

Submission to the United Nations Commission on the Status of Women:

Violence and Discrimination against LGBTI+ Women in Turkey

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Submitted on behalf of Kaos GL

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Executive Summary

This submission presents violations and discrimination against LGBTI+ women and LGBTI+ community in Turkey on account of actual or perceived SOGI. In preparing this submission, we relied on documentation and data from the following sources: LGBTI+ 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 Erdoğan¹ as well as the other high-level public authorities such as former Minister of Interior Affairs² and President of Religious Affairs³. That contributes towards the recorded increase of hate crimes and other

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<https://m.bianet.org/english/politics/270662-erdogan-says-lgbt-imposition-a-global-dictatorship-tool-against-islam>
<https://www.thepinknews.com/2023/05/29/recep-tayyip-erdogan-lgbtq-gay-turkey/>

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<https://www.duvarenglish.com/in-new-hate-speech-turkish-interior-minister-soylu-deems-lgbti-cultural-terrorism-news-61530>

³ <https://www.reuters.com/article/us-turkey-rights-homosexuality-idUSKCN2291LE>

bias-motivated incidents, including domestic violence, gender-based violence and discrimination based on SOGI. During the recent elections in Turkey in 2023, anti-LGBTI+ discourse was one of the main themes of the conservative block which won the elections⁴.

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 withdrawal⁵.

Recently, Tarlabası Community Center Association⁶ (a human rights organization) and Stop Women Femicide Platform⁷ (a women organization) face closure risks for their SOGI related activities.

Not only does the Turkish government discriminate against LGBTI+ women, but it also prevents the few local administrations from introducing LGBTI+ women-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 bans on LGBTI+ public events in several cities is still imposed shows the systematic way of violations against LGBTI+ people's basic human rights⁸. 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.

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<https://www.theguardian.com/global-development/2023/may/12/lgbt-recep-tayyip-erdogan-targets-gay-trans-rights-critical-turkish-election>

⁵ <https://www.rudaw.net/english/middleeast/turkey/06012022>

⁶ <https://kaosgl.org/en/single-news/the-closure-case-against-ttm-was-postponed-to-february-21>

⁷ <https://www.newarab.com/news/turkey-we-will-stop-femicide-platform-trial>

⁸ <https://kaosgl.org/en/single-news/chronology-of-pride-month-bans-couldn-t-prevent-lgbti-s>

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.

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

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 practice. 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 LBTI+ women from violence.

Not only LGBTI+phobic motives against LBTI+ women are ignored by the judicial bodies, but the courts can reward perpetrators of hate crimes 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.

Hate crimes and hate speech

Hate crimes

According to Kaos GL's 2022 Human Rights of LGBTI+s Report, 3 hate murders have been reported in 2022. However, it is thought that this number is a lot more and most of them were not reflected in the press. As analyzed in the previous reports, hate crimes and human rights violations towards LGBTI+s are not generally reported to the law enforcements by the victims/survivors. The most common reason for that are "not

believing that the application will work,” “avoiding being exposed to the family or media by the police,” and “fear to be discriminated against by the police.” Additionally, Kaos GL’s Reports reveal that the public authorities’ discriminatory and scapegoating rhetoric against LGBTI+ people normalizes hate crimes across the country. Moreover, there is no significant progress concerning effective investigation and arrest of perpetrators of hate crimes against LGBTI+ people, especially against trans women.

In the reporting period, hate crimes towards LBT+ women - trans women in particular - have increased due to the ‘impunity culture’ created due to lack of protective mechanisms. After the withdrawal from IC, women with diverse intersectionalities, LBT+ women and refugee women in particular, have become more vulnerable against hate crimes and violence. For instance, on 9 March 2021, an 18-year-old Syrian trans woman was attacked with nitric acid in Beyoğlu, Istanbul. She lost one of her eyes. The attacker was arrested on 13 March for malicious injury but not hate crime. A trans woman was found dead in her house in Bornova, Izmir, on 13 March 2021. She was hit with a hard object on her head. After the investigation, three persons were arrested and one person released on condition of judicial control.

