

Flygtningenævnets baggrundsmateriale

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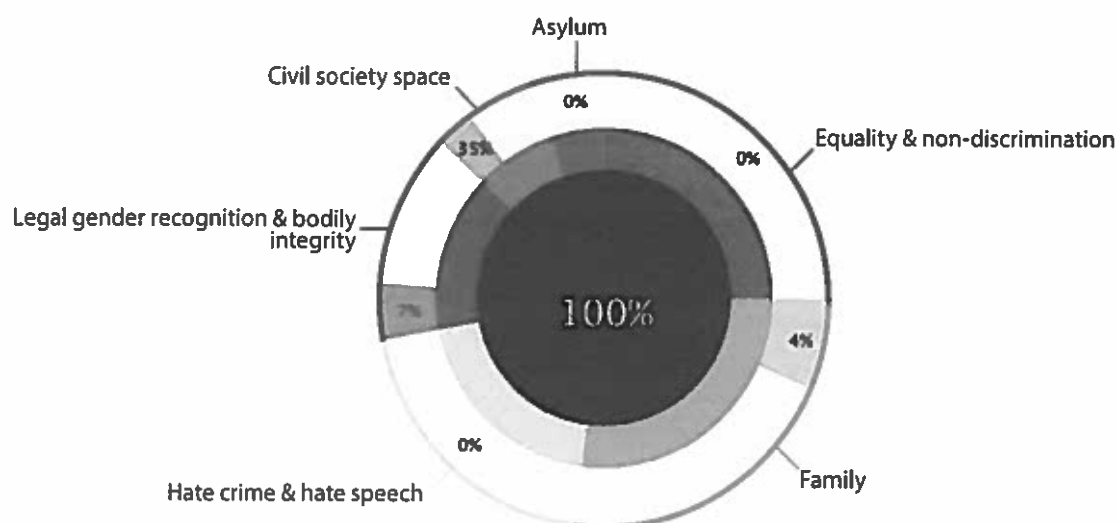
Azerbaijan



The landscape for creating change for LGBTI people did not change drastically in 2016. Azerbaijan's legal and policy framework looks pretty much as it did during our previous Rainbow Europe assessment. An examination of the legal and policy criteria shows that LGBTI people continue to be faced with a near total absence of legal protection. Even the limited number of updates available from activists on the ground, and consequently the short length of the chapter, speaks volumes about the lack of developments in 2016. This minimal protection was emphasised by the Council of Europe, who noted that ongoing discrimination makes LGBTI people feel the need to hide their identities. ECRI, the Council of Europe monitoring body, put together a list of recommendations, including protecting LGBTI people against hate crime and encouraging the independent work of civil society. Local groups also received several worrying reports from LGBT people, who had been targeted by police raids in the capital city or blackmailed because of their sexual orientation, gender identity or gender expression.

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 **Azerbaijan** as of 31 December 2016



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

- ➡ Giving LGBTI people protection under the constitution, by expressly referring to sexual orientation, gender identity and sex characteristics.
- ➡ Introducing hate crime laws that explicitly cover all bias-motivated crimes based on sexual orientation, gender identity and sex characteristics.
- ➡ Introducing hate speech laws that explicitly include sexual orientation, gender identity and sex characteristics as protected grounds.

Bodily integrity

- In September, the Ministry of Health commented on an operation carried out on a 12-year-old intersex child. The operation took place at a private clinic in Baku and the Ministry stated in media reports that they "...received the relevant documents from the Ministry of Health and Forensic Medicine, which allow us to do this operation. This operation is carried out lawfully. Even a little bit too late. This operation should be carried out before the child is aware of their gender."

Equality and non-discrimination

- As part of its five-year monitoring cycle, the European Commission against Racism and Intolerance (ECRI) published a report on Azerbaijan on 7 June. ECRI noted that, since its last reporting cycle, some LGBT civil society groups had been set up and commended police protection of LGBT people during events such as the 2012 Eurovision Song Contest in Baku. The report goes on to note that LGBT people are the targets of hate speech and violence; some attacks perpetrated by the victims' own family members. The lack of any legal text to protect LGBT people from discrimination was pointed out, forcing many LGBT people to hide their identities on a daily basis. Among ECRI's recommendations were using the Law on the Prevention of Domestic Violence to protect LGBT people against hate crime, adopting and implementing an LGBT action plan, and to encourage the development of independent civil society.

Freedom of expression

- Several domain names were blocked by IntraNS (the national company authorised to register web domain names) in 2016. The blocked domains included *lgbt.az*, *lezbi.az* and *gey.az*. According to IntraNS, these sites were blocked after homophobic messages and threats had been sent to the previous owners of the domain names. However, the previous owners of *lgbt.az* stated they had not filed any complaints or received threats regarding their domain ownership; they did say that they had received a phone call from IntraNS asking them to change the domain name. Subsequently, the Ministry of

Communications expressed surprise at the situation in June, as there is no legal regulation that covers this particular situation (entering domain names on a blacklist following complaints of threats).

Freedom from torture, cruel, inhuman or degrading treatment

- On 27 August, several gay men, trans people and sex workers were detained following raids in Baku city centre by police from the Sabail district. One of the victims of the raids later recounted the incident to a local organisation (they also reported the incident to the Ministry of Internal Affairs). According to the victim, he was detained along with about 30 other gay men, trans people and sex workers. They were kept in police custody from 1am until 10am; the Criminal Procedure Code states that such detentions should not exceed three hours. The police told the detainees that tourists from Middle Eastern countries had complained about their behaviour, calling the behaviour of sex workers a 'disgrace'. One tourist also alleged they had been robbed by a sex worker. (The number of tourists arriving from neighbouring Arab countries had increased substantially in 2016, after a simplified visa regime was introduced by the government.) The victim of the police raid who came forward to personally report the incident met with the police authorities to discuss what happened. He was later asked by the Ministry of the Interior to withdraw the complaint on the assurance that he would receive an official apology from the police. No apology had been issued by the end of 2016. Following the 27 August raids, the local organisation received 16 calls from individuals reporting that they had been targeted by police in a similar way in raids in Baku.

- In 2016, the same local organisation also received reports of two cases where LGBT people were blackmailed by police officers who threatened to disclose personal information at the individual's homes or places of work.