

**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](http://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.

# SPAIN



Population: 48+ million



Stonewall Global Diversity Champions: 61



## 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.

Spain 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

Rights to **freedom of expression, association and assembly** are established in the Spanish Constitution as fundamental rights to which every Spanish citizen is entitled.

**LGBT** people and issues **are not specifically mentioned but have been included** by way of case law.

### 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.

**Same-sex marriage** was **legalised** in 2005, when the Spanish Parliament approved an amendment to Article 44 of the Civil Code.

As a result, there are **no marriage restrictions specific to trans people**.

**Same-sex couples can enter civil unions and registered partnerships** on the same terms as different-sex couples.

**Same-sex couples** (married and not married) **can adopt children jointly or through second parent adoption** under the same conditions as different-sex couples under Article 175.4 of the Civil Code, as amended by Law 13/2005 of 1 July.

### EQUALITY AND EMPLOYMENT

Article 17 of the Workers Statute provides **protection from discrimination**, among others, **on the grounds of sex, sexual orientation or 'condition' in employment**.

According to the case law of the Court of Justice of the EU, **gender identity is included** as discrimination on grounds of sex.

**Discrimination in employment** on these grounds is also **considered a criminal offence** under Article 314 of the Spanish Criminal Code.

Article 14 of the Spanish Constitution states that Spaniards are **equal before the law**. Sexual orientation and gender identity are not expressly included in the list of protected characteristics, but have been included by way of case law.

Article 510 of the **Criminal Code punishes hate crimes based on sexual orientation** with imprisonment from one to three years and a fine.

Article 22(4)(a) considers the commission of a **criminal offence based on sexual orientation** as an **aggravating circumstance**.

**Some regions** have enacted **laws promoting LGBT** rights but in general terms, there is no specific national law.

### GENDER IDENTITY

Trans people can **change their legal gender to female or male on all official documents** as provided by the Law Governing Sex Registry Information Rectification (2007).

Legal gender change is **subject to certain requirements**, such as a gender dysphoria diagnosis and proof of absence of personality disorder.

Additionally, the person has to **undergo medical treatment** for at least two years. Under certain circumstances, the individual can be exempted from the medical treatment.

### IMMIGRATION

In accordance with the Organic Law Governing the Rights and Liberties of Foreign People in Spain and their Social Inclusion (2000) if a person is allowed to legally reside in Spain, their partner or **spouse is allowed to reside** in Spain as well. This is **regardless of the genders** of the couple.



## A VIEW FROM SPAIN

**Jennifer Rebollo** and **Alberto Martín-Perez** are Director and Project Manager at the Spanish LGBT Federation (FELGBT). The organisation represents the collective interests of over 50 LGBT initiatives across Spain. FELGBT lobbies to secure legislative progress, offers community support, provides educational seminars and organises Pride events across Spain.



### What are the legal challenges LGBT people still face in Spain?

A lot of progress has been made regarding the legal equality of LGBT people in Spain. Spanish legislation prevents discrimination based on sexual orientation and gender identity. The 2005 Equal Marriage Law and the 2008 law for the change of name and sex in documents (so-called 'Gender Identity Law') provided the LGBT population with equal civil rights. However, obstacles to full effective equality remain.

At FELGBT we are lobbying for progressive legal changes in the areas of health, family life, trans issues, education, work and asylum law. This includes equal parental rights for unmarried same-sex parents as well as the prohibition of conversion therapies for LGBT people. Much needs to be done for the rights of trans people. At the moment, trans individuals are still required to undergo medical interventions to change their legal name and gender on identity documents. We would also like to see a right for trans people to access comprehensive healthcare according to their social, health and legal needs.

### What is the general situation for LGBT people in Spain and what are some of the barriers to inclusion?

A majority of Spanish people are, to varying degrees, accepting of LGBT people. For example, around 70 per cent of Spaniards supported marriage equality when it was achieved in 2005. On the other hand, some are still against progress and visible homophobia, biphobia and transphobia still exist.

In general, the lived situation for LGBT people can only be understood in relation to the general context in Spain. Due to the current economic and social crisis, there are high levels of poverty, child poverty and unemployment in Spain. This has an especially grave impact on the LGBT community. Unemployment rates are high in Spain in general, but even higher among trans people and people with HIV/AIDS. Many people are losing their homes, and again, trans people are highly affected by this. This highlights the fact that those affected by intersecting forms of inequality are hit the hardest in times of crisis.

### What is the workplace like for LGBT people in Spain?

Many LGBT people do not disclose their sexual orientation and gender identity due to fear of discrimination. A European Union study in 2012 showed that 44 per cent of Spaniards perceived that LGBT people were discriminated against at work. The study also showed that a high majority of lesbian, gay and bi employees were not out in the workplace. Having to hide who you are at work can be very distressing and isolating, and the lack of visibility remains an issue.

Some progress has been made however. In the last 15 years, there has been support from unions to tackle these issues, for example by creating protocols for inclusion. Corporations are also starting to understand the importance of diversity and inclusion. For instance, this year 25 companies have taken part in our project EMIDIS, where we assess the progress companies have made in matters of LGBT diversity in the workplace.

### What can employers do to support their LGBT employees?

Employers need to take positive action to create safe spaces for LGBT visibility. LGBT employees who know that they will be supported rather than discriminated against or bullied will feel more comfortable to be out and themselves at work. Employers can take several steps to create such a workplace culture. For example, senior staff can give speeches about the importance of diversity and inclusion. LGBT topics can also be included in events so that all employees can learn how sexual orientation and gender identity is relevant to a person's work life. Managers should be specifically trained on these issues. Employers should also make sure to use gender-neutral language – for instance when inviting an employee's partner to work events. Companies can also work with organisations like FELGBT to learn from our expertise.

