

ILGA-Europe in brief

- ILGA-Europe are the European Region of the International Lesbian, Gay, Bisexual, Trans & Intersex Association (ILGA).
- ILGA-Europe work for equality and human rights for lesbian, gay, bisexual, trans & intersex (LGBTI) people at European level.
- ILGA-Europe are an international non-governmental umbrella organisation, bringing together over 480 organisations from 45 countries in Europe.
- ILGA-Europe advocate for human rights and equality for LGBTI people at European level organisations such as the European Union (EU), the Council of Europe (CoE) and the Organization for Security and Cooperation in Europe (OSCE).
- ILGA-Europe strengthen the European LGBTI movement by providing trainings and support to our member organisations and other LGBTI groups on advocacy, campaigning, community organising, fundraising, organisational development, and strategic communication.
- ILGA-Europe was established as a separate region of ILGA and an independent legal entity in 1996. ILGA was established in 1978.
- Since 1997, ILGA-Europe enjoy participative status at the Council of Europe.
- Since 2006, ILGA-Europe enjoy consultative status at the UN's Economic and Social Council (ECOSOC) and we also advocate for equality and human rights of LGBTI people at the UN level.
- ILGA-Europe's office is in Brussels.
- ILGA-Europe receive funding from public and private donors.



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Design & layout: Silja Pogule, www.siljapo.com

Printer: Corelio Printing, www.corelioprinting.be

ISBN 978-92-95066-11-3



*Co-funded by the Rights, Equality and Citizenship (REC) programme
2014-2020 of the European Union*

This publication has been produced with the financial support of the Rights, Equality and Citizenship (REC) programme 2014-2020 of the European Union. The contents of this publication are the sole responsibility of ILGA-Europe and can in no way be taken to reflect the views of the European Commission.



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Annual Review



ILGA-Europe

Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe

2017

This Review covers the period from January to December 2016.

May 2017

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* Included in this Review as a separate jurisdiction following UNSCR 1244/1999

Acknowledgements

ILGA-Europe would like to acknowledge and extend our gratitude to the following individuals who have contributed towards the completion of this edition of the *Annual Review*:

- Emma Cassidy, for compiling country information and drafting institutional and country chapters in liaison with national experts.
- Board and staff members of ILGA-Europe for overall research, drafting and editing work: Darienne Flemington, Yuri Guaiana, Joyce Hamilton, Brian Sheehan, Olena Shevchenko, Arpi Avetisyan, Michael Cerulus, Katrin Hugendubel, Iulia Marcinschi, Nanna Moe, Evelyne Paradis, Laura Piazza, Björn van Roozendaal, Daina Ruduša, Juliette Sanchez-Lambert, Valeria Santostefano, Anastasia Smirnova, and Nigel Warner.
- Member organisations of ILGA-Europe, country experts and other contributors:

Mehmet Akin, Eirik Aimar-Engelbrechtsen, Kitty Anderson, Roby Antony, Gabriel Aranda, Helga Baldvinsdóttir Bjargardóttir, Mersila Ballo, Elhan Bagirov, Ketik Bakhtadze, John Barac, Zeynep Bilginsoy, Thimo Bischof, Emina Bošnjak, Viachaslau Bortnik, Gabi Calleja, A. Chaber, Alessandro Comeni, Paulo Côte-Real, Erman Dolmaci, Tamás Dombos, Wiktor Dynarski, Jonny Dzhibladze, Eva Fels, Ross Flanagan, Angela Frolova, Arnaud Gauthier, Costa Gavrielides, Broden Giambrone, Mia Gonan, Yuri Guaiana, Kris Gunther, Natia Gvianishvili, Altin Hazizaj, Tim Hopkins, Adela Horakova, Mamikon Hovsepyan, Tobias Humer, Iustina Ionescu, Inna Iriskina, Lars Jonsson, Klaus Jetz, Aili Kala, Danijel Kalezić, Petr Kalla, Julia Kata, Magnus Kolsjö, Andrii Kravchuk, Kurt Krickler, Murat Köylü, Ins Kromminga, Leo Lardie, Søren Laursen, Rubén López, Martin Macko, Mirka Makuchowska, Simon Maljevac, Natalia Mankouskaya, Nvard Margaryan, Agim Margilaj, Carolina Marin, Antonio Mihajlov, Kenneth Mills, Tom Morrison, Pol Naidenov, Krisztina Orban, Parvy Palmou, Enrica Pianaro, Anssi Pirttijärvi, Monika Pisankaneva, Jay Postic, Alecs Recher, Carles Perea Rodriguez, Frida Sandegård, Arn Sauer, Jovanka Todorović Savović, Gabrielle Schneider, Radoslav Stoyanov (Bulgarian Helsinki Committee), Philip Tijsma, Mina Tolu, Katrien Vanleirberghe, Vladana Vasic, Jelena Vasiljevic, Tomas Vytautas Raskevičius, Kaspars Zalitis, Clémence Zamora-Cruz, Stavros Zouganelis and others who we may have mistakenly omitted in spite of their contributions towards this edition of the Annual Review.

Introduction

Welcome to the sixth edition of ILGA-Europe's *Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe*. The publication includes events that occurred between January - December 2016. It provides a snapshot of what happened during the year, at national, regional and international levels, and it documents progress and trends regarding the human rights situation of LGBTI people.

While the institutional reviews and country chapters focus on 2016, our highlights section puts these trends in context, with reference to further developments that took place in early 2017, prior to the *Review's* publication.

Since it was last published, the Annual Review has undergone some changes. The most obvious of those is the size of the physical publication itself. The reason for this reduced size will become clear when readers turn to the country chapter section. While the institutional chapters and highlights section remain the same, the country chapters now feature a visual snapshot of what the legal situation in a particular country at the end of 2016. Colourful graphics show how many of the Rainbow Europe criteria each country had met in 2016.

The chapters will also feature a short introduction, emphasising the major developments, as well as a series of recommendations aimed at policy makers. The full country chapters contained in the *Annual Review* will be available to view online through our website and our updated *Rainbow Europe* web module.

Once again, we must stress that this document is not an exercise in apportioning blame. ILGA-Europe's goal is not to point fingers at specific countries. Instead, this publication intends to serve as a tool for the exchange of best practices and policies, and as an open invitation for enhanced cooperation between governments and LGBTI civil society.

ILGA-Europe want this publication to meet our readers' expectations and needs, and welcome any suggestions for improvement at annualreview@ilga-europe.org

We hope that you will find this edition of the *Annual Review* informative and useful.

ILGA-Europe's Annual Review Team
May 2017

A note on data collection and presentation

Collecting and presenting data on developments at national level in 49 countries represents a significant challenge for ILGA-Europe. Not only are we dealing with original reports in many diverse languages, the use of terminology around LGBTI issues is often not harmonised across Europe. Nonetheless, all information within the Annual Review has been verified using original documents and the best available local knowledge. Where possible, information was checked against institutional and national reports, and reliable news sources.

In terms of language and terminology, we have tried to avoid causing confusion. For comparative reasons, the language within the Annual Review has been kept in line with ILGA-Europe's standards, and moves away from country-specific legal terms that may have a different meaning elsewhere. At the same time, we respected the variety of terms used by LGBTI communities to self-identify in different countries. For example, this is why the Annual Review does not exclusively refer to LGBTI but also to 'LGBT', 'LGBTQ' and other formulations.

Recommendations for national policymakers have been included in country chapters for the very first time. These are intended to encourage policymakers to address the most pressing legal and policy priorities within the framework of our Rainbow Mpa/Index. While ILGA-Europe are urging national authorities to follow these recommendations, we did not come up with the suggestions unilaterally. The recommendations were gathered following an online consultation with a wide range of our member organisations. As a result, the recommendations are tailored to the needs of activists working on the ground.

Of course, the Annual Review cannot cover every development in all 49 countries in intricate detail. Firstly, the event itself may not have been adequately reported, or perhaps the reports were confusing or contradictory and ILGA-Europe were unable to verify them.

Secondly, the primary goal of the Annual Review is to reflect the human rights situation of LGBTI people and their position in society. This means that our primary focus is on events and LGBTI NGO work that represent important milestones towards the acknowledgement of the rights of the LGBTI community in that country.

Thirdly, information on intersex issues was collected where available but unfortunately intersex people's human rights remain largely unaddressed at national level.

Finally, this is our sixth Annual Review and we always strive to develop our rigorous data collection system. However, a number of limitations remain. We will incorporate the lessons learnt during the previous four Annual Reviews and continue to improve the quality of our reporting on LGBTI issues in Europe.

How to use this Annual Review?

This *Annual Review* covers developments at national, European and international level between 1 January 2016 and 31 December 2016.

The *Review* itself is divided into two main sections.

Institutional reviews provide an overview of developments at the European Union, the Council of Europe, the Organization for Security and Cooperation in Europe, and the United Nations. The second section, **Country reviews**, contains 49 chapters covering all European countries in alphabetical order.

For the first time, the layout of the country chapters has been updated. In the revised layout, all country chapters open with a short introduction. This is followed by a colourful graphic, showcasing what the legal and policy situation was like in each country at the end of 2016. This graphic ‘wheel’ features the six main categories found on ILGA-Europe’s Rainbow Index/Map and is based on the graphics used on the Rainbow Europe web module – www.rainbow-europe.org

Each of the country chapters concludes with a series of recommendations. We hope this will help to direct policymakers to the areas where they can improve the legal and policy situation for LGBTI people. It is not intended to be an exhaustive list. Rather, it will pinpoint where respective national laws are lacking and suggest where legislators can start to be proactive.

The full text of all the country chapters is available online at www.rainbow-europe.org. As in previous years, the presentation of information in each country chapter is ordered by thematic categories, marked by introductory bullet points and follows a chronological order, without distinguishing between positive and negative developments.

ILGA-Europe also include an editorial-style **highlights** section at the start of the Annual Review, where we outline what we see as the major trends and developments that took place in Europe in the past year.

Highlights,
key
developments
and trends

2016 – Where to begin? It was a year that was filled with breaking news stories, events that at times seemed increasingly unbelievable. ILGA-Europe's Annual Review cannot begin to distill everything that has happened in Europe over the past 12 months, as the task would be almost impossible given the space constraints! However, this highlights section will attempt to outline the major trends and developments as witnessed in our work. One thing was crystal clear – as we discuss the major political, social and cultural developments that have taken place since 2016, LGBTI issues are always at the heart of the conversation.

Throughout 2016, the LGBTI movement in Europe witnessed just how much their own work at national level was inextricably linked with wider global events. No matter what the issue in the media headlines was, there was an element of LGBTI equality woven into it. Some were bluntly apparent; the impact of the horrific attack on the Latinx night at the Pulse club in Orlando, Florida reopened conversations in Europe about hate crime and whether governments and institutions are doing enough to keep LGBTI people safe.

Other headlines may not have been LGBTI-specific at first glance, but the experiences of LGBTI people in those scenarios cannot be overlooked. Behind discussions on asylum, immigration and the procedural issues associated with these processes were the stories of the very complex situations faced by LGBTI asylum-seekers. The news of the UK's decision to leave the European Union was followed by reports of a rise in hate crimes, including homophobic and transphobic violence, in various parts of the UK. The spread of "populist" political discourse across Europe and beyond raises serious questions for the LGBTI community, as politicians either use the community as a scapegoat or directly appeal for their votes in an attempt to prove their 'human rights credentials'. Attacks on democratic institutions such as media and courts directly affect LGBTI activism too, as it limits activists' options for visibility and accessing justice.

When zooming in on the specific LGBTI landscape in Europe, it is clear that we have entered into a period where

the legislative process is slowing down. Now is the time when implementation of laws and policies on LGBTI equality gained over the past 15 years becomes vital. Not only is it a priority to ensure that the legal wins translate into real change in the lived experience of LGBTI people, but also to ensure that there is no 'rolling back' or erosion of those gains.

This said, one area where legal progress is still moving forward at pace is **legal gender recognition**. In 2016, Norway's parliament voted in favour of legislation based on the principle of self-determination. It became the fourth European country to take this progressive step, joining Denmark, Malta and Ireland. In France, a legal gender recognition (LGR) procedure that removed references to sterilisation and medicalisation was passed. Greece took inspiration from the existing Maltese Gender Identity, Gender Expression and Sex Characteristics Act, as the Greek authorities began to draft a gender recognition law. Belgian ministries continued to work on their own reform bill and politicians in Luxembourg suggested changes to current legal requirements. The United Kingdom committed to reviewing its own legislation, with activists calling for a move to self-determination, while the government in Portugal pledged to introduce plans for self-determined LGR in 2017.

While not all the new laws passed in 2016 chose to follow the optimal model of self-determination, jurisprudence is establishing clear principles to guide policy-makers. Even as this Annual Review was going to print, the European Court of Human Rights handed down a landmark decision in three French cases that found that the sterilisation requirement in legal gender recognition violates the European Convention on Human Rights. There is also a growing level of awareness among policymakers dealing with trans issues and a broader understanding of the needs of trans people: from the Maltese government addressing the needs of trans people in prisons, to the UK's new instructions on the care of trans prisoners, and the publication of new clinical protocols in Ukraine to improve the healthcare system for trans people. Sweden also acknowledged historical human rights violations by pledging to compensate trans people who had been forcibly sterilised.

Another positive trend is the visibility of the **human rights of intersex people**. In 2016, more institutions and governments explicitly included intersex issues in their work. Bosnia and Herzegovina added sex characteristics to its anti-discrimination law, meaning intersex people are now protected against discrimination in all spheres of life. Countries like Belgium, Greece and the Netherlands initiated political discussions towards adopting more inclusive legislation. The Cypriot Parliamentary Committee on Human Rights convened to analyse a report on the rights of intersex children. The European Parliament held its first-ever formal hearing on intersex rights. Various UN treaty bodies including the Committee on the Rights of the Child and CEDAW gave focused attention to the lived experiences of intersex people in Europe and integrated those issues in their work. Public attention also increased when Belgian supermodel Hanne Gaby Odiele came out as intersex in January 2017 – immediately raising awareness. In this context, the human rights of intersex people are rapidly becoming the marker of advances in terms of LGBTI equality laws and policies. Countries that have historically been viewed as ‘leading’ on our Rainbow Map/Index will start falling down if they do not take steps to ensure that intersex people are protected by law.

Milestones continued to be marked in the area of **family law** in several European countries. Same-sex couples celebrated in Greece and Cyprus as the first partnerships were signed in both countries in early 2016. Italian lawmakers passed a historic civil unions law, after months of intense and divisive debate. Slovenia’s long awaited bill to extend rights and protections for couples in registered partnerships also became effective in early 2017. Even in the absence of all implementing legislation, Estonia’s Registered Partnership Act became enforceable in 2016. Marriage equality came into force in Finland, Gibraltar, Greenland and the Isle of Man. Joint and second parent adoption became an option for same-sex couples in Portugal, and the same country also opened access to medically assisted reproduction to all women (ensuring automatic parental recognition for same-sex couples). Reforms to existing adoption law that will extend

step-parent adoption to registered partners were also finalised during 2016 in Switzerland.

The European courts also issued significant rulings in the area of family, as the European Court of Human Rights delivered verdicts in *Pajić v Croatia* (the first ruling by the Court on family reunification of same-sex couples) and *Taddeucci and McCall v Italy* (Italy’s refusal to grant one partner in a same-sex couple a residence permit violated their rights). It is also noteworthy that in a few countries, deliberations around full recognition of all forms of rainbow families flourished. The Netherlands and Denmark are both currently discussing the possibility of inclusive laws to recognise families with more than two parents and different kinds of parenting roles, such as legal parents with parental rights and social parents who are recognised as part of the family. In other countries, activists undertook awareness-raising around the very existence of rainbow families, as the first TV ad to feature a same-sex couple and their children was broadcast in Albania.

This good news sits in stark contrast to the ongoing discussions on **restricting the definition of family life or marriage** through referendum – in Georgia, Romania and Lithuania. Romania’s very public referendum debate was also accompanied by an equally visible court case taken by a same-sex couple who wish to be recognised as spouses in the country. As this Annual Review is being printed, questions in the case are under consideration at the Court of Justice of the European Union. However, one vote on family issues had a positive result in the past year. A popular initiative in Switzerland, initially described as a vote on tax reform, was discovered to have potentially damaging consequences for same-sex couples. Following an intensive campaign by activists, voters opted not to amend the existing gender-neutral constitutional definition of marriage.

As things progressed in many countries, the ongoing gaps in neighbouring states become even more apparent. Marriage equality still eludes couples in places like Germany, Malta and Northern Ireland. As already alluded to, the civil union debate in Italy was memorable for many

reasons. One of the negative memories associated with the bill's passage was the derogatory language used by parliamentarians and the eventual removal of second parent adoption from the law.

Sadly, there are several **negative trends** to report on in 2016. Civil society groups in a number of European countries faced additional stress imposed by their respective governments. **Pressure on civil society** was notably increased in Turkey in the wake of the attempted coup in July. The offices of LGBTI NGOs were shut down amidst apparent fears of terrorism. Multiple violent threats were publicly issued by extremist groups, attempting to intimidate Pride organisers and curtail LGBTI events; activities that subsequently fell foul of the authorities' bans. Their Polish activist counterparts saw their offices attacked on several occasions. In Hungary, the southern village of Ásotthalom gained notoriety at the end of the year as it introduced an 'anti-propaganda' law targeting 'non-traditional' marriage. (**Update:** as the Annual Review was going to print, Hungary's Constitutional Court annulled the Ásotthalom regulations.)

Of course, a claustrophobic atmosphere for LGBTI activists is not just created by laws or practices that deliberately target LGBTI people. The pressure is increased when other critical voices are silenced, such as independent media outlets, universities, human rights bodies and other watchdogs, or prevention of events run by NGOs working on other human rights issues. All attempts to shut down dissent and maintain the status quo have a knock-on effect on the activism of the LGBTI movement. LGBTI activists in Croatia saw funding cuts, for NGOs and for independent media groups, including LGBTI sources of information. A large question mark hangs over future LGBTI events in Poland, as a public assembly bill that proposed preferential treatment for gatherings of 'national importance' was approved by parliament in December.

In addition to this, counter-terrorism measures are increasingly being used to justify limiting fundamental freedoms, such as the right to peacefully protest, to form

associations, organise public LGBTI events or speak out freely. The disruption caused to the 2016 Pride march in Paris or the fact that the authorities in two Italian cities only authorised Prides following heavy pressure are prime examples. LGBTI activists can never take the safeguarding of their spaces for granted. **Pride marches** have always been a visible symbol of fundamental human rights and an indicator of how well democracy is functioning. However, Europe's rapidly changing political context means that past successes are no guarantee for the future – Istanbul was a particularly shocking and physical regression. In many places, such as Poland and Hungary, Pride marches are still being held successfully but activists are working in a climate that is becoming more hostile to their work. Happily, the opposite can also be true; Kyiv Pride saw its largest attendance and Odesa held its inaugural march in 2016. Prides have been viewed as litmus test for democracy, but this test cannot be one-off – it needs to be applied every year.

Bias-motivated speech by public figures sadly continues to be a very prominent feature of our Annual Review. There were several cases of derogatory comments about sexual orientation or how people choose to identify and express their gender made in a public forum. Such comments were identified in TV programmes in Armenia and Georgia, textbooks in FYR Macedonia and Poland, in Belarusian media following monitoring work by Journalists for Tolerance, and via social media in Bosnia and Herzegovina. When **bias-motivated speech** comes from the mouth of a well-known public figure, politician, or other influential leaders, its message is often widely disseminated – increasing the negative impact on LGBTI people who hear it, and potentially emboldening others who hold discriminatory views. LGBTI activists in Italy also emphasised the offensive nature of some of the arguments employed by politicians during the acrimonious civil union debate. NGOs documented many examples of bias speech by elected officials; some of the most callous remarks were directed at rainbow families. In 2016, examples of anti-LGBTI speech also could be found on election posters in Georgia, on the social media pages of politicians in FYR Macedonia (also in advance of

elections), a high school professor in Serbia, and from church officials and the man who would become president by the end of the year in Moldova.

One puzzling feature of this year's Review concerns **asylum**. It is puzzling because despite the fact that it has become such a clear priority for many LGBTI organisations, there are limited positive developments to report on from the national and European authorities' side. Latvia finalised an asylum law with references to sexual orientation and gender identity, but in many other countries, activists spoke out with concerns. Swedish NGOs criticised the effect that legal changes could have on LGBTI asylum seekers and their families. Worries over the lack of safe housing for **LGBTI asylum seekers** started to be raised more systematically by civil society, for example in Spain, Finland, Iceland and the UK. The EU Fundamental Rights Agency started to monitor the situation. Civil society groups across Europe stepped up the support provided to LGBTI asylum seekers throughout the application process, and beyond where possible. But there is clearly a need for public authorities to step in to address safety concerns, as some German authorities started to do in 2016 by opening the first accommodation specifically for LGBTI asylum seekers. Indeed, it is surprising that we are not seeing more movement from the Rainbow Map's 'leading countries' like Malta and Sweden. Opportunities to add LGBTI-specific protection to laws related to asylum were also overlooked by legislatures in several countries, including Bosnia and Herzegovina and Turkey.

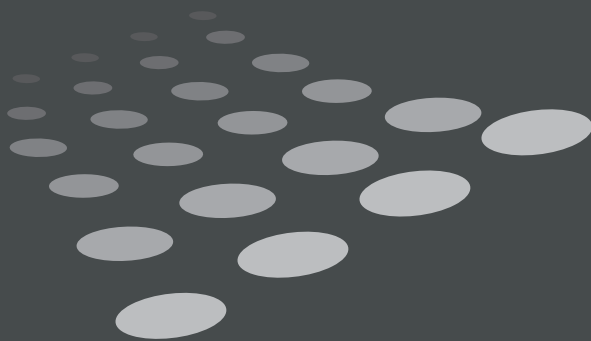
The need for an intersectional approach to policymaking is clear. But, in spite of the fact that we know many LGBTI people are still not benefiting from recent advances, there are still limited improvements being reported at national level. There seems to be a disconnect between the concerns of the LGBTI movement and the public authorities' actions. We hope to have more to report on in the next Annual Review. Additionally, another area ILGA-Europe are conscious that more proactive steps are needed in is the issue of HIV/AIDS. We know that the incidence of HIV remains high across parts of Europe. National authorities cannot turn away from the

issue. In the next year, the focus of policymakers has to be on effective action as well as awareness- raising attempts.

For activists working directly with **international or European institutions**, their work is taking place at quite a perplexing time. On the one hand, there is a huge amount of potential contained in several LGBTI-specific tools and documents. On the other hand, the political will needed to operate these tools to drive change appears to be dormant. The increasing focus on policymaking at national level moves attention away from mechanisms, such as the EU's LGBTI Guidelines or the Commission's List of Actions. But these structures are already in place, providing a framework to improve the situation for LGBTI people inside and outside the EU – why not activate them too, alongside national laws? In this context, it is encouraging to see bodies like the Council of Europe continuing to give visibility to emerging human rights issues, through the PACE, the SOGI Unit and the office of the Commissioner for Human Rights. The UN's historic introduction of the SOGI Independent Expert's mandate was another highlight of 2016.

Even as we finish writing this particular Annual Review, we are reminded of the scale of the work that still has to be done in some parts of Europe. Arbitrary detention, torture and extra-judicial killing sound (thankfully) like alien terms to most of us, but this is exactly the reality faced by (perceived) gay and bisexual men in Chechnya. The true enormity of what is happening is unfolding as we go to print, and next year's Review will hopefully include updates on how the international community was able to support the LGBTI community there. Let us not shy away from these challenges. Parts of the human condition are terrifying, but our work as an activist movement requires us to face it. The LGBTI movement has demonstrated, time and time again, that it can withstand and counter even the most entrenched opposition. In 2017, the European movement needs to call on all its determination, strength, and resilience to create the change we would like to see in the world.

Institutional reviews



United Nations

2016 proved to be a historic step forward for the United Nations, with the creation of the mandate of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity (SOGI). This unique mandate, filled by Vitit Muntarbhorn, means that reporting on SOGI-based human rights violations has been included as part of the mechanisms of the UN's Human Rights Council for the very first time. The celebratory mood was not universal however, as several states tried to hinder the work of the expert before they had even been appointed. Opponents questioned the legality of the mandate itself, essentially arguing that SOGI are not universally recognised in the human rights framework. These calls for the mandate to be postponed indefinitely were ultimately unsuccessful, and Vitit Muntarbhorn met with LGBTI activists in November. Alongside this new mechanism, more established human rights tools continued to operate. A total of nine European governments were called to report to the Human Rights Council as part of the Universal Periodic Review. An increased involvement in the UPR process has led to high and continuous visibility of LGBTI issues at each UPR session.

Equality and non-discrimination

- The mandate of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity was created by the Human Rights Council. A resolution initiated by seven Latin American states (Argentina, Brazil, Chile, Colombia, Costa Rica, Mexico and Uruguay) was adopted on 30 June. 23 votes were in favour, 18 were against, and there were 6 abstentions. Four subsequent attempts were also made, by states opposed to the mandate's creation, to block the mandate at the UN General Assembly. However, all these attempts were successfully voted down. For the first time, reporting on human rights violations on the basis of sexual orientation and gender identity is now systematically integrated in the work of the Human Rights Council.
- In September, the Human Rights Council appointed international law professor Vitit Muntarbhorn for a term of three years as the first-ever UN SOGI Independent Expert. Mr Muntarbhorn was co-chairperson of the drafting committee of the Yogyakarta Principles in 2006. The Independent Expert is tasked with assessing the implementation of existing international human rights law in this area, and addressing the multiple, intersecting and aggravated forms of violence and discrimination and its root causes.
- The Independent Expert made the first public appearance of his mandate at the ILGA World Conference in Bangkok in November. In a keynote speech, he presented five topics as the cornerstones of his mandate: decriminalisation, destigmatisation, legal recognition of gender identity, cultural inclusion with sexual and gender diversity, and empathisation. The Independent Expert also met separately with delegations from various regions, including a European delegation, and different groups, such as the bisexual caucus and the trans caucus.
- Human rights violations against LGBTI people in Europe were brought to the attention of the Human Rights Council under the Universal Periodic Review through reports and statements. Final reports were adopted for Austria, Belgium, Denmark, Estonia, Georgia, Greece, Hungary, Ireland and Latvia.
- The government of Austria noted a number of recommendations on recognition of same-sex partnerships and inclusion of sexual orientation and gender identity in anti-discrimination legislation, but responded that it 'is committed to the current European standards, in particular to those stemming from the case-law of the European Court for Human Rights' and supports a common approach in the EU.
- Belgium accepted recommendations to consider abolishing the requirements for medical interventions for trans people to obtain legal gender recognition and prevent discrimination and violence based on grounds of homophobia.
- Denmark stated that Danish law contains a number of acts on non-discrimination in response to a recommendation to explicitly include grounds such as sexual orientation and gender identity. Denmark finds that the legislation on gender reassignment contains relevant safeguards already and is currently considering allowing minors to change their legal gender through the person with parental authority.
- Estonia seemed willing to adopt hate speech and hate crime legislation and to launch a public diversity debate. It also noted that the Registered Partnership Act entered into force on 1 January 2016.
- Georgia announced it will train specialised police officers for hate crime investigation and accepted to include LGBTI persons in the implementation of anti-discrimination legislation, to train and raise awareness among the judiciary and the wider public, to combat social stigmatisation, hate speech, discrimination and violence on the basis of sexual orientation and gender identity.
- Greece committed itself to legislate for legal gender recognition and stated that same-sex couples relationships have already been statutorily recognised in the new Civil Partnership Pact, thus fully guaranteeing the protection of family life. It is currently considering the possibility of instituting the marriage of same-sex couples and the joint adoption of children, in the context of a comprehensive review of the family law.

- Hungary accepted all recommendations to adopt a comprehensive plan of actions to effectively combat discrimination, hate speech and hate crimes against LGBTI people.
- Ireland extensively reported on steps taken, such as the new legal gender recognition law, its data collection on bias-motivated crimes (including homophobia) in accordance with the EU Victims Directive, and prohibition of discrimination on the ground of sexual orientation in admission policy for schools. However, a comment on unnecessary surgery on intersex children was neglected.
- Latvia stated that “The Constitution of Latvia stipulates that the State shall protect and support marriage as a union between a man and a woman. Nevertheless any person can freely establish a private union with another person in

Latvia, regardless of whether it is marriage or any other type of union. There are no obstacles for persons residing together, regardless of whether they have entered into marriage or established other type of a union, to settle their material relationship through various civil transactions with other persons.” Latvia also indicated its domestic legislation guarantees access to courts and investigation of criminal offences against LGBTI people and punishment of the perpetrators, but recognised the need for education of law enforcement authorities and improvement of victim support. In response to recommendations to include homophobic and transphobic motives in hate crime legislation, Latvia stated that criminal liability for inciting hatred or enmity due to a person's belonging to a social group has recently been included in criminal law.

In order to improve the legal and policy situation for LGBTI people, ILGA-Europe recommend:



Continuing to actively support and adequately resource the work of the UN SOGI Independent Expert.



Encouraging dialogue between civil society and member states in UN spaces by ensuring access to key meetings, such as at the Human Rights Council, the Commission on the Status of Women, the General Assembly and ECOSOC.



Supporting the participation of civil society groups as key stakeholders in the UPR review process, and encouraging states to actively follow up on UPR recommendations in cooperation with civil society.

Council of Europe

In 2016, the Council of Europe (CoE) provided meaningful support for the protection and promotion of human rights standards for LGBTI people. It took active steps to integrate intersex issues in different parts of its work, from the Parliamentary Assembly starting to work on a report on intersex human rights, to the Bioethics Committee discussing protection of intersex children. The CoE also stepped up its technical support with national authorities – advancing adoption and implementation of LGBTI equality standards through the work of its SOGI unit. Important case law continued to come from the European Court of Human Rights; attacks on LGBTI activists, family reunification and the treatment of LGBTI asylum seekers in Europe were just a selection of the topical issues adjudicated on by the Strasbourg court. The institution also made its support visible, by speaking out on milestone days such as IDAHOT, Intersex Awareness Day and Trans Day of Remembrance.

Asylum

- In May, the Council of Europe, United Nations High Commissioner for Refugees (UNHCR) and the Greek Bar Association organised a roundtable in Athens. Discussions focused on the European Convention on Human Rights and the protection of asylum seekers. One session looked at the particular situation of LGBTI asylum seekers, targeted at asylum officials, lawyers and civil society groups. The event provided participants with knowledge of international human rights standards on asylum claims based on sexual orientation and gender identity, as well as practical tools for their everyday work.
- The European Court of Human Rights (ECtHR), in the case of *OM v Hungary* ruled unanimously that the two-month detention of an Iranian gay man applying for asylum was arbitrary and unjustified, in violation of Article 5 (right to liberty and security). The ECtHR found that Hungarian authorities failed to make an individualised assessment and to take the applicant's vulnerability (in the detention facility) based on his sexual orientation into account (see **Hungary**).

Bias-motivated violence

- In April, the ECtHR ruled in the case of *M.C. and A.C. v. Romania* that the authorities had failed to conduct effective investigations into attacks on LGBTI activists, including ignoring possible homophobic motives, giving rise to a violation of Article 3 (prohibition of inhuman or degrading treatment) taken together with Article 14 (prohibition of discrimination) (see **Romania**).
- To mark Trans Day of Remembrance on 20 November, PACE General Rapporteur on the rights of LGBT people, Jonas Gunnarsson, made a statement "honouring the memory of the hundreds of transgender people whose lives have been cruelly cut short in the past year due to unspeakable acts of hatred and violence."
- In December, the Committee of Ministers, in supervising the execution of the ECtHR judgment in *Identoba v. Georgia*, put pressure on Georgia to conduct a prompt and effective investigation into those

responsible for the violence against the 2012 Tbilisi IDAHOT march, and to provide further information on their measures to protect freedom of assembly at future LGBTI events.

Bodily integrity

- In June, the Council of Europe intergovernmental Committee on Bioethics discussed the protection of the human rights of trans and intersex children and young people, hearing expert evidence from NGOs, including OII Europe and Transgender Europe – TGEU.
- Rapporteurs for the Parliamentary Assembly of the Council of Europe (PACE) issued a statement to mark Intersex Awareness Day on 26 October. Jonas Gunnarsson (Sweden) and Piet De Bruyn (Belgium) called for an end to "shame, secrecy and unwanted medical interventions on intersex children".

Education

- The PACE adopted a resolution on "Access to school and education for all children" in January. It called on CoE member states to ensure access to quality education for LGBTI children by promoting respect and inclusion, disseminating objective information, and addressing bullying.
- In May, in the run-up to IDAHOT, CoE Secretary General Thorbjørn Jagland spoke out against homophobic and transphobic bullying in schools in Europe, which he characterised as a grave and often disregarded problem.

Equality and non-discrimination

- ECRI, as part of its five-year monitoring cycle, adopted reports covering the rights of LGBTI people on Armenia, Azerbaijan, Cyprus, France, Georgia, Italy, Lithuania, Monaco, FYR Macedonia, Turkey, and the United Kingdom.
- In April, the Council of Europe launched a new five-year strategy on the rights of the child at a ministerial meeting in Sofia. It included plans to undertake research on the human rights situation of LGBTI children. It was followed by the publication of a

report, “Equal opportunities for all children: non-discrimination of LGBTI children and young people,” which contained a concise analysis of challenges, gaps and opportunities in the field of human rights of LGBTI children and young people.

- The PACE Equality and Non-Discrimination Committee issued a statement to mark IDAHOT on 17 May. The Committee expressed concern at the continuing, serious human rights violations experienced by LGBT people in Europe, and called on parliamentarians and others to take a number of measures to combat these violations.

- In October, the PACE adopted a resolution on “Sport for all”. It called member states to put in place mechanisms for regular and systematic monitoring of discrimination in the field of sport, including where based on “sexual orientation, gender identity, gender expression or sexual characteristics”, to facilitate targeted prevention strategies and ensure investigation of complaints.

- The Sexual Orientation and Gender Identity (SOGI) Unit organised a roundtable meeting in November. Members of the governmental LGBTI focal points network and of member state representations at the Council of Europe were invited. The event’s speakers included: the UN Independent Expert on violence and discrimination based on sexual orientation or gender identity, Vitit Muntarbhorn; CoE Commissioner for Human Rights, Nils Muižnieks; and US Special Envoy for the human rights of LGBTI people, Randy Berry.

Family

- In February, in the case of *Pajic v Croatia*, the ECtHR found that preventing same-sex couples from obtaining residence permits for family reunification purposes because of their sexual orientation was unjustified discrimination, violating Article 14 (prohibition of discrimination) taken in conjunction with Article 8 (right to respect for private and family life) (see **Croatia**).

- A judgment in the case of *Taddeucci and McCall v. Italy* was handed down in June. The ECtHR found that

the refusal of the Italian authorities to grant a residence permit to the foreign partner of an Italian national was unjustified discrimination, violating Article 14 (discrimination) taken in conjunction with Article 8 (right to respect for private and family life). This was the first time that the ECtHR has found that an important right reserved for married couples must be open to same-sex couples who are excluded from marriage. (see **Italy**).

Freedom of assembly

- PACE delegates tabled a Written Declaration in April documenting the breakup of the Lviv Equality Festival by right-wing extremists (with tacit support of city authorities and local police). It called on the authorities to prosecute those responsible (see **Ukraine**).

- In June, the Commissioner for Human Rights urged the Turkish authorities to reverse their decision to ban the Istanbul Pride march. In October, PACE delegates also tabled a Written Declaration condemning the denial of freedom of assembly to LGBTI people in Turkey as a serious violation of rights (see **Turkey**).

- In supervising the execution of the ECtHR judgment in *Alekseyev v. Russia* in December, the Committee of Ministers expressed serious concern at the continuing failure of the authorities to authorise similar freedom of assembly events (see **Russia**).

Legal gender recognition

- In June, CoE Secretary General Thorbjørn Jagland welcomed Norway’s adoption of a new law on legal gender recognition based on self-determination (see **Norway**).

In order to improve the legal and policy situation for LGBTI people,
ILGA-Europe recommend:



Setting out a clear procedure and timeline to ensure the review of the Committee of Ministers recommendations takes place in 2018.



Continuing to strengthen the CoE's own institutional mechanisms to ensure that the CoE's support for the human rights of LGBTI people is coherent and visible.



Increasing the level of technical assistance provided by the SOGI Unit for national level legislative and policy advances across Europe, ensuring close involvement of civil society and national authorities.

European Union

The European Union continued to hold considerable potential to drive change for LGBTI people in many spheres of life. 2016 was a mixture of achievement and unmet expectation. Asylum still featured prominently on the EU's agenda, as its monitoring body (the Fundamental Rights Agency) stepped up reporting work with monthly updates on asylum issues. The European Commission's reform attempts of the asylum system were met with a critical reaction from LGBTI activists, in particular the specific effects that 'safe country' lists and the arrangement between the EU and Turkey would have on LGBTI asylum seekers. The institutions were also involved in actions targeting online hate speech and proposals were tabled to increase protection against incitement to hatred. Several high-level groups were launched and the rights of LGBTI people continued to be a central part of the conversations in the assessment of countries on the path to EU accession. Intersex people were mentioned in a Parliament hearing for the first time ever, and LGBTI-specific Council conclusions were passed, in another major first. However, LGBTI activists and allies were left frustrated by what they see as an ongoing lack of 'action' on the Commission's List of Actions.

Asylum

- The European Union Agency for Fundamental Rights (FRA) began publishing monthly reports on a variety of issues, starting in January. This included monthly monitoring on asylum issues, including on topics such as gender-based violence and hate crime. FRA also organised a panel debate on LGBTI refugees (with the Canadian Embassy) in Vienna, which took place on 1 December.
- The numbers of refugees and asylum seekers arriving in Europe remained high throughout 2016. In March and July, the European Commission launched another reform of the EU's asylum system, aiming to streamline and accelerate procedures. LGBTI activists and NGOs expressed concern that the 'safe country' mechanisms would have a disproportionate negative impact on LGBTI asylum seekers. Other concerns included the fact that countries otherwise regarded as 'safe' (such as Turkey, Russia or states in north Africa) might be systematically unsafe for LGBTI people. Also in March, the European Council agreed the so-called 'EU-Turkey deal'. The agreement aimed to address the flow of smuggled migrants and asylum seekers travelling Turkey to Greece, by allowing Greece to return "all new irregular migrants" arriving there to Turkey. In exchange, EU Member States would increase resettlement of Syrian refugees residing in Turkey, accelerate visa liberalisation for Turkish nationals, and boost existing financial support for Turkey's refugee population.

Bias-motivated speech

- As part of the EU's High Level Group on combating racism, xenophobia and other forms of intolerance (see **Bias-motivated violence**), the European Commission, Facebook, Twitter, Microsoft and YouTube adopted a code of conduct on countering illegal hate speech online. The code (adopted on 31 May) contained commitments to put in place processes against illegal hate speech, addressing reports within 24 hours. Subsequently, the European Commission reached out to civil society to monitor the implementation of this code of conduct, a process that started in October.

- On 25 May, the European Commission tabled a proposal to reform the existing Directive on audio-visual media services. The draft proposal would oblige Member States to tackle any incitement to violence or hatred, including on the basis of sex and sexual orientation. Additional amendments were tabled in the European Parliament to strengthen protection against homophobic and transphobic hate speech. Committee or plenary votes had not taken place by the end of 2016.

Bias-motivated violence

- Following 2015's first Fundamental Rights Colloquium, in June the European Commission launched the EU High Level Group on combating racism, xenophobia and other forms of intolerance. It brought Member State representatives, EU agencies, European and international organisations together. The mandate of the group includes fostering exchange of best practices on how to better counter hate crime and hate speech and be a platform for dedicated discussions on how to effectively tackle particular forms of intolerance, including homo- and transphobic hate.

Education

- In February, the European Commission Directorate-General on Education and Culture (DG EAC) created a "Working Group on promoting citizenship and the common values of freedom, tolerance and non-discrimination through education". The group gathered representatives of education ministries (from the EU and accession countries) and civil society organisations (including ILGA-Europe). Members worked together on policy recommendations in areas such as the promotion of civic, intercultural, and social competences; ownership of democratic values; and the fight against discrimination, racism, segregation, bullying, violence and stereotypes.
- The European Commission Network of Experts working on the Social Dimension of Education and Training (NESET) published a report on school violence and how to prevent and tackle it (for the first time) in December. The report extensively covered homophobic and transphobic school bullying.

Enlargement

- In November, the Directorate-General for Neighbourhood and Enlargement Negotiations (DG NEAR) published its annual Enlargement Package. The reports offered assessments of how individual accession countries are implementing key political and economic reforms en route to joining the EU. The human rights of LGBTI people were a central point within the fundamental rights section of the reports. The reports also made references to developments beyond the EU's body of legal rights, including legal sex change and gender recognition procedures, same-sex cohabitation, and civil partnership.

Equality and non-discrimination

- On 16 March, the FRA launched its 'Professionally speaking: challenges to achieving equality for LGBT people' report. The report was based on interviews held in 19 EU member states, with public officials in government, human rights institutions and equality bodies, as well as health officials, teachers and police officers. It revealed that prevailing negative attitudes towards LGBT people endanger their fundamental rights and hamper efforts to counter discrimination and hate crime.
- Also in March, the Employment, Social Policy, Health and Consumer Affairs Council configuration (EPSCO) under the Dutch Presidency discussed the adoption of Council Conclusions on gender equality and LGBTI equality. 27 Member States unequivocally supported a proposal that asked the Commission to step up the implementation of their List of Actions to advance LGBTI equality. Only Hungary was unable to support the LGBTI equality conclusions. After further negotiations in June, the Dutch Presidency ensured the adoption of the first-ever LGBTI-specific conclusions that refer to equality within the EU. The conclusions set out a series of goals to be achieved by the various EU institutions, agencies and member states. However, in order to ensure unanimity, the text included a problematic reference to member states working with the EU to advance LGBTI equality while "fully

respecting the Member States' competences, national identities and constitutional tradition". They also failed to acknowledge the instruments the EU already has to protect trans people based on EU case law, despite the fact that the title of the conclusions mentions LGBTI equality.

- The European Parliament adopted a report on gender mainstreaming in the work of the European Parliament in March, calling for the inclusion of "the rights, perspectives and well-being of LGBTIQ people" in all gender mainstreaming activities.

- For the second year in a row, the European Council Secretariat marked IDAHOT by organising a discussion for its employees on advancing LGBTI rights.

- In June, the human rights of intersex people were included for the first time in an official hearing at the European Parliament. An intersex activist was one of the speakers in a hearing on the fundamental rights of people with disabilities, Roma people and intersex people before the Committee on Civil Liberties, Justice and Home Affairs (LIBE).

- In November, Members of the European Parliament Terry Reintke (Greens-EFA), Ulrike Lunacek (Greens-EFA) and Igor Šoltes (Greens-EFA) organised the "Queer People Unite, Fighting Societal Backlash" event. With over 50 activists from across Europe present, the panel discussions aimed to address questions of how to tackle the attempts of repressive, neo-conservative, religious right-wing and right-wing movements to push back against the achievements in the area of LGBTI rights.

- Also in November, a group of European civil society organisations sent an open letter to Commission President Juncker and Parliament President Schultz about the comments made by Commissioner Günther Oettinger (see **Germany**) during a speech in Hamburg. ILGA-Europe, the European Women's Lobby and ENAR - European Network Against Racism expressed concern over the homophobic, racist and sexist remarks made by the Commissioner, stating that the comments set an indefensible example to other institution staff and called on the Commissioner to resign.

Foreign policy

- As part of the European External Action Service's (EEAS) campaign to raise awareness of global human rights issues (#EU4HumanRights), the Permanent Representation of the Netherlands to the EU organised a roundtable to mark IDAHOT. The discussion was entitled 'Reconciling religion and LGBTI: Implications for the EU's External Policy' and heard perspectives from religious LGBTI people and organisations.
- In December, the European Parliament adopted the Annual Report on Human Rights and Democracy in the World. The report contained a strong reflection of the human rights of LGBTI people, recognising the importance of the EU's LGBTI Guidelines adopted in 2013. It called on the European Commission and EEAS to ensure proper and active implementation of the Guidelines. It also highlighted the need for internal and external coherence regarding the rights of LGBTI people, the vulnerability of LGBTI asylum seekers, increased violence, ill-treatment and torture against LGBTI people.

Freedom of expression

- In June 2016, the European Commission ended the dialogue procedure with the Lithuanian government on the "Law on the protection of minors against the detrimental effects of public information" without any result. The procedure had been launched following a complaint from national NGO LGL and ILGA-Europe about the fact that a family equality video by LGL was banned under the law (the law was thus being used to curtail freedom of expression of LGBTI organisations).

Freedom of movement

- In October, the European Parliament's Petitions Committee held a hearing on "Obstacles to EU citizen's freedom to move and work in the Internal Market", based on a recently published comparative report. In this report, discrimination on grounds of civil status and/or sexual orientation was addressed, with a particular focus on the lack of recognition by Poland of same-sex couples exercising their right to freedom of movement.

Health

- In March, the implementation of the Health4LGBTI project (a pilot project funded by the European Commission) started. The project aims to gain a better understanding of the specific health inequalities experienced by LGBTI people and of the barriers faced by health professionals. It also aims to raise awareness of the needs of LGBTI people and provides healthcare professionals with specific tools to ensure that they have the right skills and knowledge to overcome the identified barriers. The project will run from 2016 to 2018.
- Also in March, the FRA held a LGBTI health awareness-raising meeting in Vienna. It brought together policy makers and health professionals, as well as representatives of the LGBTI community, to raise awareness of the health inequalities that LGBTI people face.

Legal gender recognition

- As part of the framework of the European Commission's High Level Group on non-discrimination, equality and diversity, the German Federal Ministry for Family Affairs, Senior Citizens, Women and Youth hosted a good practices exchange. The session focused on laws and policies for trans people and it took place in Berlin in September.

Participation in public, cultural and political life

- As part of its 'List of actions to promote LGBTI equality', the European Commission launched the 'We all share the same dreams' awareness-raising campaign in August. The campaign aims to improve social acceptance of LGBTI people across the EU. In addition, the European Commission participated in a EuroPride parade for the first time; Commissioner Vera Jourova joined the Canal Parade in Amsterdam on a Commission float.

In order to improve the legal and policy situation for LGBTI people, ILGA-Europe recommend:



Ensuring full implementation of existing legislation and policies, in particular the European Commission's 'List of actions to advance LGBTI equality' and the EU's 'Guidelines to promote and protect the enjoyment of all human rights by lesbian, gay, bisexual, transgender and intersex persons'.



Continuing to strengthen the EU's own institutional mechanisms to ensure the work of the European Commission's different Directorates-General on LGBTI issues is coordinated and coherent.



Stepping up the leadership of the European Union by visibly protecting and advancing the human rights of LGBTI people across the EU and in its external policies.

Organization for Security and Co-operation in Europe

Throughout 2016, the OSCE continued to highlight the impact of hate crime and intolerance on society. For the second time, the entirely refurbished annual report and hate crime data were published, covering incidents in 41 countries. While the general level of reporting to ODIHR remains comparable to previous years, limited data on homophobic and transphobic bias motives continue to indicate under-reporting and gaps in recording.

Equality and non-discrimination

- At the annual OSCE Human Dimension Implementation Meeting from 19 to 30 September, a side event on tolerance and non-discrimination of trans people was organised by Dutch NGO COC Netherlands.

- The German OSCE Chairmanship organised a conference on tolerance and diversity on 20 October, including a pre-conference for civil society. During the conference, ODIHR Director Michael Georg Link highlighted challenges when it comes to issues of discrimination on the basis of sexual orientation, among other grounds.

Bias-motivated speech and violence

- During 2016, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) initiated new hate crime cooperation agreements with public authorities in Turkey, Ukraine, Kosovo, Iceland, Spain (Valencia) and Finland. In Ukraine specifically, ODIHR supported action against homophobic and transphobic hate crimes by including this topic in trainings for law enforcement, in a national capacity building event, and in its funding

initiative to support civil society groups. OSCE/ODIHR also held workshops on countering hate crime for prosecutors in Poland, Bulgaria and Georgia, which included elements on homophobic and transphobic hate crimes.

- In November, ODIHR published its annual report *Hate Crimes in the OSCE Region* (covering incidents that occurred in 2015). 41 OSCE participating states submitted information to ODIHR. Although the overall number of reporting states decreased (43 states submitted information in 2015), two additional states did provide statistics on the number of recorded hate crimes against LGBT people (12 states). Civil society groups provided information about homophobic and transphobic incidents in 24 countries (5 fewer countries than in 2015). ODIHR noted that limited data on some bias-motivations continued to indicate under-reporting and gaps in recording.

- On 18 November, ODIHR organised a consultative meeting with experts in order to start developing guidelines for criminal justice agencies working with victims of hate crime, including homophobic and transphobic hate crimes.

In order to improve the legal and policy situation for LGBTI people, ILGA-Europe recommend:



Strengthening the monitoring /reporting mechanisms on hate crime at all levels, including national and civil society monitoring mechanisms.

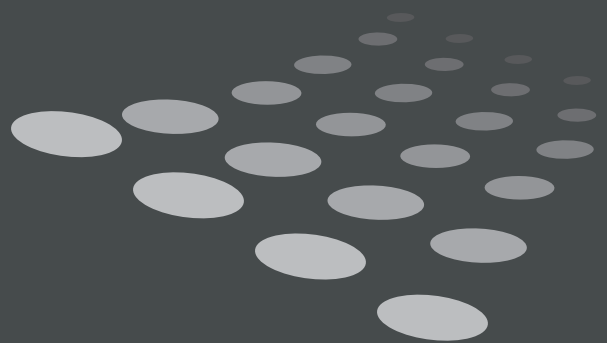


Developing a more structured strategy for how the OSCE engages with civil society organisations.



Making the OSCE institutions'/missions' commitment to engaging with human rights defenders more explicit, and following up on reported attacks on human rights defenders.

Country reviews



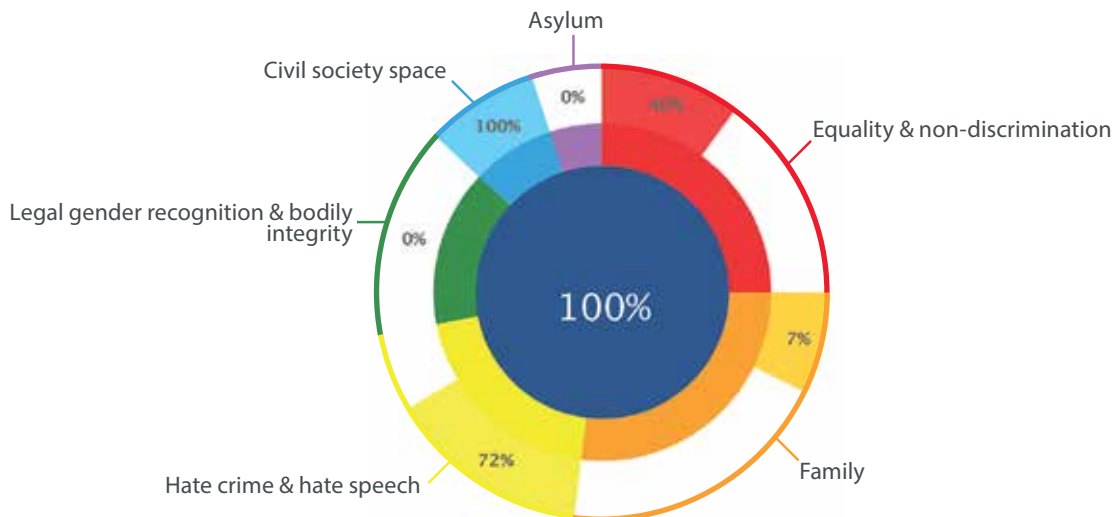
Albania



Albania is a prime example of the difference between laws on paper and realities experienced by LGBTI people in their daily lives. Further legislative progress was made in 2016, with adoption of an action plan to promote and protect the human rights of LGBTI people, adding to an already comprehensive legal package protecting the human rights of LGBTI people. However, no efforts were made to address pervasive homophobic attitudes in society. As a candidate country, Albania is annually assessed by the European Commission on its progress towards joining the European Union. The low levels of social acceptance of LGBTI people was one of the areas highlighted by the Commission officials as an area of concern. In spite of Albania's existing legislation in the areas of equality and hate crime, implementation of this legislation, including training of relevant staff and officials, is lacking. This was emphasised by several surveys, demonstrating that public officials do not think they are coming into contact with LGBTI people in their daily work. Even where legislation does exist, people may not be aware that its protections extend to LGBTI people, as was revealed by a report on young people's understanding of anti-discrimination law. However, LGBTI activists are attempting to change the public narrative and create greater awareness. Milestones reached in 2016 included a rainbow family featuring on a television ad for the first time, displaying the rainbow flag prominently during IDAHOT, and continuing efforts to collect data on public opinion.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.

Legal and policy situation in **Albania** as of 31 December 2016



In order to improve the legal and policy situation for LGBTI people, ILGA-Europe recommend:

- ➡ Giving LGBTI people protection under the constitution, by expressly referring to sexual orientation, gender identity and sex characteristics.
- ➡ Developing a fair, transparent legal framework for legal gender recognition, based on a process of self-determination, free from abusive requirements (such as sterilisation, GID/medical diagnosis, or surgical/medical intervention).
- ➡ Adopting legal measures to recognise and protect same-sex couples, such as cohabitation legislation.

Access to goods and services

- LGBTQ NGO Pink Embassy published findings from their research on public officials' perceptions of LGBT people on 17 March. "Perceptions of local staff on LGBT friendly services" was the first project of its kind and was conducted in cooperation with the Commissioner for Protection from Discrimination and the Ombudsman. The study interviewed 225 staff in six municipalities. 68% of those interviewed think LGBT people are citizens like everyone else; 67.9% said that they have not provided a service to any LGBT people; 42% of those interviewed supported equal marriage; and 34% think LGBT people have the right to found a family.

Asylum

- According to the 'Report on the Status of LGBT rights in Albania' compiled by the Alliance against LGBT Discrimination (Aleanca), in 2016 the NGO provided immigration offices in Belgium, France and Sweden with information on life for the LGBTI community in Albania. Aleanca received these requests as eight LGBTI people left to seek asylum in the three countries mentioned during the year.

Bias-motivated violence

- According to Aleanca's 2016 report on the status of LGBT rights in Albania, the NGO had received reports of 532 cases of bullying from LGBT people by December. Only five of these cases had been reported to the authorities, and of these reported incidents, four out of the five victims said that they faced hostility from the police officers dealing with their case. NGO Aleanca also received eight reports of physical attacks on LGBT people, and 12 incidents of domestic violence against members of the community, during 2016.

Data collection

- On 18 May, details of a study carried out by LGBTQ NGO Pink Embassy (supported by the Commissioner for Protection from Discrimination and the Ministry of Education and Sports) were presented publicly. The 'Adolescent experiences of discrimination at school' study was the first national study with such large sample sizes – 1438 students and 248 teachers from six cities were interviewed. 1 in 4 adolescents stated that they could not accept the sexual orientation or gender identity of their LGBT peers, while 64%

of adolescents said they did not respect their LGBT friends at school. 5% of adolescents said that they felt discriminated because of their gender identity. 82.3% of the students knew about the Law on Protection from Discrimination but 5.3% thought that it protected the LGBT community. 64% of students said they did not accept peers who are LGBT.

- As part of its 2016 report on the status of LGBT rights in Albania, NGO Aleanca published the results of an online survey it conducted between September and December with 78 members of the LGBT community. 47% of respondents said that they do not feel like they are supported or accepted. Fewer than 4% of those surveyed thought that the LGBT community was respected in Albania.

Employment

- Recruitment firm Headhunter launched the LGBTIQ Employment Equality Index – the first such system to rank how employers in Albania and other Balkan countries respect the rights of LGBTIQ people. 71 companies and organisations took part in the research and were assessed on their hiring, training, development and general employment practices. Awards were presented to several employers at a ceremony to mark International Day against Homophobia, Transphobia and Biphobia (IDAHOT).

- A rainbow flag was flown from a public building in Tirana for the first time as part of the 17 May IDAHOT celebrations. Pink Embassy had liaised with the Municipality of Tirana in advance, who displayed the flag outside the capital city's opera house, the Palace of Culture.

- According to Aleanca's 2016 report on the status of LGBT rights in Albania, 47 cases of discrimination (either while at work, or during the recruitment/selection process) were reported to the NGO by members of the LGBT community during the year.

Enlargement

- The European Parliament evaluated the situation for LGBTI people in April, saying that effective laws and policies that reinforce the human rights of minority groups were a key priority. It urged Albania to remove existing legislative provisions that discriminate against trans and intersex people, and to enhance the role of the State Committee on Minorities.

- Albania was awarded candidate status by the European Union in 2014. In its annual enlargement package reviewing progress made towards EU accession, published in November, the European Commission noted the adoption of an LGBTI action plan (see **Equality and non-discrimination**), the signing of a cooperation agreement between the Ministry of Social Welfare and the organisers of an LGBTI shelter and IDAHOT events as positive developments. It went on to detail how cohabitation agreements for same-sex couples have yet to be adopted and that social acceptance of LGBTI people remains low.

Equality and non-discrimination

- An official action plan on protecting the rights of LGBTI people was discussed and adopted at a meeting of the Council of Ministers on 25 May. The National Action Plan for LGBTI people in the Republic of Albania 2016 – 2020 (which according to Albanian law is now legislation to be enforced) focuses on three main interventions. These are improving legislation and raising awareness on LGBTI issues, eliminating of all forms of discrimination against LGBTI people, and improving access to employment services, education, health care, housing and sports. A cross-ministerial working group responsible for implementation of the Action Plan was set up, which included representatives from government, the Ombudsman, Commissioner of Protection from Discrimination and all LGBTI organisations. The group met once in 2016.

- During a parliamentary debate on 7 July, Mesila Doda MP (Party for Justice, Integration and Unity, PDIU; right-wing) used derogatory and discriminatory language in relation to LGBTI people. The comments were made in the Albanian Parliament when constitutional amendments regarding increased protection against discrimination based on sexual orientation and gender identity were being discussed. Pink Embassy filed a complaint about this to the Commissioner for Protection from Discrimination and formal proceedings against Mesila Doda were opened to address this case. No decision or recommendation had been issued by the end of 2016.

- Both political parties in the government coalition, the Socialist Party (PS) and the Socialist Movement for Integration (LSI), withdrew their support for amendments to Article 18 of the constitution. This support was withdrawn two days before the bill was due to be presented to parliament for the vote. The

changes, called for by LGBTI activists, suggested adding sexual orientation and gender identity to the grounds protected from discrimination. LGBTQ NGO Pink Embassy reacted in a press release, stating that the government change of mind had been due to pressure from religious communities. The constitutional changes (minus the LGBT protections) were passed in July.

- In 2016, the Commissioner against Discrimination dealt with four claims relating to sexual orientation and gender identity. Discrimination was found to have occurred in a case involving the police in Shkodra; the police authority was fined. The Commissioner also found evidence of SOGI-related hate speech in online media. The third case involved the comments made by Mesila Doda MP (see above), and a fourth case (involving discrimination in education) was not proven.

Family

- The first television ad to feature a lesbian couple and their children was broadcast to mark both International Day of Families on 15 May and IDAHOT on 17 May. The ad was produced by two LGBTI NGOs – Aleanca LGBT and Pro LGBT and featured the message “Family is about love and care”.

Freedom of assembly

- An estimated 180 activists, community members and allies took part in the Tirana Gay (P)Ride on 14 May, marking IDAHOT. No incidents were reported.

Freedom from torture, cruel, inhuman or degrading treatment

- Domestic violence against LGBT people remains an issue in Albania. STREHA - the first residential shelter for homeless young people aged 18 to 25 - was able to assist 23 beneficiaries in 2016. (The shelter was founded by NGOs Aleanca LGBT and ProLGBT in late 2014.) It has been officially acknowledged by the state as a national service and received an official license recognising the service that it offers. In spite of this, it operates only on private donations and receives no financial support from the state.

Health

- According to its 2016 report on the status of LGBT rights in Albania, NGO Aleanca recorded 13 cases of discrimination against LGBT people when they tried to access community health services in 2016.

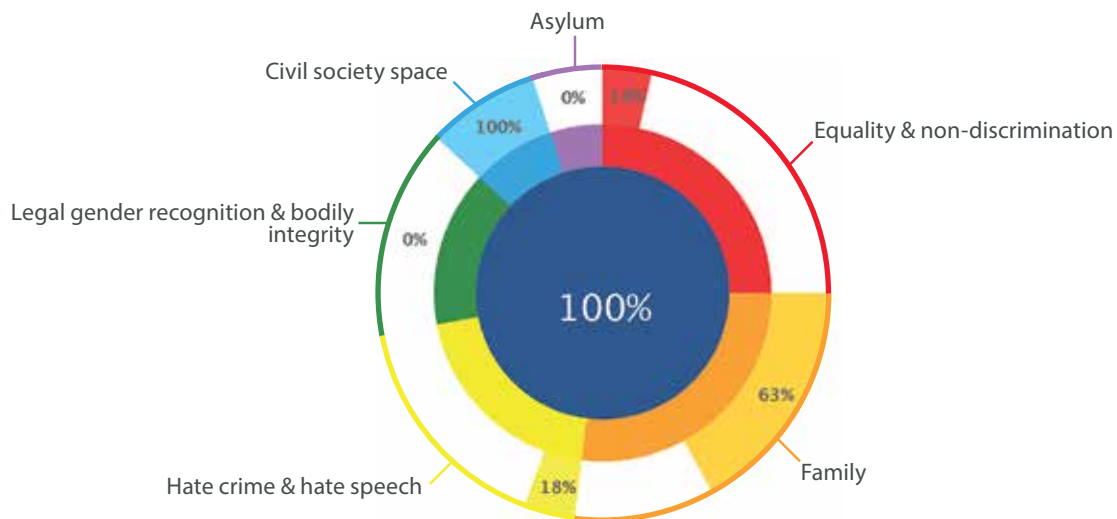
Andorra



LGBTI activists continued to operate in a context where little law or policy exists to protect members of the community; the non-existence of legal or policy measures in the area of legal gender recognition, bodily integrity or anti-discrimination references to trans or intersex people is worrying. Activists highlighted the need for trans-inclusive healthcare and continue to call for name change options for trans people in the civil registry. Nonetheless, there were positive signs of increased government engagement with civil society on issues related to the lives of LGBTI people. 2016 saw a government department dedicated to equality issues – the Equality Policies Area – begin its work in earnest, following its establishment a year earlier. NGOs reported a significant improvement in communication with the government in 2016, with the Equality Policies Area in particular. Work on a White Paper on Equality was initiated, there was collaboration on events and trainings, and LGBTI NGOs were involved in advisory committees on social care.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.

Legal and policy situation in **Andorra** as of 31 December 2016



In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- ➡ Explicitly including all SOGISC (sexual orientation, gender identity, sex characteristics) grounds in an equality action plan, accompanied by specific measures of progress.
- ➡ Introducing policies on asylum that contain express mention of all SOGISC (sexual orientation, gender identity, sex characteristics) grounds.
- ➡ Developing and adopting equality legislation that expressly protects against discrimination on all SOGISC (sexual orientation, gender identity, sex characteristics) grounds.

Asylum

- The parliament (Consell General) commenced work on the country's first national asylum law in August, to accommodate refugees from Syria that Andorra had pledged to host. The content of the text was still being prepared by the interior and foreign affairs ministries at the end of 2016; it was unclear if specific reference would be made to LGBTI asylum seekers. The law is due to be approved in 2017.

Bias-motivated speech

- On 24 October, LGBTI NGO Som Com Som participated in a conference on the topic of hate crime against LGBTI people. Organised following a recommendation from ECRI, it was the first event of its kind to be jointly organised by the government and the Andorran Police.
- In 2016, LGBTI NGO Som Com Som reported three cases to the police department responsible for recording hate speech; two incidents of bullying and one of homophobic speech.

Education

- On 26 May, NGO Som Com Som organised a training session for teachers on LGBTIQ issues. The workshop was run in conjunction with the Ministry of Education and was the first time that the NGO had provided such training to education professionals. This was followed on 27 May by a Som Com Som training session on LGBTIQ issues for clinical psychologists, another first for the NGO.

