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**Türkiye: Civil Society Submission to the UN Human Rights Committee ahead of the Committee's Review of Türkiye's 2<sup>nd</sup> Periodic Report**

**Members of the Coalition: Murat Çekiç Human Rights Association & Kaos GL & May 17 Association**

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## Table of Contents

<u>I. Introduction</u>	<u>3</u>
<u>II. Executive Summary</u>	<u>4</u>
• <u>Methodology</u>	<u>4</u>
• <u>Overall Assessment</u>	<u>4</u>
• <u>Key Findings</u>	<u>4</u>
• <u>Suggested Recommendations</u>	<u>5</u>
<u>III. Issues addressed</u>	<u>5</u>
A. <u>General information on the national human rights situation, including new measures and developments relating to the implementation of the Covenant</u>	<u>5</u>
B. <u>Specific information on the implementation of articles 1 to 27 of the Covenant, including with regard to the previous recommendations of the Committee</u>	<u>6</u>
1. <u>Constitutional and legal framework within which the Covenant is implemented (art. 2)</u>	<u>6</u>
2. <u>Non-discrimination (arts. 2, 3, 6, 25 and 26)</u>	<u>7</u>
3. <u>Violence against women (arts. 2, 3, 6, 7 and 26) and Prohibition of torture and cruelty, inhuman or degrading treatment or punishment (arts. 2, 7, 9, 10, 12 and 14)</u>	<u>8</u>
4. <u>Right to privacy (art. 17)</u>	<u>9</u>
5. <u>Freedom of expression, peaceful assembly and association (arts. 19, 21 and 22)</u>	<u>11</u>
a. <u>Freedom of Expression</u>	<u>11</u>
b. <u>Right to Peaceful Assembly</u>	<u>13</u>
c. <u>Freedom of Association</u>	<u>14</u>
<u>V. Recommendations In Order Of Priority</u>	<u>16</u>

## I. Introduction

1. **About the Coalition:** The aim of this consortium, whose members are described below, is to provide the UN Human Rights Committee with a framework for reviewing the situation of LGBTI+ persons in Türkiye during its 142th Session.

2. **About Murat Çekiç Human Rights Association:** Murat Çekiç Human Rights Association was established on June 8, 2021 in Izmir under the name “12th Protocol Association”. The aim of the Association is to ensure that Türkiye puts into force the 12th Protocol to the European Convention on Human Rights and implements the prohibition of discrimination in the convention. Following the death of Murat Çekiç, a Turkish activist and founder, the Association changed its name and added the purpose of “operating in the field of human rights” to its activities.

3. **About Kaos GL Association:** On September 20, 1994, the organization joined the field of advocacy as “Kaos GL” magazine; in 2005, it applied to the Governorate of Ankara and gained the status of an association. It fights for the human rights of LGBTI+ persons. It carries out its activities through human rights, media and communication, refugee rights, academic and cultural rights programs. It engages in advocacy, lobbying, human rights monitoring and reporting, journalism, cultural and academic journal publishing.

4. **About May 17 Association:** The May 17 Association is an LGBTI+ civil society organization, founded on 2 September 2019, in Ankara, Türkiye, by a group of experienced LGBTI+ human rights defenders and professionals working in the field. The association derives its name from the globally recognized Day Against Homophobia, Biphobia and Transphobia. The main goals of the May 17 Association are ensuring the well-being of LGBTI+ rights holders and building their capacity to advocate for their rights, respond to the needs of the LGBTI+ community, and support LGBTI+ activism in Türkiye.

## II. Executive Summary

5. This report focuses on the ongoing discrimination and human rights violations against LGBTI+ individuals in Türkiye. Submitted by a coalition of civil society organizations, it is intended to provide a detailed assessment ahead of Türkiye's 2nd Periodic Review under the International Covenant on Civil and Political Rights (ICCPR) in October 2024.

6. **Methodology** : This joint report was drafted in response to the assessments and recommendations from the Committee's concluding observations (CCPR/C/TUR/CO/1) at its 106th session (October-November 2012) and key paragraphs from the List of Issues prior to Türkiye's second periodic report (August 2022). It considers Türkiye's second Periodic Report (April 2023) and is based on verified information from the press, international bodies, and human rights reports.

7. **Overall assessment** : Despite Türkiye's claims, the legal and institutional framework in the country continues to systematically exclude and discriminate against LGBTI+ persons. The coalition calls for urgent reforms and adherence to international human rights standards.

### **Key Findings:**

8. **Legal and Constitutional Regression** : The report highlights the lack of progress in protecting LGBTI+ rights within the constitutional and legal framework, exacerbated by Türkiye's withdrawal from the Istanbul Convention. There have been no meaningful protective changes, and proposed constitutional amendments to ban same-sex marriage reflect the government's regressive stance.

9. **Hate Speech and Exclusion from National Plans** : LGBTI+ individuals are systematically excluded from the Human Rights Action Plan (HRAP). Hate speech against them, fueled by high-level officials, including the President of Religious Affairs and President Erdoğan, is rampant. Despite being frequently targeted, LGBTI+ individuals are not included in Article 4.4 of the HRAP, which addresses combating hate speech and discrimination.

10. **Discrimination and Violence** : Fundamental laws that are supposed to prevent discrimination have been written in a way that excludes LGBTI+ persons, thus legalizing discriminatory practices. The Human Rights and Equality Institution of Türkiye (THREI) categorically dismisses complaints from LGBTI+ individuals. Furthermore, violence against LGBTI+ individuals, particularly trans women, remains a serious issue, with law enforcement often engaging in or enabling such violence.

