

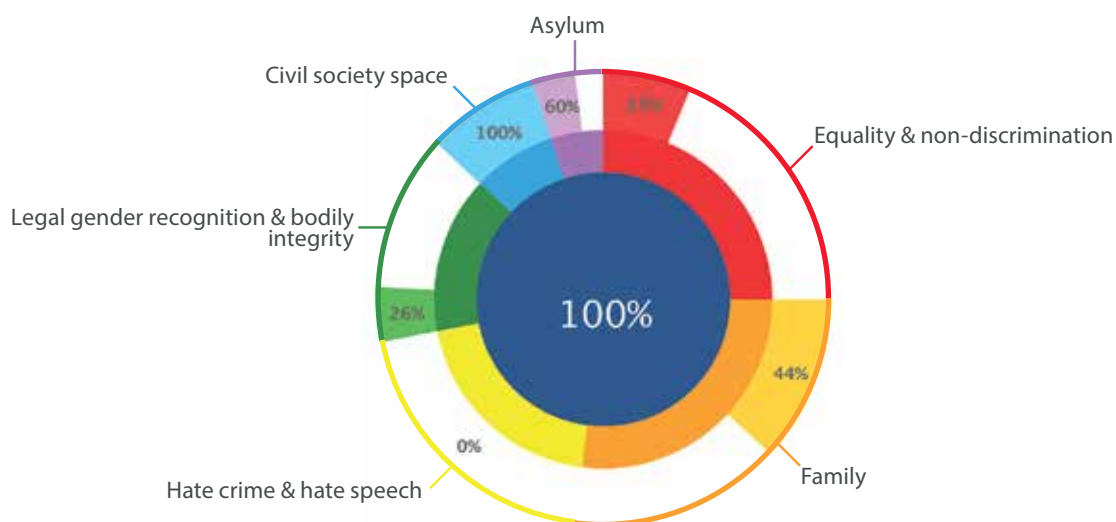
Switzerland



The topic of rainbow families and their legal rights featured heavily in political discussions in 2016, even if the original conversation was not framed as an LGBTI equality issue. A referendum in February was pitched as a vote to clarify taxation laws, but would have also restricted the definition of marriage and possibly blocked same-sex couples from marrying in the future. Following a successful NGO awareness-raising campaign, the initiative was rejected. In another popular vote, citizens of Zurich voted against narrowing the definition of marriage in their own canton's constitution. NGOs also successfully turned a negative incident (transphobic comments in the media) into a potential opportunity to develop a trans-inclusive policy with a mainstream TV station. Disappointingly, the Federal Council rejected calls to introduce a new anti-discrimination action plan and legislation, despite earlier reports that suggested improvements be made in this area. While several other advances were made in the area of family, including the decision to allow registered partners to adopt each other's children, Swiss legislation still does not include references to LGBTI people in hate crime or hate speech laws. In the absence of any police data on the issues, LGBTI NGOs established a helpline service to support people targeted by bias-motivated attacks.

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 **Switzerland** as of 31 December 2016



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

- ➔ Updating the existing framework of anti-discrimination laws by expressly mentioning all SOGISC (sexual orientation, gender identity, sex characteristics) grounds.
- ➔ Explicitly including SOGISC (sexual orientation, gender identity, sex characteristics) in an equality action plan, accompanied by specific measures of progress.
- ➔ Developing, in consultation with the trans community, a specific national action plan to protect the human rights of trans people.

Bias-motivated speech

- NGO Transgender Network Switzerland (TGNS), along with other NGOs, issued a complaint with the Ombudsman about comments made about trans people during a TV programme. In the *Giacobbo/Müller* show, broadcast on 10 April by SRF, insulting remarks were made about trans people. A petition calling for an apology was signed by 900 people in three weeks. Following the NGOs' complaint, the Ombudsman examined the case and on 25 April, it found that the comments infringed the non-discrimination provisions of the Radio and Television Act. On 30 May, TGNS and representatives of the SRF station met to discuss future coverage of trans-related topics, including the development of a trans policy.

Bias-motivated violence

- A new telephone helpline was set up to support victims of homophobic and transphobic violence. In the absence of police data on bias-motivated crimes, the volunteer-led LGBT+ Helpline began to catalogue the cases reported to it over the phone, by email, through their online form, or in face-to-face sessions. The helpline is partnered by NGOs Aids-Hilfe Schweiz, Dr Gay, Du bist Du, Lesbenorganisation Schweiz, Network, PinkCop, PINK CROSS, TGNS, and Queeramnesty.

Equality and non-discrimination

- The Federal Council announced that while Swiss anti-discrimination law was generally seen as sufficient, some improvements were required to adequately protect the rights of LGBTI people. This conclusion was based on an earlier report, compiled in 2015 by the Swiss Centre of Expertise in Human Rights (SCHR). LGBTI NGOs called on the government to introduce a range of measures, including relating to bias-motivated violence, family law, new blood donation criteria, legal change of name and protection for non-binary individuals. On 18 August, the National Council's legal affairs commission reacted to the Federal Council and SCHR reports by submitting a motion asking for an action plan for protection against discrimination. This was rejected by the Federal Council on 19 October, stating that the Council was already

planning to implement some of the SCHR recommendations, so the action plan would be "an additional administrative burden".

