## Submission to the United Nations Special Rapporteur on Freedom of Opinion and Expression to the UN Human Rights Council:

## Violations against Freedom of Expression of LGBTI+ people in Turkey

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**Submitted on behalf of Kaos GL**

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**Violations against freedom of expression of LGBTI+ people in Republic of Turkey**

**Executive Summary**

This submission presents violations against freedom of expression of LGBTI+ peoplein Turkey on account of actual or perceived SOGI. In preparing this submission, we relied on documentation and data from the following sources: LGBT organizations and allies in Turkey; reports by national and international human rights NGOs; parallel report related to the discrimination and violence against LGBTI+ people in Turkey, Submitted for the 81st session of the CEDAW in May 2022 and prepared by ERA - LGBTI Equal Rights Association for Western Balkans and Turkey, Free Colours Association, Kaos GL, Pink Life LGBTI+ Solidarity Association, Social Policy, Gender Identity and Sexual Orientation Studies Association (SPoD); and media reports of violence and discrimination against LGBTI+individuals.

**Kaos Gay and Lesbian Cultural Research and Solidarity Association** **(Kaos GL)**, established in 1994, conducts activities in many different fields such as law, education, art and culture, supporting refugees, mental health, LGBTI+ journalism, politics to endorse achievements to be done in this framework so that LGBTI+s may embrace freedom, justice and peace as their fundamental values.

**Political Context in Turkey**

Turkey’s state produced LGBTI+phobia and anti-human rights rhetoric continues an upward trend.  The recent years are marked by strong discriminatory speech coming from the President Recep Tayyip Erdoğan[[1]](#footnote-1) as well as the other high-level public authorities such as Minister of Interior Affairs[[2]](#footnote-2) and President of Religious Affairs[[3]](#footnote-3). That contributes towards the recorded increase of hate crimes and other bias-motivated incidents, including domestic violence, gender-based violence and discrimination based on SOGI.

In 2021, Turkey announced withdrawal from the IC and reports of arbitrary obstacles created by government officials against women applying to Law No. 6284 have increased drastically following the withdrawal.

Recently, Tarlabaşı Community Center Association[[4]](#footnote-4) and Stop Women Femicide Platform[[5]](#footnote-5) face closure risks for their SOGI related activities.

Not only does the Turkish government discriminate against LGBTI+persons, but it also prevents the few local administrations from introducing LGBTI+persons-inclusive policies and practices. Thus, the Civil Inspection Board of the Ministry of Interior Affairs demanded information from several municipalities and city councils about whether they are engaged in any work concerning LGBTI+persons. Several municipalities faced audits due to social media posts supporting Pride Week 2019. A criminal investigation was launched against the Director of Media, Publications and Public Relations of one municipality due to his authorization for the social media posts concerning pride week.

The National Human Rights Body is still failing to include SOGI under Law on Turkey’s Human Rights and Equality Institution (Law No. 6701). De-facto ban on LGBTI+ public events in several cities is still imposed. All of this is positioning LGBTI+persons, especially those with intersected identities, in a most marginalized position with limited access to protection, rights and services.

As a result of the discussions revolving around citizens’ wearing a headscarf and the concept of family, amendments on articles 24 and 41 of the Constitution of Turkey have been proposed.

At a time of conflict shaped by the social polarization created by the state, the political climate is far from entailing amendments in the constitution. The LGBTI+ community in Turkey is already denied access to their limited rights in the existing constitution. It would, therefore, be unrealistic to expect an LGBTI+ inclusive amendment by those whose political agenda involves anti-LGBTI+ campaigns.

The existence of LGBTI+persons is used to announce a crisis in the sacred family portrait, which perpetuates hateful discourse, and hate crimes against them. The constitutional amendment bill of the government is itself against the constitutional principle of equality and points out to a type of discrimination perpetuated by law.

LGBTI+persons are murdered, ignored, excluded from public sphere, denied access to education, employment, health, and justice. In a political environment where LGBTI+persons are denied their fundamental rights and freedoms, it seems unrealistic to discuss LGBTI+ issues as an issue of social rights. Through such discussions, LGBTI+persons are made targets of hatred and hostility and denied their fundamental rights and freedoms.

