

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	427
Land:	Tyrkiet
Kilde:	ILGA-Europe
Titel:	Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe 2017
Udgivet:	17. maj 2017
Optaget på baggrundsmaterialet:	28. juni 2017

Turkey



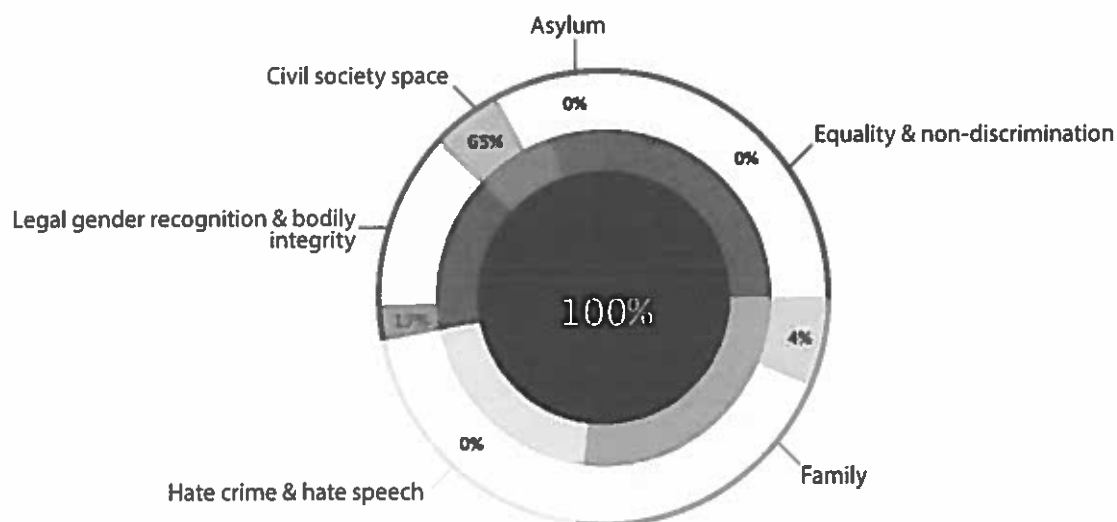
A daustrophobic atmosphere, increased by the state of emergency dedared in the wake of July's attempted coup – this is the backdrop against which the work of LGBTI activists in Turkey played out in 2016. Detention periods were increased, legal assistance was limited, and being a lawyer, journalist or civil society organisation meant your job security became tenuous. This all combined to create a scenario where freedom of assembly could be limited in the name of 'anti-terror measures' and 'security', resulting in a banning of the IDAHOT march in Ankara, and Pride marches in both Istanbul and Izmir. The office of a prominent LGBTI NGO was also forced to close, due to rumoured security threats. In advance of Pride season, a series of ominous threats were made by several extremist groups. LGBTI people, in particular trans women, were the victims of violent bias-motivated attacks, many of them fatal. The brutal murder of well-known trans activist Hande Kader created a public outcry and inspired protests in Turkey and all over Europe. A landmark judgment sentenced the individuals who had raped activist Kemal Ordek to lengthy prison terms. A human rights committee was established but grounds to protect LGBTI people against discrimination were not included in its remit. Concerns over the situation for minority groups, especially LGBTI people, was emphasised both by the Council of Europe and the EU institutions. The European Commission referred to the 'backsliding' that was happening on fundamental rights, which is a particularly concerning trend considering the minimal law and policy protection for LGBTI people that existed in the first place.

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where you can read the full country chapter.

Legal and policy situation in **Turkey** as of 31 December 2016



In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- ➡ Introducing hate crime laws and policies that explicitly cover all bias-motivated crimes based on sexual orientation, gender identity and sex characteristics.
- ➡ Removing obstacles to the effective exercise of freedom of assembly, association and expression.
- ➡ Explicitly including SOGISC (sexual orientation, gender identity, sex characteristics) in the mandate of a national human rights institution/equality body.

