

Stonewall

ABOUT THIS RESOURCE

This resource is produced by Stonewall, a UK-based charity that stands for the freedom, equity and potential of all lesbian, gay, bi, trans, queer, questioning and ace (LGBTQ+) people.

At Stonewall, we imagine a world where LGBTQ+ people everywhere can live our lives to the full.

Founded in London in 1989, we now work in each nation of the UK and have established partnerships across the globe. Over the last three decades, we have created transformative change in the lives of LGBTQ+ people in the UK, helping win equal rights around marriage, having children and inclusive education.

Our campaigns drive positive change for our communities, and our sustained change and empowerment programmes ensure that LGBTQ+ people can thrive throughout our lives. We make sure that the world hears and learns from our communities, and our work is grounded in evidence and expertise.

To find out more about our work, visit us at www.stonewall.org.uk

Registered Charity No 1101255 (England and Wales) and SC039681 (Scotland)

Stonewall is proud to provide information, support and guidance on LGBTQ+ inclusion; working towards a world where we're all free to be. This does not constitute legal advice, and is not intended to be a substitute for legal counsel on any subject matter.

BELGIUM



Population: 11+ million



Stonewall Global Diversity Champions: 55



THE LEGAL LANDSCAPE

In Stonewall's **Global Workplace Equality Index**, broad legal zoning is used to group the differing challenges faced by organisations across their global operations. Belgium is classified as a Zone 1 country, which means sexual acts between people of the same sex are legal and clear national employment protections exist for lesbian, gay, and bi people. Two further zones exist. In Zone 2 countries, sexual acts between people of the same sex are legal but no clear national employment protections exist on grounds of sexual orientation. In Zone 3 countries, sexual acts between people of the same sex are illegal.

FREEDOM OF EXPRESSION, ASSOCIATION AND ASSEMBLY

Articles 19 and 25 of the Constitution include the **right to freedom of speech and expression**. Articles 26 and 27 include the **right to freedom of association and assembly**.

LGBT people fall within these **general provisions** but there is **no explicit reference** to sexual orientation or gender identity.

The **right to freedom of assembly** is **subject to police regulations** guaranteeing public order and safety.

FAMILY AND RELATIONSHIPS

Sexual acts between people of the same sex are **legal**.

There is an **equal age of consent** of 16 years for sexual acts regardless of gender under Article 372 of the Penal Code.

Same-sex marriage was **introduced** by the Law of 13 February 2003, modifying the Belgian Civil Code.

Registered partnership is **open to all couples**, including same-sex couples under Law of 23 November 1998.

Trans people may legally **marry a person of the sex opposite** to their acquired gender under Article 143 of the Belgian Civil Code (modified by the Law of 13 February 2003).

Same-sex and different-sex adoption are **equal** under the Federal Law of 18 May 2006.

The wife of a biological mother of a child is automatically registered as a parent in accordance with the Law of 7 July 2014, which entered into force on 1 January 2015.

Two male parents do **not have automatic parental rights** according to Belgian law. They **need** to go through an **adoption procedure**.

EQUALITY AND EMPLOYMENT

Article 3 of the federal Anti-Discrimination Law of 10 May 2007 **explicitly prohibits discrimination on the grounds of sexual orientation and gender**. This **includes discrimination based on change of gender, gender identity and gender expression**. It covers a broad range of activities, including **employment**.

There are in total **11 legislative texts** aimed at **combating particular forms of discrimination**, including on the basis of sexual orientation and gender, which includes discrimination based on change of gender, gender identity and gender expression.

Article 10 of the Belgian Constitution states that 'the **Belgians**' are **equal before the law**.

Hate speech on the basis of **sexual orientation** is a **crime** under Article 22 of the 2007 Anti-Discrimination Law.

If certain 'common' **crimes** are **committed with a 'discriminatory' motive**, including on grounds of **sexual orientation**, it will **constitute aggravating circumstances in sentencing** (Law of 25 February 2003).

Blood or tissue donations by men who engage in sexual activity with men are **possible if the man did not engage in sexual activity with another man** for at least **12 months**, in accordance with the Law of 11 August 2017, which came into force on 7 September 2017.

GENDER IDENTITY

The Federal Transgender Law of 25 June 2017 provides trans and intersex people the **right to change their legal gender to male or female** as well as to **change their first name**.

The legal gender and first name **can be changed on all identification documents, including the birth certificate**. This applies to Belgian citizens and aliens enrolled in the population registers.

For a person **above the age of 18**, the **change of legal gender** is **subject to a written application and an advice of the public prosecutor** (to prevent fraud). The **procedure to change the legal gender takes three to six months**.

For a person **aged 16-17**, the **change of legal gender** is **subject to parental consent** and a **psychological opinion**, confirming that their decision was made freely.

A person aged **12-16** can **only change their first name** but not their legal gender. The **change of name** is **subject to parental consent or, in case of disagreement, via an ad hoc guardian appointed by family court. A written application is required**.