Turkey fails to ensure transparency and to establish public trust in judicial proceedings. In the case of a trans woman sex worker murdered by a police officer in 2019, the prosecution quickly applied for a closed inquiry due to “public morality” and “public safety.” A significant portion of the trial has been held in closed sessions, which made it difficult for the public, including Amnesty International, to monitor.

In the case of systematic attacks against trans women and transvestites taking part between 2002 and 2008, ending in their relocation to other cities, the court finally sentenced some of the attackers in 2008. In 2011, the Court of Cassation overturned the conviction claiming that the current evidence was not enough to convict the attackers for the crimes of organised criminal gang activity that took place in the period between 2002 and 2008. The missing documents were collected in 2013 by the victims. However, the case was reopened only in 2020 when the Court of Cassation reversed all of the judgements issued so far, stating that it was not still convinced based on available evidence that the defendants are a gang. The case will be dismissed in October 2023 due to the expiration of the statute of limitations.

A journalist from Akit, a pro-government newspaper and media in Turkey, called Pink Life LGBTI+ Organization’s psychological support line by pretending to be an LGBTI+ person in the closet, secretly recorded the voice of the psychological counsellor on the phone and manipulated the video to criminalize the LGBTI+ community and organizations in the news. Although the association’s name was not mentioned in the news, Akit violated the Personal Data Protection Law by recording a person’s voice without judicial act and psychological counsellor’s consent.

Hate speech

The government stigmatizes women and human rights defenders who do not share the same views as terrorists, arrests them, targets them and threatens to shut down their organizations. LGBTI+ organizations are declared as deviant and targeted by high-level public authorities. An investigation has been launched against the Ankara, Diyarbakır, İstanbul, İzmir, Urfa and Van Bar Association administrations that made statements condemning the hate speech of the President of Religious Affairs, describing LGBTI+s as “deviant”.

Due to the Boğaziçi University protests, investigations were launched against the students and the LGBTI+ Student Club of the university was closed. Lastly, a lawsuit has been filed against Tarlabası Community Centre, which was systematically targeted by the Islamic press for providing education on SOGI in the gender education they give to children, on various procedural grounds, and the case is ongoing.

Following the anti-democratic appointment of the University of Boğaziçi rector, students and academics started protesting the top-down appointment. Since there were also LGBTI+students within the protestors, Turkish government officials have aimed at Turkey’s LGBTI+community. While protests continue, President Erdoğan made several discriminatory speeches against LGBTI+people. He also gave a speech at the congress of the women’s branch of his party, where he attacked lesbians directly, and he polarised lesbians and mothers as if they were two separate unities. Erdoğan also gave several speeches on the sacredness of women as mother and wife, clearly violating Article 5 of CEDAW through gender stereotyping.

The dose of smear campaigns about the IC reached its climax when the ruling party AKP’s Deputy Chairman said that IC withdrawal is possible by pointing out two main problems with the IC in his statement on July 2020: gender and sexual orientation.

In the months leading up to IC withdrawal, campaigns targeting LGBTI+individuals within the IC debate were carried out by pro-government media. The smear campaigns against the IC were directed on LGBTI+individuals, as various government officials have been using hate speech targeting LGBTI+people. These have reinforced a very hostile social and political climate against LGBTI+individuals, manifesting in very concrete, cumulative, and repetitive ways.

The President of Religious Affairs in his Friday Sermon on 24 April 2020, attacked LGBTI+people, non-married couples living together, and people living with HIV. After his statement, high-level political figures and public officials at various levels and fields made statements about LGBTI+people. The Mayor of İstanbul Metropolitan Municipality stated that society was not ready to allow same-sex marriages. The President of the Turkish Red Crescent and Vice-President of the International Federation of Red Cross and Red Crescent Societies accused LGBTI+people of

paedophilia. The Presidential Communication Director supported these statements and stated that “LGBT propaganda” is a great threat to freedom of expression. President Erdoğan encouraged the public to take a stand by stating that LGBTI+people are perverted. The Chairman of the IYI Party stated that she did not want her child to be gay.

