

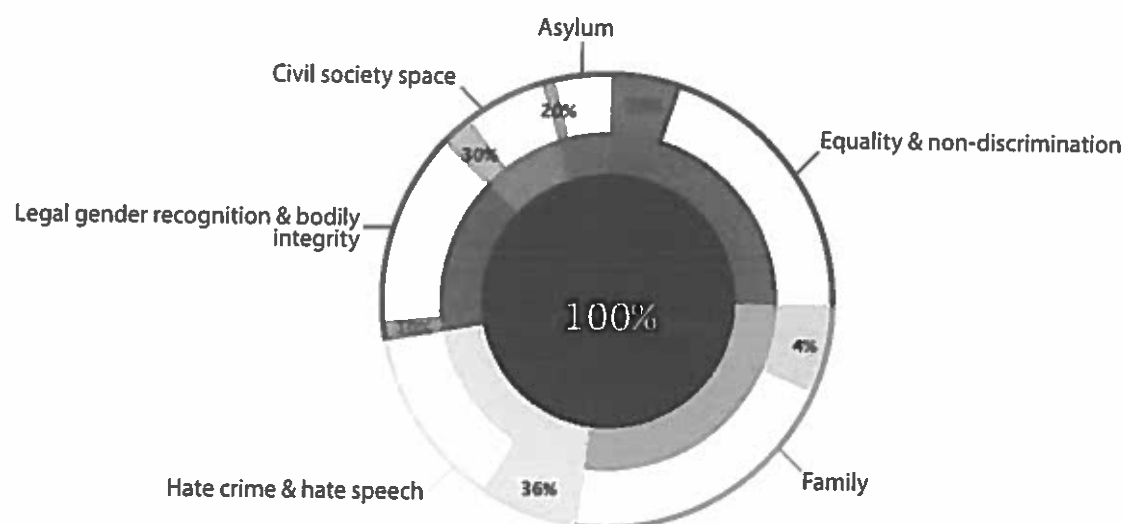
Lithuania



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.