For a person **above the age of 18**, the **change of first name** is **subject to a written application** and a number of **documents** including birth certificate, proof of residence, extract criminal register. The procedure to change the first name **takes six months to one year**.

IMMIGRATION

The Aliens Act enables family **reunification between same-sex partners**. Under the Belgian Code of International Private Law, it is sufficient that one of the partners is from a country that permits same-sex marriage.

Immigration Law states that **persecution or ill-treatment on the ground of sexual orientation** is considered a **valid reason for granting asylum or subsidiary protection** in Belgium.

A VIEW FROM BELGIUM

Katrien Van Leirberghe is policy officer at Çavaria, an umbrella organisation comprised of over 120 member associations across the Flemish region in Belgium. The collective aims to address LGBT equality on a structural level.

Frank Schoenmakers is coordinator at RainbowHouse, home to different French-speaking and Flemish-speaking LGBTQI associations from Brussels.



What are the legal challenges LGBT people face in Belgium?

Katrien: There are especially large gaps and barriers in the legal framework governing gender identity and expression. Trans people are protected from discrimination in the workplace and other areas. They can also change their legal name and gender marker in every region in Belgium on the bases of self-determination. However, trans people can only change their gender to male or female and not, for example, to non-binary. When it comes to transphobic hate crime, it's still very difficult to prosecute, even when transphobic bias is an aggravating factor. This is the case for several reasons. The list of crimes to which the aggravating circumstance applies, is extremely limited for trans people. The criminal code also refers to "sex change", which is more limited than gender identity. At the police level, they do not always identify and properly register the biased motive, and further do not always send their reports to the public prosecutor. Cases that do get to the public prosecutor are often quickly closed as they don't consider hate crimes as a priority for prosecution, or because there is a lack of evidence (often because of flawed police actions). Another factor is that access to justice is very costly unless the person qualifies for free legal assistance. In order to qualify, the income must be close to the poverty line. At the same time, compensations for damage are relatively low.

Frank: In terms of laws affecting lesbian, gay and bi people, there is currently no law on surrogacy. As is the case for everyone else, it's therefore neither forbidden nor allowed, and also not properly regulated. However, the LGB community itself does not have a unified opinion on the issue yet, so for the moment we are mostly working on this issue internally. Another 'battle ground' in the coming years will be the rights of intersex persons. Medically unnecessary interventions are still being carried out on babies and children, obviously without their own consent, which is a severe violation of their bodily integrity. The parents' consent is often given under pressure from the doctor, and from a society with a persisting binary view on gender and sex. We should change society, not the bodies of intersex babies.

What are some of the problems LGBT people face in society in Belgium?

Katrien: Because we have a good legal framework, many people assume problems no longer exist for LGBT people. However, LGBT people in Belgium face social exclusion in every aspect of their lives. Mental health issues are prominent and suicide rates are higher than among non-LGBT people. Not a single organisation in the Flemish

region receives money from the Health Department to tackle these issues. There's also an underreporting of discrimination and violence against LGBT people, and so it's sometimes hard to know if we're working on the right issues. As for trans people, they often face administrative problems in regard to their name and gender on legal documents.

Frank: I agree that there's a gap between the legal framework and how we put it to use. The laws that exist need to be more consistently applied by authorities. LGBT people also need to be made aware of their rights and how to access them. In general, Belgium remains tolerant rather than accepting – it's OK to be LGBT unless you're 'too open' about it.

What is the workplace like for LGBT people?

Katrien: Research carried out by the University in the City of Brussels in 2014 has shown that 46 per cent of LGBT people are not out at work. Many feel that it might become a problem if they were to be open about their sexual orientation and gender identity. Equally, it's hard to convince employers that this is not a private issue.

Frank: Often non-LGBT people can be open about their private life while many LGBT employees who are not out have to hide it. This can be very subtle, for example when talking about your weekend in the kitchen at work, but can cause distress. The number of people not out in the workplace is shocking and increases as the position becomes more senior.

How can employers support their LGBT employees and the LGBT movement in Belgium?

Katrien: Employers need to make sure they have an open and safe workplace culture where LGBT people are not discriminated against, harassed and bullied. They need to be working at every level to ensure this. Anti-discrimination policies should be expressly inclusive of LGBT people and companies should also be outspoken about LGBT issues and equality. Companies should also reach out to LGBT organisations and listen to our expertise.

Frank: Companies are welcome to offer support to our movement but they must really mean it. It's not enough to simply march in a Pride parade while not having worked on diversity and inclusion issues internally. Inclusive companies should work towards equality at all levels.

