

198. L-Onor Evarist Bartolo jipproponi:

L-Ewwel Qari tal-Abbozz ta' Liġi msejjaħ "Att dwar l-Identità tal-Ġeneru".

10.12.10

ATT DWAR L-IDENTITÀ TAL-ĠENERU

Biex jitwaqqfu Regjistru ta' Persuni Transġeneri u l-proċedura għar-rikonnikximent tal-ġeneru ta' persuna.

1. It-titolu fil-qosor ta' dan l-Att hu l-Att dwar l-Identità tal-Ġeneru.

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

"Direttur" tfisser id-Direttur tar-Regjistru Pubbliku;

3. (1) Għandu jinżamm fir-Regjistru Pubbliku f'Malta u f'Għawdex regjistru, li jkun jissejjaħ ir-Regjistru tal-Persuni Transġeneri (hawnhekk iżjed 'il quddiem imsejjaħ "ir-Regjistru"), li fih jitniżżlu dawk ir-registrazzjonijiet speċifikat f'dan l-Att, iżda ebda registrazzjonijiet oħra.

(2) Fir-Regjistru miżmum fl-Uffiċju tar-Regjistru Pubbliku f'Malta għandhom jitniżżlu r-registrazzjonijiet dwar kull persuna li l-att tat-twelid tagħha jkun registrat f'dak l-Uffiċju jew li ma jkunx registrat f'xi Uffiċju tar-Regjistru Pubbliku f'dawn il-Gzejjer, u fir-Regjistru miżmum fl-Uffiċju tar-Regjistru Pubbliku f'Għawdex għandhom jitniżżlu r-registrazzjonijiet dwar kull persuna li l-att tat-twelid tagħha jkun registrat f'dak l-uffiċju.

(3) Kopja awtentikata ta' dik ir-registrazzjoni għandha, sa kemm ma jiġix pruvat il-kuntrarju, ttehed bħala prova tal-kontenuti tagħha bhallikieku kienet kopja awtentikata ta' att tat-twelid.

(4) Id-Direttur għandu jara li indiċi tar-Regjistru jsir u jinżamm fl-Uffiċju tar-Regjistru Pubbliku f'Malta u f'Għawdex; u kull persuna kollha d-dritt li tfittex f'dak l-indiċi u li tikseb kopja awtentikata ta' xi registrazzjoni ffirmata mid-Direttur dwar kollox b'dawk l-istess kondizzjonijiet dwar hlas ta' drittijiet u xort'oħra li *mutatis mutandis* huma applikabbli skont it-Titolu VIII tal-Kapitolu 16 tal-Liġijiet ta' Malta, dwar tfittix fir-registri miżmuma fir-Regjistru Pubbliku u dwar l-għoti minn dak l-Uffiċju ta' kopji jew traduzzjonijiet awtentikati ta' registrazzjonijiet fir-registri tal-atti tat-twelid, żwieġ u mewt.

(5) Id-Direttur għandu, b'zieda għar-Regjistru u l-indiċi tiegħu, iżomm dawk ir-registri u kotba oħra, u jagħmel dawk ir-registrazzjonijiet fihom, li jkunu meħtieġa biex tiġi nnottata u tkun tista' titnissel il-konnessjoni bejn registrazzjoni fir-regjistru tal-atti tat-twelid li tkun giet immarkata "Transġeneru" skont id-disposizzjonijiet ta' dan l-Att, u kull registrazzjoni korrispondenti fir-Regjistru; iżda registri u l-kotba miżmuma skont dan is-subartikolu kif ukoll d-dokumentazzjoni kkomunikata lid-Direttur ma jkunux, l-anqas ebda indiċi tagħhom ma jkun, miftuħa għall-ispezzjon jew tfittix pubbliku, lanqas, hlief taħt ordni ta' qorti, ma għandu d-Direttur jagħti xi tagħrif li jkun hemm fih jew xi kopja jew estratt minn xi registri, kotba jew dokumentazzjoni bħal dawk li xi persuna li ma tkunx persuna li tkun laħqet l-eta ta' tmintax-il sena u li għaliha jkun jirreferixxi t-tagħrif, il-kopja jew l-estratt; u f'kazijiet eċċezzjonali kull uffiċjal pubbliku awtorizzat kif imiss għal hekk mill-Ministru responsabbli għall-gustizzja.

(6) Id-disposizzjonijiet tal-artikolu 238(2), ta l-artikolu 245(1), ta l-artikoli 248, 249, 252, 260 u 261 u, bla hsara għad-disposizzjonijiet tal-artikolu 269, l-artikolu 251 għandhom *mutatis mutandis* iġġoddu għar-Regjistru u registrazzjonijiet fih, għal estratti minnu u għal ċertifikati u dokumenti oħra dwaru jew li għandhom x'jaqsmu miegħu¹.

1. Ara l-kumment rilevanti fit-taqsimha tan-Noti, aktar 'l isfel.

4. (1) Kull persuna li jkollha d-domicilju tagħha f'Malta tista' titlob lid-Direttur biex issir registrazzjoni fir-rigward tagħha fir-Registru.