- The Swiss Transfusion Centre (SRC), the service within the Swiss Red Cross that deals with the country's blood supply, issued a press release saying that the blanket exclusion of men who have had sex with men (MSM) is no longer a suitable criterion. The SRC recommended introducing risk-based donation criteria instead, in a statement issued on 20 June. The request (submitted to Swissmedic – the Swiss Medicinal Products Agency for Therapeutic Products) asked for the replacement of a compulsory exclusion with a 12-month deferral period and to develop criteria that assesses individual risk. The blood donation procedures had not been amended before the end of the year, but MSM could donate blood stem cells from 22 June.

- The UN CEDAW Committee published its latest set of concluding observations on Switzerland on 18 November. The Committee expressed particular concern over a number of LGBTI-related issues, including the lack of inclusion of LGBTI people in health registers and surveys, the unnecessary surgical practices performed on intersex people, lack of laws to protect bodily integrity, the ongoing barriers to legal gender recognition faced by trans people and reimbursement of the costs of gender reassignment surgery.

Family

- A popular initiative, originally proposed in 2012 by the Swiss Christian Democratic People's Party (PDC; centre-right) was voted on in 2016. The stated aim of the '*For the couple and the family – against the marriage penalty*' initiative was to end existing fiscal inequality where married or registered couples paid more tax than non-registered couples. In order to confirm this change, the initiators of the vote also sought to introduce a definition of marriage in the Federal Constitution. Article 14 guaranteed the right to marriage and a family in gender-neutral terms, but the proposed article would read: "Marriage is the sustainable and regulated union between a man and a woman. From a fiscal point of view,

marriage constitutes an economic community. It cannot be discriminated against other ways of living, in particular in terms of tax and social insurance". A coalition of Swiss LGBTI organisations, with the support of various civil society organisations and political parties, mobilised to inform voters about the possibility of preventing same-sex couples from marrying in the future. They launched a multi-lingual campaign: *Avancons Ensemble* (in French) / *Gemeinsam Weiter* (in German) / *Avanti Insieme* (in Italian). On 28 February, the popular initiative was rejected by 51% to 49%.

- The Legal Affairs Committee of the Council of States discussed potential amendments to adoption laws; among the suggestions debated was extending stepchild adoption to registered partners. The committee supported the change on 12 January by seven votes to four. The proposal proceeded to the Council of States, where it was approved by 32 votes to seven in a vote on 8 March. This was followed by a National Council vote on 17 June, approving the change with 125 votes in favour, 68 against and three abstentions. This change will permit all registered couples to apply to adopt their partner's children; *de facto* couples (who are not married or registered, but who have been living as a common household for at least three years) are also included. A committee called 'No to This Adoption Law' attempted to force a referendum to block the legal change. In October, it was announced that the committee had failed to collect the 50,000 required signatures within the stated deadline. The law was finalised but it was not known, at the end of 2016, when the provisions would come into force.

- The Federal Democratic Union (EDU; Christian-right) launched a popular initiative in Zurich to amend the canton's constitutional definition of marriage. The 'Protection of Marriage' initiative claimed that 'various forces' intend to introduce same-sex marriage, polygamy or abolish marriage entirely. The proposal to restrictively define marriage as a union between one man and one woman only was rejected by over 80% of voters on 27 November.

Foreign policy

- On 13 July, during the Montevideo Global LGBTI Human Rights Conference, Switzerland, 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.

Health

- On 26 June, the Federal Court held that hair removal procedures do not have to be reimbursed under basic health insurance if the procedure is performed by a beauty therapist as opposed to a medical doctor. The decision also stated that the fact that no doctor could be found to effectively remove white hair (the claimant in the case had white hair due to her age) is not age-based discrimination. (The technique used for darker hair would usually be offered by a dermatologist and would be reimbursed).

Legal gender recognition

- During 2016, several non-binary people were granted a name change by their canton's administration, after explicitly stating that they have a non-binary gender identity. The first ever decision was recorded by the Basel-Stadt canton in February; there were several other cases in the Zug and Zurich cantons later in the year.

Public opinion

- An opinion poll, carried out for NGO Pink Cross by GFS Zurich, 69% of the 1011 survey respondents said they were in favour of marriage equality; 25% opposed extending marriage to same-sex couples. When asked about adoption, 50% said that same-sex couples should be able to adopt children and 39% opposed the idea. 86% of people agreed with the idea of criminalising anti-LGBTI hate crimes.

Social security and social protection

- On 16 June, the Zurich Social Insurance Court decided in favour of a trans person, finding that they were entitled to sick pay when undergoing gender reassignment surgery.