

2014-05-23

Fråga-svar

Situationen för HBTQ-personer i Kazakstan

Fråga

1. Kan HBTQ-personer få skydd av statliga myndigheter i Kazakstan?
2. Hur ser den rådande normen i samhället ut avseende HBTQ-personer och deras rättigheter?
3. Finns det någon organisation som arbetar för HBTQ-personers rättigheter i Kazakstan?

Svar

Polis

US Department of State (2014):

LGBT individuals whose sexual orientation became publicly known risked physical and verbal abuse, possible loss of work, and unwanted attention from police and authorities

NGOs reported that members of the LGBT community seldom turned to law enforcement agencies to report violence against them, because they feared hostility, ridicule, and occasionally violence. Additionally, they did not want law enforcement officers to notify their employers of their sexual orientation. . (sid. 32)

Amnesty International (2010):

According to information received by Amnesty International, law enforcement officials often do not abide by the existing law on detention, as they fail to register detainees within the required three hours after an individual has been deprived of their liberty. (sid. 10-11)

Amnesty International has been told that detaining law enforcement officials often offer detainees the option of not being brought into and registered at the police station in exchange for a bribe. Such bribes reportedly constitute important sources of income for more junior police officers. ..(sid. 12)

Domstolar och åklagarväsende

US Department of State (2014):

Although the judiciary has the authority to deny or grant arrest warrants, judges authorized prosecutors' warrant requests in the vast majority of cases... (sid. 6)

Corruption was evident at every stage of the judicial process. Although judges were among the most highly paid government employees, lawyers and human rights monitors alleged that judges, prosecutors, and other officials solicited bribes in exchange for favorable rulings in the majority of criminal cases. (sid. 7)

Economic and administrative court judges handle civil cases under a court structure that largely mirrors the criminal court structure. Although the law and constitution provide for judicial resolution of civil disputes, observers viewed civil courts as corrupt and unreliable.(sid. 10)

Amnesty International (2010):

Amnesty International was told that the judiciary in Kazakhstan is still working on a score card principle in which the efficiency and quality of a judge in Kazakhstan is based on the number of convictions he or she hands down. A high conviction rate is seen as a sign of a good and successful judge and therefore judges are reluctant to acquit or to send a case for re-investigation as promotion and career prospects may be jeopardized by a lower than 95 per cent conviction rate. (sid. 26)

Lagstiftning

International Lesbian, Gay, Bisexual, Trans and Intersex Association, ILGA (2014):

A Kazakh lawmaker wants 'lesbianism' banned alongside sex between men as the country considers a new Criminal Code.

US Department of State (2014):

The country does not criminalize consensual same-sex sexual activity. Although there were no government statistics on discrimination or violence based on sexual orientation or gender identity, there were reports of such actions. According to representatives of international and local organizations, negative social attitudes towards marginalized groups, including LGBT persons, impeded willingness of these groups to come forward, organize, or seek access to HIV/AIDS programs. LGBT individuals, particularly gay men, were among the most oppressed groups. (sid. 31)

EurasiaNet (2 oktober 2013):

A member of Kazakhstan's parliament has called for a new law banning "homosexual relations," upping the ante in the homophobic rhetoric that erupts from time to time in the legislature.

Freedom House (2013):

Kazakhstan decriminalized homosexual activity in 1998, but LGBT (lesbian, gay, bisexual, and transgender) people continue to face societal discrimination.

UN Human Rights Committee (2011):

The situation of lesbian, gay, bisexual and transgender (LGBT) persons in Kazakhstan continue to raise concerns of human rights organizations. There is no special anti-discriminatory legislation in Kazakhstan that also includes prevention of discrimination on the grounds of sexual orientation. The absence of legal mechanisms protecting homosexual people from discrimination causes serious problems in practice. This leads to violations and abuses not only from the public, but also from the law enforcement bodies...(sid. 37)

Republic of Kazakhstan , *The criminal code of the Republic of Kazakhstan*,
Law No. 167 of 16 July 1997:

Article 121. Violent Actions of a Sexual Character

1. Sodomy, lesbianism, or other acts of a sexual character accompanied by violence or a threat of violence with regard to a given victim (male or female), or to other persons, or with the use of the helpless state of a given victim, -
shall be punished by deprivation of freedom for a period from three up to five years.

Article 122. Sexual Intercourse and Other Actions of a Sexual Character with a Person Under Sixteen Years of Age

Sexual intercourse, sodomy, or lesbianism or other acts of sexual nature, with a person who did not reach sixteen years of age, the guilty party being aware of that fact, -
shall be punished by restriction of freedom for a period up to three years, or by detention under arrest for a period up to six months, or deprivation of freedom for a period up to five years.