Access to goods and services

- A trans man, whose gender marker was still recorded as female on his public transportation card, had the card confiscated by a bus driver on 29 January. The man was travelling on the Kadikoy-Uskudar bus in Istanbul when the driver questioned him, in front of other passengers, saying that he didn't take the man's drivers licence into account "...as it says on my screen that you are a woman. Are you a woman or a man?"
- A trans man was forced to leave his gym in September after he was told to use the gendered facilities that corresponded with his ID documents. The man had applied to the courts for legal gender recognition but his ID card had not been updated and still referred to him as 'female'. The manager of the Anadolu Hisari branch of MACFit in Istanbul told him that "...you have a pink ID card, you cannot use the men's changing room...". The following day, the gym froze the man's membership.

Asylum

- The parliament's Commission of Justice met on 6 April to discuss the International Legal Cooperation Bill on Criminal Matters. The bill included provisions on the procedures for extraditing refugees and MPs from the Peoples' Democratic Party (HDP; left-wing) and argued that sexual orientation and gender identity should be added to the list of exceptions, as several countries still criminalise homosexuality. Minister of Justice Bekir Bozdağ (Justice and Development Party; AKP) stated that "...of course, there will come a motion on sexual orientation, but as the government we don't agree with that. It is our political approach. As a conservative democrat party our approach on this matter is very clear..."

Bias-motivated speech

- During a meeting of the parliamentary Commission on Equality for Women and Men in February, MPs discussed a proposal to establish a Human Rights and Equality Committee. Sexual orientation and gender identity were excluded from the possible discrimination grounds that the proposed body would act to prevent.

The Republican People's Party (CHP; social-democratic) and the HDP criticised this omission. In response, Ayşe Doğan MP (AKP) said "There is no need to change our commission's agenda by including a different subculture, with artificial sexual tendencies that are not in line with human nature and our society's customs and traditions...". The law establishing the human rights body was passed on 6 April and received presidential approval on 27 April.

- In the days leading up to Pride week, several extremist groups issued public threats against the Pride event planned for Istanbul (see **Freedom of assembly**). The Anatolia Muslim Youth Association (MAG) invited people (via Facebook) to gather together to attack Pride marches, saying "We won't let the dishonourable perverts walk! Do not let the disgrace that is ironically called Pride March take place on June 19." On 14 June, the Alperen Hearths (a far-right group with links to the nationalist Great Unity Party (BBP)) issued a press statement, inviting state officials to stop the event "...otherwise, our response will be very clear and harsh". The statement refers to Pride's "vileness and immorality", states that LGBTI events are not normal, and urges that "either the state will do what is necessary or the Alperens will." BBP party leader Mustafa Destici sided with the Alperen Hearths in a speech on 18 June: "...perversion and immorality cannot be called freedom... they should go do the march somewhere else, they can't do it in my country."

Bias-motivated violence

- On 26 January, the second hearing in the case of Kemal Örddek took place at Ankara's 1st High Criminal Court. Kemal is a human rights defender and trans sex worker who was raped, threatened and robbed on 5 July 2015, before being ill-treated by the police officers they reported the attack to. Kemal commenced legal action against the perpetrators and issued a complaint about the police conduct. On 10 April, the prosecutor's office ruled that there was no need to initiate proceedings against the police officers; Kemal's lawyers appealed this to the upper courts. On 19 October, the perpetrators of the attack were sentenced to five months' imprisonment and fined (for violating a protection order Kemal had taken out after the

sexual assault in 2015, as the men had threatened them over the phone and via SMS). The main case's final hearing was scheduled for November. On 17 November, two of the men were sentenced to five years in prison for robbery, insults and threatening behaviour. The third man was sentenced to 20 years in prison for the same offences as well as qualified sexual assault, in what was described as a 'landmark' decision by activists.

