

4. Aspects specific to LGBTI

4.1 What information do I have to provide about my identity and sexuality?

It is essential that LGBTI persons reveal their sexual orientation and/or gender identity and/or sex characteristics (SOGISC) in the asylum procedure. Know that the process is strictly confidential in nature and that the information you will provide in the process is not shared. As part of this, they must also answer questions about their private life, their self-discovery and their previous relationships. However, questions about their sexual practices are forbidden. Photos and videos with sexual content are not accepted as evidence.

4.2 What can I do if I did not “come out” during the asylum procedure?

If the result of the asylum application is negative, there is usually no opportunity for another interview in which you could provide additional reasons for leaving the country of origin. This is why it is important to specify your SOGISC right from the start of the asylum procedure as a reason for fleeing your country. Sharing information about your SOGISC is important for asylum authorities to provide you with adequate medical attention, accommodation and help you meet any other needs you have.

4.3 Will I be granted asylum if I did not live openly as a LGBTI person in my country of origin?

It is not necessary that you live openly as a LGBTI person in your country of origin in order to be granted international protection. For example, if a gay or bisexual person is married, this does not necessarily mean that you will not be believed that you are gay/homosexual, bisexual, transgender. If you had to flee your country due to your SOGISC and you face persecution upon return you can be granted asylum. It cannot be expected of you to hide your SOGISC upon your return in order to avoid persecution.

4.4 Does discrimination against LGBTI constitute grounds for asylum?

Insults, abstract threats, and homophobic or transphobic attitudes held by the majority of society are not in themselves grounds for asylum. However, if discrimination in the asylum seeker's home country is of a sufficiently serious nature or sufficiently repetitive as to constitute a serious violation of fundamental human rights, this does constitute grounds for asylum. This may also be true in the case of exclusion from education, health care or the job market.

4.5 If I fled my country for being persecuted on grounds other than my sexual orientation, gender identity and/or sex characteristics (SOGISC), is it still important for me to disclose this information?

Some LGBTI persons may flee their country because of war, major natural disasters (such as earthquakes, floods...) or for being persecuted based on religion, political persuasions or/and other personal background and/or characteristics. In this case, all the information in chapters 2 and 3 still apply to you. However, it is advisable to share information about your SOGISC to the asylum authorities or social workers, nurses, NGO workers... at an asylum home. This information will help them provide you with adequate medical attention, accommodation and help you meet any other needs you have.

LEGEBITRA

Legebitra is a LGBTI civil society organization, active in the fields of human rights, education, mental, physical and sexual health, and advocates social and systemic changes based on respect of sexual orientation, gender identity, gender expression and/or sex characteristics.

We provide:


- support during and after the asylum procedure,
- legal advice,
- link between asylum seekers and LGBTI friendly attorneys,
- useful information about the asylum procedure and about Slovenia.


More about Legebitra on our website:

 www.legebitra.si/en



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Maša

This leaflet is based on Short Guide for Lesbian, Gay, Bisexual, Trans+ and Intert+ (LGBTI) Refugees in Germany, published by Lesben- und Schwulenverband in Deutschland (LSVD) as a part of their Queer Refugees Deutschland project.

ASYLUM PROCEDURE: INFORMATION FOR LESBIAN, GAY, BISEXUAL, TRANS AND INTERSEX PERSONS



LEGEBITRA

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Published with the help of
Amnesty International Slovenije

1. LGBTI in Slovenia

In Slovenia, the discrimination against lesbian, gay, bisexual, transgender or intersex (LGBTI) persons is prohibited by law. Legally, police and courts are committed to protect LGBTI persons. Unfortunately, this does not mean that people do not experience violence or discrimination. However, if someone experiences violence and/or discrimination for being LGBTI, they can report it to the police or Legebitra (contacts listed at the end). It is not illegal to be LGBTI in Slovenia. Same-sex partners can enter into a marriage or form a cohabitation (a long-term domestic community of two people who are not married). The law also provides the possibility for legal gender recognition.

