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3.8. Persons with diverse SOGIESC (also referred to as LGBTIQ persons)

COMMON ANALYSIS
Last update: January 2025

This profile refers to persons who are perceived as not conforming to religious and/or social norms because of their sexual orientation (SO) and/or gender identity and expression (GIE), and sex characteristics (SC), including the treatment of lesbian, gay, bi-sexual or trans-gender, intersex and queer, also commonly referred to as (LGBTIQ) individuals.

The analysis below is based on the following EUAA COI report: Country Focus 2024, 3.2.1., 3.9.1., 4.12. Country Guidance should not be referred to as source of COI.

In Iran, same-sex relationships face severe social, religious, and legal prohibitions. The government labels homosexuality as 'faggotry' (*hamjensbazi*) and often refers to LGBTIQ individuals as 'deviant' and 'sick.' The Iranian legal system criminalizes same-sex acts under Islamic *hadd* crimes. Despite the legal acceptance of gender-affirming surgeries, transgender individuals face discrimination, lack of mental health support, and social stigma. They encounter physical and psychological abuse, with recent arrests highlighting ongoing persecution.

Persecution could be by the Iranian authorities or other actors, as well as by the family and/or the society in general, as there is a low societal tolerance in Iran for individuals with sexual orientation, gender identities or gender expression perceived as deviating from the ‘norm’.

Please also refer to Human rights defenders, activists, and lawyers for the general situation of human rights activists, and to Individuals perceived to have transgressed Islamic norms or laws.

Step 1: Do the reported acts amount to persecution?

Acts to which persons with diverse SOGIESC could be exposed are of such severe nature that they would amount to persecution. More specifically, The Penal Code stipulates the death penalty for certain same-sex acts. Same-sex relations between men (*livat*) and women (*mosahaqa*) can result in death or corporal punishment. Reports indicate that LGBTIQ individuals often suffer mistreatment and sexual violence in detention facilities. Also,

LGBTIQ persons in Iran frequently endure stigma, discrimination, and violence from various societal sectors such as their families, communities and even health care providers.

Activists advocating for LGBTIQ rights further experience censorship, harassment, arbitrary arrests, and can be accused of promoting homosexuality.

Step 2: What is the level of risk of persecution?

Given the criminalisation of same-sex acts with severe punishments including the death penalty, the widespread discrimination and social stigma reinforced by the authorities' hate speech, the (sexual) violence faced by LGBTIQ persons including in detention, the lack of mental health support and arbitrary arrests, it can be concluded that**, a well-founded fear of persecution would in general be substantiated for both persons with (perceived) SOGIESC and for activists and lawyers advocating for LGBTIQ rights, since they may be perceived as promoting anti-Islamic behaviour.**

It has to be noted that an applicant cannot be expected to conceal their sexual orientation or gender identity to avoid persecution19

Step 3: Is there a ground for persecution?

Where well-founded fear of persecution is substantiated for an applicant falling under this profile, this is highly likely to be for reasons of membership of a particular social group, based on a shared characteristic or belief that is so fundamental to the identity of the applicant, that they should not be forced to renounce it, and based on their distinct identity in Iran, because they are perceived as being different by the surrounding society20. Persecution of individuals under this profile may also be for reasons of religion, since the Iranian legal system criminalizes same-sex acts under Islamic *hadd* crimes.

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  CJEU, *Minister voor Immigratie en Asiel* v *X and Y and Z*, joined cases C-199/12 to C-201/12 judgment of 7 November 2013, *X and Y and Z*, paras. 70-76, https://curia.europa.eu/juris/document/document.jsf?text=&docid=144215&pageIndex=0&doclan

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  CJEU, *Minister voor Immigratie en Asiel* v *X and Y and Z*, joined cases C-199/12 to C-201/12 judgment of 7 November 2013, *X and Y and Z*, paras. 45-49, https://curia.europa.eu/juris/document/document.jsf?text=&docid=144215&pageIndex=0&doclan

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