Article 123. Coercion into Sexual Intercourse, Sodomy, Lesbianism, or Other Actions of a Sexual Character

Coercion of a person to engage in sexual intercourse, sodomy, lesbianism, or the commission of other actions of a sexual character by way of intimidation, threatening with destruction, damage, or withdrawal of property, or with the use of material or other dependence of a victim, -
shall be punished by a fine in an amount from two hundred up to five hundred monthly assessment indices, or in an amount of wages or other income of a given convict for a period from two to five months, or by correctional labour for a period up to two years, or be deprivation of freedom for a period up to two years.

International Lesbian, Gay, Bisexual, Trans and Intersex Association, ILGA (odaterad):

ILGA redovisar på sin webb-sida lagstiftning inom flera områden gällande HBTQ personer i Kazakstan.

<http://ilga.org/ilga/en/countries/KAZAKHSTAN/Law>

Den rådande normen i samhället ut avseende HBTQ-personer

EurasiaNet (22 oktober 2013):

Homophobic rhetoric is on the rise in Kazakhstan, and members of the country's gay and transsexual community are bracing for a possible legislative assault on their rights.

Tengrinews (2013):

Ramil Khassanov from Almaty oblast famous for being the first Kazakhstan transsexual to openly talk about his sexual preferences in one of Kazakhstan's TV shows lost his housing and property to fire, KTK reports.

UN Human Rights Committee (2011):

Research revealed that LGBT people are often subject to discrimination in the workplace, at school and university, when they seek housing and healthcare, and in their contacts with members of the clergy. More than a quarter of the respondents (27.4%) have experienced acts of homophobic or transphobic physical aggression or assault, including battery, sexual harassment, pushing, hitting, kicking, and sexual assault. Violence usually occurs in public places. In some cases, violent homophobes seek out targets for assault in places where LGBT people are known to gather. In most cases (74.5%), the victims of violence did not report the incident to the police due lack of confidence in protection and remedy available through legal means. Attempts to report homophobic and transphobic violence to police are often met with resistance and even hostility on the part of law enforcement officers. Transgender people in Kazakhstan face additional legal problems due to conflicting legal regulations relating to issuance of identity documents and performing sexual reassignment surgery. Thus in practice, government agencies refuse to issue new identity documents to change the social gender of applicants before conducting sexual reassignment surgery. The medical institutions are not allowed to perform sexual reassignment surgery without prior changing the social gender, i.e. obtaining new identity documents. As a result, the individuals are in the legal gap, which create number difficulties in the exercise of their civil rights. (sid. 38)

Global Gayz (2011):

Artikel som refererar till Lesbian, Gay & Bisexual US Peace Corps Alumni August 2009:

Intro: There is very little reliable information about gay life in Kazakhstan on the internet, but here is one first-hand report from a former Peace Corps volunteer

I found that many gay men in Kazakhstan and Russia understand their sexuality only in terms of sex. There are many men who still believe in getting married and having children because that is what

you are supposed to do. Many of these married men seek sexual release from gay friends (many of whom are also married)....

Amnesty International (2010):

According to information received by Amnesty International most instances of torture or other ill-treatment occur before the “formal detention” of a suspect, i.e. before the detained person is registered at the police station. (sid. 10)

Frivilligorganisationer och stödgrupper

EurasiaNet (22 oktober 2013):

Amid the outbursts, Kazakhstani gay-rights non-governmental organizations (NGOs) are keeping a low profile: NGO representatives have issued no statements and did not respond to EurasiaNet.org's requests for comment.

Denna sammanställning av information/länkar är baserad på informationssökningar gjorda under en begränsad tid. Den är sammanställd utifrån noggrant utvalda och allmänt tillgängliga informationskällor. Alla använda källor refereras. All information som presenteras, med undantag av obestridda/uppenbara fakta, har dubbelkontrollerats om inget annat anges. Sammanställningen gör inte anspråk på att vara uttömmande och bör inte tillmätas exklusivt bevisvärde i samband med avgörandet av ett enskilt ärende. Informationen i sammanställningen återspeglar inte nödvändigtvis Migrationsverkets officiella ståndpunkt i en viss fråga och det finns ingen avsikt att genom sammanställningen göra politiska ställningstaganden. Refererade dokument bör läsas i sitt sammanhang.

Källförteckning

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