**Parallel report related to the discrimination and violence against lesbians, bisexual women and transgender people in Turkey**

**Submitted for consideration at the 81st session of the Committee on the Elimination of all forms of discrimination Against Women (CEDAW)**

**May 2022**

**Prepared by (in alphabetical order):**

ERA - LGBTI Equal Rights Association for Western Balkans and Turkey

Free Colours Association

Kaos Gay and Lesbian Cultural Research and Solidarity Association (Kaos GL)

Pink Life LGBTI+ Solidarity Association

Social Policy, Gender Identity and Sexual Orientation Studies Association (SPoD)

**Table of content**

[**Executive Summary**](#_heading=h.30j0zll)3

[**Political Context in Turkey**](#_heading=h.3znysh7)5

[**Article 1 - Definition of discrimination**](#_heading=h.2et92p0)6

[**Hate crimes and hate speech**](#_heading=h.tyjcwt)6

[Hate crimes](#_heading=h.3dy6vkm) 6

[Hate speech](#_heading=h.4d34og8) 8

[**Access to housing**](#_heading=h.2s8eyo1)10

[**Article 10 - Right to education (and right to peaceful assembly and freedom of expression)**](#_heading=h.17dp8vu)11

[**Article 12 - Right to health**](#_heading=h.3rdcrjn)12

[**Article 15 - Equality before the law**](#_heading=h.26in1rg)12

[**Article 16 - Family life**](#_heading=h.lnxbz9)13

[**Sex workers**](#_heading=h.35nkun2)14

[**Refugees, asylum seekers and migrants**](#_heading=h.1ksv4uv)14

[Harassment in criminal proceedings](#_heading=h.44sinio) 14

[Vulnerability in administrative proceedings](#_heading=h.2jxsxqh) 15

[Discrimination in social rights](#_heading=h.1y810tw) 16

[**LBT+ Women in detention and prison facilities**](#_heading=h.4i7ojhp)16

[**Impact of Covid-19 pandemic and measures on LBT+ women**](#_heading=h.2xcytpi)17

[**National human rights bodies**](#_heading=h.1ci93xb)18

[**Recommendations**](#_heading=h.3whwml4)19

# 

# Executive Summary

**ERA - LGBTI Equal Rights Association for Western Balkans and Turkey** is a regional umbrella association operating in nine countries (Albania, Bosnia & Herzegovina, Croatia, North Macedonia, Kosovo, Montenegro, Serbia, Slovenia and Turkey) with a current membership of 70 LGBTI organisations. The main objective of ERA is to contribute towards the improvement of the status of LGBTI people.

**Free Colours Association** was first organised in 2013 as a student organisation at Uludağ University in Bursa, Turkey, and became a legal LGBTI+ association in 2016. Since then, the FCA has been fighting against discrimination and violence based on gender identity and sexual orientation, organising training and workshops for different stakeholders, lobbying activities for LGBTI+ rights, offering consultancy services to LGBTI+s, HIV+s and their families, and organising “coming-out” meetings for LGBTI+s.

**Kaos Gay and Lesbian Cultural Research and Solidarity Associatio**n, established in 1994, conducts activities in many different fields such as law, education, art and culture, supporting refugees, menthal 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. Additionally, they may conceive human rights as the rights of all human beings without making discrimination based on SOGIESC, language, race, colour, philosophical conviction, religion, religious sect, locality etc., and they may struggle against homophobia and transphobia in every aspect of life.

**Pink Life LGBTI+ Solidarity Association,** established in 2006, is the first transgender grassroots association in Turkey. The Association works to promote the rights and freedoms of transgender people and advocates against discrimination, violence, hate crimes and social isolation towards trans people. Pink Life conducts its activities in many different fields such as law, social work, education, health and mental health at national and international level.

