

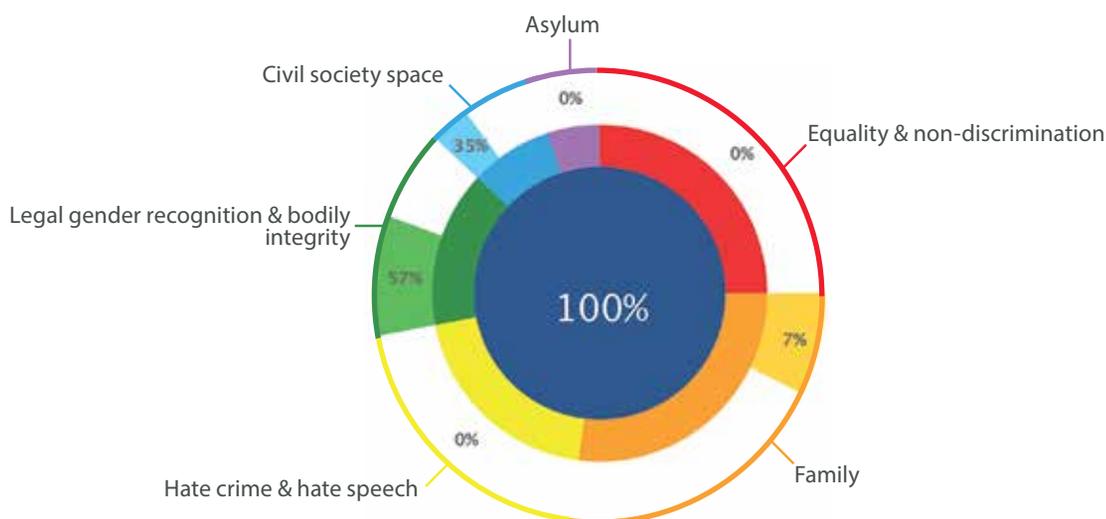
Belarus



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 'Passpost' 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.