**Havle Women’s Association has been targeted by Radical Islamists for supporting LGBTI+ people very recently**

As part of the recent campaign against the new constitutional amendment proposed by AKP, Havle Women’s Association has signed a statement urging the opposition to say no to the amendment, alongside 170 other feminist and LGBTI+ organizations on December 27th, 2022.

On January 7th, a Twitter account named Daily Islamist with a following of 81,3k users reported on Havle’s position regarding the amendment, along with the association’s logo and its founder’s photo, further claiming within the same tweet flood that Havle is “often mentioned amongst the LGBT organizations that are funded by Switzerland, Germany, Netherlands, France and Sweden”. With this tweets that are viewed over 400k times as of January 12th, Havle has been the target of an intense flow of threats and insults on social media.

The next day a far-right Islamist group called Islambol Tarih has found an old address of the association registered in Google maps and hanged posters that has the slogan “Masonic Lodges LGBT Organizations should be shut down!” alongside of the portraits of the last three Ottoman Sultans in the building and on the door indicated in the address, also posting about their action in their Instagram account. Daily Islamist on Twitter also reported on this activity, drawing more and prolonged attention to the Association, and proving further platform for hate speech and targeting.

Several other social media platforms and newspapers such as Yeni Akit has picked up the the news and spread false information on the Association, often targeting them as “spies” that work for Western countries. The association and its personally targeted founder have received countless insults and threats including death threats via emails, contact form on their website, social media direct messages, comments, and replies[[6]](#footnote-6).

**1. Lack of Domestic Legal Protection for LGBTI+ Individuals in Turkey**

Domestic legal provisions do not explicitly discriminate against individuals on the basis of SOGI. However, there are numerous examples of discriminatory applications of the laws being against LGBTI+persons. In addition, the lack of explicit legal protection for LGBTI+individuals have amounted to a tacit legal endorsement of acts of violence and discrimination. SOGI remains unprotected under Turkish law but there are only law regulating gender reassignment surgeries. “Homosexuals” were cited as the reason why Turkey announced withdrawal from the IC. In the period leading up to the withdrawal, conservatives opposing the IC alleged that Article 4(3) of the IC prohibiting discrimination based on any ground, including SOGI, was “encouraging homosexuality.” Withdrawal from the IC clearly states that the government has no political will to protect LGBTI+people from violence.

Not only LGBTI+phobic motives against LGBTI+persons are ignored by the judicial bodies, but the courts can reward perpetrators with sentence reductions based on “unjust provocation” or “good behavior”.

Both in the Constitution and Articles 132-134-136 of the Turkish Civil Code, the right to marry and found a family is a right granted to heterosexual couples only. Therefore, LGBTI+ partnerships lack all the rights acquired through marriage and family, such as inheritance, adoption, and social security benefits. There has been no change of policy and legislation regarding LGBTI+couples.

1. **General Context on Freedom of Expression in Turkey:**

Violations against freedom of expression in Turkey is in highest number generally.  Recently, Turkish parliament passed a swathe of new amendments known as the “censorship law” on October 13, 2022, introducing new abusive criminal speech offences that further deepen online censorship and restrict access to information[[7]](#footnote-7) which will also directly effect the LGBTI+ journalism.

58 journalists and media workers are in prison or serving sentences for terrorism offenses because of their journalistic work or association with media, according to Human Rights Watch 2022 World Report[[8]](#footnote-8). It is reported that, averagely 120 new criminal cases (yearly 20.000) is filed against citizens for just insulting the president of Turkey. In 8 years, this nearly 200.000 citizens went through criminal judgement for this aim[[9]](#footnote-9).

