



University of Oslo

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# Maltese strategies to ensure equality for LGBTI people through legislation, policy and institutions

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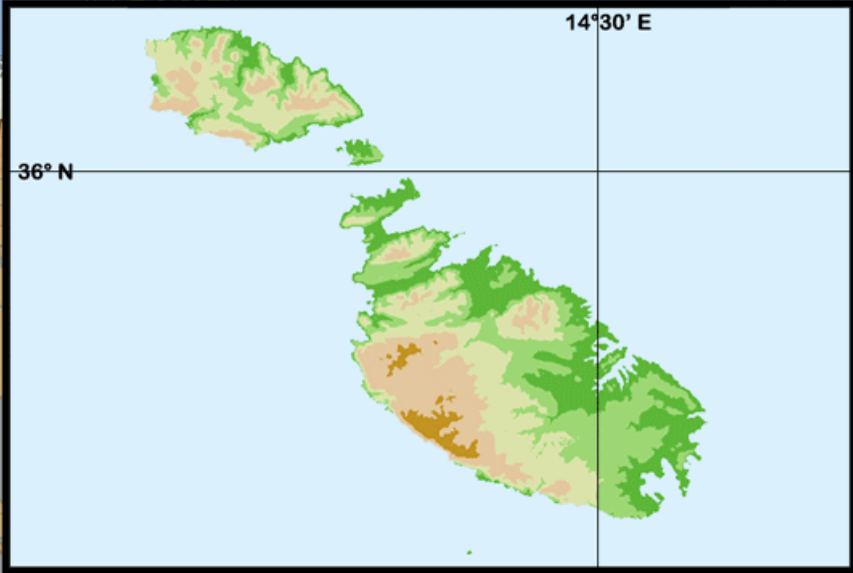
Policy Coordinator (Human Rights)



Malta

# Basic information

- Population (2013 estimate): 446,500
- Size: 316km<sup>2</sup>
- Capital city: Valletta
  
- Independent country since 1964
- Republic since 1974
- Member of the European Union since 2004



LGBTI rights?

# The beginnings

- Homosexuality was decriminalised in 1973, and the age of consent was equalised at the same time
- Nonetheless, the situation remained difficult for many years
- The first public 'coming outs' happened in the 1990s (inc. on TV)
- While there were previous organisational attempts, in 2001 the Malta Gay Rights Movement (MGRM) was established

# Early successes

- The biggest contribution of MGRM in the early years was the number of TV presences that it had, contributing to the normalisation of discussion on LGB issues
- The first pride parade was organised in 2004 following Malta's EU accession
- However, for many years, no legislative progress was achieved in spite of the organisation's advocacy

# Valletta Pride (early years)





# The beginning of the breakthrough

- The breakthrough happened when two cases of attacks on lesbians in the same period were given prominence in the media, prompting a change of the *Criminal Code* to include 'sexual orientation and gender identity'
- The equality law was also changed to include the same grounds in 2012

# Increased visibility

- Organisations of LGBTI people were set up in political parties and at university
- A Catholic LGBTI organisation was also set up, as was a parents' organisation of LGBTI people
- A case of a trans person fighting for her right to marry reached the European Court of Human Rights (*Joanne Cassar v. Malta*)

# 2013

The breakthrough

# The 2013 election (turning point)

- Great visibility was provided to LGBTI issues during the campaign towards the 2013 election
- All parties included LGBT issues in their manifesto to varying degrees
- They also had to answer questions from the media related to partnerships/ marriages of same-sex couples, adoption and recognition of trans' people's identities

New government

# Government programme (1)

- Setting up of a Ministry for Civil Liberties and Equality
- LGBTI is mainstreamed throughout
- Setting up of a Consultative Council for the expansion of the rights of LGBTI people
- Introduction of the right to civil unions for same-sex couples
- A law to regulate the identification documents of transgender persons

# Government programme (2)

- Ratification of Protocol 12 of the ECHR
- Introduction of a policy against discrimination on the basis of SOGI in the Public Service, (inc. in the armed forces)
- Educational campaigns, especially with the very young, regarding diversity, against prejudice and racism, while we will fight bullying and hate crimes, including those on the basis of sexual orientation, race, ethnicity and skin colour.

