabitation Bill has been presented to the Maltese Parliament and is presently in its first reading.

25. Are there measures in place to ensure that decisions regarding parental responsibility and adoption of a child are taken primarily in the child's best interest, as well as without discrimination based on sexual orientation or gender identity?

- a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

In the family scenario in Malta, family law is wholly oriented in the best interests of the child. In cases regarding parental responsibility and adoption, one finds no discriminatory factors as long as what is done is in the best interests of the child in question.

V. Employment

26. Does legislation prohibit discrimination in employment in the public and private sector on grounds of sexual orientation?

- a. b. c. d. e.

Does legislation prohibit discrimination in employment in the public and private sector on grounds of gender identity?

- a. b. c. d. e.

If so, are there measures in place concerning in particular:

i) Access to employment

- a. b. c. d. e.

ii) Promotion, dismissals, pay and other working conditions

- a. b. c. d. e.

iii) Prevention and punishment of harassment

- a. b. c. d. e. (**only sexual harassment**)

iv) Protection of privacy of transgender persons

(in accordance with paragraph 30 of the Appendix to the Recommendation)

- a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The Data Protection Act (Cap. 440 of the Laws of Malta) ensures the privacy of all persons. Moreover, following gender reassignment, the person in question is by law allowed to change his/her name, birth certificate, bank accounts and identification documents amongst others.

VI. Education

27. Are there appropriate legislative and other measures, addressed to educational staff and pupils, to ensure that the right to education can be effectively enjoyed without discrimination on grounds of sexual orientation or gender identity, taking into due account the over-riding interests of the child and the rights of parents regarding education of their children?

- a. b. c. d. e.

If so, are there measures in place concerning in particular:

i) Anti-discrimination training or support and teaching aids

- a. b. c. d. e.

ii) Information, protection and support for pupils and students

- a. b. c. d. e.

iii) Objective information on sexual orientation and gender identity in school curricula?

- a. b. c. d. e.

iv) School equality and safety policies and action plans

- a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

As part of its core work, NCPE provides training to various groups or entities who request training on equality and non-discrimination issues. In fact, NCPE provides training to students and teachers on areas related to equal treatment within its remit.

In addition, as part of the EU co-funded project *Strengthening Equality beyond Legislation VS/2009/0405* organised forum theatre sessions for students as a means of learning on equality while actively participating by interacting during various exercises, role plays, games and more. These sessions aimed at empowering students to challenge stereotypes and discrimination by being creative and utilising dialogue and teamwork.

As part of this project, NCPE also carried out an equality in schools competition, on the six grounds of discrimination including sexual orientation, with the aim of increasing equal opportunities, creating a more inclusive environment, promoting diversity and enhancing dialogue in order to improve the quality of life of students.

In addition, as part of this project, NCPE carried out a research to analyse the National Minimum Curriculum from an equality perspective on all six grounds of discrimination, including sexual orientation. This review was a comprehensive examination addressing issues of equality of the general approach within the education system and within specific syllabi.

VII. Health

28. Are there appropriate measures in place to ensure that the highest attainable standard of health can be effectively enjoyed without discrimination on grounds of sexual orientation or gender identity, in accordance with the provisions of Paragraph 33 of the Appendix to the Recommendation?

- a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

Malta's state hospital is free of charge for citizens of Malta and of any other European member state.

29. Has homosexuality been removed from the national classification of diseases?

- a. b. c. d. e.

30. Are there measures in place to ensure that transgender persons have effective access to appropriate gender reassignment services?

- a. b. c. d. e. **The medical operation itself for gender reassignment is not carried out in Malta but in the United Kingdom. What is offered here in Malta is psychological support for persons about to undergo such intervention.**

If there are limitations to the costs covered by health insurance for gender reassignment, please explain:

As explained above, gender reassignment is not carried out in Malta and the costs are not covered by health insurance.

VIII. Housing

31. Are measures taken to ensure access to adequate housing can be effectively and equally enjoyed by all persons, without discrimination on grounds of sexual orientation or gender identity, that protection is provided against discriminatory evictions, and that equal rights are guaranteed in respect of ownership of land and other property,?

- a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

There is no discrimination in this field either – whoever qualifies for social housing will be given all the necessary help needed.

32. With respect to the risk of homelessness faced by lesbian, gay, bisexual and transgender persons, in particular young persons and children, are measures taken to ensure that the relevant social services are provided without discrimination on grounds of sexual orientation or gender identity?

- a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

There is no discrimination in the social services sector either. There is in place a means test and if the person in question qualifies for social services, then s/he will be given such aid, irrespective of his/her sexual orientation or gender identity.

IX. Sports

33. Have measures (including awareness-raising measures) been taken to tackle discrimination on grounds of sexual orientation or gender identity (including the use of discriminatory insults) in sports and in connection with sports events?

- a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

N/A

X. Right to seek asylum

34. In cases where your country has an international obligation in this respect, may a well-founded fear of persecution based on sexual orientation or gender identity be recognised as a valid ground for the granting of refugee status and asylum under your national law?