11. **Right to Privacy Violations** : The document reports consistent privacy violations, especially in the workplace and healthcare, where LGBTI+ individuals' personal information is often exposed without their consent. Access to personal medical records, including HIV status, is easily obtained by unauthorized parties, resulting in discrimination and violence.

12. **\*\*Restrictions on Freedom of Expression and Assembly\*\***: Freedom of expression for LGBTI+ individuals is severely restricted. Pride parades and related events are frequently banned, and peaceful demonstrators are subjected to violence, detention, and torture. Artistic and cultural expressions involving LGBTI+ themes face significant censorship, and even rainbow symbols are penalized.

13. **\*\*Challenges for LGBTI+ Organizations\*\***: LGBTI+ organizations face constant arbitrary audits and legal restrictions under laws related to terrorism financing. These organizations, classified as “risky,” are frequently harassed through excessive inspections, which impede their ability to operate.

#### **Suggested recommendations:**

1. Amend the law establishing THREI to ensure that discrimination based on sexual orientation and gender identity is recognized.
2. Include LGBTI+ individuals in the scope of anti-discrimination laws, especially Article 122 of the Turkish Penal Code.
3. Enforce existing laws to protect LGBTI+ individuals from hate crimes and domestic violence.
4. Legal reforms should facilitate gender recognition without requiring trans individuals to undergo sterilization or unwanted medical procedures.
5. End systematic bans on pride parades and uphold the right to peaceful assembly for LGBTI+ individuals.
6. Implement clear, predictable regulations for LGBTI+ associations and address excessive restrictions that limit their ability to operate.

### **III. Issues Addressed**

#### **A. General information on the national human rights situation, including new measures and developments relating to the implementation of the Covenant**

14. Concerning the issue of LGBTI+ individuals, there has been no development in policy, law or practice regarding the implementation of the Covenant since the adoption of the Committee's previous concluding observations. None of the regulations presented by the State party in its report and described as progress constitute a positive action towards LGBTI+ individuals. Nor does it have a nature to prevent or prevent negative actions.

15. HRAP does not contain any content regarding LGBTI+ individuals.<sup>1</sup>

16. Considering the concluding observations and recommendations adopted by the Committee at its 106th session, no progress has been made in providing LGBTI+ individuals with access to the rights recognised in the Covenant.

## **B. Specific information on the implementation of articles 1 to 27 of the Covenant, including with regard to the previous recommendations of the Committee**

### **1. Constitutional and legal framework within which the Covenant is implemented (art. 2)**

17. THREI was established with the Human Rights and Equality Institution of Türkiye Law adopted by the Turkish Grand National Assembly on 06.04.2016. The first article of the law's purposes is expressed as "securing the right of individuals to be treated equally". However, a narrowing was made in Article 3 of the law titled "Principle of equality and prohibition of discrimination" and the provision was introduced as "Within the scope of this law, discrimination based on gender, race, color, language, religion, belief, sect, philosophical and political views, ethnic origin, wealth, birth, marital status, health status, disability and age is prohibited."<sup>2</sup> The demands and recommendations of civil society were not taken into consideration during the enactment phase. The Institute categorically rejects the submissions of LGBTI+ individuals, based on inadmissibility.<sup>3</sup> <sup>4</sup> In a recent verdict, THREI member Saffet BALIN's statements in the opposing vote, describing LGBTI+ individuals as perverts, calls for attention.<sup>5</sup> In the anti-LGBTI+ constitutional amendment negotiations, THREI was represented by the president Muharrem KILIÇ and Zennure BER during the commission gatherings.<sup>6</sup> The homophobic statements in BER's speech on behalf of THREI in the Constitutional Commission calls for attention.<sup>7</sup> The Ombudsman also made similar statements in his speech in the same Commission.<sup>8</sup>

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<sup>1</sup> <https://rm.coe.int/letter-to-mr-suleyman-soylu-minister-of-interior-and-mr-abdulhamit-gul/1680a2e486>

<sup>2</sup> <https://www.tih.gov.tr/public/editor/uploads/1660833133.pdf>

<sup>3</sup> <https://kaosgl.org/en/single-news/human-rights-and-equality-institution-of-turkiye-determines-no-act-of-violation-regarding-the-solitary-confinement-of-the-lgbti-prisoner>

<sup>4</sup> <https://kaosgl.org/en/single-news/tih-rejected-lgbti-s-application-once-again>

<sup>5</sup> <https://www.tih.gov.tr/public/images/kararlar/kuwvsf.pdf> (The relevant part of the decision is as follows: "The only way to prevent perversions such as illegitimate relationships and LGBT from gaining ground in society is to give importance to the concept of family and encourage it in society.")

<sup>6</sup> <https://tihek.gov.tr/tbmm-anayasa-komisyon-toplantisina-katilim>

<sup>7</sup> [https://www5.tbmm.gov.tr/develop/owa/komisyon\\_tutanaklari.goruntule?pTutanakId=3097](https://www5.tbmm.gov.tr/develop/owa/komisyon_tutanaklari.goruntule?pTutanakId=3097) Page 64 "Our teachers, education union presidents, muhtars, mothers are in a state of outrage, especially on this LGBT issue, and they expect a solution from us."