# LGBTI Consultative Council





# LGBTI Consultative Council

- An LGBTI Consultative Council was set as soon as government took office
- It consists of representative organisational and individual LGBTI experts
- They are mandated to develop legislation and policies to address the needs of the LGBTI community

# Its value

- The LGBTI Consultative Council is very useful in ensuring the adoption of the best laws possible
- It ensures that government fully responds to LGBTI needs
- They have meetings with different Ministers, and institutions to develop programming on LGBTI issues

# Civil Unions Act

Act IX of 2014

Chapter 530 of the Laws of Malta

# Overview

- Title: *Civil Unions Act*(CAP 530)
- Developed by the LGBTI Consultative Council
- 1<sup>st</sup> Reading in Parliament: 30 September 2013
- 3<sup>rd</sup> Reading: 14 April 2014
- Vote: **37** for, **0** against, **30** abstention  
(*2 MPs absent*)

# Key provisions

- It is open to same-sex and different-sex couples
- Equal rights and obligations to marriage (no exceptions other than religious marriage)
- Equal access to adoption
- Recognition of foreign same-sex partnerships/marriages (S.L. listing recognised international unions)

# Exercise of the law

April 2014 – today	Malta	Gozo
Unions registered in Malta & Gozo		
(i) Same-sex	<b>22</b>	<b>2</b>
(ii) Different sex	-	-
Foreign unions re-registered locally		
(i) Same-sex	<b>5</b>	-
(ii) Different sex	-	-
Marriages of same-sex partners	<b>6</b>	-

# Constitution of Malta (Amendment) Act

Act X of 2014

# Overview

- Introduced sexual orientation and gender identity in the non-discrimination article of the Constitution
- Vote: **67** for, **0** against, **0** abstentions  
*(2MPs absent)*
- Malta became the 1<sup>st</sup> country in the world to include gender identity in the Constitution



14 April 2014

Celebration

# Jubilation in front of Parliament



Minister for  
Civil  
Liberties  
Helena Dalli  
&  
Prime  
Minister  
Joseph  
Muscat on  
stage

14.04.2014



# 2<sup>nd</sup> IDAHO Forum



# 2<sup>nd</sup> IDAHO Forum

- Continuation of the call for an EU Comprehensive Approach on LGBTI issues
- Raising 'new' issues such as intersex, or need for comprehensive education equality & anti-bullying policy
- Reaffirming need for action at national level
- Sharing of best practices

# Launch press conference



Photo - DOI - Martin Attard

# Prime Minister's address



Photo - DOI - Jeremy Wonnacott

# Declaration of Intent

- A *Declaration of Intent* initiated by Malta and Sweden on a wide range of issues was presented for signatures
- 18 countries joined: Malta, Sweden, Albania, Austria, Belgium, Croatia, Cyprus, Denmark, Finland, France, Iceland, Ireland, Italy, Luxembourg, Montenegro, the Netherlands, Norway, Slovenia



# Signatories of the Declaration



# Pride 2014

Celebration

# Valletta Pride (2014)



# GIGESC Bill

# Overview

- Title: *Gender Identity, Gender Expression and Sex Characteristics Act* (Bill 70 of 2014)
- Developed by the LGBTI Consultative Council
- Online: [www.socialdialogue.gov.mt/GIGESC](http://www.socialdialogue.gov.mt/GIGESC)
- 1<sup>st</sup> Reading in Parliament: 29 October 2014

# Key provisions (1)

- Introduces a right to gender identity for all persons
- Regulates the procedure for change of legal gender for minors and adults alike
- Bans any requirements for medical interventions, psychological tests, etc
- Recognises foreign decisions regarding gender identity by a competent court or responsible authority

# Key provisions (2)

- Allows for amendments of gendered characteristics on all official documents (e.g. ID card / passport) or certificates
- Provides for the privacy of the person whose gender has been rectified on official documents
- Introduces a positive obligation on government entities to ensure that their services meet the objectives of this Act