**Social Policy, Gender Identity and Sexual Orientation Studies Association (SPoD)**, founded in 2011 with the dream of a just, equal and free world under the rainbow, aims to contribute to the development of social policies that are necessary for a life in which LGBTI+ people in Turkey are not oppressed due to their sexual orientation and gender identity. Along with its advocacy work, SPoD aims to develop service models for the LGBTI+ community, setting examples for public institutions; help eradicate discrimination; and offering LGBTI+-specific services with public-private sector cooperation.

1. We have jointly prepared this Parallel Report to supplement the information available to the Committee for Elimination of All Forms of Discrimination Against Women (Committee) in the examination of Turkey on its implementation of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).
2. The government’s report failed to provide information on the status of LBT+[[1]](#footnote-1) women in Turkey and their access to rights and services under the auspices of CEDAW. Therefore, in this submission, we provide information that will give the Committee a clearer overview on the situation of LBT+ women, and by extension, information on other intersecting communities that are relevant, such as sex workers, LBT+ women in detention and prison facilities and LBT+ refugees, asylum seekers and migrants. We also provide information on the impact of the Covid-19 pandemic and measures on LBT+ women.

# 

# Political Context in Turkey

Turkey’s state-produced LGBTI+phobia and anti-human rights rhetoric continues on an upward trend. The recent years are marked by strong discriminatory speech coming from the President Recep Tayyip Erdoğan as well as the other high-level political leaders. That contributes towards the recorded increase of hate crimes and other bias-motivated incidents, including domestic violence, gender-based violence and discrimination based on sexual orientation and gender identity (SOGI).

LGBTI+ organisations report that 2020-21 have been disproportionately more challenging for the community regarding hate crimes and hate speech than previous years, especially following the outbreak of the Covid-19 pandemic. Political leaders have used the pandemic to impose LGBTI+ phobic narratives in the public discourse by blaming LGBTI+ people for the pandemic and encouraging hostility against them. In this period, the President Erdoğan and Minister of Interior have also given public support to anti-LGBTI+ discriminatory speech creating an even more dangerous environment for the community. Moreover, increasingly restrictive measures have been imposed on the NGOs to limit their functioning and make it more difficult for them to organise and provide adequate support to LBGTI+ people.[[2]](#footnote-2)

The implementation of the CEDAW Concluding Observations from the Seventh Periodic Report[[3]](#footnote-3) of Turkey (2016) is falling behind. Turkey failed to include SOGI as protective grounds from discrimination and hate crimes. Thus, LGBTI+ people remain without any legal protections. Moreover, Turkey also failed to implement two key aspects enumerated by the CEDAW Committee in its Concluding Observations concerning the full implementation of the Istanbul Convention (IC) and the Law to Protect Family and Prevent Violence Against Women (Law No. 6284). 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.[[4]](#footnote-4)

Even though Turkey refers to publishing summaries of the ECtHR judgments on the Ministry of Justice website,[[5]](#footnote-5) it refuses to implement a number of the court’s judgments.[[6]](#footnote-6) The 2020 Enlargement Review found that certain judgments of the Constitutional Court, which are bound by the Supreme Judicial Body and local courts, are not implemented. Recently, Tarlabaşı Community Center Association faced closure according to Civil Code article 60 which regulates the closure of associations against law and morality for giving gender trainings (including on SOGI identities) to kids, claiming that these trainings are against family values and morality. Despite the Constitution, the ECHR and international human rights standards, it is clear that hate speech, discrimination, violations of the right to freedom of speech, the right to freedom of assembly and the right to association have increased.[[7]](#footnote-7)

Not only does the Turkish government discriminate against LBT+ women, but it also prevents the few local administrations from introducing LBT+ 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 authorisation for the social media posts concerning pride week.[[8]](#footnote-8)

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 LBT+women, especially those with intersected identities, in a most marginalised position with limited access to protection, rights and services.

# Article 1 - Definition of discrimination

As observed by the Committee in its most recent Concluding Observations,[[9]](#footnote-9) SOGI remains unprotected under Turkish law. Even though the government has argued that the phrase “any such grounds” included in the Constitution[[10]](#footnote-10) protects SOGI, hence there is no need to include it in other legislation,[[11]](#footnote-11) “homosexuals” were cited as the reason why Turkey announced withdrawal from the IC.[[12]](#footnote-12) 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.”[[13]](#footnote-13) Withdrawal from the IC clearly states that the government has no political will to protect LGBTI+ people from violence.