<sup>8</sup> Page 60: "If the Ministry of Family, the Ministry of National Education, the Presidency of Religious Affairs or civil society organizations do not engage in real social activities in this sense (Reporter's note, LGBTI+ individuals are meant here) - not just objections - or do not take measures in this regard, this feels like a tsunami. After a while, it will perhaps reach a point of no return. Here, again, these young children of ours are the ones who suffer the greatest damage."

18. The members of these institutions, whose laws exclude LGBTI+ individuals and who openly make anti-LGBTI+ statements, provide further evidence of the discriminatory nature of the legal framework under which the Covenant is implemented.

19. On the other hand, THREI is not an accredited institution in category A by GANHRI but in category B, and its members are directly appointed by the President. The recommendation in the seventh paragraph of the Committee's concluding observations dated 13.11.2012 (CCPR/C/TUR/CO/1) has not been fulfilled.<sup>9</sup>

20. Article 10 of the Constitution, titled "Equality Before the Law", theoretically guarantees everyone's equality before the law.<sup>10</sup> As seen in THREI's practice, this provision does not ensure that anti-discrimination norms are written in a way that everyone can benefit from. On the other hand, there is no example of the Constitutional Court annulling a regulation against LGBTI+ individuals by citing Article 10 of the Constitution as justification. Norms that prevent or protect against violations are established to protect certain groups, as in the example of Article 122 of the Turkish Penal Code (TPC from this point on), and LGBTI+ individuals are never counted among these groups. Moreover, Article 29 of the TPC, which foresees a reduction in the sentence if the defendants commit the act under unjust provocation, is an escape rule that ensures that defendants receive lower sentences than they should in hate crimes.<sup>11</sup>

## **2. Non-discrimination (arts. 2, 3, 6, 25 and 26)**

21. None of the forms of discrimination that cause LGBTI+ individuals to be discriminated against, such as sexual orientation, gender identity, gender expression, gender characteristics, are prohibited by law.<sup>12</sup> Since the Article 122 of the Turkish Penal Code titled "Discrimination and Hatred" does not include sexual orientation and gender identity among the forms of discrimination, it has no scope of application for LGBTI+ individuals.<sup>13</sup> There are civil servants who have been dismissed from their jobs because they are gay.<sup>14</sup> In specific sectors such as the security sector and religious teachers, even if it is not openly regulated, individuals are dismissed from civil service when the information about their sexual orientation is acquired.<sup>15</sup> According to the Article 8-e of the Law on the Establishment and Broadcasting Services of Radio and Television, discriminatory and derogatory broadcasts cannot be made.<sup>16</sup> The Radio and Television Supreme Council (RTSC from this point on) is responsible for overseeing this. However, the Council, led by Ebubekir Şahin, known for his homophobic

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<sup>9</sup> <https://kaosgl.org/en/single-news/chronology-an-anti-lgbti-rights-institution-with-human-rights-and-equality-in-its-name>

<sup>10</sup> [https://www.anayasa.gov.tr/media/7258/anayasa\\_eng.pdf](https://www.anayasa.gov.tr/media/7258/anayasa_eng.pdf)

<sup>11</sup> A/HRC/23/47/Add.2, 78, <https://documents.un.org/doc/undoc/gen/q13/122/89/pdf/q1312289.pdf>

<sup>12</sup> <https://lgbti-era.org/countries/turkey/>

<sup>13</sup> [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF\(2016\)011-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF(2016)011-e)

<sup>14</sup> <https://kaosgl.org/en/single-news/quotthey-kicked-me-out-at-jet-speed-just-because-i-am-gayquot>

<sup>15</sup> <https://www.dw.com/en/turkey-being-gay-could-cost-you-your-job/a-47948085>

<sup>16</sup> <https://www.rtuk.gov.tr/audiovisual-media-law/4046/en>

statements<sup>17</sup> imposed fines on broadcasting companies for airing LGBTI+ inclusive content,<sup>18</sup> <sup>19</sup>. At the same time, it sent a video promoting anti-LGBTI+ hate rallies to broadcasters, requesting it be aired as a public service announcement.<sup>20</sup>

22. In this sense, none of the law decrees referred to in the second periodic report submitted by the State party ensure that the Covenant is applicable to LGBTI+ individuals; on the contrary, they are instrumentalized to institutionalize anti-LGBTI+ public policy. The homophobic rhetoric of high-level bureaucrats at the head of constitutional institutions is another indicator confirming this.

23. There is no rule of law prohibiting discrimination in broader terms.<sup>21</sup> Türkiye has signed, but not ratified, Additional Protocol No. 12 of the European Convention on Human Rights on the general prohibition of discrimination.