# Key provisions (3)

- Provides parents with the possibility to postpone the entry of a gender marker on their children's birth certificate until they reach the age of 14
- Introduces a right to bodily integrity and physical autonomy for all persons
- Makes non-medically necessary treatment on the sex characteristics of a person without informed consent unlawful



# Key provisions (4)

- Provides for psychosocial counselling, support and medical interventions related to sex and/or gender
- Provides for a revision of the protocol regulating sex assignment treatment and/or surgical interventions on the sex characteristics of a person

# Key provisions (5)

- Introduces 'gender expression' and 'sex characteristics' within the list of grounds for aggravated circumstances under the *Criminal Code*
- Introduces 'gender expression' and 'sex characteristics' within the scope of the *Equality for Men and Women Act*

# Public Consultation

## GENDER IDENTITY, GENDER EXPRESSION & SEX CHARACTERISTICS ACT



MINISTRY FOR SOCIAL DIALOGUE,  
CONSUMER AFFAIRS AND CIVIL LIBERTIES

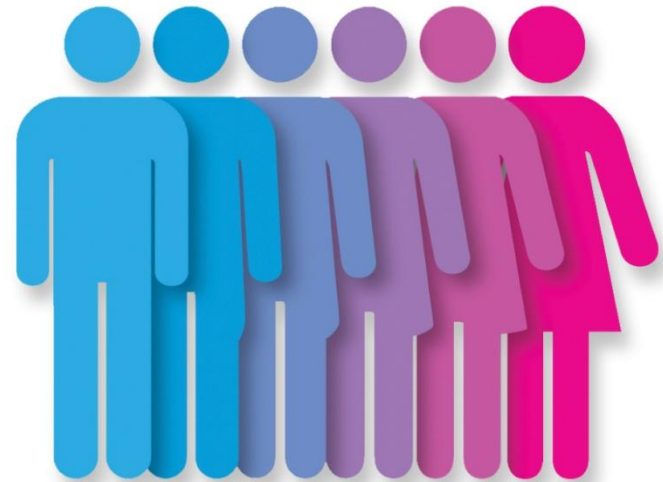
### Public Consultation

29 October - 30 November 2014

 [www.msdc.gov.mt/GIGESC](http://www.msdc.gov.mt/GIGESC)

 [integration@gov.mt](mailto:integration@gov.mt)

 #GIGESC



# Next Steps

- Assessment of the submissions made (25 in total)
- Proposals for amendments of the Bill based on the input from the consultation
- *2<sup>nd</sup> Reading* – presentation and discussion
- *Committee Stage* – possibility of new round of amendments
- *3<sup>rd</sup> Reading* – final vote

# Institutions

# Institutional developments (2015)

- Setting up of Malta's NHRI (Human Rights and Equality Commission)
- Setting up of a Directorate for Integration
- Adoption of a Human Rights and Equality Strategy
- Transformation of the Men and Women Act into an Equality Act

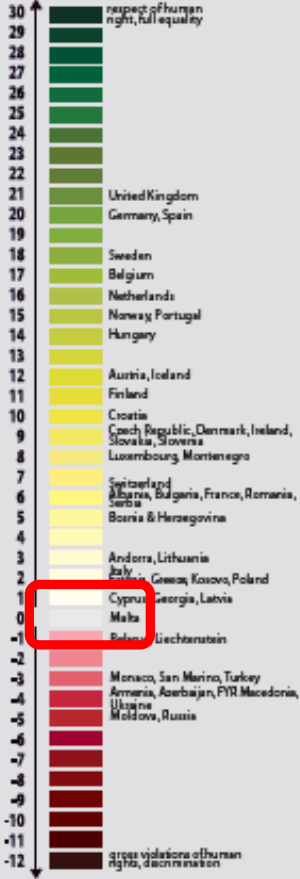
# Recapitulation

# ILGA-Europe Rainbow Map, May 2012

reflecting the national legal human rights situation of lesbian, gay, bisexual, trans and intersex (LGBTI) people in Europe

The ILGA-Europe Rainbow Map reflects the 40 European countries' legislation and administrative practices that have a direct impact on the human rights situation of LGBTI people in Europe. The shade/score of each country is based on the ILGA-Europe Rainbow Index.