- Two trans women who work as sex workers in Ankara were stabbed by a man on 8 February. The women were treated in hospital, complained to the police and the attacker was detained. In a statement, he said that "I do it for pleasure. I will stab more transvestites."

- A trans woman was found dead at her home in the Bakırköy district of Istanbul in March. The district attorney began an investigation of her home and camera footage was inspected in an attempt to verify the perpetrator. A suspect was arrested on 11 March.

- A trans person, working as a sex worker in the north-western city of Çorlu, was murdered in March by a client who had become involved in a fight with them. The perpetrator told a taxi driver that he had killed someone and the driver called the police. The man was arrested at his home and taken to Çorlu's police station. The case was ongoing at the end of 2016.

- A gay man was found dead at his house in the city of Iskenderun on 17 April. His friends told NGO Kaos GL they believed that this was a hate crime, saying that "Iskenderun is a small coastal city and everyone knows each other. You cannot live like you want. You have to wear a costume when you're alive...".

- Muhammad Wisam Sankari, an asylum seeker originally from Syria, was murdered and beheaded in Istanbul in July. His friends told NGO Kaos GL that gangs had previously threatened them and sexually assaulted Sankari; they believed he was targeted as he was an openly gay man.

- On 8 August, trans activist Hande Kader was found in a forest in Istanbul. She was last seen getting into a client's car; she had been murdered and her body had been burned. Kader was well-known in Turkey after her public resistance against attempts by the police to break up

Istanbul Pride in 2015. On 22 August, hundreds of people protested in Istanbul city centre at a demonstration organised by LGBTI NGOs, calling for justice and an investigation into Kader's death. No arrests had been made in the case by the end of the year.

- A Syrian trans woman who had travelled to Istanbul as a refugee was found dead at her home; it is believed she was murdered by a client on 17 December. Representatives from NGOs Women's Solidarity Foundation (KADAV) and the Istanbul LGBTT Solidarity Association were following the case at the end of the year.

Diversity

- The Kadıköy and Şişli municipalities in Istanbul (in cooperation with Lambdaistanbul LGBTI Association) displayed an LGBTI-friendly billboard campaign, supporting LGBTI women, to mark International Women's Day on 8 March.

Employment

- On 17 March, a court case involving clothing brand GAP Istanbul branch and a former employee began. The former staff member said that he faced homophobic insults once it became known in the clothing shop that he was gay; eventually he said he was forced to resign, after working in the particular shop for 10 years. Lawyers for GAP did not appear at the first hearing and the case was adjourned until 19 October.

Enlargement

- Turkey applied to join the European Union in 1987; negotiations began in 2005. In its annual enlargement package reviewing progress made towards EU accession, published in November, the European Commission noted that there had been "backsliding" on the issue of fundamental rights, with particular reference to freedom of expression. The July coup was referred to as "a shocking and brutal attack" on democratic institutions but also stated that "...many serious violations of the prohibition of torture and ill-treatment and of procedural rights were alleged in the aftermath...". In the Commission's view,

human rights violations against LGBTI people “continue to be a source of a serious concern”.

Equality and non-discrimination

- On 14 April, the European Parliament published a resolution on its 2015 report on Turkey. The Parliament made several LGBTI-specific recommendations to the authorities, including the need to introduce comprehensive legislation to protect against discrimination and hate crimes on the grounds of sexual orientation and gender identity.
- As part of its five-year monitoring cycle, the European Commission against Racism and Intolerance (ECRI) published a report on Turkey on 4 October. ECRI expressed concern over the deterioration of conditions for particular groups, including LGBTI people, with specific reference made to the violent dispersal of Istanbul Pride 2015. The independence of several human rights authorities was questioned and the increased use of hate speech by public officials was described as “particularly worrying”. The deaths of LGBTI people and under-reporting of hate crimes were noted by ECRI, leading ECRI to recommend that sexual orientation and gender identity be included in discrimination legislation as protected grounds and that the authorities adopt and implement an LGBTI-specific action plan.
- Several municipalities (run by the CHP and HDP parties) continued to extend their services for LGBTI people. Bursa Nilufer provided gender equality classes to 16 schools during the 2015/2016 academic year. In May, the Şişli Municipality started offering free gynaecology services to LGBTI people and, in August, it became the first Turkish municipality to join the international Rainbow Cities Network. The Çankaya Municipality Public Health Centre began offering a free and anonymous HIV testing service from 1 December.