24. As a result, the State party has not implemented the recommendations in the eighth and tenth paragraphs of the Committee's concluding observations. It is important to note that the conditions of 2012, which raised concerns about the social stigmatization and social exclusion of (LGBT) persons, have worsened. Today, these issues have become more institutionalized and structural, as shown by the examples provided. This process is further fueled by statements from high-level public officials, including President R. Tayyip Erdoğan, whose anti-LGBTI+ hate speech is a major factor in this institutionalization.<sup>22</sup> The hate speech disseminated by the President of Religious Affairs in April 2020 is also an important example in this regard.<sup>23</sup>

### **3. Violence against women (arts. 2, 3, 6, 7 and 26) and Prohibition of torture and cruelty, inhuman or degrading treatment or punishment (arts. 2, 7, 9, 10, 12 and 14)**

25. Law enforcement agencies<sup>24</sup> deny their obligation to prevent and investigate violence against homosexual, bisexual, trans and intersex women by third parties.<sup>25</sup> The violence is not only caused by third parties but also by law enforcement officers. Trans women, whose legal gender has not yet been corrected in their civil registration records, are subjected

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<sup>17</sup> <https://kaosgl.org/en/single-news/discriminative-practices-of-sahin-the-re-elected-president-of-radio-and-television-supreme-council-of-turkey>

<sup>18</sup> <https://kaosgl.org/en/single-news/rtuk-imposes-a-fine-on-halk-tv-for-lgbt-related-evaluations>

<sup>19</sup> <https://bianet.org/haber/rtuk-fines-streaming-platforms-for-violating-family-protection-principles-282045>

<sup>20</sup> <https://www.voanews.com/a/turkish-regulator-criticized-over-public-service-video/6751362.html>

<sup>21</sup> <https://www.amnesty.org/en/latest/news/2024/05/turkiye-discriminatory-restrictions-and-violence-against-pride-protesters-must-not-be-repeated/>

<sup>22</sup> <https://www.duvarenglish.com/in-new-hate-speech-turkeys-erdogan-says-imposition-of-lgbt-turns-into-tyranny-surpassing-even-fascism-news-64460>

<sup>23</sup> <https://www.duvarenglish.com/domestic/2020/04/25/turkeys-top-religious-official-once-again-targets-lgbt-individuals>

<sup>24</sup> <https://kaosgl.org/en/single-news/police-banned-lgbti-signs-in-8th-march-protest-attacked-and-detained-trans-women-after-the-protest>

<sup>25</sup> <https://www.duvarenglish.com/turkish-police-officer-refuses-to-help-attacked-trans-women-its-not-my-job-to-protect-you-news-60251>

to violence by law enforcement officers on the grounds that they are not women.<sup>26</sup> Unjustified detentions of trans women are often accompanied by police violence.<sup>27</sup> Law No. 6284 to Protect Family and Prevent Violence against Women is dysfunctional for LGBTI+ women.<sup>28</sup> Türkiye withdrew from the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, an important international convention to prevent violence based on sexual orientation and gender identity, with anti-LGBTI+ arguments.<sup>29</sup> LGBTI+ women have thus become more vulnerable. This situation was expressed as a criticism of Türkiye during the 2024 observation of the UN Committee Against Torture.<sup>30</sup> These observations are consistent with the observations in the CEDAW Türkiye final report.<sup>31</sup>

26. As a result, the State party has not implemented the recommendations included in paragraphs twelve and thirteen of the Committee’s previous concluding observations.

27. The systematic nature of the violent detention of LGBTI+ individuals, especially during peaceful demonstrations, shows that the recommendation of the Committee in the fourteenth paragraph of its concluding observations has also not been implemented.<sup>32</sup>

28. The latest joint shadow report submitted to the United Nations Committee Against Torture by the Coalition of Turkish LGBTI+ rights organizations under the leadership of the Murat Çekiç Human Rights Association has revealed the extent of the systematic ill-treatment and torture of LGBTI+ individuals in Türkiye.<sup>33</sup>

#### 4. Right to privacy (art. 17)

29. Sexual orientation, gender identity, and gender characteristics are part of individuals’ private lives. The state must prevent acts of aggression against private life, and private lives must not be violated by the state. The Ombudsman has ruled that it is not a violation of the right to privacy for a case where a doctor working in a public hospital shared the HIV status of a patient he examined with that patient’s partner.<sup>34</sup>

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<sup>26</sup> <https://www.duvarenglish.com/trans-women-subjected-to-police-violence-in-new-attack-in-western-turkey-news-60836>

<sup>27</sup> <https://bianet.org/haber/police-detained-18-trans-women-in-istanbul-corona-measure-234096>

<sup>28</sup> <https://kaosgl.org/en/single-news/sedef-who-was-subjected-to-violence-for-two-years-has-been-denied-of-temporary-alimony-request>

<sup>29</sup> <https://www.iletisim.gov.tr/turkce/haberler/detay/statement-regarding-turkeys-withdrawal-from-the-istanbul-convention>

<sup>30</sup> [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2FC%2FTUR%2FCO%2F5&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2FC%2FTUR%2FCO%2F5&Lang=en) (paragraph 33)

<sup>31</sup> CEDAW/C/TUR/CO/8 (CEDAW 2022) 39

<sup>32</sup> <https://kaosgl.org/en/single-news/the-expert-report-reveals-the-police-torture-regarding-the-ankara-pride-march-case>

<https://kaosgl.org/en/single-news/police-attacked-in-izmir-lubnyas-resisted>

<https://kaosgl.org/en/single-news/yerlikaya-is-on-soylu-s-track-he-defended-police-torture-at-trans-pride-march>

<https://kaosgl.org/en/single-news/police-attacked-women-from-tip-unfurling-trans-flag-in-eskisehir>

<https://kaosgl.org/en/single-news/the-aftermath-of-2021-istanbul-pride-parade-police-attack-was-not-enough-either-6-files-were-suitied-separately>

<https://kaosgl.org/en/single-news/328-ngos-stop-hate-speech-against-lgbti-s-and-police-violence>

