

3.15. Persons with diverse SOGIESC

COMMON ANALYSIS
Last update: June 2026

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

For issues related to the practice of *bacha bazi*, which is not considered homosexuality in the Afghan society, see 3.14.1. Violence against children.

The analysis below is based on the following EUAA COI products: COI Update 2026, 1.; Country Focus 2026, 4.5.; Country Focus 2024, 4.5.; Country Guidance should not be referred to as a source of COI.

Having a norm-breaking sexual orientation or gender identity entails taboos and social stigma in the general Afghan society. Already prior to the Taliban takeover, individuals identifying as LGBTIQ+ were in a precarious situation. Persons with diverse SOGIESC have been subjected to different forms of violence by several actors including by the Taliban or other armed groups, as well as by the family and/or the society in general, as there is a low societal tolerance in Afghanistan for individuals with sexual orientation or gender identities deviating from the 'norm'.

Additionally, in 2026, the *de facto* government issued a 'Criminal Procedure Code for Courts'. Although there is currently no available information about its implementation, it is reported that the law prescribes penalties for homosexual individuals and instructs judges to issue two years' imprisonment to someone who has committed a 'homosexual act', and in the case of a 'habitual homosexual', the person may be sentenced to death if authorised by the state.

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. The 'Morality Law' contains specific prohibitions against 'lesbianism' and anal intercourse and the enabling of 'opportunities and means' for same sex relationships. The *de facto* authorities have been enforcing judicially ordered corporal punishment in public, including stoning, wall crushing and flogging. LGBTIQ+

persons reportedly have been facing arbitrary arrests, sexual violence, and extrajudicial killings, including in detention facilities, possibly amounting to torture, based on their sexual orientation or gender identity. Transgender persons reportedly faced genital mutilation, electric shock therapy, and gang rape while imprisoned as well as abduction and sexual assault. Since February 2023, Taliban have increasingly targeted LGBTIQ+ persons, including collecting intelligence on activists and community members, 'hunting them down' and 'subjecting them to violence and humiliation'.

See also 3.7. Critics of the Taliban including protesters, activists, human rights defenders, and human rights lawyers.

Family members of individuals under this profile may also have a well-founded fear of persecution as reprisals against them such as detention, threats, and physical violence, have been documented.

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

A well-founded fear of persecution would in general be substantiated for persons with diverse SOGIESC in light of the serious and widespread nature of the acts committed against them as well as the criminalisation and specific prohibitions included in the 'Morality Law'.

It has to be noted that an applicant cannot be expected to adapt or his or her behaviour, convictions or identity, or to abstain from certain practices, where such behaviour, convictions or practices are inherent to his or her identity, to avoid the risk of persecution in his or her country of origin19.

In the case of a female applicant under this profile, it is reminded that in light of the current situation, a well-founded fear of persecution would in general be substantiated for Afghan women and girls.

For additional information, see 3.13. Women and girls

Step 3: Is there a ground for persecution?

Persecution of individuals under this profile is highly likely to be for reasons of **membership of a particular social group**20, based on a shared characteristic or belief that is so fundamental to the identity of the applicant, that he or she should not be forced to renounce it, and based on their distinct identity in Afghanistan, because they are perceived as being different by the surrounding society, as well as **religion**, as having a diverse SOGIESC is considered to contravene Islam.

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Art 10 (3) QR: '*When assessing if an applicant has a well-founded fear of being persecuted, the determining authority cannot reasonably expect that applicant to adapt or change his or her behaviour, convictions or identity, or to abstain from certain practices, where such behaviour, convictions or practices are inherent to his or her identity, to avoid the risk of persecution in his or her country of origin'*, *Regulation - EU - 2024/1347 - EN - EUR-Lex*.

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  Art. 10 (1) QR: '*Depending on the circumstances in the country of origin, the concept of membership of a particular social group as referred to in point (d) of the first subparagraph shall include membership of a group based on a common characteristic of sexual orientation. Gender related aspects, including gender identity and gender expression, shall be given due consideration for the purposes of determining membership of a particular social group or identifying a characteristic of such a group*', Regulation - EU - 2024/1347 - EN - EUR-Lex.

  The existence of criminal laws, which specifically target homosexuals, supports the finding that those persons must be regarded as forming a particular social group. CJEU, Minister voor Immigratie en Asiel v X and Y and Z, Joined Cases C-199/12 to C-201/12, Fourth Chamber, judgment of 7 November 2013, paras. 48-49.

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