The scale rates each country's legislation and administrative practices which protect or violate the human rights of LGBTI people according to 42 categories. It ranks each country on a scale between 30 (the highest possible score indicating full legal protection and equality for LGBTI people) and -12 (the lowest possible score indicating gross violations of rights and legal discrimination against LGBTI people).



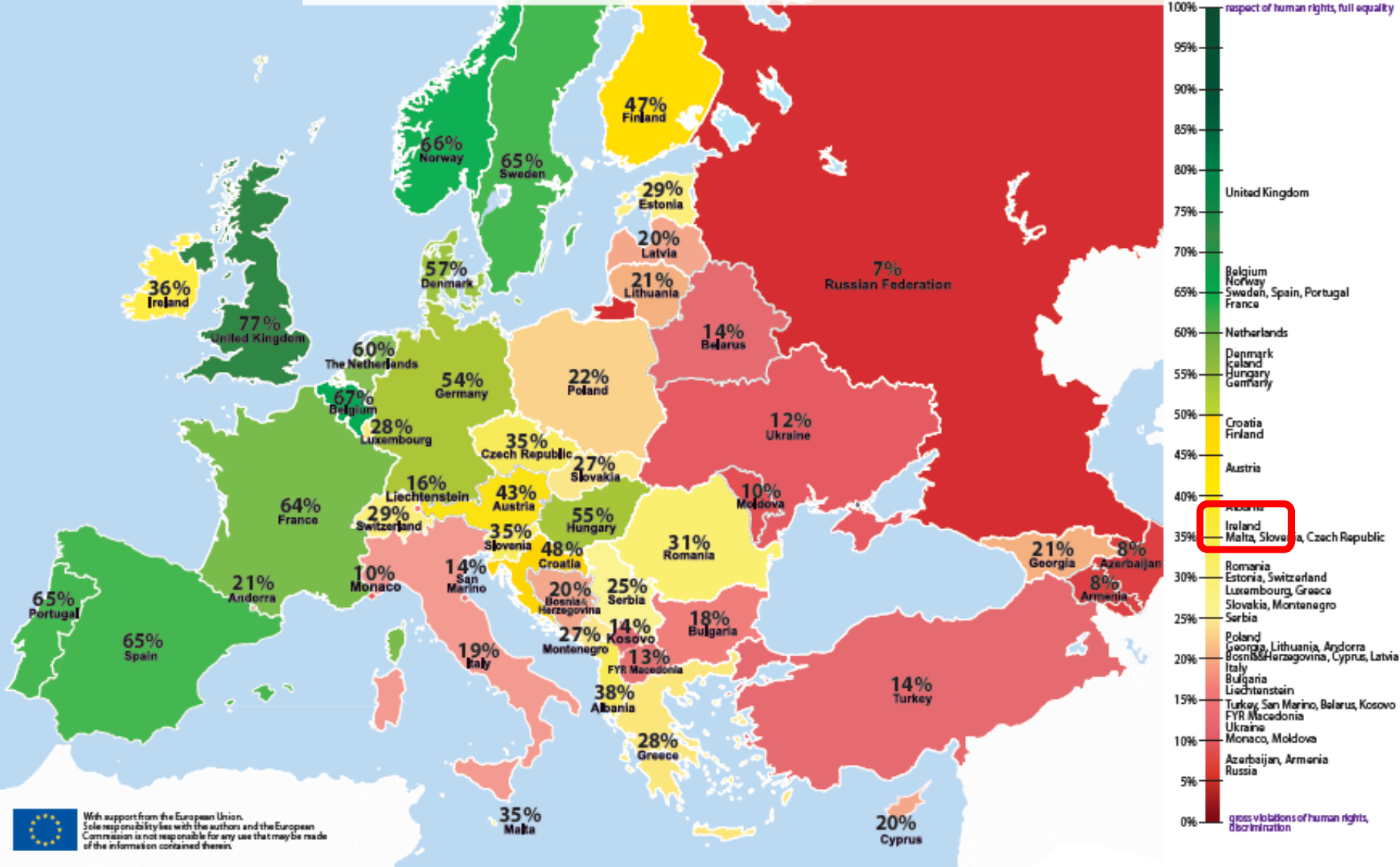
With support from the European Union. This Map is supported by the European Union Programme for Employment and Social Solidarity PROGRESS (2007-2013). For more information see: <http://ec.europa.eu/progress>. Sole responsibility lies with the authors and the European Commission is not responsible for any use that may be made of the information contained therein.