Following the statement of AKP’s Deputy Chairman mentioned above, the discussions on the IC flared up once again and started to cause controversy within the conservative community. The Women and Democracy Association announced support for the IC but later stated that it considers LGBTI+people a threat to the family and the continuity of generations.

After the announcement of withdrawal, the word “LGBT” has turned into a “swear word” uttered by business people. The Turkish Industry and Business Association also mentioned “LGBT” during their statement about IC withdrawal. The President of the Anatolian Lions Businessmen’s Association expressed his thanks to the President of Turkey for the IC withdrawal.

None of the hate speech mentioned above has been prosecuted. Istanbul, Ankara and Diyarbakır Bar Associations faced criminal charges for ‘insulting the religious values shared by a group of society’ following their condemnation of the President of Religious Affairs’ hate sermon. The Justice Minister openly endorsed the investigation against the Ankara Bar Association by posting a tweet stating that their public statement is ‘unacceptable’.

Empoyment

Private Sector

According to the research conducted by Kaos GL Association and Kadir Has University in 2022 among the LGBTI+ employees working in private sector, following data has been evaluated;

The percentage of those who claimed they were completely open regarding their identity in the workplace in the private sector was 27.7 percent. In the same research for the public sector, the ratio was 6.5 percent. Only 13.5 percent of the participants declared there were open during hiring processes.

5.9 percent of participants reported that they had experienced discrimination (discriminatory attitudes, discourse, behavior and/or practices) during the hiring processes.

Less than half (45.7 percent) of the participants stated that they had not experienced discrimination in hiring but they believe they did not experience discrimination because

either they were not open regarding their gender identity, sexual orientation or intersex situation and these were not detectable in the appearance or they were hiding their SOGI.

Participants also stated that they did not believe they would get any results through official channels in case of discrimination against LGBTI+ employees. Furthermore, they feared losing their jobs, hate speech, prejudice and involuntary disclosure due to their claims of discrimination.

16.6 percent of the participants declared that they faced discrimination due to their SOGI. 36.7 percent of the participants stated that they had not experienced discrimination in their workplace but they believe they did not experience discrimination because either they were not open regarding their gender identity, sexual orientation or intersex situation and these were not detectable in the appearance or they were hiding their SOGI.

Only 19 percent of participants declared there were effectual rules and regulations in their companies to prevent discrimination based on gender identity, sexual orientation and sex characteristics.

Public Sector

Specifically about the public sector, the **report** of the organizations has shared the following information:

93.5 percent of public sector LGBTI+ employees were not completely disclosed in the workplace regarding their gender identity, sexual orientation and sex characteristics.

Despite the fact that they were undisclosed regarding their identity 7.6 percent of participants were subject to discriminatory attitudes or practices during the hiring process and 20.7 percent experienced the discrimination during employment. More than half (63 percent) of the participants witnessed hate speech against LGBTI+ individuals.

Two thirds (66.3 percent) believed they did not experience discrimination because either their identity remained undisclosed or their gender identity, sexual orientation or intersex situation was not detectable by their appearance, or they were hiding their SOGI during the hiring process.

The research reveals that LGBTI+ employees in public sector are not open about their gender identity, sexual orientation and sex characteristics unless the risk of discrimination is close to zero.

LGBTI+ employees reported being unable to have real and intimate relationships, little sense of belonging in their companies and they often feel hopeless, sad, anxious and angry. They also stated that their performance was lacking along with their motivation which all led to depression, stress, and burnout syndrome due to psychologically

and physically overwhelming conditions. Their efficiency and job satisfaction dropped decidedly.

Access to housing

The Turkish Government has been failing to guarantee the right to housing of LBT+ women continuously.

Since November 2020, police forces have organized many raids to Bayram Street in Istanbul, where a lot of sex worker trans women live and work, and they arbitrarily took the women into custody without any legal ground and seal their home⁹. This can be read as a systematic intimidation strategy towards trans women - as they did in Eryaman and Esat incidents in 90s - in order to banish them to ghettos¹⁰.