2. Protection for LGBTI asylum seekers in Slovenia

2.1 In which case/ circumstances are LGBTI asylum seekers granted asylum in Slovenia?

LGBTI persons who are being persecuted in their country of origin because of their membership of a particular social group (LGBTI) can apply for asylum in Slovenia. Persecution means being threatened with violence, death, imprisonment or other severe violations of fundamental human rights in your country of origin due to your sexual orientation and/or gender identity and/or sex characteristics (SOGISC).

2.2 When does state persecution constitute grounds for asylum?

The nature or frequency/repetitiveness of the acts of persecution or discrimination by the state must be sufficiently serious as to constitute a serious violation of fundamental human rights.

2.3 When does persecution by family member(s) (non-state persecution) constitute grounds for asylum?

If the persecutor is a non-state actor (family members, society etc.) rather than a state entity (police, judiciary etc.), the persecution can constitute grounds for asylum if the state is unable or unwilling to provide protection against persecution or serious harm.

This means that violence and threats of violence from family members or others can only amount to persecution and therefore the right for the victim to be granted/entitled asylum if evidence shows it can be demonstrated that the victim would not be protected by the police or other authority and cannot be safe even if moving to another part of the country.

3. The asylum procedure

3.1 Where will I live during the asylum procedure?

In normal circumstances, during the asylum procedure, you will live in the Asylum home or its branch. The procedure of international protection at first instance takes place at the Ministry of Interior, in the offices of the International Protection Procedures Division, located at Ljubljana – Vič.

Prior to submitting the application (and before the medical examination), you will be first housed in the reception rooms of the Asylum home (usually for a day, exceptionally longer) or its branch Logatec. After your application is submitted, you will be accommodated in the Asylum home or its branch.

3.2 How does the asylum procedure work?

In the Republic of Slovenia, the third country nationals can apply for international protection (asylum). The procedure is divided into two parts: first, the applicant expresses his/her intention to file an application for international protection to the police, and then the applicant submits an application for international protection during their first interview at the Ministry of Interior. Later the applicant has a second interview (in about two to three weeks) – a so called personal interview, where the decision maker asks detailed questions about the applicant's reasons for which he/she is seeking asylum and about any other important facts and circumstances that may be relevant for the decision of the Ministry to grant the status of international protection.

You can read more about the asylum procedure on our website:

<https://lgbtpravice.si/novosti/international-protection/>



3.3 What will my first interview be like?

During the first interview, you will be asked about your personal information, the route you took from your country of origin to Slovenia, your personal documents (ID, passport...), information about your family, potential prior applications for asylum in Slovenia or any other country, the reasons why you are applying for asylum, etc. ...

It is very important that you actively participate in the interview, you pay attention to details and remember what you said during the interview. You must accurately and truthfully present your story. When describing important events, you should tell when and where they occurred. You should give reasons and explain why you would be at risk if you would return to your country. If the officer asks you for some evidence (documents, photographs and any other evidence that are relevant and can prove your story and the reasons why you had to leave your country), you should pay attention to the deadline the officer gives you for submitting the evidence.

3.4 How should I prepare for my first interview?

To prepare for your first interview, you should think about the questions listed above, if possible, write down or practice your answers, since it is very important to remember as accurately as possible all relevant information that you will be asked at the first interview. Remember that similar, but more precise questions will follow at the second interview – if you provide similar answers and there are no huge mistakes or contradictions between your statements, this will confirm your credibility.

3.5 What happens during the second interview? (reasons for seeking asylum)

The second interview focuses on the reasons why you fled your country. You must describe this clearly and in specific detail, without omissions or contradictions. Do not lie because this usually leads to the application being rejected. After the official has finished asking you questions, the transcript is translated to you. Listen very carefully and point out if there are any mistakes - correct them if there is something in the transcript/minutes you did not say, you said in a different way or if there is something missing. This is very important, since you will have to sign it and it will become valid – a final version of your story or/and reason(s) to seek asylum.

3.6 What is the Dublin system?

After the first interview, your fingerprints will be entered into the EURODAC database. This is how the authorities are able to determine whether you have already applied for asylum in another European Union (EU) member state or have transited through another EU member state without proper documents... If so, you can be returned to that country.