(2) It-talba msemmija fis-subartikolu (1) għandha ssir bil-miktub u għandha tiġi kkunsidrata mid-Direttur biss jekk mehmuża magħha jkun hemm dawn kollha li ġejjin:

- (a) kopja awtentikata tal-atti tat-twelid tal-persuna;
- (b) dikjarazzjoni ċara u mhux ekwivoka mill-persuna illi l-generu tagħha ma jikkorrispondix ma' dik assenjata lilha fl-atti tat-twelid tagħha; u
- (c) speċifikazzjoni dwar il-partikolaritajiet tal-generu li l-persuna qed titlob lid-Direttur jirregistra fir-Registru.

(3) Id-disposizzjonijiet tas-subartikolu (1) għandhom ikunu japplikaw għal atti tat-twelid barranin registrati f'Malta.

5. (1) Meta d-Direttur jirċievi t-talba bil-miktub tal-persuna, kif imsemmi fl-artikolu qabel dan, għandu minnufih jagħmel registrazzjoni fir-Registru, liema registrazzjoni għandha jkollha l-partikolaritajiet kollha tar-registrazzjoni dwar il-persuna fir-registru tal-atti tat-twelid, iżda din ir-registrazzjoni għandha tinkludi, minflok il-generu speċifikat fl-atti tat-twelid tal-persuna, il-generu indikat mill-persuna fit-talba tagħha.

(2) Id-Direttur, waqt li qed jagħmel ir-registrazzjoni, għandu jbidel l-isem jew l-ismijiet tal-persuna kif indikati fir-registrazzjoni fir-registru tal-atti tat-twelid mal-isem jew l-ismijiet indikati mill-persuna fit-talba tagħha, jekk hekk mitlub mill-persuna.

(3) Wara li jagħmel ir-registrazzjoni fir-Registru kif hawn fuq indikat, id-Direttur għandu minnufih jara li r-registrazzjoni dwar il-persuna fir-registru tal-atti tat-twelid tiġi mmarkata bil-kelma "Transġeneru".

6. (1) Ir-registrazzjoni fir-Registru jkollha effett minn dak in-nhar meta d-Direttur jagħmel ir-registrazzjoni jew meta r-registrazzjoni dwar il-persuna fir-Registru tal-atti tat-twelid tiġi mmarkata bil-kelma "Transġeneru", liema tiġri l-ewwel, u minn dik id-data l-persuna għandha titqies, għal kul skop ta' liġi, li hi tal-generu indikat fir-Registru.

(2) Mingħajr preġudizzjoni għal dan, ir-registrazzjoni fir-Registru ma għandha b'ebda mod tolgot il-jeddijiet u l-obbligi li jiġu mill-istat ta' ġenitur jew mir-relazzjoni ta' bejn il-persuna u l-ġenituri tagħha.

(3) Ir-registrazzjoni fir-Registru m'għandha bl-ebda moda jkollha effett fuq il-jeddijiet tal-persuna fir-rigward ta' suċċessjoni, inklużi kull disposizzjonijiet testamentarji favuriha u magħmaula qabel id-data msemmija fl-artikolu 6(1) ta' dan l-Att.

7. (1) Persuna li fir-rigward tagħha saret registrazzjoni skont dan l-Att għandha, mingħajr dewmien wara d-data msemmija fl-artikolu 6(1), tirraporta l-fatt il-uffiċjal awtorizzat taht l-Att dwar il-Karta ta' Identità, li għandu jroġ karta tal-identità li ġdida li tkun tindika l-generu u l-isem jew l-ismijiet skond ir-registrazzjoni dwar il-persuna fir-Registru.

(2) Il-persuna jkollha wkoll il-jedd, wara li thallas dak id-dritt li jista' jiġi ordnat u meta tippreżenta l-karta tal-identità ġdida, li titlob li kull awtorità pubblika li jkollha jew li tista' toħroġ xi Ċertifikat jew dokument dwarha, tippovdilha Ċertifikat jew dokument ġdid li jkun jindika l-generu u l-isem jew l-ismijiet skond il-karta tal-identità l-ġdid tagħha.

8. (1) Meta dan l-Att jidhol fis-sehh, id-Direttur ghandu jagħmel reġistrazzjonijiet fir-Reġistru għall-persuni fir-rigward tagħhom, qabel id-data ta' dħul fis-sehh ta' dan l-Att, sarulhom annotazzjonijiet rigward il-partikolaritajiet dwar il-ġeneru tagħhom fuq ordni ta' qorti skond l-artikolu 257B tal-Kodiċi Ċivili.

(2) Wara li jagħmel ir-reġistrazzjonijiet kif indikat fis-subartikolu (1), id-Direttur ghandu jara li rreġistrazzjonijiet dwar dawn l-imsemmija persuni fir-reġistru tal-atti tat-twelid jiġu mmarkati bil-kelma "Transġeneru".

9. L-Artikoli 257A sa' 257D tal-Kodiċi Ċivili huma b'dan imħassra.

GENDER IDENTITY ACT

To establish the Transgender Persons Register and the procedure for recognition of a person's gender.