Trans women subjected to violence and do not have proper identity cards are not allowed into shelters, and others face major obstacles. This is particularly true for LBT+women refugees who face sexual gender-based violence. Istanbul and other cities and the Marmara region have limited women shelters, mostly for Turkish heterosexual, cisgender women due to their monolingual and binary-gendered system. Therefore, LBT+women from Turkey and refugee women mostly do not prefer to be settled in these shelters because they do not feel safe.

Pink Life LGBTI+ Solidarity Association documented the systematic attacks against transgender people to force them to move from where they lived together. Violations against the freedoms of travel, settlement and property rights of LGBTI+people, especially trans women, continued to take place in various forms such as demanding extremely high rent prices, sealing the residences of trans women by law enforcement on the grounds of sex work, and fining them in public spaces without justification to force them out of public spaces towards the margins of the cities¹¹.

No progress has been achieved regarding the ability of LGBTI+persons to bequeath their possessions to their partners as the law does not recognize LGBTI+couples.

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<https://m.bianet.org/english/lgbti/235487-police-detain-trans-women-cordon-off-their-street-to-prevent-coronavirus-spread>

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<https://en.catlakzemin.com/brief-past-and-present-of-transgender-people-in-turkey-ulker-sokak-street-esat-and-eryaman-bayram-sokak-street/>

¹¹ <https://journals.sagepub.com/doi/full/10.1177/0964663920924780>

Right to education (and right to peaceful assembly and freedom of expression)

Turkish law regulating the university dormitories and laws on primary, secondary and university education contain exclusionary language against LGBTI+people. Mainly those are articles with unspecified, open-to-interpretation criteria such as behaviour contrary to common moral values, which are open for arbitrary interpretation by the officers, almost always disadvantageous for LGBTI+people.

During the Boğaziçi protests mentioned above, Boğaziçi University LGBTI+Studies Student Club was suspended and shut down. The student club was held responsible for an exhibition that the student club members did not organize. An investigation was opened against the students. 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 newly-appointed rector. Two students were imprisoned, and two students were put under house arrest¹².

Hacettepe University Queer Studies Club, founded in 2014, organized events until the Ankara Governor banned LGBTI+-related events in 2017. However, unlike other student clubs, Queer Studies Club was not allowed to organize any events or open their stands, and in fact, faced with discrimination by the Hacettepe University management.

The Youth and Sports Ministry's Credit and Dormitory Institution (KYK) cut the scholarships and credits of those students arrested at the METU Pride March on 10 May 2019¹³. According to the report by Kaos GL, the students who were arrested were informed by mail of KYK's decision to cut the students' funding upon receiving a letter from the Ankara Provincial Security Office. Furthermore, KYK also demanded the immediate payment of any institution loans used by any of the affected students. The KYK pointed to the Higher Education Credit and Dormitory Institution Credit Directorate's "Circumstances for Not Giving Scholarship/Credit" clause as justification for their decision, thus violating the right to peaceful assembly.

Right to health

People living with HIV face a significant amount of discrimination by healthcare professionals, limiting their access to HIV-specific and general healthcare. NGOs have documented cases where healthcare professionals refrain from applying the basic rules of the Biomedicine Convention. Additionally, the right to respect the private life and the right to privacy of people living with HIV are often violated. Due to other health problems of people living with HIV, healthcare personnel may unnecessarily request

¹² <https://www.bbc.com/news/world-europe-55872759>

¹³ <https://kaosgl.org/en/single-news/credits-and-scholarships-cut-for-those-arrested-at-the-metu-pride-march>

reports or letters. This leads to the disclosure of HIV status, stigmatisation and discrimination, and delays in healthcare procedures. Main problems include: healthcare providers avoid treating people living with HIV, people are tested without consent, their HIV status is disclosed without consent, exorbitant pricing of non-HIV-related health services such as dental care, discrimination, maltreatment, incomplete or wrong treatment, and recommendations against the international HIV treatment guidelines. The HIV status of patients, which is sensitive personal data, is accessible to healthcare providers and pharmacy staff who are not even directly involved in HIV care through various e-health applications.