The findings from the most recent survey conducted among LGBTI+ people in Bursa[[14]](#footnote-14) show that the vast majority of participants in the research encounter discrimination in every aspect of their lives due to their LGBTI+ identity. Data shows that 85.5% of LGBTI+ respondents have been exposed to mocking and/or insults at least once, while 44,9% reported that they often or always encounter similar incidents. 80.4% have been discriminated against at school, while 53.2% while looking for a house or a job (50.8%). Three out of four respondents have been discriminated against on the streets, while 56.2% were discriminated against at healthcare facilities. And yet, Turkey fails to advance the anti-discrimination legislation and to include SOGI as protected grounds.

# Hate crimes and hate speech

## Hate crimes

The above-mentioned survey shows that 44.9% of the LGBTI+ respondents from Bursa have been subjected to physical violence due to their SOGI at least once, while 15.9% reported that they are often or always exposed to physical violence.

According to Kaos GL’s 2021 Human Rights of LGBTI+s Report, 8 hate murders have been reported in 2021. However, it is thought that this number is a lot more and most of them were not reflected in the press. As analysed 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 “not wanting to be discriminated against by the police.” Additionally, Kaos GL’s Reports reveal that the public authorities’ discriminatory and scapegoating rhetoric against LGBTI+people normalises hate crimes across the country.[[15]](#footnote-15) 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.[[16]](#footnote-16) 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.[[17]](#footnote-17)

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,[[18]](#footnote-18) the prosecution quickly applied for a closed inquiry due to “public morality” and “public safety.”[[19]](#footnote-19) A significant portion of the trial has been held in closed sessions,[[20]](#footnote-20) which made it difficult for the public, including Amnesty International, to monitor.[[21]](#footnote-21)

In the case of systematic attacks against trans women and transvestites taking part between 2002 and 2008,[[22]](#footnote-22) 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.[[23]](#footnote-23) 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’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 criminalise the LGBTI+ community and organisations 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.[[24]](#footnote-24)

The reporting period marks an increase of police brutality. During the 8-March protests in Kadikoy, Istanbul, on 6 March 2021, the police did not allow LGBTI+ flags at the demonstration square and attacked the Trans+Cortege. After the protest, trans women giving a speech were followed by the police and nine were detained. All detainees were imposed a ban on leaving the country and signature obligation for every two weeks, two were also given home detention for one month.[[25]](#footnote-25)

## 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+ organisations are declared as deviant and targeted by high-level public authorities.[[26]](#footnote-26) 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”.[[27]](#footnote-27) Due to the Boğaziçi University protests, investigations were launched against the students and the LGBTI+ Student Club of the university was closed.[[28]](#footnote-28) Lastly, a lawsuit has been filed against Tarlabaşı 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.[[29]](#footnote-29)

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.[[30]](#footnote-30)

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.[[31]](#footnote-31)

In the months leading up to IC withdrawal, campaigns targeting LGBTI+ individuals within the IC debate were carried out by pro-government media.[[32]](#footnote-32) 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.[[33]](#footnote-33) After his statement, high-level political figures and public officials at various levels and fields made statements about LGBTI+ people. The Mayor of Istanbul Metropolitan Municipality stated that society was not ready to allow same-sex marriages.[[34]](#footnote-34) 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.[[35]](#footnote-35) The Presidential Communication Director supported these statements and stated that “LGBT propaganda” is a great threat to freedom of expression.[[36]](#footnote-36) President Erdoğan encouraged the public to take a stand by stating that LGBTI+ people are perverted.[[37]](#footnote-37) The Chairman of the IYI Party stated that she did not want her child to be gay.[[38]](#footnote-38)

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.[[39]](#footnote-39) 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.[[40]](#footnote-40)