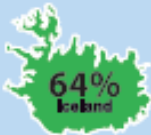
# ILGA-Europe Rainbow Map May 2013

reflecting the national legal and policy human rights situation of lesbian, gay, bisexual, trans and intersex (LGBTI) people in Europe

ILGA-Europe Rainbow Map explanatory document and detailed index  
[www.ilga-europe.org/rainboweurope](http://www.ilga-europe.org/rainboweurope)



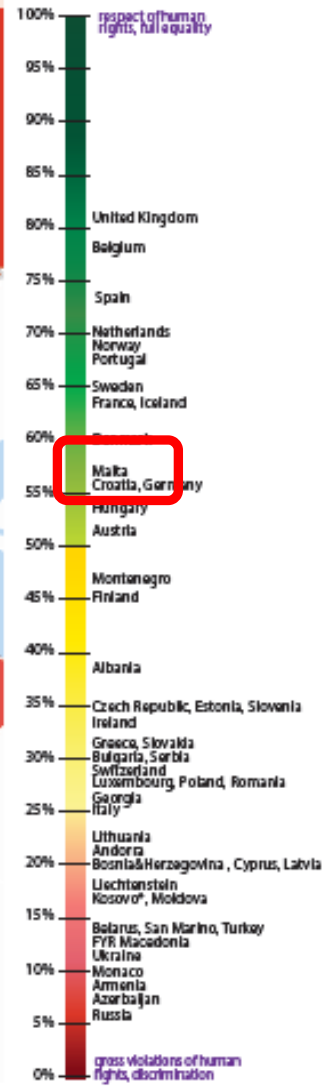
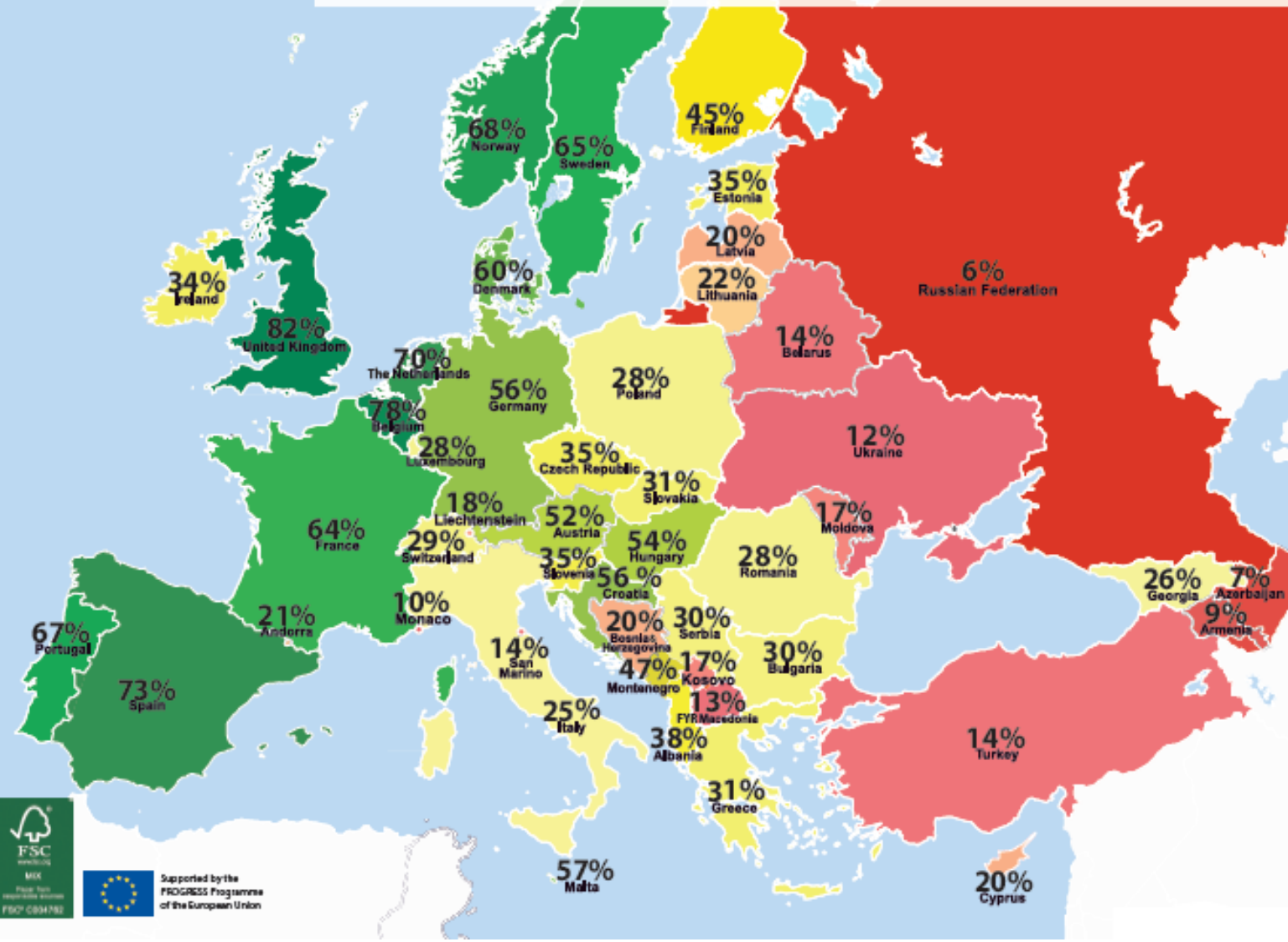
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# COUNTRY SCORE CHANGES ACCORDING TO ILGA-EUROPE RAINBOW EUROPE MAP BETWEEN MAY 2013 AND MAY 2014