Equality and non-discrimination

- The government's Equality Policies Area was operational from February. LGBTIQ equality is one of the specific focus areas of the government's equality department and LGBTI activists reported an improved working relationship since the Area began its work. NGO Som Com Som worked with the Area to develop leaflets for an LGBTI tolerance campaign in September. The NGO also organised a conference on tackling LGBTI-phobia along with the parliament (Consell General) on 2 December.

- LGBTI NGO Som Com Som, along with other civil society representatives, met with the Legislative Committee on Social Affairs on 18 October to discuss the draft White Paper on Equality. The equality plan aims to eliminate gender discrimination, and also aims to protect other groups that may suffer from discrimination, including LGBTI people, immigrant communities, older people and people with a disability. The committee intends to publish their conclusions in March 2017 and finalise the White Paper by June 2017.

Family

- NGO Som Com Som called on the government to legislate to end the situation for non-birth mothers in civil unions with a same-sex partner. Currently, in a family of two mothers where one is the biological parent, the partner who is not a birth mother will not be recognised as having any legal relationship with the children, under the terms of the civil registry law. The NGO asked parliament and the Minister of Social Affairs to amend the legislation; the laws had not been updated by the end of 2016.

Health

- During a meeting with the Ministry of Health in October, LGBTI NGO Som Com Som asked the ministry to fully implement the Social Security Law (Llei de la CASS) to allow trans and intersex people to receive hormone treatments through the public health system (Cartera de Serveis). The ministry was considering the recommendation at the end of the year.
- NGO Som Com Som worked closely with medical professionals during 2016; for the first time, the NGO began collaborating with the *Hospital Clínic* in Barcelona. The collaboration involved assessing how their internal medicine department can provide medical and psychological support to trans people, and Som Com Som also provided training sessions for doctors.

Participation in public, cultural and political life

- The National Youth Forum and Som Com Som organised a debate in the parliament (Consell General) on

equality policies to mark IDAHOT, the first time that the parliament had proactively recognised 17 May.

Sexual and reproductive rights

- In November, health minister Carles Alvarez Marfany announced that a draft bill on introducing assisted reproduction would be brought to parliament in early 2017. It was unclear whether the draft text, which was being prepared by the Health Ministry at the end of 2016, contained any reference to same-sex couples.

Social security and social protection

- A decree establishing the government's COPEC commission was passed on 20 July. The advisory commission is composed of civil society groups linked to social care and services; LGBTI NGO Som Com Som was included as a full member.

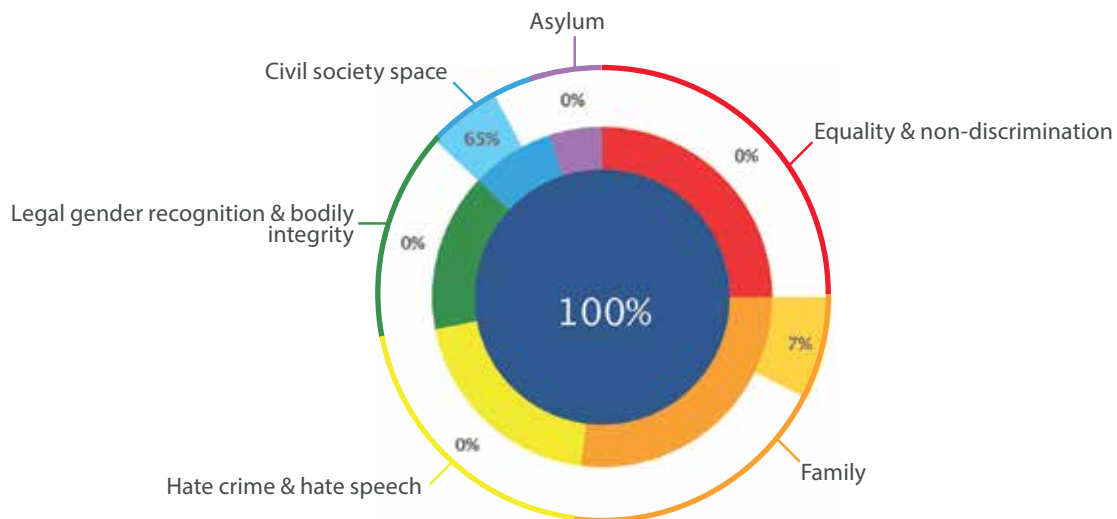
Armenia



The legal structure relating to the fundamental rights of LGBTI people did not undergo much change in 2016, leaving members of LGBTI community with very minimal law or policy to rely on. Support instead continues to be provided by civil society groups. NGOs assisted LGBTI people in a variety of ways, from recording and reporting episodes of discrimination, helping people to issue complaints, and providing backing in subsequent cases. Research, also compiled by LGBTI NGOs, emphasised the daily difficulties that LGBTI people encounter. Discrimination can be compounded by a traditional outlook on life and the situation is not helped when bias-motivated speech (still not prohibited) against LGBTI people continues. This prompted the Council of Europe's monitoring body ECRI to recommend that parliamentary and media ethics codes be amended to protect LGBTI people. Public opinion data, once again gathered by NGOs, showed that over 97% of the people surveyed said it was unacceptable for same-sex couples to kiss in public – underlining that a more informed, less hostile conversation about the lives of LGBTI people is certainly required.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.

Legal and policy situation in **Armenia** as of 31 December 2016



In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- ➡ Adopting legislation that expressly protects against discrimination on the grounds of SOGISC (sexual orientation, gender identity, sex characteristics) when accessing goods and services.
- ➡ Introducing hate crime laws that explicitly cover all bias-motivated crimes based on sexual orientation, gender identity and sex characteristics.
- ➡ Introducing hate speech laws that explicitly include sexual orientation, gender identity and sex characteristics as protected grounds.

Access to goods and services

- An LGBT activist who had been attacked (see **Bias-motivated violence**) attended Yerevan's N1 hospital on 16 February, the day after the incident. The activist made a complaint, stating that the medical professionals treating them said "Come, let's do a blood test on you. Let's see if you have a deviance". LGBT NGO PINK Armenia submitted an administrative complaint about the staff's conduct to the Ministry of Health. During the subsequent hearing, the representatives of the health inspection department said that the staff in question had not behaved inappropriately. Representatives of the medical centre agreed, saying they had watched a security video and that their colleagues had not acted in this way. The video was not played during the hearing as it had been self-deleted. On 25 March, the Ministry informed PINK Armenia that the case was being suspended due to the absence of any violation.

Bias-motivated speech

- During an episode of the *'kisabac lusamutner / Half Opened Windows'* talk show in February, lawyer Garik Galikyan stated that gay people "...must be burnt". The same episode featured other panellists who also displayed insensitive and homophobic attitudes. The topic at the centre of the programme was the discrimination faced by people based on their sexual orientation, gender identity and/or expression. The president of NGO PINK Armenia, Nvard Margaryan, and an LGBT-friendly doctor also took part in the discussion. NGOs New Generation Humanitarian NGO, PINK Armenia and the Anti-Discrimination Coalition submitted a complaint about Galikyan's comments to the Ethics Committee of the Chamber of Advocates. On 13 June, the Chamber of Advocates found that Galikyan violated the Code of Advocate's Ethics. A case was also filed by several NGOs, including PINK Armenia, but this was later rejected by the police.

Bias-motivated violence

- Five LGBT activists, including two staff members of LGBT NGO PINK Armenia, were attacked in Yerevan on 15

February. A group of three unidentified people verbally and physically attacked one of the activists and then also assaulted the other activists who came to their aid. An incident report was filed with the police but the case was subsequently suspended due to a lack of evidence.

Data collection

- The Solidarity Network for LGBTI in Armenia and Georgia project published 'The Human Rights Situation of LGBTI Individuals in Armenia: a Practical Assessment' report in June. The research paper, prepared by NGO Society Without Violence, concluded that traditional social perceptions of gender roles and heteronormative assumptions make it very difficult for LGBTI people to live openly. Participants in the focus groups reported discrimination in education, employment and when accessing goods/services as well as public harassment. The report concluded with a wide range of recommendations for civil society groups, international bodies, EU institutions, national courts and the government.

- 'From Theory to Reality', the results of a study by NGO PINK Armenia, was published in November. The report focused on hate crimes against LGBT people, looking at the existing legislative framework, examples of public intolerance, and the legal barriers. 198 hate crimes, that took place from 2010-2015, were examined as part of the study. In 79% of hate crime incidents, the victim themselves reported the attack; 20% of cases were reported by witnesses. The report recommended including sexual orientation and gender identity as aggravating circumstances for both crimes and punishments, amending national legislation to comply with international human rights obligations, and ensuring full and impartial investigation of hate crimes against LGBT people.

- On 2 December, the Heinrich Boell Foundation South Caucasus Regional Office, together with LGBTI NGO PINK Armenia and Society Without Violence NGO organised a presentation of a comprehensive LGBTI rights strategy document, titled 'Realising the Human Rights of LGBTI

People in Armenia', based on the research papers published in June (see also **Police and law enforcement**).

Equality and non-discrimination

- LGBT NGO PINK Armenia held a support group session on 1 March, celebrated by the UN as Zero Discrimination Day. The meeting was the first event to bring together LGBT people living with HIV and allies in order to discuss how to eliminate stigma and support each other.
- In May, an American-Armenian man was told to leave a dance group (the Bekor Folk Dance Ensemble) by the instructor when he realised the participant was gay. NGO PINK Armenia brought the incident to the attention of the diaspora and culture ministries and called on them to prevent such incidents of discrimination at cultural events. There was no response from the ministries at the end of 2016.
- In the Ombudsman's Annual Report for 2015, released in April, discrimination faced by LGBT people in the areas of healthcare, education and employment was highlighted. The report noted several cases where people had been refused medical care due to their sexual orientation. It referred to violent attacks on trans people who were then refused help by security guards, and the vulnerability of LGBT people in prisons was also mentioned by the Ombudsman.
- As part of its five-year monitoring cycle, the European Commission against Racism and Intolerance (ECRI) published a report on Armenia on 4 October. ECRI was concerned at the level of hate speech and violence directed at the LGBT community during the last reporting cycle. The report notes that this is troubling when combined with the low levels of reporting of such crimes and the fact that intolerant speech is not condemned, or also perpetrated, by political figures. ECRI's recommendations included adding sexual orientation and gender identity to the list of protected grounds in hate crime law, drafting an anti-discrimination law that applies to all areas of life, and reviewing legislation to see if it complies with ECHR Article 8 in relation to changing civil status and legal gender. It also recommends a code of

media ethics and punishments added to the parliament's code of conduct, both measures designed to protect LGBT people from hate speech.

Freedom of expression

- *'Listen to Me: Untold Stories beyond Hatred'*, a documentary about the lives of LGBT people in Armenia, was first shown at the Armenian Centre for Contemporary and Experimental Art on 11 October. Gagik Ghazareh's film features 10 members of the LGBT community who came out publicly, speaking about their childhood, identity, self-recognition, family relations, homophobia and transphobia.

"I have never heard my family say anything hurtful about a gay or lesbian person. Even after my coming out, that issue was not discussed in our family, because a person is a person..."

Mel Daluzyan, as heard in the 'Listen to Me: Untold Stories Beyond Hatred' documentary, released 11 October 2016

Human rights defenders

- Mamikon Hovsepyan, the executive director of NGO PINK Armenia, spoke at a press conference on 24 February on the issue of anti-LGBT violence. In response to a question from one of the assembled journalists, Hovsepyan spoke publicly about his sexual orientation. Hovsepyan was openly gay but this was the first time he had come out via the media. NGO Chai Khana subsequently made a video 'Life under the Rainbow' about his public coming out to mark 17 May.
- Chair of Human Rights House Yerevan and LGBT rights advocate Michael Danielyan died on 24 August. He had supported the work of many human rights organisations and established the Helsinki Association in Armenia.

Police and law enforcement

- The Heinrich Boell Foundation requested adequate protection for the launch of their LGBTI strategy document in Yerevan on 2 December. Despite security

concerns, the event concluded without incident and was protected by 28 policemen, who also stopped several people who attempted to enter the venue without authorisation.

- The president of New Generation Humanitarian NGO spoke at a press conference on the topic of protecting prisoners' rights on 28 June. Sergey Gabrielyan highlighted the ongoing issue of vulnerable groups in the prison system, including LGB people, saying that they are more likely to experience discrimination while incarcerated. The press event had been called by the Group of Public Observers Conducting Public Monitoring of Penitentiary Institutions and the Ministry of Justice.

Public opinion

- On 17 June, NGO PINK Armenia (also as part of the Solidarity Network for LGBTI in Armenia and Georgia) released the results of their study on societal attitudes towards LGBTI people in Armenia. 'From Prejudice to Equality' contained the results of public opinion surveys, carried out in Yerevan and in urban and rural regions outside the capital, between November and December 2015. 1071 people were interviewed, and of those 91% said they had no LGBTI acquaintances. Television was cited as the main source of information on LGBTI people and their lives, followed by social networks and online news; print or radio journalism was the least used resource. 33% of those surveyed said that homosexuality resulted from a child being brought up incorrectly. 11.8% think homosexuality is a personal choice, and 5.1% believed it could be caused by "homosexual propaganda". 89% of those questioned said that gay men and lesbian women should not be allowed to work with children. 97.5% of the survey participants said that it was unacceptable for gay and lesbian couples to kiss in public.

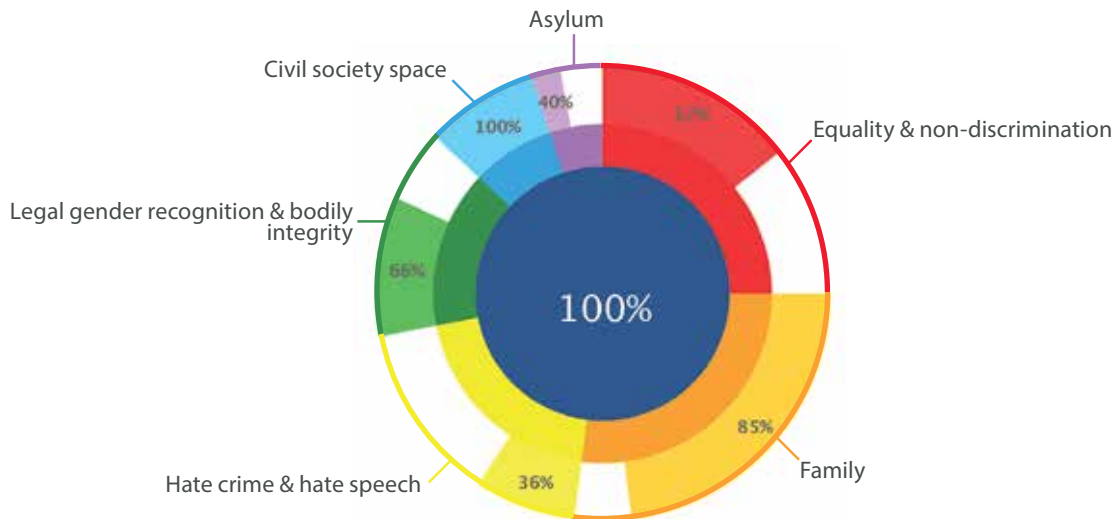
Austria



Austria's strong base of existing law and policies on family issues was added to in 2016. Two amendments, initiated by the government, removed legal differences in how registered partners are treated compared to married couples. One was a logistical change, around where ceremonies could be held, the second amendment streamlined some of the terminology used for both unions. Several same-sex couples and rainbow families continued to press for full marriage equality through the courts in Vienna and Linz. The courtroom was also the setting for several announcements relevant for trans and intersex people. While trans prisoners were informed by a Vienna Court that they are entitled to receive treatment while serving their sentence, an intersex person was told that they could not have an alternative gender marker that was not 'male' or 'female' listed on their birth certificate. This case serves as a reminder of the very limited legal protection for intersex people living in Austria. A public 'first' was also celebrated by LGBTI activists, as the Federal Chancellor attended the capital's Rainbow Parade for the first time.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.

Legal and policy situation in **Austria** as of 31 December 2016



In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- ➡ Drafting and adopting legislation that expressly protects against discrimination on the grounds of SOGISC (sexual orientation, gender identity, sex characteristics) when accessing goods and services.
- ➡ Ensuring marriage equality and opening up the possibility to enter into a registered partnership for all couples.

Diversity

- The Ministry of the Interior produced a leaflet in February, depicting acceptance of same-sex couples along with other scenarios, that was distributed to asylum seekers who had travelled to Austria.

Equality and non-discrimination

- A final report under the UN's Universal Periodic Review process was adopted for Austria in 2016 (see **United Nations**).

Family

- A group of five families announced in February that they would continue their legal challenge against the federal government over its failure to legislate for marriage equality. Five same-sex couples and their children had their case rejected by the Administrative Court in Vienna in December 2015 but announced their intention to appeal to the Constitutional Court. A decision had not been issued by the end of 2016.

- On 21 March, the Upper Austria provincial administrative court in Linz heard legal argument in a case seeking to challenge the lack of equal marriage for same-sex couples. Legal representatives of a lesbian couple and their four-year-old argued that the fact that same-sex couples can access joint adoption (since 1 January 2016) but not marry infringes the rights of children. Their case was rejected by the court on 15 April.

- Two differences in legal treatment of registered partners and married couples were removed by parliament in the closing weeks of 2016. Previously, registered partnerships could only be conducted at different district authorities (with the exception of certain large cities), not at the city hall where marriages were traditionally carried out. The legal amendment allows the same authority to conduct marriage and partnership ceremonies. A second amendment streamlined bureaucratic terminology for registered partners and married couples. Before the change, registered partners were assigned the name category 'surname', while the term 'family name' was used for married couples. From

now on, 'family name' will be used in both cases. Both terms are used in everyday interactions but the distinction on official forms may have revealed the status of registered partners in situations where this was inappropriate. The two legal changes were approved by the Council of Minister in November and by the Federal Parliament on 15 December. The amendments will come into effect on 1 April 2017.

Foreign policy

- On 13 July, during the Montevideo Global LGBTI Human Rights Conference, Austria, together with 30 other states, joined the Equal Rights Coalition, a coalition committed to work towards equal rights and the eradication of discrimination and violence against LGBTI people.

Freedom of assembly

- The 20th annual Vienna Rainbow Parade took place on 18 June, attracting an estimated 100,000 participants and spectators. For the first time, the parade was attended by the head of the federal government, Federal Chancellor Christian Kern (Social Democratic Party of Austria, SPO).

Legal gender recognition

- On 29 April, the Regional Criminal Court of Vienna ruled that trans prisoners have the right to access hormone treatment and reassignment surgery while serving their sentence.
- An intersex person living in the city of Steyr requested that the incorrect binary sex marker be removed from their passport and be replaced by 'inter' or 'others'. The person was registered as female at birth and changed legal gender to male. When the city registrar refused, saying that male or female were the only possible gender markers, the individual commenced legal proceedings in June. On 11 October, the request was rejected by the Upper Austrian Regional Court in Linz, as the judges stated that Austria's legal system assumes every individual is either male or female. The case will now be heard before the Supreme Court.

Participation in public, cultural and political life

- An LGBTI-specific reference was included in the legislation making the former concentration camp at Mauthausen a federal institution from 1 January 2017. Under a law passed in July, the memorial will require two advisory boards. One of the members of the International Advisory Board must be a representative of NGO HOSI Wien – as far as LGBTI activists in Austria are aware, this is the first time that an LGBTI organisation is explicitly mentioned in a federal law.

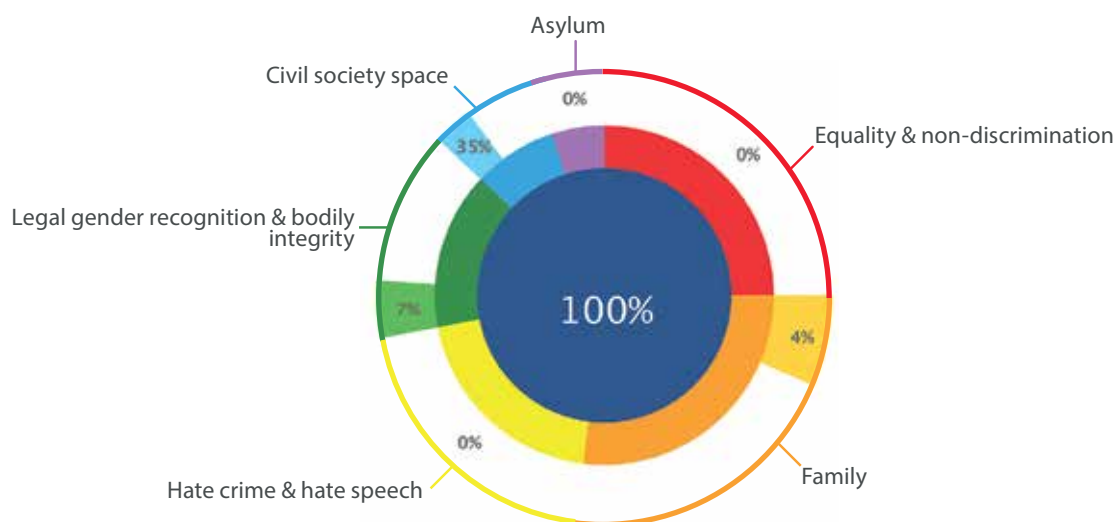
Azerbaijan



The landscape for creating change for LGBTI people did not change drastically in 2016. Azerbaijan's legal and policy framework looks pretty much as it did during our previous Rainbow Europe assessment. An examination of the legal and policy criteria shows that LGBTI people continue to be faced with a near total absence of legal protection. Even the limited number of updates available from activists on the ground, and consequently the short length of the chapter, speaks volumes about the lack of developments in 2016. This minimal protection was emphasised by the Council of Europe, who noted that ongoing discrimination makes LGBTI people feel the need to hide their identities. ECRI, the Council of Europe monitoring body, put together a list of recommendations, including protecting LGBTI people against hate crime and encouraging the independent work of civil society. Local groups also received several worrying reports from LGBT people, who had been targeted by police raids in the capital city or blackmailed because of their sexual orientation, gender identity or gender expression.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.

Legal and policy situation in **Azerbaijan** as of 31 December 2016



In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- ➡ Giving LGBTI people protection under the constitution, by expressly referring to sexual orientation, gender identity and sex characteristics.
- ➡ Introducing hate crime laws that explicitly cover all bias-motivated crimes based on sexual orientation, gender identity and sex characteristics.
- ➡ Introducing hate speech laws that explicitly include sexual orientation, gender identity and sex characteristics as protected grounds.

Bodily integrity

● In September, the Ministry of Health commented on an operation carried out on a 12-year-old intersex child. The operation took place at a private clinic in Baku and the Ministry stated in media reports that they "...received the relevant documents from the Ministry of Health and Forensic Medicine, which allow us to do this operation. This operation is carried out lawfully. Even a little bit too late. This operation should be carried out before the child is aware of their gender."

Equality and non-discrimination

● As part of its five-year monitoring cycle, the European Commission against Racism and Intolerance (ECRI) published a report on Azerbaijan on 7 June. ECRI noted that, since its last reporting cycle, some LGBT civil society groups had been set up and commended police protection of LGBT people during events such as the 2012 Eurovision Song Contest in Baku. The report goes on to note that LGBT people are the targets of hate speech and violence; some attacks perpetrated by the victims' own family members. The lack of any legal text to protect LGBT people from discrimination was pointed out, forcing many LGBT people to hide their identities on a daily basis. Among ECRI's recommendations were using the Law on the Prevention of Domestic Violence to protect LGBT people against hate crime, adopting and implementing an LGBT action plan, and to encourage the development of independent civil society.

Freedom of expression

● Several domain names were blocked by IntraNS (the national company authorised to register web domain names) in 2016. The blocked domains included *lgbt.az*, *lezbi.az* and *gay.az*. According to IntraNS, these sites were blocked after homophobic messages and threats had been sent to the previous owners of the domain names. However, the previous owners of *lgbt.az* stated they had not filed any complaints or received threats regarding their domain ownership; they did say that they had received a phone call from IntraNS asking them to change the domain name. Subsequently, the Ministry of

Communications expressed surprise at the situation in June, as there is no legal regulation that covers this particular situation (entering domain names on a blacklist following complaints of threats).

Freedom from torture, cruel, inhuman or degrading treatment

● On 27 August, several gay men, trans people and sex workers were detained following raids in Baku city centre by police from the Sabail district. One of the victims of the raids later recounted the incident to a local organisation (they also reported the incident to the Ministry of Internal Affairs). According to the victim, he was detained along with about 30 other gay men, trans people and sex workers. They were kept in police custody from 1am until 10am; the Criminal Procedure Code states that such detentions should not exceed three hours. The police told the detainees that tourists from Middle Eastern countries had complained about their behaviour, calling the behaviour of sex workers a 'disgrace'. One tourist also alleged they had been robbed by a sex worker. (The number of tourists arriving from neighbouring Arab countries had increased substantially in 2016, after a simplified visa regime was introduced by the government.) The victim of the police raid who came forward to personally report the incident met with the police authorities to discuss what happened. He was later asked by the Ministry of the Interior to withdraw the complaint on the assurance that he would receive an official apology from the police. No apology had been issued by the end of 2016. Following the 27 August raids, the local organisation received 16 calls from individuals reporting that they had been targeted by police in a similar way in raids in Baku.

● In 2016, the same local organisation also received reports of two cases where LGBT people were blackmailed by police officers who threatened to disclose personal information at the individual's homes or places of work.

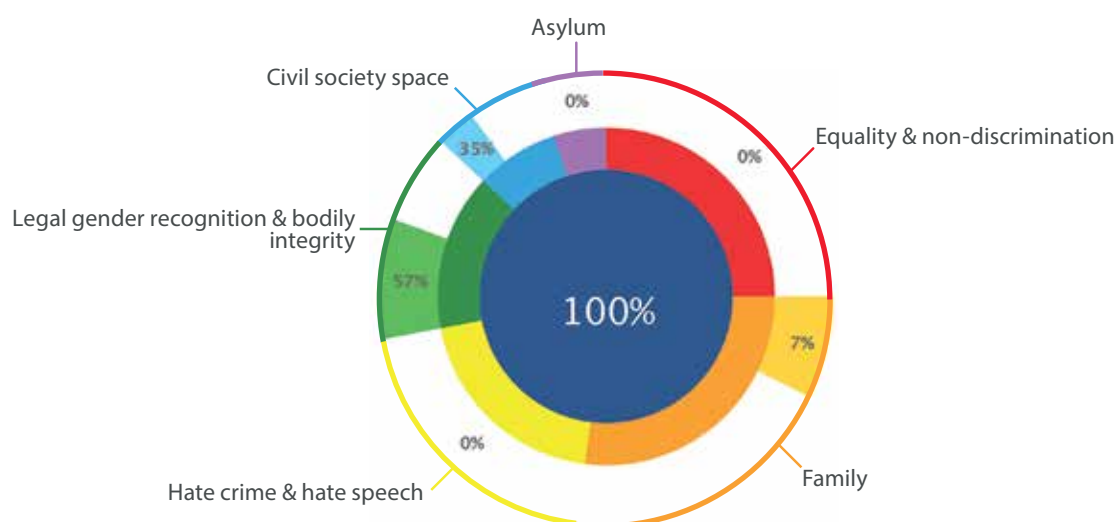
Belarus



A number of legislative changes took place in 2016, although it was not immediately obvious how their provisions would impact on the lives of LGBTI people in Belarus. A potentially positive amendment was made to the Criminal Code, introducing the offence of inciting hatred on the ground of 'social hatred'. At the time of the change in April, activists suggested that this might be interpreted to include LGBTI people. No precedent had been set by the end of the year, which is unfortunate given the lack of protection against hate crime or hate speech for LGBTI people. Incidentally, a media monitoring exercise carried out by Journalists for Tolerance also reemphasised the existence of bias speech against LGBTI people. Another, more concerning, legal change occurred in May. A law professing to protect children from harmful information was enacted; raising clear questions for LGBTI activists over the law's ultimate interpretation and possible knock-on effects for their freedom of expression. The practical effect of both these changes may become more obvious in subsequent Rainbow Europe analysis.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.

Legal and policy situation in **Belarus** as of 31 December 2016



In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:



Including express mention of all SOGISC (sexual orientation, gender identity, sex characteristics) grounds in policies designed to tackle hate crime.



Including express mention of all SOGISC (sexual orientation, gender identity, sex characteristics) grounds in policies designed to tackle hate speech.



Draft and adopt legislation or policies to protect the human rights of trans people, for example to allow trans people to change their gendered ID numbers following legal gender recognition, to avoid disclosure of gender transition in the national 'Passport' database, and to stop the practice of recording a 'mental disorder' on the ID of trans men serving in the military.

Bias-motivated speech

- Journalists for Tolerance released the results of their annual media monitoring of coverage of LGBTI issues in September. The analysis of 315 articles from 36 media outlets took place from July 2015 to June 2016. Hate speech was identified in 156 publications, the most typical example being the use of incorrect or inappropriate language. Five examples of aggressive hate speech appeared in the *Vecherniy Mogilev* newspaper during the review period.
- In a *Radio Svaborda* interview in October, chair of the parliamentary committee on education, science and culture Igor Marzalyuk stated that he was against abortion, in favour of the death penalty and hated “the word ‘gender’”. Marzalyuk said that he supported a traditional values system, and that he is “...categorically against homosexual propaganda. I do not believe that perversion and deviation should be regarded as the norm... Feminists are women whose personal life is not successful. They are either latent lesbians or people who lack self-realisation in life.”

Bias-motivated violence

- In February, the Pervomaisky Court sentenced a 19-year-old man to two years of limited freedom (without a prison term) and fined him after he assaulted a man in a homophobic attack. The incident took place in Minsk in November 2015; the victim and Artem Shlyakhtenok had been talking online and agreed to meet. When they were leaving to get a taxi, Shlyakhtenok began punching the other man while shouting “occupy paedophilia” and filmed the assault with his phone. The attack lasted approximately ten minutes and the victim’s wallet was also stolen. Artem Shlyakhtenok was arrested shortly after the attack and was later charged with robbery and hooliganism under the Criminal Code. Hatred of a particular social group was also taken into account (alongside intoxication) as an aggravating circumstance in the attack – according to local media outlets, this was the first time a national court had taken homophobia into consideration.
- Article 130 of the Criminal Code was amended in April, criminalising incitement to hatred on the grounds of

‘social hatred’. This added to the existing grounds of racial, ethnic and religious hatred. It was unclear to LGBTI activists at the end of 2016 if this provision would be used to protect the rights of LGBTI people.

- A man charged with the murder of Mikhail Pischevsky was sentenced to three years imprisonment on 28 July. In a decision handed down by Minsk Central District Court, Dmitry Lukashevich received the prison sentence and was also ordered to pay damages to the victim’s family. Mikhail Pischevsky, who was openly gay, died in October 2015 after a violent assault in 2014. Lukashevich had already served 11 months in prison and had been released under an amnesty before the prosecutor’s office ordered a retrial. The original trial had not considered a bias motive; the second trial focused on Lukashevich’s motivation.

Equality and non-discrimination

- The UN Committee on the Elimination of Discrimination against Women published its concluding recommendations for Belarus on 18 November. Among the Committee’s specific concerns was the situation for LBT women, including “...significant societal discrimination, stigmatization and violence, including by the police...”. The recently approved law that introduced amendments to protect children from harmful information was also a cause for concern for the Committee (see **Freedom of expression**); it noted this could potentially be used to discriminate against LBT women.

Freedom of assembly

- The second DOTYK festival took place in February. LGBTI activists ran a queer film festival with screenings and discussions featuring contributors from across Europe. It took place at the same time as lawmakers discussed freedom of expression laws (see **Freedom of expression**) but the festival was a success and went ahead without any problems.
- Activists held two small protests in Minsk to mark IDAHOT in May, one at the US Embassy and one near a metro station where they handed out information leaflets. The events passed off peacefully and no activists were detained by police.

Freedom of association

- The Identity and Law initiative group, set up to protect LGBT rights, attempted to officially register on five occasions between August and September. The justice department in Minsk refused all applications, citing as reasons “contradictions to moral and the public interest” and “no indication of a specific field of activity”.

Freedom of expression

- The draft law which proposes banning the sharing of information with children seen as contrary to the traditional family was being prepared for its second reading at the start of the year. LGBTI activists were told on 19 January that the *Bill on Amendments and Additions to Certain Laws of the Republic of Belarus (to protect children from information harmful to their health and development)* did not “...contain provisions for administrative or criminal liability based on sexual orientation and/or gender identity”. The bill’s language did prohibit information that could “discredit” marriage and the family. It passed second reading stage on 4 April, followed by the upper parliamentary chamber vote on 21 April. On 3 May, the text was approved by the Constitutional Court. The bill was signed into law on 17 May and the act is due to come into effect on 1 July 2017.

Legal gender recognition

- A group of trans people, supported by the ‘Identity and Law’ initiative group contacted the Ministry of Internal Affairs in May. They called on the ministry to protect the privacy of trans people by amending databases to prevent disclosure of transitioning. Officials did agree to make changes to the passport database system but this had not taken place by the end of 2016.

Participation in public, cultural and political life

- ‘*Queer History of Belarus of the second half of the twentieth century: an attempt to approach*’, a book by Uladzimir Valodzin was released in Minsk in July. This was the first piece of research to document the country’s LGBT history from the medieval period to the present day.

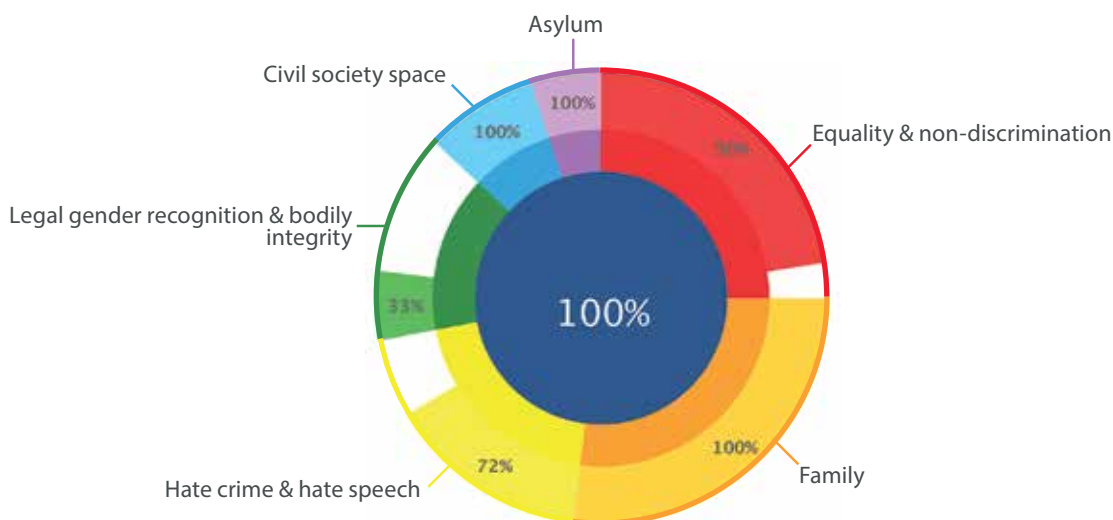
Belgium



Work to close a persisting legislative gap continued at federal level during 2016. The relative lack of progressive laws around legal gender recognition stands in stark contrast to Belgium's existing family and anti-discrimination provisions, for example. Discussions, initiated in 2015, produced a proposal to remove sterilisation and medicalisation from the legal gender recognition procedure. The draft bill did not resolve all the concerns of trans activists and work will continue into 2017. Another issue that will hopefully be resolved in 2017 is the blood donation restriction; the deferral period preferred by the health ministry had not been introduced at the end of the year. Projects were put in place to develop tools to assist those working with older LGBTI people and with young kindergarten children. The LGBTI community, and their allies, mourned the loss and also celebrated the life of well-known activist Deborah Lambillotte, who died in July.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.

Legal and policy situation in **Belgium** as of 31 December 2016



In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- ➡ Giving LGBTI people protection under the constitution, by expressly referring to sexual orientation, gender identity and sex characteristics.
- ➡ Introducing hate crime laws and policies that explicitly cover all bias-motivated crimes based on sexual orientation, gender identity and sex characteristics.
- ➡ Updating the existing legal framework for legal gender recognition, to ensure the process is based on self-determination, and is free from abusive requirements (such as GID/medical diagnosis, sterilisation or surgical/medical intervention).

Asylum

- The district mayor of Antwerp Paul Cordy (N-VA) told media in December that he was aware of applications for marriages between women and men he referred to as “sham gays”. Cordy stated that the city has refused approximately 15 applications in six months; cases in which a man who was granted asylum for being gay tried to marry a woman (often from the same country of origin). LGBTI NGOs based in Antwerp warned that the individual situations were complex and cautioned against making the assumption that these refugees had lied in their application for asylum.

Bias-motivated violence

- Belgium deposited the documents necessary to ratify the Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention) on 14 March.
- In July, Brussels Criminal Court sentenced two men to 14 years in prison and another man to a 15 year jail term for the murder of Alain Fleurus in the city in July 2015. The court found that their violent attack on Fleurus had a homophobic motive. The three men had originally met Alain Fleurus through a music channel chat page; they were found guilty of robbery and deliberate assault, motivated by the sexual orientation of victim.

Diversity

- LGBT NGO Kliq was mandated by the Flemish government to develop an information package for residential care staff. The project aims to ensure that care centres are sensitive to the needs of older LGBTI people, marking the first time the Flemish government has invested in the issue. A conference on the topic is planned for January 2017.

Education

- In June, it was announced that new tools for kindergarten teachers had been developed for use in the forthcoming school term. The tools included a series of books developed in cooperation with a well-known writer of stories for toddlers. Kathleen Amant’s stories featuring

Lou, a little girl with two fathers, were introduced in the province of Flemish Brabant.

Equality and non-discrimination

- On 1 February, the Institute for the Equality of Women and Men launched an anti-discrimination campaign, which aimed to raise awareness of homophobia and transphobia among young people. The campaign was a joint venture with several partner groups and other equality bodies, including the Inter-Federal Centre for Equal Opportunities, the Wallonia-Brussels Federation, the French community’s Delegate-General for Children’s Rights, and Francophones Bruxelles.

- The federal Minister of Social Affairs and Health, Maggie de Block (Open Vld, VLD; centre-right) attended a roundtable on 27 May, after which she announced that the health ministry favoured ending the total blanket ban on blood donations from men who have sex with men. De Block said that she would consult with the blood transfusion services and on 8 November, a policy note was published that recommended replacing the ban with a 12 month abstinence period. This 12 month period will apply to blood and blood component donations. LGBTI NGOs, including Arc-en-ciel Wallonie, expressed dissatisfaction at the period of abstinence, arguing that risk behaviour should be the criteria assessed. The legislation to bring this change into effect had not been introduced by the end of 2016.

- A Brussels first instance court ruled that insurers cannot discriminate against trans people in a decision issued on 27 October. The case had been initiated by Miss X, a trans woman who had tried to take out hospitalisation insurance through her employer in 2013. The policy proposed by the insurance company excluded any claims related to “gender dysphoria”. The court stated that such a provision was discriminatory against trans people.

- A final report under the UN’s Universal Periodic Review process was adopted for Belgium in 2016 (see **United Nations**).

Foreign policy

- On 13 July, during the Montevideo Global LGBTI Human Rights Conference, Belgium, together with 30

other states, joined the Equal Rights Coalition, a coalition committed to work towards equal rights and the eradication of discrimination and violence against LGBTI people.

Freedom of assembly

- The tolerance march in memory of Ihsane Jarfi (which was hosted in Brussels in 2015) was held in Ghent for the first time on 20 May. Jarfi was killed in a homophobic attack in the Tinlot region close to Liège in 2012; the remembrance event was organised by Fondation Ihsane Jarfi (an anti-homophobia initiative established by his father).

Human rights defenders

- Flemish NGO De Maakbare Mens awarded their biennial prize to Petra de Sutter for her work as a professor and her campaigning work for laws on assisted reproduction and to protect trans people from discrimination.
- LGBTI activist Deborah Lambillotte died on 28 July. Deborah had contributed to the growth of the LGBTI movement in Ghent, Belgium and across Europe. She was a former executive director of LGBT NGO Casa Rosa, board member of çavaria and a co-chair of ILGA-Europe.

Legal gender recognition

- State Secretary for Equal Opportunities Elke Sleurs (New Flemish Alliance, N-VA; centre-right) and Minister of Justice Koen Geens (Christian Democratic and Flemish Party, CD&V; centre-right) continued work on a law to reform the legal gender recognition process. LGBTI NGOs met with both ministries throughout the year and a draft law was submitted to the Council of Minister on 9 December. The draft proposed removing sterilisation and medicalisation requirements, as well as introducing name change possibilities for children aged 12 and older. Concerns remained over several provisions, including the fact that applicants would still have to obtain a certificate from a trans organisation that proves that they have been fully informed of the legal consequences, a three month period during which the public prosecutor could advise

against the gender recognition, and the process would only be available to people over 16 who get a psychiatric certificate. The law was still in development at the end of 2016.

Public opinion

- Market research company iVox published the results of a poll in May (carried out for Unia, the Inter-federal Centre for Equal Opportunities) which showed that 63% of those surveyed thought that a same-sex couple being affectionate in public is quite normal. 60% of women surveyed said that they could not be friends with someone who is homophobic, and four out of 10 respondents said they do not feel 100% heterosexual.
- In November, the annual SCV survey (that gathers the attitudes of the Flemish population in Flanders and the Brussels region) was released. The survey (which was conducted in 2015) included questions on perceptions of trans people for the first time. The responses varied quite widely; one in 10 people would end a friendship if their friend began to transition, 60% said it was important to know if someone was a man or a woman when first meeting them, and 49% disagreed with the statement that there is something wrong with people who feel gender neutral.

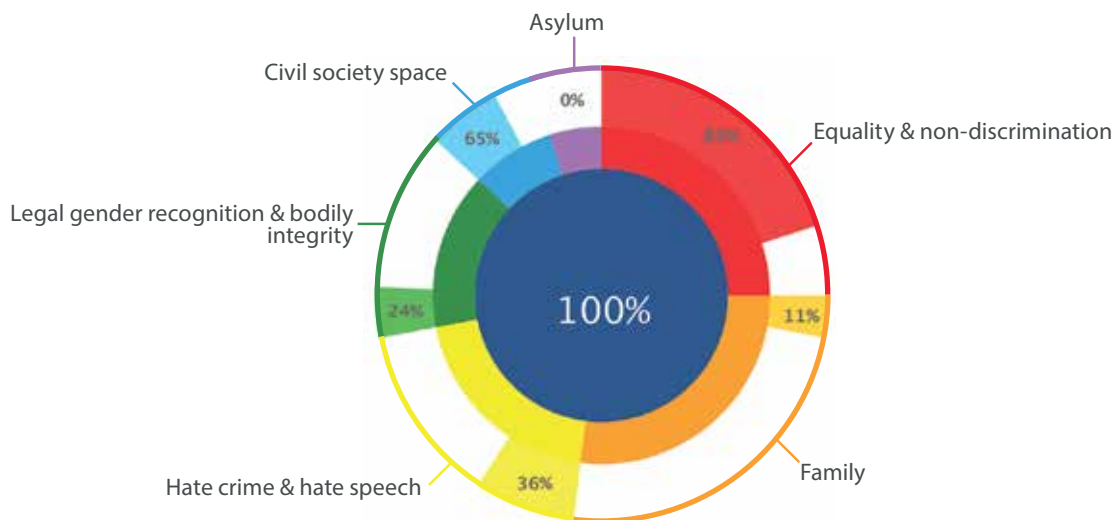
Bosnia and Herzegovina



2016 in Bosnia and Herzegovina was marked by the passage of new legislation and policy; some of which was inclusive, while some was surprisingly lacking in LGBTI-specific references. On a positive note, the anti-discrimination action plan published in April was the first national level policy of its kind to explicitly name LGBT people. The language in the existing federal anti-discrimination law was clarified, and sex characteristics were also added to the list of protected grounds in all spheres of life. However, the ongoing daily difficulties faced by intersex people were emphasised when NGO research revealed a lack of procedures or a common response in medical institutions when dealing with intersex children. Another group within the wider LGBTI community that continue to encounter barriers are LGBTI asylum seekers, who still have no legal protection in Bosnia and Herzegovina. That is despite the fact that an asylum law was passed in 2016, designed to synchronize with EU standards. LGBTI advocates and allies had put forward amendments but these were not taken into account. A senior political figure spoke out in support of LGBTI people, a first that was welcomed by activists, and a practice that was encouraged by the Ombudsman in a special human rights report.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.

Legal and policy situation in **Bosnia and Herzegovina** as of 31 December 2016



In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- ➡ Adopting legal measures to recognise and protect same-sex couples, such as civil unions or registered partnership.
- ➡ Updating the existing legal framework for legal gender recognition, to ensure the process is based on self-determination, and is free from abusive requirements (such as GID/medical diagnosis, or surgical/medical intervention).
- ➡ Introducing laws designed to tackle hate speech that contain express mention of all SOGISC (sexual orientation, gender identity, sex characteristics) grounds.

Access to goods and services

- LGBTI NGO Sarajevo Open Centre (SOC) hired a company in January to distribute leaflets for the upcoming Merlinka Queer Film Festival. SOC had worked with the company on a previous campaign and the new job was accepted. When the promotional material was in the company's possession, the manager contacted SOC to say they had reviewed the leaflets and that the company would not distribute such materials. The leaflets were returned and SOC filed a discrimination case, supported by NGO Vasa Prava. The first hearing is due to take place in April 2017.

Asylum

- The final version of the new Law on Asylum of BiH was adopted by the Parliamentary Assembly and subsequently published in the Official Gazette on 19 February. LGBTI NGOs and several parliamentarians had proposed amendments that would have included protections for LGBTI people, but the final text does not explicitly mention sexual orientation and gender identity as grounds for asylum.

Bias-motivated speech

- The current president of the Student Parliament of the University of Sarajevo, Haris Zahiragić, made anti-LGBTI remarks in March. Zahiragić claimed to have conducted research that found that "homosexuality is a systematic and contagious disease" and also stated that LGBTI people should be separated from the rest of society. He made the comments on social media and via traditional media outlets. NGO SOC reported the remarks to the Assembly of the Student Parliament of the University in Sarajevo, to the Ethics Committee, the Senate, and the Rector of the University, asking that the comments be denounced and that a new student president be appointed. The incident was also reported to the Agency for Gender Equality in BiH and the Institution of the Ombudsman for Human Rights. There was no response from any of the institutions before the end of 2016.

- After the adoption of the amendments to the Anti-Discrimination Law (See **Equality and non-discrimination**),

MP Mario Karamatić (Croatian Peasant Party, HSS; centre-right) commented that the law is giving "more rights to the LGBTI persons than to the normal people in Bosnia and Herzegovina". He made these comments under parliamentary immunity so faced no sanctions.

Bias-motivated violence

- A group of people attacked the LGBTI-friendly club Art Cinema Kriterion in Sarajevo on 4 March. The group entered the club, shouted homophobic insults and physically assaulted one of the staff. Kriterion has regularly hosted the LGBTI Merlinka festival and was the site of a similar attack during the festival in 2014. The attackers were apprehended by police but released as they were all minors. The Minister of Justice of the Sarajevo Canton, Mario Nenadic (Union for a Better Future; centre-right) condemned the attack. LGBTI NGO Sarajevo Open Centre noted that this was the first time that a senior political figure from a relevant ministry had expressed public support for LGBTI people. Investigation in this case was still ongoing.

"Violent behaviour caused by xenophobia or homophobia cannot be considered [only as] violence ... in these cases, we should use a more serious qualification to describe these acts."

Minister of Justice, Sarajevo Canton, Mario Nenadic, speaking after the attack on Art Cinema Kriterion, March 2016

- The Federation of Bosnia and Herzegovina (BiH) amended its Criminal Code to include a regulation on hate crime. Gender, sexual orientation and gender identity were included among the amendments protected grounds. It was adopted in April and published in the Official Gazette on 15 June. The Federation of BiH joined its fellow administrative units (Republika Srpska and Brčko District) in regulating hate crime, ensuring hate crime legislation in all three units across the country.

Bodily integrity

- During 2016, NGO SOC requested information from 27 different relevant medical institutions in BiH on the

procedures and rules in place regarding the treatment of intersex children and individuals. Seven institutions responded; four of which confirmed that children classified as intersex were born in their institution in the past 10 years. There appeared to be a lack of explicit procedures regarding the treatment of intersex children in the seven respondent institutions; all confirmed the children would be sent to larger medical centres for further advice.

Data collection

- The Institution of the Ombudsperson for Human Rights of BiH presented its Special Report on the status of the fundamental rights of LGBT people in December. The report assessed the current situation faced by LGBT people in the country and made several recommendations as to how this could be improved, including requiring public office holders to be more vocal in their support of LGBT people. The Ombudsperson also recommended that political parties include anti-discrimination protections, adequate healthcare for trans people, legal recognition for same-sex couples and ensuring freedom of assembly for LGBTI people in their political programmes.

Employment

- The Labour Law of the Federation of BiH, adopted in April, explicitly prohibits discrimination on the ground of sexual orientation in the field of employment. The Labour Law of Republika Srpska was adopted in January but does not specifically mention sexual orientation or gender identity, while the Brčko District's Labour Law already mentioned sexual orientation as a ground of discrimination. Gender identity is not referred to as a specific ground in any labour law. Protection from discrimination on this ground remains guaranteed solely by the 2009 Anti-Discrimination Law.

Enlargement

- Bosnia and Herzegovina has been a potential candidate to join the European Union since 2003. Bosnia and Herzegovina submitted its formal

application request to join the European Union on 15 February.

- The European Parliament evaluated the situation for LGBTI people in April and recommended that gender identity and sexual orientation be more clearly translated and accurately defined in the national anti-discrimination law, and that a country-wide anti-discrimination strategy be introduced.
- In its annual enlargement package reviewing progress made towards EU accession, published in November, the European Commission observed that progress on human rights and minority protection had been made, with reference to the amendments made to anti-discrimination laws (see **Equality and non-discrimination**). However, the “continuous discrimination” faced by same-sex couples and the marginalisation of trans people were highlighted as areas of concern. The Commission also noted that an attack on LGBTI people had taken place in Sarajevo in March (see **Bias-motivated violence**).

Equality and non-discrimination

- The government of the Federation of BiH passed an operational action plan on 4 March, which included several provisions aimed at protecting the rights of LGBT people. (Republika Srpska's 2016 action plan had already been adopted in December 2015.) Both of these one-year-long operation plans feed into the Gender Action Plan of Bosnia and Herzegovina 2013-2017. The measures included by these plans were mostly implemented in cooperation with NGO SOC.

- At the level of Bosnia and Herzegovina, the Anti-Discrimination Action Plan came into effect on 26 April, after being adopted by the Council of Ministers. This plan is the first national level public policy to contain references to LGBT people. Six measures (out of a total of 32 included in the plan) refer specifically to the needs of LGBT people; including changes to health protection laws to provide access to gender assignment procedures, and training for law enforcement officials and civil servants. At the end of the year, LGBTI NGOs reported that these measures had not been implemented within the envisioned period.

- On 15 July, the House of the Peoples confirmed amendments to the federal Law on the Prohibition of Discrimination. Sexual orientation and gender identity were more accurately defined in local languages by the new amendments. In addition, sex characteristics was also explicitly added to the list of protected grounds. As a result, intersex people are protected by law from discrimination in all spheres of life.

Freedom of assembly

- In November, NGO SOC submitted an appeal to the Constitutional Court of BiH arguing that Bosnia and Herzegovina has failed to protect the freedom of assembly of LGBTI persons, citing the failure to protect the 2014 Merlinka Festival or sanction the perpetrators who attacked the festival. (Similar appeals were submitted after the 2008 attack on the Sarajevo Queer Festival; in that case that Constitutional Court ruled in 2014 that the Sarajevo Canton and the Federation of BiH government failed to protect the participants.) There is yet to be a Pride event organised in Bosnia & Herzegovina largely because members of LGBTI community are afraid of coming out for fear of stigmatisation, discrimination and violence. However, there were public events and peaceful protests organised to mark IDAHOT on 17 May and National Coming Out Day on 25 October.

Police and law enforcement

- During 2016, Sarajevo Open Centre has conducted a 'train the trainer' programme on hate crime for police officers in nine of the Cantons in the Federation of BiH. This means that police officers will be able to train their peers in their respective cantons on proper investigation of bias-motivated crimes throughout 2017 and beyond. These sessions were conducted in cooperation with the Croatian Police Academy and the Organization for Security and Cooperation in Europe OSCE mission to BiH.

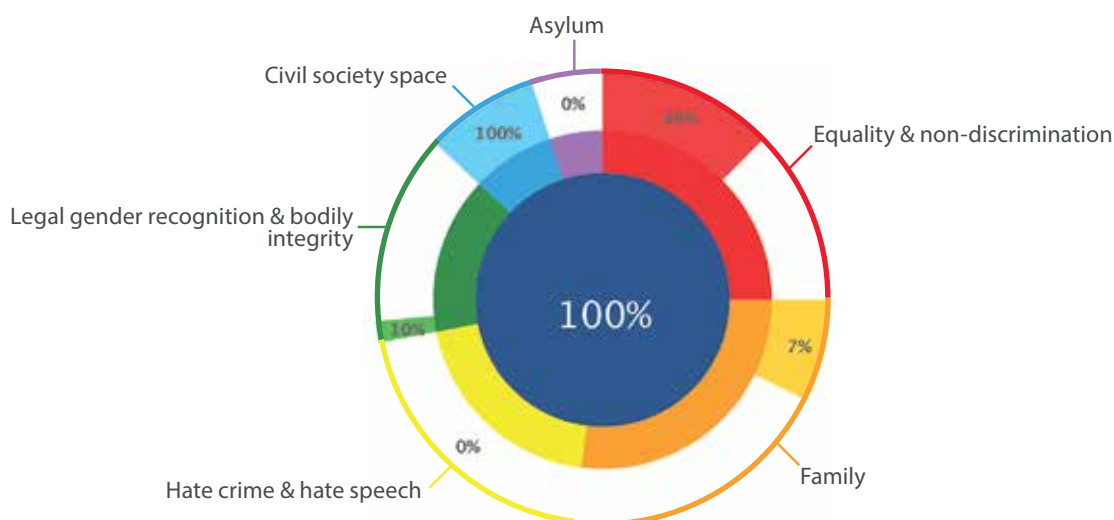
Bulgaria



During 2016, a series of important conversations were initiated in Bulgaria. These discussions did not lead to concrete policy changes during the year, but their subjects were of great relevance to LGBTI people. The Ministry of Justice working group on changes to the penal code included the voices of LGBTI NGOs. Its recommendation to include anti-LGBT bias as aggravating circumstances in criminal cases was particularly welcome when you consider the absence of any protection for LGBTI people against hate crime or hate speech on the Bulgarian statute books. A similar lack of protection for intersex people against human rights violations is also an issue; one of the most invasive of these is so-called ‘normalising’ surgery. The impact of these procedures and the need to stop the practice was discussed by intersex activists and medical students, with plans made for further interaction. The impact of the 2016 discussions between LGBTI activists and the authorities remains to be seen, as the work of the justice working group was put on hold until after elections, planned for 2017. The largest ever Sofia Pride is another milestone that activists hope can be replicated in the coming year.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.

Legal and policy situation in **Bulgaria** as of 31 December 2016



In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:



Developing a fair, transparent legal framework for legal gender recognition, based on a process of self-determination, free from abusive requirements (such as sterilisation, GID/medical diagnosis, or surgical/medical intervention).



Introducing hate crime laws and policies that explicitly cover all bias-motivated crimes based on sexual orientation, gender identity and sex characteristics.

Asylum

- LGBTI NGOs Bilitis Resource Centre and Deystvie LGBT Association assisted a gay man from Iran with an asylum application during 2016. His request for international protection based on sexual orientation was lodged with the National Agency on Refugees in July and he received a positive decision on his application in October.

Bodily integrity

- Intersex activists contacted Sofia's Medical Academy to initiate conversations with the genetics department on the need to stop so-called 'normalisation' surgery on intersex children. This was followed by a discussion between intersex activists and medical students and the planned dissemination of resources for the parents of intersex children (produced by OII Europe) with the Academy's help.

Equality and non-discrimination

- During a *Radio Focus* interview to mark International Women's Day on 8 March, Ombudsman Maya Manolova stated that Bulgaria should move to sign the Istanbul Convention. On 21 April, Minister for Justice Ekaterina Zaharieva (Reformist Bloc; centre-right) signed the CoE's Convention on preventing and combating violence against women and domestic violence.
- Following the government's signature of the Istanbul Convention, LGBTI NGOs Bilitis and Deystvie LGBT Youth Association, together with a lawyer from the Bulgarian Helsinki Committee, took part in a cross-sector working group on harmonisation of the country's penal code. The group was formed by the Ministry of Justice and delivered a series of recommendations on the inclusion of homophobia, biphobia and transphobia as aggravating circumstances in different types of crimes. In November, Prime Minister Boyko Borisov (GERB, 'Citizens for European Development of Bulgaria'; centre-right) resigned and the work of the working group ceased with the end of the government's term. Elections are expected to take place in spring 2017.

Family

- A lesbian couple requested a birth certificate from the Municipality of Pazardzhik for their child, who was born in

Denmark. The municipality refused and the couple (one partner is Bulgarian and the other is Danish) appealed. The Administrative Court ruled to allow the certificate to be issued. Subsequently, the municipality appealed to the Supreme Administrative Court, which is due to hear the case in 2018. In the meantime, the child will be treated as a 'visitor' and not a local citizen, limiting the services and support the mothers can access.

Freedom of assembly

- Sofia Pride attracted over 2000 participants to the city for the Pride march on 18 June. This was the largest attendance since the event was established in 2008. 17 ambassadors signed a statement of support in advance of the march; several MEPs, members of Sofia City Council and the DEOS and Zelenite (The Greens) political parties also pledged their support. Sofia Pride organisers received reports of incidents during and after the Pride march where participants were threatened by right-wing protestors. Witnesses described very little intervention by police, who were nearby at the time of the incidents, to protect Pride participants.

Legal gender recognition

- A trans man, who had applied to court to amend their civil status, commenced proceedings at the European Court of Human Rights. The applicant had undergone surgical treatment and subsequently applied to correct the civil registry. This request was refused by Stara Zagora District Court in 2015. On 26 February, the Regional Court of Stara Zagora upheld this decision and an application was made to the Strasbourg Court in July.
- In 2016, three trans people were granted legal gender recognition by the courts without having to undergo sterilisation.

Participation in public, cultural and political life

- 'Pride', a play featuring events from the first Sofia Pride in 2008, was created and staged in Sofia by Verbatim Theatre at the Red House Center for Culture and Debate. The play was the first of its kind, giving visibility to LGBTI issues through theatre; it was first staged in May and June.

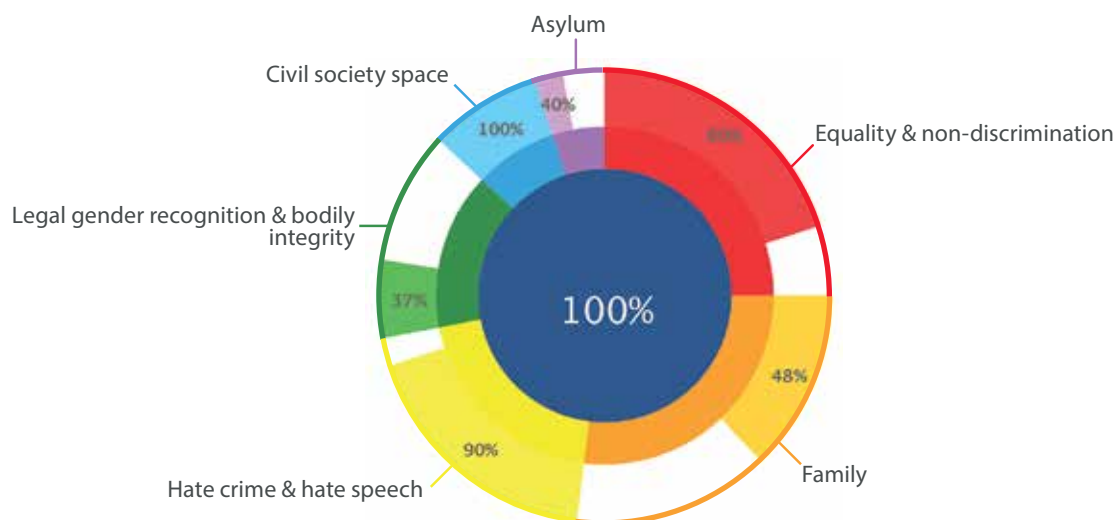
Croatia



Reduced support for LGBTI NGOs and independent media voices was a cause of concern for activists in Croatia. Government funding for the 2017 Zagreb Pride was cut, the first time this has happened. Community media outlets, including LGBTI websites, also lost institutional support. LGBTI activists continued to provide support throughout 2016, including legal guidance for people who had been subjected to violence because of their sexual orientation or gender identity, as well as training for lawyers, victim support staff and the judiciary. Discrimination faced by LGBTI people was raised by NGOs in a letter to the Prime Minister in January; although political progress was slow during the rest of the year, due to the fact that a number of LGBTI-supportive politicians were not returned following the elections. Once again, activists highlighted the inadequacies of the legal gender recognition process. The bodies responsible for its implementation seemed to be ignoring prescribed timelines, leaving trans people in limbo as they wait for a response. In spite of the existence of well-developed equality and hate crime/speech legislation, public attitudes to same-sex couples do not seem to have evolved in a similar manner. With a majority of those surveyed saying that same-sex couples shouldn't demonstrate affection in public, it poses a question over whether enough leadership is being shown by government to embed the laws in practice.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.

Legal and policy situation in **Croatia** as of 31 December 2016



In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- ➡ Actively implementing existing equality action plans, and amending the action plan to explicitly include all SOGISC (sexual orientation, gender identity, sex characteristics) grounds.
- ➡ Replacing the existing legal framework for legal gender recognition with new legislation that ensures the process is based on self-determination, and is free from abusive requirements (such as GID/medical diagnosis, or surgical/medical intervention).
- ➡ Prohibiting medical intervention on intersex minors when the intervention has no medical necessity and can be avoided or postponed until the person can provide informed consent.

Bias-motivated speech

- NGO Lesbian Group Kontra wrote an open letter to then Prime Minister Tihomir Orešković (independent) to alert his office to the situation for gay and lesbian people in Croatia under his government. The letter cited daily experiences of discrimination and hate crime, as well as attacks on civil society groups. Attention was drawn to a recent statement made by the vice-president of the Parliamentary Committee for Family, Youth and Sport, who referred to civil society groups working with minorities as ‘sick’. The letter was released on 30 January and published in the widely-read *Večernji list* and *Jutarnji list* newspapers and by several online news portals. (See also **Freedom of association**.)

Bias-motivated violence

- During 2016, NGO Zagreb Pride provided legal support in 25 cases of violence motivated by the victim’s sexual orientation or gender identity. Five of these received a final judgment by the end of the year.
- On 4 June, during Pride Week, two people attempted set fire to the Zagreb Pride flag on display in Ban Jelačić Square, the city’s main square. Two rainbow flags were also stolen from Trg Kralja Tomislava Square. The incidents were reported by mainstream and independent media outlets and NGO Zagreb Pride filed criminal charges, but the offenders were not found.

Education

- Thousands of people gathered in Ban Jelačić Square on 1 June in support of reforming the school curriculum. Attempts to update the curriculum had been initiated in 2015 by the former centre-left government; however sexual orientation and gender identity were not substantively mentioned. Protestors feared that the entire process would be halted under the government elected in January and joined the event on 1 June, organised by the ‘Croatia can do better’ coalition of NGOs and trade unions. It was one of the largest protests in recent years; no advances had been made on the proposed curricular reform before the vote of no confidence in the government in June.

