

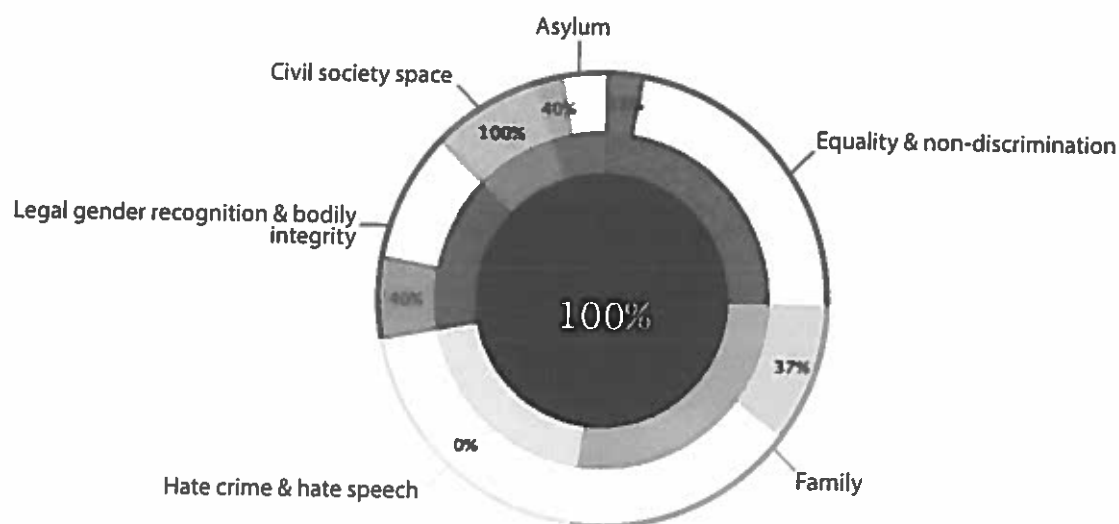
Italy



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*.