Freedom of assembly

- NGO Kaos GL organised a march against homophobia and transphobia in Ankara, to celebrate IDAHOT. The event had been scheduled to take place on 22 May but the capital’s Governorate banned it. The governor stated

that the march incited “certain social sensitivities” and the city could not guarantee the safety of the event.

- Izmir Pride, organised by the Rainbow Solidarity Network and supported by Konak City Council, was due to take place on 4 June. On 3 June, the Izmir Governorate banned the event. According to the governorate, “partially confirmed” intelligence tips suggested that people involved with terrorist organisations would infiltrate the crowd. The Rainbow Solidarity Network issued a statement criticising the last-minute decision, saying that the “vague, baseless, and frivolous statement preventing our democratic right to demonstrate is unacceptable”. Over 100 people gathered at Alsancak Kibris Şehitleri Avenue in Izmir on 4 June and marched in defiance of the ban.

- The 6th Trans Pride was due to take place in Istanbul on 19 June, but was banned by local authorities who cited security concerns following a series of threats from right-wing extreme groups (see **Bias-motivated speech**). Trans activists and supporters gathered at the city’s Taksim Square. According to international media, hundreds of riot police were also present. The police cordoned off the square and fired tear gas and rubber bullets to disperse the protestors.

- It was announced by Istanbul city authorities on 17 June that the 14th Istanbul Pride (scheduled for 26 June) was being cancelled. Safeguarding security and public order were the official reasons given for the cancellation. The organisers were not allowed to hold a press conference “due to threat of terror attacks”, according to Istanbul’s deputy governor. Istanbul LGBTI+ Pride Week Committee called the ban a “flagrant violation of the constitution and the law” and said they planned to take legal action. On 20 June, CoE Human Rights Commissioner Nils Muižnieks urged the authorities to reverse the decision, saying a ban on the Pride event would be “...yet another blow to freedom of expression and freedom of assembly in an already particularly negative context...”. The Committee attempted to read a statement at a gathering of supporters in the city centre on 26 June but they were dispersed by the police. 17 activists and a number of supporters (including German MEP Terry

Reintke (Greens/EFA)) were briefly detained and later released. No legal action was taken against those detained.

Freedom of association

- In April, a document was circulated on social media that listed institutions, organisations, and public spaces believed to be under threat from the so-called Islamic State/ISIS. The internal correspondence from the Turkish Counter-Terror Department included NGO Kaos GL. The NGO reached out to the counter terrorism department with Ankara's police and the Gulhane Military Academy, who informed the NGO that this information had not been confirmed. Kaos GL also contacted the Office of the Prime Minister, the Governorship of Ankara, and the police and armed forces to ask for further information and urgent protection. When they did not receive an official response, Kaos GL temporarily closed its office for four months, before moving to a new, undisclosed, address.
- The Istanbul LGBTI Solidarity Association was asked to vacate its offices in the Beyoglu district of Istanbul by one of the property's owners. The request was issued in September after one of the co-owners of the Öğüt street apartment said they did not condone the organisation's activities. The association refused to leave, saying "What you call 'these kind of activities' is the struggle for equality and freedom...".
- Under measures introduced by the government during the post-coup official state of emergency, 1789 civil society associations were closed during 2016. No LGBTI organisation was included among these closures.