Family

- On 23 February, the European Court of Human Rights held that there had been a violation of the European Convention on Human Rights in the case of *Pajić v Croatia*. It was the first ruling by the Court on family reunification of same-sex couples. Ms Pajić, a national of Bosnia&Herzegovina, had applied for a Croatian residence permit in 2011. Her attempts to be reunited with her Croatian partner were initially refused by the local police department and subsequent appeals to the interior ministry, Zagreb Administrative Court and the Constitutional Court were all unsuccessful. The unanimous ECtHR Chamber judgment found that the domestic Aliens Act excluded all same-sex couples from the possibility of obtaining family reunification. The Croatian authorities had not justified this exclusion or provided any convincing reason why same-sex couples were treated differently to different-sex couples. As a result, the ECtHR found that Croatia had violated Article 14 (non-discrimination) in conjunction with Article 8 (private and family life). The Court also reiterated the point that a cohabiting same-sex couple in a stable partnership falls within the notion of ‘family life’.

Freedom of assembly

- ‘Pride for all of us’, a video produced by NGO Zagreb Pride, was shared on social media to mark Coming Out Day on 11 October. It also had five public screenings in different towns. This was the first video made by Zagreb Pride and the first lengthy documentary to focus on the history of the Pride March in Zagreb.
- On 23 December, NGO Zagreb Pride announced that Ministry of Culture was not going to provide financial support for the capital’s Pride March in 2017. Traditionally, the ministry’s funding makes up approximately one third of the event’s budget; the reminder was supplied by individual donations and the City of Zagreb. This was the first time that Zagreb Pride’s request for funds had been turned down. The NGO stated that none of the LGBTI programmes who had applied received funding and released a statement saying that this “...reveals the attempt by the (former)

culture minister to remove us, LGBTIQ persons, from public life and make us invisible...".

Freedom of association

- The open letter published by NGO Lesbian Group Kontra in January also highlighted the decision by newly appointed culture minister Zlatko Hasanbegović (Croatian Democratic Union, HDZ; conservative) to cut NGO funding, including one (unnamed) queer organisation.

Freedom of expression

- In February, the right-wing coalition government (formed in mid-January) cut institutional support for non-profit community media, including LGBTI and feminist online media sources, such as Crol.hr, Voxfeminae and Libela. The outlets are still operational but their work was greatly affected. The government also proposed cuts and restructuring institutional support for civil society, including for organisations that offer social services, and those working in the field of art and culture. By 26 May, it was reported that over 435 NGO representatives had appealed to the government, asking for their lottery funding to be reinstated.

Legal gender recognition

- 22 people had their gender legally recognised by the National Health Council in 2016. There were 10 applications still pending at the end of the year, some of whom had been waiting over six months for a response, according to NGO Zagreb Pride.

Police and law enforcement

- NGO Zagreb Pride conducted trainings on a range of issues, including LGBTIQ terminology, human rights, hate crime and support for victims. 142 police officers, 29 state attorneys, criminal and magistrate judges, and 15 victim/witness support staff were trained throughout the year.

Public opinion

- NGO Zagreb Pride commissioned an Ipsos public opinion survey about Zagreb Pride as an event and LGBTIQ persons generally. 969 people were interviewed

between 1 – 20 March. 43.8% of those surveyed said they do not support Zagreb Pride at all. 30.7% completely agreed with the statement "LGBTIQ persons should not be allowed to appear in public because they have a bad influence on young people"; 20.8% mostly agreed. The survey results also showed that 51% did not approve of same-sex partnerships and 69% thought that same-sex couples should not publicly display affection.

Sexual and reproductive rights

- On 21 May, a 'Walk for Life' march took place in Zagreb city centre. The pro-life event's stated aim was to highlight the "dignity and value of every human life from conception to natural death". Pro-choice counter-protestors also gathered in the capital at the same time to advocate for reproductive rights. One of the groups to take part in the 'Walk for Life' was 'In the Name of the Family', the same organisation that initiated the 2013 referendum to restrict the constitutional definition of marriage as a union between a man and a woman. In late 2015, the Constitutional Court had announced they would review the existing law on medical measures, which legislates for abortions up to the 10th week of pregnancy.

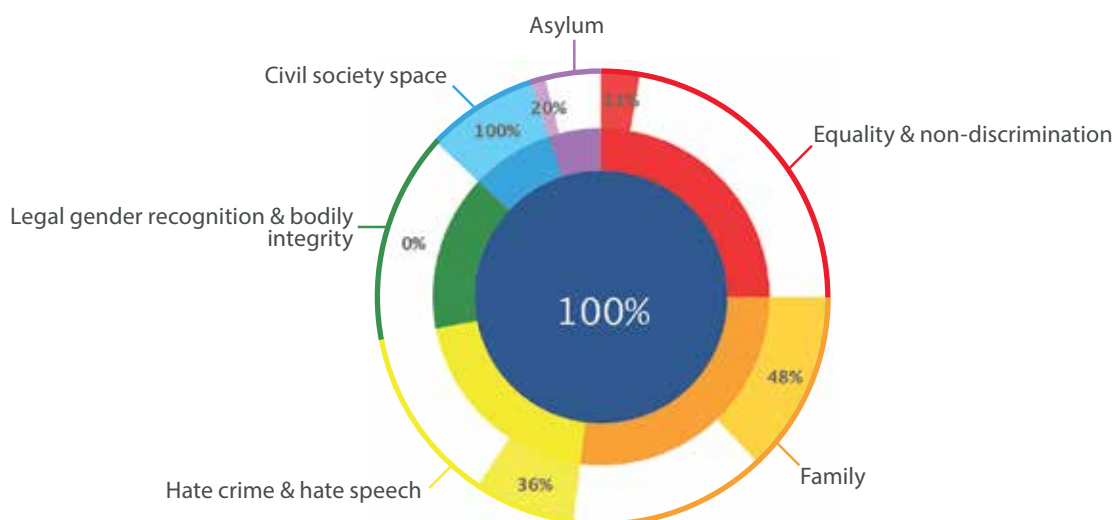
Cyprus



The high-profile legal developments in late 2015 – on civil unions and criminalisation of hate speech – continued to feature in discussions during the year. The first civil unions on the island were registered; eight same-sex couples opted to do so within the first four months of the year. This development was praised by ECRI in their monitoring report, as was the 2015 introduction of criminal penalties for homophobic and transphobic rhetoric. However, another of ECRI comments echoed the concerns of LGBTI activists, as it recommended that these standards are further built upon. At the moment, the LGBTI-bias penalties are not aligned with the penalties for racially motivated hate speech, and there were calls for this to be harmonised. Another area prioritised in political discussions was the continuing lack of legal gender recognition – a fact further emphasised by an examination of the country’s Rainbow Europe section on gender recognition and bodily integrity. The Ombudsperson of the Republic of Cyprus and the Ombudsperson in the northern part of the island not under the effective control of the government initiated key conversations, on the rights of intersex people and on the situation faced by LGBTI people on IDAHOT. Activists in northern Cyprus worked on visibility initiatives during 2016, with billboard campaigns, speeches from prominent figures, and the flying of rainbow flags all contributing to increased prominence for LGBTI issues. All these areas also formed part of the first cross-party, public discussion by political figures on LGBTI issues – which took place at ILGA-Europe’s Annual Conference in Nicosia in October.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.

Legal and policy situation in **Cyprus** as of 31 December 2016



In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:



Developing a fair, transparent legal framework for legal gender recognition, based on a process of self-determination, free from abusive requirements (such as sterilisation, GID/ medical diagnosis, or surgical/medical intervention).



Actively implementing existing legislation to ensure that people are protected against hate speech on the grounds of sexual orientation and gender identity, and extend the law to cover sex characteristics.

Northern Cyprus*



Amending the criminal code to ensure that people are protected against hate crime/speech on the grounds of SOGISC (sexual orientation, gender identity, sex characteristics).



Amending labour law to expressly protect LGBTI people against discrimination on the grounds of SOGISC (sexual orientation, gender identity, sex characteristics) in employment.

*(Areas not under the effective control of the Republic of Cyprus)

Asylum

- According to the Ombudsperson's Office – National Antidiscrimination Body, in 2016 the Republic of Cyprus granted asylum to an intersex person for the first time. The person was allowed to have access to hormone therapy.

Bias-motivated speech

- During a live TV programme on 31 October, Archbishop Chrysostomos announced that the Orthodox Church of Cyprus intended to create schools to offer what he referred to as 'exemplary education'. The archbishop stated that these schools would teach that homosexuality was an 'unnatural choice'. LGBTI NGO Accept-LGBT Cyprus called on the Attorney General's office to initiate an inquiry, but no action was taken. The Ombudsperson issued a public statement on the matter (in her capacity as the anti-discrimination body), noting that the archbishop's comments "...fall outside the protective scope of freedom of expression and should be investigated, both because of the content itself, but also because of their potential impact". NGO Accept-LGBT Cyprus reported the case to the Cyprus Radio Television Authority, who then opened a formal examination of the complaint.

Bias-motivated violence

- A young man was violently assaulted by six people in Nicosia on 6 February. NGO Accept-LGBT Cyprus called the attack a 'gross homophobic incident'; the man required hospitalisation. The incident was reported to the police, but the authorities subsequently informed the anti-discrimination bodies that the crime was "unsolvable". According to Accept-LGBT Cyprus, the perpetrators had been identified but not arrested.

Bodily integrity

- On 5 September, the Parliamentary Committee on Human Rights met to discuss a report on the rights of intersex people issued by the Ombudsperson Eliza Savvidou. The Committee discussed the need to address the current invisibility of intersex people, human rights

violations, options for better treatment practices, and providing the parents of intersex children with accurate information.

- Ombudsperson Eliza Savvidou discussed the situation of intersex people in Cyprus at a meeting with LGBT NGO Accept-LGBT Cyprus, the Ministry of Health, the Ministry of Interior, the Cyprus Bioethics Committee, and the Cyprus Medical Association representatives on 3 October. Before the meeting, the Ombudsperson had called for more public dialogue and awareness on the needs of intersex people. She had commented on medical interventions on intersex children, saying they "...constitute a practice that is largely uncharted, characterised by ignorance and prejudice, and which is not compatible with fundamental human rights such as the right to self-determination and physical integrity." A follow-up meeting was proposed but had not taken place by the end of the year.

Equality and non-discrimination

- As part of its five-year monitoring cycle, the European Commission against Racism and Intolerance (ECRI) published a report on Cyprus on 7 June. Recent developments, such as the Civil Union Act and the criminalisation of incitement to hatred or violence on the basis of sexual orientation or gender identity, were praised. ECRI also noted that proposals to amend media laws to better respect LGBT people had also been put forward by the Cyprus Radio Television Authority but had not been adopted before the monitoring report was published. ECRI listed several recommendations relevant to LGBT equality, including a call to increase the Criminal Code's penalty for homophobic and transphobic hate speech to align it with existing penalties for racist hate speech. The report also recommended increasing human rights training for police officers, greater research on LGBT people's experience of discrimination, including gender identity as a prohibited discrimination ground in equal treatment legislation, and allowing for change of gender markers in documents without the need for surgery.

- The leaders from three political parties – the governing Democratic Rally (DISY; centre-right), largest opposition party Progressive Party of Working People (AKEL; left-wing) and the centrist Democratic Party (DIKO; centre) – discussed equality for LGBTI people in Cyprus and future political priorities during the 20th ILGA-Europe Annual Conference in October. This was the first time that representatives of the main political parties had jointly discussed LGBTI issues in public.
- Addressing homophobic and transphobic hate crime was listed in November as one of the priorities that Cyprus would pursue during its time as chair of the Committee of Minister of the Council Of Europe, running until May 2017.

Family

- Following the passage of the Civil Union Act in late 2015, the first civil union between two men was registered at a ceremony in Nicosia on 11 February. Eight of the sixteen couples to enter civil unions between December 2015 and April 2016 were same-sex couples. This figure was announced in April to coincide with a workshop on social protection of LGBTI people, organised by the Interior Ministry and the Office of the Commissioner for Administration and Human Rights - Ombudsperson. The first civil union between two women was registered on 12 May.

Freedom of assembly

- The Aglandjia municipality in Nicosia flew a rainbow flag during IDAHOT on 17 May, coinciding with the first day of the Cyprus Pride Festival. It was the first local government authority, in the areas under the effective control of the government of the Republic of Cyprus, to display a rainbow flag (see also **northern Cyprus**).
- The Foreign Ministry of Cyprus issued a directive to the embassies of Cyprus abroad to attend Prides when requested by the local activists. The Ministry was also represented in Cyprus Pride for the first time, at the level of Head of Department responsible for Human Rights.

Freedom of association

- The local Limassol branch of NGO Accept-LGBT Cyprus was inaugurated on 20 March. This is the first time that the

second largest city in Cyprus has its own dedicated LGBTI group.

Human rights defenders

- NGO Accept-LGBT Cyprus' parents group made its first public appearance on 16 February. The parents of LGBTI people took part in a live TV show, and had the chance to answer viewers' questions directly. The parents group held its first public event on 22 March (entitled "My Child is Gay") and later repeated this in Limassol in May during the Cyprus Pride Festival.

Legal gender recognition

- A peer-to-peer exchange session on legal gender recognition was held in Nicosia on 19 October. The event was organised by the Council of Europe and the Cyprus Ombudsperson, in partnership with NGOs Accept -LGBT Cyprus, ILGA-Europe and TGEU. It focused on enhancing the capacity of the Cypriot authorities to implement Council of Europe standards regarding the legal gender recognition of trans people, opening up the discussion with a number of Cypriot stakeholders.
- The first discussion on legal gender recognition at the Parliamentary Committee for Human Rights took place on 15 November. Several stakeholders were involved, including the Ministry of Interior, the Ministry of Health, the Ombudsperson and NGO Accept-LGBT Cyprus. Head of the committee, Stella Kyriakides (DYSI, centre-right) referred to the need for self-determination, without the need for any medical or psychiatric evaluation. The Committee promised follow up on this issue early in 2017 with a discussion in the Parliament.

Northern Cyprus

Equality and non-discrimination

- To mark the second anniversary of the decriminalisation of homosexuality, rainbow flags were flown across the northern part of the island in January. NGO Queer Cyprus Association had initiated the initiative,

supported by Gender Equality Platform. NGOs, individuals and over 40 institutions displayed rainbow flags including two municipalities, trade unions, and political parties (one of them being a member of the part of a coalition government). The Nicosia Turkish Municipality was the first local authority to fly a rainbow flag.

Freedom of assembly

- The northern Cypriot ombudsperson Emine Dizdarlı drew attention to the importance of combatting discrimination, violence and hate speech against LGBTI people, in a speech to mark IDAHOT. She also said that she hoped the IDAHOT march on 17 May would be a step towards achieving that aim.

Freedom of expression

- LGBTI NGO Queer Cyprus Association launched an awareness-raising campaign in northern Cyprus in November. The billboard campaign was part of a larger two-year project, supported by Cyprus Community Media Centre, entitled 'Unspoken: Creating Dialogue on LGBTI Rights in the Turkish Cypriot Community'. Posters in Dikmen and Mağusa were defaced within 48 hours of being unveiled. In the town of İskele, the billboards were removed by the city council without any explanation for their removal. The acts were condemned by various NGOs, political parties, as well as by individuals via social media.

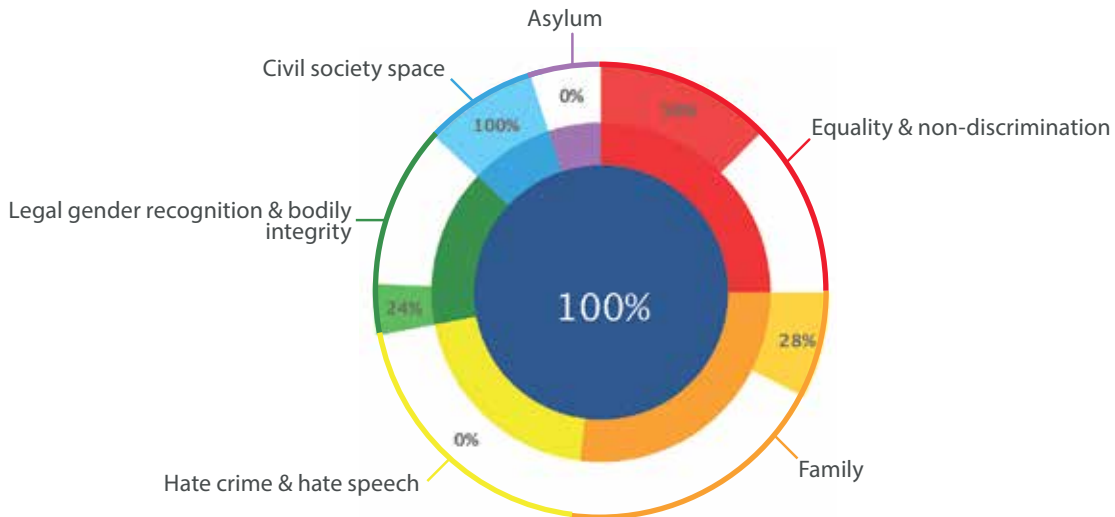
Czech Republic



Proposals to fill several of the outstanding legislative gaps in family law and hate crime were put forward in 2016, although they were still pending at the end of the year. One topic not currently provided for by law is access to second-parent adoption procedures for same-sex couples. A bill on the topic continued to make its way through the legislative process, provoking some politicians to make derogatory statements about same-sex couples. The Constitutional Court did rule that same-sex couples who have entered a registered partnership cannot be barred from adopting individually. Also, the justice ministry initiated a proposal to add sexual orientation and gender identity to the bias-motivation grounds in the Penal Code. LGBTI activists reported that nationalistic, populist sentiment crept into some political rhetoric in the Czech Republic, notably in the run-up to elections. Encouragingly, recent opinion polls suggest that the general public still feel supportive towards LGBTI equality – with a majority in favour of equal marriage, and strong majorities expressing support for civil unions and the prospect of same-sex couples adopting.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.

Legal and policy situation in **Czech Republic** as of 31 December 2016



In order to improve the legal and policy situation of LGBTI people,
ILGA-Europe recommend:



Ensuring marriage equality for all.



Drafting and adopting legislation to allow same-sex couples to have access to second parent adoption.

Bias-motivated speech

- During July's parliamentary debate on the proposed second-parent adoption law (see **Family**), MP Pavlina Nytrova (Czech Social Democratic Party, CSSD; centre-left) commented that if the bill was introduced "homosexuals will try to have sex with children". On Twitter, Minister of Labour and Social Affairs Michaela Marksova disassociated the Social Democrats from her party colleague's comments, saying Nytrova should move to another political group. The CSSD leader and prime minister, Bohuslav Sobotka, distanced himself from Nytrova's statements but did not call on her to leave the party.

Bias-motivated violence

- In April, the Ministry of Justice put forward a proposal for a bill to amend the the Penal Code by adding explicit references to sexual orientation and gender identity to the grounds for bias-motivated violence. This proposal had not been approved by the government by the end of the year.

Equality and non-discrimination

- Following the regional and Senate elections in October, MP Jan Chvojka (CSSD) became Minister for Human Rights. When he was appointed, Mr Chvojka stated that he intended to have a different approach than his predecessor, saying that he will focus on human rights that the majority of the population can profit from, as human rights are not just for minorities but for everyone. Since Mr Chvojka took office, the Ministry of Human Rights have not made any steps to actively protect the rights of LGBT people.

Family

- On 28 June, the Constitutional Court ruled that the legal provision barring same-sex couples from adopting after they entered into a registered partnership was unconstitutional. The Court abolished section 13(2) of the Registered Partnership Act which stated that people in a same-sex registered partnership could not adopt as individuals, even those this was a possibility if they were single. Registered partners still cannot jointly adopt a child.

- A bill, originally submitted to parliament in September 2013 by a group of MPs, allowing same-sex couples to access second-parent adoption was included on the House of Representatives' agenda in July. The debate session ended without a first round vote, as the House adjourned for summer recess. While the 2013 initiative was still ongoing, another second parent adoption bill was prepared by the Ministry of Human Rights and the Ministry of Justice. This second bill was approved by the government in October by 12 votes to two. The bill was submitted to the parliament but it had not been included in the legislative agenda for debate by the end of the year.

- During 2016, the Supreme Administrative Court dismissed a petition from a same-sex couple, asking for the second father of a child to be recognised as a parent. The gay couple at the centre of the case (one of whom is a Czech citizen) had adopted a child in the USA, and the Czech father's parentage had previously been recognised by the Czech courts. The case was submitted to the Constitutional Court and was still pending at the end of 2016.

Foreign policy

- On 13 July, during the Montevideo Global LGBTI Human Rights Conference, the Czech Republic, together with 30 other states, joined the Equal Rights Coalition, a coalition committed to work towards equal rights and the eradication of discrimination and violence against LGBTI people.

Freedom of assembly

- In August, Prague's Pride March attracted over 40,000 participants according to police estimates, a record number in the festival's six-year history.

Health

- In late January, Prague's Public Health Authority announced it was going to initiate criminal investigations against 30 gay men. These men were living with HIV and had been diagnosed with a sexually transmitted infection (STI) in the past 12 months. NGOs believed that the police

were beginning an investigation to see if the men had violated provisions Sections 152 and 153 of the Criminal Code (used to prosecute the “spread of infectious diseases”). European NGO networks sent an open letter to the Public Health Authority on 14 February, stating that their behaviour was intimidating and that evidence-based practice in HIV prevention, testing and care needed to be used instead.

Public opinion

- Between 3 – 20 June, the Centre for Public Opinion Research carried out a series of interviews with 1005 members of the public on their attitudes towards gay men and lesbian women. The results were published on 25 July and 48% of those surveyed stated that coming out would cause problems for someone in their local town/village; 43% disagreed. 37% of respondents said they had friends who identified as gay or lesbian, 9% said they didn’t know if they had. 74% agreed with same-sex civil partnership and 51% thought that same-sex couples should be allowed to marry. When asked about adoption, 62% said that same-sex couples should have access to adoption.

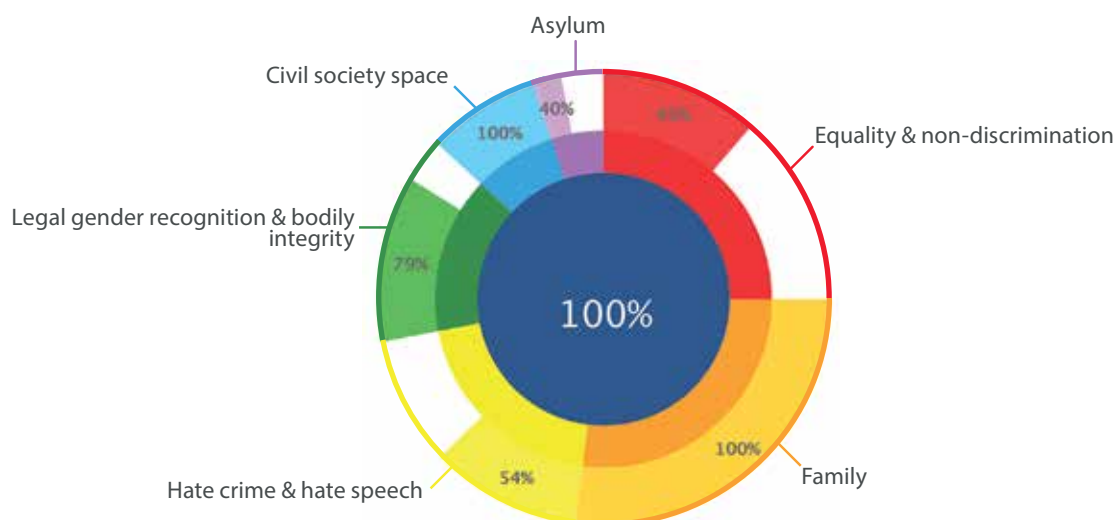
Denmark



Denmark's decision to depathologise trans identities attracted widespread attention in 2016. Although the changes did not take effect immediately, the decision to move on the issue (ahead of the WHO's finalisation of the next edition of its classification system) was extensively praised. The parliament vote in favour of depathologisation was the first time that all parties had given their full cross-party support to an LGBTI issue. NGOs also continued to support trans people who encountered other examples of discrimination, by questioning the relevant government ministries when trans students were refused reissued documents following their legal gender recognition. Marriage equality and joint adoption were extended to couples in Greenland, and equal marriage legislation reached the final procedural stages before coming into effect in the Faroe Islands. The annual intergovernmental Forum to mark 17 May was held in Copenhagen, under the theme 'Building Bridges and Alliances'. The Forum was opened by Crown Princess Mary who urged attendees to stay united in the fight against discrimination.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.

Legal and policy situation in **Denmark** as of 31 December 2016



In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:



Transforming the healthcare model for trans people by the Danish health authorities.



Updating the existing legal framework for legal gender recognition, to ensure that people under the age of 18 can access the process.



Recognising more forms of rainbow families, in particular families with more parents and more kinds of parenting roles (such as legal parents with parental rights and social parents who are recognised as part of the family).

Education

- During the year, NGO LGBT Denmark was contacted by several trans students who had their request for reissued documents (after their legal change of gender) refused by their educational institutions. The NGO complained to the Minister of Children, Education and Gender Equality as well as Minister of Higher Education and Science. In October, the Minister of Education Ellen Nørby (Venstre – The Liberal Party of Denmark, V) wrote to LGBT Denmark to say that both ministries would require institutions to issue new documents, and that they would address administrative policies in this area.

Equality and non-discrimination

- Following a government reshuffle in November, the so-called Lars Løkke Rasmussen III cabinet published its programme for government. Entitled 'For a freer, richer and more secure Denmark', the plan contains a section on LGBT protection within the equality chapter.
- On 18 August, a number of political parties (Dansk Folkeparti (DF), Socialdemokraterne (S) and Alternativet stated they would be in favour of a proposal from the Radikale Party to remove the ban on blood donations from men who have had sex with men (MSM). The statement was made during Pride week but no vote or amendment was put forward before the end of the year.
- The 4th annual European IDAHO Forum, an intergovernmental conference to mark International Day against Homophobia, Transphobia and Biphobia, was held in Copenhagen on 10 May. Ministers from 11 different countries signed a Declaration of Intent that promised to build on previous declarations at the earlier Fora. The LGBTI community held a side-conference that ran alongside the intergovernmental event. That statement issued after the 'Still Much to be Done' conference included a call to governments to fund regional LGBTI initiatives.
- A final report under the UN's Universal Periodic Review process was adopted for Denmark in 2016 (see **United Nations**).

Family

- On 1 April, changes to the Marriage Act came into effect in Greenland, meaning that same-sex couples can get married. The amendments had been due to come into force in 2015 but were delayed by Danish parliamentary elections (both parliaments had to ratify the law). As a consequence, same-sex couples in Greenland could also access joint adoption from 1 July.
- The Faroe Islands continued to make progress on an equal marriage bill throughout the year. In March, the bill was sent back to the Health and Social Committee for further discussion. It successfully passed the second and third reading stages on 27 and 29 April respectively. These amendments did not automatically come into force; another amendment had to be enforced first. Discussions ensued between the Danish and Faroese governments over which government held the competence to execute the required amendment. Both governments determined it was within the Faroese capacity, but the changes had not been made before the end of 2016.

Health

- As of 1 January, a health service was established to provide hormone blockers to pause puberty for children from the age of 12. Previously there was no such service for trans children; the service is available following cooperation between clinics in some public hospitals. The service is based on a model from the Netherlands. At the end of the year, some LGBTI NGOs expressed concerns that the capacity of the clinics was not high enough to meet demand.
- The parliamentary health committee issued a statement in favour of a government resolution to depathologise trans identities on 1 June. All parties in the parliament supported the statement in favour of depathologisation; this was the first time that full cross-party support had been given to an LGBTI issue. During the hearing process, the government stated that the changes would come into effect no later than 1 January 2017, as they were waiting to see what the World Health Organisation's working group meeting would yield. In October, when the WHO did not propose a

change to its diagnostic system, the Danish government proceeded with its own plans. The government stated it would declassify trans identities, moving their reference to a section of their national medical guidelines that do not deal with mental illness or sexuality. Denmark will be the first country in the world to declassify trans identities in this way. This change in codes will come into effect on 1 January 2017 (but will not change access to treatment; an assessment will still be required to avail of treatment through the health system).

Legal gender recognition

- Amnesty International Denmark's report 'Sick System' assessed the current legal gender recognition procedure, following up on analysis carried out in 2014. Following consultation with a wide range of trans and LGBT organisations, the report highlighted the ongoing difficulties that trans people still have when accessing health services. The report was published in March, as part of a campaign expressing severe criticism of Sexologisk Klinik, the clinic in charge of assessments.
- NGO LGBT Denmark also issued a report in October, identifying the changes needed (and the authorities with competencies to do so) in order to ensure proper access to health services for trans people. This was the first time that such an analysis was carried out and revealed a very complicated mix of soft regulations and hard laws.

Sexual and reproductive rights

- Following a question from the European Commission in 2015, the government started working on the Bill amending the Medicines Act and the Danish Tissue Act. The bill is described as an amendment to "enhance patient safety by ensuring good traceability". Consultation on the proposed amendment took place during the second half of 2016. NGO LGBT Denmark have argued that the bill will prohibit sales from Danish sperm banks to individuals. This will remove access to controlled sperm for single women and lesbian couples in many countries in Europe and ultimately create additional risks.

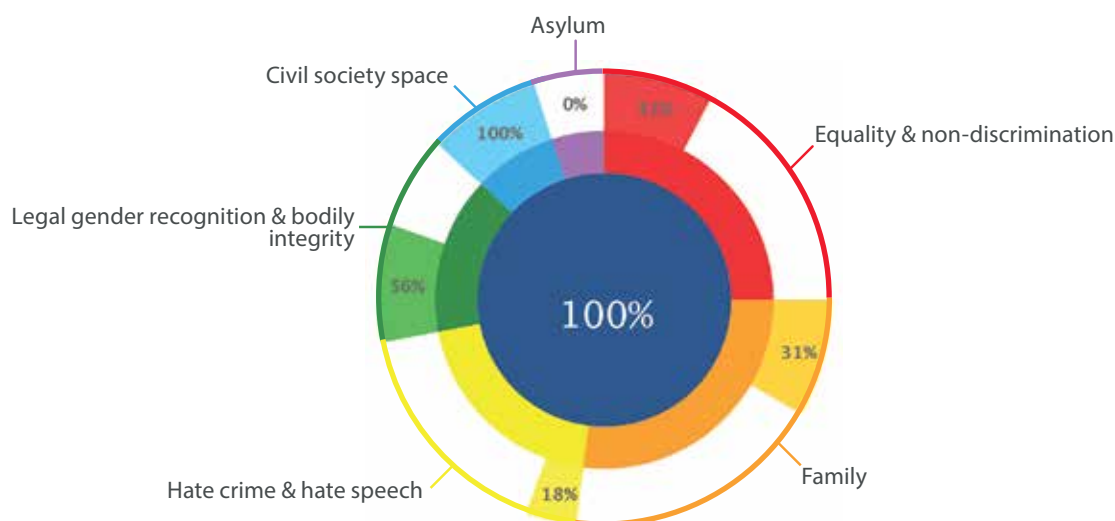
Estonia



The issue of registered partnerships had been a recurring theme over the past few years in Estonia – and 2016 was no different. Couples held ceremonies and began to register their unions, despite the fact that the implementing legislation still had not been fully agreed and passed by the end of the year. This raised concerns at the Interior Ministry over how the unions were to be noted in the national registry. Opposition to the very notion of registered partnerships also surfaced. Some political parties pursued unsuccessful motions to repeal the legislation entirely, claiming that the law had ‘split’ Estonian society. It is unclear whether repeal attempts and the language used by political opponents was a factor in the increased public opposition to registered partnership since 2015, as recorded by one opinion poll. Another area of family recognition that received attention in 2016 was the issue of residence permits for same-sex partners of Estonian residents. A draft law was being developed by the Constitutional Committee but in the absence of immediate legal change, a couple forced apart due to a lack of residence permit began strategic litigation. In the first case of its kind, a court also ruled that both partners in a cohabiting same-sex couple (with two children) could adopt their partner’s biological child.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.

Legal and policy situation in **Estonia** as of 31 December 2016



In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- ➡ Adopting legal measures to allow same-sex couples to legally cohabit.
- ➡ Including express mentions of all SOGISC (sexual orientation, gender identity, sex characteristics) grounds in laws designed to tackle hate speech.
- ➡ Developing a fair, transparent legal framework for legal gender recognition, based on a process of self-determination, free from abusive requirements (such as sterilisation, GID/medical diagnosis, or surgical/medical intervention).

Employment

- An additional ten organisations joined the Estonia Diversity Chapter in 2016, bringing the overall number of companies in the workplace anti-discrimination initiative to 70.

Equality and non-discrimination

- A final report under the UN's Universal Periodic Review process was adopted for Estonia in 2016 (see **United Nations**).

Family

- The opposition Centre Party (K; centrist) continued to seek support in January for its motion to repeal the 2014 Registered Partnership Act, officially submitted in November 2015 by 12 opposition MPs. Estonian Pro Patria and Res Publica Union party (IRL; centre-right) indicated they would also support the repeal bill. On 9 February, the parliament's legal affairs committee voted to reject the opposition's repeal motion by five votes to four. The motion proceeded to first reading stage in the Riigikogu on 16 February. Prior to the vote, MP Jaanus Karilaid (Centre) said that the Registered Partnership Act had split society too much and needed to be repealed; however, MPs voted to drop the repeal proposal. EKRE announced they intended to put forward another repeal motion.

- Also in January, the Estonian Pro Patria and Res Publica Union party (IRL; centre-right) stated they planned to propose a constitutional amendment to define marriage as a union only between men and women. Constitutional amendments require the backing of 21 MPs before they can be discussed; the IRL party took no further action before the end of 2016.

- The Registered Partnership Act 2014 formally entered into force on 1 January. Supporting legislation, to ensure full implementation of the law, was still being discussed in 2016. Despite the absence of this implementing legislation, same-sex couples can still enter registered partnerships, conducted by notaries, which are legally binding. By May, NGO Estonian LGBT Association estimated that approximately 10 second-parent adoption decisions had been handed down by the courts. The Estonian Chamber of Notaries confirmed that 43 couples

registered civil partnerships in 2016 but were unable to say how many were registered by same-sex couples. On 26 January, the second reading was due to take place, but members of the legal affairs committee could not secure agreement on how to proceed and negotiations remained on hold. In November, the Interior Ministry expressed concern that, without the implementation acts, registered partnerships or court decisions on second-parent adoption based on these partnerships could not be recorded in the national population register. The final vote had not taken place by the end of 2016.

- In a decision handed down on 29 March, a court in Harju County held that both partners in a registered partnership (with two children) could adopt their partner's biological child. Under the Family Act, if a child has only one legal parent, then second-parent adoption is an option for married couples; this was extended to registered same-sex couples under the Registered Partnership Act. In this particular case, both partners were each the biological mother of one child following sperm donation. This was the first case of its kind in Estonia.

- On 5 April, parliament voted in favour of a proposal to allow the same-sex partners of Estonian residents in registered partnerships to apply for residence permits. Under the Aliens Act, the spouse of a person resident in Estonia can apply for permits – but only if they are married. Chancellor of Justice Ülle Madise highlighted the exclusion of same-sex registered civil partners and put forward a proposal to amend the Aliens Act. 42 MPs supported the idea, 19 opposed and 3 abstained. The Constitutional Committee began to formulate a draft law; this work had not been concluded by the end of 2016.

- In November, the Estonian Human Rights Centre announced it was supporting strategic litigation to reunite a lesbian couple who cannot live together in Estonia due to the treatment of same-sex couples under the Alien's Act (see above). The partner of an Estonian national, who is a US citizen, returned to the United States in October as the authorities would not issue her a residence permit. The couple were married in the US in October 2015; their court proceedings were ongoing at the end of 2016.

Foreign policy

- On 13 July, during the Montevideo Global LGBTI Human Rights Conference, Estonia, together with 30 other states, joined the Equal Rights Coalition, a coalition committed to work towards equal rights and the eradication of discrimination and violence against LGBTI people.

Public opinion

- Market research company Turu-Uuringute AS conducted a survey on the level of opposition to various legal protections for same sex-couples. The survey was commissioned by the University of Tartu's Institute for the Study of Societal Issues and the results were published in February. 60% of those questioned were opposed to registered partnerships for same-sex couples, rising from 54% since polls in November 2015. 77% opposed adoption by same-sex couples. When respondents were asked whether they would have a problem with certain groups as neighbours, 39% said they would not like to live alongside homosexual people (84% would have a problem with neighbours who were addicted to drugs).

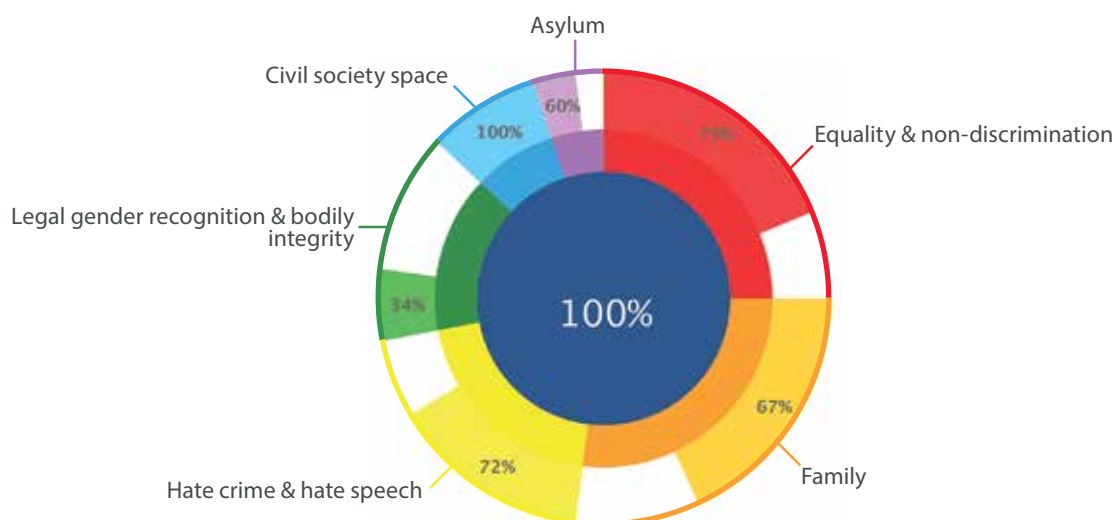
Finland



In advance of the introduction of equal marriage, there were a series of public deliberations on the issue. There was disagreement between the church hierarchy and individual pastors over whether to officiate for same-sex couples. While politicians discussed a citizens' initiative asking for the law to be abolished, the final annexes were ultimately approved in December. An amendment was also passed allowing for the conversion of existing civil partnerships into civil marriages in 2017 if same-sex couples opt for that. LGBTI NGOs also utilised the impending review before the UN Committee against Torture to draw attention to one of the less developed areas in Finnish law – protection for trans and intersex people. The fact that sterilisation remains a feature of the legal gender recognition system was highlighted. NGOs also demanded an end to surgeries carried out on intersex babies.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.

Legal and policy situation in **Finland** as of 31 December 2016



In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:



Allowing for automatic co-parent recognition, so that children born to couples (regardless of the partners' sexual orientation and/or gender identity) do not face any barriers in order to be recognised legally from birth to their parents.



Updating the existing legal framework for legal gender recognition, to ensure the process is based on self-determination, and is free from abusive requirements (such as GID/medical diagnosis, or surgical/medical intervention).



Adopting a comprehensive national action plan on LGBTI equality that expressly mentions all SOGISC (sexual orientation, gender identity, sex characteristics) grounds.

Asylum

- Together – a series of five support groups for LGBTI asylum seekers and refugees in Helsinki – continued to provide social support to recently arrived asylum seekers throughout 2016. The group was originally set up by NGO HeSeta (a local branch of the larger LGBTI NGO Seta) in 2015 and more activities planned for 2017.

Bias-motivated speech

- In February, the youth section of the Finns Party/True Finns (PS; nationalist) launched a social media campaign against what the party referred to as ‘gender neutrality’. The *#tyttö_poika* campaign stated that there are only two sexes and that gender quotas should be abolished. President of the Union of General Upper Secondary Schools Students, Elli Luukkainen, criticised the PS campaign, saying it was “likely to cause a lot of resentment”.

Bias-motivated violence

- National Police Commissioner Seppo Kolehmainen announced that the National Police Board intends to seek a court order against the Finnish branch of the Nordic Resistance Movement. The Commissioner stated this intention on 22 December, citing the neo-Nazi group’s violent attacks against migrants, Pride events and minority groups. The police plan to ask the courts to shut down the Finnish Resistance Movement, under the Associations Act, early in 2017.

Bodily integrity

- In advance of Finland’s appearance before the UN Committee against Torture in November, LGBTI NGOs Seta and Trasek issued a joint demand that Finland end the practice of performing so-called ‘normalising’ surgeries on intersex children (see also **Legal gender recognition**).

Family

- On 12 May, a citizens’ initiative supporting a draft Maternity Act reached the required minimum limit of 50 000 signatures. The proposed law would allow for both parents in a female same-sex couple to obtain automatic legal parenthood when a child is born to the couple

following infertility treatment. Currently, these couples need to undergo second-parent adoption; the law had not been passed by parliament by the end of the year.

- Same-sex couples who have previously entered registered partnerships will be able to convert those unions into marriages when equal marriage becomes an option in March 2017, under changes passed by parliament on 17 February. The legislation was approved by 106 MPs (42 voted to oppose the change). Registered partnerships will also cease to be an option for couples when marriage equality enters into force in 2017.

- Bishops from the Evangelical Lutheran Church announced that they will only officiate at marriage ceremonies between different-sex male/female couples. This statement was made at a synod meeting on 31 August. In early September, Liinamaria Roos and Toni Fagerholm, two Helsinki-based Lutheran pastors, said they intended to ignore the synod and marry same-sex couples at their churches when marriage equality is introduced in 2017.

- A citizen’s initiative (signed by an estimated 100,000 people) that called for the repeal of the gender-neutral marriage legislation before it comes into effect was the subject of a parliamentary debate on 9 September. On 13 December, the final annexes to the equal marriage law (originally voted on in 2014 and signed by the president in 2015) were approved by parliament. The law will become effective from 1 March 2017.

Foreign policy

- On 13 July, during the Montevideo Global LGBTI Human Rights Conference, Finland, together with 30 other states, joined the Equal Rights Coalition, a coalition committed to work towards equal rights and the eradication of discrimination and violence against LGBTI people.

Legal gender recognition

- The legal change introduced by parliament on 17 February in relation to marriage and registered partnerships (see **Family**) also means that trans people no longer have to be single in order to obtain legal gender

recognition. This change will be effective at the same time as marriage equality is in force in March 2017.

- In advance of Finland's appearance before the UN Committee Against Torture in November, LGBTI NGOs Seta and Trasek launched a campaign calling on the government to implement a full reform of the legal gender recognition legislation. The NGOs called the current process (which includes sterilisation as a requirement) "cruel and inhuman".

Participation in public, cultural and political life

- On 18 August, the Helsinki District Court overturned a request submitted by local police to close down alternative news website *MV-Lehti*. The website, set up in 2014, had been the subject of several criminal complaints for inflammatory language about minority groups, including refugees and LGBTI people. The court did not publish the arguments used to reach its decision.

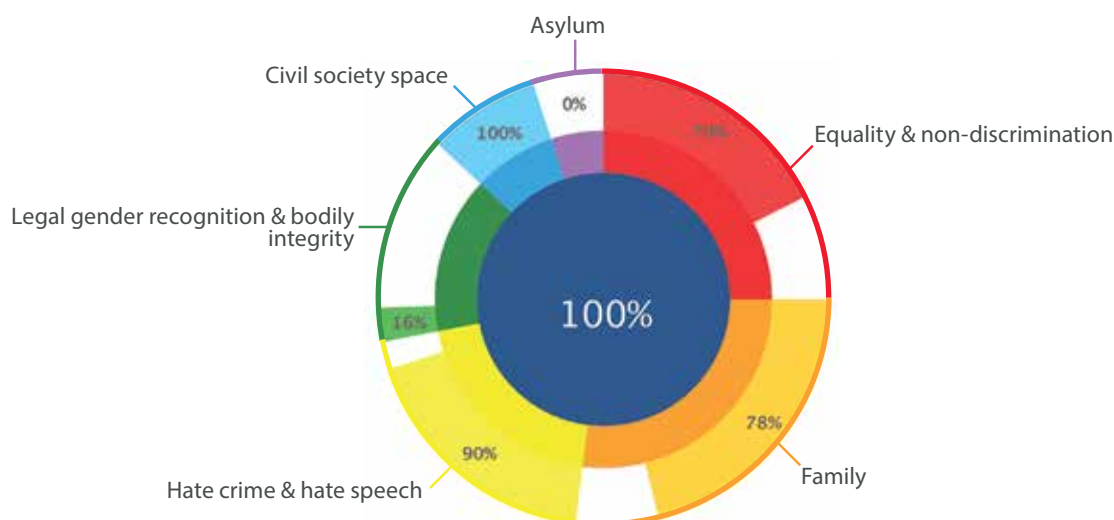
France



One of the most high-profile equality advances in France in 2016 was the long-awaited adoption of a new legal gender recognition procedure. This was traditionally a weak area of France's LGBTI equality law and policy. The gender recognition provisions included in the Law on Justice in the 21st century removed the previous sterilisation and medicalisation requirements. However, trans activists remained committed to a campaign for full self-determination, as the legal change fell short of this ultimate aim. France's record in relation to the bodily integrity of intersex people, children in particular, was critiqued by a series of UN committees; and a 2015 judgment which had permitted an intersex person to record their gender as 'neutral' was overturned. Following announcements in 2015, a 12-month blood donation deferral period was introduced for men who have had sex with men. PrEP treatment was made available through the public health system and the first website with information on PrEP was launched by activists. One worrying trend that caused concern for activists and CoE monitoring bodies was anti-LGBTI hate speech, particularly online. The government moved to add combatting anti-LGBTI bias to the remit of the inter-ministerial anti-racism delegation. On a related note, the courts heard a series of cases involving LGBTI issues. An LGBTI activist was fined for referring to Manif pour Tous as 'homophobes' and, in one particularly surprising decision, the term 'faggot' was held by another court to not have been a homophobic insult.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.

Legal and policy situation in **France** as of 31 December 2016



In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:



That the French authorities move to swiftly implement the changes to the legal gender recognition procedure that were passed in 2016, firmly embedding them in practice.



Allowing for equal access to medically assisted insemination treatments for all individuals and all couples.



Careful observation and protection of the right to freedom of assembly for public LGBTI events, and not to unreasonably restrict this right in the name of anti-terrorism or other security-related measures.

Bias-motivated speech

- An employment tribunal stated that referring to a gay hairdresser as a 'dirty faggot' was not a homophobic insult or evidence of bias on the part of the employer who dismissed him. In July 2015, the hairdresser was fired from his position. When he initiated an unfair dismissal claim, he referred to a text message, sent to him in error by his former manager, where she said "I am not going to keep [the hairdresser's name]. I don't have a good feeling about this guy. He's a dirty faggot...they're all up to no good". In its ruling in March, the employment tribunal in Paris stated that the language was derogatory (awarding EUR 5,000 in damages) but that it was not homophobic or an aggravating factor in the hairdresser's dismissal. The reasoning given was that the word could not be considered an insult in the field of hairdressing, as a lot of salons employ staff members who are gay. LGBT NGOs expressed shock – both at the tribunal's ruling and the reasoning. Minister of Labour Myriam El Khomri (Socialist Party, PS) called the decision "outrageous" and the Defender of Rights announced that the former employee intended to initiate an appeal.

- At a meeting between LGBT NGOs and President Francois Hollande (see **Equality and non-discrimination**), it was also announced that the remit of the Interministerial Delegation for the Fight against Racism and Anti-Semitism (DILCRA) would be expanded to cover anti-LGBT hate speech and discrimination too.

- Five LGBT organisations – Acthe, In Trans, Trans 3.0, Prendre Corps, Inter-LGBT – complained to the Superior Audiovisual Council that transphobic and sexist language was used in TV programmes broadcast by Canal+ and C8 in September.

- The Court of Appeal in Paris upheld the conviction of Christine Boutin for comments she made during an interview with *Charles* magazine in 2015. The leader of the Christian Democratic Party (PCD; conservative) and former government minister had called homosexuality "an abomination" and was convicted of incitement to hatred by the 17th Criminal Chamber in December 2015. Boutin appealed but this was rejected by the Court of Appeal on 2 November, who upheld her EUR

5,000 fine and requirement to pay damages to several LGBT NGOs.

- On 2 November, the Court of Appeal in Paris ruled that an LGBTI activist must pay EUR 800 damages to Manif pour Tous after calling the group and its founder 'homophobes'. The former president of ACT UP Paris Laure Pora had displayed posters of Manif pour Tous logos and images of its founder Ludivine La Rochère with the words 'homophobe' printed across them during a protest in 2013.

Bias-motivated violence

- A man was kidnapped on 4 January and violently assaulted at an apartment in Pointe-à-Pitre, Guadeloupe. The man managed to escape after five days. Prosecutors opened a criminal investigation into kidnapping and torture based on the sexual orientation of the victim. Five people were arrested, four of whom were later jailed. Minister for Overseas Territories George Pau-Langevin issued a statement condemning the act. NGO Total Respect (an anti-homophobia group working in overseas territories) also issued a press release, strongly criticising the low level of reaction from the public authorities.

- One of the changes introduced by the Law on Justice in the 21st century reforms (see **Legal gender recognition**) was an update of the anti-discrimination ground used to protect victims of transphobic crime. Previously, the Penal Code referred to 'sexual identity' but LGBTI activists criticised the unclear language. Following the passage of the Law on Justice in the 21st century, the ground was replaced by the term 'gender identity'. The change came into effect on 20 November.

Bodily integrity

- During France's appearance before the Committee on the Rights of the Child in January (see **Equality and non-discrimination**), one of the concerns raised by the Committee experts was unnecessary surgical interventions carried out on intersex children. In response, the French delegation said that the issue of intersex children had recently come to the government's attention and that the government had "not completely explored

all avenues accessible to deal with all its aspects". Similar concerns were also raised by the UN Committee against Torture when it reviewed France and published its concluding remarks on 13 May, and by the CEDAW Committee in July.

- On 22 March, the Orléans appeal court overturned the decision made by a lower Tours court in August 2015 to authorise an intersex person to register their gender as neutral on their birth certificate. The 2015 decision had then been appealed by the public prosecutor. The appeal court stated that issues around registration of gender were for the legislature, not the judiciary, to decide. Legal representatives for the person at the centre of the case indicated they intended to appeal to the Court of Cassation and the ECtHR, if necessary.

Equality and non-discrimination

- In a letter dated 23 February, Minister for Social Affairs and Health Marisol Touraine (Socialist Party, PS; social-democratic) instructed special pension schemes to grant survivor's pensions to surviving same-sex spouses in marriages contracted between May 2013 and December 2014. Couples usually have to be married for a year before survivor's pensions are granted, which caused an issue for same-sex couples who married after the introduction of equal marriage but whose spouse died less than a year afterwards. In these cases, the minister asked pension schemes to take the earlier civil unions of these same-sex couples into account in their calculations.

- As part of its five-year monitoring cycle, the European Commission against Racism and Intolerance (ECRI) published a report on France on 1 March. ECRI expressed concern over the increase of online hate speech targeting LGBT people, combined with the high levels of under-reporting of anti-LGBT hate crime. The report encouraged schools to combat homophobic and transphobic stereotypes by revising curricula and teacher training programmes. ECRI believes that a partnership model should be set up between LGBT civil society groups and authorities dealing with hate crime, following established models that already exist for Jewish and Muslim community groups. The report's recommendations

include calls on France to collect data on LGBT people and their experience of discrimination; increase training for law enforcement officials; and launch an anti-hate speech information campaign.

- After the attack on the Pulse nightclub in Florida in June, President Francois Hollande announced a EUR 1.5 million financial support plan that would widen the mandate of the DILCRA inter-ministerial delegation. The government body would become DILCRAH and tackle anti-LGBT discrimination in addition to racism, anti-Semitism and xenophobia. This change came into effect in December, at the same time as the publication of a plan to counter anti-LGBT discrimination by the Secretary of State in charge of cities. The plan aims to target anti-LGBT incidents at local level.

- On 30 June, the organisers of Paris Pride, Inter-LGBT, and other major NGOs, LGBT Centre Paris-Ile-de-France and SOS Homophobie, met with President Francois Hollande. Among the topics discussed were the Law on Justice in the 21st century (see **Legal gender recognition**), and the integration of anti-homophobia efforts in the school curriculum.

- Following the health minister's announcement in late 2015, the lifetime blood donation ban previously imposed on gay and bisexual men was officially reduced to a 12 month deferral period on 11 July.

Family

- The conservative Manif pour Tous movement published a policy report on children and families in September, listing plans to enshrine marriage as a different-sex union only, to rethink sex education in schools and to denounce the European Convention on Human Rights among its 40 policy proposals.

Foreign policy

- On 13 July, during the Montevideo Global LGBTI Human Rights Conference, France, together with 30 other states, joined the Equal Rights Coalition, a coalition committed to work towards equal rights and the eradication of discrimination and violence against LGBTI people.

Freedom of assembly

- Paris Pride took place on 2 July with approximately 1000 police officers along the parade route. The Pride had been postponed and the route had also been shortened from 4.6km to 2km due to the authorities' security restrictions (imposed following the shooting at the Pulse gay nightclub in Florida and the level of policing required at the UEFA Euro 2016 football tournament).
- After terrorist attacks in Nice on 14 July, Pride marches in Marseille and Montpellier were postponed due to security concerns. The organisers of the events expressed their intention to hold Pride marches later in 2016, but no rescheduled Prides had taken place by the end of the year.

Health

- During France's appearance before the Committee on the Rights of the Child in January (see **Equality and non-discrimination**), Committee experts asked about the provision of mental health services aimed at preventing suicide, particularly for children belonging to "sexual minorities". The government replied by stating that combatting all forms of discrimination in schools was one of the Ministry of Education's key priorities, that annual tolerance campaigns took place in schools, and that teachers were trained on how to incorporate the Equality Plan into their teaching strategies.
- The first website dedicated to providing information on pre-exposure prophylaxis (PrEP) to the general public and health professionals was launched in March. The site – www.PrEP-info.fr – was set up by HIV/AIDS activists after the 2015 decision to make PrEP available through the French public health system from January.

Legal gender recognition

- During 2016, the Law on Justice in the 21st century (La loi de modernisation de la justice au XXI^e siècle), which included provisions relating to legal gender recognition, made its way through the legislative process. On 19 May, the National Assembly approved a version of the law that included a requirement to produce medical evidence – a move that was criticised by trans NGOs. This law was discussed by the Commission Mixte Paritaire (a

committee of National Assembly and Senate members) on 22 June. At this point, NGOs Amnesty International, TGEU and ILGA-Europe issued a joint statement, calling on the committee to remove proof of medical treatment. On 12 July, MPs in the National Assembly approved amendments that clarified the law's text, referred to emancipated minors and included full demedicalisation. The Senate, during a session on 27 September, confirmed several changes to the text, including a return to a model of medicalisation. In the final stage of the legislative process, the law was assessed again by the National Assembly. During this time, national trans activists and NGOs cooperated with ILGA-Europe to produce campaign videos, featuring testimony from trans people living in France. The final debate and vote took place on 12 October and the legal gender recognition procedure was passed. References to sterilisation and medicalisation (reintroduced by the senate in September) were removed. Emancipated minors will also be able to access the updated procedure. The procedure is not open to all trans children and is not based on a self-determination model as trans people will still have to go to court to have their gender legally recognised.

"That is why we are calling to participate in the Existrans Walk... to show both our joy as a result of this progress but also that we remain mobilised, to ensure that all the fundamental rights of the trans people are finally respected."

Trans NGO ACTHE press release after the new legal recognition procedure was passed, 14 October 2016

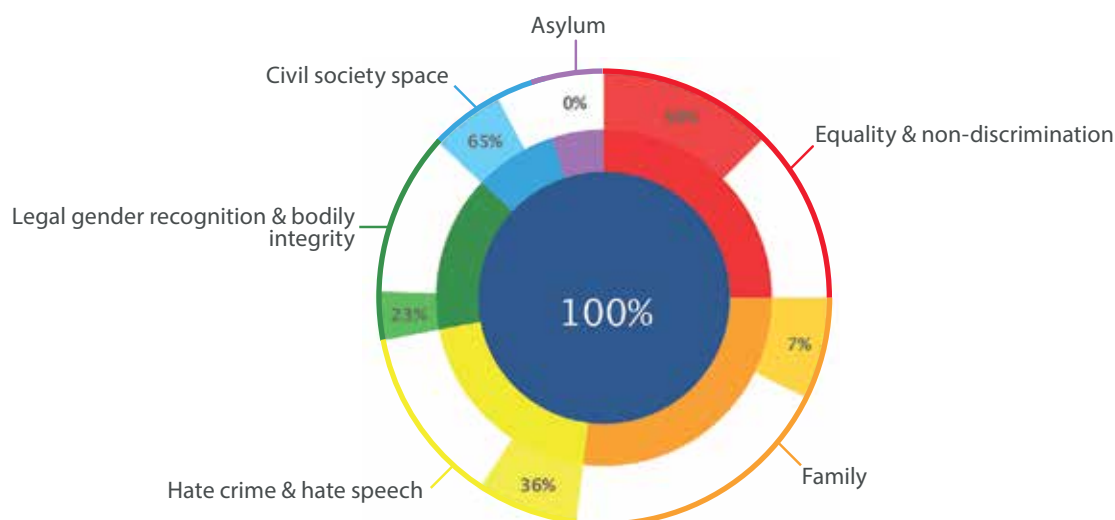
Georgia



It was another frantically busy year for LGBTI organisations and activists in Georgia. NGOs continued to receive reports of discrimination, record cases and support victims throughout 2016. Many of these cases involved hate speech directed at LGBTI people, or bias-motivated violence – all occurring in spite of relatively recent anti-discrimination legislation. Surveys of public opinion also revealed distinctly negative feelings towards LGBTI people, re-emphasising the gap between laws on paper and the atmosphere in which people live. This persistence of hate crime and hate speech by public figures was criticised by ECRI's monitoring report, and documented by several NGOs. Attacks on trans women made up a large percentage of the cases recorded. However, transphobia was rarely considered as a motivating factor by authorities, once again, despite the fact that such legislation exists. The Supreme Court increased the prison sentence for a man who murdered a trans woman in 2015 – in a very significant and importance case for the trans community. LGBTI activists experienced difficulties in holding public events. Even for significant annual moments (such as IDAHOT), activists had to organise activities in an informal, ad-hoc manner. At one point during the year, it seemed as if constitutional restrictions on marriage were possible, but a potential referendum on the issue was blocked by President Margvelashvili.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.

Legal and policy situation in **Georgia** as of 31 December 2016



In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- Introducing hate crime policies that explicitly cover all bias-motivated crimes based on sexual orientation, gender identity and sex characteristics.
- Removing obstacles to the effective exercise of freedom of assembly.
- Developing a fair, transparent legal framework for legal gender recognition, based on a process of self-determination, free from abusive requirements (such as sterilisation, GID/medical diagnosis, or surgical/medical intervention).

Access to goods and services

- On 7 September, a trans woman ordered a taxi from the Maxim company. When the car arrived, the driver refused the job and began shouting homophobic and transphobic insults at the woman and her friends; some neighbours overheard but did not intervene. The incident was reported to the Public Defender's Office and a decision was still pending at the end of 2016.

Asylum

- Feminist NGO Women's Initiatives Supporting Group (WISG) assisted a trans woman, who arrived in Tbilisi from Azerbaijan in the summer, with her asylum application. She could not return to Baku because of death threats. By the end of the year, she had received a positive decision.

Bias-motivated speech

- Lawyers from NGO WISG reported threatening social media comments to the police and Public Defender's Office on 23 May. Two days earlier, WISG saw a Facebook user asking where the "main office of LGBT people in Tbilisi" was, before other users commented saying "Let's buy some brooms as presents" and "Oh, no let's take oil instead of paint – teach them what are the purposes of the human body parts...". The police decided there were no elements of crime involved and the investigation was stopped.
- Days before the parliamentary elections on 8 October, posters featuring a candidate in the Saburtalo district were shared on social media. Alexandre Bregadze's (Georgian Idea; nationalist) poster featured messages including "No to same-sex marriage" and "Together for a traditional Georgia". It also called marriage equality a "sin" and displayed a rainbow flag with a line drawn through it. On 4 October, NGO WISG complained to the Central Election Commission about the poster's discriminatory content. The complaint was still pending at the end of 2016.
- TV station Imedi broadcast a report on the lives of trans people in Georgia on 23 October. The report was featured as part of popular programme *Imesid Dro* and

included insensitive language, poorly researched information and close-up shots of the participant's bodies, make-up and clothes. NGO WISG and the Human Rights Education and Monitoring Centre (EMC) complained, stating that the stereotypes promoted by the report violated ethics rules. The Georgian Charter of Journalistic Ethics had not responded to the joint complaint by the end of the year.

Bias-motivated violence

- Throughout 2016, NGO WISG documented over 30 alleged hate crimes and hate incidents. In 47% of these cases, the victims were trans women. For example, on 13 June, two trans women had petrol poured over them and believed the attacker intended to set them on fire; they escaped. A trans woman was attacked on 7 July by an unknown man in the Tbilisi Sea region. The victim called an ambulance and the police, and later identified her attacker on CCTV footage. Police searches were unsuccessful and the case was ongoing at the end of the year. On 5 October, a trans woman and her friends had stones thrown at them by five men in a car. On 27 November, five trans women had glass bottles and stones thrown at them by two unknown men in Tbilisi. A series of attacks on trans women listed by WISG were both ongoing at the end of the year and had not had a transphobic motive considered by the investigating authorities – this applied to attacks that occurred on 23 June, 25 November and 26 November. The victim of the 26 November incident said her attacker told her he would "do worse with you that I did yesterday with your friend".
- On 23 April, a man was attacked at a Tbilisi bus stop by two unknown men. The victim believed the two men assumed he was gay and that was the reason for the attack. He called the police and the men were both arrested. Lawyers from NGO WISG were assisting in the case but the investigation was not considering a homophobic motive at the end of 2016.
- Two violent incidents were reported in Tbilisi around IDAHOT; both took place on 21 May. An LGBTI activist and their friends were threatened (verbally and with a gun), the man was fined GEL 100 (EUR 35) by Tbilisi City Court.

In the second incident, two young men were stabbed in the city's Avlabari district.

- A 32-year-old trans woman was beaten and stabbed in the neck in a violent attack that took place in Tbilisi's Ortachala region on 14 October. A suspect was arrested on 17 October and later confessed to the attack. The Public Defender issued a statement, calling on the Prosecutor's Office to carry out a thorough investigation, focusing on the alleged hate motive. On 22 November, the victim Zizi Shekeladze died from her injuries. A court hearing was scheduled for 8 December and a motive of transphobic hate crime was not registered before the end of the year.
- On 31 December, the Supreme Court sentenced Levan Kochlashvili to ten years in prison for the murder of trans woman Sabi Beriani in 2015. The City Court and Appeals Court had previously handed down four-year prison terms but significantly the Supreme Court increased the sentence.

Data collection

- According to Public Defender's Office figures obtained by NGO WISG in March, 35 people applied to the Ombudsman's Office for assistance. The reported rights violations related to events related to sexual orientation or gender identity that occurred between 1 January 2015 and 15 March 2016. During the same period, one person complained to the Data Protection Inspector about violations based on LGBTI identity.
- *'From Prejudice To Equality: Societal Attitudes, Knowledge and Information Regarding The LGBT Community and Their Rights'*, a detailed social study compiled by NGO WISG, was published in June. The report detailed several key findings, including the fact that negative feelings towards LGBTI people are prominent in Georgia, biphobia is more common among survey respondents than homophobia as bisexuality is viewed as "unstable", and the more rigid the respondent's perception of gender roles, the more likely they were to also hold anti-LGBTI opinions.
- Also in June, NGO EMC published their report on the *'Legal Situation of LGBTI Persons in Georgia'*, which outlined

recommendations targeted at the government, parliament, specific ministries and prosecutors designed to protect LGBTI people from discrimination.

- NGO Georgian Democracy Initiative (GDI) recommended prohibiting hate speech in the Ethics Charter of the Parliament of Georgia and introducing internal measures for political parties to deal with hate speech by their representatives in a report on hate speech by public authorities, published in April.
- The Media Development Foundation's 2016 Hate Speech report, released in November, revealed that out of the 868 discriminatory comments recorded overall between 1 January and 15 October, 52% were homophobic (the highest share of the grounds measured). The report found the Democratic Movement – United Georgia and the People's Assembly to be the most homophobic political parties, followed by the ruling Georgian Dream.