On 20 March 2021, the decision on withdrawal from the IC was announced with Presidential Decree No. 3718, published in the Official Gazette.[[41]](#footnote-41) The President's cabinet came out to assure people that the withdrawal from the Convention will not mean backsliding on regulations around domestic violence and women’s rights.[[42]](#footnote-42)

As the IC withdrawal decision was met with criticisms in Turkey and around the world, the Communications Directorate of the Presidency released a written statement openly targeting LGBTI+ individuals as the reason for the withdrawal.[[43]](#footnote-43)Parallel statements targeting LGBTI+ individuals have also appeared in pro-government media with various false facts regarding the decision’s criticisms.[[44]](#footnote-44)

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.[[45]](#footnote-45)

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.[[46]](#footnote-46) The Justice Minister openly endorsed the investigation against the Ankara Bar Association by posting a tweet stating that their public statement is ‘unacceptable’.[[47]](#footnote-47)

# Access to housing

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

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 home[[48]](#footnote-48). 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 ghettos.

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 2019, 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 cities.

No progress has been achieved regarding the ability of LGBTI+ persons to bequeath their possessions to their partners as the law does not recognise LGBTI+ couples.[[49]](#footnote-49)

# Article 10 - 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.

In 2019, after a presentation on peer bullying on the ground of SOGI-based discrimination was carried out in Hatay, the press report on it and an administrative investigation against the facilitators were initiated, followed by a smear campaign against the media.[[50]](#footnote-50)

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 organise. 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.[[51]](#footnote-51) Two students were imprisoned, and two students were put under house arrest.[[52]](#footnote-52)

Hacettepe University Queer Studies Club, founded in 2014, organised events until the Ankara Governor banned LGBTI+-related events in 2017. However, unlike other student clubs, Queer Studies Club was not allowed to organise any events or open their stands, and in fact, faced with discrimination by the Hacettepe University management.[[53]](#footnote-53)

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 2019. 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,[[54]](#footnote-54) thus violating the right to peaceful assembly.

# Article 12 - 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.[[55]](#footnote-55) 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 reports or letters.[[56]](#footnote-56) 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 discloused 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.[[57]](#footnote-57)

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.[[58]](#footnote-58)

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.

# Article 15 - Equality before the law

Committee’s Concluding Observations on Turkey’s last periodic report[[59]](#footnote-59) reminds Turkey of its obligation to protect LBT+ women against discrimination and violence by including SOGI in its legislation on hate crimes and legislation on the prohibition of discrimination. The Committee also recommends Turkey ensure that perpetrators of crimes against LBT+ women cannot benefit from “unjust provocation” as a defence as provided for in Article 29 of the Turkish Penal Code. Turkey is far from meeting these standards.[[60]](#footnote-60) Not only lesbophobic and/or transphobic motives against LBT+ women are ignored by the judicial bodies, but the courts can reward perpetrators with sentence reductions based on “unjust provocation” or “good behaviour.”[[61]](#footnote-61)

In theEighth Periodic Report,[[62]](#footnote-62) Turkey underlines that “Equality before the law” is ensured for everyone[[63]](#footnote-63) and that discrimination based on race, language, religion, sect, nationality, colour, gender, political (or other) ideas and thought, philosophical beliefs, ethnic or social background, birth, economic and other social positions are prohibited under general provisions.[[64]](#footnote-64) Various reports by NGOs indicate that Turkey’s political attitude and lack of policies against the protection of LBT+ women harm the application of such provisions.[[65]](#footnote-65) In its report, articles cited by Turkey fail to include and offer protection to LBT+ women and provide legal justification for violence committed against them.