“*Internet freedom continued to decline in Turkey. During the coverage period, the 2020 Social Media Law was used to force platforms to remove content, primarily from independent and critical media outlets' websites. Thousands of online users, including members of the political opposition, faced criminal charges for their social media activities. Self-censorship, the proliferation of progovernment outlets, and blocking of independent media websites has created a less diverse online space in Turkey. Furthermore, progovernment troll networks orchestrated smear campaigns against outspoken activists, and prominent journalists faced physical violence in retribution for their online reporting. During the coverage period, lawmakers proposed a “disinformation” bill that would impose criminal penalties on anyone who deliberately shares fake news online and could further strengthen the government’s control over the online space”.[[10]](#footnote-10)*

In tha past years, even social media platforms such as YouTube, Daily-Motion and Twitter have been blocked by Turkish government[[11]](#footnote-11).

*“Bans over the internet use does not only happen through blocking the access to websites but also through obtaining domain names. The Information and Communication Technologies Authority (BTK) managed to mark an era in terms of censorship via a notification sent to companies providing service and including contents on domain names.”[[12]](#footnote-12)*

**3- Violations against Freedom of Expression of LGBTI+ people in Turkey**

In Turkey, LGBTI+people’s freedom of expression on the internet is not so different than the general situation. Before delving into LGBTI+people’s freedom of expression on the internet, it would be useful to examine LGBTI+people’s freedom of expression in general.

Despite the ignorance and negative attitudes of Turkish media towards LGBTI+people, the country’s first LGBTI+ periodical Kaos GL Magazine is still alive since 1994 in order to fight against disinformation regarding LGBTI+ people and encourage them to speak up. Following the appearance of LGBTI+ publication, we see that the authorities’ homophobic and transphobic attitudes, which have worked by ignoring, have turned into censorship. Although there are many examples of how LGBTI+people have been stopped by authorities to express themselves, we have to confine them to a few with a legal frame. The most well-known example of censorship is the confiscation of Kaos GL Magazine’s 28th issue with the theme of “Pornography”. The decision came by Ankara 12th Penal Court of Peace Op. No. 2006/848 following the written appeal of Public Prosecutor Metin Sezgin from Ankara Chief Public Prosecutor’s Office Press Offences Investigation Office, dated July 21, 2006 and Press Investigation No. 2006/1708. The appeal to the confiscation decision was rejected by the Ankara 15th Penal Court of First Instance decision dated July 28, 2006 and no. 2006/223. The decision was taken to the European Court of Human Rights by the Kaos GL Association with a file number 4982/07 and ECHR ruled on behalf of Kaos GL.[[13]](#footnote-13) Ankara Chief Public Prosecutor’s Office was not contented with the confiscation of the magazine and it demanded Managing Editor Umut Guner to be judged with a claim that he committed the crime of obscenity regulated in Article 226 of the Turkish Penal Code. Ankara 2nd Penal Court of First Instance ruled in its decision no. 2006/580 that because the magazine was confiscated by the prosecutor’s office before it was distributed, the crime of obscenity has not been committed and Umut Guner was acquitted. Although the decision was appealed based on its justification, the Supreme Court rejected the appeal, approving the court’s decision.

Similarly, Anıl Alacaoglu’s book “The Third Class Woman” was decided to be sold in a package based on the Prime Ministry Board of Protection of Minors from Sexually Explicit Material decision dated July 29, 2009 and no. 2009/5 on the ground that the book “should be subject to limitations on Article 4 of the Law no. 1117 changed by the Law no. 3266 as it would have harmful effects on minors’ morale.” The appeal to the decision was rejected by Ankara Penal Court of Peace.

Bans and limitations regarding LGBTI-themed publications are not limited to written material. As the internet became widespread and LGBTI+s started using the internet to socialize, many LGBTI+ websites have been blocked, too.