Equality and non-discrimination

- As part of its five-year monitoring cycle, the European Commission against Racism and Intolerance (ECRI) published a report on Georgia on 1 March. ECRI noted that, even with the introduction of anti-discrimination legislation in recent years, hate speech and violence against minority groups is still ever present. LGBT people were directly mentioned by CoE Secretary General Thorbjorn Jagland at the report's launch, saying that bias motives must be considered by law enforcement authorities from the beginning of investigations. Among the report's priority recommendations was the establishment of a specialised police unit to respond to racist, homo/transphobic hate crimes.
- A final report under the UN's Universal Periodic Review process was adopted for Georgia in 2016 (see **United Nations**).

Family

- Giorgi Tatishvili petitioned the Constitutional Court on 27 January, asking the court to legalise marriages between same-sex couples. Following his application, several LGBTI NGOs expressed concern in February that

such a move could provoke a backlash against LGBTI people in the country, and that the petition was submitted without consultation with the local LGBTI community. The Patriarchy of the Orthodox Church announced that while they viewed his suggestion as “unacceptable”, they condemned any potential violence against Tatishvili.

- On 7 March, Prime Minister Giorgi Kvirikashvili (Georgian Dream-Democratic Georgia) announced that his coalition government would amend the constitution to restrict the definition of marriage. The coalition proposed substituting the existing gender neutral reference to “spouses” in Article 36 with “man and woman”. 80 MPs out of 150 backed the proposal and the draft bill was registered on 14 March. On 18 March, the assembly voted to establish a commission to organise public consultation on the bill. These public meetings took place throughout the country during March and April. On the day that the bill was due to be debated, there was no quorum in parliament.
- On March 28, in a separate process, the Central Electoral Commission registered an initiative from a group called ‘Are you in favour or against same-sex marriage to be allowed in Georgia?’. This group proposed a referendum, asking the question: “Do you agree to define civil marriage as a union between a man and a woman with the aim of creating a family?”. The initiative gathered the 200,000 public signatures as required by early August and the CEC granted its final approval. The referendum also required the approval of both the prime minister and the president. On 9 August, President Giorgi Margvelashvili blocked the referendum, saying that a definition of marriage already existed in civil law. Prime Minister Giorgi Kvirikashvili agreed to countersign the presidential refusal, but disagreed with the reasoning and said that a constitutional change would be considered by his party after October’s election.
- Pope Francis referred to ‘gender theory’ as a ‘great enemy’ of marriage in October when he was visiting Georgia. When questioned at the meeting, the pontiff said that “Today, there is a global war out to destroy marriage... not with weapons but with ideas ... we have to defend ourselves from ideological colonisation.”

Freedom of assembly

- A conference on LGBT issues due to be held on 22 February at Tbilisi State University was moved to an alternative location after protests were staged by groups opposing the so-called ‘promotion of LGBT identity’. The university issued a statement saying they could not guarantee the safety of participants following protests by the conservative Young National Alliance and the Erovnulebi organisations; the conference went ahead at an alternative site, away from the university campus.
- On 17 May, LGBTI activists marked IDAHOT with smaller, spontaneous events. 10 LGBTI activists were detained in Tbilisi as they attempted to write ‘All Love is Equal’ on Georgian Patriarch buildings and paint rainbow colours on city streets. Family Day rallies, in support of ‘traditional family values’ were held by conservative Orthodox groups on the same day, blocking LGBTI groups from holding larger events in the main public squares. Another group of LGBTI activists held a satirical protest outside the Ministry of Internal Affairs

Human rights defenders

- Two activists involved in LGBTI advocacy work were arrested by police officers in Tbilisi in separate incidents on 17 May. Both activists believed that their detentions were directly linked to IDAHOT and were intended to prevent them taking part in LGBTI events. The Administrative Court dropped both cases the following day due to insufficient evidence.
- An LGBTI activist who works for an LBT organisation received threatening messages from her brother during the summer. Her family members had been violent in the past and had they had recently discovered photos of her activism work on social media. The activist approached NGO WISG and the police; the investigation was ongoing at the end of the year.

Legal gender recognition

- In November, the Council of Europe, the Human Rights Secretariat of the Government of Georgia and Ministry of Justice organised peer exchange sessions on

legal gender recognition in cooperation with several national and European NGOs.

- During 2016, NGO WISG assisted two trans men in legal action against the Ministry of Justice. Both men submitted applications (in 2014 and 2015 respectively) asking that the ministry change existing practice and allow trans people to correct their gender marker in identity documents without having to undergo surgical procedures. The first instance courts and the appeal decisions were negative and both cases were submitted to the Supreme Court. One of the cases were rejected by the Supreme Court and at the end of the year, WISG was preparing an application to the European Court of Human Rights.

Police and law enforcement

- Figures from the justice ministry's Department of State Representation to the International Courts showed that 42 representatives of the Prosecutor's Office attended training sessions in 2016 on the standards of investigations into hate crimes. During the year, the COE Human Rights Education for Legal Professionals (HELP) platform provided a distance learning course on discrimination for 22 prosecutors and investigators. 62 trainees also completed a two-month-long training course on discrimination issues.

- Throughout 2016, NGO WISG received numerous requests for assistance from trans woman who were unlawfully detained by police. The NGO documented multiple cases of trans women who were arrested on hooliganism (or similar) charges after having initially made contact with the police themselves to report attacks or transphobic speech. Such cases are detailed in a WISG litigation report, *'Unidentified Violence'*, due for publication in early 2017.

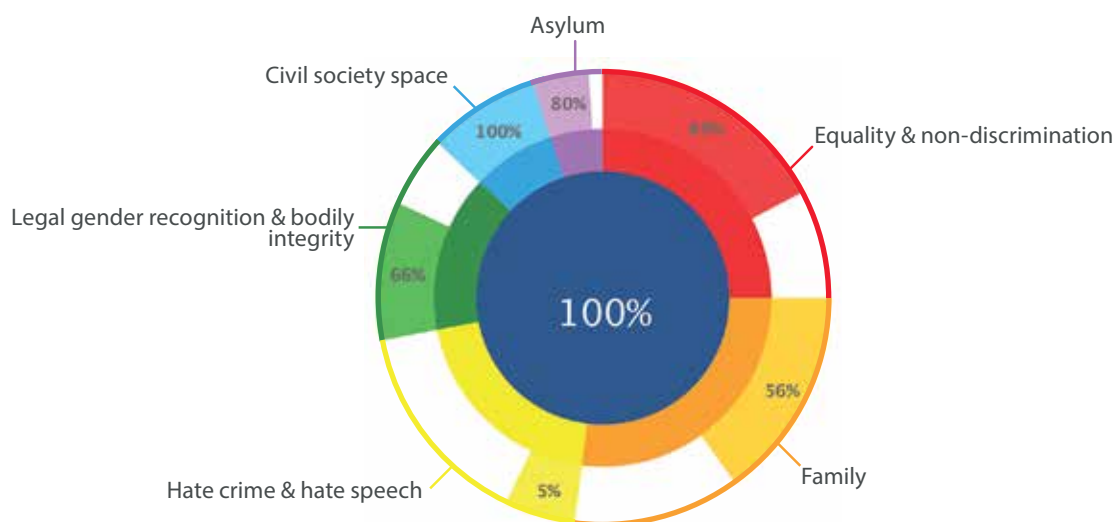
Germany



Several developments within the area of asylum were reported during 2016. The first dedicated centres providing services for LGBTI asylum seekers were opened by NGOs, and multilingual resources for refugees were launched. A more negative development was the fact that regional NGOs operating in Berlin documented reports of violence against LGBTI asylum seekers. The federal interior ministry also reported an increased number of attacks motivated by the victim's sexual orientation, when compared to 2015 figures. In spite of its record in other Rainbow Europe areas, there are still obvious gaps within the area of family law. Marriage equality was discussed in 2016, not as part of a parliamentary vote, but in public statements made outside legislative chambers. Justice minister Heiko Maas confirmed his support, but no concrete progress was recorded by the end of the year. In addition, European Commissioner Gunther Oettinger spoke of the 'forced' introduction of equal marriage, in what would become an infamous speech in Hamburg. Minister Maas also confirmed that a compensation scheme was planned for gay and bisexual men who had been historically convicted.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.

Legal and policy situation in **Germany** as of 31 December 2016



In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- ➡ Ensuring marriage equality for all.
- ➡ Including express mention of all SOGISC (sexual orientation, gender identity, sex characteristics) grounds in laws and policies designed to tackle hate crime.
- ➡ Introducing policies on asylum that contain express mention of all SOGISC (sexual orientation, gender identity, sex characteristics) grounds.

Access to goods and services

- A regional court in Cologne fined a landlord who had refused to rent his accommodation to a same-sex couple. In a decision published in March, the court ruled that the landlord's refusal to sign a contract with the two men, when he found out that they were in a registered life partnership, was discriminatory on the basis of sexual orientation under the Equal Treatment Act. The landlord was ordered to pay EUR 1,700 to the couple as compensation.

Asylum

- The first centres providing services specifically for LGBT refugees opened in February. On 1 February, the first dedicated facility in Germany opened in Nuremberg. The accommodation can house eight people and is managed by local NGO Fliederlich. Berlin's first shelter for LGBT refugees opened on 23 February, in the capital's Treptow-Köpenick area. The centre is run by local LGBT group Schwulenberatung Berlin and has space for 120 people.
- On 16 May, the regional LGBT NGO LSVD Berlin-Brandenburg noted that it received reports of more than 130 cases of violence against LGBT refugees in Berlin between May 2015 and May 2016.
- The federal NGO LSVD (together with major welfare and social justice organisations) published multilingual brochures for LGBTI refugees. *The Queer Refugees* website (www.queer-refugees.de/) was also set up during the year, containing useful information for LGBTI refugees in several languages.

Bias-motivated violence

- Two trans women were attacked in Dortmund on 10 January. Three young men approached the women near the city's main train station and, after engaging them in conversation, began threatening and throwing stones at them. Police officers intervened, arresting the three attackers. One of those arrested was a 17-year-old boy, who was later released to his parents. One of the attackers was later charged with grievous bodily harm.
- In December, the Federal Ministry of Interior announced that 205 violent incidents based on sexual

orientation had taken place between January and the end of September. This was a 15% increase on the ministry's 2015 figures.

Bodily integrity

- The family ministry (BMFSFJ) published an issue paper on the situation currently faced by intersex and trans people to mark Intersex Awareness Day on 26 October. The paper described the work of the inter-departmental working group on intersex and trans issues (including on counselling structure and quality, and medical issues) spearheaded by the ministry and provided an evaluation of recommended law reforms.

Education

- On 15 November, the right-wing, populist party Alternative for Germany (AfD) presented a common position paper of all their regional parliamentary groups that targeted educational proposals in all regions of Germany (Bundesländer). The AfD paper rejected plans to integrate societal diversity, respect, promotion of acceptance and family diversity in school curricula.

Employment Equality and non-discrimination

- On 18 February, members of the Bundestag discussed a report from the house's legal committee and called for a free vote on marriage for same-sex couples. The grand coalition partners – the Social Democratic Party (SPD) and the Christian Democratic Union (CDU/CSU) – stuck to the principle of coalition discipline throughout the rest of 2016. As a result, no vote took place on any legislative project that had not originally been included in the 2013 coalition agreement, including equal marriage.
- Following North Carolina's introduction of legislation that removed anti-discrimination protections from LGBTI people, Deutsche Bank announced that it would not move ahead with job expansion plans in the state. The bank made the announcement on 12 April in reaction to the bill known as HB2, which also limits trans people to using bathroom facilities that correspond with their birth certificate, not their gender identity.

- A legal study, conducted by the Federal Anti-Discrimination Office, concluded that the German government had an obligation to repeal the criminal records of men who were prosecuted because of their sexual orientation. The study, released in May, noted that approximately 50,000 gay men had been prosecuted after World War II. Convictions were based on paragraph 175 of the criminal code, dating from 1872. Homosexuality was later decriminalised (in 1968 in East Germany and one year later in West Germany) but the criminal records remained. In October, Minister of Justice and Consumer Protection Heiko Maas (Social Democratic Party, SPD) announced plans for a EUR 30million compensation scheme for individual and collective claims. Minister Maas circulated the draft law to his ministerial counterpart for collective agreement in December.

- All 16 of the country's health ministers voted in favour of changing the exclusionary categories regarding blood donation, specifically to remove the blanket ban on gay and bisexual men donating. The proposal was put forward at the 89th Conference of Health Ministers in June, and initiated by Saarland health minister Monika Bachmann (CDU). LGBTI NGOs called for a removal of the ban. The Federal Medical Association was considering the recommendation and their guidelines had not been changed at the end of 2016.

- NGOs TransInterQueer e.V., Atme, LSVD and the Bundesvereinigung Trans* (as part of a national alliance of women's organisations) took part in the shadow reporting process in preparation for Germany's forthcoming appearance before the UN's CEDAW Committee in February 2017. The NGOs' main demands were reparations for sterilisations under previous legislation, anti-protection from violence and discrimination, depathologisation and better health care and law reform based on self-determination.

Family

- On 9 April, the Synod of the Evangelical Church of Berlin-Brandenburg-Silesian-Upper-Lusatia (EKBO) decided to grant same-sex couples access to the same wedding ceremony as different-sex couples. As a result,

Protestant churches in Berlin can hold ceremonies and enter the names of same-sex couples on the church register. Sven Kretschmer and Tim Kretschmer-Schmidt were the first couple to opt for a wedding and were married on 12 August.

- On 26 October, while giving a speech in Hamburg, European Commissioner for Digital Economy and Society Günther Oettinger commented that "compulsory gay marriage" might be introduced in Germany. The same video also showed the Commissioner making derogatory comments about Chinese diplomats. On 3 November, Commissioner Oettinger apologised "for any remark that was not as respectful as it should have been." (See also **European Union.**)

- In an open letter, published to mark the Bundesstiftung Magnus Hirschfeld foundation's fifth anniversary in October, justice minister Heiko Maas stated his support for marriage equality. He wrote that "In the future, it [the foundation] can continue to trust in my support, for example when it comes to supporting marriage for all". Since 2013, Maas' SPD party have been grand coalition partners with the Christian Democratic Union (CDU; centre-right) and the Christian Social Union (CSU; centre-right).

Foreign policy

- On 13 July, during the Montevideo Global LGBTI Human Rights Conference, Germany, together with 30 other states, joined the Equal Rights Coalition, a coalition committed to work towards equal rights and the eradication of discrimination and violence against LGBTI people.

Health

- The German Medical Commission group that is charged with re-working the standard of care guidelines, to focus on trans-specific healthcare, met regularly throughout 2016. The group contains two trans members, nominated by NGO Bundesvereinigung Trans*. A draft of the new standards of care will be open for public consultation in 2017, with the final, fully revised standards of care expected to be finished by the end of the year.

- The family ministry (BMFSFJ) organised an expert forum in November, involving health professionals, insurers and the trans community, to discuss the issues faced by trans people interacting with the public health insurance system.

Legal gender recognition

- The Federal Court of Justice rejected an individual's request to be registered as 'inter/diverse', rather than male or female. The decision (handed down on 22 June and published on 4 August) stated that the 2013 introduction of an undefined gender marker for intersex babies did not create a "further sex". The district court in Hanover and the Celle appellate court had previously rejected Vanja's (the person involved in the court case) claim. NGO Dritte Option, who had assisted Vanja with their legal challenge, indicated they intended to appeal. On 2 September, Dritte Option submitted their complaint to the Federal Constitutional Court. Several other NGOs submitted statements in advance of the 22 January 2017 deadline.

Participation in public, cultural and political life

- Ben Melzer became the first trans model to feature on the cover of the German edition of fitness magazine *'Men's Health'* in April.

Public opinion

- An opinion poll carried out by YouGov showed that 61% of CDU voters surveyed were in favour of marriage equality (79% of SPD voters supported equal marriage, 68% of Catholic respondents also supported the proposal, which matched the average for all interviewees (68%)). 63% of those questioned said that same-sex couples could raise children just as well as different-sex couples. The YouGov survey was based on interviews with 1338 people interviewed between 22 and 26 January 2016.
- In April, the Federal Anti-Discrimination Office published a study which stated that discrimination based on sexual orientation and gender identity is an above average phenomenon. The Leipziger Mitte-Studie study,

released in June, showed that 40% of those surveyed said that they found two men or two women kissing in a public place to be "disgusting".

- On 18 October, Berlin-based research group Dalia published the results of their 'Counting the LGBT population' survey. The survey was conducted in August with 11,754 respondents across the EU. 7.4% of German people questioned identified as LGBT when asked directly, compared to a European average of 5.9%.

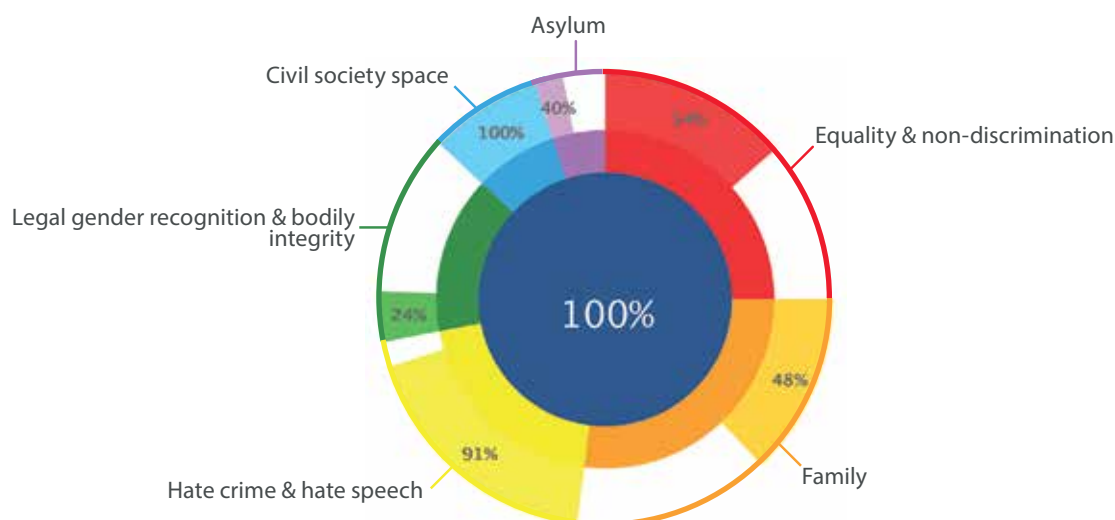
Greece



As the first civil unions were registered between same-sex couples, discussions on further legislative changes took place in Greece. New anti-discrimination provisions were introduced in labour law, adding to the body of equality law designed to protect people in the workplace. Sexual orientation, gender identity and gender expression are now included as protected grounds in a range of employment scenarios. One underdeveloped area of law on the Greek statute books relates to legal gender recognition and bodily integrity. The need to rectify this was clear. In response to this gap, a draft bill (based on the standard-setting Maltese law from 2015) was being composed by a parliamentary legal committee. The Greek secretary general for human rights also acknowledged the need for any new law to also include provisions relating to intersex people.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.

Legal and policy situation in **Greece** as of 31 December 2016



In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:



Drafting and adopting legislation that expressly protects against discrimination on all SOGISC grounds (sexual orientation, gender identity, sex characteristics) in education.



Updating the existing legal framework for legal gender recognition, to ensure the process is based on self-determination, and is free from abusive requirements (such as sterilisation, GID/medical diagnosis, or surgical/medical intervention).

Bias-motivated speech

- In June, before Thessaloniki's Pride festival, Bishop Amvrosios of Kalavryta reacted to a Pride poster that featured a Crucifixion image, saying: "Unfortunately, shamelessness is today 'in fashion'! In a few years, the way things are headed, normal, physiological people, will run and hide whereas the abnormal will double and control with their heinous pride."
- During parliamentary discussions on 1 December on changes to anti-discrimination laws (see **Equality and non-discrimination**), Constantinos Katsikis MP (Independent Greeks, ANEL; conservative) asked whether gay people could babysit children or if trans people should be school teachers.

Bias-motivated violence

- LGBTQ NGO Colour Youth published figures from their Tell Us! Project on 11 January. The project records incidents of homophobic/transphobic violence and discrimination; between 1 April 2014 and 30 November 2015, they received 101 reports of violence against 140 people, 52 of which took place in a public place. 96 of the incidents were reported by the victims themselves; 10 individuals requested legal advice and filed a complaint.
- On 19 April, the Racist Violence Recording Network (RVRN) published its report for 2015. According to the report, the majority of the violent incidents recorded by RVRN were based on sexual orientation and gender identity (185 out of 273 recorded incidents).
- Two 17-year-old teenagers were verbally abused on a metro train in Athens on 22 October. A group of 30-40 people wearing emblems of the AEK Athens football team were reported to have entered the train carriage and started making derogatory comments. One of the group became more verbally abusive before physically attacking one of the 17-year-olds. According to LGBTI NGOs, the victims did not go to the police to report the attack as they had concerns about how the complaint would be dealt with.

Bodily integrity

- At an event to mark Trans Day of Remembrance on 26 November, the Greek Secretary General of Human Rights

announced that the proposed new law on legal gender recognition (see **Legal gender recognition**) would follow the Maltese model. Speaking at the event, organised by NGO Greek Transgender Support Association, the secretary general said the law would include provisions relating to intersex people and that 'normalising' surgery would have to be approved by a committee before being carried out on intersex babies. The composition of the committee was not discussed.

Equality and non-discrimination

- In 2016, the Research Centre for Gender Equality (KETHI) announced the establishment of the "Prevention and Fight against sexism and discrimination on gender identity issues" project. The project's first phase will train journalists on how to sensitively cover trans issues. KETHI is directly supervised by the Ministry of Interior. This is the first project run by a government body which focuses solely on LGBTI issues.
- On 2 December, a law extending anti-discrimination protections for LGBTI people was approved by parliament in roll call vote. 201 MPs supported the proposal, 21 opposed and a further five declined to express an opinion. The bill, submitted by the Ministry of Justice, replaced the existing labour law, dating from 2005, that protected employees against discrimination based on sexual orientation. The new law (4443/2016) protects against discrimination in the labour sector based on sexual orientation, gender identity and sex characteristics. The concept of discrimination by association was also added to the law, as well as the concept of discrimination based on inferred features. The law also clarifies that its provisions apply to a range of employment scenarios, including work, all types and levels of career guidance, apprenticeship, vocational training, advanced vocational training and retraining, and practical work experience. Violations of the law, which came into force on 9 December, can result in fines or prison terms.
- A final report under the UN's Universal Periodic Review process was adopted for Greece in 2016 (see **United Nations**).

Family

- The first civil partnership agreement for a same-sex couple was signed by the Mayor of Athens Giorgos Kaminis on 25 January at a ceremony at the capital's city hall.

"...Today is very important for civil rights in Greece and the country's compliance to international reality."

Mayor of Athens Giorgos Kaminis during first civil union signing ceremony, 25 January 2016

- Three senior religious leaders initiated an appeal in March against the recently introduced civil union legislation. The metropolitan bishops (Seraphim of Piraeus, Seraphim of Kythira and Ieremias of Gortynia) argued that extending civil partnerships to same-sex couples was unconstitutional. The appeal was lodged with the Council of State, the country's highest administrative court.
- The 2015 civil union law stated that the full list of rights granted to couples who enter a civil union would be specified in a presidential decree within six months. Instead of a decree, the Ministry of Labour includes a reference to registered partners in Law 4387/2016 (this was passed in May to amend the social security system). The provision stated: "The couples that have signed a civil union (as described by Law 4356/2015) are equal to married couples with regards to any social security rights, benefit, obligation or restriction, in accordance with the provisions of this Act and the general legislation".
- According to figures released by the Ministry of Interior in November, 216 same-sex couples had entered civil partnerships since the union's introduction in late 2015.

Foreign policy

- On 13 July, during the Montevideo Global LGBTI Human Rights Conference, Greece, together with 30 other states, joined the Equal Rights Coalition, a coalition committed to work towards equal rights and the eradication of discrimination and violence against LGBTI people.

Freedom of assembly

- Members of the Orthodox Church in Thessaloniki held a prayer vigil on 23 June, the day before the Pride festival

started. A church spokesman commented that the vigil was "...a clear response to an event and class of people whom we cannot accept, not because they are evil but because their actions go against the teachings of the Bible and New Testament."

- The organisers of the second Crete Pride applied to use Rethymnon's Public Garden during the event but their request was turned down by Rethymnon city council. It was reported that, during council meetings, several council members said that children must be 'protected from the LGBTQ community'. The Crete Pride organising committee complained; the council subsequently changed their position and the Pride event took place on 9 July.

Legal gender recognition

- Greek officials visited Malta from 21 to 22 April as part of a study visit organised by the Council of Europe. The Greek authorities requested the visit in order to learn more about the implementation of the 2015 Maltese Gender Expression, Gender Identity and Sex Characteristics Law. The Greek government was drafting legal gender recognition legislation throughout the year; the committee responsible for drafting it also consulted with Marina Galanou, president of NGO GTSA, during the process as an independent expert. On 2 December, during a parliamentary debate, Minister for Justice Stavros Kontonis (Syriza) said that the legal committee had completed its work on the proposed gender recognition bill. The bill had not been opened for public consultation by the end of 2016.
- In June, the Civil Court set a new precedent when it ruled that a trans man did not have to undergo genital reconstruction surgery or sterilisation in order to change his name or gender markers on documents. Psychiatric evaluation, hormone therapy and top surgery were still required. In November, the District Court in Athens ruled that requiring trans people to undergo general medical interventions (such as hormone therapy) was unfair. Requests for name change and correcting assigned gender in the national registry have to go through a court process, and trans activists hoped that this will set a useful precedent.

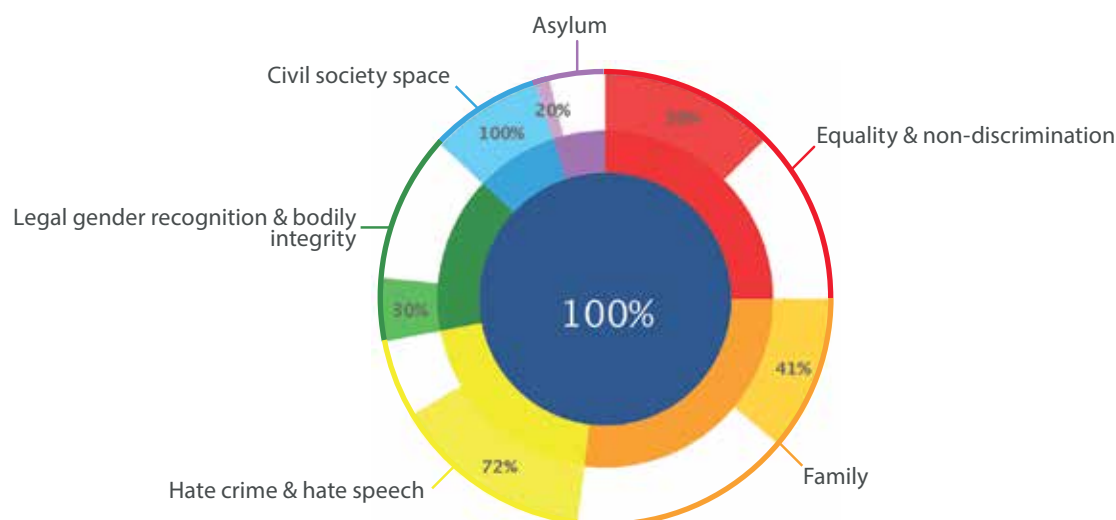
Hungary



The Hungarian authorities' outspoken attitudes on the issue of asylum overlapped with the area of LGBTI equality several times in 2016. The European Court of Human Rights critiqued the two-month long detention of a gay man seeking asylum, criticising the fact that his vulnerability on the grounds of sexual orientation wasn't taken into account. Also, LGBTI activists campaigned alongside their allies for a show of diversity and solidarity with asylum seekers in defiance of the attempted referendum against EU migrant quotas. In another attempt to show that the reality of life in Hungary may vary from the traditional picture painted by the government, same-sex couples were encouraged to get involved in a census initiative and register their relationships. The existing gaps in the area of legal gender recognition law were highlighted by the fundamental rights commissioner, who called on relevant ministries to legislate. In this context, it is noteworthy that the Equal Treatment Authority issued the first decision of its kind in favour of trans woman who had been rejected for a job, finding that she was discriminated against due to her gender identity. In another positive development for LGBTI activists, there were no reports of violence at Budapest Pride for the first time since 2007.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.

Legal and policy situation in **Hungary** as of 31 December 2016



In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- Developing a fair, transparent legal framework for legal gender recognition, based on a process of self-determination, free from abusive requirements (such as GID/medical diagnosis or surgical/medical intervention).
- Explicitly including all SOGISC (sexual orientation, gender identity, sex characteristics) grounds in an equality action plan, accompanied by specific measures of progress.
- Removing obstacles to the effective exercise of freedom of assembly, association and expression.

Asylum

- In February, Prime Minister Viktor Orban (Fidesz; right-wing) announced a referendum on migrant quotas would be held in October, asking if voters approved of the EU's migrant resettlement plans. Before the vote took place, NGO Hungarian LGBT Alliance launched a social media campaign on 24 September, encouraging LGBTI people to cast invalid votes in the referendum to protest against intolerance directed towards particular social groups. Turnout for the 2 October referendum did not reach 50%, so the result was invalid.
- The European Court of Human Rights unanimously ruled that Hungary's two-month-long detention of a gay Iranian man violated his rights under the European Convention. In the judgment handed down on 5 July, the Court held that the detention was arbitrary and unjustified, violating Article 5's protection of liberty and security. The decision also emphasised the particular situation faced by LGBTI asylum seekers: "...asylum seekers who claim to be a part of a vulnerable group in the country which they had to leave, the authorities should exercise particular care in order to avoid situations which may reproduce the plight that forced these persons to flee in the first place."

Bias-motivated speech

- On 5 February, a court decision (that had been handed down in November 2015) was communicated to the victims of an anti-LGBTI hate crime. A member of the right-wing Sixty-Four Counties Youth Movement was given a two-year suspended sentence for using threatening homophobic language towards participants at the 2012 Budapest Pride march. Another defendant was acquitted of the same offence.
- In June, politician Klára Ungár's (Alliance of Free Democrats, SZDSZ; social-liberalism) successfully appealed against a 2015 Budapest court decision. The first instance court had originally said that she had defamed Máté Kocsis (Fidesz) by claiming in a Facebook comment that he was hiding his true sexual orientation. The judge had said that by implying that Kocsis was dishonest, it damaged his reputation. The court of appeal overturned

this, stating that no harm had been proved by Kocsis, who had also not explained why being considered gay could be defamatory. Kocsis issued a statement afterwards, sharing a link to a news article that referred to homosexuality as being "sexually deviant": "Anyone who does not understand why it is insulting for a father to be accused of homosexuality in public should read this article. Long live hetero pride!".

Bias-motivated violence

- Two men who had spat at, kicked and shouted homophobic slurs at two gay Brazilian students in 2014 were found guilty of a hate crime. On 11 February, a court in Budapest gave one of the attackers a suspended 18-month prison sentence; the other was ordered to carry out 120 hours of community service. NGO Hatter represented the victims during the legal process. The decision was appealed but the second instance judgment had not been handed down by the end of 2016.
- On 30 August, Budapest Regional Court found 15 members of the right-wing 'Arrows of the Hungarians' organisation guilty of terrorism. The series of events were committed between 2007 and 2009, and included death threats and Molotov-cocktail attacks on two gay venues before Budapest Pride in 2008. This was the country's first judgement to find an individual guilty of terrorism.
- Five members of the nationalist group New Hungarian Guard were found guilty of a homophobic/racist attack on Budapest Pride participants in a judgment passed down in November. In 2013, three Pride participants had been making their way home from the march when they were stopped by a group of 20-30 people and attacked. No individual was arrested at the time of the attack, even though police did arrive at the scene of the assault. Two men were sentenced to two- and three-year sentences, while the remaining three perpetrators had their sentences suspended.

Data collection

- A micro census took place in Hungary in October (an initiative undertaken in the years between a national census, where 10% of the population are asked about

their living conditions). The Hungarian LGBT Alliance launched a campaign, in cooperation with the Central Statistics Office, encouraging same-sex partners to declare their relationships as part of the micro census.

Diversity

- Budapest Pride carried out a project to address intersectionality in the LGBTQ community, focusing on Roma, poor and disabled LGBTQ people. It involved interviews, working with other NGOs focusing on these inequalities, and providing greater visibility to the issue of intersectionality with movie screenings and discussions. On 24 March, Budapest Pride organised a 'wedding' flashmob with a Roma same-sex couple in a busy public location, which drew significant media attention.

Education

- Budapest's Metropolitan Court awarded HUF 350,000 (approx. EUR 1,100) in October to a mother whose child was refused a place by Kispesti Waldorf School in 2013. The child's initial interview had gone well and, at the end of the conversation, the boy's mother mentioned she was raising him together with her same-sex partner. The following day, the school emailed to say that the boy could not be admitted to the class "due to their family status". The Equal Treatment Authority had ruled against the school in 2014, but the child's mother had decided to pursue a court case against the school too.

Employment

- The Equal Treatment Authority found that a clothing shop had discriminated against a trans woman by refusing to consider her application for a vacancy that was advertised for women only. The shop was seeking a female shop assistant and laughed when the applicant (who had not yet applied for legal gender recognition) arrived for an interview. The woman received support from NGO Hatter and the Equal Treatment Authority found that by rejecting her job application, the shop had doubly discriminated – on the basis of gender identity, and also on the basis of sex. This was the first decision of its kind in Hungary.

- In August, NGO Hatter published a report on workplace discrimination against LGBTQI people. The information was compiled between June 2015 and July 2016 as part of the 'Stories behind the Data' research project. 62% of those surveyed had heard offensive remarks or jokes about LGBTQI people at work. 29% of respondents had actually experienced harassment at work because they identify as LGBTQI. Trans respondents discussed the problem of under- or unemployment; 49% of trans people surveyed had been unemployed and seeking a job for more than three months during the last five years.

Equality and non-discrimination

- At a European Council meeting on 7 March, 27 EU member states expressed their support for the European Commission's list of actions to advance LGBTI equality. Hungary's ministerial representative vetoed the common response so there was no unanimous Council conclusion on the list of actions.
- On 7 December, the city of Budapest adopted its equality programme for 2017-2022; a local government programme designed to promote equal opportunities. Following contributions from the NGO Hungarian LGBT Alliance, sexual and gender minorities were included in the plan as a specific target group. At the end of 2016, the Budapest municipal assembly was preparing an action plan to accompany the equality programme.
- A final report under the UN's Universal Periodic Review process was adopted for Hungary in 2016 (see **United Nations**).

Family

- The Ministry of National Economy introduced a bill in parliament on 3 May. The budget omnibus bill also contained text changes that, although textually minimal, had the potential to limit the rights of same-sex civil partners. The bill was later altered and the problematic provisions relating to same-sex couples were dropped before it was finally adopted on 7 June.
- In September, the Commissioner for Fundamental Rights initiated an investigation into why the authorities in Pécs halted an adoption involving a lesbian couple. The

couple had met with and cared for the child on numerous occasions since being introduced in December 2015. The couple were then informed that the process must be halted and attempted to appeal the decision, later turning to the Commissioner for assistance. The Commissioner's investigation will not only focus on the specific case, but aims to explore the difficulties faced by same-sex couples during adoption procedures in general.

Freedom of assembly

- For the first time since 2007, the Budapest Pride march took place with no reported threats or violence. It was also authorised to end at parliament square for the first time in the march's 20-year history.

Freedom of association

- A community group in the city of Miskolc who had been working with the LGBT community there since 2013 applied to be registered as an NGO. The group wished to include the city's name in their organisation's title so had to apply for permission to use the name. The mayor subsequently refused to issue the relevant permit, without providing a reason. In December, the Equal Treatment Authority fined the Miskolc mayor HUF 500,000 (approx. EUR 1625) for the unprecedented denial of the name.

Freedom of expression

- The village of Ásotthalom introduced a ban on 23 November on so-called 'propaganda' featuring same-sex marriage or families not based on marriage between different-sex couples. On 11 December, LGBT groups organised a protest in the village to deliberately violate the ban. Subsequently, the Commissioner for Fundamental Rights petitioned the Constitutional Court, stating that the ban is discriminatory and infringes on freedom of expression. The county government office called on the Ásotthalom authorities to revoke the ban; if the village refused, the office stated its intention to challenge the decision at the Supreme Court.

Health

- On 20 December, the LGBTQ Section of the Hungarian Psychological Association published a translation of the

American Psychological Association's guidelines to working with clients who identify as LGBT or gender non-conforming.

Legal gender recognition

- In a report issued in September, the Commissioner for Fundamental Rights recommended that the Minister for Human Resources address existing regulatory problems with the legal gender recognition procedure, to introduce more transparent legislation, to allow trans people in higher education to change their names on certificates, and to separate the legal recognition process from access to trans-specific health care.

Public opinion

- The results of a detailed IPSOS survey across 23 countries were published by the University of California, Los Angeles' (UCLA) Williams Institute in December. 28% of the approximately 500 people interviewed in Hungary as part of the study on attitudes towards trans people opposed allowing trans people to undergo surgery. 43% believed trans people should be able to use toilets that correspond with their true gender (a higher percentage than those surveyed who actively disagreed). 48% supported protecting trans people against discrimination.
- The results of a national opinion poll conducted by Budapest Pride and Integrity Lab were published in December. 36% expressed support for marriage equality and 46% supported extending adoption possibilities to same-sex couples; both figures are higher than results from previous polls. 60% of those surveyed said that LGB people should have the same rights as heterosexual people.

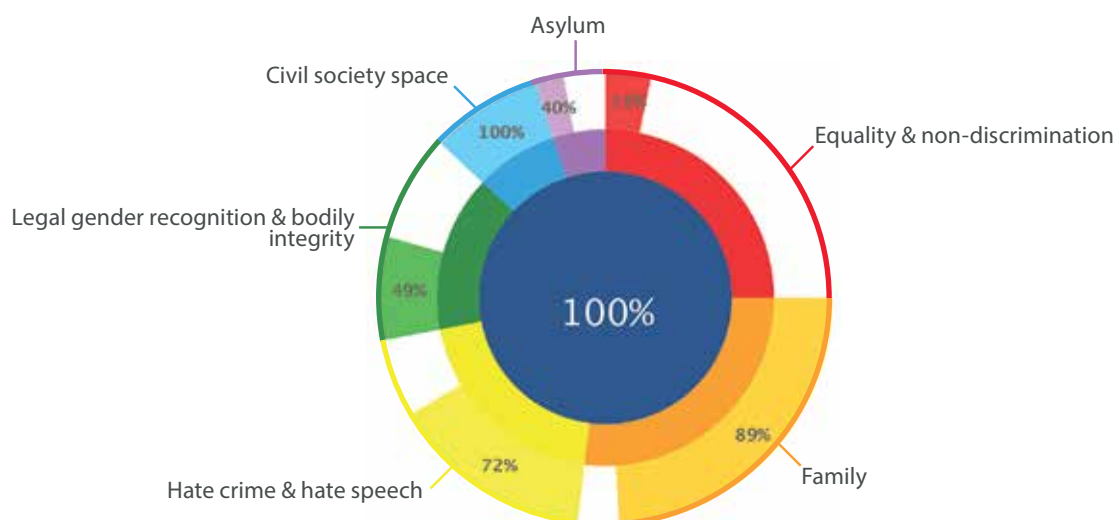
Iceland



Several assumptions were challenged in 2016 in Iceland. Firstly, an elementary school in Reykjanesbær confronted the notion that all students have a binary gender identity by introducing more inclusive policies, including a more gender neutral approach to facilities and swimming attire. Given Iceland's reputation for high levels of social acceptance of LGBTI people, it may come as a surprise to some that the country's president had not taken part in the Reykjavik Pride march. President Guðni Jóhannesson changed that this year by joining the celebrations in the capital. An examination of Icelandic laws and policies also reveals a concerning lack of protections for LGBTI people in anti-discrimination legislation, gaps in hate crime legislation and no legislation or positive measures in the area of asylum. Current legislation still imposes a series of deterring conditions on trans people to access legal gender recognition, and there is no legislation to protect the bodily integrity of intersex people. The ombudsperson for children had previously expressed concerns about this issue, and in 2016, a University of Iceland symposium was organised to discuss the human rights violations faced by intersex people.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.

Legal and policy situation in **Iceland** as of 31 December 2016



In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:



Prohibiting medical intervention on intersex minors when the intervention has no medical necessity and can be avoided or postponed until the person can provide informed consent.



Updating the existing legal framework for legal gender recognition, to ensure the process is based on self-determination, and is free from abusive requirements (such as GID/medical diagnosis, or surgical/medical intervention).



Ensuring legislative proposals on anti-discrimination within the area of employment include sex characteristics, so that the draft bill expressly mentions all SOGISC (sexual orientation, gender identity, sex characteristics) grounds.

Asylum

- LGBTIQAP NGO Samtökin 78 reported a dramatic increase in the numbers of LGBTIQAP asylum seekers requesting services from the organisation in 2016 (the NGO estimated that requests had risen by 350% since 2015). Samtökin 78 received multiple complaints from LGBTIQAP asylum seekers who stated that they do not feel safe in housing provided by the Directorate of Immigration. Attempts by Samtökin 78 to procure funding to provide additional services (such as counselling and translation) were not responded to by the authorities. Iceland accepted five LGBT quota refugees in 2015, but the situation for LGBTI asylum seekers did not improve in 2016. In a meeting with representatives of NGO Samtökin 78 in February, it became clear that the Directorate of Immigration were not following UNHCR guidelines (despite the fact the Directorate had previously stated in 2015 they were, following an official information request from Samtökin 78). No staff had received any training on LGBTI issues and, when pressed, they stated they were following UK guidelines. In October, it also was announced that a gay asylum seeker from Iran was to be deported back to Italy, despite having expired papers and the fact that the Italian government were not able to ensure that his papers would be renewed. Without any renewal of papers, this asylum seeker will be deported back to Iran where he faces a death sentence.

Bias-motivated speech

- In November, Reykjavik police issued official charges in eight cases of hate speech on the grounds of sexual orientation. The charges were based on information about ten such incidents presented to the authorities by LGBTIQAP NGO Samtökin 78 in April 2015. The remaining two cases were under the jurisdiction of a separate police force. Court proceedings were underway in the eight Reykjavik police cases by the end of the year.

Bodily integrity

- RIKK, the Institute for Gender, Equality, and Difference based at the University of Iceland sexology held a symposium on intersex issues. Held in November, the

sessions included discussions on human rights violations, ethics and genital autonomy as a sexual right.

Education

- Akurskóli, an elementary school in Reykjanesbær, took steps to become more gender neutral in January. Gendered signs were taken down from bathrooms and stipulations for specific swim attire were removed (now both boys and girls can choose between swimming costumes or swimming trunks). The school's principal Sigurbjörg Róbertsdóttir said that "...since there are currently children attending the school who are gender-fluid or trans, it's not up to us, the school, to force them or anybody else into a pre-designed form."
- In August, prior to the start of the upcoming semester, the University of Iceland changed its registration protocols. Now, trans students are able to change their names within the school. This will enable students who are transitioning but have not yet obtained their gender marker to use their name, not the given name as listed with Registers Iceland.
- LGBTIQAP NGO Samtökin 78 continued its cooperation with the municipality of Hafnarfjörður. During 2016, peer educators worked with many classes in the higher levels of elementary school. The NGO's Education Officer also conducted extensive training for teachers and staff of most elementary schools within the municipality. Reykjavik City also has a service contract with Samtökin 78. Students in almost half of the city's schools have received LGBTIQAP based peer education but Reykjavik City had not honoured their commitments for trainings for teachers and school staff by the end of 2016.

Participation in public, cultural and political life

- The National Olympic and Sports Association in Iceland (ISI) announced in May that queer education would form part of their coaches' training programme. LGBTIQAP NGOs Samtökin 78 and Styrmir - The Queer Sporting Association developed the programme which focuses on LGBTIQAP needs in sport.

- On 6 August, days after his inauguration, Guðni Th. Jóhannesson became the first Icelandic president to take part in Reykjavik Pride. An estimated 60,000 people attended the festival's Pride Parade. The Pride organisers also had their own Parade float for the first time and they were joined by the Dagur B. Eggertsson, the city's mayor, and several members of Reykjavik city council.

Police and law enforcement

- Following demand from the public, a police focus group was set up to respond to questions around how the police interact with immigrant communities. NGO Samtökin 78 also received a specific request that two spaces in the group should feature voices of LGBTQIAP immigrants.

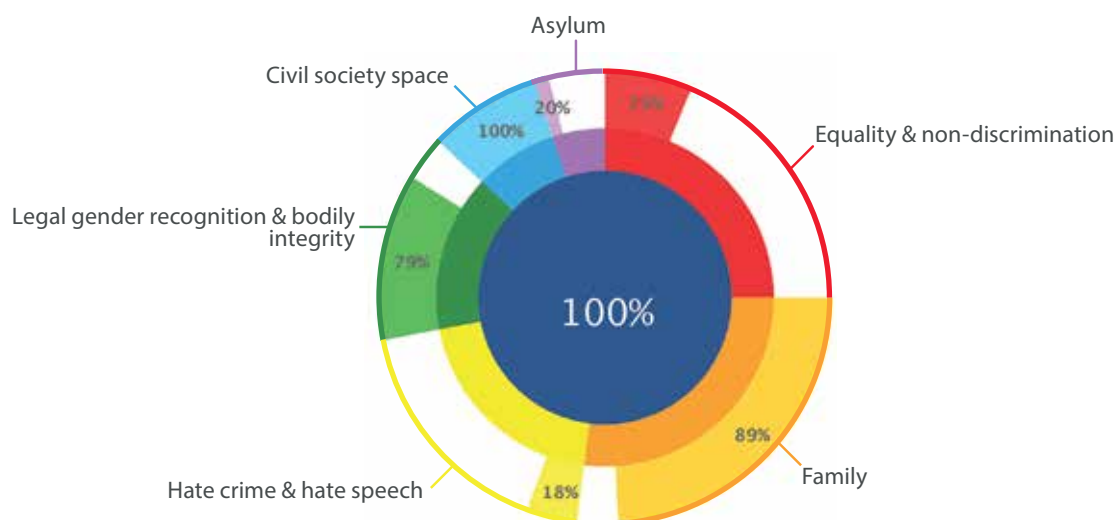
Ireland



Following the global attention garnered in the wake of the high-profile marriage referendum and self-determination gender laws the previous year, many Irish developments in 2016 were driven by data. Many pieces of first-time research focusing on specific LGBTI perspectives were conducted, which will hopefully inform future legislative practice. This included the first reports on life for LGBT prisoners in Ireland, the largest mental health study carried out to date, and the first trans mental health campaign. Particular forms of data were analysed for the first time too; such as first set of hate crime statistics since the police began recording transphobic motives in 2015. Hate crime and hate speech laws continue to be an area with almost non-existent protection for LGBTI people; no advances were reported here in 2016. Some elements of the Child and Family Relationships Act were given ministerial approval and a revision of the blood donation criteria was promised. In another first, Katherine Zappone became the country's first openly lesbian cabinet minister.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.

Legal and policy situation in **Ireland** as of 31 December 2016



In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:



Ensuring that existing legislation is commenced and enforced so that children born to couples (regardless of the partners' sexual orientation and/or gender identity) are not facing any barriers in order to be recognised legally from birth to their parents (automatic co-parent recognition).



Updating the existing legal framework for legal gender recognition, to ensure the process is free from age limits, and explicitly includes intersex and non-binary people.



Adopting a comprehensive national action plan on LGBTI equality that expressly mentions all SOGISC (sexual orientation, gender identity, sex characteristics) grounds.

Bias-motivated speech

- In May, the Church of Ireland Archdiocese of Dublin withdrew an invitation they had extended to an Argentinian evangelical preacher. Ed Silvoso (who has expressed anti-LGBTI views and called equal marriage “blatant immorality”) had been due to speak at an event at a church in Wicklow but the invite was withdrawn.

Bias-motivated violence

- In September, a man who had been violently assaulted in Dublin’s Phoenix Park made a complaint about his subsequent treatment to the Garda Síochána’s Ombudsman Commission (GSOC). The victim was beaten with metal bars by a group of teenagers on 30 July; homophobic language was used during the attack. He later told journalists that police officers who came to speak to him in hospital asked if he was sure it was a hate crime and if he had done anything to “provoke” the attack.
- Hate crime figures from the Central Statistics Office, released to the *Press Association* in October, showed that 26 cases of crimes based on gender, transphobia or homophobia were recorded in the first six months of 2016, compared to 25 overall in 2015. These were the first statistics available since the Pulse recording system used by An Garda Síochána was expanded to include transphobic crimes in 2015.

Bodily integrity

- At the UN Committee on the Rights of the Child’s hearing on 14 January, government representatives were questioned on Ireland’s treatment of intersex children. Members of the Committee queried the lack of legislative or administrative measures to ensure the bodily integrity and self-determination for intersex people.

Data collection

- The *LGBTIreland report*, commissioned by NGOs GLEN and BeLonGTo, was published on 21 March. It was the largest study of the mental health of LGBTI people in Ireland carried out to date. According to *LGBTIreland*, a majority of LGBTI people over the age of 26 are doing well but this positive finding was not shared across all age groups. 56% of LGBTI people aged 14 - 18 who had taken

part in the study had self-harmed, 70% had suicidal thoughts and 1 in 3 had attempted suicide. The study itself was conducted by researchers from Trinity College Dublin and funded by the National Office for Suicide Prevention.

- NGO BeLonGTo’s survey of 1300 young people showed that 53% of respondents know someone who came out since the referendum on marriage equality in May 2015. 39% of the respondents who identify as LGBT said that the Yes vote had given them the confidence to speak to others about their sexuality for the first time. The survey results were published in May, to coincide with the first anniversary of the referendum.

- A study by UNESCO on homophobia and transphobia in school was published at an intergovernmental event in Paris to mark IDAHOT in May. The study, which was the largest of its kind in Europe, revealed that 52% of young LGBTI people in Ireland experienced homophobic/transphobic name-calling while at school.

- The Rape Crisis Network Ireland published its first national report on LGB survivors of sexual violence on 11 July. The *Finding a Safe Place* report showed that LGB survivors reported higher levels of multiple incidents of sexual violation than heterosexual survivors (26% compared to 15%). LGB survivors were more likely to confide in partners or friends first, as opposed to heterosexual survivors who were more likely to tell family members. 47% of LGB survivors waited more than ten years to report incidents (21% of heterosexual survivors took the same length of time).

- According to ‘*Swimming with Sharks*’, a research paper from the University of Queensland in Australia on the psychological impact of the marriage equality referendum process, 80% of LGBTI people were upset by the anti-equality campaign materials produced by advocates for a ‘No’ vote.

Education

- On 28 January, the *Being LGBT in School* guidelines were launched by the Department of Education and Skills. The resource contained the first-ever guidance for post-primary schools on how they can support trans

students and a copy was sent to every second level school in the country.

- The *LGBT Safe and Supportive Schools Toolkit* was launched on 11 May following a partnership project between the Health Service Executive (HSE) and NGO BeLonGTo. The model was piloted in two Donegal schools and involved students, teachers, parents and local communities to ensure that schools are an inclusive environment for young LGBTI people.
- NGO BeLonGTo's annual national anti-LGBT bullying campaign *Stand Up!* was launched by Minister for Education, Richard Burton (FG) and ran in schools throughout Ireland from 14-18 November. BeLonGTo provided training sessions in advance of the campaign for teachers and youth workers at several locations, both in Dublin and outside the capital.

Employment

- Ireland's first trans leadership summit, run by NGO TENI and professional services company Accenture, took place on 19 and 20 November. *Telling MY Story* was developed in response to the barriers trans people can face when seeking employment and was designed to empower future trans leaders. 30 trans people took part in the first summit in Dublin.
- Accenture were also named the Best Place to Work for LGBT Equality 2016 by NGO GLEN in September.

Equality and non-discrimination

- A schoolteacher was awarded compensation by the Equality Tribunal in January, after the tribunal found that she had been discriminated against because her son was gay. Bernie Marron, a teacher at St. Paul's primary school in Sligo, was discriminated against by association when the school's principal had made derogatory remarks about her son's sexual orientation and questioned what kind of mother would have a son "like that". The tribunal found this undermined her dignity at work and awarded Bernie Marron EUR 3,000. It also ordered the school to invest in equality training for staff.
- *'It's Time to Hear Our Voices'*, a report based in the first national forum on trans youth issues in 2015, was published on 1 April. It was launched by the Irish Trans

Student Alliance and NGOs BeLonGTo and TENI to mark International Trans Day of Visibility.

- On 23 June, the Irish Blood Transfusion Service recommended adapting the criteria around blood donation by men who have had sex with men. Following an IBTS board meeting, the service recommended that the blanket exclusion be replaced by a 12 month deferral period. Minister for Health Simon Harris (Fine Gael, FG: centre-right) announced on 27 June that he accepted the IBTS recommendation and would implement the change to bring Ireland in line with a similar policy to be introduced in Northern Ireland in September. As a result of Minister Harris' announcement, the legal team representing Tomas Heneghan (a law student who had initiated a legal challenge in 2015 against the permanent ban) said that he would drop his case against the state. The policy change had not been introduced before the end of 2016.
- Minister for Children and Youth Affairs, Katherine Zappone (independent) announced, during Pride week, that her department would develop the first national LGBTI Strategy for Young People. The strategy had not been finalised before the end of 2016.
- A private member's bill was introduced in the Seanad (senate) on 6 December. The Convictions for Certain Sexual Offences (Apology and Exoneration) Bill aims to provide an apology and exoneration for people who were previously convicted of having consensual same-sex sexual acts. The bill had not progressed to second stage by the end of 2016.
- A final report under the UN's Universal Periodic Review process was adopted for Ireland in 2016 (see **United Nations**).

Family

- Minister for Justice Frances Fitzgerald signed the order to commence several sections of the Child and Family Relationships Act 2015 on 18 January. The commencement order corresponded to the sections of the act relating to guardianship, custody, access and maintenance. The second and third parts of the law, covering donor-assisted reproduction, had not been commenced by the end of 2016.

- According to figures released by NGO GLEN in a statement to mark the first anniversary of the marriage equality referendum, 412 same-sex couples were married since equal marriage was introduced in 2015.
- The Presbyterian Church's general assembly meeting in Belfast in June voted to introduce a declaration renouncing marriage equality in Presbyterian marriage ceremonies on the island of Ireland. The decision came into effect immediately and applies to ceremonies carried out in Northern Ireland as well, despite the fact that equal marriage was not possible there in 2016.

Health

- 'KnowNow', the first free rapid HIV testing service for men who have sex with men, was launched in March. The project was initiated by NGO GLEN, the Sexual Health Centre in Cork, and GOSHH (Gender Orientation, Sexual Health and HIV) based in Limerick. Tests are performed by volunteers in non-clinical settings in Dublin, Limerick and Cork cities. 'KnowNow' was undergoing a review at the end of the year; more information on the outcomes of the project are expected in early 2017.
- The first national campaign focusing on the mental health of trans people was launched by NGO TENI and ran from 24 to 30 October. National Trans Mental Health Week featured online and physical activities to promote the mental health and wellbeing of the trans community in Ireland. As part of the campaign, TENI also published 'Heads Up', a mental health guide for trans people.
- In December, the HSE announced that HPV vaccines would be offered to men who have sex with men from January 2017. Previously the vaccine, to protect against cervical cancer and genital warts, was only available to girls but gay and bisexual men remained vulnerable. The HSE also said it would make the vaccine available to people over the age of 26 who are living with HIV (previously only people living with HIV who were younger than 26 were vaccinated).

Human rights defenders

- NGO TENI celebrated its tenth anniversary in November at a reception hosted by President Michael D.

Higgins. At the event, the president discussed the situation for LGBTI people in Ireland, the 2015 Gender Recognition Act and paid tribute to the activists "...who campaigned for such life-changing legislation".

Legal gender recognition

- According to figures obtained from the Department of Social Protection, by 31 December, 198 gender recognition certificates had been granted since the Gender Recognition Act 2015 was commenced in September 2015.

Participation in public, cultural and political life

- Former senator Dr Katherine Zappone was appointed Minister for Children in May following the 2016 general election in February. Zappone is the country's first openly lesbian cabinet member.
- Three openly LGBT senators (David Norris, Jerry Buttimer and Fintan Warfield) were elected to the Seanad (senate) in June, along with several active LGBTI equality advocates.
- NGO TENI's chief executive Broden Giambrone became the first ever trans person to act as grand marshall for the Limerick Pride parade in July.

Police and law enforcement

- The Irish Penal Reform Trust (IPRT) launched *'Out on the Inside'*, a report on the experiences of LGBT people in prison, on 2 February. This was the first in-depth study of its kind in the country and was carried out by a research team from Queen's University Belfast for the IPRT. The report described LGBTI prisoners and ex-prisoners as a "doubly marginalised" group, both within the prison system and the wider LGBT community when they leave prison.
- The Irish Defence Forces announced its *Defend with Pride* initiative on 11 October. The network aims to make the forces a more inclusive workplace. *Defend with Pride* provides information and support to LGBT personnel and is coordinated as part of the Diversity Champions Programme run by NGO GLEN.

Sexual and reproductive rights

- On 1 February, then Health Minister Leo Varadkar (FG; became Minister for Social Protection following 2016 general election) announced his department's intention to introduce legislation to allow access to IVF treatment through the public health system for the first time. The law had not been drafted before the end of the year.

Social security and social protection

- David Parris, a lecturer at Trinity College Dublin (TCD), lost a legal challenge against his employers in November. Mr Parris argued that his same-sex partner would not receive a survivor's pension under the college's scheme and the Labour Court referred the question to Luxembourg. The Advocate General had recommended a finding of indirect discrimination in July, but the Court of Justice of the European Union ruled that he had not been discriminated against on the grounds of age and sexual orientation. The CJEU held that TCD's scheme was worded neutrally and that the national rule did not constitute indirect discrimination on the grounds of sexual orientation.

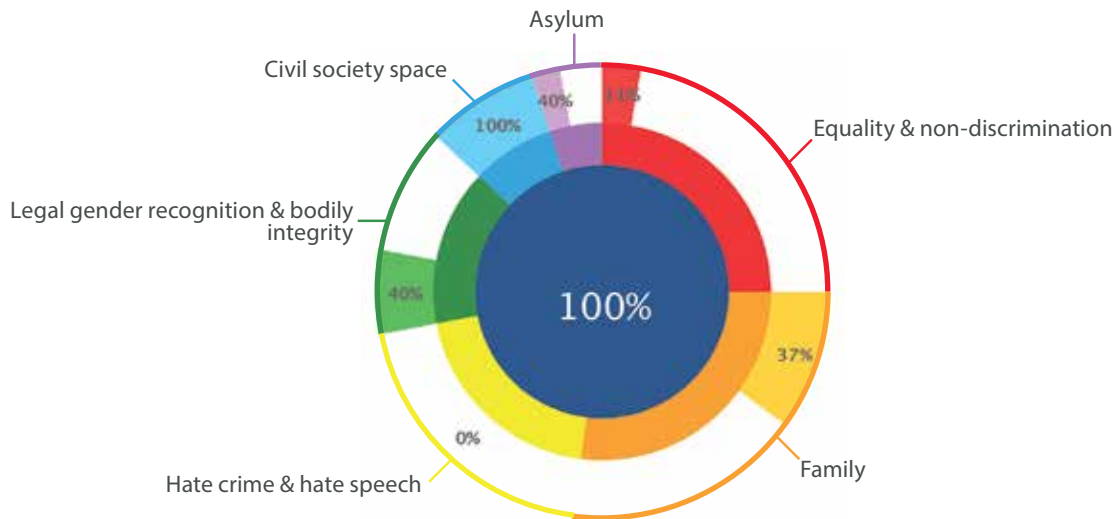
Italy



An historic milestone was reached in Italy in 2016, as the parliament voted to support legal recognition for same-sex couples for the very first time. Civil unions, a long-promised form of legally protected partnership, were a reality by the end of the year. However, the process, content and aftermath of the law's passage were far from straightforward. Thousands of pro-equality advocates came onto the streets in advance of the first vote in the senate; many of whom were dismayed by the government's decision to remove second parent adoption provisions from the bill to ensure its ultimate survival. Divisive, derogatory language about same-sex couples and their children, from parliamentarians who opposed the bill, became a distasteful hallmark of the legislative process. In a country where hate speech against LGBTI people is not legislated for, this was a particularly difficult time for rainbow families. A series of important adoption-related legal cases were decided by courts from Rome to Naples. Judges in Strasbourg also had an influence, as the European Court of Human Rights held that denying same-sex couples residence permits on 'family grounds' was discriminatory.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.

Legal and policy situation in **Italy** as of 31 December 2016



In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:



Ensuring marriage equality for all.



Allowing for equal access to medically assisted insemination treatments for all individuals.



Prohibiting medical intervention on intersex minors when the intervention has no medical necessity and can be avoided or postponed until the person can provide informed consent.

Bias-motivated speech

- Homophobic speech was present throughout the parliamentary discussions on the civil union legislation. Senator Roberto Formigoni tweeted on 6 February that “gay, lesbian, bi-transgender and queers” were in “severe hysterics” over the possible defeat of the bill. His language was criticised online as being vulgar; Formigoni later said his words had been distorted and that he was referring to specific individuals, not all LGBTI people. Opponents of the legislation attempted to tie the issue of surrogacy to the civil unions bill. During debates on 11 February, Forza Italia senator Maurizio Gasparri asked how one of the bill’s authors Sergio LoGiudice (Democratic Party, PD) “paid for a child” despite the fact that the bill did not mention surrogacy. Journalist Caterina Coppola called that attack one of the ‘darkest moments in Italian political history’. In August, founder of the Union of Islamic Communities and Organisations wrote a Facebook post, saying the introduction of civil unions meant that polygamy should also be legalised; Hamza Piccardo’s comments were criticised by politicians, including Debora Serracchiani, deputy head of the Democratic Party. In an interview with *Radio Maria* on 30 October, Catholic theologian Father Giovanni Cavalcoli commented that a series of earthquakes in Italy were “divine punishment” following the introduction of civil unions for same-sex couples (see **Family**). Archbishop Angelo Becciu said that Cavalcoli’s remarks were “offensive to believers and disgraceful for non-believers”.

- On 4 May, the Italian National Olympic Committee unanimously voted to introduce an amendment to its statute, banning homophobia in sport. Article 2.4 was amended and now outlines CONI’s principles against discrimination as including the ground of sexual orientation.

Bias-motivated violence

- ANDDOS, the national association against sexual orientation discrimination, issued a press statement on 18 May condemning the attack on the Anddos Gay Centre in Rome. The centre was attacked by a far-right Forza Nuova activist. ANDDOS national president Mario Marco Canale

called the incident ‘cowardly’ and said that Italy was being “...faced with the consequences of the vile propaganda of hatred that has developed in recent months during the discussion of the Civil Unions” (see **Family**).

- Transgender Europe’s (TGEU) Trans Murder Monitoring project, 5 trans people were killed in Italy in 2016: a 64 year-old trans person in Naples; a 41 year-old trans person in Naples; 45 year-old trans person in Florence; a 30 year-old trans person in Rome; and a 34 year-old trans person in Brescia. Four of the five reported victims identified as women.

Bodily integrity

- In September, it was reported that a two-year-old intersex child had been operated on at the Paolo Giaccone Hospital in Palermo. At birth, the child was registered as female, but follow-up medical tests stated that the child’s chromosomal make-up was male. The family initiated the process to change the child’s sex in the municipal birth register.

- The UN Committee on the Rights of Persons with Disabilities published its concluding observations on Italy on 5 October. Among its concerns was Italy’s treatment of intersex children, specifically irreversible surgery that was not consented too. The Committee recommended that no infant or child undergo such medical procedures, that Italy “guarantee bodily integrity, autonomy and self-determination to the children concerned, and provide families with intersex children with adequate counselling and support”.