<sup>33</sup> [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCAT%2FCSS%2FTUR%2F58753&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCAT%2FCSS%2FTUR%2F58753&Lang=en)

<sup>34</sup> <https://kaosgl.org/haber/kamu-denetcligi-kurumu-ndan-hiv-le-yasayan-kisilerin-mahremiyet-hakini-ihlal-eden-skandal-karar>

30. Due to the data integration system established by the Ministry of Health, the status of those living with HIV can be viewed by hospitals, doctors, pharmacies and opticians.<sup>35</sup> The Social Security Institution, which uses a similar system, is also violating its obligation to protect personal data in this way.<sup>36</sup> Recently, the health records of an HIV+ Syrian trans refugee were leaked to the press and circulated on social media.<sup>37</sup> The trans woman, who was quickly issued a deportation verdict in violation of international protection standards regarding refugees, was deported to Syria without waiting for the result of her appeal against the deportation verdict. It has been reported that the trans woman was murdered by the Syrian Free Army and/or her family as a result of the process that began with the disclosure of her HIV status.<sup>38</sup> This incident is also an example of the State party's failure to comply with the recommendation in paragraph 20 of the Committee's concluding observations.

31. Trans people are systematically denied to have their records corrected in accordance with their current identity information, and many trans people are obliged to use their valid diplomas and other relevant graduation documents with their dead names in job applications. A 2022 study showed that only 2.4% of Turkish universities fulfilled the requests of trans people who had legally completed their gender affirming processes to change their names on their diplomas without any problems.<sup>39</sup>

32. In 2023, the statements in the indictment of the case filed against LGBTI+ individuals who participated in the pride march the previous year revealed that LGBTI+ individuals are being profiled by law enforcement or prosecutors.<sup>40</sup>

33. The exemption decision for LGBTI+ individuals who request to be exempted from military service is possible with the reports and consultation of a health board consisting of several physicians. While the status reports of LGBTI+ individuals who are exempted from military service are given on the grounds of “psychosexual gender disorder”, there is no norm that restricts employers from requesting a military status document, especially for those who are assigned male at birth. This situation is an example of the state not fulfilling the recommendation in the twenty-third paragraph of the Committee’s concluding observations .

34. Grindr, a dating site used by LGBTI+ people, has been banned in Türkiye since 2013 and the Constitutional Court has not yet ruled on the individual submission case presented to the Constitutional Court on the grounds that it is against the Constitution.<sup>41</sup> Another queer

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<sup>35</sup> <https://t24.im/MdOCZjl>

<sup>36</sup> [https://enabiz.gov.tr/document/KILAVUZ\\_.pdf](https://enabiz.gov.tr/document/KILAVUZ_.pdf)

<sup>37</sup> <https://x.com/solcugazete/status/1810577321947996627>

<sup>38</sup> <https://www.duvarenglish.com/refuge-trans-woman-deported-by-turkey-over-hiv-status-killed-in-syria-news-64720>

<sup>39</sup> <https://kaosgl.org/en/rainbow-forum-opinion-column/universities-approach-to-the-requests-of-trans-people-to-change-their-university-documents>

<sup>40</sup> <https://kaosgl.org/en/single-news/according-to-the-prosecutor-those-who-attacked-lgbti-s-are-citizens-pride-march-is-an-unlawful-act>

<sup>41</sup> <https://kaosgl.org/en/single-news/grindr-ban-in-turkey-taken-to-constitutional-court>

social media application, HORNET, has started to be used following a strategic litigation that lasted about four years.<sup>42</sup>

35. The Yeni Akit newspaper, which freely publishes offensive phrases like "Belgium's Faggotry" (29.01.2021) in its headlines,<sup>43</sup> is financially and politically supported by the state<sup>44</sup>. Meanwhile, no legal action was taken on the complaint filed by the managers of a local LGBTI+ organization, which the newspaper targeted by calling them "dishonorable fags".<sup>45</sup>

36. As in many other submissions, the Constitutional Court has not yet ruled a verdict on this submission requesting protection against hate speech. The failure of public authorities to take action against hate speech targeting individuals' sexual orientation is contrary to jurisprudence by the European Court to Human Rights (ECtHR), and the Court ruled in violation in a case filed against Lithuania.<sup>46</sup> Moreover, in two separate submissions claiming that sanctions for hate speech violate the freedom of expression regulated in Article 10 of the European Convention on Human Rights, the Court ruled that restrictions on hate speech did not violate freedom of expression.<sup>47</sup> The ECtHR recently communicated to the Republic of Türkiye of an application on a non-prosecution verdict regarding offensive statements and hate speech towards the private lives of LGBTI+ individuals.<sup>48</sup> The Protection and Empowerment of Family Vision Document and Action Plan, announced with an introductory article from the President describing LGBTI+ individuals as "perverse," sets a policy that will further violate the right to privacy of LGBTI+ individuals.<sup>49</sup> This situation also contradicts the views of the Venice Commission.<sup>50</sup>

37. This pattern is strong evidence that the State party has not implemented the recommendation in paragraph 22 of the Committee's concluding observations, and that the systematic violation has become structural and permanent, with a clear regression since the Committee's last concluding observations.