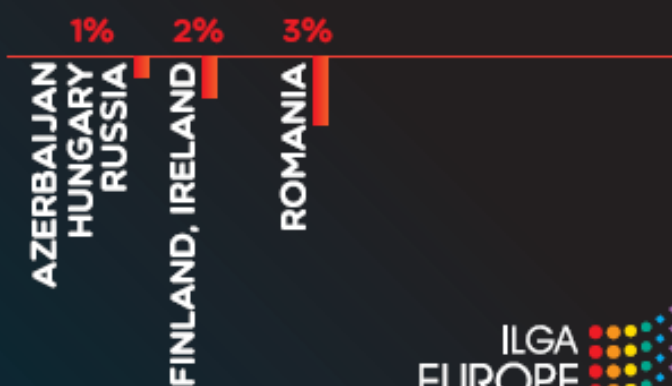
**COUNTRIES WHICH SCORE WENT UP**



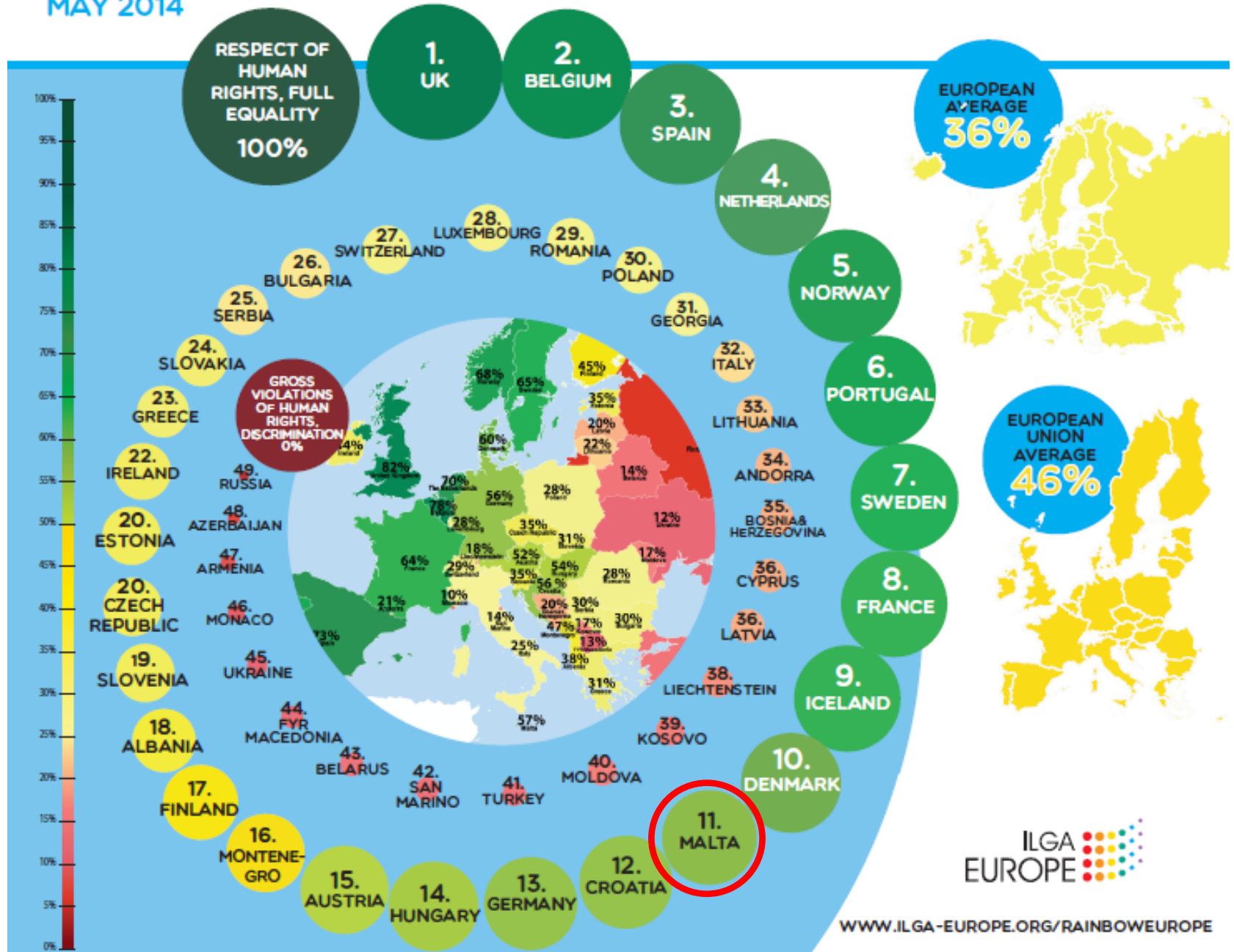
**COUNTRIES WHICH SCORE REMAIN THE SAME**

ALBANIA, ANDORRA, BELARUS, BOSNIA&HERZEGOVINA, CYPRUS, CZECH REPUBLIC, FRANCE, LATVIA, LUXEMBOURG, FYR MACEDONIA, MONACO, SAN MARINO, SLOVENIA, SWEDEN, SWITZERLAND, TURKEY, UKRAINE

**COUNTRIES WHICH SCORE WENT DOWN**



# EUROPEAN COUNTRIES ORDER ACCORDING TO RAINBOW EUROPE MAP/INDEX MAY 2014



# Gallup review on LGB, 2014

*Is the city or area where you live a good place or not a good place to live for gay or lesbian people?*

	<b>% Good place</b>	<b>% Not a good place</b>	<b>% Don't know/Refused</b>
Netherlands	83	11	5
Iceland	82	4	14
Canada	80	12	8
Spain	79	14	8
United Kingdom	77	11	12
Ireland	75	14	11
Belgium	74	12	14
Australia	72	10	18
Malta	72	12	16
Uruguay	71	17	12
Denmark	70	9	21
United States	70	22	8
New Zealand	69	10	20
Sweden	69	8	23
Argentina	68	25	7

# Concluding comments

- All development stories are unique
- Malta's recent developments are testament to one key point – *political leadership*
- Moving on required determination by government and public support

Thank you