Turkey fails to implement Article 216 to ensure equality before the law. As examined in this report, within the scope of hate crimes and hate speech, Turkey allows high-profile state actors to speak out directly against LBT+women and refuses to prosecute such violations under Article 216 adequately. Instead, the judiciary is inclined to use Article 216 against LGBTI+ people and LGBTI+ rights advocates.[[66]](#footnote-66)

# Article 16 - 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.[[67]](#footnote-67)

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.[[68]](#footnote-68)

# 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.[[69]](#footnote-69)

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 legislation. Kaos GL documented 34 cases of unlawful violations against personal liberty and security of LGBTI+ people during 2019, most of which against trans people.[[70]](#footnote-70)

# 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.[[71]](#footnote-71) The IC is the only legislative tool openly protecting LBT+ women refugees rights in Turkey,[[72]](#footnote-72) as it contains provisions specific to asylum-seeking[[73]](#footnote-73) and LBT+ refugees.[[74]](#footnote-74) 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.[[75]](#footnote-75)

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.

## 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 prioritised, 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.

Deportation Orders and Detention Centres

Despite the non-refoulment 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.[[76]](#footnote-76) All deportation centres in Turkey have been constructed under the gender binary system that violates the rights of LBT+ women rights, as they are detained in centres 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 behaviour, or rejections 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,”[[77]](#footnote-77) 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[[78]](#footnote-78) and LGBTI+ people[[79]](#footnote-79) 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.[[80]](#footnote-80) 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-coloured 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.”[[81]](#footnote-81) Tens of LGBTI+ activists spent long hours in detention for carrying/wearing rainbow coloured banners in protests.[[82]](#footnote-82) Trans activists were arbitrarily detained after joining women’s rallies.[[83]](#footnote-83)

During detention, many women and trans protesters declared that they had been subjected to strip searches,[[84]](#footnote-84) rape threats, transphobic slur[[85]](#footnote-85) or other forms of ill-treatment.[[86]](#footnote-86) 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.[[87]](#footnote-87) 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.[[88]](#footnote-88)

Under the Bangkok Rules, the Committee recommended Turkey install closed complaint boxes to enable detainees to correspond confidentially with outside judicial and complaints bodies.[[89]](#footnote-89) Such mechanisms are still not available in police stations.

# Impact of Covid-19 pandemic and measures on LBT+ women

LGBTI+ persons were among the most financially affected groups as they often work in the service or entertainment industries, which were heavily impacted by restrictions. [[90]](#footnote-90) Sex workers and trans women, in particular, were especially vulnerable as they lack a job or social security and were not included in any welfare programs announced by the government in response to the pandemic. With lockdown measures imposed, LBT+ women faced increasing levels of domestic violence and discrimination.

Due to the pandemic, most of the students had to return to the houses of their parents. The calls of advisees who reach out to Pink Life LGBTI+ Solidarity Association via social service and psychological counselling hotlines indicate that LBT+ women who had to be residents in parental houses became more vulnerable to face domestic violence. Social services and the justice system are either unavailable or inaccessible to LGBTI+ people.[[91]](#footnote-91)

LGBTI+phobic hate increased during the Covid-19 pandemic, fuelled by discriminatory statements by government officials, including President Erdoğan, as explained above.[[92]](#footnote-92) Applications to SPoD’s LGBTI+ hotline for discrimination and violence based on SOGI increased by 100% following the hate sermon by the President of Religious Affairs,[[93]](#footnote-93) demonstrating the direct impact of discriminatory and hateful remarks by government officials on LGBTI+ persons.

Trans people were particularly affected by the pandemic; in addition to increased challenges in accessing health services, including those needed for the transitioning process, the pandemic deepened levels of poverty trans people face in Turkey while access to social services was severely hindered.[[94]](#footnote-94) Trans women continued to be targeted in violent attacks (even murdered) during the pandemic,[[95]](#footnote-95) while Turkish police repeatedly detained trans women based on “coronavirus measures.”[[96]](#footnote-96)

During the pandemic, LGBTI+s refugees were mostly taken to detention centres with allegations of public order and security violations. In some provinces, lawyers were not allowed to enter detention centres due to Covid-19 mitigation measures. Additionally, the communication between applicants and assigned lawyers was challenging, and the time for case solving was longer than usual. Furthermore, the number of deportations and arbitrary detentions have increased, according to NGO reports.