Kaos GL stated that they recognized the internet cafes in some main cities use a word-based filtering system including the words such as transsexual and gay, and appealed to the Ministry of the Interior under the scope of right to information.” The reply to the Kaos GL’s appeal to the Ministry of Interior dated February 26, 2007 and no. 11522 does not clearly explain why LGBTI+themed websites are blocked at the internet cafes. The report continues: “A similar case is based on a study conducted on the internet cafes. In a study by LGBTT people at the internet cafes, it is observed that the informative websites of LGBTT associations and websites with similar purposes are blocked by filtering programs at various times and places. In 2009, the LGBTI websites Gabile and HaydiGari were blocked by the Turkey’s Communication Presidency in 2009. The bans made to the national and international press and were mentioned in the LGBTT People’s Human Rights report published in 2009 by the LGBTT Rights Platform. Besides that, access to LGBTI+ websites from public computer at many universities and public institutions was blocked by filtering systems. “It is observed that after the Law no. 5651 became effective, in June, searching for the words LGBT and access to any website including these words were banned in all faculties and departments of many universities. The ban was uplifted following the “Uplift the Bans” campaign of the LGBTI+ organizations.”

Uplifting the ban on access to the LGBTI+ websites from the computers at the Turkish Parliament following some appeals was reported at the Kaos GL 2011 Human Rights Report as follows: “According to a news by Ali Ekber Ertürk, the Turkish Parliamentary Speaker’s Office uplifted the ‘access ban’ on some websites including the websites of the LGBT associations Kaos GL and Lambdaistanbul. It is learned that the directive to uplift the ban was given by the Parliamentary Speaker Cemil Cicek following an attempt by the Republican People’s Party MP Aylin Nazliaka.”

Following the access bans to LGBTI organizations’ websites from the computers used by students at various universities, Kaos GL appealed to many universities on filtering they use. Upon the appeals, access bans in many universities and in municipality were uplifted.

During the Boğaziçi protests regarding the anti-democratic appointment of the rector, Boğaziçi University LGBTI+ Studies Student Club was suspended and shut down. The student club was held responsible for an exhibition that was not organized by the student club members. An investigation was opened against the students and police officers searched the student club room. As a part of the investigation, they deemed the rainbow flag as a criminal element. The student club was shut down with the signature of the appointed rector Melih Bulu. Students consider this decision as part of the pattern of current LGBTI+ hate speech and crimes in Turkey.[[14]](#footnote-14)

Moreover, two students were imprisoned, two students were put under house arrest, and one student was released within the scope of the investigation launched regarding the work of art that was exhibited at Boğaziçi University.[[15]](#footnote-15)

In 2017, Ankara Governorate, after the prohibition of German LGBTI Film Days, banned “events organized by LGBTI non-governmental organizations” in Ankara indefinitely. Governorate gave justification for the decision by claiming “social sensibilities and sensitivities,” “public safety”, “protection of public morality and health” and “protection of rights and liberties of others”. As a result of the lawsuits for the suspension of execution against the Ankara Governorate’s order, the decisions were annulled in 2019.

**I- Samples on access ban to LGBTI+ websites:**

The LGBTI+ websites such as www.gaylez.com, www.travestice.com, www.travestisitesi.com, www.turkgaybar.com and www.istanbulgay.com, GayMag which promote places for LGBTI+people, and share news, were blocked by the TIB (Telecommunications Communication Presidency) in 2015. It is remarkable that the whole websites have been blocked rather than certain content and the number of censored websites by the “Law on Regulation of Publications on the Internet and Combatting Crimes Committed by Means of Such Publication” no. 5651 increases.

**II- E-censorhip by globally used LGBTI+ internet websites in Turkey:**

The harsh censorship that the website contents face in Turkey is not only resulted from the state. Globally used websites are observed to implement more censorship in Turkey, fearing potential enforcement on themselves. A striking example of that was seen when Facebook censored a news by Kaos GL. According to a news published in 2015 at kaosgl.org: “Facebook administration censored the kaosGL.org news titled ‘Completely naked against homophobia’. The news, censored for violating the community rules, was removed by Facebook. The news was about a gay couple who got naked in the Sao Paulo Paulista Square to protest homophobia. The photos published by kaosgl.org show the couple hugging each other.”[[16]](#footnote-16)

Besides that, Facebook closed the accounts of users without their official names, which restricts the LGBTI people’s right to share in social area and rights to communication in a country where LGBTI+ people are forced to live without outing themselves.[[17]](#footnote-17)

Also, globally used LGBTI+ dating applications such as Hornet is still censored in Turkey. All of Kaos GL’s applications to the judicial mechanisms against the censorship were rejected by the first-degree courts and the appeal is pending in front of the Constitutional Court. [[18]](#footnote-18)

**4 –** **Right to Information:**

Any of the application made to state institutions by LGBTI+ organizations asking for information on LGBTI+ related issues depending on Right to Information Act has either non-answered or replied by telling that the application is not acceptable.