Employment

- The Tribunal of Rovereto ruled in June that a religious school cannot discriminate based on sexual orientation. The Daughters of the Sacred Heart Institute in Trento, a Catholic school, had refused to renew a teacher’s employment contract after she had refused to clarify ‘rumours’ about her sexual orientation. The tribunal heard that the school had subsequently alleged that the teacher was guilty of ‘improper conduct’. The school was ordered to pay the teacher EUR 25,000 in damages, and also to pay EUR 1500 each to the CGIL union and LGBTI NGO

Associazione Radicale Certi Diritti. It is a significant case, involving both individual discrimination and collective discrimination, as the tribunal stated it would have a negative impact on other teachers who were considering whether or not to work at the school.

Equality and non-discrimination

- In a papal document 'Amoris Laetitia (Joy of Love)' published in April, Pope Francis stated that "every person, regardless of sexual orientation, ought to be respected in his or her dignity and treated with consideration" and also that "There are absolutely no grounds for considering homosexual unions to be in any way similar or even remotely analogous to God's plan for love and marriage".
- As part of its five-year monitoring cycle, the European Commission against Racism and Intolerance (ECRI) published a report on Italy on 7 June. ECRI welcomed the progress on the civil union bill for same-sex couples and looked forward to its finalisation. Among the report's explicit interim follow-up recommendations was the introduction of measures in schools to promote tolerance and respect on the grounds of sexual orientation and gender identity. Other recommendations from ECRI included appointing an officer in each police district and in the public prosecutor's office to act as a contact point on questions of homophobia and transphobia. The report also recommended that the remit of the National Office against Racial Discrimination (UNAR) be widened to include discrimination based on sexual orientation or gender identity.

Family

- In advance of parliamentary discussions on civil unions and second parent adoption, interior minister Angelino Alfano (New Centre-Right, NCD; Christian-democratic) stated that surrogate parents should be punished in a similar manner to sex offenders. On 6 January, Alfano said "We want 'wombs for rent' to become a universal crime, and that it is punished with prison. Just as happens for sexual crimes". He also told *Avvenire* (a daily newspaper belonging to the Italian Episcopal Conference of Catholic bishops) that "If Italy has a law that

allows second parent adoption for gay couples, the day after we will start a huge collection of signatures for a repeal referendum. And I will be first in line." A group of MPs initiated a campaign to repeal the unions law on 12 May but it did not gather the required 500,000 signatures and the deadline expired before the end of 2016.

- Senate debates on the Civil Union and Cohabitation Bill began on 28 January. Marches and events in support of LGBTI equality had been organised in over 90 towns and cities the previous weekend, attracting thousands of supporters. Anti-equality protestors gathered in Rome on 30 January for 'Family Day'; turnout was also in the thousands but much lower than the one million people predicted in advance by organisers. On 12 February, after the head of the Italian bishop's conference had called for a secret Senate vote, Prime Minister Matteo Renzi (Democratic Party, PD; social democratic) said "Parliament decides whether or not to allow secret votes not the CEI (the bishops' conference). What is there to fear from two people who love each other?". On 16 February, the Five Star Movement (M5S; anti-establishment) withdrew their support for in the bill. The Democratic Party's Senate caucus then removed the second parent adoption provisions of the bill on 23 February. The decision reflected internal division within the Democratic Party and the fact that coalition partners New Centre-Right had stated their overall support for the civil union bill was conditional on the withdrawal of second parent adoption. The Democratic Party also made the Senate vote on civil unions a confidence motion. On 25 February, the Senate voted in favour of the civil union and cohabitation bill. 173 senators voted in favour and 71 were against. This was the first time that Italian parliamentarians voted to support legal recognition of same-sex couples. Sections of the Democratic Party expressed disappointment with the removal of the adoption provisions; Senator Monica Cirinna (PD) stated that she would table a separate adoption bill. The civil union bill proceeded to the Chamber of Deputies, where it was approved by the justice committee on 4 May. The final vote took place on 11 May. The Chamber of Deputies approved the bill; 372 MPs voted in favour of the bill, 51 against, and 99

abstained. The civil union bill recognised same-sex couples in law for the first time, providing for equality in matters of tax, social security and inheritance. The implementation acts were published in the Official Journal on 23 July. On 24 July, Elena Vanni and Deborah Piccini became the first same-sex couple to enter a civil union.

- In February, the Court of Cassation refused to hear an adoption case involving a lesbian couple, as it stated that the lower Bologna court had mishandled the case. Both women are US citizens but one of the women also had Italian citizenship. The couple had sought to apply this Italian citizenship to all family members and adopt each other's biological children but had been refused permission by the Bologna-based tribunal.
- The tribunal for minors in Rome recognised the adoption by a lesbian couple of each other's biological daughters. In a decision released on 1 March, the tribunal's ruling means that the children will not be legally recognised as sisters but they will share a double-barrelled surname. Both children will have one biological parent and one 'social' parent, both of whom have full parenting responsibilities and rights. The decision was based on the special cases adoption legislation.
- On 5 April, the Naples Court of Appeal ruled that two second-parent adoption orders (originally granted by the Court of Lille in France) should be recognised by the Italian civil registrars. The Naples court found in favour of a French-Italian same-sex couple and (for the first time in a civil status case involving a same-sex couples) ordered the local mayors who had refused to recognise the adoption orders to pay EUR 5,000 in legal costs.
- On 29 April, the juvenile court in Rome ruled that a lesbian couple could adopt each other's children (all born following artificial insemination), a first decision of its kind from a first instance tribunal.
- The European Court of Human Rights released its judgment in *Taddeucci and McCall v Italy* on 30 June. The Court held that that Italy's refusal to grant one partner in a same-sex couple a residence permit violated their rights under Article 14 (non-discrimination) taken with Article 8 (right to family and private life). The Italian authorities had

refused to grant Mr McCall a residence permit on family grounds, after his student visa expired, as the couple were not recognised as spouses under domestic law. The court held that this interpretation of who constitutes a family member was an insurmountable obstacle for same-sex partners who wanted to obtain permits, as they didn't have any means of having their partnership legally recognised (prior to the civil union law).

- On 21 June, the country's highest court upheld a 2015 decision (from Rome's Court of Appeal) which allowed a woman to adopt her female partner's daughter; a decision the court based on the best interests of the child. This was the first time that the Court of Cassation had issued a ruling on step-child adoption involving a same-sex couple.
- The Supreme Court (First Civil Division) upheld a 2014 decision by the Turin Court of Appeal that had instructed a civil registrar to recognise the Spanish birth certificate of a child with two mothers. The Italian co-mother had donated an egg to her Spanish partner, the child's birth mother. Despite the civil registrar's initial refusal and the appeal of the Turin court decision by the public prosecutor, on 30 September the Supreme Court held that there was no obstacle to the registration of such a birth certificate in Italy, recognising the computability of same-sex parenthood with public policy and also recognising rainbow families without adoption procedures.
- After the civil unions law was passed, Gay Centre Italy in Rome began compiling a list of cities and towns whose mayors were trying to limit the scope of the law and not fully apply it. On 7 December, the Regional Administrative Court of Padua granted interim relief against the conduct of former mayor Bitonci. The Municipality of Padova had limited the time and locations available for civil union ceremonies, restricting their options. The Court held that this was discriminatory intent.

Freedom of assembly

- The first-ever Pride March in the northern city of Varese took place on 18 June. The Pride's organisers reported that local authorities, in particular the local

police, amended the route of the march several times. The National Police also changed the parade route, three days before the Pride was due to take place. This diversion took the march away from the city centre. Modifications were also made to the march so that it was going to conclude in a closed car park, instead of a public square (Piazza Monte Grappa). After a meeting with the commissioner, the organisers ensured the march ended in the public square as originally planned; however, the stage that speeches were being made from was turned to face away from the square, towards a quiet street instead. The Council of the Municipality of Varese decided unanimously not to sponsor the parade because the event "is divisive and not everyone agrees."

Freedom of expression

- In March, the Italian Conference of Bishops' Film Evaluation Commission banned the film 'Weekend' from being shown in cinemas owned by the Catholic Church. The two central characters are gay and the Commission stated the Andrew Haigh-directed film was "not advised, unusable and scabrous", preventing it from being screened in over 1,100 cinemas. The film had previously been approved by the country's official film board.

Public opinion

- Research institute Demos & Pi released survey results in February (shortly after the Senate's vote on the civil unions bill; see Family) that showed a majority of those questioned supported recognition of same-sex couples. 69% supported civil unions and 54% were in favour of equal marriage. On the question of parenting, 37% of respondents approved of second parent adoption. The survey was carried out for the daily newspaper *La Repubblica*.

Kosovo¹

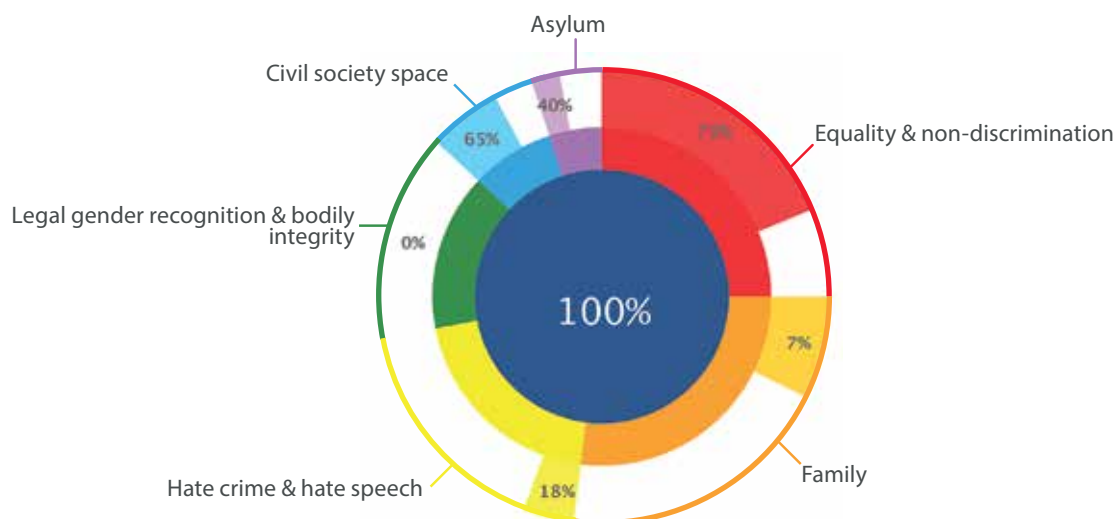


The need to embed equality laws in the day-to-day routine of a country was raised in Kosovo in 2016. Awareness-raising and better implementation of existing anti-discrimination policies were cited as necessary aims by an advocacy and coordination group for LGBTI rights. The importance of follow-up, matching words with resources, and encouraging more commitment from local leaders was additionally outlined by the European Commission in their annual enlargement update. An NGO-led research project underlined the necessity of making sure that health and social care staff are aware of the responsibilities they have towards LGBTI people. This research also included a series of recommendations for addressing the minimal legal protection that trans people have in Kosovo. In the absence of well-developed hate speech or crime policies, NGOs continued to provide support to LGBTI victims of violence, who similarly fall outside of legislative safeguards.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.

¹ Included in this Review as a separate jurisdiction following UNSCR 1244/1999

Legal and policy situation in **Kosovo**¹ as of 31 December 2016



In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- Introducing hate crime laws that explicitly cover all bias-motivated crimes based on sexual orientation, gender identity and sex characteristics.
- Introducing hate speech laws that explicitly include sexual orientation, gender identity and sex characteristics as protected grounds.
- Developing a fair, transparent legal framework for legal gender recognition, based on a process of self-determination, free from abusive requirements (such as sterilisation, GID/medical diagnosis, or surgical/medical intervention).

Asylum

- In 2016, four LGBTI people contacted NGO Center for Equality and Liberty (CEL) for information about applying for asylum.

Bias-motivated speech

- On 17 May, in response to IDAHOT events, Gezim Kelmendi MP (Fjala, conservative) said that promoting the rights of LGBTI people through public marches was unacceptable: "Our people don't need this kind of parade [as] homosexuality is a disease that is scientifically proven... and a leading cause of the destruction of families and population decline". LGBTI NGOs called on the Assembly of Kosovo to open a hate speech investigation, but this was not initiated.

Bias-motivated violence

- In May, a gay man reported to police that he had been raped at his place of work by a colleague. This was processed by the Basic Court's serious crime department and the prosecutor indicted the suspect for rape under Article 230 of the Criminal Code. In September, the victim was referred to NGO CSGD for legal assistance and psychological support.
- Two gay men were attacked in Ferizaj city by two people on 12 June. One of the victims received injuries to his body and face that required medical attention. The two attackers were arrested and the case was reported to the police station in Ferizaj. NGO Centre for Social Group Development (CSGD) highlighted the incident in the media. In July, the Basic Prosecutor's Office filed an indictment against the two attackers. The Ferizaj Basic Court found one of the accused men guilty of incitement to hatred and bodily injury in September; he was given a five month prison sentence. The court found the second defendant not guilty of incitement to hatred but also guilty of bodily injury; his four month sentence was suspended for one year. The prosecutor and the accused both appealed the decision. The Court of Appeal is expected to hear the case in early 2017.
- On 2 July, a gay couple were attacked by their landlord after he discovered their sexual orientation. The

couple reported being physically and verbally attacked, before being locked inside the house and then had to jump from a balcony to escape. They contacted the police but the attacker was not arrested. The incident was also reported to the Ombudsman. Also in July, assisted by NGO CSGD, the couple reported the incident to the police. The victims were subsequently informed that their case had been processed by the prosecutor's office in Pristina; the couple had not received any more information at the end of 2016.

- In August, NGO CSGD received a report of a minor who was the victim of violence inflicted by family members who perceived him to be gay or trans. The case was reported to the police and subsequently referred to children's rights organisation Terres des Hommes.

Data collection

- NGOs CSGD and CEL conducted research on trans people's access to health care and social protection as part of the Equal Rights for All coalition. The results of the interviews and focus groups were published in November, along with a series of recommendations. These included a legislative review that would allow a change of gender marker on ID documents, the inclusion of trans people's needs in the Ministry of Health's strategy, and awareness-raising initiatives by civil society and public institutions (see also **Health and Social security and social protection**).

Enlargement

- Kosovo has been a potential candidate to join the European Union since 2008. In its annual enlargement package reviewing progress made towards EU accession, published in November, the European Commission said that positive statements on protecting the rights of LGBTI people must be followed up by adequate resourcing. Support from political figures, and the President's presence for the first time, at the latest IDAHOT march was noted, but the report stated that implementation of human rights laws requires more resources and political commitment at local level. The Commission encouraged the relevant authorities to effectively investigate hate

crime and speech incidents against LGBTI people and urged the advisory and coordinating group for the rights of LGBTI persons to work more proactively with other institutions.

Equality and non-discrimination

- In cooperation with several LGBTI NGOs, the Office of the Prime Minister organised a conference on the 'rights of the LGBT community in Kosovo – progress and challenges' to mark IDAHOT. The conference aimed to increase awareness of LGBT issues among institutional stakeholders and the general public. The event on 17 May featured remarks from the advisor of the Prime Minister Isa Mustafa (Democratic League of Kosovo, LDK; centre-right) and NGOs Center for Social Emancipation (QESH), Center for Equality and Liberty (CEL) and Center for Social Group Development (CSGD).
- The Advisory and Coordination Group for LGBTI rights in Kosovo (ACG) finalised its November 2016 – November 2018 National Action Plan. The main areas addressed in this plan include the improvement of the implementation of existing anti-discrimination policies (with a special focus on education and health), increasing citizens' awareness of the rights of LGBTI people, and increasing ACG's efficiency.

Freedom of assembly

- IDAHOT was celebrated in Pristina with an equality march in the city's main square. The march was organised jointly by three LGBTI NGOs, CSGD, CEL and QESH, under the motto "Our love is constitutional". It was attended by Kosovo's President Hashim Thaci, former President Atifete Jahjaga, Vice President of the European Parliament Ulrike Lunacek, and representatives from government and civil society.

Health

- The Equal Rights for All research, published in November, revealed that health professionals have a good understanding of the terminology, treatment and issues related to trans people, but their outlook is not always inclusive. A number of professionals did not recognise

that they have a role to play in supporting trans people. There was a limited number of health professionals who actually had direct experience of dealing with trans patients.

Participation in public, cultural and political life

- At the end of May, a trans man shared his personal story as part of a video documentary shown on well-known news portal gazetaexpress.com. This was the first time that a member of the trans community in Kosovo came out publicly.

Police and law enforcement

- On 13 December, a roundtable on the treatment of LGBTI cases by the judicial system was attended by representatives from the Ombudsperson Institution, the Office for Good Governance, police prosecutors and court officials. It was organised by NGO CSGD as part of Human Rights Week activities. One of the cases analysed was the attack on two gay men in the city of Ferizaj (see **Bias-motivated violence**). The roundtable concluded that the Basic Court failed to provide a good example of legal practice in cases where members of the LGBTI community are victims in a criminal prosecution.

Social security and social protection

- The Equal Rights for All research, published in November, concluded that not all social workers had a clear understanding of the underlying issues for trans people, but overall they appeared to be open minded and showed a conviction in providing services for all those who would be eligible. The report states that there are gaps to be filled which may improve the services that trans people receive.

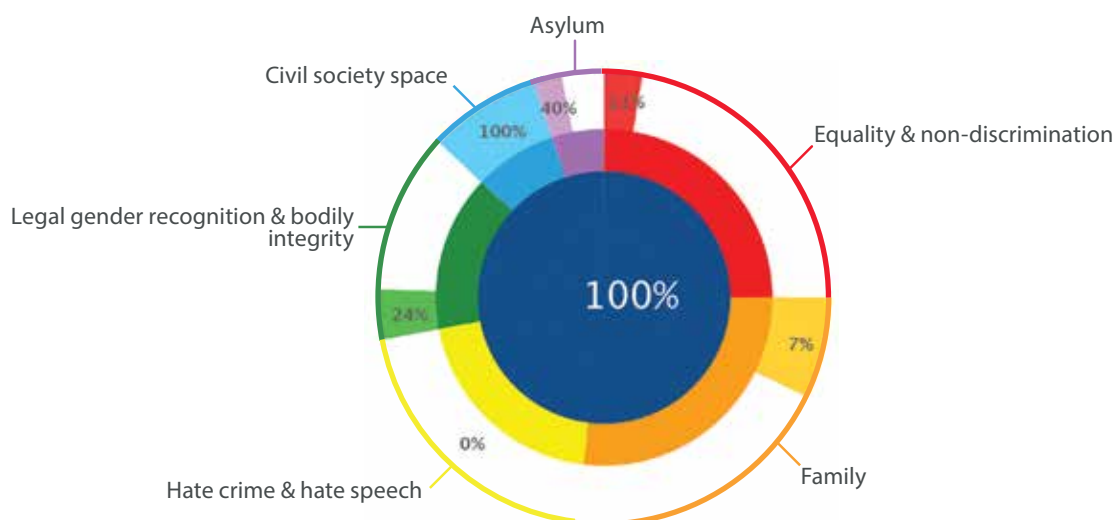
Latvia



The limited stock of LGBTI-inclusive laws and policies was not extended in any significant way in 2016. Equality, family and hate crime legislation still omit sexual orientation, gender identity and sex characteristics from most (if not all) of their provisions, although changes to asylum law that included references to LGBT asylum seekers were finalised. Queries around how the 2015 ‘moral upbringing’ amendments to the Education Law would be implemented in practice were answered with the publication of guidelines. Disagreement reigned around whether or not Latvia would sign up to the Istanbul Convention, as the justice minister and church officials opposed the move – motivated by the mention of sexual orientation and gender identity within a non-discrimination clause. The convention was finally signed in May. In addition, another question was raised by the Supreme Court; it ruled that even though Latvian law does not permit equal marriage, same-sex couples who want to register their marriage carried out elsewhere should at least have their applications considered.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.

Legal and policy situation in **Latvia** as of 31 December 2016



In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- ➡ Explicitly including all SOGISC (sexual orientation, gender identity, sex characteristics) grounds in an equality action plan, accompanied by specific measures of progress.
- ➡ Adopting legal measures to recognise and protect same-sex couples, such as cohabitation legislation.
- ➡ Including express mentions of all SOGISC (sexual orientation, gender identity, sex characteristics) grounds in policies designed to tackle hate crime.

Access to goods and services

- LGBT NGO Mozaika submitted a complaint to the Ombudsman's office in February over a promotion run by public transport company Rigas Mikroautobusu Satiksme (RMS). On Valentine's Day, couples could pay for bus journeys by kissing, but the deal was only available to different-sex couples. An RMS spokesperson said that the initiative was "...only meant to support relationships established as traditional." The Ombudsman found that the initiative violated the prohibition on discrimination on the grounds of sexual orientation. It recommended that RMS ensure that any future campaigns they run are done so on the basis of equal treatment.

Asylum

- In January, new asylum legislation was signed into law (after being adopted by parliament in December 2015). The new law includes sexual orientation and gender identity as qualification criteria.
- The Office of Citizenship and Migration Affairs received two applications for asylum on grounds of persecution because of the individual's sexual orientation. In both cases, refugee status was granted during 2016.

Bias-motivated violence

- On 18 May, Latvia signed the Istanbul Convention. It was the final European Union member state to sign the Council of Europe's convention on preventing violence against women. Various Christian church leaders, parents' organisations such as Association 'Family', and justice minister Dzintars Rasnacs (National Alliance, NA; right-wing) had opposed signing up. Opposition centred around the non-discrimination clause contained in Article 4 of the convention, which refers to sexual orientation and gender identity as protected grounds. Rasnacs said that his critics had not "...taken into account the conservative stance of the greater part of society". When the Convention was signed, a declaration was added to align the text with the Latvian Constitution.

Data collection

- In January, the Baltic Centre for Investigative Journalism (*Re:Baltica*) published a report entitled 'The

Rise of Latvia's Moral Guardians', outlining the development of several parents movement NGOs since 2013, set up to defend 'traditional values' against LGBTI 'propaganda'.

Education

- The Cabinet of Minister approved guidelines on 15 July which detailed how the 2015 amendments to the Education Law can work in practice. The 2015 changes introduced a responsibility to ensure 'moral upbringing' for school children. The guidelines state that schools must foster a positive attitude among students in relation to several values – including family, marriage, culture and the Latvian nation. There was no reference to sexual orientation, gender identity or sex characteristics in the guidelines' anti-discrimination clause. The guidelines prohibit sharing materials which feature "propaganda of degrading or immoral activities". On 23 November, a so-called 'loyalty' clause was added to the guidelines, allowing schools to dismiss teachers who do not foster positive attitudes towards the listed values. Although some NGOs were consulted as part of this process, LGBTI NGO Mozaika was not among them; however, association "Family", a vocal opponent to human rights of LGBTI people, was.

- Following a petition from parents, in September the director of the International School of Latvia instructed the organisers of a Gay-Straight Alliance that the initiative would have to stop its work. Before the end of 2016, the director of the school left their position, and the future of the Gay-Straight Alliance was unclear. (The alliance, run by students and supervised by teachers, had since changed its name to the 'open minded group').

Equality and non-discrimination

- Council of Europe Commissioner for Human Rights Nils Muižnieks visited Latvia in September and published the recommendations of his country visit on 13 December. The Commissioner urged Latvia's authorities to introduce greater protection for women, children and LGBTI people. In particular, the Commissioner recommended the introduction of public policies to protect the human rights

of LGBTI people and to legislate for hate crime and hate speech motivated by anti-LGBTI bias.

- A final report under the UN's Universal Periodic Review process was adopted for Latvia in 2016 (see **United Nations**).

Family

- A signature collection campaign in favour of introducing a cohabitation law for all couples, initiated in 2015, continued. 10,000 signatures are required to have a plenary debate in parliament on the issue, but this total had not been reached by the end of the year.
- On 27 May, the Supreme Court ruled that an application from a same-sex couple to register their marriage should be examined. This decision overturned the administrative court's earlier ruling which refused to consider the application at all. The Supreme Court acknowledged that existing regulations mean that marriages between same-sex couples cannot currently be registered but that the application should be considered in the context of registering family relationships.
- During 2016, five same-sex couples were involved in litigation initiatives, in an attempt to register their marriages. After they were refused, the couples applied to the Administrative Court of First Instance. One of the applications was accepted and four were refused by the Court of First Instance. The negative decisions were appealed in the Supreme Court, which required the Court of First Instance to initiate and hear the cases. The hearings were due to take place in the autumn of 2016.

Participation in public, cultural and political life

'Somebody Out There' (a short film on the LGBTQ* community in Latvia, produced for the Riga Summer School) received the Riga Summer School 2016 Audience Award.

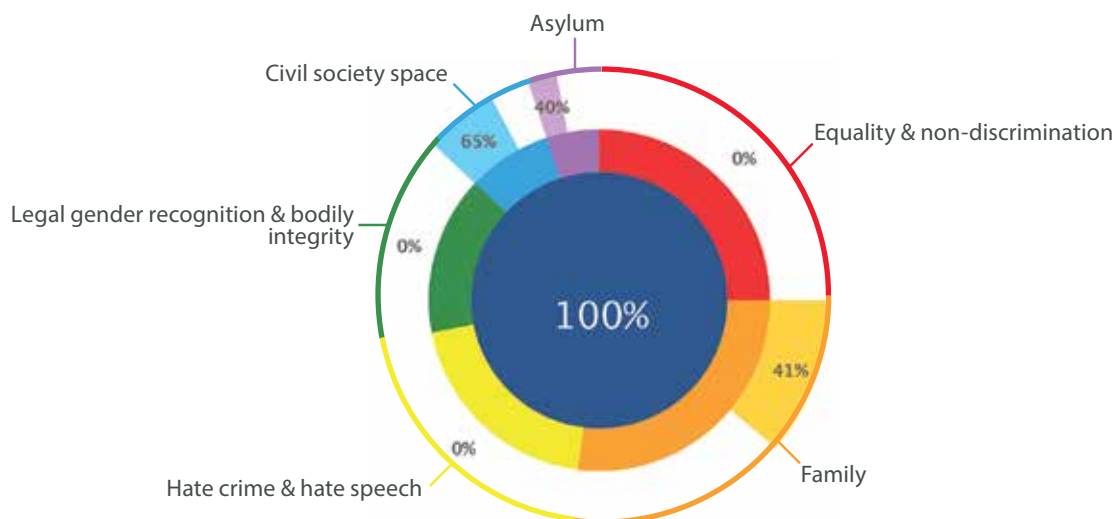
Liechtenstein



There were very few developments related to sexual orientation, gender identity or sex characteristics recorded in 2016.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.

Legal and policy situation in **Liechtenstein** as of 31 December 2016



In order to improve the legal and policy situation of LGBTI people,
ILGA-Europe recommend:



In the absence of specific recommendations from country experts based in Liechtenstein, ILGA-Europe encourage national authorities to take proactive steps to engage with LGBTI activists to improve the legal and policy situation for LGBTI people in 2017.

Family

- In a New Year's address in early January, Prince Hans-Adam II referred to adoption by same-sex couples. He stated that children are entitled to a "normal family" and that he would ignore European Court of Human Rights rulings in favour of LGBTI issues.
- On 29 September, an amendment to the 2010 partnership law was passed by the Landtag. Under the change approved by parliament, same-sex couples will be able to take a common surname, in a similar way to married different-sex couples. The change will come into force on 1 January 2017.

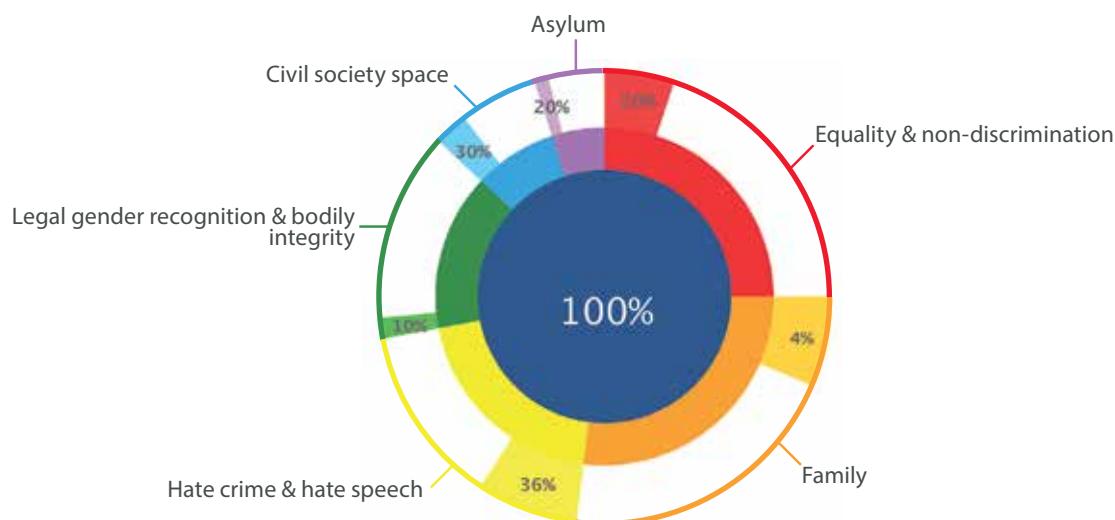
Lithuania



In 2016, the Lithuanian authorities failed to grasp several opportunities to increase protection for LGBTI people. The Labour Code was updated in September, yet gender identity was not included in the list of grounds covered by the new act. This decision appeared to completely ignore continuous recommendations to protect trans people from discrimination – made both by NGOs and by the Council of Europe. 2016 was yet another year that has elapsed without any proactive government moves to implement the true spirit of the *L v Lithuania* decision concerning legal gender recognition handed down by the European Court of Human Rights almost one decade ago. A controversial proposal to limit the constitutional definition of family life lingered in parliament. Towards the close of the year, an NGO complaint over the influence a so-called ‘anti-propaganda’ law has on freedom of expression was dismissed by the European Commission. Some MEPs labelled the Commission’s decision as “shockingly passive”. On a more upbeat note, LGBTI activists and allies celebrated the success of Baltic Pride 2016 - the largest public LGBTI event in the country.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.

Legal and policy situation in **Lithuania** as of 31 December 2016



In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- Developing a fair, transparent legal framework for legal gender recognition, based on a process of self-determination, free from abusive requirements (such as sterilisation, GID/medical diagnosis, or surgical/medical intervention).
- Adopting legal measures to recognise and protect same-sex couples, such as civil unions or registered partnership.
- Protecting and promoting freedom of expression for LGBTI people by repealing Article 4.2.16 of the "Law on the Protection of Minors against the Detriment Effect of Public Information".

Bias-motivated speech

- In February, the Supreme Court of Lithuania heard the case of a Catholic priest who faced charges of homophobic hate speech, after commenting online that "... the ones with the ripped assholes should be smacked". The priest made the comments underneath an article about a protest by LGBT activists against legislation introduced in Russia in 2013; he argued that his remarks referred to Russian lawmakers and were not directed at anyone of a particular sexual orientation. LGBTI* NGO LGL had subsequently submitted a complaint to the public prosecutor. In March, the Supreme Court acquitted the priest, stating that the gravity of the comment in question did not merit a criminal sanction.
- Agnė Širinskienė MP (The Lithuanian Peasant and Greens Union, LVZS) gave an interview to LRT TV on 27 November. Speaking to the *Teisė Žinoti* debate programme via telephone, the new chairwoman of the parliamentary health affairs committee said that homosexuality was not a state of being but instead a "decision to perform homosexual acts". She also listed homosexual relations alongside smoking and drug abuse during a discussion on lifestyle choices that can be detrimental to one's health.

Bias-motivated violence

- Speaking at a ceremony on 13 June to remember the victims of the homophobic attack on the Pulse gay nightclub in Orlando, Vilnius Mayor Remigijus Šimašius said that hate crimes are unacceptable: "In this case for us, for Lithuanians and citizens of Vilnius, it is especially important to understand that this attack was aimed at the LGBTI community. There are LGBTI persons in every society including ours, and our message is very clear: if you see your traditional values as... killing those who have a different lifestyle, then that is not acceptable."

Employment

- A new Labour Code was adopted on 14 September. Despite advocacy efforts and recommendations from LGBTI* NGO LGL, gender identity was not included as a prohibited discriminatory ground, meaning such

discrimination technically cannot be punished under Lithuanian law. The revised Labour Code was due to come into effect on 1 January 2017 but was delayed for six months by the newly elected government in November.

Equality and non-discrimination

- Before undergoing a review as part of the UN's UPR mechanism (in November), LGBTI* NGO LGL organised a meeting on 14 September to discuss how more international awareness could be raised on the human rights situation for LGBTI people. The discussion was hosted by the Embassy of Ireland and (in addition to the hosts) attracted diplomatic representation from Finland, Norway, Canada, US, the Netherlands, United Kingdom, Germany, Italy, Latvia and Austria.
- In early October, during UPR Advocacy Week in Geneva, LGL also met with 25 governments, urging them to raise LGBTI-specific recommendations during Lithuania's UPR hearing. During the UPR hearing itself, Lithuania received 22 LGBTI-specific recommendations. For the first time in the country's history, the Lithuanian government explicitly discussed LGBTI issues at UN level.
- As part of its five-year monitoring cycle, the European Commission against Racism and Intolerance (ECRI) published a report on Lithuania on 7 June. It praised additional training for law enforcement officials and judges on anti-LGBTI crimes that had taken place since the last reporting cycle. The report also noted that LGBT people still face discrimination, social intolerance and are the victims of homophobic and transphobic attacks. ECRI stated that the government should comply with the ECtHR case of *L v Lithuania* and regulate legal gender recognition procedures "without further delay". It recommended that gender identity be added to the Law on Equal Treatment as a protected ground. ECRI also recommended that hate speech be tackled more effectively by giving the Inspector of Journalist Ethics more power and prevent the use of 'public morals' as a justification for anti-LGBT incitement to hatred. It also stated that same-sex couples should have a means of having their partnership recognised, and that the Law on Protection of Minors should be amended to avoid a lack of awareness-raising on LGBT issues.

Family

- In January, in the first decision of its kind, the Migration Department refused to issue a residence permit to the same-sex spouse of a Lithuanian man. The couple were married in Denmark but the partner from Belarus was denied a permit (based on family reunification) as their marriage is not recognised in Lithuania. The Migration Department had reached its decision following advice from the Interior Ministry. In December, the Supreme Administrative Court of Lithuania referred the case to the Constitutional Court.

- A 2013 proposal to amend the constitutional definition of ‘family life’ continued through the parliamentary legislative process in 2016. The proposed constitutional change to Article 38 would restrict ‘family life’ to refer exclusively to marriage between one man and one woman. As well as excluding same-sex couples from this constitutional protection, this definition could also remove unmarried different-sex couples and single parents from the constitutional definition of families. On 28 June, the amendment was approved by 74 MPs and proceeded to the final vote stage. In order for the constitution to be amended, the Parliament would have to approve the measure twice, with a majority in favour (at least 94 MPs out of 141) on both separate occasions. If the amendment does not receive 94 supportive votes in the first hearing, then it will not proceed to a second vote. The Social Democrats (LSDP; centre-left) and the Liberal Movement (LRLS; centre-right) encouraged their MPs to vote against the amendment. The Article 38 amendment was also listed in the autumn legislative agenda, published on 14 September. Following the general election in October, a coalition was formed between the Lithuanian Peasant and Greens Union (LVZS) and the Social Democrats. LVZS (the largest party with 57 seats) confirmed they would proceed with the constitutional amendment. In response, LGBTI* NGO LGL launched the ‘All Families Are Equally Important #LAISVA_LT’ social media campaign to oppose the initiative.

- Gabrielius Landsbergis, leader of the conservative Homeland Union-Lithuanian Christian Democrats (TS-LKD; centre-right), expressed his support for

recognised partnerships for same-sex couples at an electoral meeting in September.

“I support [same-sex] partnerships. I think that the time has come and I hope that the newly-elected Parliament or our coalition will bring this question to the Parliament and we will finally solve it.”

Gabrielius Landsbergis, chair of the Homeland Union, 6 September 2016

- On 11 August, the government submitted a legislative amendment to the Civil Code (by the justice ministry) that would introduce a civil partnership option for different-sex couples. Same-sex couples were not included in the proposed changes. However, parliament rejected the legislative motion in October.

- The Parliament’s autumn legislative agenda, published on 14 September, also included an initiative to amend the Law on the Fundamentals of Protection of the Rights of the Child to prevent same-sex couples from adopting (this was originally put forward in September 2015). Another proposed legal change would insert references to “complementarity of a man and a woman is a foundation of a family as primary and fundamental community and environment which is the most suitable for bringing up, development and education of a child”.

- A proposed Family Support Law, designed to define the legal concept of family, was approved by government on 5 October, although several recommendations were proposed. The draft law’s preamble defined family as one based only on marriage between a man and a woman. A recommendation from the Ministry of Social Security to amend the discriminatory preamble was also approved during the 5 October session. The law had not been finalised by the end of 2016.

Freedom of assembly

- The Baltic Pride 2016 March for Equality took place on 18 June. The event was publicly endorsed by the Ministry of Foreign Affairs and was attended by more than 3000 participants; making it the country’s most attended public

LGBTI event. Despite his support for Baltic Pride, Vilnius Mayor Šimašius did not participate in the March for Equality.

Freedom of expression

- On 5 December, the European Commission rejected a complaint by LGBTI* NGO LGL, alleging that Law on Protection of Minors disproportionately interferes with the principle of non-discrimination within the Audiovisual Media Service Directive. The Commission has claimed that the “anti-gay propaganda” legislation does not contradict the body of laws and responsibilities for member states, known as the EU *acquis*, because the limitations to the public information on LGBT issues had not crossed national borders.

Legal gender recognition

- In December, two trans men submitted a legal complaint, stating that the lack of gender reassignment procedures violates their constitutional right to privacy. Both applicants requested the national courts to sanction legal gender recognition without the mandatory medical gender reassignment treatment, because it remains unavailable in Lithuania. The case will be considered in 2017.

Police and law enforcement

- From September to November, LGBTI* NGO LGL, in cooperation with local experts, held a series of training sessions for students at the Lithuanian Police School and law enforcement officials. This was the first time that training for law enforcement officials that specifically focused on victimisation of LGBTI* people had been organised.

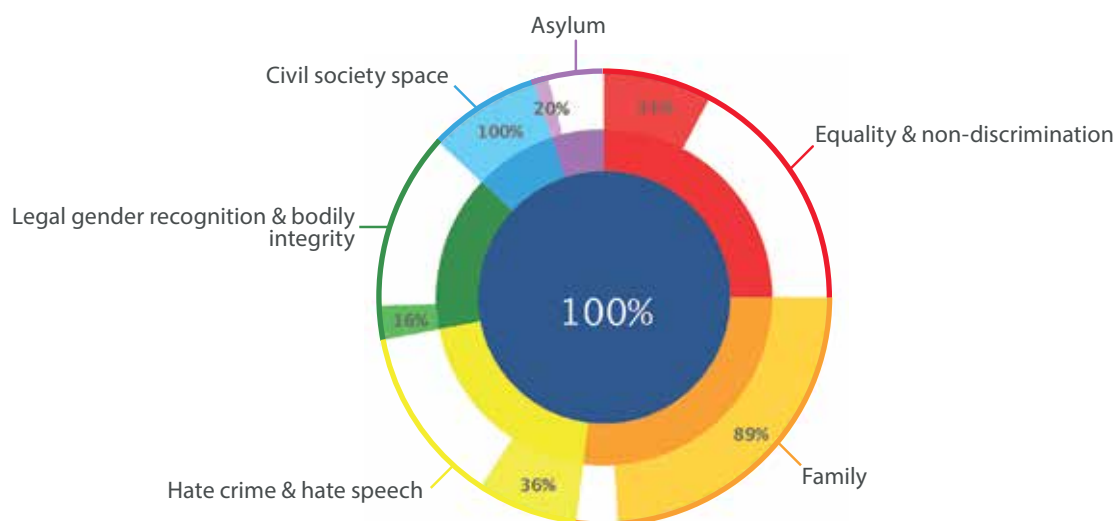
Luxembourg



An update to existing anti-discrimination law was finalised in late May, although its protection may not be as widespread as LGBTI advocates would have hoped. An amendment was added to the anti-discrimination law's list of protected characteristics, so 'sex change' is now considered to be included within the gender ground. This will protect some trans people, but not all. Gender identity or expression and sex characteristics remain outside the reach of the anti-discrimination law's protection. A legislative proposal to simplify the civil status procedure for trans people was put forward, one that would remove the need for surgery and hormone treatment. However, change for trans people as a result of this initiative is unlikely according to LGBTI activists, as the bill was not put forward by the government. The health ministry did confirm that change to the blood donation criteria is being considered. On a positive note, a Russian LGBTI activist who had applied for asylum in 2015 finally received an affirmative decision.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.

Legal and policy situation in **Luxembourg** as of 31 December 2016



In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- ➡ Explicitly including SOGISC (sexual orientation, gender identity, sex characteristics) in an equality action plan, accompanied by specific measures of progress.
- ➡ Prohibiting medical intervention on intersex minors when the intervention has no medical necessity and can be avoided or postponed until the person can provide informed consent.
- ➡ Introducing policies on asylum that contain express mention of all SOGISC (sexual orientation, gender identity, sex characteristics) grounds.

Asylum

- LGBTI activist Irina Fedotova, who had applied for political asylum in 2015 after leaving Moscow, was granted refugee status in October.

Equality and non-discrimination

- Health minister Lydia Mutsch (Luxembourg Socialist Workers' Party, LSAP; centre-left) replied to a parliamentary question on blood donation in February. They stated that the government was considering replacing the complete donation ban for men who have had sex with men with a 12 month deferral period. The donation criteria had not been altered by the end of 2016.
- The 2006 anti-discrimination law was amended in May, following a 2015 proposal from Minister for Labour, Nicolas Schmit (LSAP). Discrimination against people on the ground of 'sex change' is considered discrimination based on the ground of gender. The amendment was confirmed in a Council of State vote on 30 May. The law was published on 3 June and came into force three days later.

Legal gender recognition

- A bill aiming to simplify the civil status procedure was filed by two Christian Social People's Party MPs (CSV; centre-right) in February. The proposal included ending the requirement for hormonal or surgical treatment. A medical consultation would be required but no physical examination would be carried out. Civil status could then be changed by written request. The proposal was not a government initiative (or *project de loi*) so there is no obligation to schedule a vote on the plan. There were no further developments related to this proposal in 2016.

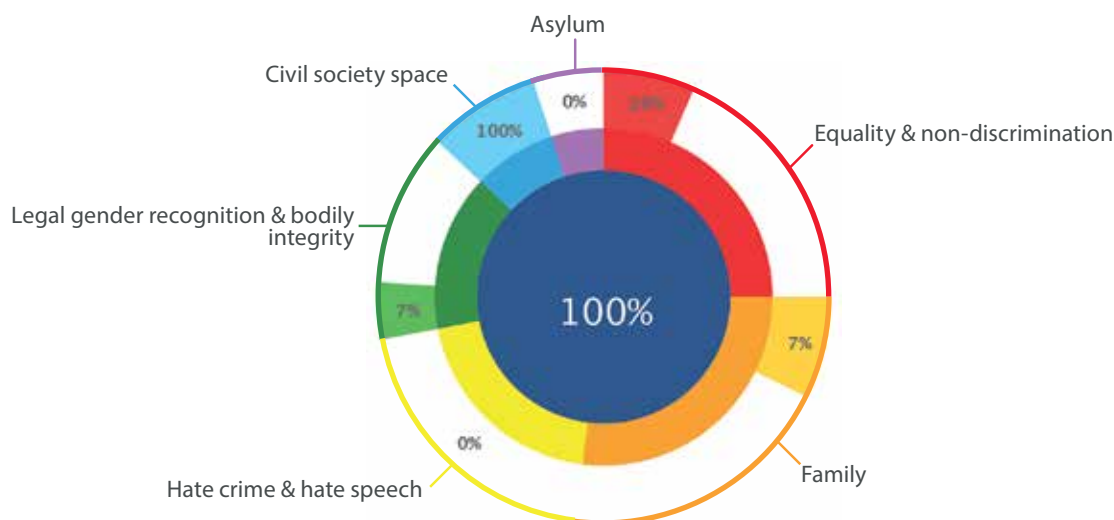
FYR Macedonia






Several political figures demonstrated support for LGBTI people and their fundamental rights during 2016. The real challenge is ensuring that these commitments end up having a tangible, positive effect in the lives of LGBTI people. The European Commission's delegation joined with their UN counterparts to celebrate IDAHOT with LGBTI NGOs in Skopje. According to LGBTI activists, this helped to reinforce the EU's commitment to human rights in accession countries, especially when faced with populist rhetoric. Political support at national level though was less immediately apparent. There was limited mention of LGBTI issues in political parties' manifestos in the run-up to the December elections. A number of bias-motivated speech incidents were also recorded by NGOs in advance of polling day, and LGBTI people still do not have any legal recourse against hate speech or crime. Domestic political parties with a left-leaning ideology did appear more supportive, during their contributions at the country's first national conference on LGBTI issues. The national equality strategy mentions LGBTI people for the first time. Despite the fact that legal gender recognition procedures are still absent in Macedonian law, the trans movement was encouraged by a court decision stating that the Ministry of Justice and the registry of births must allow a trans woman to change her gender marker.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.

Legal and policy situation in **FYR Macedonia** as of 31 December 2016



In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

-  Drafting and adopting legislation that specifically protects employees from discrimination on the basis of sexual orientation, gender identity and/or sex characteristics.
-  Developing a fair, transparent legal framework for legal gender recognition, based on a process of self-determination, free from abusive requirements (such as sterilisation, GID/medical diagnosis, or surgical/medical intervention).
-  Introducing hate speech laws and policies that explicitly include sexual orientation, gender identity and sex characteristics as protected grounds.

Asylum

- Several LGBTI NGOs, including Subversive Front, the LGBTI Support Centre in Skopje and the Coalition 'Sexual and Health Rights of Marginalised Communities', signed an open letter in March from civil society groups in the Western Balkans and Turkey to the Macedonian authorities. The group asked that the fence erected along the FYR Macedonia/Greek border be removed. The letter raised a number of concerns, including that "...the border fence almost completely blocks certain vulnerable categories, often overlooked in the refugee crisis, from seeking refuge, for example, unaccompanied minors or the LGBT community..."
- LGBTI NGO Subversive Front was approached with requests for support, counselling and legal assistance in asylum law in the cases of three LGBTI people throughout the year. Two had not commenced the asylum process by the end of 2016, the third person had their request rejected by the Swedish Migration Agency for the third time on 2 December.

Bias-motivated speech

- In March, the Agency on Audio and Audio-visual Media Services found examples of discrimination and hate speech based on sexual orientation in five episodes of the '*Milenko Nedelkovski Show*'. The programmes were broadcast on national TV station *Kanal 5* in late January and early February. The Agency stated that these statements violated the Law on Audio and Audio-visual Media Services and the Law on Prevention and Protection against Discrimination. In a letter dated 17 October, the Commission for Protection against Discrimination found no discrimination based on sexual orientation in this case, defending its opinion that "discrimination in the sphere of public information and media affects only the media as legal entities, and not the media workers working on private projects in them".
- On 1 July, the Commission for Protection against Discrimination found that a schoolbook, that was the subject of a complaint (from LGBTI NGO Subversive Front, Women's Alliance and the Macedonian Young Lawyers Association) was not discriminatory. The textbook was

compulsory reading at the State University of Ss. Cyril and Methodius' Institute of Psychology. It depicted homosexuality as a danger, stated that gay people need psychological help, and that support for homosexuality leads to approval of incest, bestiality and paedophilia.

- During the 'Vote for Equality' campaign, 31 cases of hate speech based on sexual orientation and gender identity were documented by LGBTI NGO Subversive Front. The campaign was conducted in advance of the parliamentary elections on 11 December. Comments were left on the Subversive Front Facebook page that called for LGBTI people to be murdered, targeted by the so-called Islamic State/ISIS or exterminated from society. The 31 cases were reported to the police unit dealing with violent crime.
- Former MP and current member of right wing political party TMORO – VEP Strasho Angelovski made homophobic remarks on his Facebook page during the 'Vote for Equality' campaign in December. He stated that his party would seek to restore 'traditional' family values as part of a right-wing coalition. He said they aimed to promote marriage solely as a union between a man and a woman, and that homosexuality would be repathologised and treated via the state's health service.
- The Commissioner for Protection from Discrimination found that a news article by a language professor published in an Albanian news portal was discriminatory. The article had pathologised LGBTI people, incited hatred against them, and had been the subject of a complaint from NGOs LGBT United Tetovo, the Helsinki Committee and the LGBTI Support Centre. On 4 December, the author of the article issued a public apology to the complainants.

Data collection

- On 28 April, LGBTI NGO Subversive Front published the results of the first survey carried out in FYR Macedonia on the effect of homophobia on young people's mental health. The survey was carried out with a sample of people aged 18-30 in Skopje and found that young LGBTI people are more exposed to depression, experience higher levels of social anxiety and conceal more personal information than their straight-identified peers. The report concluded with a series of recommendations,

including increased social cohesion, identifying LGBTIQ-friendly mental health professionals, the introduction of legal protections such as anti-discrimination and hate crime laws, and education campaigns for teachers and the general public.

- LGBTI NGO Subversive Front sent questionnaires to 31 political parties in advance of the 11 December elections. The NGO also analysed the political manifestos of the parties and found that five parties mentioned the issues and needs of LGBTI people (all from the opposition bloc and left-oriented – social-democrats, liberal-democrats, liberals, leftist, and greens). One party – the Liberal Party – responded positively to the question whether there is an openly LGBTI candidate in their elections list.

Enlargement

- FYR Macedonia formally applied to join the EU in 2004. In its annual enlargement package reviewing progress made towards EU accession, published in November, the European Commission observed that where laws exist to protect human rights domestically, these are sometimes overlooked or incorrectly applied. LGBTI people were listed as one of the most vulnerable and marginalised groups in society, and the Commission noted that considerable efforts are required to combat this intolerance. The report also highlighted the situation of trans people, who have no access to proper gender reassignment treatment in the country. Cooperation between police and LGBTI groups in particular municipalities was mentioned as a positive example of good practice, and the report noted that diversity training for public sector staff is important.

- During his visit to Skopje on 25 November, Special Rapporteur of the European Parliament for Macedonia Ivo Vajgl MEP held a meeting with LGBTI NGO Subversive Front and two representatives from the Liberal Democratic Party.

Equality and non-discrimination

- The UN and EC delegations to Skopje, in partnership with the LGBTI NGO Subversive Front, organised the first ever joint observation of International Day Against

Homophobia, Biphobia and Transphobia on 17 May. LGBT activists noted that the event lacked a visible presence from government representatives. On the same day, LGBT United Tetovo organised a peaceful march in Tetovo, where representatives from other LGBTI NGOs and foreign embassies and missions also participated.

- As part of its five-year monitoring cycle, the European Commission against Racism and Intolerance (ECRI) published a report on FYR Macedonia on 7 June. Among the report's explicit interim follow-up recommendations was an independent study, carried out by national authorities in conjunction with LGBT NGOs, to assess discrimination against LGBT people. The intention would be that this data would feed into an action plan to combat anti-LGBT discrimination. ECRI recommended that sexual orientation and gender identity be added to the country's Criminal Code as an aggravating circumstance. The report recommended that both sexual orientation and gender identity also be added as protected grounds to the Law on Prevention and Protection against Discrimination. It also listed a wide range of measures designed to combat the growing problem of anti-LGBT hate speech and recommended training for law enforcement offices and members of the judiciary.

- In May, the Ministry of Labour and Social Policy adopted the National Equality and Non-discrimination Strategy 2016-2020. For the first time the strategy includes LGBTI people, and the protection against discrimination based on sexual orientation and gender identity to a much greater extent.

- In June, the Ministry of Labour and Social Policy, in consultation with relevant NGOs, began to work on amendments to the existing anti-discrimination law. Among the proposed changes would be the addition of references to sexual orientation, gender identity and sex characteristics as protected grounds. The ruling coalition did not express explicit public support for these specific amendments. The amendments to the anti-discrimination law were being prepared for public consultation at the end of 2016.

- In December, the Ombudsman signed a memorandum of cooperation with NGO LGBT United, the

Helsinki Committee for Human Rights and the Coalition “Sexual and Health Rights of Marginalised Communities” on strengthening the capacity of the Ombudsman’s office to further safeguard the human rights of LGBTI people.

Human rights defenders

- To mark IDAHOT on 17 May, LGBTI NGO Subversive Front (in cooperation with the US-based Gay and Lesbian Victory Institute) presented its first Ally of the Year award to the journalist and TV personality Ognen Janeski, for his continuous efforts to campaign for the rights of LGBTI people.

Legal gender recognition

- During 2016, three trans-identifying people requested the services of free legal aid and counselling from LGBTI NGO Subversive Front.
- On 19 September, the Administrative Court ruled in favour of a trans woman who had been refused a legal change of gender by the state authority in charge of the registry of births, meaning that the Ministry of Justice and the registry of births must adopt a decision permitting the trans woman to change her gender marker and unique ID number. At the time of writing, the woman had not been able to legally change her gender due to a lack of a response from the Ministry of Justice.

Participation in public, cultural and political life

- NGO LGBT United Tetovo launched an awareness-raising campaign in July among LGBTI voters in western regions of the country. The “We Vote Too” campaign targeted LGBTI people voting in the cities of Gostivar and Tetovo, reminding people about the power of their vote. The campaign was mainly centred around Albanian political parties.
- The ‘Strengthening the political dialogue on LGBTI’ conference was organised on 5 December by LGBTI NGO Subversive Front. It was the first conference where the status and the rights of all communities under the umbrella term LGBTI were discussed. High-level representatives from six political parties (five left-aligned,

one centrist party; part of the right-wing-centrist coalition) discussed the inclusion of LGBTI issues in their political agendas. Subversive Front presented the findings of its ‘Vote for Equality’ campaign, and discussed proposed amendments to the Anti-Discrimination Act and possible changes to the Criminal Code. Damjan Manchevski, vice-president of the largest opposition party (Social Democratic Union of Macedonia, SDSM) said during his speech that SDSM will prioritise providing full protection for people with different sexual orientation, establishing a completely new system that will eliminate all forms of discrimination. A representative from the Ombudsman’s office expressed concern that the reporting of individual cases of LGBTI rights violations is low and called for increased cooperation with NGOs.

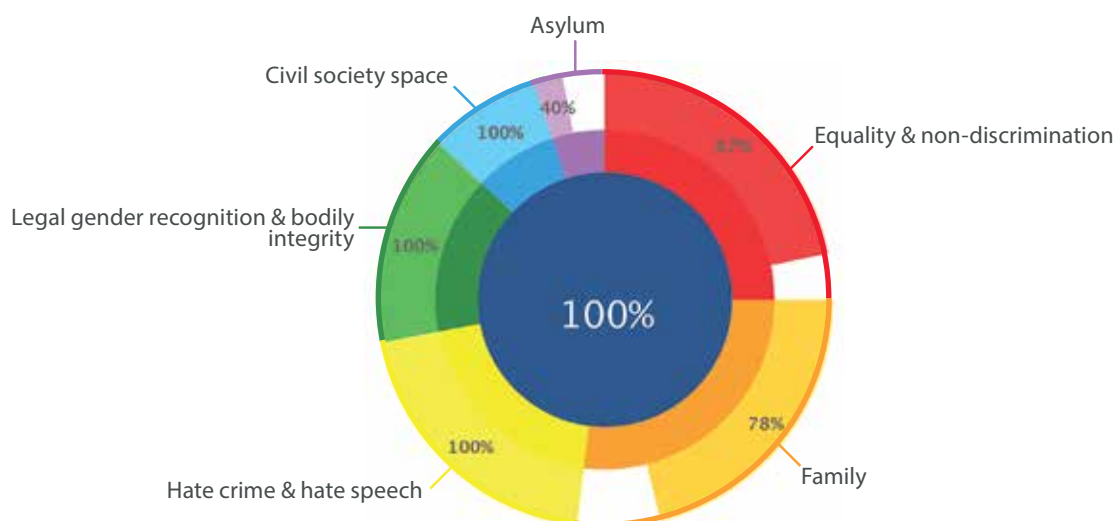
Malta



Malta continued to legislate for greater equality in 2016, adding to existing standards and also establishing new anti-discrimination measures. The first adoption was finalised following the introduction of joint adoption for same-sex couples in 2014. The age at which individuals can independently opt for legal gender recognition under the 2015 legislation was reduced from 18 to 16-years of age. Following additional amendments to the 2015 Gender Identity, Gender Expression and Sex Characteristics Act, trans prisoners will now be able to be housed according to their lived gender. Trans identities are also no longer classified as a mental illness or disorder. A policy on trans, intersex and gender variant inmates was also launched in the summer. One of the remaining legal gaps in terms of family is the lack of equal marriage for same-sex couples, a change that the prime minister pledged support for during the year, and was backed by public opinion polls. But the most high-profile change in 2016 was the fact that Malta became the first country in Europe to outlaw so-called 'conversion therapy', introducing fines and prison sentences for those who offer these harmful practices.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.

Legal and policy situation in **Malta** as of 31 December 2016



In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:



Finalising and adopting legislation that expressly protects against discrimination on the grounds of SOGISC (sexual orientation, gender identity, sex characteristics) when accessing goods and services.



Ensuring marriage equality for all.



Introducing and implementing laws and policies on asylum that guarantees effective protection on all SOGISC (sexual orientation, gender identity, sex characteristics) grounds.

Age of consent

- The Domestic Violence and Gender Based Violence Bill reached the first reading stage in November. One of its provisions includes lowering the age of consent to 16 years of age, following a proposal put forward in October by an inter-ministerial committee.

Bias-motivated speech

- A trans activist was the target of transphobic social media posts in October. The online comments appeared after the trans activist joined a counter-protest against a gathering arranged by the 'Maltese Patriots' group, who opposed the establishment of mosques in several Maltese towns. Minister for Education Evarist Bartolo (Labour Party; PL) later commented on Facebook that "...these attacks are absolutely unacceptable".

Bodily integrity

- The Intersex Treatment Protocol review board was appointed and held its first meetings in 2016. The working group is chaired by chief paediatric endocrinologist Dr John Torpiano.

Education

- LGBTI MGRM and the aditus Foundation, together with the civil liberties and education ministries, conducted a review of the Trans, Gender Variant and Intersex Students policy. The report was presented at a seminar held at the end of February.

Equality and non-discrimination

- On 12 December, the draft Equality Bill and the draft Human Rights & Equality Commission Bill were presented to parliament. Under the proposed legislation, an independent equality commission (based on the Paris Principles) will be set up and the head of the body will be elected by parliament. The proposed Equality Bill suggests widening the definition of discrimination and also introducing the concept of intersectionality, allowing individuals to take a discrimination case when they are treated unfairly on the basis of two or more combined identities. If the Equality Bill is passed, church-run schools

will no longer be able to exclude non-Catholics from teaching posts, in an example cited by the civil liberties ministry. The laws were still pending at the end of 2016.

Family

- At an event marking International Women's Day in March, Prime Minister Joseph Muscat (PL) confirmed his support for marriage equality, saying that he was in favour and that "...the country is ready for a debate about it."
- On 12 July, the Family Court approved the first adoption by a same-sex couple since the introduction of joint adoption under the 2014 Civil Unions Act.

Foreign policy

- The priorities for the 2017 Maltese presidency of the Council of the EU were outlined at the Employment and Social Affairs Council on 9 December, and included a commitment to focusing on LGBTIQ issues (through a High Level Ministerial Conference and other planned initiatives, including around IDAHOT in Brussels in 2017).

Freedom from torture, cruel, inhuman or degrading treatment

- After a period of public consultation ended on 15 January, the Affirmation of Sexual Orientation, Gender Identity and Gender Expression Bill was tabled for its first reading in parliament in February. It proposed criminalising so-called 'conversion therapy' or treatments that attempt to change a person's sexual orientation, gender identity and/or gender expression. On 24 February, the opposition Nationalist Party (PN) announced they would vote in favour of the bill. It passed the second reading stage on 18 October and was approved by parliament in a final vote on 5 December. The Act criminalises unlawful conversion practices, with the fine and potential prison sentence increasing if the practice was carried out on a vulnerable person under the age of 16. The law also confirms that no sexual orientation, gender identity or expression constitutes an illness or disease of any kind. Malta is the first country in Europe to outlaw conversion practices.
- A position paper from the Catholic Church, published on 20 February, stated that if the proposed bill to outlaw

conversion therapy was passed, it would "...affirm the superior legal status of homosexuals over heterosexuals". It put forward the opinion that the bill was discriminatory as it "...will be a crime to assist a person with homosexual orientation to become heterosexual, but perfectly legitimate to assist a heterosexual to become homosexual". This paper attracted public criticism from politicians including Civil Liberties Minister Helena Dalli (PL). On 22 February, Archbishop of Malta Charles Scicluna stated that conversion therapy did not respect human dignity.

Human rights defenders

- Civil liberties minister Helena Dalli was presented with a Hero of the Year award at the European Diversity Awards in London. The award recognised her work for the LGBTIQ community, following a nomination by NGO TGEU.

Legal gender recognition

- The Gender Identity, Gender Expression, and Sex Characteristics (GIGESC) Act and other laws (Amendment) Bill proposed amending the 2015 GIGESC Act to allow non-Maltese detainees to have their gender identity recognised in detention facilities. This law allows prisoners to be housed in facilities that correspond with their true gender; the act was passed in a final parliamentary vote on 5 December.
- The provisions of the Act amending the Gender Identity, Gender Expression and Sex Characteristics Act also prohibited the pathologisation of any form of sexual orientation, gender identity and gender expression and reduced the age a person must be to independently request a change of gender on official documents from 18 to 16 years of age.

Police and law enforcement

- Seven trans prisoners sued the Minister for Home Affairs Carmelo Abela (PL) and the director of prisons in July. The prisoners, all trans women, sought damages as they were being held in the male section of the prison due to the marker on their identity cards. In August, at the launch of a new prison policy (see below), Minister Abela

confirmed the prisoners who had access to legal gender recognition procedures had since been moved to the female section of the prison.

- A trans, gender variant and intersex inmates policy was launched for prisoners on 18 August by the Minister for Home Affairs Carmelo Abela (PL) and the Minister for Civil Liberties Helena Dalli (PL). The policy aims to ensure that all inmates are treated fairly, for example by housing prisoners according to their lived gender, use of preferred pronouns by staff, ensuring searches are carried out in accordance with the prisoner's gender and providing information and training for staff and inmates.
- The Maltese government requested that the TAHCLE (Training Against Hate Crimes for Law Enforcement) programme be implemented in the country. The ODIHR department responsible for implementing the capacity building programme carried out a preparatory visit in December.

Public opinion

- The results of an opinion poll carried out by iSurvey for the *Malta Independent* were published by the newspaper in April. When asked if they were in favour of equal marriage, 61% of the 600 respondents said yes. 25% of those surveyed said they opposed marriage equality, 10% said they had no opinion, while just under 4% opted for 'don't know' as an option.