## **5. Freedom of expression, peaceful assembly and association (arts. 19, 21 and 22)**

### **a. Freedom of Expression**

38. Türkiye is unlawfully restricting LGBTI+ individuals' right to freedom of expression by using all available means. Administrative investigations launched against

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<sup>42</sup> <https://hornet.com/stories/hornet-app-set-return-turkiye-following-legal-victory-turkish-constitutional-court/>

<sup>43</sup> <https://kaosgl.org/en/single-news/everyone-speaks-of-lgbti-s-in-the-media-except-lgbti-s>

<sup>44</sup> <https://www.duvarenglish.com/turkish-state-banks-sponsoring-pro-govt-newspapers-with-advertisements-starving-critical-media-of-revenues-news-57959>

<sup>45</sup> <https://bianet.org/haber/pro-government-daily-yeni-akit-not-prosecuted-for-calling-lgbti-s-dishonorable-faggots-218651>

<sup>46</sup> <https://hudoc.echr.coe.int/eng?i=001-200344>

<sup>47</sup> <https://hudoc.echr.coe.int/fre?i=002-116>

<https://hudoc.echr.coe.int/fre?i=001-203199>

<sup>48</sup> <https://hudoc.echr.coe.int/?i=001-202813>

<sup>49</sup> <https://www.aile.gov.tr/media/165130/ailenin-korunmasi-ve-gu-c-lenen-vizyon-belgesi-ve-eylem-plani.pdf>

<sup>50</sup> [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2021\)050-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2021)050-e)

students and civil servants for using the rainbow flag that symbolizes the LGBTI+ movement,<sup>51</sup> and rainbow flags have been presented as evidence in criminal investigations.<sup>52</sup>

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39. Artistic performances such as concerts were either banned or canceled due to pressure on the organizers.<sup>54</sup>

40. It has been made mandatory for products with the rainbow symbol sold via e-commerce to be sold with the +18 symbol.<sup>55</sup>

41. RTSC imposed administrative fines on broadcasters for broadcasting series that featured same-sex partners even though they did not contain any sexually explicit content. The institution even contacted broadcasters and intervened in the scripts, preventing series broadcast abroad from being broadcast in Türkiye.<sup>56</sup>

42. Many books, including *The Gender of the Cherry* (Jeanette Winterson), *Bedtime Stories for Rebel Girls* (Francesca Cavallo, Elena Favilli), *Heart Palpitations* (Alice Oseman), were declared objectionable for minors and to be sold in invisible bags.<sup>57</sup>

43. At some March 8 demonstrations, protesters carrying trans flags or wearing rainbow socks were blocked by the police because they were “not women.” Additionally, medical schools have altered the universal medical oath by removing references to sexual orientation and gender identity as grounds for discrimination.<sup>58</sup>

44. Academics’ freedom of expression in the LGBTI+ field has been restricted, and academic production in this field has been limited. One of the main reasons for this is the cancellation of the position paper on the Higher Education Institutions Gender Equality Project.<sup>59</sup> For example, Kadir Has University Gender and Women’s Studies Research Center was forced to change its name to “Kadir Has University Women and Family Studies Research Center.”

45. Although it is discussed above due to its close relation with the right to self-development of LGBTI+ individuals in the private sphere, lack of access to websites such as HORNET and GRINDR constitutes also an interference with the freedom of expression. Many other websites with LGBTI+ content are similarly banned without justification, often citing the protection of children as the legal reason.. The current situation is also contrary to the relevant opinion of the Venice Commission on similar issues.<sup>60</sup>

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<sup>51</sup> <https://www.duvarenglish.com/turkish-teacher-and-principal-dismissed-from-duty-over-rainbow-decoration-at-report-card-ceremony-news-62601>

<sup>52</sup> <https://apnews.com/general-news-a1e06dfe55253db7b59598c454302c94>

<sup>53</sup> <https://www.dw.com/en/ankara-calls-student-protesters-lgbt-perverts-amid-artwork-controversy/a-56448760>

<sup>54</sup> <https://www.resetdoc.org/story/music-stopped-disappearance-festivals-public-space-turkey/>

<sup>55</sup> <https://www.duvarenglish.com/turkey-puts-18-age-restriction-on-lgbt-pride-rainbow-themed-merchandise-news-55401>

<sup>56</sup> <https://balkaninsight.com/2023/07/27/turkey-fines-major-digital-platforms-for-challenging-family-values/>

<sup>57</sup> <https://kaosgl.org/en/single-news/children-s-books-were-destroyed-in-turkey-due-to-encouraging-homosexuality>

<sup>58</sup> <https://www.duvarenglish.com/med-school-admin-removes-sexual-orientation-ethnicity-pride-from-hippocratic-oath-news-64522>

<sup>59</sup> <https://bianet.org/haber/council-of-higher-education-cancels-gender-equality-project-205678>

<sup>60</sup> [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2021\)050-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2021)050-e)

## b. Right to Peaceful Assembly

46. Contrary to what is claimed in the state party report, the Republic of Türkiye unlawfully bans pride parades and trans pride parades with administrative decisions issued by governors in provinces and district governors in districts, and despite these unlawful bans, LGBTI+ individuals who peacefully gather are intervened by law enforcement with tear gas and pressurized water, and sometimes detained with ill-treatment and torture.<sup>61</sup> The allegations of torture and ill-treatment against peaceful demonstrators detained in 2021 have not been cleared.<sup>62</sup> Istanbul, Türkiye's largest city, banned these parades in 2021<sup>63</sup>, 2022<sup>64</sup>, 2023<sup>65</sup> and 2024.<sup>66</sup> Considering that the last pride parade that was not banned took place in 2015, this corresponds to a ten-year ban.

