

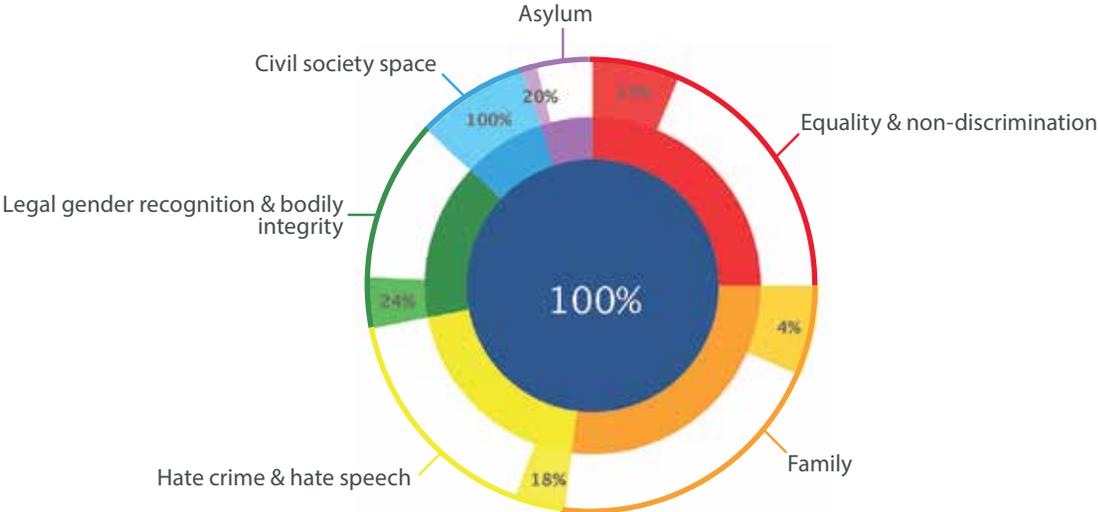
Romania



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 identify 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 Cioloș (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.