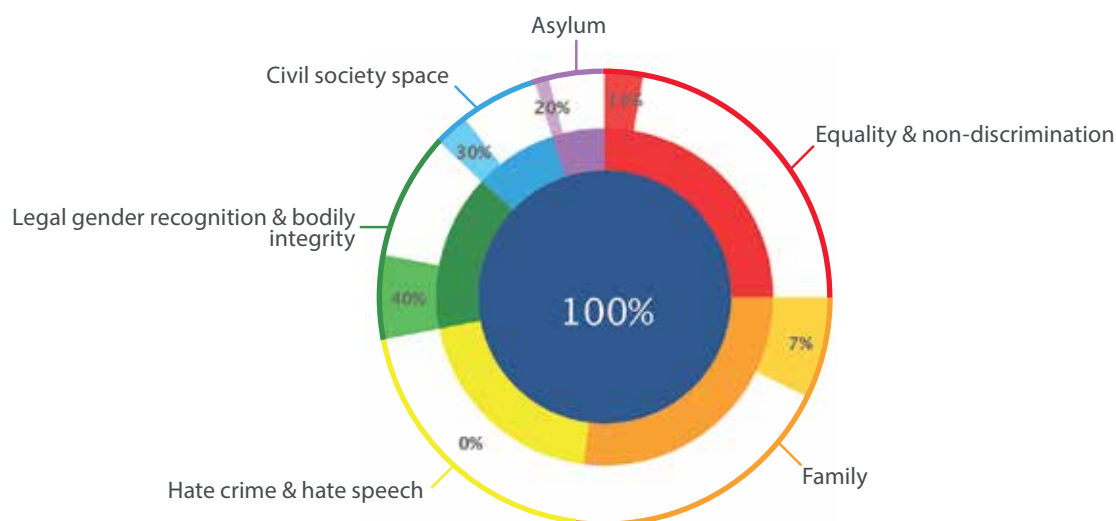
Moldova



Derogatory public statements and violence were directed towards LGBTI people throughout 2016. As was the case in previous years, LGBTI people still have no explicit legal protection against these types of bias-motivated incidents. An amendment to include sexual orientation, gender identity and expression in the criminal code was proposed by the government, but was not in effect by the end of the year. In the legal vacuum that exists, NGOs continued to document the prevalence of hate speech and discriminatory events. One of the most out-spoken critics of LGBTI equality, politician Igor Dodon started the year by criticising Pride marches and ended 2016 by being elected the country's president. In an interesting parallel, a LGBTI activist was almost elected 'alternative president' in a popular vote among TV viewers. LGBTI public events were disrupted by protestors and threats; disturbances which could increase if proposed amendments to children's rights laws are passed. The measures, posing as 'child protection' changes, are thinly veiled attempts to limit LGBTI people's rights to expression and assembly.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.

Legal and policy situation in **Moldova** as of 31 December 2016



In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- ➡ Explicitly including SOGISC (sexual orientation, gender identity sex characteristics) in an equality action plan, accompanied by specific measures of progress.
- ➡ Adopting hate crime laws that explicitly cover all bias-motivated crimes based on all SOGISC (sexual orientation, gender identity and sex characteristics) grounds.
- ➡ That public authorities take proactive and visible steps to protect the right of LGBTI people and their allies to freely assemble.

Bias-motivated speech

- LGBT NGO GENDERDOC-M was awarded damages after a court ruled that a video created by the Party of Socialists in advance of last year's elections was homophobic. In June 2015, the Party of Socialists of the Republic of Moldova (PRSM; pro-Russian) produced an election video that featured clips of GENDERDOC-M activists, along with the words "the destruction of traditional values and Christian morality". On 16 February, a court in Chisinau fined the party LEU13,000 (approx. 2900). This decision was appealed by PRSM and the Chisinau Court of Appeal found in favour of the political party, overturning the original decision. GENDERDOC-M subsequently issued their own appeal, which was ultimately rejected by the Supreme Court on 23 November. At the end of 2016, the NGO was planning to take this case to the European Court of Human Rights.
- The head of the Moldovan Orthodox Church, Metropolitan Vladimir, made discriminatory statements during a speech on 27 April. While speaking at a parliamentary session, the Bishop of Chişinău and All Moldova said that equality legislation was protecting the rights of sexual minorities and leading to the destabilisation of society. He said that only a small percentage of people in the country were supportive of these minorities; a number of MPs applauded the statements. On 28 April, a wide range of NGOs issued a joint statement, condemning the Metropolitan's remarks and warning of the dangers that hate speech poses.
- During Pride season, Igor Dodon (PRSM) published a statement on his website entitled "No to NATO parades and gay marriage in Moldova!". The statement, shared on 19 May, talked about "shameless" and "aggressive" "gay propaganda" and said that his party would not tolerate the country being turned into a place for sexual and anti-Christian experiments, following ideas imposed by the West.
- Throughout the presidential election campaign, which ran from September-November, Igor Dodon (PRSM) made a number of statements targeting LGBTI people, including comments in televised debates. He said that he intended to repeal the Equality Act and introduce

"anti-propaganda" legislation. Fellow presidential candidate Maia Sandu (Action and Solidarity Party, PSA) was scrutinised by the media for her perceived sexual orientation and the fact that LGBTI activists had supported her candidacy. Igor Dodon was elected as President of Moldova on 13 November and inaugurated on 23 December.

Bias-motivated violence

- During an OSCE-organised roundtable, participants welcomed the work being done by the Ministry of Justice working group on drafting amendments to existing hate crime legislation. The roundtable took place on 13 September and included 27 representatives of government, civil society groups and international organisations.
- Following a proposal by the Ministry of Justice, the government tabled a draft law in May on introducing amendments to the Criminal Code and Code of Administrative Offences to the Parliament. The draft law, backed by OSCE/ODIHR, aims to provide a definition of bias-motivated crimes that is inclusive of sexual orientation, gender identity and gender expression. The bill was being examined by parliamentary committees at the end of the year.
- In 2016, NGO GENDERDOC-M documented seven cases of homophobia-motivated crimes and 12 violent incidents based on sexual orientation and gender identity. (GENDERDOC annually monitors bias-motivated violence based on sexual orientation, gender identity and gender expression in Moldova, including Transnistrian territory.)

Equality and non-discrimination

- On 22 May, the same day as the Pride solidarity march, Chairman of the Constitutional Court, Alexandru Tanase spoke out publicly in support of LGBTI people. In a Facebook comment on his personal page, Tanase criticised homophobic comments that appeared on social media, said he would remove people from his networks who expressed such opinions, and shared the equality provisions from Article 16(2) of the Constitution.
- In November, Moldova underwent the second cycle of the Universal Periodic Review at the UN Human Rights

Council. The delegation received 14 questions and recommendations concerning LGBTI rights. One recommendation from Uruguay called on the Moldovan authorities to duly investigate crimes of hate and discrimination, including acts committed against the LGBTI community.

- As part of its annual discrimination monitoring, NGO GENDERDOC-M recorded 28 cases of discrimination and incitement to discrimination based on sexual orientation, gender identity and gender expression. The NGO carries out regular equality monitoring in the areas of employment, education, access to goods and services, and housing.

Freedom of assembly

- ‘No Fear’ – the solidarity march organised as part of Moldova’s Pride Festival – took place on 22 May. An estimated 300 people took part in the march, protected by approximately 1000 police officers. The solidarity march was met by aggressive counter-demonstrators (from the Moldovan chapter of the Russian Orthodox Church, right-wing activists and PRSM supporters) who managed to block the street. During the march two people, who were later identified and fined by the police, threw eggs at participants from the top floor of an office building.

Freedom of expression

- In April, seven PRSM MPs registered a draft law on amending and completing the Code of Administrative Offences and the Law on the Rights of a Child with articles prohibiting so-called ‘propaganda of homosexual relations among minors’. The ‘anti-gay propaganda’ bill seeks to add a new Article 881 to the administrative offences code, to introduce fines for any individual who distributes “propaganda of homosexual relations among minors” (The proposed Article 881 states: “Propaganda of homosexual relations among minors with means of assemblies, mass media, Internet, booklets, brochures, images, audio-video spots, films and/or audio-video recordings, via audio recordings, amplifiers or other means of sound amplification is sanctioned with a fine from 200 to 300 conventional units (EUR 181- 272) applied

to individuals, [and] a fine from 300 to 500 conventional units (EUR 272-454) applied to legal entities”. Also, the bill aims to amend Article 21 of the Law on the Rights of a Child titled “Protection of family by the state” by inserting the following text: “The state ensures protection of a child from the propaganda of homosexuality for any purpose and under any form”. If adopted, this law may be arbitrarily applied against anybody (including mass media and LGBTI NGOs) who distribute information about gender identity and gender expression. The draft law was approved by the following Parliamentary Committees between May and July: Committee on Agriculture and Food Industry; Committee on Foreign Affairs and European Integration; Committee on Human Rights and Interethnic Relations. There were no further debates in parliament before the end of 2016.

- An LGBT photo exhibition in Tiraspol (capital of the unrecognised Transnistria) was canceled after the photographer was threatened by the Transnistrian State Security Committee. On 30 October, three days before the scheduled opening of the ‘No Silence’ exhibition, a social media post on the exhibition attracted over 300 comments (some calling for the exhibition to be set on fire, to lynch the organisers and “exterminate gays”). The following day, the photographer Carolina Dutka was called to meet with a staffer from the Transnistrian State Security Committee, who told her there was no problems with social homophobia, that her exhibition was destabilising. When she refused to cancel or sign a state secrets document, the staffer said that her security might be disrupted and made comments about her family members. The ‘No Silence’ exhibition was cancelled.

Human rights defenders

- In February, Artiom Zavadovschi, an LGBT activist from NGO GENDERDOC-M, received threats of physical violence from an unknown person from the Gagauzian autonomous region of Moldova via social media. In December, Zavadovschi was searched and interrogated at the Transnistrian border (in Moldova) while travelling from Kiev to Chişinău by bus when customs officers found leaflets about GENDERDOC-M’s work in his backpack.

Legal gender recognition

- One trans person who went to court in February to have their gender legally recognised was successful in their application, following support from NGO GENDERDOC-M's free legal aid service.

Participation in public, cultural and political life

- From September to November, a TV programme on one of the country's most viewed channels simulated alternative presidential elections. The show invited 14 participants from various backgrounds (including activism and entertainment) to compete to become an 'alternative president' of Moldova. The selection process was based on tele-voting. Angela Frolov, an out lesbian and LGBT activist with GENDERDOC-M, was a runner up to the eventual winner of the show.

Police and law enforcement

- In June, a GENDERDOC-M representative went to the Chişinău Central Police Department to file a complaint against the incidents that took place during the Pride Solidarity March held in May (see **Freedom of assembly**). During discussion about the intentional blockage of the march route by counter-demonstrators, the police officer said that some citizens may not agree with the Pride March, justifying counter-demonstrators' actions.
- A lesbian woman was verbally and physically attacked in October by her mother and her sister, because of her sexual orientation. When the victim and her partner reported the incident, the police registered the complaint against her (as an instigator, not a victim). The victim's mother had already submitted a complaint, stating that her daughter had in fact assaulted her. The police also contacted the Child Protection Service about the victim's child, disclosing the victim's sexual orientation, and saying that the victim was mentally unstable.

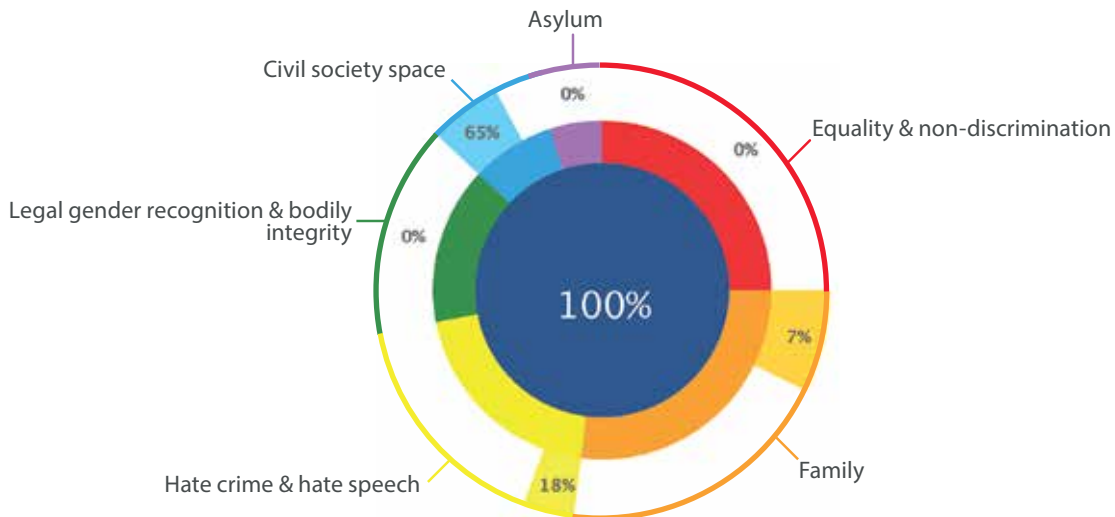
Monaco



There were very few developments related to sexual orientation, gender identity or sex characteristics recorded in 2016. A report from ECRI highlighted the lack of legal protection for LGBTI people in Monaco, encouraged the authorities to establish equality measures, and recommended legislating to protect LGBTI people from discrimination.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.

Legal and policy situation in **Monaco** as of 31 December 2016



In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

In the absence of specific recommendations from country experts based in Monaco, ILGA-Europe encourage national authorities to take proactive steps to engage with LGBTI activists to improve the legal and policy situation for LGBTI people in 2017.

Equality and non-discrimination

● As part of its five-year monitoring cycle, the European Commission against Racism and Intolerance (ECRI) published a report on Monaco on 1 March. ECRI noted that training to combat hate speech took place, aimed at schools, law enforcement authorities and the judiciary. It also referred to the draft cohabitation bill (see **Family**). ECRI's report went on to note that Monaco's laws do not expressly prohibit direct and indirect discrimination, that it was hard to assess the situation for LGBT people accurately as detailed studies or information were lacking, and that LGBT people "...do not enjoy a specific legal status in civil and administrative law". The report recommended, among other suggestions, that figures on homophobic and transphobic hate crime be published, that additional legislative measures be introduced to protect LGBT people and that an equal treatment programme for LGBT people be established.

Family

● Jean Louis Grinda (Union Monegasque, UM; centre-right), rapporteur of the parliament's women and family rights committee, finalised his report on gender-neutral cohabitation bill on 7 September. The bill was unanimously approved by the National Council on 27 October. Prince Albert II's government had not considered the bill by the end of 2016.

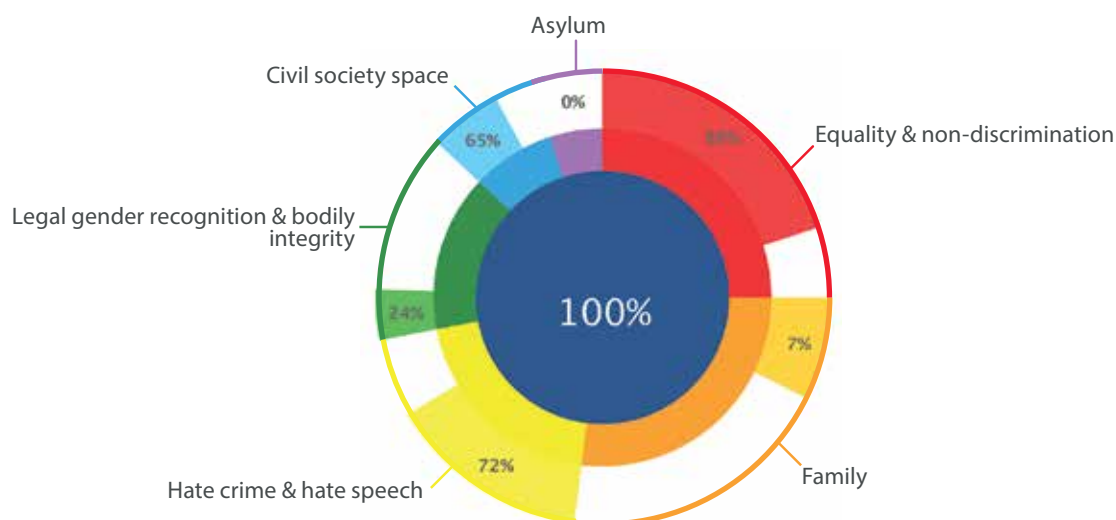
Montenegro



2016 was another busy year for LGBTI NGOs and activists in Montenegro, faced with a mix of successes and ongoing challenges. Activists continued to provide expertise and training, including the first-ever workshop on LGBTI equality for pre-school staff. In an encouraging move, a new network for LBTQ women was set up. It was NGO persistence that kept the legal challenges against the triple ban imposed on 2015 Niksic LGBTI marches alive in 2016. A complaint lodged by LGBTI activists also resulted in the first positive case taken against the Serbian Orthodox Church for hate speech directed at LGBTI people. While Montenegro continued to attempt to be a regional leader in terms of the promotion of the rights of LGBTI people, the work of activists did not proceed completely unhindered. NGO offices, activists themselves and their allies were the victims of attacks during the year, as public opinion continues to lag behind legislative developments. The practically non-existent legal protection for rainbow families, trans or intersex people was addressed during 2016. Even where laws and policies do exist, the actual implementation can leave a lot to be desired, according to an annual summary from the European Commission.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.

Legal and policy situation in **Montenegro** as of 31 December 2016



In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:



Explicitly including SOGISC (sexual orientation, gender identity, sex characteristics) in an equality action plan, accompanied by specific measures of progress.



Including express mentions of all SOGISC (sexual orientation, gender identity, sex characteristics) grounds in policies designed to tackle hate speech.



Adopting legal measures to recognise and protect same-sex couples, such as civil unions or registered partnership.

Bias-motivated speech

- A priest of the Serbian Orthodox Church in Montenegro was ordered by the Ombudsman to publicly apologise for repeated hate speech against the LGBTI community. On 13 May, the Montenegrin Ombudsman set a 15-day deadline for the apology for comments made by Jovan Plamenac during Orthodox New Year celebrations. LGBTIQ NGO Queer Montenegro had submitted the complaint which led to the first-ever positively resolved proceedings against the Serbian Orthodox Church in Montenegro in relation to violations of the rights of LGBTI people. Plamenac's subsequent open letter criticised the case against him, referring to the complaint as a 'coup' by NGOs and the media.

Bias-motivated violence

- In January, activist Stevan Milivojevic was attacked (verbally and physically) by two unknown men near Podgorica's train station. Milivojevic reported the incident to police immediately; it was his belief that he was targeted because of his human rights advocacy work and his sexual orientation (see also **Human rights defenders**). A formal investigation followed but no arrests were carried out as police could not identify the perpetrators. The case was unsolved at the end of 2016.
- A group of young people threw stones at the SOGI – Social and Community Centre in Podgorica in June. The NGO said that it would not seek to press charges (as the preparators were minors) and told the police it would have a conversation with the children and their parents on diversity and social acceptance of LGBTI people.
- An LGBTI ally was physically assaulted and his family members were threatened by three men. On 24 September, the victim was kicked in the ribs and suffered severe head injuries due to his perceived sexual orientation. The perpetrators also threatened the safety of his sisters if the authorities were involved. The incident was reported to the police and LGBTI NGOs called on the police and courts to take action against hate-motivated incidents.

Education

- The first-ever workshop dedicated to the human rights of LGBTI people at a pre-school in the country took place in June. NGOs LGBT Forum Progress and the SOGI – Social and Community Centre ran the interactive training workshop for 102 teachers and staff from 12 units of the 'Djina Vrbica' public pre-school.
- NGO LGBT Forum Progress and the University of Montenegro's Student Parliament reached an agreement on a plan of joint activities following a meeting on 28 November. Both groups discussed the LGBTI-phobia that exists within the education system and the need for LGBTIQ students to feel secure at the university. Plans for cooperation in 2017 included the organisation of the first anti-discrimination panel discussions at the Faculty of Philosophy in Niksic (organised by the Student Council of the Faculty of Philosophy and NGO LGBT Forum Progress). It is anticipated that this would be followed by public events at the University of Montenegro.

Enlargement

- Montenegro formally applied to join the European Union in 2008 and negotiations have been ongoing since 2012. In its annual enlargement package reviewing progress made towards EU accession, published in November, the European Commission was concerned that the implementation of existing overall human rights legislation remained "weak". The report did state that authorities displayed an "overall openness" to promoting LGBTI people's rights, but that Ministry of Human Rights and Minorities staff did not have enough staff and that existing action plans were not accompanied by a budget allocation. The Commission also called for improvements in access to healthcare for LGBTI people.

Equality and non-discrimination

- In February, the government announced the Council for Protection against Discrimination was being abolished. Vice-President Dusko Markovic stated that if the Council continued, it would create an overlap of work as a legal framework had already been established and much of the

Council's jurisdiction had been moved to the Council for the Rule of Law.

Family

- NGOs Juventas and Queer Montenegro composed draft registered partnership legislation, which was publicly presented at the end of 2016. The subsequent parliamentary procedure, as well as associated advocacy and campaign efforts, will begin in 2017.

Foreign policy

- On 13 July, during the Montevideo Global LGBTI Human Rights Conference, Montenegro, together with 30 other states, joined the Equal Rights Coalition, a coalition committed to work towards equal rights and the eradication of discrimination and violence against LGBTI people. Montenegro also joined the Global Equality Fund in July.

Freedom of assembly

- Following the triple ban imposed on the 2015 Pride Walks planned in Niksic, NGOs Hiperion and LGBT Forum Progress initiated a case against the Ministry of the Interior in October 2015. The first hearing in the case took place before the Administrative Court in May and a decision was expected to be made publicly available within one month. The Administrative Court upheld the police decision to ban the March, as did the Supreme Court in a decision issued in September. On 30 November, NGO Human Rights Action submitted a complaint to the Constitutional Court (on behalf of NGOs Hiperion and LGBT Forum Progress), arguing that the Supreme Court's verdict violated the right to freedom of assembly and anti-discrimination principles. The case was ongoing at the end of the year.

- On 17 December, the Montenegro Pride Rally took place in Podgorica for the fourth year. An estimated 230 people participated in the Pride Walk. Minister of Culture Janko Ljumovic (Democratic Party of Socialists, DPS; social-democratic) and Minister for Human and Minority Rights Mehmet Zenka (Democratic Union of the

Albanians, DUA) attended the Walk; Minister Zenka also gave a speech to participants. The event passed off peacefully and organisers reported an increased police presence compared to previous years.

Freedom of association

- Kvira – a new activist group of LGBTQ women – was formed in August. The independent activist group aims to improve the position of women in society, with particular emphasis on LBT women. The group had 120 members by the end of 2016.

Human rights defenders

Stevan Milivojevic stepped down from his role as executive director of NGO LGBT Forum Progress and completely withdrew from all activism during 2016, due to personal reasons. Milivojevic was one of the few publicly out gay men in the country.

Participation in public, cultural and political life

- In June, the SOGI – Social and Community Centre in Podgorica closed its doors. Organisers initially planned the closure to be temporary but due to the expiration of funding, the LGBTI space had not reopened by the end of 2016.

Public opinion

- The results of '*Perceptions of the LGBT community*', a study conducted by LGBT NGO Juventas, were published in December. The survey questioned 816 adults in September and was implemented with the support of LGBTIQ NGO Queer Montenegro and the Institute for Legal Studies. Three-quarters of those surveyed said that LGBT people should not have the right to marry and should not be able to adopt. 60% believed that LGBT rights are respected in Montenegro and 13% showed partial or full support for Pride events in the country. A majority of those surveyed believed that Pride events were organised in order to 'provoke' the majority of the population.

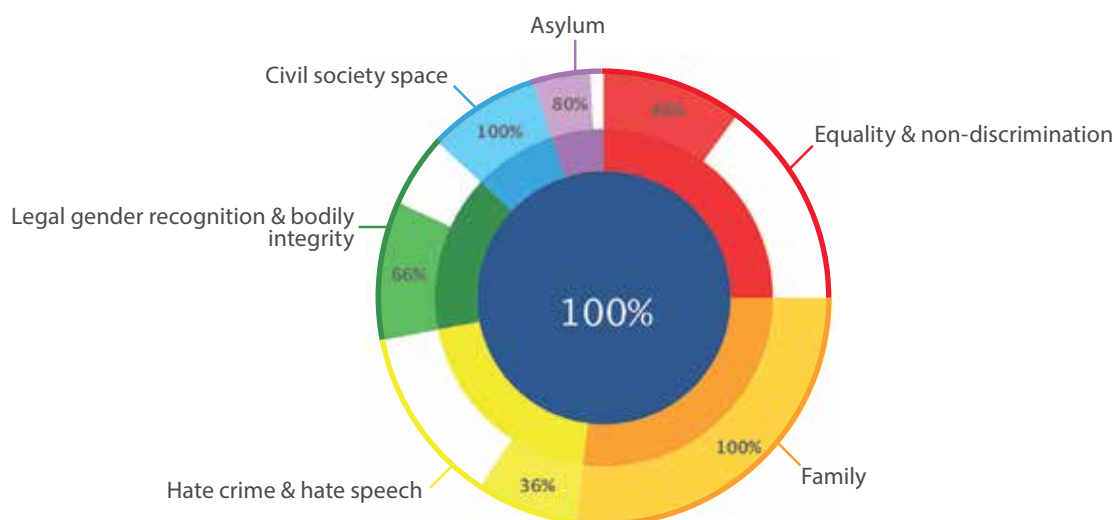
The Netherlands



2016 proved to be a year full of potential for LGBTI NGOs in the Netherlands. Several of their long-standing recommendations appeared on the political agenda, although not all of them were ready to be implemented by the end of the year. Some of these suggestions focused on closing existing legislative gaps, other proposals focused on ways to build on the equality foundations already laid by existing laws and policies. Following NGO advocacy work on the issue and a committee report, the government stated that it was considering advancing protections for rainbow families who are seeking to raise children with more than two parents. Having long advocated for the explicit protection of trans and intersex people in equality legislation, LGBTI activists were encouraged by a government pledge and a possible draft law. This had not been voted on in December, but would be a step towards closing a significant gap in Dutch equality law. Thousands of students took part in a very visible anti-discrimination initiative in schools all over the country. As was the case in many of their European neighbours, the Dutch authorities and civil society continued to receive requests for information and resources to support LGBTI asylum seekers. In an important symbolic visit to mark the NGO's anniversary, King Willem-Alexander met with COC Netherlands and representatives of the LGBTI community.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.

Legal and policy situation in **The Netherlands** as of 31 December 2016



In order to improve the legal and policy situation of LGBTI people,
ILGA-Europe recommend:

- ➡ Giving LGBTI people protection under the constitution, by expressly referring to sexual orientation, gender identity and sex characteristics.
- ➡ Extending anti-discrimination protections in employment law beyond the current legislative base, to include gender identity and sex characteristics.
- ➡ Introducing hate crime laws that explicitly cover all bias-motivated crimes based on sexual orientation, gender identity and sex characteristics.

Asylum

- Minister for Education Jet Bussemaker (Labour Party, PvdA) announced in January that an LGBTI awareness-raising initiative would be launched in asylum centres. This led to more prominent information on non-discrimination of LGBTI people in asylum centres. Private funders set up a temporary safe house for LGBTI asylum seekers in Rotterdam in February. LGBTI NGO COC Netherlands and its local chapters also run a 'buddy' project for LGBTI asylum seekers.
- NGOs continued to receive reports of bullying and violence against LGBTI asylum seekers in asylum centres and temporary shelters during the year. Following suggestions from LGBTI NGO COC Netherlands, parliament adopted a resolution in March which demanded separate, safe housing for LGBTI asylum seekers in urgent situations. By the end of 2016, several asylum centres had (temporary) facilities for LGBTI people, usually consisting of a separate wing or a group of safe rooms. The resolution also called for a structure in asylum centres, where asylum seekers could file confidential complaints about discrimination. This structure was established in August.

Bias-motivated speech

- On 1 February, a former Amsterdam politician was convicted of inciting discrimination against gay people for comments he made in 2010. During a televised political debate, Delano Felter, then leader of the Republican Modern Party (RmP), referred to homosexuality as a 'sexual deviation' and said that "...the gay profile is simply too dominant. I think that there are too many gays in the government." NGO COC issued a complaint and the first instance court ruling found his comments were not threatening. This was overturned by the Supreme Court in 2014, and sent back to a lower court for re-examination. Felder was fined EUR 1000 for his comments.
- In December, the parliament debated a draft law put forward by Joram van Klaveren, former member of the far-right Freedom Party (PVV). The bill proposed repealing Penal Code articles 137 (c), (d) and (e). These are the main non-discrimination articles, prohibiting inciting hate, hate speech, discrimination and group insult. The

draft law attracted much criticism from NGOs, including COC Netherlands. A vote had not taken place by the end of the year.

Bias-motivated violence

- Several violent incidents involving LGBTI people were reported by the media in 2016. In April, two lesbian women were severely beaten in the city of Groningen, while walking home hand in hand after a night out. The assailants shouted discriminatory words at the women before attacking them; one of the victims was hospitalised. In October, a gay couple was attacked on a ferry in Amsterdam. The assailants used discriminatory language during the attack and the couple were left with severe injuries. LGBTI NGO COC Netherlands called on the government and parliament to draft an action plan against discriminatory violence.

Education

- LGBTI youth organisations Expreszo and COC Youth Council issued a report in June, documenting approximately 200 complaints from students about poor or non-existent education on sexual diversity at their schools. (Every primary and high school in the Netherlands is obliged by law to offer education about LGBTI issues since 2012). The Inspection for Education (a government institution) issued a report on the same subject in September. It concluded that although many schools do provide some education on LGBTI issues, the quality of the lessons is often poor. In response, LGBTI NGO COC Netherlands made a proposal to the government, stating that skills to promote acceptance of LGBTI people at schools should become an obligatory part of the curriculum of trainee teachers.
- In December, an estimated half a million students at 900 Dutch high schools took part in Purple Friday, an initiative of COC's Gender and Sexuality Alliance (GSA) Network to promote non-discrimination on the grounds of sexual orientation, gender identity and sex characteristics in schools. An estimated 450 high schools participated in International Day of Silence, an initiative against bullying by COC's GSA-Network.

Equality and non-discrimination

- In a referendum that took place in April, a majority voted against the EU Association Treaty with Ukraine. In advance of the vote, Ukrainian and Dutch LGBTI NGOs had campaigned together, stating that the Association Treaty is good for the human rights of LGBTI people in Ukraine. The vote was non-binding and it was not clear how the government planned to follow up on the vote by the end of 2016.
- The minister of the Interior Ronald Plasterk (Labour Party, PvdA) sent a policy document to parliament in June, stating that the government is in favour of including non-discrimination of trans people in the Equal Treatment Act. In August, three Dutch MP's (from the Democrats 66, PvdA and GroenLinks/Green Left) presented a draft law to explicitly protect trans and intersex people against discrimination in the Equal Treatment Act. The law had not been voted on by the end of 2016.
- LGBTI NGO COC Nederland celebrated its 70th anniversary, an occasion marked by a visit from King Willem-Alexander on 22 November. The king met with representatives of the LGBTI community, COC staff and volunteers, as well as with representatives of COC's 20 regional associations; the first time the NGO had been visited by a head of state.

Family

- NGO's Meer dan Gewenst and COC Netherlands presented the Minister of Justice with a petition containing approximately 5000 signatures in September, demanding legislation for rainbow families who are raising children with more than two parents. The Government Committee on the Reassessment of Parenthood presented a report on co-parenting and surrogacy on 7 December. The 'Child and Parents in the 21st Century' document recommended that children born in the Netherlands would be able to have three or four parents recognised from birth (multi-parentage). It also recommended investing more than two people with parental authority (multi-parenting) and regulating for surrogacy. In a letter to parliament, accompanying the report, the Dutch government responded positively to many of the proposals made by the Committee, including multi-parentage and multi-parenting.

Freedom of assembly

- The European Commission participated in the Canal Pride parade during EuroPride 2016 in Amsterdam, a festival that attracted an estimated 560,000 attendees. Using banners along the route of the Parade, combined with media work, NGO COC Netherlands campaigned for the EU to do more to tackle infringements of the human rights of LGBTI people in EU countries.

Health

- A proposal from the D66 and GroenLinks/Green Left parties to introduce and reimburse HIV prevention method Pre-exposure Prophylaxis (PrEP) for key populations was rejected in a parliamentary vote. Sexual health NGOs such as the Aids Fund, together with LGBTI NGO COC Netherlands, had encouraged parliament to legislate. Healthcare minister Edith Schippers (VVD, right-wing liberal) asked the Dutch Health Council (Gezondheidsraad) for advice on the matter, but the advice (and therefore the introduction of PrEP) is not expected before 2018.
- New regulations for the reimbursement of breast construction surgery, introduced in 2016 by healthcare minister Edith Schippers, did not include trans and intersex persons, who still have to pay for breast construction themselves. The minister announced she will look into this matter and is expected to inform parliament before the summer of 2017.
- In 2016, the Radboud hospital in Nijmegen became the first Dutch hospital to receive a Roze Loper (Pink Key). About 100 homes for the elderly in the Netherlands (and Germany) already have the Roze Loper, a symbol for LGBTI-friendly healthcare services.

Legal gender recognition

- In December, Minister of Justice Ard Van der Steur (VVD) together with Minister of Education Jet Bussemaker (PvdA) sent a policy letter to parliament, announcing a package of measures limiting sex registration. For example, the sex of a person will no longer be marked on Dutch public transport cards and voting cards.

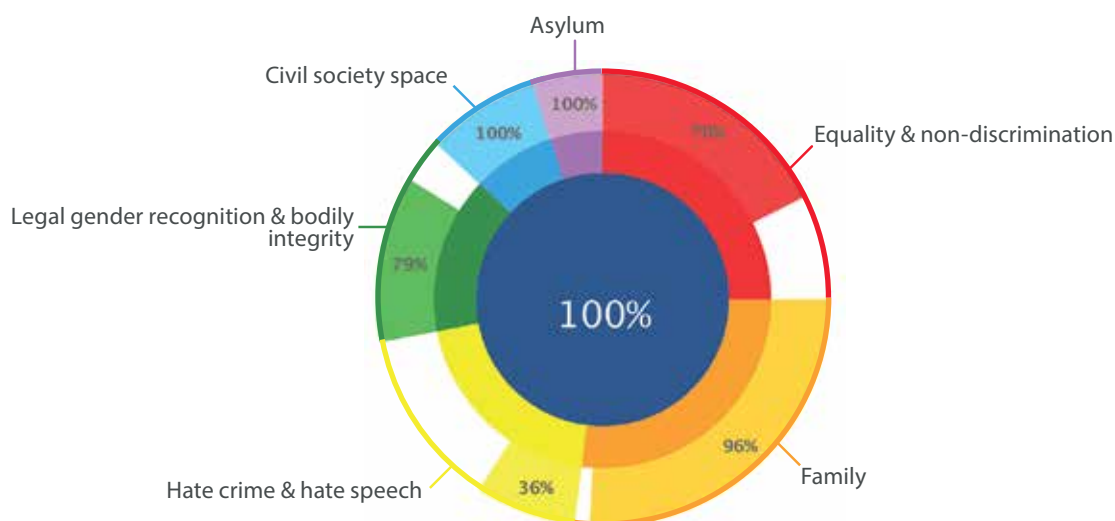
Norway



Building on the work of an expert group and consultations carried out in 2015, Norway updated its legal gender recognition framework. The law, passed in June, was based on the principle of self-determination, without the need for sterilisation or medical diagnosis. Norway is the fourth country in Europe to opt for a self-determination model, a promising indication that an increasing number of European governments recognise the bodily autonomy of trans people. The government's LGBTI action plan's new reference to sex characteristics was another hopeful development (although some NGOs were disappointed at the lack of specific actions set out in the actual action plan). The words of King Harald, speaking about the value of diversity and how LGBTI people are part of the fabric of Norwegian life, were a welcome gift in a year where populist statements had a tendency to grab headlines across Europe.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.

Legal and policy situation in **Norway** as of 31 December 2016



In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- Prohibiting medical intervention on intersex minors when the intervention has no medical necessity and can be avoided or postponed until the person can provide informed consent.
- Including express mentions of all SOGISC (sexual orientation, gender identity, sex characteristics) grounds in laws designed to tackle hate crime.
- Updating the existing legal framework for legal gender recognition, to ensure the process is not limited to a binary understanding of gender (eg: allowing for recognition beyond strictly male/female gender identities).

Asylum

- LGBTI NGO FRI (The Norwegian Organisation for Sexual and Gender Diversity) expressed concern, during meetings with politicians in 2016, over the treatment of LGBTI asylum seekers. Specifically, the NGO highlighted the fact that there are no regulations or policies to make conditions at reception centres safer for LGBTI asylum seekers. The NGO also queried why there is no automatic right for LGBTI asylum seekers to have their case tried in person before the immigration appeals board.

Bias-motivated speech

- A neo-Nazi group (which has branches in other Nordic countries as well) regularly spoke out against LGBTI equality during 2016. The group used social media, websites, posters and leaflets (distributed in towns and cities throughout Norway) to target what they referred to as the 'gay lobby'. The group also announced their intention to demonstrate at Pride parades in Norway in 2017.

Bias-motivated violence

- Two young people were the victims of an unprovoked attack on 20 March in Oslo city centre. On 9 December, three men were convicted of assault. The Oslo District Court found that the violent crime was motivated by the victims' sexual orientation. Each of the three attackers was sentenced to 120 days imprisonment.

Diversity

- In a speech at the Palace Park on 1 September, King Harald spoke about diversity in Norway, saying "... Norwegians are single, divorced, families with children, and old married couples. Norwegians are girls who love girls, boys who love boys, and girls and boys who love each other. Norwegians believe in God, Allah, the Universe and nothing... In other words: Norway is you. Norway is us."

Equality and non-discrimination

- An LGBTI action plan was published by the government on 21 June, covering sexual orientation, gender identity and (in a new addition) sex characteristics. The plan lists aims in 40 different areas of life, including

hate crime/speech, young people and LGBTI people in vulnerable groups, such as refugees. Some LGBTI activists were disappointed that the plan was not more goal-orientated, and pointed out that it did not commit the authorities to take specific actions.

Family

- The Lutheran Church of Norway voted in favour of carrying out marriage ceremonies between same-sex couples. In a vote on 11 April, 88 delegates out of 115 at the Church's annual conference approved the proposal. Same-sex couples are now entitled to be married in their local church; church officials have a right to refuse to officiate.
- Later in April, the Norwegian Catholic Church announced it was asking for Vatican permission to stop conducting civil weddings. Oslo bishop Bernt Eidsvig said that "...it's clear we must distinguish our own Church marriages from others". Eidsvig also commented on the Lutheran Church vote: "My own reaction is one of sorrow and disappointment, and we can't foresee the longer-term consequences for inter-church contacts here".

Foreign policy

- On 13 July, during the Montevideo Global LGBTI Human Rights Conference, Norway, together with 30 other states, joined the Equal Rights Coalition, a coalition committed to work towards equal rights and the eradication of discrimination and violence against LGBTI people.

Legal gender recognition

- In January, the Ministry of Health was continuing work on a draft law on legal gender recognition, following consultation in 2015. The draft law was published by the health ministry on 18 March and proposed a legal gender recognition procedure based on self-determination. On 17 June, the parliament voted in favour of the bill by 79 votes to 13. No sterilisation, diagnosis or medical treatments are required, and the procedure is open to all over 16 years of age. Children aged 6 to 16 can have their gender legally recognised with the permission of one or both parents. The law entered into force on 1 July 2016. Norway is the fourth European country to introduce self-determination measures for legal gender recognition.

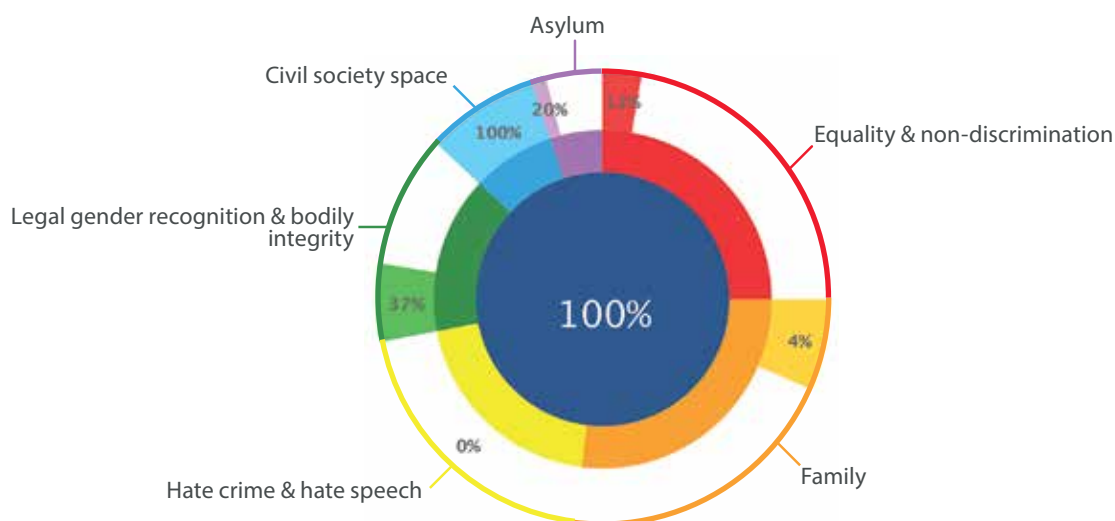
Poland



Civil society experienced a turbulent year in Poland, with a foreboding sense that the work of LGBTI NGOs was being pressurised from all sides. The attacks were both literal and indirect. Offices where LGBTI activists work were targeted, on more than one occasion. The mandate of the independent official whose very job it is to defend human rights in the country was publicly questioned; the Ombudsman was still in office at the end of the year. Another possibility mooted by the ruling Law and Justice Party was a withdrawal from the Istanbul Convention, calling into question how seriously they prioritise dealing with gender-based violence. Whether or not LGBTI activists (and their fellow civil society partners) will be able to publicly demonstrate in the future was also unclear following the passage of a public assembly law that prioritises rallies of 'national importance'. (This law was being assessed by the Constitutional Court at time of writing.) Questions were also raised over the future of NGO funding, as news of the prime minister's proposal to create a centre to oversee civil society development emerged at the end of the year. Another frustration associated with this pressure on fundamental rights is that dealing with all these additional challenges stretches the resources of LGBTI NGOs, limiting the time they can spend on targeted advocacy. In spite of this atmosphere, LGBTI activists persisted – in particular strengthening links between the LGBTI and religious communities, providing support during court proceedings, and developing inclusive resources for schools.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.

Legal and policy situation in **Poland** as of 31 December 2016



In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:



Adopting legal measures to recognise and protect same-sex couples, such as civil unions or registered partnership.



Introducing hate crime laws that explicitly cover all bias-motivated crimes based on sexual orientation, gender identity and sex characteristics.

Access to goods and services

● LGBT Business Forum initiated legal proceedings against a Lodz printing company who refused to carry out their request, saying that "...we do not contribute to the promotion of LGBT movement in our work". Following the LGBT organisation's complaint, in February the Ombudsman recommended an investigation and police subsequently filed a motion to fine the company on 16 May. On 21 June, the Lodz-Widzew District Court fined the printers PLN 200 (EUR 45). The printers filed an appeal on 29 June and new court proceedings were required. Minister of Justice Zbigniew Ziobro (Solidarity Poland. SP; right-wing) issued a statement through the ministry's website on 26 July, saying that the court's decision to fine the printers was unfair. A prosecutor was appointed to the case by Minister Ziobro and the first hearing was held in December. The case had not concluded by the end of 2016 and a second hearing was due to be held on 17 January 2017.

Bias-motivated speech

● At a press conference on 15 July, one day after the terrorist attacks in Nice, interior minister Mariusz Blaszczak (Law and Justice, PiS; right-wing) commented that this incident had happened because the European Union had failed to react adequately to the November 2015 attacks in Paris. He cited political correctness, multiculturalism and solidarity marches featuring flowers and rainbow colours. This reference was criticised by LGBT NGO Lambda Warszawa.

Bias-motivated violence

● In March, the offices of two LGBTI NGOs were attacked in the city of Warsaw. A brick was thrown through the

windows of Lambda Warszawa's office during the night on 1-2 March. On 3 March, three men attempted to break into the Campaign against Homophobia (KPH) building while shouting homophobic insults. KPH staff called the police but the men left before officers arrived. The Polish Commissioner for Human Rights Adam Bodnar condemned the attacks and held a meeting with NGO representatives after the incident at KPH's office. On 10 March, the Helsinki Foundation for Human Rights reported that over 300 Polish NGOs had written to Prime Minister Beata Szydło (PiS) asking her to take action against the NGO attacks. Windows in the KPH office were broken in an attack on 23 April and again, in a similar incident, on 27 April.

● On 7 December Elżbieta Rafalska, Minister of Family, Labour and Social Policy, issued a statement highlighting the government's plans to withdraw from the Istanbul Convention on preventing and combating violence against women.

Data collection

● 'Transgender youth in Polish schools' – the first comprehensive study in the country to examine how the education system enables trans children to live according to their gender identity – was released on 8 December. NGO Foundation Trans-Fuzja conducted interviews with directors of schools across Poland and the study revealed that while there are general systematic problems for trans students, that there are also good practice examples of schools that are supportive and understanding.

Diversity

● During World Youth Day in July, a Warsaw-based organisation (Faith and Rainbow LGBT) organised a space for LGBT participants attending the event. The 'LGBT Pilgrim's Haven' was not part of the official Youth Day programme but was run in a café in Krakow. Jim Mulcahy, a pastor working in Ukraine (see **Russia**), was one of the speakers to address the group. During a private meeting with bishops during his visit to Poland for World Youth Day, Pope Benedict called gender identity initiatives a form of colonisation and reportedly said that "Today, in

schools they are teaching this to children -- to children! – that everyone can choose their gender”.

- The first social media campaign linking LGBTI organisations and representatives of Catholic backgrounds was launched by NGOs KPH, Faith and Rainbow, and Tolerado in September. The *Znakpokoju* campaign aims to highlight the fact that LGBT people are also present in faith communities. In October, campaign billboards were erected in 10 cities across the country.

Education

- The first handbook for teachers, management and psychologists on the needs of trans students was published in September. NGO Foundation Trans-Fuzja compiled the handbook to assist teachers in supporting trans children and young people, as well as helping them to foster respect for diversity among students generally.
- In September, NGO Foundation Trans-Fuzja wrote to the Ministry of Science and Higher Learning to express concern at proposed changes to the Regulation on the documentation of the course of study. Under the proposal, after going through the legal gender recognition process, trans students would have to give diplomas and materials back to their education institution in order for them to be reissued in their name. At the end of 2016, Trans-Fuzja has received no response from the ministry.

Equality and non-discrimination

- Commissioner for Human Rights Adam Bodnar presented his annual activity report at the Parliamentary Commission of Justice on 5 September. At the same time, several PiS MPs announced their intention to file a motion to dismiss the commissioner. Any motion would require the support of three-fifths of MPs to pass; the proposed motion had not been filed by the end of 2016. On 27 October, the International Ombudsman Institute published recommendations that urged the Polish parliament to support the office of the Commissioner for Human Rights.
- In September, the Supreme Administrative Court ruled that the interior ministry must re-examine the

application of a same-sex couple to purchase property together. A Polish citizen and his Chilean partner (who had entered a registered partnership in the UK) had asked the ministry for permission to buy the apartment in Szczecin. When purchasing property in border towns like Szczecin, people from outside Poland are asked to provide evidence of a connection to the country. The couple's partnership was not accepted as evidence by the ministry and this decision was upheld by the Regional Administrative Court. The couple appealed and Judge Jacek Chlebny of the Supreme Administrative Court then ruled that 'ties with Poland' should not be defined as referring to marriages or partnerships between different-sex couples only.

- Fundamental human rights rights in Poland were discussed by MEPs during a debate in the European Parliament on 13 September. A resolution calling on the government to "...solve the country's constitutional crisis" was adopted by 510 votes to 160; 29 MEPs abstained.

Family

- The Supreme Court responded to a question from the Court's own first president Małgorzata Gersdorf on 25 February, confirming that same-sex couples can refuse to testify against each other. Gersdorf had posed the question in an attempt to clarify the legal situation. The Court held that same-sex couples who are living in a de facto union cannot be called as witnesses in criminal proceedings against their partner.

Freedom of assembly

- On 30 November, a public assembly bill successfully passed the first reading stage. The draft law, put forward by the ruling PiS party, would prioritise certain rallies of 'national importance' and prevent demonstrations being staged at the same time as events sanctioned by the authorities or the church, effectively banning counter-protests. The bill, which was criticised by NGOs and the Commissioner for Human Rights, was passed by parliament in December. President Andrzej Duda declined to sign the freedom of assembly bill on 29 December, sending it to the Constitutional Court for their adjudication.

Freedom of association

- Prime Minister Beata Szydło (PiS) drafted a bill, proposing the creation of a National Centre for the Development of Civil Society. The plans were announced in late November and outlined intentions to centralise state funding for NGOs. Public consultation on the bill's contents was ongoing at the end of the year.

Legal gender recognition

- The Warsaw Regional Court confirmed that a Polish trans woman, who had legally transitioned in Germany, did not have to obtain a medical evaluation and go through the usual civil court process to change personal documents. The woman had contacted LGBTI NGO Foundation Trans-Fuzja in 2015 when her local Polish registry office refused to amend her birth certificate. On 1 June, the court in Warsaw confirmed that the decision issued by the German courts should be recognised in Poland for the purposes of correcting a birth certificate.

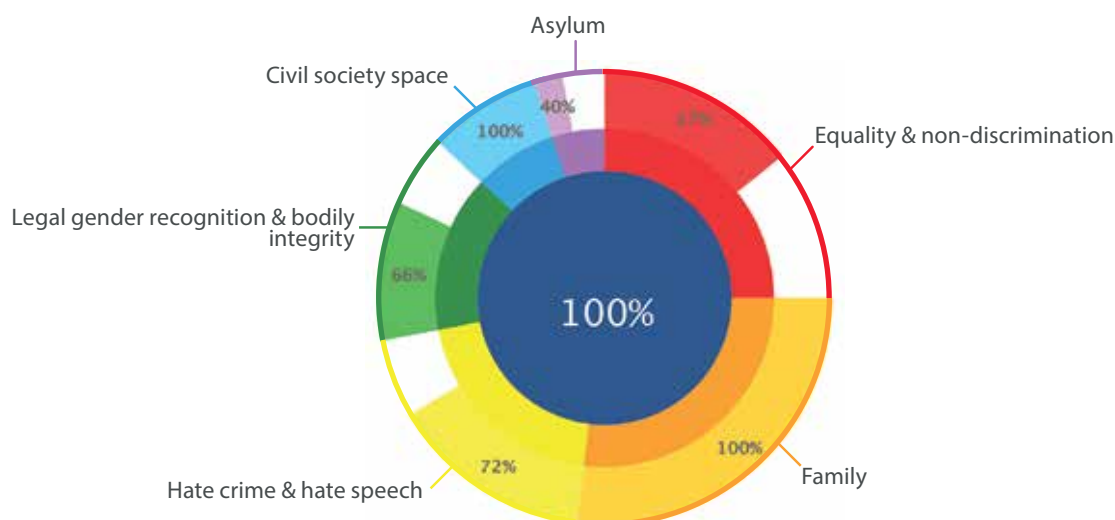
Portugal



Several legislative proposals in the area of family law (that had been discussed for a long time) were finally introduced in 2016. The legal changes around the adoption system looked to have been slowed down early in the year by a presidential veto in January. However, parliament overturned this decision, extending access to joint and second parent adoption to same-sex couples. Another improvement to family laws was finalised during the summer; now all women in Portugal can avail of medically assisted reproduction techniques, with automatic parental recognition for lesbian couples. The law around legal gender recognition was not developed during 2016, although government did promise to put forward proposals for legal improvements during the course of 2017. Following a funding agreement with the government, LGBTI NGOs also began providing support for LGBTI people who had experienced violence. Another step towards equality was made when the blanket blood donation restriction was completely removed for men who have sex with men.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.

Legal and policy situation in **Portugal** as of 31 December 2016



In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:



Updating the existing framework for legal gender recognition, to ensure the process is based on self-determination and is free from abusive requirements (such as GID/medical diagnosis, or age limits).



Prohibiting medical intervention on intersex minors when the intervention has no medical necessity and can be avoided or postponed until the person can provide informed consent.



Drafting and adopting an anti-discrimination framework law that expressly mentions all SOGISC (sexual orientation, gender identity, sex characteristics) grounds, and also contains references to multiple discrimination.

Bias-motivated speech

- The European Court of Human Rights held that a well-known television host had not suffered a violation of his Convention rights as a result of a joke made by a late-night comedy show in 2009. Manuel Luís Sousa Goucha had complained to Strasbourg, stating that the domestic courts had discriminated against him on the grounds of sexual orientation. Mr Sousa Goucha's original defamation case, dismissed at national level, had focused on a joke referring to him as one of the best female TV hosts. On 22 March, the European Court dismissed the complaint under Article 8 and 14, stating "...there is nothing to suggest that the Portuguese authorities would have arrived at different decisions had the applicant not been homosexual".

Bias-motivated violence

- The government signed funding agreements in November with three NGOs to run support services for LGBTI victims of violence. ILGA Portugal and Casa Qui will run the Lisbon-based service, while residents of Matosinhos will receive support from the Plano i Association.

Equality and non-discrimination

- In September, the *Publico* newspaper reported that the health directorate general (DGS) was considering changes to the clinical guidelines relating to blood donation. On 19 September, the health ministry published a new norm on blood donation criteria removing the restriction for men who have sex with men (MSM). Minister for Health Adalberto Campos Fernandes (Socialist Party, PS) responded on 19 October to a parliamentary question from Isabel Alves Moreira (PS), clarifying that no deferral period would be included for MSM and explaining that the Portuguese Blood Institute would follow the norm and had 60 days to do so. The minister also stated that health professionals would receive training on the new norm.

Family

- Weeks after the parliament voted in December 2015 to extend access to joint and second parent adoption to

same-sex couples, President Anibal Cavaco Silva (Social Democratic Party, PPD/PSD; centre-right) vetoed the decision. On 25 January, Silva stated that he thought the best interest of children should be the priority for MPs rather than equal treatment "between different and same-sex couples". A motion to overturn the presidential veto was passed by parliament on 10 February with 137 MPs voting in favour. The joint and second-parent adoption law was published on 29 February and came into effect on 1 March.

- On 21 April, the Working Group on Medically Assisted Reproduction (MAR) approved a proposal to extend access to all women, with the support of all the left-aligned parties. Previously MAR was only available to married, different-sex couples. The proposal was subsequently approved by the Health Committee and was passed in a final parliamentary vote on 13 May. The change applies to all women, regardless of marital status or sexual orientation, and ensures automatic parental recognition for same-sex couples. The change was effective from 1 August.

Foreign policy

- On 13 July, during the Montevideo Global LGBTI Human Rights Conference, Portugal, together with 30 other states, joined the Equal Rights Coalition, a coalition committed to work towards equal rights and the eradication of discrimination and violence against LGBTI people.

Legal gender recognition

- In May, the Left Bloc (BE) put forward a proposal to introduce legal gender recognition based on self-determination for people aged 16 and older. Existing legislation granted access to the process for those over the age of 18. The Left Bloc also stated that the requirement placed on trans people to produce a mental health diagnosis report should be repealed. Before the end of the year, the government announced plans to submit a similar plan for consideration in 2017.

Police and law enforcement

- In April, the *Observador* website published an interview with a lieutenant-colonel at Lisbon's military

school who suggested that gay students at the school were discriminated against. Defence Minister Azeredo Lopes (independent) reacted by saying that his ministry "... considers any discrimination for sexual orientation or any other questions absolutely unacceptable and against the Constitution and the Law." He also asked the military school deputy director to resign. General Carlos Jeronimo, head of the Army, saw this as an unnecessary interference in the armed force's chain of command and resigned on 7 April.

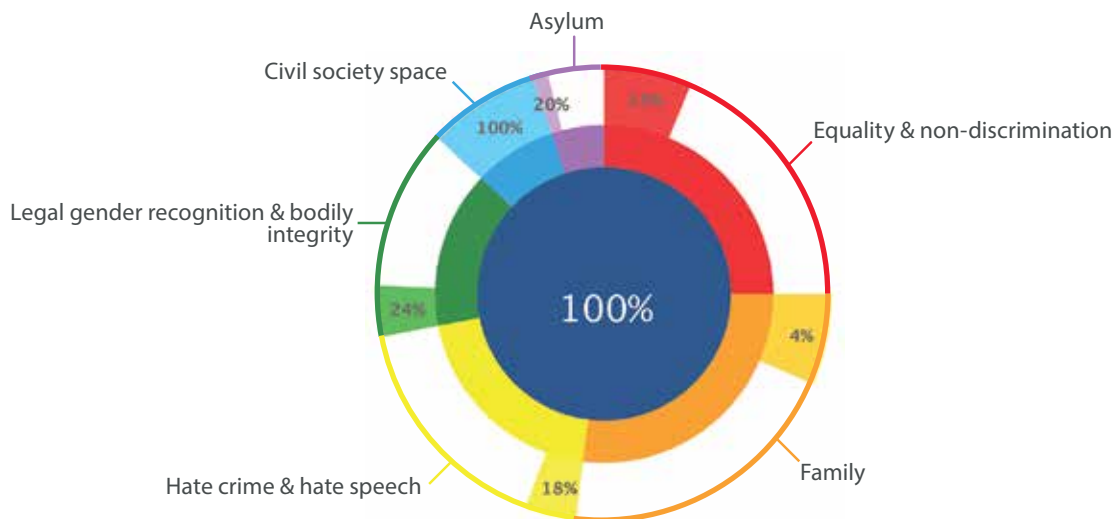
Romania



LGBTI equality issues continued to attract significant public attention, with ongoing high-profile court cases and referendum discussions in 2016. Groups opposed to equal marriage for same-sex couples carried on with a signature collection campaign in an attempt to force a referendum on the constitutional definition of marriage. The manner in which these signatures were being accumulated was criticised by the Ministry of Education following complaints from students that collections were taking place in schools. During the summer, the Constitutional Court ruled that a popular vote on the issue could take place, despite concerns from international NGOs that the proposed amendment would violate human rights. In another prominent legal discussion, the Constitutional Court decided to refer questions to the Court of Justice of the European Union for the first time. That particular case concerns a married couple who wish to be recognised as spouses in Romania, but the answer could give clarity to many other same-sex couples in a similar position across the European Union. One particularly public show of solidarity for the LGBTI community came in October, in the form of the first public statement of support from a Romanian president.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.

Legal and policy situation in **Romania** as of 31 December 2016



In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:



Adopting legal measures to recognise and protect same-sex couples, such as civil unions or registered partnership.



Updating the existing legal framework for legal gender recognition, to ensure the process is based on self-determination, and is free from abusive requirements (such as sterilisation, GID/medical diagnosis, or surgical/medical intervention).

Bias-motivated violence

- The European Court of Human Rights ruled that the Romanian police's investigation into an attack on Bucharest Pride participants in 2006 was ineffective and failed to take an anti-LGBTI motive into account. In the *MC and AC v Romania* judgment, released on 12 April, the ECtHR found that these failures were a breach of Article 3 (prohibition of torture and inhuman or degrading treatment) of the European Convention on Human Rights, read together with the anti-discrimination Article 14. In 2006, two people had been subjected to verbal abuse, punched and kicked by a group of six people as they returned home following the Pride march. The ECtHR found that the subsequent criminal investigation was far from satisfactory. The judgment points out the long periods of inactivity, the fact that the police did not make use of any of the evidence submitted and that the actions taken by the authorities to identifying or punish the perpetrators cannot be accepted as appropriate. Later in April, LGBT NGO ACCEPT initiated discussions with the ECtHR government agent for Romania on a plan of measures to implement this decision at national level.

Data collection

- From September 2015 – January 2016, NGO ACCEPT collected data for a pilot study on high school students' attitudes towards LGBT people. The research project results were published on 29 February. Entitled '*A safe high school for all: perception and attitudes regarding LGBT individuals in education*', the report was based on 613 forms collected from 10 high schools, surveys with teachers and youth workers, an online questionnaire with responses from 158 self-identifying LGBT students, and an in-depth analysis of the experience of nine specific students. (see **Education**).

Education

- The '*Safe high school for all*' report, released in February, showed that seven out of ten LGBT high school students think they are not safe at school. Six out of ten students were witnesses to or victims of an

act of aggression; 5% said they would ask for help from a teacher or school headmaster if they saw someone being bullied because of their sexual orientation. Two out of five students interviewed believe that gay men or lesbian women should not teach in schools.

- The first educational online platform with information on discrimination, sexual orientation and gender identity was launched in March by NGO ACCEPT. The LGBT Learning Platform (www.lgbtlearning.ro) is aimed at students and teachers. The website contains information on the history of the LGBTI community, advice on how to deal with bullying or harassment and the course are available to be used by students, teachers, youth workers and the general public.

Employment

- NGO ACCEPT conducted a small-scale research project to document policy, practice and attitudes regarding LGBTI workplace discrimination in Romania for the first time. The online survey received 180 responses. Less than half of the LGBT respondents said their current or past employer appreciated diversity; 32% said they were sure it was not appreciated in their workplace. 64% of respondents said they are generally 'closeted' at work or only open with very few colleagues. 44% reported an absence of internal policies to protect LGBTI individuals from abuse and almost a quarter of respondents saying they worried about their own personal safety.

Equality and non-discrimination

- During a speech in October, while a case concerning recognition of same-sex couples was before the Constitutional Court (see **Family**), President Klaus Johannis stated "It's important to reiterate one thing I believe; we have to go back to the tolerance and acceptance of each other. (...) It is wrong to listen to or follow religious fanaticism (...) I believe in tolerance, trust and openness towards each other". This was the first firm statement by a Romanian President in support of LGBTI equality.

"Tolerance and acceptance of others are vital. These are the values I believe in."

President Klaus Johannis, 19 October 2016

- The Coalition for Family and the Romanian Orthodox Church criticised the president for his pro-equality remarks. Dacian Ciolos (independent), then prime minister, supported the president's position, saying in an interview with Hotnews.ro: "..., I believe that family is the core of society in Romania and it should not be systematically put in contradiction with the idea of tolerance. (Tolerance) manifests itself by respecting the choices of others".
- The anti-discrimination strategy, due to be adopted in early 2015, had still not been finalised and put into practice by the end of 2016.

Family

- A campaign, initiated in 2015 by the Coalition for Family (a group of 23 NGOs), to amend the constitutional definition of marriage continued in 2016. The initiative sought to describe marriage as a union between a man and a woman only, changing the wording of Article 48.1. On 5 January, Patriarch Daniel of the Orthodox Church commented that people in Romania must "...resist some new family models that consider the natural woman-man union only one model among others." Orthodox priests encouraged their parishioners to sign up to the initiative, for example, in the Timisoara and Iasi regions at events to mark Epiphany Day celebrations on 6 January. The petition was filed with parliament on 23 May having been signed by approximately three million people. On 20 July, the Constitutional Court ruled that a referendum could take place, a decision welcomed by the anti-equality, US-based Liberty Counsel organisation who had submitted a brief in support of the referendum. Any proposal to amend the Romanian constitution must be approved by a three-quarters majority of both parliamentary chambers before a referendum is held. Senate commissions passed the initiative on 1 November.

The Senate itself was due to discuss the proposal on 7 November but this was postponed until after the general election scheduled for 11 December.

- NGO ACCEPT received numerous complaints from LGBT students following the commencement of the signature collection campaign to restrictively amend Article 48.1 of the Constitution. Students reported that signatures were being collected in high schools, during classes, by a variety of teachers, including religion teachers. Supported by the Anti-Discrimination Coalition and the Gender Equality Coalition, ACCEPT launched a public appeal against this practice on 14 January and brought the anonymous complaints to the Ministry of Education's attention. After the appeal, the Ministry issued a public statement to confirm that signature collection in schools to modify any article of the Romanian Constitution is a political activity and illegal, under Article 3 of the National Education Law.
- On 20 July, the Constitutional Court began hearing arguments from a Romanian national that his marriage to his American husband should be recognised in the same way as a union between a different-sex couple would be. Adrian Coman and Claibourn Hamilton were married in Belgium in 2010 but their union is not recognised in Romania. They initiated a legal challenge, questioning the constitutionality of the section of the domestic Civil Code that excludes same-sex marriages carried out abroad from being recognised in Romania. Their case was postponed until 20 September. On that date the hearing was delayed again until October. The case was postponed again on 27 October, with the court setting a new hearing date for 29 November. On that date, the Constitutional Court referred questions to the Court of Justice of the European Union; this was the first time that the Court has ever referred questions to Luxembourg.
- On 1 November, then justice minister Raluca Prună said, during a debate, that marriage is a fundamental right and belongs to 'everyone'. Prună, on 24 November, also stated that restricting the definition of family in law "... would be an intolerant thing". Daniel Buda MEP (National Liberal Party, PNL; centre-right) then called on Raluca Prună because of her pro-equality comments.

Freedom of assembly

- The twelfth Bucharest Pride March on 25 June attracted a record number of participants; media reports estimated the attendance as being over 2500. Some of the organisers with NGO ACCEPT reported a number of difficulties in advance of the march, such as problems acquiring the necessary authorisation and they were requested to pay a significant fee to the municipality for the first time. A so-called 'normality' march was organised on the same day by the New Rights Party. The event, to protest against "gay marriage and gay adoption", attracted a few hundred participants.