The pandemic exacerbated discrimination against refugees. The majority of aid organisations gave priority to Turkish citizens leaving refugees with limited access to aid.[[97]](#footnote-97) Some hospitals did not take care of refugees that have other illnesses apart from Covid-19. Discrimination and fear of deportation added additional barriers in seeking health care support.

# National human rights bodies

The Human Rights and Equality Institution of Turkey (TIHEK) has been fuelling 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 defence 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.[[98]](#footnote-98) As opposed to the Turkish government’s claims mentioned above that Article 10 of the Constitution protects SOGI, TIHEK stated in its defence petition that the lack of explicit mention of these grounds in any legislation under Turkish law should mean that SOGI are not legally protected grounds.

Under these circumstances, it is obvious that TIHEK fails to comply with the Paris Principles.[[99]](#footnote-99) As an institution that uses hate speech and cites hate speech by the President in official documents,[[100]](#footnote-100) TIHEK is in no position to promote and protect the human rights of LBT+ women or publicise human rights and efforts to combat all forms of discrimination.[[101]](#footnote-101)

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.[[102]](#footnote-102) An institution that clearly and publicly violates Article 5 of CEDAW on gender stereotyping is in no position to protect and promote women’s human rights and fundamental freedoms, especially LBT+ women.[[103]](#footnote-103)

# Recommendations

In light of this information, we hope that the CEDAW Committee will consider addressing the following recommendations to the Government of Turkey:

1. The State should prosecute hate speech against LGBTI+ people and immediately stop the hate speech by the President and other state representatives.
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.