Also, there is no public policy for citizens to give them information on any of their basic rights and international treaties.

**5-Sustainable Development:**

UN’s SDGs are not even a topic or turned to public policy yet in Turkey in any terms. There are no public campaigns on SDGs. Only UN bodies and some private sector supports UN SDGs and strategies.

**6- Recommendations:**

Considering this information, we respectfully hope that the Special Rapporteur will consider addressing the following recommendations to the Government of Turkey:

1. The State should stop censoring the LGBTI+ contents and criminalizing LGBTI+people for their freedom of expression and protect the rights of freedom of expression,
2. The State should introduce special legal regulations and public policies to prevent SOGIESC-based censorship, discrimination, criminalizing LGBTI+ using their freedom of expression for expressing their SOGI,
3. The state should monitor, aggregate, and publish data on the number of complaints of violence against freedom of expression of the LGBTI+ community.
4. The state should build public policy for citizens to give them information on any of their basic rights and international treaties; including Right to Information Act and implement basic human rights with full exercise of any person without facing any kind of discrimination.
1. https://m.bianet.org/english/politics/270662-erdogan-says-lgbt-imposition-a-global-dictatorship-tool-against-islam [↑](#footnote-ref-1)
2. https://www.duvarenglish.com/in-new-hate-speech-turkish-interior-minister-soylu-deems-lgbti-cultural-terrorism-news-61530 [↑](#footnote-ref-2)
3. https://www.reuters.com/article/us-turkey-rights-homosexuality-idUSKCN2291LE [↑](#footnote-ref-3)
4. https://kaosgl.org/en/single-news/the-closure-case-against-ttm-was-postponed-to-february-21 [↑](#footnote-ref-4)
5. https://www.newarab.com/news/turkey-we-will-stop-femicide-platform-trial [↑](#footnote-ref-5)
6. https://www.sivilsayfalar.org/2023/01/11/solidarity-call-from-havle-womens-association-we-will-continue-our-struggle-where-no-one-is-dictated-to-a-truth/ [↑](#footnote-ref-6)
7. https://www.hrw.org/news/2022/10/14/turkey-dangerous-dystopian-new-legal-amendments [↑](#footnote-ref-7)
8. https://www.hrw.org/world-report/2022/country-chapters/turkey [↑](#footnote-ref-8)
9. Even my father went through two cases in which have represented him as his attorney! [↑](#footnote-ref-9)
10. https://freedomhouse.org/country/turkey/freedom-net/2022 [↑](#footnote-ref-10)
11. For more information please visit https://kaosgldernegi.org/images/library/2015internet-ozgurlugu-eng.pdf [↑](#footnote-ref-11)
12. http://www.hurriyet.com.tr/teknoloji/17656351.asp [↑](#footnote-ref-12)
13. https://merlin.obs.coe.int/article/7777 [↑](#footnote-ref-13)
14. <https://www.duvarenglish.com/turkish-govt-uses-protests-at-bogazici-university-to-attack-lgbt-rights-with-islamist-discourse-news-56071> [↑](#footnote-ref-14)
15. https://m.bianet.org/english/education/251433-detained-at-bogazici-university-two-students-arrested [↑](#footnote-ref-15)
16. https://m.bianet.org/bianet/media/166452-facebook-censors-bianet-s-news-about-censorship [↑](#footnote-ref-16)
17. https://kaosgldernegi.org/images/library/2015internet-ozgurlugu-eng.pdf [↑](#footnote-ref-17)
18. https://kaosgl.org/en/single-news/the-court-rejected-kaos-gl-s-objection-to-ban-on-hornet [↑](#footnote-ref-18)