Freedom of expression

- During Bucharest Pride, some participants carried banners with the slogan "They were gay in Orlando, Mr Johannis"; this was in direct reference to the President's failure to say that the attack targeted the LGBTI community in particular. Police who were present at the march attempted to remove these banners. After long conversations with the Pride organisers, the police allowed the banner to continue being displayed.

Legal gender recognition

- In June, NGOs ACCEPT and TRANSform organised a meeting with the Ministry of Justice on trans issues, a first of its kind in Romania. Among the issues raised were amending the anti-discrimination laws to include gender identity as a protected ground, and drafting legal gender recognition legislation based on good practice models. The Ministry of Justice had not initiated any of the suggested measures before the end of 2016.

Police and law enforcement

- NGO ACCEPT received several reports about a lack of police support during the year for LGBTI individuals who tried to lodge complaints about violence or abuse. Two of these cases took place in Bucharest; in both cases the perpetrators targeted gay men or LGBTI-affiliated individuals at gay bars. Investigations were ongoing at the end of 2016.

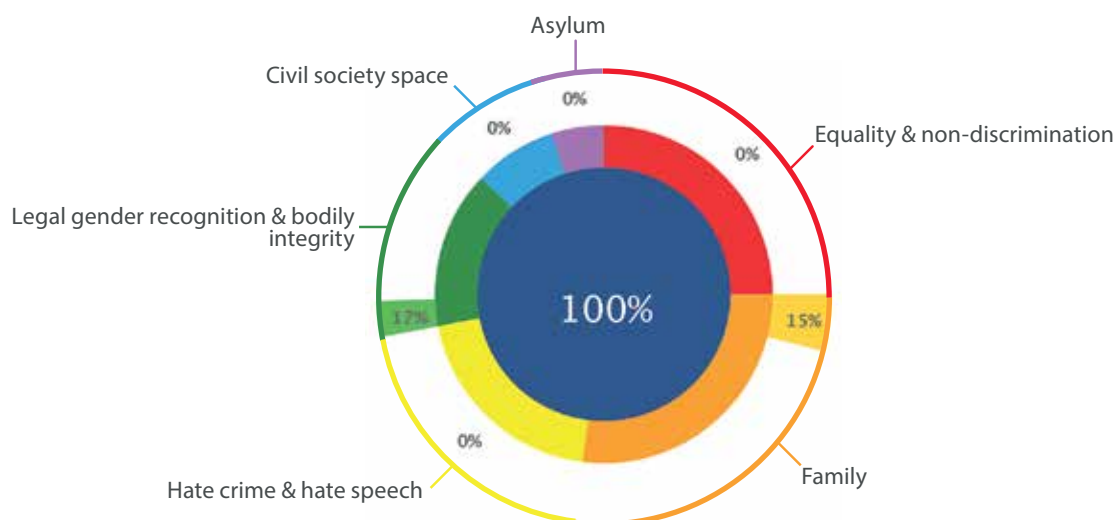
Russia



Events in Russia during 2016 were typified by a few familiar hallmarks – the ongoing lack of state protection of LGBTI people, and the tenacity of the LGBTI movement in cities across the country. Even in the face of the so-called ‘anti-propaganda’ law that has existed since 2013, activists refused to treat the absence of fundamental freedoms as a normal state of events. LGBTI groups and individuals attempted to mark a series of landmark dates, from the Day of Silence and May Day, to IDAHOT and Pride season. Authorities moved to suppress and disrupt these solidarity efforts; by frustrating organisers attempts to plan events, banning the gatherings altogether, or detaining activists. The work of LGBTI NGOs, support groups and media outlets was also tangled up in the workings of the ‘anti-propaganda’ law. LGBTI people continued to experience intolerance on a daily basis. These human rights infringements can be anything from difficulties using ID cards that differ from your gender expression, discrimination when applying for a job, to more physical threats such as bias-motivated violence. State authorities rarely take homophobic or transphobic motives into account in cases of violence, so access to justice for LGBTI victims of crime is an additional problem.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.

Legal and policy situation in **Russia** as of 31 December 2016



In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- Introducing hate crime laws and policies that explicitly cover all bias-motivated crimes based on sexual orientation, gender identity and sex characteristics.
- Removing obstacles to the effective exercise of freedom of assembly, association and expression.
- Repealing the legislation prohibiting 'propaganda of non-traditional sexual relationships'.

Bias-motivated violence

- A trans woman was murdered in the city of Ufa on 1 February. According to local police, the victim had been arguing with a man who appeared to be drunk. The man then stabbed the victim five times in the chest. The perpetrator (who was the partner of the victim's ex-wife) was found guilty of murder by the Oktyabrsky District Court in May. They were sentenced to six and a half years in prison. A transphobic motive was not taken into account.
- A man from Syzran was punched multiple times by another customer while shopping at a local supermarket in February. The man was called a 'fag' before being hit in the face and body. The attacker was later arrested on hooliganism charges by police.
- Dmitry Tsilikin, a journalist and well-known theatre critic, was found dead at his St Petersburg apartment on 1 April. While Tsilikin's sexual orientation was not public knowledge, his friends and colleagues believe he was murdered because he was gay. One man, who Tsilikin had met online, was arrested and told police he intended to blackmail the journalist because of his sexual orientation. Sergei Kosyrev also referred to his own life as a "crusade against a particular social group". He was later charged with murder and theft; a homophobic motive was not taken into account.
- In June, Russian football fans attacked an LGBT nightclub in Ekaterinburg. The attackers shouted homophobic insults at people standing outside, before entering the club. They fired air pistols during the incident. One patron inside the club was assaulted and suffered a broken leg and concussion.
- Star Rally – an event organised by the Russian LGBT Sport Federation's Nizhny Novgorod branch – was attacked in August. The event's sport and social programme attracted a mixed audience of LGBTI activists, allies and local people. The organisers had not posted prominent LGBT-related signage, in order to comply with the "propaganda" legislation. At night, the campsite was attacked by between five to eight people, armed with bats. Property was damaged and three people were seriously injured. This was one of three Russian LGBT

Sport Federation events to be disrupted in 2016; the others were the St Petersburg Winter Festival and the Tomsk Siberian Athens festival (see **Freedom of assembly**). The subsequent police report did not mention any potential bias motive, focusing on compensation issues for damage to the participant's vehicles. The authorities then refused to commence any investigation as they said those who were responsible for the attack couldn't be identified, even though the victims stated that they knew who the attackers were. The case was not reported as an anti-LGBTI hate crime by any of the victims.

Data collection

- The Transgender Legal Defence Project carried out research between December 2015 and June 2016 on the discrimination experienced by trans people. The findings of their monitoring work were published in the 'Violation of transgender people's rights in Russia' report. The paper mainly focused on the problems experienced by trans people when their personal ID documents differed from their gender expression. The report concluded that trans people seek to avoid conflict by deliberately refraining from accessing certain goods and services. The authors general recommendation is for the introduction of a quick, transparent and accessible legal gender recognition procedure, along with removing unjustified requirements such as sterilisation; the report also contains specific recommendations aimed at (among others) NGOs, trade unions, doctors, the health ministry and the Russian government.
- On 5 October, international NGO Equal Rights Trust published the results of the first legal study to examine the practice of Russian courts when dealing with LGBT rights cases. 'Justice or Complicity' analysed over 200 cases dealing with a broad range of subjects, including employment, education, private life, freedom of expression and assembly, and anti-LGBT violence. Among the report's conclusions were that the Russian courts are currently denying LGBT people in Russia access to justice, by failing to provide adequate redress to victims of discrimination and also by contributing to prevalent discriminatory societal attitudes.

Employment

- A woman was awarded damages by Zheleznodorozhny district court of Novosibirsk after being refused a job due to her sexual orientation. Anna Balash had applied for the same job twice with LTD “Sib-Alians”. On both occasions, she was told she had been turned down because of her sexual orientation. When she questioned the company in February, after her second rejection, the company wrote to her, stating “non-traditional sexual orientation doesn’t meet job requirements, can negatively affect company’s reputation and will impede to carry out work duties. The position requires a lot of work with clients. The majority of our clients support traditional values. Therefore the employment can lead to financial losses”. On 29 July, Anna Balash was awarded RUB 1,000 (approx. EUR 15) in moral damages.

Equality and non-discrimination

- In June, NGO Legal and Psychological Centre “Personality” met with Valentina Bronevich, the ombudsperson for the far-east region of Kamchatka. During the meeting, the NGO presented the ombudsperson with a report by the Russian LGBT Network on discrimination and anti-LGBT violence. Bronevich said that she was aware of LGBT people as a social group but that she was surprised that “these people” are in the Kamchatka region.

Family

- A proposal to ban same-sex marriages (first initiated in 2015) was rejected by the State Duma on 3 November. Deputies Aleksey Zhuravlev (United Russia), Dmitry Gorovtsov and Anatoly Greshnevikov (both A Just Russia, CP; social-democratic) suggested amending the Family Code to prevent same-sex couples and trans people from marrying, citing a child’s right to grow up in a “traditional family culture”. The Duma committee on women, family and youth issues rejected the bill at first reading in November. Among the reasons for the bill’s rejection was the fact that registry officials do not have the authority to conduct medical examinations to

determine the gender of anyone who wants to get married.

Freedom of assembly

- The European Court of Human Rights communicated a series of questions to Russia on 15 January, in relation to two cases; *Alekseyev v Russia* and *Alekseev and others v Russia*. The cases related to the restriction and prohibition of multiple LGBTI-related events in several cities during the period 2009-2015.

- On 15 April, to mark the Day of Silence and highlight the discrimination faced by LGBTI people worldwide, eight activists gathered at Moscow’s Novopushkinsky park. Three LGBTI activists were detained and taken to Tverskaya police station. In St Petersburg, the solo Day of Silence protests organised by the Alliance of LGBT and Heterosexuals for Equality were not disrupted. Another 15 April gathering, with a march and distribution of leaflets planned, was interrupted by police. LGBTI activists had held a similar event in 2015 with no issue. The participants were delayed by riot police and the organisers of the march were detained at police stations. The march continued without the organisers and finished at Kazan Square. Three people were detained and later released, in what the authorities called ‘preventative discussions’.

- On 29 April, authorities in St Petersburg banned LGBTI groups from taking part in the annual May Day Parade. This was a departure from previous years, when LGBTI groups had been included in the event. Neo-Nazi group Slavic Power Northwest had been authorised to march on 1 May. The VKontakte social media page where the LGBTI groups had been discussing their plans for the march was blocked two days before the event. The reason given was that it was “on the basis of the requirements of the Russian Federation Prosecutor General’s Office”. No official rainbow column was organised as part of the parade. LGBTI activists took part in the ‘green’ or ‘left’-orientated columns. During the march, activists unfurled rainbow flags and 14 people were detained as a result. No explanation was given to the activists during police questions; no charges were brought.

- The Siberian Athens LGBT sports festival took place in Tomsk from 7-9 May, after overcoming obstructions and venue cancellations in advance. Organisers believed that venues were pressured to cancel by opposition groups or authorities.

- LGBT activists in St Petersburg attempted to organise a rainbow flashmob to celebrate IDAHOT. They notified the city's law and order committee in early May. The Committee replied, stating that they could not hold the event in Mars Field as the area was already too busy on that date. It also cited the so-called "anti-propaganda" law; no alternative location was proposed. The rejection invited the organisers to apply to hold the event on the following day, before rejecting the subsequent reapplication – a scenario that was repeated 11 times. This was the first time that the IDAHOT event in the city was not authorised. Activists filed a legal complaint and were warned by police over the phone that they would be arrested if they proceeded with the planned event. Instead of a flashmob, activists released rainbow balloons at St Isaac's Cathedral on 17 May. On 18 May, the court rejected the activists' complaint, and the City Court upheld the District Court's decision in August.

- Also on 17 May, approximately 40 LGBT activists released balloons and handed out leaflets in the Arbat district of Moscow. The location of the event was not publicly circulated so there were no police present or attempts to stop the event. One LGBT activist was attacked by two women while distributing leaflets; all three were later brought to a police station. The women reported the activist for sharing so-called "gay propaganda among minors" even though the activist said they had not given any leaflets to children. The activist was detained at a police station for three hours, without receiving any information on the grounds of her detention from the officers. The activist was later released without charge.

- An IDAHOT flashmob was approved by authorities in Tyumen for the first time but organisers cancelled the event, as they were concerned about the physical safety of participants. Contact details of organisers and potential participants had been publicly disseminated before the

event by a local parents organisation and there were fears that those taking part in the flashmob would not be protected. On 21 May, activists gathered on a bridge in the centre to release rainbow balloons.

- Attempts to organise IDAHOT celebrations in Murmansk were denied once again. Activists were informed that they could not hold an event, as another gathering had been authorised for the same location and date; this has been the reasoning offered by the authorities in previous years. LGBTI activists reported that no other event took place on 17 May.

- In June, over 800 residents in the Kuban region signed a petition calling for the LGBT Black Sea 2016 festival to be banned. In June, a petition was launched on the Change.org website, calling for the LGBT Black Sea 2016 festival to be banned. The petition stated that "...we cannot dare let this festival happen" and called the event in the Kuban region "a shame for every single citizen of our region". The petition reached over 4500 signatures and the NGO Russian LGBT Network asked the website's administrators to cancel it on the grounds of hate speech. It was then suspended – the signature function was disabled – but the petition was not deleted. After that, a new CitizenGo.org petition was initiated by the "Fund of Family and Demography of Saint Peter and Fevronia". It referenced 'anti-propaganda' laws and called for the event to be banned, attracting an estimated 10,000 signatures. The LGBT Black Sea festival took place from 7 to 10 July with information being shared privately between attendees. Some of this information was leaked and led to further petitions from Orthodox activists. The location of the event itself was quite remote and only shared with participants in the days before it was due to take place, yet the police regularly visited the site, even on the first day of the festival.

- A gay couple was arrested outside the US embassy in Moscow on 13 June. The two men had gone to the building to lay flowers, candles and a banner after the attack on the Pulse nightclub in Orlando, but were detained by police officers. They were released after being charged with holding a public event without prior notice. When the couple returned the following day to view the

case papers, they were told by police that they should wait to be notified about their court date. The couple had received no further correspondence by the end of 2016.

- The St Petersburg-based activists who attempted to organise an IDAHOT flashmob continued with their efforts throughout the summer. On 12 July, two activists went to Mars Field with rainbow flags and placards to protest against the restrictions on their freedom of assembly; they also invited some journalists to join them. The activists were arrested and detained for over three hours. They were released, after being charged with violating Article 20.2 of the Administrative Code (public order offences related to the organisation and holding of public assemblies).

- In July, US pastor Jim Mulcahy was arrested in Samara, as authorities claimed he was preparing to perform same-sex marriage ceremonies. Mulcahy is Eastern Europe coordinator for the U.S.-based Metropolitan Community Churches and lives in Ukraine. He was visiting Samara, where he planned to speak to LGBTI activists at the offices of NGO Avers. Following his arrest, the pastor was held for eight hours, charged with violating an “anti-missionary” law, fined and told to leave Russia within five days.

- In September, the 8th QueerFest took place in St Petersburg. The opening session attracted 220 participants. It was the first time in the eight years of the pride festival that the opening reception took place peacefully, without attacks or counter-protests.

“We become stronger, more diversified, more aware. We might not have the power to change the repressive laws, but we have the power to invest in people: to establish dialogue with the society around us, to find new allies, and to continue empowering the LGBT people of Russia. What can be more important?”

Polina Andrianova, LGBTI activist with NGO Coming Out St Petersburg, speaking at the opening of QueerFest, 15 September 2016

- LGBT activist Nikolai Alexeyev applied for permission to hold a Pride parade and a rally on 18 September in the

city of Tyumen. The event would coincide with the Duma elections scheduled for the same day. He also applied for events in the cities of Tula and Kaluga, but all applications were rejected. Moscow Pride notified the authorities in St Petersburg of their intention to hold Pride events in the city on 26 and 27 September. By the end of the year, Alexeyev had also appealed against the administration’s rejection of LGBTI events in Kaliningrad, Yoshkar-Ola, Vyborg, Cheboksari, Voronezh, Ulyanovsk, Volgograd, Syktyvkar, Abakan, Novosibirsk, Tomsk, Krasnoyarsk, and Barnaul.

Freedom of expression

- A law which proposed criminalising public demonstrations of “distorted sexual preferences” was rejected by the State Committee on Constitutional Legislation on 18 January. The Committee failed to endorse the bill and also advised the Duma to reject it. The draft law, originally put forward in October 2015, stated that individuals could face fines or 15 days of detention. One of the law’s drafters, Ivan Nikitchuk (Communist Party, KPRF) commented that the provisions would only apply to gay men, as “...we think women are more reasonable people and more able to manage their emotions”. On 19 February, the bill was then rejected by the Duma at first reading.

Developments related to the ‘anti-propaganda’ law

- In January, Novosibirsk lawyer Aleksei Krestyanov stated that the manager of Primorsky Safari Park should be prosecuted for violating the so-called “anti-propaganda” law. This followed widespread media coverage of a tiger and a goat living in the same enclosure; Krestyanov said that this promoted gay relationships to children. The Russian Prosecutor-General’s Office was examining the complaint.

- LGBT activist Sergei Alekseenko (former director of NGO Maximum) was fined by a court in Murmansk for violating the “anti-propaganda” law. The Leninsky District Court stated that posts, dating from 2015, on the NGOs VK social media channel breached the law which bans

dissemination of positive information about LGBT relationships to children. The complainants in the case were parents of children who had visited Maximum's page. On 18 January, Alekseenko was fined RUB 100,000 (approx. EUR 1400). Maximum had been unilaterally registered as a 'foreign agent' in 2015. Alekseenko appealed the decision but his appeal was rejected in May.

- In September, a court in Parabel, Siberia ruled that LGBT news website Blue System should be banned. Communications regulator Roskomnadzor subsequently banned the site and internet providers began blocking Blue System before it was shut down completely. Blue System's administrators received no warning or explanation for the ban; they were not notified of the court case while it was taking place. According to the website's administrators, it attracted an average of 100,000 visitors a day. By the end of 2016, the website had been moved to another domain and was functioning again.

- On 10 October, Roskomnadzor added the Children 404 online support group to a list of banned resources. The website, which offered support services to LGBT teenagers, was due to be blocked from social networks for violating the "anti-propaganda" legislation, unless it removed certain materials. The site had been the subject of several court cases in 2015. On 13 April, the Bernaul Central District Court had decided to register the site in a list of banned resources, and the Altay Regional Court rejected an appeal on 22 June.

Legal gender recognition

- On 16 February, the Primorsky District Court in St Petersburg ruled that a trans man had provided the necessary documentation and should be permitted to change the gender marker on his birth certificate. The man had been refused documents reflecting his gender in September 2015 by the Primorsky district registrar, despite providing a range of medical documents verifying that he had undergone psychiatric evaluation, several years of hormone treatment and gender reassignment surgery.

- The Ministry of Health published a draft order on 19 February that proposed establishing sexologist offices. Activists were concerned by a number of elements contained within the proposed changes to the existing 'procedure for the provision of medical care in cases of mental and behavioural disorders' order. It was unclear if the new offices would replace the existing medical commissions, how the proposed order would operate under the 'anti-propaganda' legislation or how the measures would be supported, seeing as trans-specific health care is not part of a medicine student's curriculum.

Participation in public, cultural and political life

- NGO Avers, the Russian LGBT Sport Federation and runners living with HIV ran with rainbow flags in the Kazan Marathon on 15 May, aiming to draw attention to the need for regular HIV testing. This was the first time that LGBT organisations had openly joined the marathon; no participants were detained for displaying rainbow symbols.

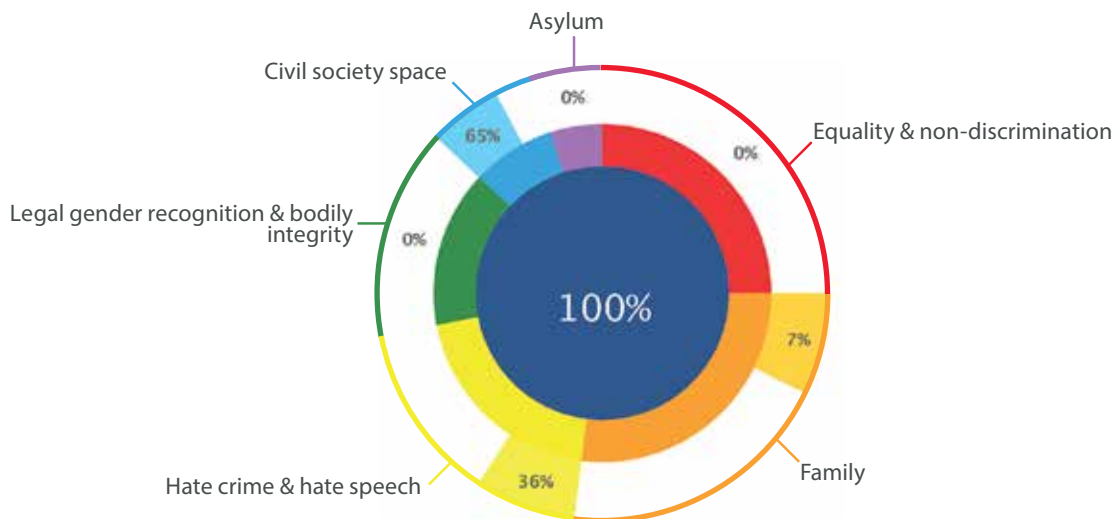
San Marino



There were very few developments related to sexual orientation, gender identity or sex characteristics recorded in 2016.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.

Legal and policy situation in **San Marino** as of 31 December 2016



In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

In the absence of specific recommendations from country experts based in San Marino, ILGA-Europe encourage national authorities to take proactive steps to engage with LGBTI activists to improve the legal and policy situation for LGBTI people in 2017.

Equality and non-discrimination

● **UPDATE FROM 2015:** On 15 October 2015, Council of Europe Commissioner for Human Rights published his report following a visit to San Marino on 9 and 10 June. Nils Muižnieks' report specifically mentioned the treatment of LGBTI people, saying that the authorities should engage in awareness-raising campaigns to promote respect for LGBTI people. The Commissioner's report also recommended the introduction of legal gender recognition based on self-determination, protection of same-sex couples under civil union or partnership law, and to ensure same-sex cohabiting couples are treated equally under the law.

Family

● Media reports in March suggested that several political groups intended to table legislative proposals concerning civil unions for same-sex couples. The Christian Democrats party (PDCS), the United Left, and the Laboratorio Democratico San Marino (LabDem) citizens' group also stated they were drafting civil unions bills.

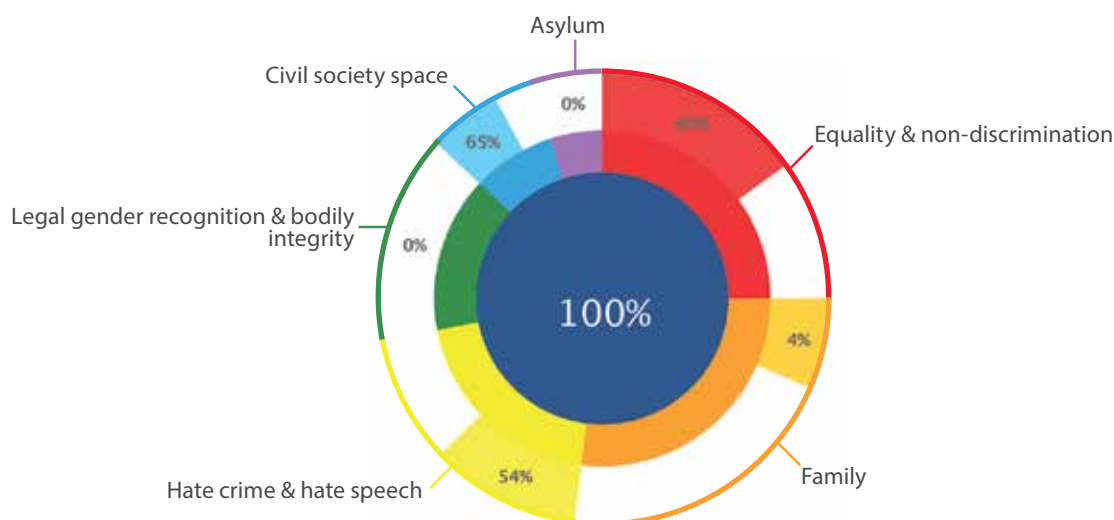
Serbia



Implementation of existing legal standards was emphasised as an area of key importance during the European Commission's annual assessment of Serbia. The human rights of LGBTI people are referenced within some equality and hate crime laws but the enlargement report stated that more sustained efforts were required to make them effective. Some recommendations put forward included the need for greater political support and tackling of bias-motivated crime. In relation to political cooperation, an analysis of political party materials showed that only a small number specifically referred to the rights of LGBTI people in their programmes. Meanwhile, the first openly LGBT government minister was appointed in 2016, and a government ministry employee spoke out about his sexual orientation while receiving an equality award. Anti-discrimination protection on the ground of gender identity was included in a new police act, but sexual orientation was omitted. At the end of the year, trans people continued to face a situation where there is no clear procedure governing legal gender recognition.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.

Legal and policy situation in **Serbia** as of 31 December 2016



In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:



Developing a fair, transparent legal framework for legal gender recognition, based on a process of self-determination, free from abusive requirements (such as sterilisation, GID/medical diagnosis, or surgical/medical intervention).



Introducing policies designed to tackle hate crime that contain express mention of all SOGISC (sexual orientation, gender identity, sex characteristics) grounds.



Adopting legal measures to recognise and protect same-sex couples, such as civil unions or registered partnership.

Bias-motivated speech

- During a meeting of the Trstenik municipal assembly on 5 February, Dragan Vilimonović (Serbian Progressive Party, SNS) said "I have to cross myself because I have information that the municipal budget of Trstenik has funded the LGBT population. Faggots. I have to ask who here would give money from the municipal budget of Trstenik for the gays". The Commissioner for Equality later issued an opinion on 23 May that Vilimonović's comments violated anti-discrimination laws.
- In April NGO Gayten-LGBT submitted a complaint against Orthodox Church leader Patriarch Irinej, after the patriarch accused gay men of spreading HIV throughout Serbia in an article in the *Srpski Telegraf* newspaper. The patriarch later claimed he had been misinterpreted and the equality commissioner's investigation ended.
- The Court of Appeal in Belgrade dismissed the appeal of a high school professor on 7 September, confirming the earlier Higher Court ruling that the professor had incited hatred and discrimination against members of the LGBTI community. Jelena Popović Ivanović was given a suspended three-month prison sentence for posting discriminatory comments about LGBTI people on Facebook.

Bias-motivated violence

- Belgrade Pride organiser Boban Stojanović was attacked by two unknown perpetrators on 22 August in Belgrade. Stojanović was on the phone when one of the attackers began to shout: "Here, he is a faggot!" and then the two attackers physically assaulted the LGBT activist. The incident was reported to the police.
- Local trans activists held an event on 29 August in front of the Turkish Embassy in Belgrade, to remember Hande Kader (see **Turkey**) and also to highlight the assaults that take place against LGBTI people in Serbia.
- A trans man was attacked by three men in the south-eastern town of Vlasotince on 11 October. The victim recognised the group of men, as he had already brought criminal charges against them for a previous assault. The group physically and verbally assaulted him, saying "...you've been already told to sit down on your ass, and quiet down if you don't want things to get worse!". Police officers came across the scene but did not

follow or question the group of three men. The victim contacted trans* NGO Egal for legal support.

Data collection

- NGO Labris published the "From principles to concrete measures - Political parties on human rights, gender equality and LGBT rights" report in June. This analysed 66 statutes and programmes of political parties and found that the human rights of LGBT people are mostly referred to when discussing 'marginalised' groups or equality on sexual orientation grounds. 11 of the 66 programmes specifically mentioned the rights of the LGBTI community, and one party dedicated a section in their programme to LGBTI issues. One party mentioned LGBTI people in a negative context in their programme.
- In November, NGO Labris commenced data collection on bullying based on sexual orientation and/or gender identity in high schools. At the end of 2016, 119 high school students from 7 schools had participated. The high school pupils surveyed identified LGBTI children as the group most likely to be exposed to violence in their schools. The final research results will be presented in 2017.

Education

- Following the 2015 introduction of the Law on Textbooks which prohibits discrimination in textbooks, a 2016 analysis by NGO Labris discovered that nine high school texts still contained negative content about LGBT people, portraying them in a discriminatory manner.
- As part of their work to monitor the implementation of the strategy and action plan to prevent discrimination, NGO Labris wrote to the Ministry of Education during the year. Labris contacted the ministry in relation to the activities they are due to implement to prevent institutional discrimination, including the development of a rulebook for changing names in school transcripts and diplomas. The ministry confirmed that they had not adopted such a rulebook for high schools and universities, a move that was criticised by LGBTI NGOs.

Enlargement

- Serbia formally applied to join the European Union in 2009 and began negotiations in 2014. In its annual

enlargement package reviewing progress made towards EU accession, published in November, the European Commission pointed out that while a legal framework is in place for fundamental rights, more is needed to be done to consistently implement these laws. Greater sustained efforts are required to improve the situation of LGBTI people, including more visible political support and increased investigation and penalties for bias-motivated hate crimes.

Equality and non-discrimination

- From 27 January, the new Law on Police explicitly prohibits discrimination based on sex, gender and gender identity (Article 5). The law regulates the affairs of the Ministry of the Interior and the organisation and competence of the police. There is no provision in the current Law on the Police that prohibits discrimination based on sexual orientation. The law expressly states in Article 27 that the police have to develop professional capacities for the socially responsible operation of police services, with full respect for human and minority rights and freedoms and the protection of all vulnerable groups.

Freedom of assembly

- There were two Pride parades in Belgrade, each organised by a different group of LGBT organisations. 'Serbia's Pride' took place on 25 June, with around 350 participants marching with members of the LGBT community through the capital. There was minimal police protection so the general public could join the parade. 'Belgrade Pride' was held on 18 September under the slogan "Love changes the world", with approximately 1000 attendees. The event took place peacefully with a security presence and several political figures in attendance, including the city's mayor Sinisa Mali Bojan Pajtic, (Democratic Party, DS; centre-left) and Cedomir Jovanovic, Liberal Democratic Party president (LDP; centre).

Health

- According to figures prepared by the Institute of Public Health of Serbia and released by NGO JAZAS (Association against AIDS) on 1 December to mark World AIDS Day, 178 people were newly registered as living with HIV during

2015. 74 people were newly registered in the first half of 2016. These increases were some of the highest figures in 25 years and the increase meant that Serbia once again became eligible for support from the Global Fund for HIV.

Participation in public, cultural and political life

- On 8 August, two months after the new government was announced, then prime minister-designate Aleksandar Vucic (Serbian Progressive Party, CHC; centre-right) announced his new cabinet. Ana Brnabic (independent) was named as Minister for Public Administration, becoming the country's first openly LGBT cabinet minister. Her appointment was confirmed by parliament on 10 August.

"Hopefully this will blow over in three or four days and then I won't be known as 'the gay minister.' I'll be known as the minister of public administration and local government,"

Ana Brnabic, before being sworn in as Minister for Public Administration, 9 August 2016

Police and law enforcement

- Five public discussions between police liaison officers and the LGBT community took place in February in Belgrade, Niš, Kragujevac and Novi Sad. The sessions informed LGBT people about who their police LGBT liaison officers are, what their role is, and what cooperation can take place between liaison officers and the LGBT activists. Information about what to do in cases of violence was also presented.

- On 17 May, Aleksandar Stojimenovic, the national liaison officer for the LGBT community within the Ministry of the Interior, publicly came out while receiving the 'Rainbow' award at Belgrade City Hall. This was the first time a government employee spoke publicly about their sexual orientation.

- Through an initiative implemented by NGO Labris, eight LGBT liaison officers from Serbia participated in the first World LGBT Conference for Criminal Justice Professionals in Amsterdam in August.

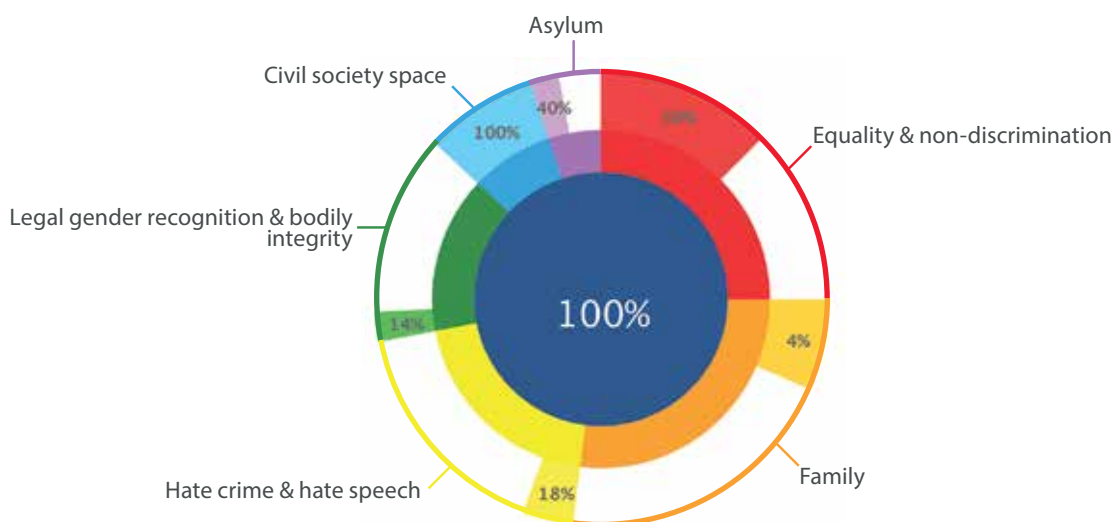
Slovakia



Political momentum on LGBTI equality issues was not very apparent in Slovakia in 2016. Various human rights NGOs and LGBTI activists repeatedly spoke out against the lack of references to protections for LGBTI people in programmes released by the newly elected Fico government. The ongoing absence of any legal recognition for same-sex couples was emphasised but had not been rectified by the end of the year. Significant gaps also remain in the areas of legal gender recognition and protection from bias-motivated crimes on the ground of gender identity. One visible and positive development was the return of the Pride march to the streets of Bratislava after a year's absence.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.

Legal and policy situation in **Slovakia** as of 31 December 2016



In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:



Adopting legal measures to recognise and protect same-sex couples, such as civil unions, registered partnership and/or cohabitation.



Developing a fair, transparent legal framework for legal gender recognition, based on a process of self-determination, free from abusive requirements (such as sterilisation, GID/medical diagnosis, or surgical/medical intervention).

Bias-motivated speech

- On 25 October, a package of legislative changes was introduced, on the issue of extremist crime. Parliament approved the amendments, transposing a number of EU directives into national law. One of the changes introduced was an amendment to the 2005 Criminal Code. This introduced penalisation for public incitement of violence or hatred directed against a group of persons or an individual because of their real or perceived sexual orientation. The law is due to come into effect on 1 January 2017.

Equality and non-discrimination

- On 13 January, the government announced that it would not be proceeding with previously announced intentions to adopt a National Action Plan on LGBTI equality. The government had met with Council of Europe officials in 2015 to plan for the adoption, but then stated that the action plan should be an issue for the next government to deal with after the parliamentary elections in March.

- In the March parliamentary elections, Robert Fico was returned as prime minister. His SMER-SD (social-democratic) party subsequently formed a four-party coalition and the government's programme statement was published in April. It was critiqued by LGBTI activists, as there was no mention of the LGBTI community in the document. NGO Inakost called the decision to omit advances for LGBTI people from the government's plan "...beyond all understanding" in a press release.

- During a conference of bishops from central and eastern Europe, entitled 'Migration Crisis and the Family', parliament speaker Andrej Danko (Slovak National Party, SNS; right-wing) spoke about how "...hard I tried to explain and block various issues and rulings" on LGBTI issues. Danko also told the summit in September that he was "...proud that I live in a country predominantly inhabited by people of faith and Christian values".

Family

- In media statements in January, Zuzana Številová (director of the NGO Human Rights League) criticised the

government's lack of advances in human rights policy. She referred to the lack of legal protection or recognition of same-sex couples as "...apparent discrimination..", particularly in the wake of the 2015 *Oliari v Italy* decision from the European Court of Human Rights.

Freedom of assembly

- The Rainbow Pride parade took place in Bratislava on 30 July. (The event had been voluntarily postponed by organisers in 2015 due to tensions following the unsuccessful referendum campaign.) Ombudswoman Jana Dubovcová, Monika Flasikova Benova MEP (SMER-SD) and opposition MP Martin Poliacik (Freedom and Solidarity/SaS; centre-right) were present and media reports estimated that 2000 people took part in the parade. The event was protected by 500 police officers and passed off peacefully. Opponents held two counter-demonstrations; one involved the 'Proud of Family' Christian group forming a human chain outside parliament, the other protest was organised by far-right People's Party – Our Slovakia (ĽSNS). In advance of the Pride parade, leader of the SNS party Andrej Danko criticised the Foreign and European Affairs Ministry's support for the event. Prime Minister Fico (SMER-SD) also commented that no flags apart from the Slovak Republic and EU flags should be flown from Slovak embassies abroad, following the display of a rainbow flag by its embassy in Hungary.

- The city of Kosice hosted its fourth Pride on 3 September. While local politicians did not attend the event, there were an estimated 300 participants and the parade took place without any reported incidents.

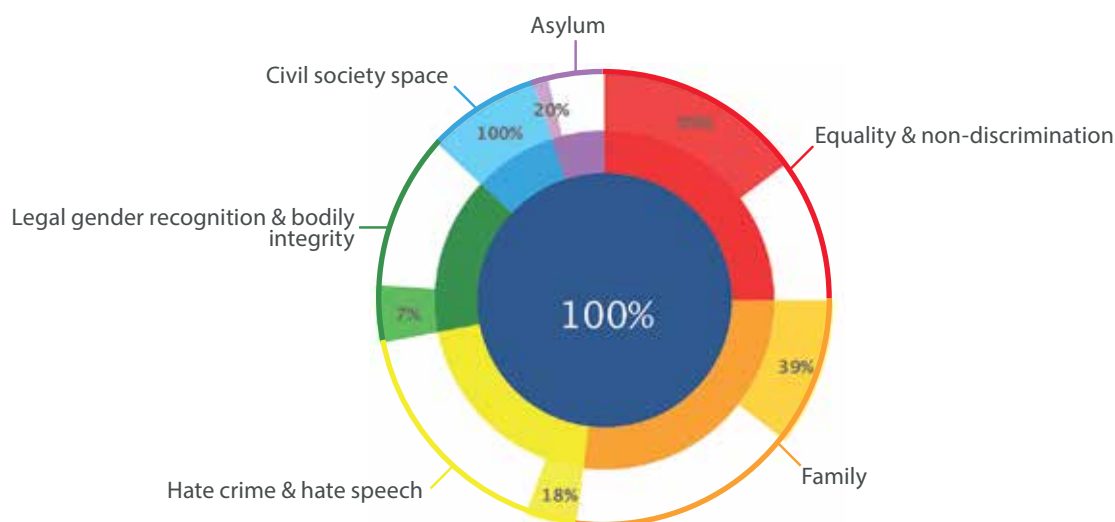
Slovenia



The main developments in Slovenia during 2016 involved legislation – both the passage of LGBTI-inclusive laws and subsequent attempts to repeal them. New grounds were added to an updated anti-discrimination law, meaning people are now protected against discrimination based on their sexual orientation, gender identity and gender expression. Following the rejection of equal marriage legislation in a popular vote in 2015, a proposal for a more inclusive form of civil partnership was put forward by an independent MP. This was finalised, meaning that, in 2017, same-sex couples in civil partnerships will enjoy the same rights as married couples (with the exceptions of adoption and access to in-vitro fertilisation). Both the Civil Partnership Act and the Protection against Discrimination Act were among the list of laws that a workers' union made efforts to repeal, via a signature collection campaign. Fortunately, their attempts were unsuccessful, as the Constitutional Court ultimately dismissed the petition.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.

Legal and policy situation in **Slovenia** as of 31 December 2016



In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:



Developing a fair, transparent legal framework for legal gender recognition, based on a process of self-determination, free from abusive requirements (such as sterilisation, GID/medical diagnosis, or surgical/medical intervention).



Introducing laws designed to tackle hate crime that contain express mention of all SOGISC (sexual orientation, gender identity, sex characteristics) grounds.



Drafting and adopting legislation to allow same-sex couples to have access to joint adoption.

Equality and non-discrimination

- On 21 April, the National Assembly voted to pass a new anti-discrimination law (replacing the previous Implementing the Principle of Equal Treatment Act dating from 2004) by 50 votes to 17. The Protection against Discrimination Act extended the number of specific discrimination grounds and introduced a new independent equality advocate mechanism. Sexual orientation, gender identity and gender expression were expressly included in the list of protected grounds. The law's provisions are applicable to areas of life including employment and work, education, social security, social benefits, access to goods and services. The act was signed by the president and entered into force on 24 May.

- A trade union representing migrant workers began a signature collection campaign to repeal six pieces of legislation. One of the laws concerned was the Protection against Discrimination Act passed by parliament in April (see above and **Family**). On 28 April, the Union of Migrant Workers of Slovenia tabled a referendum request but this was refused by the National Assembly's President on 5 May. Milan Brglez (Modern Centre Party, SMC; centre-left) said that the petition was abusing the laws around the right to a referendum. The union subsequently lodged a constitutional complaint on 10 May against Mr Brglez's decision. On 14 July, the Constitutional Court dismissed the petitions to hold a referendum on the six laws and the complaint against Milan Brglez. This prompted trade union representatives to issue a statement, outlining their intention to start European Court of Human Rights proceedings.

Family

- A bill proposed by Jani Moderndorfer MP (independent) to extend greater equality to same-sex couples in civil partnerships was passed on 20 April. It entered into force on 24 May but its practical application was deferred until 24 February 2017. The Civil Partnership Act means that same-sex couples will enjoy the same rights as married couples, except for access to joint adoption and in-vitro fertilisation. (The Moderndorfer bill was originally submitted to parliament in December 2015,

after an amendment to the law on marriage, designed to open access to marriage to all couples, was defeated by a referendum.) A challenge to the Act's implementation was also raised by a trade union representing migrant workers (initiated alongside a similar petition against the anti-discrimination law) but this was also dismissed by the Constitutional Court.

Foreign policy

- On 13 July, during the Montevideo Global LGBTI Human Rights Conference, Slovenia, together with 30 other states, joined the Equal Rights Coalition, a coalition committed to work towards equal rights and the eradication of discrimination and violence against LGBTI people.

Sexual and reproductive rights

- The Constitutional Court, at a sitting on 1 December, dismissed a request from a group of MPs to assess the constitutionality of the Law on Infertility Treatment. The act, dating from 2000, restricted the availability of assisted reproductive procedures to married couples or men and women living in a "consensual union". In 2014, a group of 61 MPs argued that this restriction was unconstitutional but the Court rejected the request to review the act, saying that as the group of MPs were themselves an absolute majority of parliament at the time of the request, then they could have amended the law if they believed it was unconstitutional.

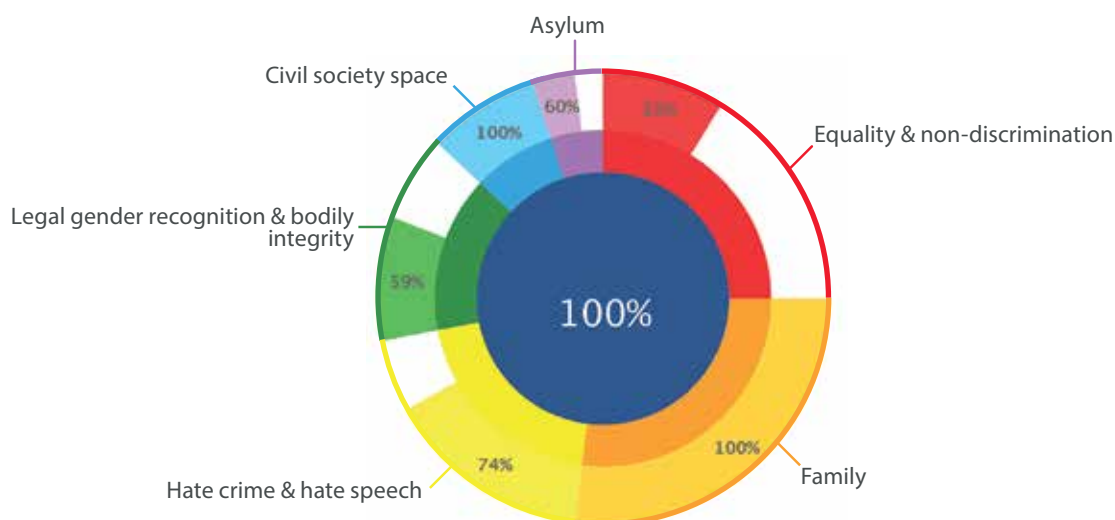
Spain




Hate speech, in several instances from prominent church officials, directed at LGBTI people was a negative trend in 2016. Incidents were recorded by NGOs or became the subject of complaints by pro-equality MPs. The language used referred to anti-discrimination laws as a negative development, spoke of a trend of so-called 'gender ideology' or questioned the morality of LGBTI people. In one specific case, the director of a Catholic school was fined after comparing hate crime laws with terrorism. Even within the police, bias-motivated harassment was raised as an issue in December by a lesbian member of the force. LGBTI NGOs continued to assist individuals who reported violent incidents; a Madrid-based NGO had recorded more than 200 LGBT hate crimes over the course of the year. In a more positive development, several regions bolstered their family law provisions by opening access to assisted reproduction techniques to all women.


For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.


Legal and policy situation in **Spain** as of 31 December 2016



In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

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Extending anti-discrimination protections in employment law to ensure that LGBTI people in all regions are protected on all SOGISC (sexual orientation, gender identity, sex characteristics) grounds.
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Specifically including all SOGISC (sexual orientation, gender identity, sex characteristics) grounds in legislation prohibiting discrimination in the field of education.
- 

Specifically including all SOGISC (sexual orientation, gender identity, sex characteristics) grounds in legislation prohibiting discrimination in the field of health.

Asylum

- The Temporary Immigrant Shelter Centre (CETI) in Melilla (an enclave on the coast of Morocco, legally part of Spain) received 45 asylum applications on the grounds of sexual orientation in the first quarter of 2016. In December, Melilla's CETI facilities were described as unfit for refugees by the UNHCR, based on research carried out by Amnesty International Spain.

Bias-motivated speech

- Archbishop of Valencia, Antonio Cardinal Cañizares Llovera, referred to a 'gay empire' during a speech on 13 May. The archbishop stated that, in Spain, "...we have legislation contrary to the family, the acts of political and social forces, to which are added movements and acts by the gay empire, by ideologies such as radical feminism – or the most insidious of all – gender ideology". LGBT NGO Lambda Valencia filed a criminal complaint against the statement; the Spanish Immigration Network also complained against comments made in the same speech about refugees. On 25 June, both complaints were dismissed due to lack of evidence. The judge said that the court could see no "public incitement to violence or hatred" in the comments.
- Antonio Hurtado MP (Spanish Socialist Workers' Party, PSOE; social-democratic) complained to the Prosecutor of Cordoba about comments made by local bishop Demetrio Fernández. The complaint, filed on 26 August, cited public statements by the bishop of Cordoba where he referred to homosexuality as a "plague". 2,000 people signed an online petition from Hurtado, calling for an investigation into the anti-LGBTI remarks.
- During the Circuit LGBTI festival in Barcelona, messages were posted on Twitter on 4 August by a man who called for an "Orlando killing". The same individual also posted a video with a gun, which was later deleted. José Miguel Camargo was later arrested on 3 September and charged with hate speech; he was awaiting trial at the end of the year. NGO Arcopoli reported the incident to the police and provided them with screenshots of the tweets. Arcopoli subsequently received online death threats from anonymous Twitter profiles.

- In September, the Spanish Observatory Against LGBTphobia issued a criminal complaint to the hate crimes special prosecutor in relation to a letter written by three bishops about Madrid's anti-discrimination laws. The Law of Integral Protection against LGBTphobia and Discrimination for Reasons of Orientation and Sexual Identity was introduced in Madrid in July (see **Equality and non-discrimination**). Bishops Juan Antonio Reig Pla, Joaquín María López, and José Rico Pavés published a joint letter that stated the law was "'Inspired by an inadequate anthropology which denies the sexual difference male-female and unity of the body-spirit person" and that it was "in contradiction with natural morality".
- The Madrid Observatory Against LGBTphobia filed a complaint to the national State Commission Against Violence in Sport in November following a series of homophobic slurs directed towards Real Madrid footballer Cristiano Ronaldo. In December, a sports court based in Madrid ruled that there would be no sanction, as the player did not submit a complaint.

Bias-motivated violence

- A young gay man was attacked while he was returning home after New Year's Eve celebrations in the Salamanca area of Madrid. The preparators made homophobic comments while travelling in the same Metro car as the victim before punching him in the face when he got off at his stop. Passers-by intervened and LGBT NGO Arcopoli provided legal assistance at the police station.
- On 21 May, a man was punched and had his nose broken by another man who he had called 'handsome' while socialising in Madrid. The victim filed a complaint the following day, accompanied by the Madrid Observatory against LGBTphobia and two friends who had witnessed the attack.
- On 29 June, three people who had attended the Pride celebrations at Plaza de Chueca were attacked by a group of three unknown assailants. The perpetrators threw stones and bottles and shouted homophobic abuse.
- Also on 29 June, a court sentenced a man to 16 years in prison for the murder of a gay man in 2014. The Sección

Cuarta (fourth section) of the Audiencia Provincial in Valencia found Aivaras Franskiavicius guilty of the murder of Javier Abil Orpegui. The sexual orientation of the victim was found to be an aggravating factor in the incident, as the attack happened after a group of men discovered Orpegui was gay and had tried to flirt with them. Another three men were found guilty of helping Franskiavicius to conceal the crime.

- In August, the Court of Instruction No. 39 in Madrid fined a man who had physically attacked four other men in April 2015 while calling them “fags”. The perpetrator was ordered to pay each victim EUR 250 but the judgment did not classify the incident as a homophobic hate crime.
- Seven people were arrested following an attack on two men at Madrid’s Plaza de Chueca in August. The victims reported that they were beaten when they did not respond to the homophobic comments made by the larger group.
- In September, a man required medical treatment after he was punched by two men who had been shouting homophobic abuse at him and a friend from a car. The incident took place in the Retiro area of Madrid and was reported to the police the following day, with support from the Madrid Observatory against LGBTphobia.
- Two gay men were attacked by a group of 10-15 people as they walked home in the early hours of 18 October. The attack took place in the Puerta del Sol area of Madrid and was reported to the police and the hate crimes prosecutor.
- Three people were attacked by a larger group shouting homophobic comments outside a nightclub at the Plaza de Espana in Madrid on 29 October. One of the victims was grabbed by the hair and slapped in the face. The incident was reported to the police and the Madrid Observatory against LGBTphobia also called for it to be investigated as a hate crime based on sexual orientation.
- In December, three Mallorca policemen were arrested following a complaint from their colleague about harassment. The colleague is a lesbian woman, the only female officer in a particular police unit. Her house and car had been attacked several times and she made the official complaint when the problem was

not solved through the unit’s internal human resources process.

- The Madrid Observatory against LGBTphobia recorded 240 attacks against members of the LGBTI community in Madrid in 2016.

Data collection

- According to the Madrid Observatory against LGBTphobia, the incident in October at the Plaza de Espana (see **Bias-motivated violence**) was the 198th LGBT hate crime recorded by their organisation since January. By the end of 2016, this figure had risen to 232 cases.

Education

- The director of a Catholic school in Alcorcón was fined by the Community of Madrid for circulating a letter to all students at the start of term that compared laws preventing LGBTIphobic crimes with terrorism. Carlos Martinez, the principal of the Juan Pablo II de Alcorcón College was fined EUR 1,000; LGBTI NGOs believed the sanction was not severe enough and called on the director to publicly state that his comments were wrong.

Employment

- EMIDIS, the first employment index compiled by LGBT NGO FELTGB, was published in December. Along with the top 10 rated companies (with P&G named number 1 for inclusion), a study on company practice in diversity management in Spain was also released.

Enlargement

- A platform of ultraconservative pressure groups distributed a 44-page booklet to 16,500 schools that stated heterosexual people would be made second class citizens. The Hazte Oir booklet, entitled ‘*Do you know what they want to teach your child in the school? The laws of sexual indoctrination*’, stated that anti-discrimination laws really aimed to forcibly introduce “the ideology of gender” and “sexual diversity”. Some regional governments (including Cantabria, Castilla La Mancha, Extremadura and Andalucía) condemned the booklet and Catalonia Conselleria reported it to the Attorney.

Equality and non-discrimination

- On 17 May, the Parliament of the Balearic Islands passed a law to eradicate LGBTIphobia, proposed by Podemos, the More for Majorca (MES) coalition and PSOE. Under the law, trans people will have access to hormone treatment and lesbian women will have access to assisted reproduction treatment. Discrimination on the grounds of sexual orientation and gender identity is punishable by a series of fines, the maximum being EUR 45,000 for extreme violations of the act.
- Murcia's regional assembly unanimously passed the Law on Social Equality for LGBTI people on 19 May. The act seeks to target discrimination on the grounds of sexual orientation and gender identity and aims to protect victims of attacks on these grounds in any field.
- The ECtHR delivered its judgment in the case of *Aldegue Tomás v Spain* on 14 June. It held that a surviving same-sex partner who had been denied access to a survivor's pension was not discriminated against on the grounds of sexual orientation. The Court did not find the applicant's scenario to be relevantly similar to a surviving partner of a heterosexual couple who faced an impediment to marriage.
- On 14 July, the Madrid government passed the Law against LGBTI discrimination in a unanimous vote. The law was initially proposed by the People's Party (Partido Popular, PP; Christian-democratic) and was subject to 138 amendments (76 of which came from the PSOE party). It prohibits and sanctions discrimination on the basis of sexual orientation and gender identity, and also requires public and private schools to include education on diversity in their curricula.
- A group called Plataforma por las libertades/Platform for Freedom launched a manifesto in December, calling for signatures from individuals opposed to laws protecting LGBTI people from discrimination. The group stated that such laws are unconstitutional and were "promulgated in the heat of the gender ideology".

Foreign policy

- On 13 July, during the Montevideo Global LGBTI Human Rights Conference, Spain, together with 30 other

states, joined the Equal Rights Coalition, a coalition committed to work towards equal rights and the eradication of discrimination and violence against LGBTI people.

Freedom from torture, cruel, inhuman or degrading treatment

- LGBT NGO Arcopoli reported a website to the Community of Madrid's Ministry of Social Policy and Family that claimed to offer 'therapy' under the tagline "You can leave homosexuality behind". Elena Lorenzo's website refers to homosexuality as a "psychological condition"; the Madrid government opened an investigation into the site in August.

Health

- As part of the region's 2016-2020 health plan, the Catalan Minister for Health Antoni Comin announced a model of healthcare for trans people based on self-determination. The model was devised following cooperation between health professional, the Department of Health and Platform Trans* Form Health and is based on a demedicalisation principle; trans people no longer have to obtain a psychiatric diagnosis before healthcare support is available.
- In November, LGBTI NGO FELTGB and Triángulo highlighted the fact that two medicines prescribed to trans people (Testex Prolongatum and Meriestra) were no longer being made available in pharmacies. In the case of Meriestra, no explanation was offered by the Ministry of Health for the removal.

Human rights defenders

- In September, threats were made on social media against a number of LGBTI activists including Madrid assembly members Carla Antonelli (PSOE) and Beatriz Gimeno (Podemos), as well as Rubén López from the NGO FELTGB. The messages were reported to the police and FELTGB called on the interior minister to outline what actions are being taken to combat attacks on LGBTI people.

Participation in public, cultural and political life

- Several sportspeople came out publicly during the year: Olympic ice skater Javier Raya and Olympic water polo player Victor Gutierrez both came out in May. Jesus Tomillero became the first football referee to come out as gay; he received an honour award at a ceremony (named after activist Pedro Zerolo) in November.

Sexual and reproductive rights

- From 11 July, access to publicly funded assisted reproductive services was extended to all women in Catalonia, regardless of marital status, sexual orientation or clinical status. The new protocol was approved by Minister for Health Antoni Comin; previously free access was only guaranteed to couples, people with fertility issues or single heterosexual women.
- The health ministry of Castilla-La Mancha introduced a similar protocol in December; Minister of Health, Regina Leal announced that the new instructions would open access to assisted reproductive services to all women. The changes will come into force on 1 January 2017.

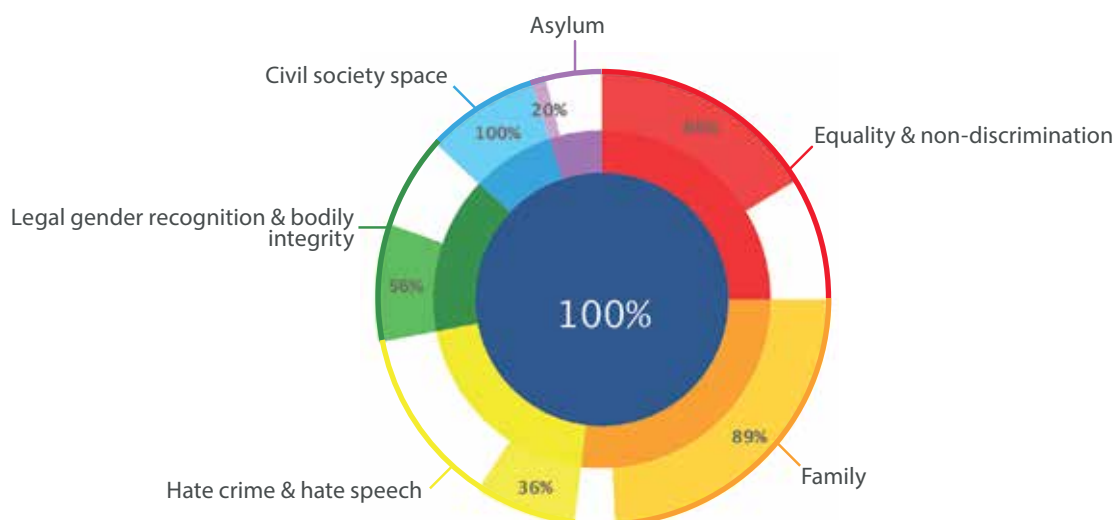
Sweden



As in many other European countries, the issue of LGBTI asylum was to the fore in 2016. Swedish LGBTI NGOs, like many of their European counterparts, offered support services to LGBTI asylum seekers throughout the year. This practical assistance took many forms, from providing legal advice and expertise during status determination proceedings, to documenting incidents of bias-motivated violence against asylum seekers. Such attacks serve as a reminder of a gap within Sweden's legal framework, as it currently does not mention gender identity or sex characteristics within its hate crime or speech laws. Additional grounds were added to the 2008 anti-discrimination law; meaning that, in future, employers and schools will have to take proactive steps to prevent discriminatory treatment on the basis of sexual orientation, gender identity and gender expression. In an attempt to address historical human rights violations, the government moved to compensate trans people who had previously been sterilised in order to have their gender recognised.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.

Legal and policy situation in **Sweden** as of 31 December 2016



In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:



Updating the existing legal framework for legal gender recognition, to ensure the process is based on self-determination, and is free from abusive requirements (such as GID/medical diagnosis, or surgical/medical intervention).



Prohibiting medical intervention on intersex minors when the intervention has no medical necessity and can be avoided or postponed until the person can provide informed consent.



Introducing and implementing laws and policies on asylum that guarantees effective protection on all SOGISC (sexual orientation, gender identity, sex characteristics) grounds.

Access to goods and services

- A bisexual woman received homophobic comments on social media when she and her girlfriend began looking for an apartment together in Gothenburg. After writing posts on Facebook ‘accommodation search’ groups, they received negative remarks and were also sent biphobic private messages. The woman explained her decision to publicise the situation via an interview with the *GT Expressen* newspaper in March: “I was surprised that people could sit behind their laptops and say such bad stuff to people... I think that I have good tolerance levels but when someone says something bad about your girlfriend you fire back”.

Asylum

- New temporary legislation that limits the possible ways individuals can obtain residence permits came into force on 20 July. One of the changes included in the law (that will automatically expire after three years) affects people who have not been granted refugee status but have been given permission to stay under the “otherwise in need of protection” category. Under the new rules, this status will only be available to children or families who sought asylum before 24 November 2016. According to NGOs, this status is commonly awarded to many LGBTI asylum seekers; organisations are concerned that LGBTI people could be impacted by the change. LGBTI NGO RSFL, along with other civil society groups, have criticised the new law. Another situations critiqued by NGOs working with LGBTI asylum seekers was the use of temporary three year residence permits for refugees or 13 month permits for people granted subsidiary protection, and also the stricter rules for close relatives of refugees who are seeking residence permits.
- Throughout the year, two asylum lawyers employed by LGBTI NGO RFSL acted as a public counsel or provided legal aid in approximately 60 cases representing LGBTI asylum seekers.

Bias-motivated speech

- Milos Yiannopoulos, editor with far-right website Breitbart, announced that he intended to lead a so-called

Pride march through a predominately Muslim part of Stockholm. The Jarva march on 27 July, organised by a populist group opposed to immigration, took place without Yiannopoulos and attracted an estimated 50 participants.

- Kauko Antbacke (Christian Democrats, KD) a local politician in the Alvesta municipality criticised the city of Vaxjo for displaying rainbow flags on municipal buildings. He made the comments on social media in May, saying that “Pride doesn’t belong in our culture”. He also compared the flying of the rainbow flag to flying a flag of the so-called Islamic State/ISIS. The KD party criticised the comments and stated that it lacked confidence in Antbacke. In June, he resigned from the municipal council. In September, Antbacke also made public comments about Vaxjo bishop Frederick Modéus, who had stated in an interview that love between same-sex and different-sex couples has equal value. Antbacke again commented on Facebook, saying God didn’t create people to be “transvetite, lesbian, gay, pedophile ...”. On 23 September, Antbacke was excluded from the KD party.

Bias-motivated violence

- The government instructed the Swedish Police to improve their work on bias-motivated crime in 2016; throughout the year, specialised anti-hate crime groups were established. LGBTI NGO RFSL have been involved in training the police officers involved with these specialised groups.
- According to reports received by LGBTI NGO RFSL, threats and bias-motivated attacks against LGBTI people who are seeking asylum increased in 2016. These incidents commonly occurred in public spaces and in refugee housing. RFSL raised their concerns in dialogue with the police and the Swedish Migration Agency during the year.

Diversity

- The Funkisprojektet initiative ran throughout 2016, as part of LGBTI NGO RFSL’s aim to become more accessible to people with disabilities. Through the project, a new intersectional platform was created for RFSL to meet with disability NGOs, and a meeting place (hbtq-hänget) for LGBTQ people with disabilities was also set up in

Stockholm. The meeting place serves people with disabilities who have the right, under the 'Law about support and service to certain persons with disabilities', to have a form of daily interaction.

Equality and non-discrimination

- The 2008 Discrimination Act was amended by the Swedish parliament (Riksdagen) on 26 June, extending the grounds that employers and schools must take active steps on to prevent discrimination. Previously, the education system and employers had to take preventative measures to protect people from discrimination based on ethnicity, gender or religion and belief. Under the changes, the proactive measures must be taken on all discrimination grounds, including sexual orientation, gender identity and gender expression. This change comes into effect on 1 January 2017.
- PostNord, the Swedish-Danish postal service, announced that it was turning the rainbow flag into a stamp in Sweden. It is believed to be the first postal service in the world to issue a rainbow flag stamp for Pride; the commemorative stamp was launched on 4 May to mark the diversity of "modern Sweden". PostNord also set up rainbow post boxes in May in seven locations throughout Stockholm.

Family

- The government initiated a public consultation on 4 February into possible changes in the state insurance system for paid parental leave. Under the current system, only the legal parents can avail of the 16-month paid leave period (with some exceptions). This means that in a rainbow family, where more than 2 people are acting as parents to a child, the parents without legal custody do not have access to paid parental leave. One of the purposes cited by the consultation is to "investigate possibilities for different family constellations to use the parental leave and, if needed, propose changes".