1. The title of this Act is the Gender Identity Act.

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

"Director" means the Director of Public Registry;

3. (1) There shall be maintained at the Public Registry Office in Malta and in Gozo a register, to be called the Transgender Persons Register (hereinafter referred to as "the Register"), in which shall be made such entries as are specified in this Act, but no other entries.

(2) In the Register in Malta there shall be made entries relating to any person whose act of birth is registered in that Office or is not registered in any Public registry Office in these Islands, and in the Register maintained at the Public Registry Office in Gozo, there shall be made entries relating to any person whose act of birth is registered in that Office.

(3) A certified copy of an entry in the Register shall, until the contrary is proved, be received as evidence of its contents as if the copy were a certified copy of an act of birth.

(4) The Director shall cause an index of the Register to be made and kept in the Public Registry Office in Malta and in Gozo; and every person shall be entitled to search that index and to have a certified copy of any entry signed by the Director in the Register in all respects upon and subject to the same conditions as to payment of fees and otherwise as *mutatis mutandis* are applicable under Title VIII of Chapter 16 of the Laws of Malta, in respect of searches in the register books kept in the Public Registry and in respect of the supply from that Office of certified copies or translations of entries in the register books of the acts of birth, marriage and death.

(5) The Director shall, in addition to the Register and the index thereof, keep such other registers and books, and make such entries therein, as may be necessary to record and make traceable the connection between an entry in the register book of acts of birth which has been marked "Transgender" pursuant to this Act, and any corresponding entry in the Register; but the registers and books kept under this sub-article as well as the documentation communicated to the Director by virtue of this Act shall not be, nor shall any index thereof be, open to public inspection or search, nor, except under an order of a court, shall the Director furnish any information, books or documentation to any person other than a person who has attained the age of eighteen years and to whom that information, copy or extract relates; and in exceptional cases any public officer duly authorised for that purpose by the Minister responsible for justice.

(6) The provisions of sub-article (2) of article 238, sub-article (1) of article 245, articles 248, 249, 252, 260, 261 and, subject to the provisions of article 269, article 251¹ of the Civil Code shall *mutatis mutandis* apply to the Register and entries therein, extracts therefrom and certificates and other documents relating thereto or connected therewith.

1. See the relevant comment under the Notes section below.

4. (1) It shall be lawful for any person domiciled in Malta to request the Director to make an entry in his² respect in the Register.

(2) The request mentioned in the sub-article (1) shall be made in writing and shall only be considered by the Director if accompanied with all of the following:

- (a) a certified copy of the person's act of birth;
- (b) a clear and unequivocal statement by the applicant that his gender does not correspond to that assigned in his act of birth; and
- (c) a specification of the gender particulars the applicant is requesting the Director to enter in the Register.

(3) The provisions of sub-article (1) shall apply to foreign acts of birth registered in Malta.

5. (1) Upon receipt of the applicant's written request as specified in the preceding article, the Director shall promptly make an entry in the Register, which entry shall replicate the particulars in the entry in the register book of acts of birth relative to the applicant, yet which shall indicate, in replacement of the gender as specified in the applicant's act of birth, the gender specified by the applicant in his request.

(2) If so requested by the applicant in his request to the Director, in making the entry in the Register the Director shall replace the applicant's name or names as indicated in the entry in the book of acts of birth with the name or names indicated by the applicant in his request.

(3) Immediately after making the entry in the Register as prescribed above, the Director shall cause the entry in the register book of acts of birth relative to the applicant to be marked with the word "Transgender".

6. (1) The entry in the Register shall be effective as from the day when the Director shall make the entry or when the entry in the register book of acts of birth relative to the applicant is marked with the word "Transgender", whichever occurs first, and from this date the applicant shall be considered, for all purposes of law, as belonging to the gender indicated in the Register.

(2) Without prejudice to the above, the entry in the Register shall in no way affect the applicant's rights and obligations arising out of parenthood or out of the relationship between the applicant and his parents.

(3) The entry in the Register shall in no way affect the applicant's succession rights, including any testamentary disposition made in his favour prior to the date referred to in article 6(1).

7. (1) The applicant, in respect of whom an entry has been made in the Register in accordance with this Act shall, without delay after the date referred to in article 6(1), report the fact to the authorised officer under the Identity Card Act who shall issue a new identity card indicating the gender and name or names in accordance with the person's entry in the Register.

(2) The applicant shall also, on the payment of such fee as may be prescribed, have the right, on the production of his new Identity Card, to demand that any public authority,

2. Under Maltese law, all references to 'he', including variations thereof, are to be read as also referring to 'her', and corresponding variations thereof.

which has or may issue any certificate or document relative to him, provide him with a fresh certificate or document indicating the gender and name or names in accordance with his new Identity Card.

8. (1) Upon the coming into force of this Act, the Director shall make entries in the Register for all persons in respect of who, before the date of coming into force of this Act, annotations were made in the particulars relating to their gender following court orders by virtue of Article 257B of the Civil Code.

(2) Immediately after making the entry in the Register as prescribed in sub-article (1), the Director shall cause the entries in the register book of acts of birth relative to the aforementioned persons to be marked with the word "Transgender".

9. Articles 257A to 257D of the Civil Code, both inclusive, are hereby repealed.