47. The acquittal of 40 people<sup>67</sup> sued for participating in the banned 2021 Istanbul Pride Parade; the detention of 373 participants in the 2022 Istanbul Pride Parade and the decision of non-prosecution<sup>68</sup> for 113 people detained in 2023<sup>69</sup> all show that the demonstrators gathered for peaceful purposes.

48. On the other hand, in other provinces, including Istanbul, prohibition decisions issued by the Governorate or District Governorate are usually annulled by administrative courts.<sup>70</sup> However, since no stay of execution was issued and decisions on the merits were issued long after the case was filed, these annulment decisions have no effect on those parades. Moreover, the authorities continue to ban these peaceful demonstrations despite the decisions of non-prosecution, acquittal and annulment by the administrative court. In other words, the failure to enforce the verdicts or to create a change in behavior in the authorities is not only a violation of the right to assembly, but also reveals a systematic problem in terms of LGBTI+ individuals' access to justice. In their 9.2 communications, Turkish rights organizations recently submitted a report to the Committee of Ministers of the Council of Europe regarding the failure of Türkiye to fulfill its obligations regarding violation verdicts on the right to peaceful assembly issued against.<sup>71</sup> In June 2024, the ECtHR communicated to the Republic of Türkiye two submissions regarding the right to peaceful assembly.<sup>72</sup>

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<sup>61</sup> <https://bianet.org/haber/istanbul-convention-is-annulled-people-are-made-vulnerable-to-violence-246398>

<sup>62</sup> <https://www.amnesty.org/en/documents/eur44/4362/2021/en/>

<sup>63</sup> <https://bianet.org/haber/istanbul-governor-bans-lgbti-pride-march-again-246260>

<sup>64</sup> <https://balkaninsight.com/2022/06/21/istanbul-authorities-ban-lgbt-pride-week-events/>

<sup>65</sup> <https://www.dw.com/en/istanbul-lgbtq-community-tries-to-hold-pride-amid-arrests/a-66027403>

<sup>66</sup> <https://www.duvarenglish.com/turkish-govt-blockades-istanbul-in-fear-of-trans-pride-march-news-64556>

<sup>67</sup> <https://bianet.org/haber/lgbti-activist-acquitted-in-2021-pride-week-case-274608>

<sup>68</sup> <https://kaosgl.org/en/single-news/non-prosecution-for-those-detained-at-the-istanbul-pride-march>

<sup>69</sup> <https://www.hrw.org/news/2023/06/27/turkey-mass-detentions-pride-marches>

<sup>70</sup> <https://www.duvarenglish.com/turkish-court-annuls-decision-to-ban-last-years-pride-march-in-aegean-izmir-news-62772>

and <https://kaosgl.org/en/single-news/ban-on-7th-izmir-lgbti-pride-parade-has-been-annulled>

and <https://kaosgl.org/en/single-news/the-state-is-responsible-for-taking-necessary-measures-to-exercise-freedom-of-assembly>

<sup>71</sup> <https://rm.coe.int/0900001680aa0506>

<sup>72</sup> <https://hudoc.echr.coe.int/?i=001-234812>

49. We particularly draw the Committee's attention to the fact that paragraphs 263 to 265 of the State party's report are clearly inconsistent with the information provided by regional mechanisms and communications to the State party, the decisions of the State party's own national judicial authorities and the verified information in published human rights reports, and that the information provided is incomplete.

### **c. Freedom of Association**

50. The state party has violated the freedom of association of human rights defenders, especially by using the “dissuasive effect” of symbolic trials. The trial of eleven human rights defenders, including the President of Amnesty Türkiye, some of whom are still under arrest, ended with acquittals in 2023, but it has paralyzed civil society for a long time.<sup>73</sup>

51. The amendments to the law on associations based on FATF regulations and published on 31 December 2020, have further worsened the already restrictive nature of the legislation regarding freedom of association.<sup>74</sup> The law now prohibits individuals convicted of crimes under the Law on Prevention of Financing of Terrorism from serving on association bodies, even if they have been pardoned. Article 3 of this law broadly refers to “acts considered terrorist crimes” under the Law on Combating Terrorism (Law No. 3713). Article 4 states that anyone who provides or collects funds for a terrorist or terrorist organization, even without direct involvement, with the intention or knowledge that they will be used for criminal acts under Article 3, will be guilty of financing terrorism. This complex web of legal references allows a conviction under the Law on Combating Terrorism to automatically limit a person's ability to manage associations. When considering the Committee's recommendations in the sixteenth paragraph of its Concluding Observations and the evaluations in the sixth and eighteenth paragraphs of the List of Issues before the submission of Türkiye's second periodic report, the restrictive impact of these amendments on freedom of association becomes even more evident.

52. The amendments to the Law on Associations require associations to be audited annually based on risk assessments. When Kaos GL Association requested information from the Ministry of Interior to understand how to lower its risk score, the Ministry denied the request, stating that the information was for internal use only. However, during a presentation by the General Directorate of Civil Society Relations on June 8, 2022, the risk indicators were accidentally revealed. For example, an association in the Black Sea Region has a risk score of 0.2, while an association in Ankara has a score of 2.45, and one in Southeastern Anatolia has a score of 6.99. Associations focused on human rights have a risk score of 4.90, while those in agriculture have a score of 1.96.