## 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 Spain:

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| <ul style="list-style-type: none"> <li> <b>Consult local LGBT organisations to understand the local context for LGBT people</b></li> <li> <b>Introduce explicitly LGBT-inclusive anti-discrimination and bullying and harassment policies</b></li> </ul> | <ul style="list-style-type: none"> <li> <b>Train HR staff and promote inclusive policies</b></li> <li> <b>Carry out LGBT-inclusive diversity training</b></li> <li> <b>Encourage senior managers to promote their commitment to LGBT inclusion and equality</b></li> </ul> |
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### 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:

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| <ul style="list-style-type: none"> <li> <b>Audit and extend equal benefits to LGBT partners</b></li> <li> <b>Establish employee engagement mechanisms like LGBT networks and allies programmes</b></li> <li> <b>Carry out LGBT awareness-raising events</b></li> </ul> | <ul style="list-style-type: none"> <li> <b>Partner with local LGBT groups to advance LGBT equality beyond the workplace</b></li> <li> <b>Work with suppliers and partners to advance LGBT workplace equality</b></li> </ul> |
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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/gwei](http://www.stonewall.org/gwei)



## LEARN FROM STONEWALL'S GLOBAL DIVERSITY CHAMPIONS

### Procter and Gamble

2017 marked the 25th anniversary of the inclusion of sexual orientation and gender identity on Procter and Gamble's (P&G) global policies. This means that P&G's employee policies expressly ban discrimination and harassment based on sexual orientation and gender identity. P&G's commitment to LGBT equality can also be seen in its staff benefits, which apply equally to same-sex and different-sex couples in Spain. These include health insurance, life insurance plans, leaves of absence and perquisites like company cars and relocation support. P&G also requires all suppliers to follow the organisation's sustainable business guidelines. These include anti-discrimination clauses that explicitly refer to sexual orientation, gender identity and expression. GABLE is P&G's employee network for LGBT people and their allies. The Spanish GABLE chapter works to raise awareness and create equal and inclusive workplaces for LGBT people. This is achieved through internal and external training programmes, such as tailored trainings for upper and middle management as well as training on how to be an effective ally in the workplace. About 50 GABLE members and allies from 10 different countries participated in the LGBT World Pride event in Madrid in July 2017, wearing branded t-shirts and carrying P&G GABLE flags. Recognising the firm's LGBT diversity and inclusion efforts, P&G was named winner of the Spanish LGBT Federation's first ranking of LGBT-inclusive employers in 2016.



## GET INVOLVED



### THE ANNUAL LGBT CALENDAR

**June** – Barcelona Pride. [www.pridebarcelona.org](http://www.pridebarcelona.org)

**August** – Gay Pride Sitges. [www.gaysitgespride.com](http://www.gaysitgespride.com)

**June / July** – Madrid Pride. [www.gomadridpride.com](http://www.gomadridpride.com)

**September** – GayDay Madrid - Family Diversity Day. [www.gaydaymadrid.es](http://www.gaydaymadrid.es)

**November** – Winter Pride Maspalomas. [www.winterpridemaspalomas.com](http://www.winterpridemaspalomas.com)

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



### FIND LGBT GROUPS AND COMMUNITIES

**Aegal** – an association of companies, professionals and institutions directing their activities, products or services toward the LGBT community in Madrid and Madrid region. [www.aegal.es](http://www.aegal.es)

**Acropoli** – a group working on the social and legal equality of LGBT people and to eradicate LGBT-phobia. The group was started at the Polytechnic University but has since opened up to the community of Madrid. [www.arcopoli.org](http://www.arcopoli.org)

**Asociación Española de Transexuales** – a Madrid-based trans rights organisation focusing on a range of topics, such as health, research and the running of a workplace programme. [www.transexualia.org](http://www.transexualia.org)

**Casal Lambda** – a Barcelona-based community centre providing a safe space for LGBT people and offering information concerning LGBT-friendly

venues, employers and neighbourhoods. The group also campaigns for greater acceptance of LGBT people. [www.lambda.cat](http://www.lambda.cat)

**COGAM Colectivo LGBT+ de Madrid** – an organisation defending the human rights of LGBT people, transforming societal attitudes, promoting full legal and social equality, and eradicating discrimination based on sexual orientation, gender identity and HIV-status. [www.cogam.org](http://www.cogam.org)

**Federación Estatal de Lesbianas, Gays, Transexuales, y Bisexuales** – an umbrella organisation of over 50 LGBT initiatives lobbying to secure legislative progress, offering community support, providing educational seminars, and organising Pride events across Spain. [www.felgtb.org](http://www.felgtb.org)

**LesWorking** – a business networking group for lesbians and bi women. [www.lesworking.com](http://www.lesworking.com)



### GET LOCAL LGBT NEWS

**MagLes** – an online lifestyle publication for lesbians and bi women. [www.maglesrevista.es](http://www.maglesrevista.es)

**Shangay** – an LGBT news, culture and lifestyle magazine. [www.shangay.com](http://www.shangay.com)



## STONEWALL'S GLOBAL DIVERSITY CHAMPIONS PROGRAMME WORKS WITH 61 ORGANISATIONS OPERATING IN SPAIN.

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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Legal Partner



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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. The interview was conducted in 2016. 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)