In access to healthcare services, trans people face discrimination. To access hormone therapy and gender confirmation surgery, it is necessary to make appointments with the psychiatry clinic of the public hospitals. This process takes between six and 24 months. Gender confirmation surgeries and hormone therapies are not available in every hospital. They are given in certain hospitals in big cities, limiting access for low-income people. It is difficult to get an appointment from these hospitals, and trans people are trying to cope with long bureaucratic processes. People who want to undergo gender confirmation surgery can face exorbitant prices even in state hospitals. Due to this, many trans people undertake illegal operations in insecure environments, from which many people have lost their lives.

Doctors act discriminatory and unethically, sometimes even refuse treatment for trans people. Gynaecologists avoid examining trans women who have undergone vaginoplasty or trans men who use hormones. These situations lead to serious health problems due to trans people's inability to access health services.

Family life

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.

Since one of the conditions of gender confirmation surgery is being single, this obligation constitutes a violation of the rights of married persons who want to have gender confirmation surgery. LGBTI+partnerships and marriages performed legally abroad are not recognised and do not have any legal status in Turkey.

According to Turkish legislation, single women can benefit from their parent's retirement pension after their death. However, that law leaves out trans women without proper documentation.

Sex workers

Sex workers face many problems regarding access to human rights. Unregistered sex workers cannot benefit from general health insurance provided by the government as employees. They have to pay their insurance with their incomes. Due to limited access to legal gender recognition, trans sex workers cannot work as registered employees. Refugee sex workers have even more restricted access to legal information and almost impossible to access justice mechanisms.

NGOs document the practice of subjecting sex workers to various fines issued under the Misdemeanors Act and regulations under the Highway Traffic Law even though they do not act against the law to prevent trans women sex workers from entering the public domain. In this context, arbitrary detention is frequently conducted by law enforcement. One of the most common violations against trans sex workers is being subjected to charges for “mediating and providing space for prostitution,” even though sex work itself is not a crime under the Turkish legislation¹⁴.

Refugees, asylum seekers and migrants

LBT+women refugees in Turkey face several obstacles in enjoying fundamental rights and accessing protection mechanisms since Turkey’s national asylum system does not include any regulations covering SOGI. The IC is the only legislative tool openly protecting LBT+women refugees rights in Turkey, as it contains provisions specific to asylum-seeking and LBT+refugees. However, the announcement on withdrawal from the IC has exacerbated difficulties faced by LBT+women refugees in Turkey, while they have already been affected by the pandemic and the xenophobic and LGBTI+phobic discourse of politicians.

Harassment in criminal proceedings

Sexual and gender-based violence continues to be the main challenge to the security of the LBT+refugees. The majority of LBT+refugees are subjected to diverse forms of violence such as verbal humiliation, threats, physical assault, blackmailing and/or emotional abuse in multiple sites and multiple scales. The perpetrators come from various groups, including family and friends, partners, non-Turkish and Turkish community, employers, public officials, security forces and/or LGBTI+community. Most LBT+refugees do not submit an official complaint against these incidents. They fear being deported or detained and they do not believe that police officers would protect them.

¹⁴ <https://bianet.org/english/print/254775-lawsuit-against-four-trans-women-standing-on-the-street>

LBT+refugees who make it to the police stations also face challenges. Since LGBTI+people are not counted among the categories of victims under Article 234(2) of the Criminal Procedure Law, they are not automatically appointed a lawyer during the investigation phase. The refugees, therefore, had to ask for legal assistance from the human rights NGOs to file an official complaint.

During the İstanbul Pride Parade in 2023, more than 100 individuals were detained, including five people from Iran, Libya, Russia, Portugal, and Australia. The individual from Iran now faces the risk of deportation, and they could potentially be sentenced to death if returned to their home country¹⁵.