1. We will use LBT+ women during the report to cover lesbians, bisexual women and transgender people including trans women, trans men and non-binary people. [↑](#footnote-ref-1)
2. <https://bit.ly/3zlYQok> [↑](#footnote-ref-2)
3. <https://bit.ly/3vfAtFu> [↑](#footnote-ref-3)
4. <https://bit.ly/35aMRw6> [↑](#footnote-ref-4)
5. Eighth Periodic Report, para. 49 [↑](#footnote-ref-5)
6. <https://bit.ly/3xeYY7j>, <https://bit.ly/2TnZLEm> [↑](#footnote-ref-6)
7. <https://bit.ly/3zlYQok> [↑](#footnote-ref-7)
8. <https://bit.ly/3zlj7KD> [↑](#footnote-ref-8)
9. Para. 32(f) [↑](#footnote-ref-9)
10. Article 10 [↑](#footnote-ref-10)
11. <https://bit.ly/3pGKUkq> [↑](#footnote-ref-11)
12. <https://bit.ly/3vly38z>, <https://bit.ly/3pIM7HQ> [↑](#footnote-ref-12)
13. <https://bit.ly/2Sl8eYW> [↑](#footnote-ref-13)
14. <https://bit.ly/3vfwqJm> [↑](#footnote-ref-14)
15. <https://bit.ly/3goZ6dz> [↑](#footnote-ref-15)
16. <https://bit.ly/3guzfAS> [↑](#footnote-ref-16)
17. <https://bit.ly/3wg9jzS> [↑](#footnote-ref-17)
18. <https://bit.ly/3zjpNsK> [↑](#footnote-ref-18)
19. <https://bit.ly/3cCgLh0> [↑](#footnote-ref-19)
20. Aydin, Hasan. *Human Rights in Turkey: Assaults on Human Dignity*. Springer Nature. [↑](#footnote-ref-20)
21. <https://bit.ly/3wj6AWj> [↑](#footnote-ref-21)
22. From 2002 to 2006, 30 trans women and transvestites living and working in Eryaman have been systematically attacked, threatened, and displaced by gangs under the policy of gentrification. They have submitted complaints on several occasions by providing attackers’ names and licence plates to the court. None of the complaints resulted in a positive outcome and they were forced to leave their homes in Eryaman and move to Esat and other cities such as Mersin. The attacks continued in Esat. In 2007, the charges were considered for the first time, and three of the attackers were detained. In 2008, the court sentenced the attackers to two years of imprisonment based on the crime of gang activity against a specific group of people. In 2008, a witness who played an important role in identifying the gang members was shot in her car and killed. The killer has still not been found. [↑](#footnote-ref-22)
23. <https://bit.ly/35ceQvw> [↑](#footnote-ref-23)
24. <https://bit.ly/3v8Zy56> [↑](#footnote-ref-24)
25. <https://bit.ly/3izzeOQ>; <https://bit.ly/3xg41Va> [↑](#footnote-ref-25)
26. <https://bbc.in/3sz88eP>; <https://bit.ly/38tdK3D>; <https://bit.ly/3FMu0ZL>; <https://bit.ly/3wg1YTa> [↑](#footnote-ref-26)
27. ​​<https://bit.ly/3weAWf8> [↑](#footnote-ref-27)
28. <https://bit.ly/3FNKWyY> [↑](#footnote-ref-28)
29. <https://bit.ly/39qK2w7> [↑](#footnote-ref-29)
30. <https://bit.ly/3iB0H2S> [↑](#footnote-ref-30)
31. <https://bit.ly/2SruuAf> [↑](#footnote-ref-31)
32. <https://bit.ly/35bYoeI> [↑](#footnote-ref-32)
33. <https://bit.ly/3vjjL8d> [↑](#footnote-ref-33)
34. <https://bit.ly/3zinfew> [↑](#footnote-ref-34)
35. <https://bit.ly/3xcnCp8>. Upon Kınık’s hate speech, the IFRC first tweeted a statement condemning homophobia and all hate speech and that they are exploring their next course of action. This tweet was later deleted and Kınık remains the Vice-President of IFRC, with no known sanctions imposed against him. [↑](#footnote-ref-35)
36. <https://bit.ly/3v8KWTm> [↑](#footnote-ref-36)
37. <https://bit.ly/3xbSk1G> [↑](#footnote-ref-37)
38. <https://bit.ly/3veq6lq> [↑](#footnote-ref-38)
39. <https://bit.ly/3vjkfLz> [↑](#footnote-ref-39)
40. <https://bit.ly/3cBWubd> [↑](#footnote-ref-40)
41. Presidential Decree No. 3718 - <https://bit.ly/2RMJFnm> [↑](#footnote-ref-41)
42. <https://cnn.it/3xaGFjJ> [↑](#footnote-ref-42)
43. <https://bit.ly/3wlyiC0> [↑](#footnote-ref-43)
44. <https://bit.ly/3gm6iHs> [↑](#footnote-ref-44)
45. <https://bit.ly/3cBWQyz> [↑](#footnote-ref-45)
46. <https://bit.ly/3gyYty3> [↑](#footnote-ref-46)
47. <https://bit.ly/3vn0eDW> [↑](#footnote-ref-47)
48. <https://bit.ly/3leIrfI> [↑](#footnote-ref-48)
49. <https://bit.ly/2TZL2zR> [↑](#footnote-ref-49)
50. <https://bit.ly/3cAWlVp> [↑](#footnote-ref-50)
51. <https://bit.ly/2Sji0uF> [↑](#footnote-ref-51)
52. <https://bit.ly/3czTgF6> [↑](#footnote-ref-52)
53. <https://bit.ly/3iyiA28> [↑](#footnote-ref-53)
54. <https://bit.ly/3gbi0FU> [↑](#footnote-ref-54)
55. <https://bit.ly/2RJsX8i> [↑](#footnote-ref-55)
56. <https://bit.ly/3pHp0O5> [↑](#footnote-ref-56)
57. <https://bit.ly/2RJsX8i> [↑](#footnote-ref-57)
58. <https://bit.ly/3iMGK9t> [↑](#footnote-ref-58)
59. Para. 32(f) [↑](#footnote-ref-59)
60. <https://bit.ly/35dR2am> [↑](#footnote-ref-60)
61. <https://bit.ly/3ixXgtw> [↑](#footnote-ref-61)
62. <https://bit.ly/3ziUpuC> [↑](#footnote-ref-62)
63. Para. 230 [↑](#footnote-ref-63)
64. Para. 234 [↑](#footnote-ref-64)
65. <https://bit.ly/35cDRGE> [↑](#footnote-ref-65)
66. <https://bit.ly/35cDRGE> [↑](#footnote-ref-66)
67. <https://bit.ly/3zgKrtE> [↑](#footnote-ref-67)
68. <https://bit.ly/3zgKt4K> [↑](#footnote-ref-68)
69. <https://bit.ly/3iDXTlp> [↑](#footnote-ref-69)
70. <https://bit.ly/3zgKrtE> [↑](#footnote-ref-70)
71. Kivilcim, Z. (2017). Lesbian, gay, bisexual and transsexual (LGBT) Syrian refugees in Turkey

