

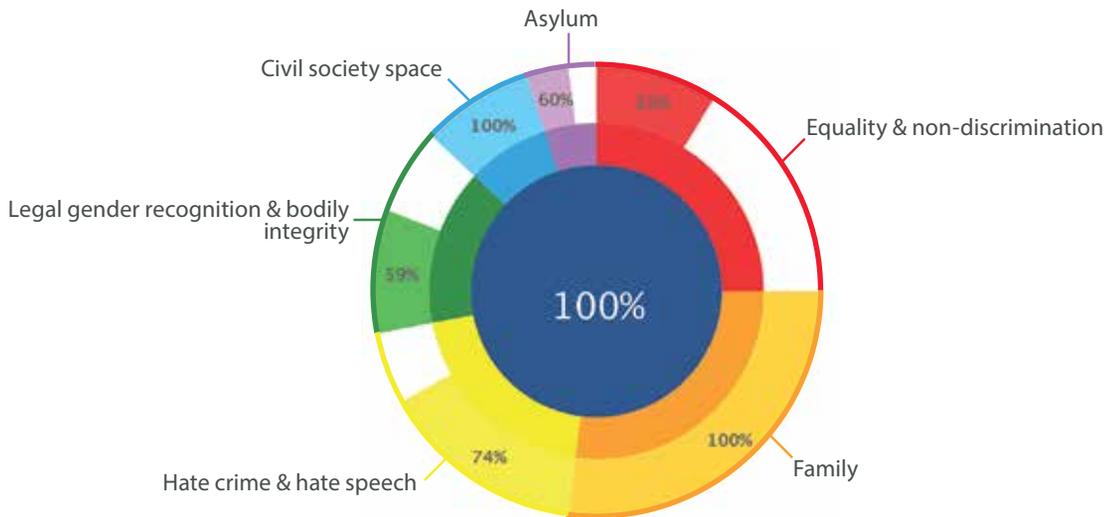
Spain



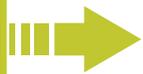
Hate speech, in several instances from prominent church officials, directed at LGBTI people was a negative trend in 2016. Incidents were recorded by NGOs or became the subject of complaints by pro-equality MPs. The language used referred to anti-discrimination laws as a negative development, spoke of 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



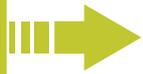
In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:



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.



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 LGTBphobia 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 Consellería 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 *Aldeguer 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.