CHAPTER 567

AFFIRMATION OF SEXUAL ORIENTATION, GENDER IDENTITY AND GENDER EXPRESSION ACT

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

9th December, 2016

ACT LV of 2016, as amended by Act XIII of 2023.

Short title.

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

Interpretation. *Amended by: XIII.2023.2.*

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

"advertise" means the publication, display, sharing, promotion, referral, circulation of, or authorisation to publish, display, share, promote, refer or circulate any material made by any means which indicates, or could reasonably be understood as indicating, that the person so advertising or authorising the advertising has engaged in conversion practices, or is favourably describing, endorsing or promoting conversion practices;

"conversion practices" refers to any treatment, practice or sustained effort that aims to change, repress and, or eliminate a person's sexual orientation, gender identity and, or gender expression; such practices do not include -

(*a*) any services and, or interventions related to the exploration and, or free development of a person and, or affirmation of one's identity with regard to one or more of the characteristics being affirmed by this Act, through counselling, psychotherapeutic services and, or similar services; or

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

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

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

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

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

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

"sexual orientation" refers to each person's capacity for profound emotional, affectional and sexual attraction to, and intimate and sexual relations with, persons of a different gender, the same gender or more than one gender;

"vulnerable person" refers to any person:

(*a*) under the age of sixteen years; or

(*b*) suffering from a mental disorder; or

(*c*) considered by the competent court to be particularly at risk when taking into account the person's age, maturity, health, mental disability, other conditions including any situation of dependence, the psychological state and, or emotional state of that person.

Unlawful conversion practices.

3. It shall be unlawful -

(*a*) for any person to:

(i) perform conversion practices on a vulnerable person; or

(ii) perform involuntary and, or forced conversion practices on a person; or

(iii) advertise conversion practices; and, or

(*b*) for a professional to:

(i) offer and, or perform conversion practices on any person irrespective of whether compensation is received in exchange; or

(ii) make a referral to any other person to perform conversion practices on any person.

Criminalisation of conversion practices.

4. (1) Any person found guilty under the provisions of article 3(*a*) shall, upon conviction, be liable to a fine (*multa*) of not less than one thousand euro (€1,000) and not exceeding five thousand

euro (€5,000), or to imprisonment for a term of not less than one month and not exceeding five months, or to both such fine and imprisonment:

Provided that the punishment prescribed for under this sub-article shall be increased by one to two degrees in those instances where any person performs conversion practices on a vulnerable person.

(2) Any professional found guilty under the provisions of article 3(*a*) and, or (*b*) shall, upon conviction, be liable to a fine (*multa*) of not less than two thousand euro (€2,000) and not exceeding ten thousand euro (€10,000), or to imprisonment for a term of not less than three months and not exceeding one year, or to both such fine and imprisonment.