- a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The EU Council Directive 2011/95/EC (that is the recast Qualification Directive 2004/83/EC) recognises sexual orientation and gender identity as reasons for persecution. In fact recital (30) reads '*It is equally necessary to introduce a common concept of the persecution ground 'membership of a particular social group'. For the purposes of defining a particular social group, issues arising from an applicant's gender, including gender identity and sexual orientation, which may be related to certain legal traditions and customs, resulting in for example genital mutilation, forced sterilisation or forced abortion, should be given due consideration in so far as they are related to the applicant's well-founded fear of persecution.'* Also Article 10 (d) states '*Depending on the circumstances in the country of origin, a particular social group might include a group based on a common characteristic of sexual orientation. Sexual orientation cannot be understood to include acts considered to be criminal in accordance with national law of the Member States. Gender related aspects, including gender identity, shall be given due consideration for the purposes of determining membership of a particular social group or identifying a characteristic of such a group'*.

The Office of the Refugee Commissioner that is responsible from asylum applications in Malta has granted refugee status protection to third country nationals (TCNs) who suffered or risk suffering persecution on the basis of their sexual orientation or gender identity. The Office examines each claim on a case by case basis taking into consideration the overall circumstances of the case and the situation in the particular country of origin. Does your country ensure that asylum seekers are not sent to a country where their life or freedom would be threatened because of their sexual orientation or gender identity?

- a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

Yes. When examining a claim on sexual orientation or gender identity, the Office of the Refugee Commissioner assesses the predicament that the applicant would have to face if returned back to his/her country of origin. In cases where it is shown that the applicant upon return to his/her country of origin would risk suffering discrimination that amounts to persecution, then the person would be granted refugee protection on the 1951 Geneva Convention ground of a particular social group.

XI. National Human Rights Structures

35. Are National Human Rights Structures (equality bodies, ombudsperson, and national human rights institutions) clearly mandated to address discrimination on grounds of sexual orientation?

- a. b. c. d. e.

Are National Human Rights Structures (equality bodies, ombudsperson, and national human rights institutions) clearly mandated to address discrimination on grounds of gender identity?

- a. b. c. d. e.

If so please explain and indicate in particular, if appropriate, what possibilities of intervention are included in their mandate, including in particular with respect to discrimination on multiple grounds:

The National Commission for the Promotion of Equality (NCPE) was established by virtue of Chapter 456 of the Laws of Malta - Equality for Men and Women Act. This Act safeguards equal treatment on the grounds of sex or family responsibilities, sexual orientation, age, religion or belief, racial or ethnic origin, or gender identity in employment, education and financial services. In this regard, the functions of NCPE are:

- (a) to identify, establish and update all policies directly or indirectly related to issues of equality for men and women;
- (b) to identify the needs of persons who are disadvantaged by reasons of their sex and to take such steps within its power and to propose appropriate measures in order to cater for such needs in the widest manner possible;
- (c) to monitor the implementation of national policies with respect to the promotion of equality for men and women;
- (d) to liaise between, and ensure the necessary coordination between, government departments and other agencies in the implementation of measures, services or initiatives proposed by Government or the Commission from time to time;
- (e) to keep direct and continuous contact with local and foreign bodies working in the field of equality issues, and with other groups, agencies or individuals as the need arises;
- (f) to work towards the elimination of discrimination between men and women;
- (g) to carry out general and independent investigations with a view to determine whether the provisions of this Act are being complied with;
- (h) to independently investigate complaints of a more particular or individual character to determine whether the provisions of this Act are being contravened with respect to the complainant and, where deemed appropriate, to mediate with regard to such complaints;
- (i) to inquire into and advise or make determinations in an independent manner on any matter relating to equality between men and women as may be referred to it by the Minister;
- (j) to provide independent assistance, where and as appropriate, to persons suffering from discrimination in enforcing their rights under this Act;
- (k) to keep under review the working of this Act, and where deemed required, at the request of the Minister or otherwise, submit proposals for its amendment or substitution; and
- (l) to perform such other function as may be assigned by this or any other Act or such other functions as may be assigned by the Minister.

In addition, *Legal Notice 85 of 2007 - Equal Treatment of Persons Order* extends NCPE's remit to include the promotion of equality on the grounds of race / ethnic origin in the access to and supply of goods and services. By virtue of this Legal Notice, NCPE ensures that no person, establishment or entity discriminates against any other person in relation to: social protection, including social security and

healthcare; social advantages; education; and the access to and supply of goods and services which are available to public, including housing on the grounds of race or ethnic origin.

Furthermore, NCPE is also responsible for enhancing equality between genders in the access to and supply of goods and services, as established by *Legal Notice 181 of 2008 – Access to Goods and Services and their Supply (Equal Treatment) Regulations*. Hence, NCPE also works to combat direct and indirect discrimination as well as sexual harassment on the grounds of gender in the provision of goods and services.

XII. Discrimination on multiple grounds

36. Are there measures in place to ensure that the provisions of national law prohibiting or preventing discrimination also protect against discrimination on multiple grounds, including on grounds of sexual orientation or gender identity?

- a. b. c. d. e.

Section III - Follow-up

37. Which measures by the Council of Europe would you recommend to ensure that member states are guided in their national legislation and practice by the principles set out in the Recommendation and in its Appendix ?

We would recommend that the Council issues information on this regard on a website which is accessible to all member states. Furthermore, information booklets on the issue should be disseminated amongst the authorities.

38. Should the Council of Europe continue examining periodically the implementation of this Recommendation? If so, should such examination in future concentrate on specific issues, and which specific issues would you recommend examining in that case?

No, the Council should not continue to conduct periodical examinations. It should be left up to the member states to ensure that this Recommendation is satisfactorily implemented on a domestic level.

39. Are there any issues on which the Recommendation and its Appendix should be revised or completed? If so, please indicate them.

No further comments.