Vulnerability in administrative proceedings

Registration

LBT+ women refugees are obliged to live in the satellite cities where they are issued IDs by the responsible Provincial Directorates of Migration Management (PDMMs), according to the Law on Foreigners and International Protection (LFIP). These cities are conservative, and many LBT+women refugees face homophobia and transphobia daily. Hence, LBT+ refugees prefer to live in bigger cities such as Istanbul, and without proper refugee status, their access to certain public services is limited or non-existent. Moreover, in these cases, they live in constant fear of detention during regular ID checks.

PDMMs do not take SOGI as a vulnerability to be prioritized, and most migration experts in PDMMs conduct refugee status determination interviews without considering gender-sensitive approaches. In many cases, they do not consider rules for interviews based on LFIP. Many decisions from the administrative courts referred to these status determination interviews to reject the appeal based on being under international protection.

Due to difficulties to contact authorities, LBT+women refugees cannot convey their demands regarding seeking asylum and obtaining status. Although some LBT+refugees manage to renew Temporary Protection Identity Documents or change the city of registration due to security concerns and/or health problems, this process remains relatively arbitrary and depends on the informal relations between NGOs and the PDMM officers. There is no systematic and regulated procedure, making LBT+women's lives more precarious in Turkey.

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<https://m.bianet.org/english/lgbti/280908-irainian-refugee-detained-during-istanbul-pride-parade-faces-deportation-possible-death-sentence>

Deportation Orders and Detention Centers

Despite the non-refoulement principle, LGBTI+ refugees face arbitrary actions of the security forces, such as forcing them to sign voluntary repatriation documents or detaining them more than 48 hours without a deportation order that would result in their deportation and/or interrogations without the presence of a lawyer. All deportation centers in Turkey have been constructed under the gender binary system that violates the rights of LBT+women rights, as they are detained in centers for women or men based on arbitrary decisions of officers.

Discrimination in social rights

Most LBT+women refugees experience intersectional discrimination due to their SOGI and race/ethnicity, so their human rights are violated daily. Accessing basic needs such as accommodation, protection and employment remain limited, and many suffer socio-economic difficulties and poverty.

They face intersectional discrimination in access to employment since they are considered foreigners and LBT+, and most of them experience a hostile atmosphere on the job. Since access to sustainable livelihoods is a major challenge for LBT+women refugees, most need financial support.

Their health insurance depends on the status of the refugee. Temporary protection provides access to free health services under general health insurance. LBT+women can approach public hospitals in their registration cities. However, when they do, they face discrimination, inappropriate behavior, or rejection by doctors, nurses, other employees or patients. Since 1 January 2020, access to health care under Turkey's general health insurance is provided to applicants for international protection one year after the registration of the application, except persons with special needs. However, in many cases, LBT+women are not accepted to reactivate their insurance under this exception.

LBT+ Women in detention and prison facilities

The government mentions the situation of women in prison solely within the context of providing "job search skills seminars by İŞKUR," leaving out information regarding the conditions of women in prison facilities.

Civil Society in the Penal System (Turkish NGO focused on the situation of prisoners) published detailed reports covering the conditions of women and LGBTI+people in Turkish prisons and the challenges these populations face. The main challenge is the issue of ward placement. Trans people without documentation that states their gender

are placed in the wards based on their sex assigned at birth or in solitary confinement and they are denied access to gender confirmation treatment and surgery. The data also shows that these populations in Turkish prisons are exposed to discrimination, isolation, humiliation, abuse, sexual harassment, and rape.

Women's rights and LGBTI+rights activists are frequently facing detention for shouting nonviolent slogans, bringing LGBTI+flags/rainbow-colored objects to demonstrations, or simply expressing their gender identity during the protests. After the International Women's Day assembly on 8 March 2021, more than 13 women were taken into custody for "insulting the president" by shouting (or rhythmically jumping to) the phrase "Tayyip, run, run, run, women are coming." Tens of LGBTI+ activists spent long hours in detention for carrying/wearing rainbow colored banners in protests¹⁶. Trans activists were arbitrarily detained after joining women's rallies.