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<sup>73</sup> <https://www.amnesty.org/en/latest/news/2023/06/justice-prevails-as-four-human-rights-defenders-finally-acquitted/>

<sup>74</sup> <https://rm.coe.int/letter-to-mr-suleyman-soylu-minister-of-interior-of-the-republic-of-tu/1680a18d4c>

53. It has been verbally stated to these organizations that LGBTI+ associations are in the “high risk” category. In fact, the annual auditing of these associations confirms this information.

54. Two separate lawsuits were filed, one by the Istanbul Governor's Office and the other by the Istanbul Chief Public Prosecutor's Office, to terminate the association status of Tarlabası Community Center, which was subject to administrative inspection on the grounds of its work in the field of LGBTI+ rights, and to consider the association dissolved.<sup>75</sup> The Ministry of National Education inspectors, who described the information activities as "education", issued a large administrative fine to the association managers for organizing "unauthorized education".

55. The auditing of associations is not a problem and the state's regulatory role may require some auditing in this regard. However, the fact that these audits are carried out without justification or with risk assessments that are not based on any objective criteria; the fact that LGBTI+ organizations are automatically audited has become a restricting factor in the activities of these organizations. This is a structural violation of freedom of association. Moreover, this is only related to the audits by the Ministry of Interior, excluding the audits carried out upon denunciation. In addition to the Ministry of Interior, the Provincial Directorates of Civil Society Relations, which are the provincial bodies of the ministry, the Ministry of Finance, and the Social Security Institution also constantly audits associations.

56. Although the Constitutional Court annulled some of the amendments made by the FATF regulations in the law on associations, it did not annul the regulations discussed above.

57. Kaos GL Association has been audited five times over the last four years by various bodies, including the Ministry of Finance, the Social Security Institution, and the Ministry of Interior. These frequent audits severely impacted the association's ability to function. As a result, the Civil Society Relations Directorate issued penalties against both the current and former presidents of Kaos GL, citing foreign aid transfers, which the law does not explicitly define. However, the so-called "aid" was actually payments for services, such as royalty fees, unrelated to any charitable donations. In July 2024, the Social Security Institution imposed a large fine on Kaos GL, claiming that expert payments were irregular. These payments, made 6-7 years ago, were properly documented and not irregular. The real motive appears to be restricting freedom of association, as auditors seem to focus on finding faults specifically with associations working on LGBTI+ rights.

58. Although judicial processes regarding these penalties are ongoing, the fear of being subject to malicious penalties prevents members from taking part in association bodies.

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<sup>75</sup><https://www.sessizkalma.org/en/defender/tarlabasi-community-center>

Due to these uncertainties in association laws, the Committee of Ministers of the European Court of Human Rights has raised concerns with Türkiye.<sup>76</sup>

59. In fact, the previous Commissioner for Human Rights of the Council of Europe also expressed his concerns by drawing attention to the facts regarding these headings in the memorandum he gave to Türkiye.<sup>77</sup>

60. METU LGBTI+ Solidarity, which does not have an association status and calls for attention with its advocacy activities in the field of LGBTI+ rights at the Middle East Technical University (METU), is under intense administrative harassment by the rectorate.<sup>78</sup>

## V. Recommendations in Order of Priority

1. **Within the next year**, the law establishing the Human Rights and Equality Institution of Türkiye should be amended to ensure that submissions made by LGBTI+ individuals regarding discrimination based on sexual orientation, gender identity and gender characteristics are also examined in the first legislative year following the amendment.
2. **Within the next year**, Article 122 of the Turkish Penal Code should also penalize discrimination against LGBTI+ individuals in the first following legislative year.
3. **Within the next year**, hate crimes against LGBTI+ individuals should be investigated and recorded, Law No. 6284 should also be applied to LGBTI+ individuals who are victims of domestic violence.
4. **Within the next year**, the annotations regarding the Court decision on the legal gender recognition in the population records of trans people should be removed, and university, high school and primary school graduation diplomas, which are used extensively in job applications, should be rearranged according to the current name information upon written request.
5. **Within the next year**, the Republic of Türkiye should fulfill the decisions of the European Court to Human Rights and national courts regarding freedom of expression and assembly, and put an end to the systematic ban on pride parades.
6. **Within the next two years**, an action plan in line with the Rabat Action Plan (A/HRC/22/17/Add.4 ) should be developed, measures should be taken against hate speech, and a special mission should be defined for RTSC to monitor, prevent and sanction hate speech in the media.

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[https://hudoc.exec.coe.int/#{%22fulltext%22:\[%22korkut%22\],\[%22execdocumenttypecollection%22:\[%22CEC%22\],\[%22execidentifier%22:\[%22004-63808%22\]}](https://hudoc.exec.coe.int/#{%22fulltext%22:[%22korkut%22],[%22execdocumenttypecollection%22:[%22CEC%22],[%22execidentifier%22:[%22004-63808%22]})

<sup>77</sup> <https://rm.coe.int/memorandum-on-freedom-of-expression-and-of-the-media-human-rights-defe/1680aebf3d>

<sup>78</sup> <https://www.sessizkalma.org/en/defender/tarlabasi-community-center>

7. **In the next two years**, legislation on associations should be made predictable and clear, amendments should be made to prevent excessive restrictions that harm the essence of the right, and the criterias used as a basis for auditing mechanisms should be shared with civil society.