Freedom of expression

- On 16 November, 14 LGBTI organizations from Ankara, Bursa, Çanakkale, Diyarbakır, Giresun, İstanbul, İzmir and Mersin issued a joint press release, reacting to the restrictions imposed on activists and the media since the attempted coup in July. The statement reminded the authorities that a state of emergency cannot be an excuse to suspend human rights.
- On 22 November, the European Court of Human Rights unanimously ruled that there had been a violation

of Kaos GL's right to freedom of expression in the case of *Kaos GL v Turkey*. In 2006, all the copies of an edition of a magazine produced by the LGBTI NGO had been seized by the courts, under the request of the Ankara Chief Prosecutor. The publication contained articles and images relating to homosexuality and pornography; the prosecutors stated that the images contravened public morals. The magazine's editor-in-chief had been through a series of legal hearings and appeals between 2007 and 2012. In the European Court of Human Rights decision, judges acknowledged that protecting public morals is a legitimate aim and that (given the content of the magazine) some measures to prevent access by certain groups (such as minors) may have been justified. However, the Court found that the methods employed by the state could not be considered proportionate and held that Article 10 of the Convention had been violated.

- Three participants in the 2015 Beyoğlu Pride march had a lawsuit filed against them in May for carrying a banner during the previous year's event which read "Ramazan can't interfere with Şaban and Recep's love" (a pun playing on the Turkish names of the three sacred months of Islam). The prosecutor stated that the banner had denigrated religious values. The case was heard at the Istanbul 33rd Criminal Court of First Instance. On 27 December, the three defendants were acquitted as the court stated that the act that they were charged with was not a criminal offence.

Freedom from torture, cruel, inhuman or degrading treatment

- Esra Arıkan, a trans woman serving an 11-year prison sentence at the men's Eskişehir H Type Closed Prison, wrote about her living conditions in a letter to her sister that was published online in November. The letter described being threatened as well physically and sexually assaulted, and also stated that she was not able to receive hospital treatment after these assaults. Esra's supporters intended to complain to the Parliamentary Human Rights Investigation Commission and the Ministry of Justice before the end of 2016.

Human rights defenders

- An LGBTI activist was forced to leave her home in September after she had been harassed by a group of young men living in the same neighbourhood. Kivilcim Arat, a spokesperson for the Istanbul LGBTI Solidarity Association, left Beyoğlu after being repeatedly threatened by the group. She intended to file criminal complaints before returning to Istanbul.

Legal gender recognition

- On 31 January, the Constitutional Court added an item to its agenda concerning Article 40 of the Civil Code. This provision states that trans individuals must be unable to reproduce, meaning that trans people have to resort to sterilisation in order to complete the gender recognition process. A petition to repeal this article had been submitted to the Court by lawyer Sinem Hun and a team of nine colleagues. The article had not been repealed by the end of 2016.

Participation in public, cultural and political life

- Levent Pişkin, a lawyer, LGBTI activist and an administrator for the HDP in Istanbul, was detained for three days in November. The detention occurred after he visited HDP co-Leader Selahattin Demirtaş in prison, and Pişkin was accused of “lobbying” against the country via international media outlets. Mersin Akdeniz co-mayor Yüksel Mutlu (Democratic Regions Party, DBP; centre-left), was arrested on 25 December and replaced by a government appointed trustee. Mutlu had previously signed NGO SPoD’s LGBT-friendly municipal protocol; LGBTI NGOs called for her release and reinstatement. Although both events were linked to Pişkin and Mutlu’s political affiliations, their detentions had an impact on the LGBTI communities as their pro-equality work was hindered.

Public opinion

- The “Void of Liberalism: a view on liberal values in Turkey” poll, conducted by the Friedrich Naumann Foundation’s Turkey Office, was published in August.

According to the authors, the survey showed those questioned to be liberal in rhetoric but not necessarily in practice. Acceptance for minority groups was said to be generally high, but respondents felt that homosexuality is a perversion.