During detention, many women and trans protesters declared that they had been subjected to strip searches, rape threats, transphobic slur or other forms of ill-treatment. The State failed to implement impartial and effective investigation following these incidents. Moreover, an opposition MP was accused of being a "terrorist" after bringing up the strip-search claims in the Parliament. An AKP MP later declared that "an honourable woman wouldn't wait a year to report a strip search" and falsely claimed that these allegations are entirely fictional.

National human rights bodies

The Human Rights and Equality Institution of Turkey (TIHEK) has been fueling misogynistic and LGBTI+phobic hate since before its establishment. SOGI were deliberately excluded from protected grounds under Law No. 6701 establishing TIHEK. TIHEK itself confirmed this in a defense petition submitted to the administrative court regarding a case for annulment of a TIHEK decision. The decision concerned a complaint by a trans woman for discrimination based on gender identity she was subjected to in a hotel in Ankara, which TIHEK had rejected on the basis that gender identity is not protected under Law No. 6701. As opposed to the Turkish government's claims mentioned above that Article 10 of the Constitution protects SOGI, TIHEK stated in its defense petition that the lack of explicit mention of these grounds in any legislation under Turkish law should mean that SOGI are not legally protected grounds¹⁷.

Under these circumstances, it is obvious that TIHEK fails to comply with the Paris Principles. As an institution that uses hate speech and cites hate speech by the President in official documents, TIHEK is in no position to promote and protect the human rights

¹⁶ <https://kaosgl.org/en/single-news/hdk-lgbti-activists-yildiz-and-gunes-sentenced-to-house-arrest-for-one-month>

¹⁷ <https://kaosglidernegi.org/images/library/2019newsletter-2-december-2019-pdf.pdf>

of LBT+women or publicize human rights and efforts to combat all forms of discrimination.

Furthermore, the Ombudsman of Turkey (KDK) has discriminatory attitude against LGBTI+ people, as was the case in the interview for the Türkiye Newspaper in late 2019 when he defended the withdrawal from IC.

KDK does not comply with the Council of Europe Venice Commission's Principles on the Protection and Promotion of the Ombudsman Institution.

Violations against Freedom of Expression of LBTI+ Women in Turkey

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.

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, too¹⁸.

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.

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.¹⁹

Right to Information:

¹⁸ <https://kaosgl.org/en/single-news/turkey-censors-grindr-gay-dating-app>

¹⁹ <https://kaosgl.org/en/single-news/the-court-rejected-kaos-gl-s-objection-to-ban-on-hornet>

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 stating 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.

Recommendations:

Considering this information, we respectfully hope that the Commission on the Status of Women will consider addressing the following recommendations to the consideration of General Assembly:

1. The State should prosecute hate speech against LGBTI+ people and immediately stop the hate speech by the President and other public authorities.
2. The State should introduce special legal regulations and policies to prevent SOGIESC-based discrimination, awareness-raising training for relevant public personnel, and awareness-raising campaigns to enable social transformation.
3. The State should take measures to prevent further hate crimes and hate speech based on SOGI and to protect the rights of freedom of expression, association, and assembly.
4. The State should ensure that National Human Rights Bodies, namely TIHEK and KDK, have financial and administrative independence and base their work on the Paris and Venice Principles.
5. The State should establish services for survivors of gender-based violence that will be accessible for LBT+women without discrimination.
6. The State should immediately announce economic support programs for LBT+women and develop policies for increasing their employment in the long term.
7. The State should make housing, social services, psychosocial support and protection services available and accessible for LBT+women, considering the multi-layered and intersectional discrimination they face.
8. 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,
9. The State should introduce special legal regulations and public policies to prevent SOGIESC-based censorship, discrimination, criminalizing LGBTI+ using their freedom of expression and assembly for expressing their SOGI,
10. The state should monitor, aggregate, and publish data on the number of complaints of violence and discrimination against LBTI+ women.
11. The state should build public policy for citizens to give them information on any of their basic rights and international treaties and implement basic human rights with full exercise of any person without facing any kind of discrimination.