    A gendered approach to the Syrian refugee crisis, 26-40, <https://bit.ly/2St45SF> [↑](#footnote-ref-71)
72. <https://bit.ly/3gmd3ZQ> [↑](#footnote-ref-72)
73. Articles 60 and 61 [↑](#footnote-ref-73)
74. <https://bit.ly/2TO8fVp> [↑](#footnote-ref-74)
75. <https://bit.ly/3vddI5d> [↑](#footnote-ref-75)
76. <https://bit.ly/3ivxPsJ> [↑](#footnote-ref-76)
77. Eighth Periodic Report of Turkey, para. 159 [↑](#footnote-ref-77)
78. <https://bit.ly/3ggBwRE> [↑](#footnote-ref-78)
79. <https://bit.ly/3v9W4zb> [↑](#footnote-ref-79)
80. <https://bit.ly/3zgKrtE> [↑](#footnote-ref-80)
81. <https://bit.ly/35cUv97> [↑](#footnote-ref-81)
82. <https://bit.ly/3guIAZy> [↑](#footnote-ref-82)
83. <https://bit.ly/3xbRz8M> [↑](#footnote-ref-83)
84. <https://bit.ly/3zkzrLN> [↑](#footnote-ref-84)
85. <https://bit.ly/3vfoQ1p> [↑](#footnote-ref-85)
86. <https://bit.ly/3zm0aYw> [↑](#footnote-ref-86)
87. <https://bit.ly/3gcgovx> [↑](#footnote-ref-87)
88. <https://bit.ly/3pHbFFi> [↑](#footnote-ref-88)
89. Para. 52 [↑](#footnote-ref-89)
90. <https://bit.ly/3zjRXE9> [↑](#footnote-ref-90)
91. <https://bit.ly/3pNtfrh> [↑](#footnote-ref-91)
92. <https://bit.ly/3zmf2WT> [↑](#footnote-ref-92)
93. <https://bit.ly/3xctte6> [↑](#footnote-ref-93)
94. <https://bit.ly/3pNtfrh>; <https://bit.ly/3x9t6kk> [↑](#footnote-ref-94)
95. <https://bit.ly/3cxJTWo> [↑](#footnote-ref-95)
96. <https://bit.ly/3gquN6q> [↑](#footnote-ref-96)
97. <https://bit.ly/3ivwYIx> [↑](#footnote-ref-97)
98. <https://bit.ly/35cDRGE> [↑](#footnote-ref-98)
99. Concluding Observations, para. 20(a) [↑](#footnote-ref-99)
100. In the defence petition mentioned above, TIHEK cited remarks by President Erdoğan at a TIHEK event in 2019, where he stated “That certain networks are trying to legitimise deviant relations contrary to human nature is one of the main threats against the family institution.” Available at: [hps://bit.ly/35cDRGE](https://bit.ly/35cDRGE). [↑](#footnote-ref-100)
101. Paris Principles, Articles 1 & 3(g), [↑](#footnote-ref-101)
102. Venice Principles, Article 9 [↑](#footnote-ref-102)
103. Venice Principles, Article 1 [↑](#footnote-ref-103)