LGBT INCLUSION IN THE WORKPLACE

THE FOUNDATIONS

There are several steps employers can take to start creating a supportive workplace environment for their LGBT employees in Belgium:

-  **Consult local LGBT organisations to understand the local context for LGBT people**
-  **Introduce explicitly LGBT-inclusive anti-discrimination and bullying and harassment policies**
-  **Train HR staff and promote inclusive policies**
-  **Carry out LGBT-inclusive diversity training**
-  **Encourage senior managers to promote their commitment to LGBT inclusion and equality**

NEXT STEPS

Once a foundation has been built, there are further steps employers can take to bring about positive change for LGBT people. For example:

-  **Audit and extend partner benefits to LGBT partners**
-  **Establish employee engagement mechanisms like LGBT networks and allies programmes**
-  **Carry out LGBT awareness-raising events**
-  **Partner with local LGBT groups to advance LGBT equality beyond the workplace**
-  **Work with suppliers and partners to advance LGBT workplace equality**

Employers can improve their initiatives by participating in Stonewall's Global Workplace Equality Index - a free benchmarking tool offering a clear roadmap to LGBT inclusion in the workplace. www.stonewall.org.uk/gwei



LEARN FROM STONEWALL'S GLOBAL DIVERSITY CHAMPIONS

Accenture

Accenture is committed to a diverse workplace and leads initiatives to create equal and inclusive supportive workplaces for LGBT employees in Belgium. New joiners at Accenture learn about diversity and inclusion, including LGBT issues, during their induction. Managers and recruitment staff members are required to participate in unconscious bias training. The firm has an LGBT and allies employee support network, sponsored by a senior management member. The network works to champion LGBT equality at Accenture and to make LGBT employees feel safe and supported. Despite the existence of progressive laws for LGBT people in Belgium, Accenture recognises that much remains to be done for societal equality and acceptance. To this end, the network raises awareness through internal and external events. These include workshops on LGBT-related topics, as well as participation in Belgium's annual Pride parade. Allies also play a huge role in fostering an inclusive work environment. They show visible support by wearing LGBT lanyards and online support by having an Accenture LGBT badge in their email signatures. The network is further committed to encouraging other employers in Belgium to champion LGBT inclusion and diversity in the workplace. In April 2016, Accenture partnered with other organisations to launch Open@Work in the Accenture Brussels Office, which has continued to grow. Open@Work offers space for exchanging best practices on LGBT and ally networks, and gives interested companies an opportunity to listen to talks, expand their business networks and attract diverse candidates. To further share best practice and continue to learn, Accenture supports and participates in several conferences on LGBT topics. Accenture also partners with Belgian LGBT organisations, such as Çavaria, KliQ vzw, The Rainbow House, and Maison Arc-en-Ciel de Liège, to support the wider LGBT community in advancing LGBT equality.



GET INVOLVED



THE ANNUAL LGBT CALENDAR

May – The Belgian Pride. www.pride.be

May – Brussels Pride Festival. www.rainbowhouse.be/en/projet/pride-festival-2

August – Antwerp Pride. www.antwerppride.eu

October – Tels Quels Festival. www.telsquels.be/festival

Check the events websites for the most up-to-date information on dates.



FIND LGBT GROUPS AND COMMUNITIES

Brussels Gay Sports – a group offering members the opportunity to practice sport and other activities in a welcoming and friendly setting. BGS is open to the LGBTQI community and allies. www.bgs.org

Çavaria – an umbrella organisation comprised of over 120-member associations across Belgium aiming to address LGBT equality on a structural level through policy work, campaigns, information service and training. www.cavaria.be

Égalité – an association of LGBT+ staff members of EU institutions. www.egalite-online.eu

ILGA Europe – an international organisation that lobbies for LGBTI rights on a European level. Based in Brussels, the group is affiliated with over 400 LGBTI organisations across 45 countries. www.ilga-europe.org

Maison Arc-en-Ciel de Liège - Alliège asb – an LGBT association based in Liège, focused on challenging discrimination, offering counselling services and referral to other groups across Belgium. www.macliege.be

Genres Pluriels – an organisation working to improve the visibility and rights of Belgium's trans community. www.genrespluriels.be

Homoparentalites – an association for gay and lesbian parents, offering legal support and organising meetings and activities for children and parents. www.homoparentalite.be

The Rainbow House – an LGBT information and training centre and home to different French-speaking and Flemish-speaking LGBTQI associations in Brussels. www.rainbowhouse.be

Tels Quels – an LGBT association focused on social and cultural activities. www.telsquels.be



GET LOCAL LGBT NEWS

Têtu – an LGBT news and lifestyle publication. www.tetu.com

ZiZo – a print and online LGBT news publication. www.zizo-online.be



STONEWALL'S GLOBAL DIVERSITY CHAMPIONS PROGRAMME WORKS WITH 55 ORGANISATIONS OPERATING IN BELGIUM.

Our team of workplace advisors offers tailored one-to-one advice on how to create LGBT-inclusive workplaces globally. If you would like to receive support or want to be featured as a case study in one of our Global Workplace Briefings, contact Stonewall.

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Every effort has been made to ensure that the information contained in this Global Workplace Briefing is correct as of July 2018. Introducing any new initiative requires careful consideration and the safety of staff should always be of paramount importance. This overview is for guidance purposes only and does not constitute, nor should it be interpreted as a substitute for, detailed legal advice. If you have any specific legal concerns, always consult with local legal experts. Stonewall Equality Ltd, Registered Charity No 1101255 (England and Wales) and SC039681 (Scotland)