Foreign policy

- Under the Swedish Foreign Service's Action Plan for Feminist Foreign Policy 2015-2018, one of the focus areas

for 2016 was for the Foreign Service to "...scale up action for sexual rights without discrimination, abuse and violence, including by focusing on forced, early and child marriage, sexual harassment in schools and LGBTQ rights".

- On 13 July, during the Montevideo Global LGBTI Human Rights Conference, Sweden, together with 30 other states, joined the Equal Rights Coalition, a coalition committed to work towards equal rights and the eradication of discrimination and violence against LGBTI people.

Health

- Based on data from Statistics Sweden, cross-referenced with their own information, the National Board of Health and Welfare showed an increased occurrence of stress-related mental illness among people in same-sex marriages compared to people in different-sex marriages. NGO RFSL commented that this report, published on 8 April, confirmed the need for targeted mental health support for LGBT people, something the NGO has campaigned for over many years.

Legal gender recognition

- On 27 April, public health minister Gabriel Wikström (Swedish Social Democratic Party, Social Democrats; SAP) announced that the government intended to compensate trans people who had been forcibly sterilised. Under gender recognition laws in force between 1972 and 2013, trans people had to lack "the ability to procreate" before they could have their gender legally recognised. Following the 2013 amendment, approximately 160 individuals submitted a compensation claim to the Attorney General. This was rejected, and NGOs advocating for the rights of trans people prepared to sue the state, before the government announcement in April.
- Also in April, an appeal attempt by the Swedish Tax Agency against a negative ruling against the agency was rejected by the Supreme Administrative Court. As a result, the earlier decision from the Administrative Court stood; that court had found the Tax Agency had no right to register a man who had changed his legal gender as a "divorced partner". This designation made it possible to

access information about the man that revealed he had changed his legal gender. This was one in a series of case brought to court, with the support of RFSL, that challenges the definitions used in the civil registry for trans people. This had caused the individuals involved problems with authorities and healthcare providers. The Tax Agency lost all of these cases and all of the subsequent appeals. On 31 May, the Agency presented a report, detailing the changes they would make to the matter they treat this data.

Sexual and reproductive rights

- On 13 January, parliament approved changes proposed by the government to extend access to assisted reproduction to single women. From 1 April, single women could avail of the system under Swedish healthcare in a similar way to married couples, registered partners and cohabitants.
- On 24 February, an investigation into reproductive legislation published its findings. Lead investigator Eva Wendel Rosenberg said that the investigation recommended that Sweden does not introduce legislation regulating surrogacy, either for agreements inside or outside the state.

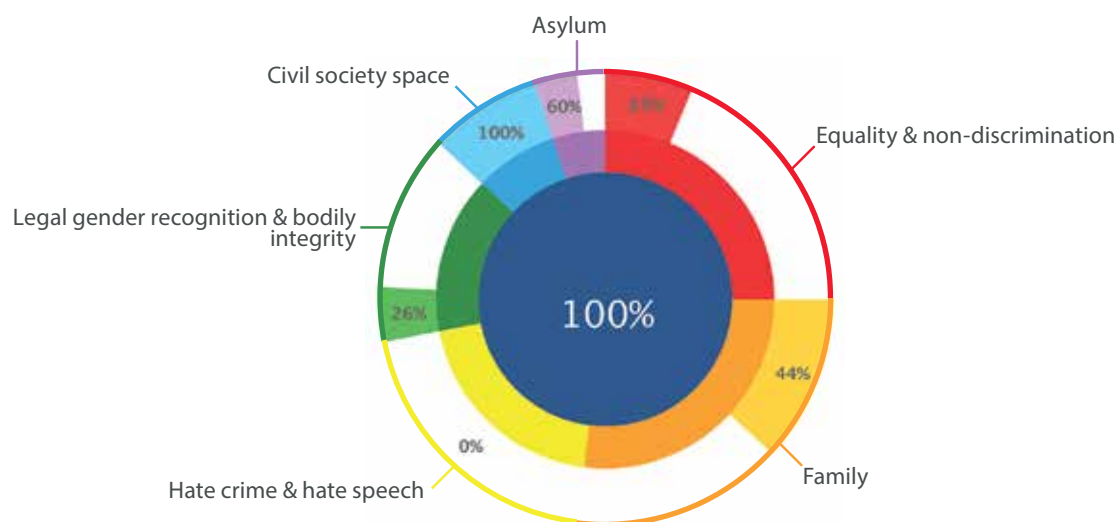
Switzerland



The topic of rainbow families and their legal rights featured heavily in political discussions in 2016, even if the original conversation was not framed as an LGBTI equality issue. A referendum in February was pitched as a vote to clarify taxation laws, but would have also restricted the definition of marriage and possibly blocked same-sex couples from marrying in the future. Following a successful NGO awareness-raising campaign, the initiative was rejected. In another popular vote, citizens of Zurich voted against narrowing the definition of marriage in their own canton's constitution. NGOs also successfully turned a negative incident (transphobic comments in the media) into a potential opportunity to develop a trans-inclusive policy with a mainstream TV station. Disappointingly, the Federal Council rejected calls to introduce a new anti-discrimination action plan and legislation, despite earlier reports that suggested improvements be made in this area. While several other advances were made in the area of family, including the decision to allow registered partners to adopt each other's children, Swiss legislation still does not include references to LGBTI people in hate crime or hate speech laws. In the absence of any police data on the issues, LGBTI NGOs established a helpline service to support people targeted by bias-motivated attacks.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.

Legal and policy situation in **Switzerland** as of 31 December 2016



In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- Updating the existing framework of anti-discrimination laws by expressly mentioning all SOGISC (sexual orientation, gender identity, sex characteristics) grounds.
- Explicitly including SOGISC (sexual orientation, gender identity, sex characteristics) in an equality action plan, accompanied by specific measures of progress.
- Developing, in consultation with the trans community, a specific national action plan to protect the human rights of trans people.

Bias-motivated speech

- NGO Transgender Network Switzerland (TGNS), along with other NGOs, issued a complaint with the Ombudsman about comments made about trans people during a TV programme. In the *Giacobbo/ Müller* show, broadcast on 10 April by SRF, insulting remarks were made about trans people. A petition calling for an apology was signed by 900 people in three weeks. Following the NGOs' complaint, the Ombudsman examined the case and on 25 April, it found that the comments infringed the non-discrimination provisions of the Radio and Television Act. On 30 May, TGNS and representatives of the SRF station met to discuss future coverage of trans-related topics, including the development of a trans policy.

Bias-motivated violence

- A new telephone helpline was set up to support victims of homophobic and transphobic violence. In the absence of police data on bias-motivated crimes, the volunteer-led LGBT+ Helpline began to catalogue the cases reported to it over the phone, by email, through their online form, or in face-to-face sessions. The helpline is partnered by NGOs Aids-Hilfe Schweiz, Dr Gay, Du bist Du, Lesbenorganisation Schweiz, Network, PinkCop, PINK CROSS, TGNS, and Queeramnesty.

Equality and non-discrimination

- The Federal Council announced that while Swiss anti-discrimination law was generally seen as sufficient, some improvements were required to adequately protect the rights of LGBTI people. This conclusion was based on an earlier report, compiled in 2015 by the Swiss Centre of Expertise in Human Rights (SCHR). LGBTI NGOs called on the government to introduce a range of measures, including relating to bias-motivated violence, family law, new blood donation criteria, legal change of name and protection for non-binary individuals. On 18 August, the National Council's legal affairs commission reacted to the Federal Council and SCHR reports by submitting a motion asking for an action plan for protection against discrimination. This was rejected by the Federal Council on 19 October, stating that the Council was already

planning to implement some of the SCHR recommendations, so the action plan would be "an additional administrative burden".

- The Swiss Transfusion Centre (SRC), the service within the Swiss Red Cross that deals with the country's blood supply, issued a press release saying that the blanket exclusion of men who have had sex with men (MSM) is no longer a suitable criterion. The SRC recommended introducing risk-based donation criteria instead, in a statement issued on 20 June. The request (submitted to Swissmedic – the Swiss Medicinal Products Agency for Therapeutic Products) asked for the replacement of a compulsory exclusion with a 12-month deferral period and to develop criteria that assesses individual risk. The blood donation procedures had not been amended before the end of the year, but MSM could donate blood stem cells from 22 June.

- The UN CEDAW Committee published its latest set of concluding observations on Switzerland on 18 November. The Committee expressed particular concern over a number of LGBTI-related issues, including the lack of inclusion of LGBTI people in health registers and surveys, the unnecessary surgical practices performed on intersex people, lack of laws to protect bodily integrity, the ongoing barriers to legal gender recognition faced by trans people and reimbursement of the costs of gender reassignment surgery.

Family

- A popular initiative, originally proposed in 2012 by the Swiss Christian Democratic People's Party (PDC; centre-right) was voted on in 2016. The stated aim of the '*For the couple and the family – against the marriage penalty*' initiative was to end existing fiscal inequality where married or registered couples paid more tax than non-registered couples. In order to confirm this change, the initiators of the vote also sought to introduce a definition of marriage in the Federal Constitution. Article 14 guaranteed the right to marriage and a family in gender-neutral terms, but the proposed article would read: "Marriage is the sustainable and regulated union between a man and a woman. From a fiscal point of view,

marriage constitutes an economic community. It cannot be discriminated against other ways of living, in particular in terms of tax and social insurance". A coalition of Swiss LGBTI organisations, with the support of various civil society organisations and political parties, mobilised to inform voters about the possibility of preventing same-sex couples from marrying in the future. They launched a multi-lingual campaign: *Avancons Ensemble* (in French) / *Gemeinsam Weiter* (in German) / *Avanti Insieme* (in Italian). On 28 February, the popular initiative was rejected by 51% to 49%.

- The Legal Affairs Committee of the Council of States discussed potential amendments to adoption laws; among the suggestions debated was extending stepchild adoption to registered partners. The committee supported the change on 12 January by seven votes to four. The proposal proceeded to the Council of States, where it was approved by 32 votes to seven in a vote on 8 March. This was followed by a National Council vote on 17 June, approving the change with 125 votes in favour, 68 against and three abstentions. This change will permit all registered couples to apply to adopt their partner's children; *de facto* couples (who are not married or registered, but who have been living as a common household for at least three years) are also included. A committee called 'No to This Adoption Law' attempted to force a referendum to block the legal change. In October, it was announced that the committee had failed to collect the 50,000 required signatures within the stated deadline. The law was finalised but it was not known, at the end of 2016, when the provisions would come into force.

- The Federal Democratic Union (EDU; Christian-right) launched a popular initiative in Zurich to amend the canton's constitutional definition of marriage. The 'Protection of Marriage' initiative claimed that 'various forces' intend to introduce same-sex marriage, polygamy or abolish marriage entirely. The proposal to restrictively define marriage as a union between one man and one woman only was rejected by over 80% of voters on 27 November.

Foreign policy

- On 13 July, during the Montevideo Global LGBTI Human Rights Conference, Switzerland, together with 30

other states, joined the Equal Rights Coalition, a coalition committed to work towards equal rights and the eradication of discrimination and violence against LGBTI people.

Health

- On 26 June, the Federal Court held that hair removal procedures do not have to be reimbursed under basic health insurance if the procedure is performed by a beauty therapist as opposed to a medical doctor. The decision also stated that the fact that no doctor could be found to effectively remove white hair (the claimant in the case had white hair due to her age) is not age-based discrimination. (The technique used for darker hair would usually be offered by a dermatologist and would be reimbursed).

Legal gender recognition

- During 2016, several non-binary people were granted a name change by their canton's administration, after explicitly stating that they have a non-binary gender identity. The first ever decision was recorded by the Basel-Stadt canton in February; there were several other cases in the Zug and Zurich cantons later in the year.

Public opinion

- An opinion poll, carried out for NGO Pink Cross by GFS Zurich, 69% of the 1011 survey respondents said they were in favour of marriage equality; 25% opposed extending marriage to same-sex couples. When asked about adoption, 50% said that same-sex couples should be able to adopt children and 39% opposed the idea. 86% of people agreed with the idea of criminalising anti-LGBTI hate crimes.

Social security and social protection

- On 16 June, the Zurich Social Insurance Court decided in favour of a trans person, finding that they were entitled to sick pay when undergoing gender reassignment surgery.

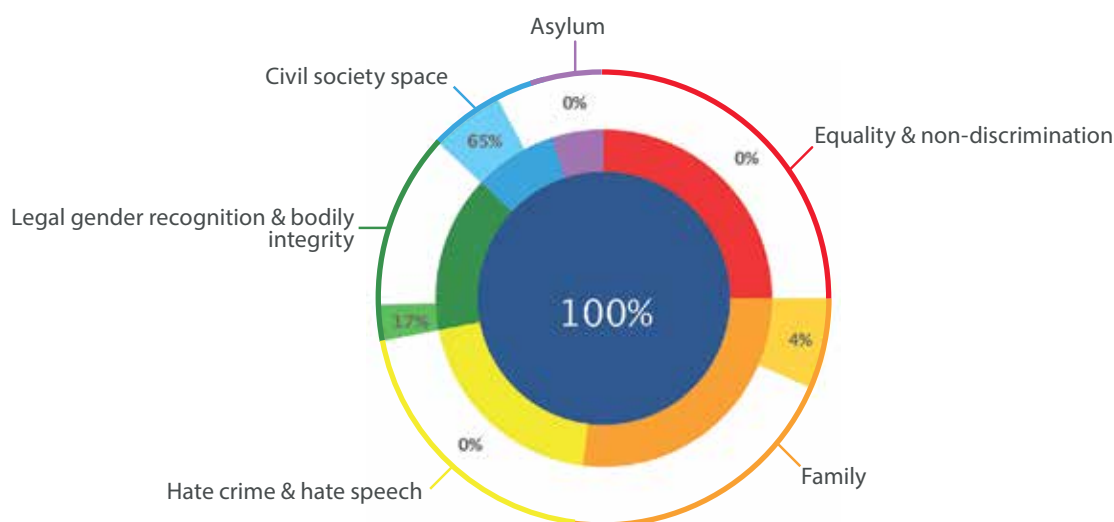
Turkey



A claustrophobic atmosphere, increased by the state of emergency declared in the wake of July's attempted coup – this is the backdrop against which the work of LGBTI activists in Turkey played out in 2016. Detention periods were increased, legal assistance was limited, and being a lawyer, journalist or civil society organisation meant your job security became tenuous. This all combined to create a scenario where freedom of assembly could be limited in the name of 'anti-terror measures' and 'security', resulting in a banning of the IDAHOT march in Ankara, and Pride marches in both Istanbul and Izmir. The office of a prominent LGBTI NGO was also forced to close, due to rumoured security threats. In advance of Pride season, a series of ominous threats were made by several extremist groups. LGBTI people, in particular trans women, were the victims of violent bias-motivated attacks, many of them fatal. The brutal murder of well-known trans activist Hande Kader created a public outcry and inspired protests in Turkey and all over Europe. A landmark judgment sentenced the individuals who had raped activist Kemal Ordek to lengthy prison terms. A human rights committee was established but grounds to protect LGBTI people against discrimination were not included in its remit. Concerns over the situation for minority groups, especially LGBTI people, was emphasised both by the Council of Europe and the EU institutions. The European Commission referred to the 'backsliding' that was happening on fundamental rights, which is a particularly concerning trend considering the minimal law and policy protection for LGBTI people that existed in the first place.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.

Legal and policy situation in **Turkey** as of 31 December 2016



In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- ➡ Introducing hate crime laws and policies that explicitly cover all bias-motivated crimes based on sexual orientation, gender identity and sex characteristics.
- ➡ Removing obstacles to the effective exercise of freedom of assembly, association and expression.
- ➡ Explicitly including SOGISC (sexual orientation, gender identity, sex characteristics) in the mandate of a national human rights institution/equality body.

Access to goods and services

- A trans man, whose gender marker was still recorded as female on his public transportation card, had the card confiscated by a bus driver on 29 January. The man was travelling on the Kadikoy-Uskudar bus in Istanbul when the driver questioned him, in front of other passengers, saying that he didn't take the man's drivers licence into account "...as it says on my screen that you are a woman. Are you a woman or a man?"
- A trans man was forced to leave his gym in September after he was told to use the gendered facilities that corresponded with his ID documents. The man had applied to the courts for legal gender recognition but his ID card had not been updated and still referred to him as 'female'. The manager of the Anadolu Hisari branch of MACFit in Istanbul told him that "...you have a pink ID card, you cannot use the men's changing room...". The following day, the gym froze the man's membership.

Asylum

- The parliament's Commission of Justice met on 6 April to discuss the International Legal Cooperation Bill on Criminal Matters. The bill included provisions on the procedures for extraditing refugees and MPs from the Peoples' Democratic Party (HDP; left-wing) and argued that sexual orientation and gender identity should be added to the list of exceptions, as several countries still criminalise homosexuality. Minister of Justice Bekir Bozdağ (Justice and Development Party; AKP) stated that "...of course, there will come a motion on sexual orientation, but as the government we don't agree with that. It is our political approach. As a conservative democrat party our approach on this matter is very clear...".

Bias-motivated speech

- During a meeting of the parliamentary Commission on Equality for Women and Men in February, MPs discussed a proposal to establish a Human Rights and Equality Committee. Sexual orientation and gender identity were excluded from the possible discrimination grounds that the proposed body would act to prevent.

The Republican People's Party (CHP; social-democratic) and the HDP criticised this omission. In response, Ayşe Doğan MP (AKP) said "There is no need to change our commission's agenda by including a different subculture, with artificial sexual tendencies that are not in line with human nature and our society's customs and traditions...". The law establishing the human rights body was passed on 6 April and received presidential approval on 27 April.

- In the days leading up to Pride week, several extremist groups issued public threats against the Pride event planned for Istanbul (see **Freedom of assembly**). The Anatolia Muslim Youth Association (MAG) invited people (via Facebook) to gather together to attack Pride marches, saying "We won't let the dishonourable perverts walk! Do not let the disgrace that is ironically called Pride March take place on June 19." On 14 June, the Alperen Hearths (a far-right group with links to the nationalist Great Unity Party (BBP)) issued a press statement, inviting state officials to stop the event "...otherwise, our response will be very clear and harsh". The statement refers to Pride's "vileness and immorality", states that LGBTI events are not normal, and urges that "either the state will do what is necessary or the Alperens will." BBP party leader Mustafa Destici sided with the Alperen Hearths in a speech on 18 June: "...perversion and immorality cannot be called freedom... they should go do the march somewhere else, they can't do it in my country."

Bias-motivated violence

- On 26 January, the second hearing in the case of Kemal Ördök took place at Ankara's 1st High Criminal Court. Kemal is a human rights defender and trans sex worker who was raped, threatened and robbed on 5 July 2015, before being ill-treated by the police officers they reported the attack to. Kemal commenced legal action against the perpetrators and issued a complaint about the police conduct. On 10 April, the prosecutor's office ruled that there was no need to initiate proceedings against the police officers; Kemal's lawyers appealed this to the upper courts. On 19 October, the perpetrators of the attack were sentenced to five months' imprisonment and fined (for violating a protection order Kemal had taken out after the

sexual assault in 2015, as the men had threatened them over the phone and via SMS). The main case's final hearing was scheduled for November. On 17 November, two of the men were sentenced to five years in prison for robbery, insults and threatening behaviour. The third man was sentenced to 20 years in prison for the same offences as well as qualified sexual assault, in what was described as a 'landmark' decision by activists.

- Two trans women who work as sex workers in Ankara were stabbed by a man on 8 February. The women were treated in hospital, complained to the police and the attacker was detained. In a statement, he said that "I do it for pleasure. I will stab more transvestites."
- A trans woman was found dead at her home in the Bakırköy district of Istanbul in March. The district attorney began an investigation of her home and camera footage was inspected in an attempt to verify the perpetrator. A suspect was arrested on 11 March.
- A trans person, working as a sex worker in the north-western city of Çorlu, was murdered in March by a client who had become involved in a fight with them. The perpetrator told a taxi driver that he had killed someone and the driver called the police. The man was arrested at his home and taken to Çorlu's police station. The case was ongoing at the end of 2016.
- A gay man was found dead at his house in the city of İskenderun on 17 April. His friends told NGO Kaos GL they believed that this was a hate crime, saying that "İskenderun is a small coastal city and everyone knows each other. You cannot live like you want. You have to wear a costume when you're alive...".
- Muhammad Wisam Sankari, an asylum seeker originally from Syria, was murdered and beheaded in Istanbul in July. His friends told NGO Kaos GL that gangs had previously threatened them and sexually assaulted Sankari; they believed he was targeted as he was an openly gay man.
- On 8 August, trans activist Hande Kader was found in a forest in Istanbul. She was last seen getting into a client's car; she had been murdered and her body had been burned. Kader was well-known in Turkey after her public resistance against attempts by the police to break up

Istanbul Pride in 2015. On 22 August, hundreds of people protested in Istanbul city centre at a demonstration organised by LGBTI NGOs, calling for justice and an investigation into Kader's death. No arrests had been made in the case by the end of the year.

- A Syrian trans woman who had travelled to Istanbul as a refugee was found dead at her home; it is believed she was murdered by a client on 17 December. Representatives from NGOs Women's Solidarity Foundation (KADAV) and the Istanbul LBTT Solidarity Association were following the case at the end of the year.

Diversity

- The Kadıköy and Şişli municipalities in Istanbul (in cooperation with Lambdaistanbul LGBTI Association) displayed an LGBTI-friendly billboard campaign, supporting LBTI women, to mark International Women's Day on 8 March.

Employment

- On 17 March, a court case involving clothing brand GAP Istanbul branch and a former employee began. The former staff member said that he faced homophobic insults once it became known in the clothing shop that he was gay; eventually he said he was forced to resign, after working in the particular shop for 10 years. Lawyers for GAP did not appear at the first hearing and the case was adjourned until 19 October.

Enlargement

- Turkey applied to join the European Union in 1987; negotiations began in 2005. In its annual enlargement package reviewing progress made towards EU accession, published in November, the European Commission noted that there had been "backsliding" on the issue of fundamental rights, with particular reference to freedom of expression. The July coup was referred to as "a shocking and brutal attack" on democratic institutions but also stated that "...many serious violations of the prohibition of torture and ill-treatment and of procedural rights were alleged in the aftermath...". In the Commission's view,

human rights violations against LGBTI people “continue to be a source of a serious concern”.

Equality and non-discrimination

- On 14 April, the European Parliament published a resolution on its 2015 report on Turkey. The Parliament made several LGBTI-specific recommendations to the authorities, including the need to introduce comprehensive legislation to protect against discrimination and hate crimes on the grounds of sexual orientation and gender identity.
- As part of its five-year monitoring cycle, the European Commission against Racism and Intolerance (ECRI) published a report on Turkey on 4 October. ECRI expressed concern over the deterioration of conditions for particular groups, including LGBTI people, with specific reference made to the violent dispersal of Istanbul Pride 2015. The independence of several human rights authorities was questioned and the increased use of hate speech by public officials was described as “particularly worrying”. The deaths of LGBTI people and under-reporting of hate crimes were noted by ECRI, leading ECRI to recommend that sexual orientation and gender identity be included in discrimination legislation as protected grounds and that the authorities adopt and implement an LGBTI-specific action plan.
- Several municipalities (run by the CHP and HDP parties) continued to extend their services for LGBTI people. Bursa Nilufer provided gender equality classes to 16 schools during the 2015/2016 academic year. In May, the Şişli Municipality started offering free gynaecology services to LGBTI people and, in August, it became the first Turkish municipality to join the international Rainbow Cities Network. The Çankaya Municipality Public Health Centre began offering a free and anonymous HIV testing service from 1 December.

Freedom of assembly

- NGO Kaos GL organised a march against homophobia and transphobia in Ankara, to celebrate IDAHOT. The event had been scheduled to take place on 22 May but the capital’s Governorate banned it. The governor stated

that the march incited “certain social sensitivities” and the city could not guarantee the safety of the event.

- Izmir Pride, organised by the Rainbow Solidarity Network and supported by Konak City Council, was due to take place on 4 June. On 3 June, the Izmir Governorate banned the event. According to the governorate, “partially confirmed” intelligence tips suggested that people involved with terrorist organisations would infiltrate the crowd. The Rainbow Solidarity Network issued a statement criticising the last-minute decision, saying that the “vague, baseless, and frivolous statement preventing our democratic right to demonstrate is unacceptable”. Over 100 people gathered at Alsancak Kibris Sehitleri Avenue in Izmir on 4 June and marched in defiance of the ban.
- The 6th Trans Pride was due to take place in Istanbul on 19 June, but was banned by local authorities who cited security concerns following a series of threats from right-wing extreme groups (see **Bias-motivated speech**). Trans activists and supporters gathered at the city’s Taksim Square. According to international media, hundreds of riot police were also present. The police cordoned off the square and fired tear gas and rubber bullets to disperse the protestors.
- It was announced by Istanbul city authorities on 17 June that the 14th Istanbul Pride (scheduled for 26 June) was being cancelled. Safeguarding security and public order were the official reasons given for the cancellation. The organisers were not allowed to hold a press conference “due to threat of terror attacks”, according to Istanbul’s deputy governor. Istanbul LGBTI+ Pride Week Committee called the ban a “flagrant violation of the constitution and the law” and said they planned to take legal action. On 20 June, CoE Human Rights Commissioner Nils Muižnieks urged the authorities to reverse the decision, saying a ban on the Pride event would be “...yet another blow to freedom of expression and freedom of assembly in an already particularly negative context...”. The Committee attempted to read a statement at a gathering of supporters in the city centre on 26 June but they were dispersed by the police. 17 activists and a number of supporters (including German MEP Terry

Reintke (Greens/EFA)) were briefly detained and later released. No legal action was taken against those detained.

Freedom of association

- In April, a document was circulated on social media that listed institutions, organisations, and public spaces believed to be under threat from the so-called Islamic State/ISIS. The internal correspondence from the Turkish Counter-Terror Department included NGO Kaos GL. The NGO reached out to the counter terrorism department with Ankara's police and the Gulhane Military Academy, who informed the NGO that this information had not been confirmed. Kaos GL also contacted the Office of the Prime Minister, the Governorship of Ankara, and the police and armed forces to ask for further information and urgent protection. When they did not receive an official response, Kaos GL temporarily closed its office for four months, before moving to a new, undisclosed, address.
- The Istanbul LGBTI Solidarity Association was asked to vacate its offices in the Beyoglu district of Istanbul by one of the property's owners. The request was issued in September after one of the co-owners of the Ögüt street apartment said they did not condone the organisation's activities. The association refused to leave, saying "What you call 'these kind of activities' is the struggle for equality and freedom...".
- Under measures introduced by the government during the post-coup official state of emergency, 1789 civil society associations were closed during 2016. No LGBTI organisation was included among these closures.

Freedom of expression

- On 16 November, 14 LGBTI organizations from Ankara, Bursa, Çanakkale, Diyarbakır, Giresun, İstanbul, İzmir and Mersin issued a joint press release, reacting to the restrictions imposed on activists and the media since the attempted coup in July. The statement reminded the authorities that a state of emergency cannot be an excuse to suspend human rights.
- On 22 November, the European Court of Human Rights unanimously ruled that there had been a violation

of Kaos GL's right to freedom of expression in the case of *Kaos GL v Turkey*. In 2006, all the copies of an edition of a magazine produced by the LGBTI NGO had been seized by the courts, under the request of the Ankara Chief Prosecutor. The publication contained articles and images relating to homosexuality and pornography; the prosecutors stated that the images contravened public morals. The magazine's editor-in-chief had been through a series of legal hearings and appeals between 2007 and 2012. In the European Court of Human Rights decision, judges acknowledged that protecting public morals is a legitimate aim and that (given the content of the magazine) some measures to prevent access by certain groups (such as minors) may have been justified. However, the Court found that the methods employed by the state could not be considered proportionate and held that Article 10 of the Convention had been violated.

- Three participants in the 2015 Beyoğlu Pride march had a lawsuit filed against them in May for carrying a banner during the previous year's event which read "Ramazan can't interfere with Şaban and Recep's love" (a pun playing on the Turkish names of the three sacred months of Islam). The prosecutor stated that the banner had denigrated religious values. The case was heard at the Istanbul 33rd Criminal Court of First Instance. On 27 December, the three defendants were acquitted as the court stated that the act that they were charged with was not a criminal offence.

Freedom from torture, cruel, inhuman or degrading treatment

- Esra Arikan, a trans woman serving an 11-year prison sentence at the men's Eskişehir H Type Closed Prison, wrote about her living conditions in a letter to her sister that was published online in November. The letter described being threatened as well physically and sexually assaulted, and also stated that she was not able to receive hospital treatment after these assaults. Esra's supporters intended to complain to the Parliamentary Human Rights Investigation Commission and the Ministry of Justice before the end of 2016.

Human rights defenders

- An LGBTI activist was forced to leave her home in September after she had been harassed by a group of young men living in the same neighbourhood. Kivilcim Arat, a spokesperson for the Istanbul LGBTI Solidarity Association, left Beyoğlu after being repeatedly threatened by the group. She intended to file criminal complaints before returning to Istanbul.

Legal gender recognition

- On 31 January, the Constitutional Court added an item to its agenda concerning Article 40 of the Civil Code. This provision states that trans individuals must be unable to reproduce, meaning that trans people have to resort to sterilisation in order to complete the gender recognition process. A petition to repeal this article had been submitted to the Court by lawyer Sinem Hun and a team of nine colleagues. The article had not been repealed by the end of 2016.

Participation in public, cultural and political life

- Levent Pişkin, a lawyer, LGBTI activist and an administrator for the HDP in Istanbul, was detained for three days in November. The detention occurred after he visited HDP co-Leader Selahattin Demirtaş in prison, and Pişkin was accused of “lobbying” against the country via international media outlets. Mersin Akdeniz co-mayor Yüksel Mutlu (Democratic Regions Party, DBP; centre-left), was arrested on 25 December and replaced by a government appointed trustee. Mutlu had previously signed NGO SPoD’s LGBT-friendly municipal protocol; LGBTI NGOs called for her release and reinstatement. Although both events were linked to Pişkin and Mutlu’s political affiliations, their detentions had an impact on the LGBTI communities as their pro-equality work was hindered.

Public opinion

- The “Void of Liberalism: a view on liberal values in Turkey” poll, conducted by the Friedrich Naumann Foundation’s Turkey Office, was published in August.

According to the authors, the survey showed those questioned to be liberal in rhetoric but not necessarily in practice. Acceptance for minority groups was said to be generally high, but respondents felt that homosexuality is a perversion.

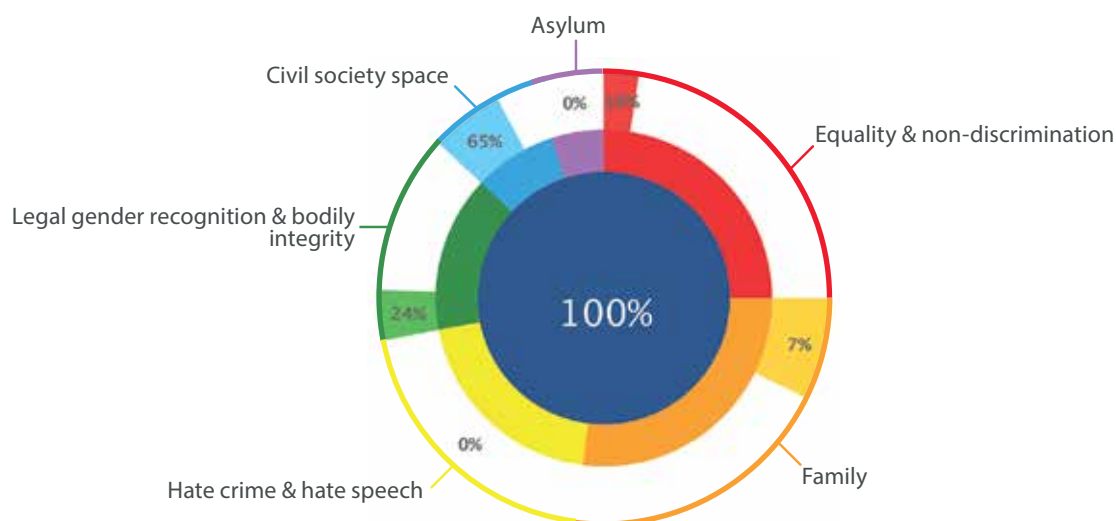
Ukraine



A series of public LGBTI events took place in Ukraine in 2016, many of which were memorable for a variety of reasons. The city of Odesa hosted its first ever Pride March, with participants marching with a sizable police presence for security reasons. Kyiv Pride, which had been violently disrupted in 2015, was also heavily policed. But, in a positive development, it attracted its largest ever attendance. LGBTI activists planning to take part in the Equality Festival in Lviv had a very different experience. The festival was ultimately banned by local authorities. Opposition groups issued threats, venues pulled out of hosting events, and counter-protestors surrounded the participants' hotel. LGBTI NGOs also experienced frustration with government ministries when following up on the contents of the human rights action plan. Specific anti-discrimination law references to sexual orientation and gender identity, envisaged in the action plan, appeared not to be a priority – despite the fact that protection for LGBTI people remains extremely limited outside the employment provisions of the 2015 labour law. In one particularly positive development, work on reforming the legal gender recognition procedure in Ukraine (that had started in 2015) brought its first results. The work of trans activists was not completely finished by the end of the year, but the revision did make essential changes to the gender recognition progress for the first time in several decades.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.

Legal and policy situation in **Ukraine** as of 31 December 2016



In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- ➡ Introducing laws and policies designed to tackle hate crime that contain express mention of all SOGISC (sexual orientation, gender identity, sex characteristics) grounds.
- ➡ Adopting legal measures to recognise and protect same-sex couples, such as civil unions or registered partnership.
- ➡ For public authorities take proactive and visible steps to protect the right of LGBTI people and their allies to freely assemble.

Bias-motivated speech

- On 3 December, the Synod of the Ukrainian Greek Catholic Church published their 'Message on the Dangers of Gender Ideology'. The senior church figures warned that so-called gender ideology is "...trying to destroy the perception of human sexuality as a gift of God that is naturally linked to the biological differences between men and women."

Equality and non-discrimination

- The European Parliament's resolution on the human rights situation in Crimea, adopted on 4 February, highlighted its "...grave concern regarding the situation of LGBTI people in Crimea, which has substantially worsened following the Russian annexation, and regarding repressive action and threats by the de facto authorities and paramilitary groups".
- Speaking at the Munich Security Conference on 13 February, President Petro Poroshenko (Poroshenko Bloc; centre-right) said that one of the biggest threats to Europe are "alternative values bringing isolationism, intolerance, lack of respect for people's rights, religious fanaticism and homophobia".
- A report on the 2015 situation for LGBT people in Ukraine was presented by LGBT NGO NASH MIR Centre at their international conference in Kyiv on 15 March. The report, entitled 'The Ice is Broken', found that while explicit homophobic rhetoric from public figures such as church officials was not as severe as in previous years, the level of aggression coming from right-wing groups increased significantly.
- A parliamentary vote on ratification of the Istanbul Convention had been scheduled to take place on 17 November. The president had submitted a draft bill on the convention's ratification to parliament on 15 November. After a debate where several lawmakers expressed support for "traditional values" and religious standards, the Ukrainian parliament announced that references to sexual orientation and gender would be removed from the bill. The Council of Europe's Istanbul Convention aims to prevent domestic violence and combat violence against women. At the end of 2016, it has still not been

ratified and no new parliamentary hearing date had been set.

- LGBT NGO Nash Mir submitted questions to the Ministry of Justice over the implementation of the action plan designed to initiate the National Strategy on Human Rights 2015-2020. The action plan stated that the basic anti-discrimination law would be amended to bring it in to line with EU standards, specifically the prohibition of discrimination on grounds of sexual orientation and gender identity. Nash Mir were told, via a letter from the ministry on 29 March, that this would not be happening as LGBT rights were already sufficiently protected under the Code of Labour Law amendments carried out in November 2015. Nash Mir criticised the government's failure to fulfil this particular provision of the action plan.

Family

- Metropolitan Onufrii spoke out against the 2015 amendments to the Ukrainian Code of Labour Laws during a Bishops' Council meeting in Moscow. On 2 February, the current head of the Ukrainian Orthodox Church (Moscow Patriarchate) said that the provisions banning discrimination on the grounds of sexual orientation and gender identity were "...new for (the) Ukrainian legislative environment. Such innovations may become a first step towards propaganda of homosexual way of life and attempts of legalization of same-sex marriages in Ukraine."
- At a meeting between President Poroshenko and the Ukrainian Council of Churches and Religious Organisations on 23 April, the same Metropolitan of Kyiv spoke about the country's "traditional values" and the "danger" of introducing marriage equality for same-sex couples.

Freedom of assembly

- Following on from a successful event in Kyiv, LGBTQ NGO Insight planned to hold a similar Equality Festival in Lviv. Insight wrote to the city's mayor Andrii Sadovyj on 25 February, asking the office to officially support the event and also to invite the mayor to personally take part in the festival's opening. The letter was delivered on 29 February

but Insight received no response from the mayor. Deputy Mayor Marta Lytvyniuk subsequently told local media that “The City Council considers it inappropriate to hold such events in Lviv, in order to guarantee the safety of all residents and visitors of our city”. Information about the festival, planned for 19-20 March, was published online on 12 March. Over the following days, the programme was shared on social media and by regional media outlets. Groups who opposed the festival began to threaten the organisers and participants. The proposed venue for the festival, the Underground Museum of Ideas, pulled out on 15 March after it received anonymous threats. Insight then wrote to Lviv city hall and the police to request security support for the festival. On 18 March, the night before the festival was due to open, a court ruled that all public events planned for the weekend were banned. Approximately 70 participants had already arrived at a local hotel in preparation and, on 19 March, the Dniester hotel was surrounded by 200 armed protestors who shouted “kill, kill, kill”, according to activists. The police were called and a special forces unit arrived several hours later. The participants were evacuated from the hotel by bus. The US and Canadian ambassadors Geoffrey Pyatt and Roman Waschuk both condemned the disruption on social media. Minister of Foreign Affairs Pavlo Klimkin (independent) expressed similar condemnation and confirmed a police investigation was underway.

- An equality celebration in Kyiv, organised in solidarity with Lviv’s Equality Festival, was supported by the Kyiv City State Administration, who said in a statement dated 13 May, “Kyiv as the capital has to be an example in complying with democratic standards across the country” and that it considered “...unacceptable any manifestation of violence some individuals or social groups over others.”

- Equality Festivals were also organised in Odesa, Dnipro and Zaporizhzhia. The festival in Dnipro was moved from the central city library to a new location after the library refused, fearing homophobic aggression. Organisers in Zaporizhzhia had a similar experience, when the Max Grant Jewish Centre refused to host the event after receiving homophobic threats. Kyiv’s annual Equality

Festival was held from 8 to 11 December, without any reported incidents.

- On 16 May, the Kherson District Administrative Court heard a case involving an LGBT public event and the city council. Unlike the district courts in Lviv and Odesa, the Kherson court refused to ban the LGBT event.

- The chair of the Verkhovna Rada human rights committee Hryhoriy Nemyria (All-Ukrainian Union Batkivshchyna, “Fatherland”; centre-right) issued a statement marking IDAHOT, remarking that 17 May was “...another opportunity for Ukraine to demonstrate its strong commitment to the observance of human rights and non-discrimination on any grounds” and calling for a collective effort to overcome homophobia and transphobic intolerance. This was the first time that the committee had issued a public statement for IDAHOT.

- On 12 June, the largest Pride march to date took place successfully in Kyiv. According to police estimates, 1,500 participants marched while being marshalled by 5,500 police officers. 57 people were detained and released, as some protestors attempted to break through the police cordon. The 2015 event had been held in a secret location and was still disrupted by violent counter-protestors.

- The first ever Pride March in Odesa went ahead on 13 August. Local authorities had banned the march on 14 August, citing security concerns and the possibility of clashes with far-right groups opposing the march. The organisers then submitted another event notification, stating a new time and location for the march; this notification was not disputed by the City Council. Over 50 participants took part in the march itself, with approximately 700 police officers protecting the area around the city’s Potemkin Stairs (a different location than was originally planned). People from a nationalist group known as Sokol (or ‘Falcon’) attempted to disrupt the event but were stopped by the police cordon; 20 protestors were detained by police and later released.

- On 14 August, a march organised in Odesa in response to Pride attracted approximately 100 participants. The Odesa march in support of “traditional values” was organised by nationalist groups and members of the clergy.

- In September, the Spiritual Council of Christian Churches in Zaporizhzhia wrote to the city's mayor, asking that all LGBT-related activities carried out there by equality NGOs be banned. The Council announced plans to hold a march in Kyiv on 2 October to promote traditional family values; similar marches also took place in Khmelnytskyi, Lutsk, Chernivtsi and Ivano-Frankivsk.
- The Culture-Art LGBT Maidan event hosted by LGBT NGO LIGA was relocated to a new location following threats made to the venue owner from nationalist and ring-wing groups. The event went ahead with extra security in a new location on 9 September.
- 'This is gay propaganda', a documentary film about the Maidan revolution in the context of the LGBT community in Ukraine, was screened on 18 October in Chernivtsi. The event was disrupted when supporters of the right-wing Pravyi Sektor ('Right Sector') and Azov groups threatened attendees with physical violence. Two participants were beaten up after they left the screening by unknown people in masks and camouflage. Oleksiy Kaspruk, the mayor of Chernivtsi, later apologised and called the attack a "shameful incident". A complaint was filed but it was not initially registered by the police; an investigation started following a court decision. On 29 November, the screening was held again, by invitation only and with police outside. A right-wing group protested with placards in front of the venue.
- On 22 October, LGBTQ NGO Insight organised a public street action in Kyiv, dedicated to International Day of Action for Trans Depathologisation. The action was held as legislative reform was being conducted by Ministry of Health (see **Legal gender recognition**). Entitled "Trans March", it became the first publicly announced trans public action in the country. About 50 trans people and allies marched under police guard provided by the Kyiv city authorities. No incidents were reported during or after the march.

Human rights defenders

- NGO Memorial released their "Violations of the rights of LGBT people in Crimea and Donbas" report on 14 June. The report, prepared in cooperation with the Centre for

Civil Liberties, analyses the existing legal situation in Crimea and eastern Ukraine and also includes information on the social situation from eyewitness interviews. It concludes that "...the position of LGBT people in Crimea and eastern Ukraine has deteriorated greatly in the past two years, and activists of the movement have been forced to leave or abandon their work in organising the community."

Legal gender recognition

- On 8 June, the Kyiv Administrative District Court ruled that a trans man and a trans woman who had not undergone sterilisation must have their gender identities recognised by issuing them medical certificates of sex change by the Commission on Sex Change/Correction. In September 2015, the Commission had issued certificates that were incorrectly filled out and could not be used to obtain new ID documents. After the new decision, both trans people received correctly completed certificates, were legally recognised, and obtained new passports.
- On 15 September, the Ministry of Health published a unified clinical protocol to improve the health care system for trans people. This protocol had been developed by a ministerial working group and introduced three levels of health care, ranging from general practitioner services to highly specialised professionals. It also proposed eliminating the existing central commission, enabling any qualified psychiatrist to give a diagnosis on an outpatient basis (removing the need for compulsory hospitalisation). The new protocol also proposed opening access to assessment for children and adolescents (under 14 required the consent of both parents; those aged 14-18 required parent and child consent) as well as access for trans people to reproductive technologies and adoption. However, LGBTI groups stated that the text of the new protocol still contained problematic aspects, such as irreversible surgical intervention and required psychiatric assessment for at least two years. Acting Minister of Healthcare Ulana Suprun met with LGBTQ NGO Insight on 30 September and promised remove the requirements urgently. At the end of 2016, they remained in the protocol text. A new order, which came into force on 30

December, revoked Order No 60 of the Ministry of Health which regulated trans healthcare procedures and prerequisites for legal gender recognition. This order also introduced a new form of medical certificate of sex change and new indications for it based on definition of "Transsexualism" diagnosis in ICD-10. Being married or having children under the age of 18 are no longer limitations for legal gender recognition. NGOs, trans activists and acting Minister Ulana Suprun also agreed to create an international working group to further improve the unified clinical protocol to bring it into line with modern European standards.

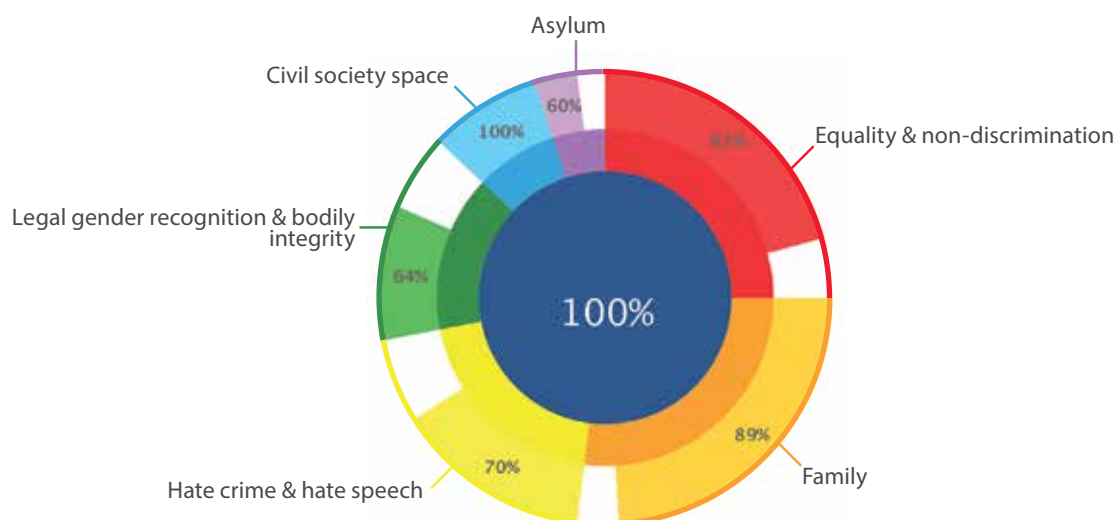
United Kingdom



The decision by almost 52% of the electorate to opt to leave the European Union was undoubtedly the most infamous development in UK political and cultural life during 2016. However, two of the four nations making up the UK – Northern Ireland and Scotland - voted (by a large margin) in favour of EU membership. Both ‘Leave’ and ‘Remain’ advocates had referred to LGBTI equality during the referendum campaign and the decision (that would colloquially become known as ‘Brexit’) was said to have knock-on effects for LGBTI people. Data from LGBTI NGOs suggested that hate crimes had risen in England and Wales in the wake of the vote, prompting discussions on the future of human rights and equality laws in the UK. Once again, the issue of varying levels of legal recognition depending on geography was raised; the situation faced by LGBTI people living in Northern Ireland was cited by the CoE monitoring body, ECRI. The experience of LGBTI people in various institutions was also critiqued during the year, in analyses of asylum detention centres and the experience of LGBTI people in prison. The first-ever survey with non-binary people in the UK was carried out, and intersex activists called for greater recognition. The UK and Scottish governments stated that more needed to be done to update legal gender recognition laws following the first trans inquiry. In another acknowledgement, the UK government moved to pardon men who were historically convicted in England, Wales and Northern Ireland for now-abolished “homosexual offences”; the Scottish Government promised to also do so.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.

Legal and policy situation in **United Kingdom** as of 31 December 2016



In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:



Updating the existing legal framework for legal gender recognition, to ensure the process is based on self-determination, is free from abusive requirements (such as GID/medical diagnosis), free from age limits, and includes non-binary recognition.



Prohibiting medical intervention on intersex minors when the intervention has no medical necessity and can be avoided or postponed until the person can provide informed consent, and including references to sex characteristics in anti-discrimination legislation.



Ensuring access to marriage equality for all, in all parts of the United Kingdom.

Access to goods and services

- A gay couple were asked to leave a London supermarket on 8 August after a customer complained about them holding hands, saying this was “inappropriate”. Management at the Hackney Road branch of Sainsbury’s later apologised and said they would review the work of their security company. Approximately 200 people staged a ‘kissathon’ at the supermarket on 13 August to protest against how the couple were treated.
- The legal dispute between an LGBTI activist and a Northern Ireland bakery continued in 2016. On 24 October, Belfast’s Court of Appeal upheld the 2015 High Court ruling that Asher’s Bakery had directly discriminated against Gareth Lee by refusing to provide a cake with a pro-equal marriage slogan in 2014. On 8 November, First Minister Arlene Foster (Democratic Unionist Party, DUP; unionist/conservative) commented that the Equality Commission (who had supported Lee’s case) needed to explain to the NI Executive “...what affirmative action they intend to take in terms of the faith communities, because there is certainly a chill factor there...” NI Attorney General John Larkin applied for leave to appeal to the Supreme Court on 16 November, but this request was rejected by Lord Chief Justice Declan Morgan on 21 December, saying there were no exceptional circumstances that required the case to be reopened. The family who own the bakery said they intended to pursue their own Supreme Court appeal and would file papers in early 2017.

Asylum

- In January, a bisexual man received refugee status after a three-year legal appeal against the Home Office’s intention to deport him to Jamaica. The original judge held that Orashia Edwards had been “dishonest” about his sexual orientation; Edwards said that he had provided intimate pictures of himself but that officials had refused to accept them as evidence of his sexual orientation.
- The results of an independent review, conducted by former prisons ombudsman Stephen Shaw, was published by the Home Office in January. Shaw specifically stated

that immigration detention is unsuitable for trans people as centres cannot guarantee a safe, supportive environment.

- A joint report on the treatment of LGBT asylum seekers in UK detention centres was released by NGOs Stonewall and UKLGIG (UK Lesbian and Gay Immigration Group) on 26 October. *No Safe Refuge* was based on 22 interviews with LGBT asylum seekers who had been held in detention centres – telling researchers that they were denied access to medication, including anti-depressants or drugs to treat HIV, as well as experiencing discrimination and violence from fellow detainees and staff. The report’s recommendations included ending Home Office detention and the use of accelerated measures for LGBT asylum seekers, prohibiting solitary confinement as a way to ensure the safety of LGBT asylum seekers and ensuring access to free, good quality legal advice.
- In November, LGBTI NGOs criticised Home Office officials when it emerged that LGBTI asylum seekers were being questioned on specific LGBTI terminology. In a specific case involving a bisexual asylum seeker from Pakistan in August, he was asked why he had said that the T in the acronym LGBT referred to ‘trans’ when the official said it meant ‘transgender’. The man’s application was rejected and an appeal was ongoing.

Bias-motivated violence

- Home Secretary Amber Rudd (Conservative) launched *Action against Hate* – a hate crime action plan - at an event hosted by NGO Galop on 26 July. The plan, which applies to England and Wales, outlines plans to prevent and respond to hate crime until 2020. It included commitments to equip schools to deal with homophobic bullying, the introduction of a GBP 2.4 million funding scheme for security measures, working with groups who underreport hate crime, and working with community groups who assist LGBT victims of hate crime.
- The Scottish government published the report of the Independent Advisory Group on Hate Crime, Prejudice and Community Cohesion on 23 September. The group had been set up in 2015 to make suggestions for future

action. On publication, the government said that it would accept all the report's recommendations for further action on hate crime in Scotland.

- According to the Home Office's Statistical Bulletin dated 13 October, between 1 April 2015 and 31 March 2016, the police recorded 7,194 sexual orientation hate crimes and 858 trans hate crimes in England and Wales. These were 12% and 1% respectively of the overall 62,518 recorded hate crimes. This was an increase of 29% and 49% respectively when compared to the 2014/2015 figures.
- The Hate Crime in Scotland 2015/16 report produced by Scotland's prosecution service showed that 1,020 sexual orientation hate crimes were reported by police to prosecutors (a rise of 20% on 2014/15 figures). There were 30 trans hate crimes reported to prosecutors during the same period (an increase of 43% on 2014/15). Court proceedings were commenced in 86% of sexual orientation hate crimes and in 23 of the 30 trans charges.
- LGBT NGO Galop reported an increase of 147% in the number of LGBT people facing hate crime that they provided advice and support to in the three months following the referendum vote compared with the same three months in the previous year. That was a rise to 178 people during July, August and September of 2016, compared with 72 in the same period the previous year. The Galop figures apply solely to England and Wales.

Bodily integrity

- Three intersex activists staged a protest outside the Houses of Parliament on 10 March, calling on MPs to initiate an Intersex Equality Inquiry. The activists chained themselves to gates outside Westminster before attempting to lobby MPs on the issue.
- The UN Committee on the Rights of the Child's concluding observations, published on 3 June, recommended that the UK ensure that no child is subjected to unnecessary surgery, provide families of intersex children with adequate support, educate medical professionals on the consequences of such interventions for intersex children, and to provide redress.

Data collection

- *Shh...No Talking*, a report focusing on LGBT-inclusive sex and relationships education in the UK, was released by the Terrence Higgins Trust in July. An online survey was carried out with over 900 young people during LGBTI History Month; 99% of respondents said that age appropriate sex and relationships education (SRE) should be taught in schools. Where SRE was taught, 95% of respondents said that they had not learnt about LGBT-inclusive sex and relationships and 98% of the 817 young people who responded said that they did not recall trans issues being part of their SRE classes.
- Scottish campaign group Time for Inclusive Education (TIE) published the results of their survey with students, former pupils and teachers in September. The research highlighted high rates of bullying, with 90% of the respondents who identified as LGBT saying they had experienced homophobia while at school. 64% said they had been bullied specifically because of their sexual orientation or gender identity.
- NGO The Scottish Trans Alliance published the results of the first research into the experience of non-binary people in the UK. The survey findings, released in October, referred to the responses of 895 non-binary people who filled out an online questionnaire. 65% said that services they accessed were never inclusive of non-binary people; 63% said they were less likely to access services as a result of this invisibility. When discussing their gender identity and employment, 52% said they never felt comfortable sharing the fact they identified as non-binary at work, and 55% were worried sharing this would impact their career progression. 64% of those surveyed said they would like to have their gender or sex on official documents registered as something other than male/female.

Diversity

- *The Good Parliament* report by Professor Sarah Childs was launched on 20 July. Childs compiled a set of recommendations designed to make Westminster more sensitive to gender and diversity, to bring it in line with the Inter-Parliamentary Union's global framework.

Education

- In February, then Education Secretary Nicky Morgan (Conservative) announced that sex and relationship education would not be made compulsory for all schools in England. New Education Secretary Justine Greening stated that SRE was one of the issues she was considering following her appointment by Prime Minister Theresa May. This reconsideration of SRE's status was confirmed by the junior education minister on 8 November in response to a parliamentary question. Five chairs of parliamentary select committees write to Secretary Greening later in the month calling for a more urgent reaction and for the secretary to "engage constructively" on the issue.

Employment

- Over 400 organisations took part in NGO Stonewall's Top 100 Employers Index, the highest number in the ranking's 12-year history.

Equality and non-discrimination

- The Court of Appeal in Belfast ruled in March that it was the role of the Northern Ireland health minister to decide whether to amend the blood donation criteria and lift the current blanket ban, not the UK Health Secretary. After her appointment as health minister following the NI Assembly elections, Michelle O'Neill (Sinn Féin, SF; Irish republican) announced on 2 June that the permanent exclusion of gay and bisexual men from donating blood would be replaced by a 12-month deferral period. This change, bringing NI into line with similar policies in England, Wales and Scotland, came into effect on 1 September.

- Prior to the Assembly elections, then Welsh Minister for Communities and Tackling Poverty Leslie Griffiths (Welsh Labour) launched a Transgender Action Plan on 14 March. The document had been produced following a public consultation, and contained recommendations on removing barriers to equality in certain key areas, including health, housing and sport.

- The Isle of Man's proposed Equality Bill (including references to sexual orientation and gender reassignment) passed the first and second reading stage

in the House of Keys in November. A further 'clauses stage', where amendments can be put forward is due to begin on 31 January 2017.

- An All-Party Parliamentary Group on Blood Donation was established in March and, on 19 October, launched its first evidence session in its public inquiry into the criteria surrounding blood donation (A government review had been announced in late 2015; this group is working in parallel with that analysis.)

- As part of its five-year monitoring cycle, the European Commission against Racism and Intolerance (ECRI) published a report on the UK on 4 October. ECRI praised the UK's legislative programme and its "substantial efforts to promote LGBT rights" during the review period. The Commission drew attention to the inequality experienced by LGBT people in Northern Ireland compared to the rest of the UK, a lack of equal marriage or anti-discrimination protection on the grounds of gender identity for example. Anti-LGBT bullying in schools was highlighted as problematic by ECRI. It called on political parties to take a firm stance against intolerant speech by members and recommended that gender identity be included as a ground in 'stirring up hatred' offences.

- Speaking at a conference hosted by NGO Stonewall in April, GCHQ director Robert Hannigan (UK intelligence agency and Alan Turing's historical employers) discussed the treatment of Turing and other LGBTI people: "...the fact that it was common practice for decades reflected the intolerance of the times... but it does not make it any less wrong and we should apologise for it. Their suffering was our loss, and it was the nation's loss too". A private member's bill submitted by John Nicolson MP (Scottish National Party, SNP; social-democratic) that called for an automatic pardon for all gay and bisexual men convicted of historical sexual offences was filibustered by Justice Minister Sam Gyimah (Conservative) on 20 October. The Scottish government subsequently announced that they would move to introduce their own legislation on the issue. The Conservative government at Westminster proceeded with their proposed amendment to the Policing and Crimes Bill that would grant an automatic pardon to deceased men in England and Wales convicted

of sexual acts which are no longer criminalised. It was announced on 7 December that the amended bill would also apply in Northern Ireland, so gay and bisexual men there will be able to apply to the Department of Justice for a pardon. On 12 December, an amendment put forward to the Policing and Crime Bill – led by Lord Michael Cashman – received government support, allowing the Home Secretary to add other offences which would be totally legal today to the Home Office’s disregard scheme. The amended Policing and Crimes Bill had not received royal assent by the end of 2016 so its provisions were not yet in force.

Family

- The Isle of Man’s Marriage and Civil Partnership Amendment Act was given royal assent on 19 July. The law officially came into effect on 22 July and introduced marriage equality for same-sex couples, as well as extending the option of civil partnerships to different-sex couples.
- Activists in Northern Ireland launched the LoveEquality campaign on 14 April, calling for the introduction of marriage equality. Speaking in October, First Minister Arlene Foster (DUP) said that her party would continue to use the petition of concern mechanism to effectively veto equal marriage in Northern Ireland. Foster said that her party represented the views of the majority who didn’t want to see marriage “redefined”. She also said that it was the online behaviour of LGBTI activists that confirmed her party’s position: “...they are not going to influence me by sending me abuse - in fact, they are going to send me in the opposite direction and people need to reflect on that”.
- The Church of Scotland’s General Assembly voted in May to allow its churches to appoint ministers who are in same-sex marriages, by 339 votes to 215.
- Gibraltar’s parliament unanimously passed legislation to allow same-sex couples to enter civil marriages on 26 October. Chief Minister Fabian Picardo (Gibraltar Socialist Labour Party, GSLP; social-democratic) said that “...we are changing a law that got in the way of love and in doing so we are doing the right thing”.

Foreign policy

- The United Kingdom voted to leave the European Union on 23 June, by 51.9% to 48.1%. Majorities in England and Wales voted to leave (by 53.4% and 52.5% respectively); Northern Ireland and Scotland voted to remain in the EU (55.8% and 62% respectively voting ‘Remain’).
- On 13 July, during the Montevideo Global LGBTI Human Rights Conference, the UK, together with 30 other states, joined the Equal Rights Coalition, a coalition committed to work towards equal rights and the eradication of discrimination and violence against LGBTI people.
- In August, the Foreign Office confirmed that Foreign Secretary Boris Johnson (Conservative) had reversed his predecessor Philip Hammond’s instruction, meaning that Foreign Office buildings can once again display the rainbow flag.
- On 14 September, the Women and Equalities Select Committee held a one-off evidence session, with academics in the areas of human rights and EU law, to discuss how the UK’s decision to leave the European Union could impact on equality legislation. Following on from this session, the Committee launched an inquiry to examine the implications further.

Health

- In May, the government announced a pilot scheme to offer gay and bisexual men in England vaccination against the human papilloma virus (HPV). Previously, this was only available for girls of school-going age, but this approach left men who have sex with men vulnerable to infection. The vaccine was available through selected sexual health clinics in England from June.

Legal gender recognition

- Following the first ever trans inquiry carried out by the Women and Equalities Select Committee in 2015, the committee published its report on 14 January. It contained over 30 accompanying recommendations for the government, including reform of the Gender Recognition Act to allow for self-determination, protection under the Equality Act for people who do not identify as male or female, and improvements to the care

provided for trans people by the National Health Service (NHS). The government's response was published on 7 July, which stated its intention to develop a new trans action plan (including a review of the legal gender recognition legislation, new training of NHS staff and monitoring public attitudes towards trans people). NGOs such as Stonewall welcomed the acknowledgment that gender dysphoria is not a mental illness, but regretted the government insistence that 'gender reassignment' is an adequate ground under the Equality Act. Several of the points raised by both reports were raised during the first parliamentary debate on trans equality, held on 1 December.

- Figures released in February by the NHS England's Gender Identity Development Service (GIDS) stated that 969 people under the age of 18 were referred to the service in 2015/16, compared to 94 in 2009/10.
- NGO Equality Network compared the manifestos of political parties participating in the Scottish parliamentary elections; their analysis showed that all the parties who won seats in May's elections had committed to reviewing Scotland's gender recognition laws. At an Equal Opportunities Committee meeting on 30 June, the Scottish government said it would hold public consultations in the first half of 2017.

Participation in public, cultural and political life

- On 13 January, Secretary of State for Scotland David Mundell came out, becoming the first openly gay Conservative cabinet minister.
- Ellen Murray was the first trans person to stand for election in Northern Ireland; she represented the Green Party in the West Belfast constituency in May's Assembly elections.
- 10 of the 129 members of the Scottish parliament elected in May are openly LGB; this is the highest proportion of any national parliament, according to analysis by NGO Equality Network.
- Justine Greening MP announced on 25 June that she was in a same-sex relationship, becoming the first woman who is openly LB to hold a cabinet position.

- Bishop of Grantham, Nicholas Chamberlain became the first Church of England bishop to come out publicly. He came out in an exclusive interview with the *Guardian* on 2 September, saying that the fact that he had a long-term partner was no secret but that a Sunday newspaper threatened to 'out' him.

Police and law enforcement

- A report by *Pink News* on 4 June revealed that a trans woman, who wished to remain anonymous, had been sent to a men's prison in England. On 9 November, the Ministry of Justice published its *Care and management of transgender offenders* policy paper. It acknowledged that practice in England and Wales focused on gender at birth or following surgery, and that policy needed to respect the lived gender identity of prisoners. It also stated that National Offender Management Service staff need to understand the rights of trans and non-binary people through training and e-learning. Also on 9 November, a new instruction for National Offender Management Service staff on the care of trans offenders was also published and will come into effect on 1 January 2017. Official Ministry of Justice statistics showed that 27% of prisons in England and Wales surveyed in March/April said they had one or more trans prisoners.
- Chloe Allen, a soldier in the 1st Battalion Scots Guards, became the first trans woman to serve as an infantry soldier in the British Army in September.

Public opinion

- The *Scottish Social Attitudes Survey: Attitudes to Discrimination 2015* figures, published by the government on 30 September, showed a fall in prejudiced views towards same-sex relationships. In the latest survey, 18% of respondents said that sexual relations between two adults of the same-sex were "wrong"; in 2000, this figure was 48%.

Social security and social protection

- The Supreme Court referred a case involving a trans woman's pension rights to the European Court of Justice

on 10 August. The case involved a woman known as MB, who underwent gender assignment surgery in 1995, turned 60 in 2008 and applied for her state pension. This was refused as she did not have a gender recognition certificate as she was married to another woman and marriage equality was not yet law.

- On 10 November, the Court of Appeal ruled in favour of the NGO National AIDS Trust, confirming an earlier High Court decision that NHS England can legally fund PrEP. PrEP or Pre-Exposure Prophylaxis is a HIV prevention treatment and NHS England had previously stated that it could not fund the drug's use. In response, on 4 December, NHS England announced that it would fund a major extension to the national HIV prevention programme. Through Public Health England, a large clinical PrEP trial is planned for 2017/18, involving 10,000 participants over three years.