

# HUMAN RIGHTS OF LGBTI+ PEOPLE IN TURKEY

Annual Review 2018



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## **ANNUAL REVIEW 2018**

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# INTRODUCTION

While preparing the Human Rights Report of LGBTI People in Turkey for 2018 as Kaos GL Association, we have chosen an approach aiming to address the categories of rights and freedoms as headings, to include the national and international legislation regulating for each right and freedom under these headings, and to address general profile of the positive and negative incidents about the related right and freedom that have occurred in 2017 and 2018 or took place in prior years which still have judicial process in 2018 in order to be able to show the general situation.

Clearly, we are not able to gather data on every violation and incident that happened in these two years and address every single case with detail in the report. Therefore, this report represents the violations and incidents that we were able to find out. Furthermore, we have been able to include a limited number of violations; just enough to create a general picture, in categories with a high number of violations like hate speech and confined ourselves to state the total number of violations numerically. Likewise, in the specific categories like hate speech, we have referred to other reports that we prepared thematically in that year or in previous years.

Further, in order not to fall into repetition in the scope of this report, we prefer referring to the detailed legislation analysis within the LGBTI+ (lesbian, gay, bisexual, trans, intersex...) human rights watch reports of the previous years, which we have also contributed to the preparation processes. However, with the information provided in the report, we think that we were able to implement a method to enable any individual or institution, who seeks to reach information about the related category of right-freedom, to access fundamental regulations regarding that category.

**A total of 89 cases** has been reviewed regarding the violations against the LGBTI+ human rights in the extent of this report. Considering the distribution of violations by categories of rights; four cases of hate murders, ten cases of hate crimes, twenty-three cases of hate speech, six cases regarding the prohibition of torture and maltreatment, three on the context of the violation of the right to freedom and security, one case of violation of right to private life, five cases regarding the violation of freedom of speech, four cases of violating the right to assembly and demonstration, five cases regarding the discrimination in the workplace, thirteen cases of discrimination in the education, three

cases regarding the discrimination in healthcare, one case of the violation of the right to adequate housing, four cases regarding the discrimination in accessing the goods and services, four cases of violations against the rights of the LGBTI+ prisoners, three cases regarding the violation of rights of the refugees have been included in the report in details.

In addition, in 2018, Kaos GL continued to report hate crimes based on the statements of victims and witnesses.<sup>1</sup> A total number of 62 hate crime cases were reported to this research. The findings of this year are consistent with previous years. According to this, most of the hate crimes took place at home, at work or in public places such as schools, streets, hospitals, public transport, and parks. In more than half of the cases, the perpetrators were more than one person.. Very few of the cases have been reported to police, judicial authorities, Human Rights and Equality Institution of Turkey or Ombudsman Institution. The approaches of the relevant public authorities ignoring and from time to time, even violating LGBTI+ rights have caused the numbers of these reports remain very few.

When the cases in the LGBTI+'s Human Rights Watch Report are examined, it will be seen that the negative behaviors and practices towards LGBTI+s maintain their intensity severely. Other results that can be seen in the report are that the visibility of violations against LGBTI+s increases and there is an increase in the number of people resorting to legal remedies against violations. 2017 and 2018 are the years in which unprecedented practices and violations have occurred, such as the first indefinite ban on LGBTI+ activities in Ankara. Despite the increasing number of violations and their visibility as well as the increasing number of applications to the judicial authorities against violations, the number of positive decisions to prevent violations from the judiciary is extremely limited. It is also seen that a small number of violations are prevented by judicial rulings and these verdicts are included in the related category within the scope of the report. We wish the report would be a step for a country where violations have been eliminated by making the violations that LGBTI+s are exposed to and the systematic form of these violations visible.

Lastly, we would like to express our gratitude to Att. Yasemin Öz, Att. Kerem Dikmen, Att. Hayriye Kara and Att. Emrah Şahin who contributed to the preparation process of this report, to KaosGL.org for publishing the violations and for their contribution in reporting them and to Murat Köylü and Damla Umut Uzun who participated in the preparation process of this report.

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<sup>1</sup><https://kaosgldernegi.org/yayindetay.php?id=253>

# FINDINGS REGARDING HUMAN RIGHTS OF LGBTI+ PEOPLE

## I. Right to Life and Hate Murders against LGBTI+s

Right to life has been legislated in the Article No.17 of the Turkish Constitution, which is titled “personal inviolability, corporeal and spiritual existence of the individual”, as; ***“Everyone has the right to life and the right to protect and improve their corporeal and spiritual existence”.***

Besides that, right to life is one of the most fundamental human rights legislated in the Article 3 of the Universal Human Rights Declaration, Article 2 of the European Convention on Human Rights and Article 6 of The International Covenant on Civil and Political Rights. Turkey ranks high in the world with regards to hate murders against LGBTI+s. According to the TransgenderEurope’s 2016 report on Hate Murders Against Trans People, Turkey is the first in Europe and ninth in the World on the numerical ranking of hate murders against trans people between January 2008-April 2016.<sup>2</sup>

In addition, based on the cases reflected to media and judiciary, and on the cases taken place in 2017 and 2018 or happened in prior years but still in judiciary processes in 2018, it can be said that effective investigations were not conducted for some of the hate murders against LGBTI’s perpetrators. They either have not been or could not be caught, and the state of impunity has a negative effect on preventing further violations of the right to life.

Currently, there is no legislation or protection and prevention policy regarding the hate murders against LGBTI+s available in the judicial system of Turkey. This situation hampers the prevention of the motivation of hate murders against the disadvantaged groups, including LGBTI+s. In Turkey where homophobia, biphobia, and transphobia are regarded as quite legitimate, unless new laws providing special protection to LGBTI+s are regulated, there will be no legal contribution that could have a vital impact on breaking the widespread perception of hatred in the society.

We have tried to show the extent of homophobia, biphobia and transphobia in Turkey to a degree by publishing the “The Report of Hate Crimes Based On Homophobia and

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<sup>2</sup><https://tgeu.org/transgender-day-of-visibility-2016-trans-murder-monitoring-update/>

Transphobia in 2017” which includes the analysis of 117 hate crime cases against LGBTI+s in terms of various criteria and patterns.<sup>3</sup>

For these reasons, in order to prevent hate murders based on homophobia, biphobia, and transphobia and to effectively protect the right to life of LGBTI+s, introduction of new legislation, policies, practices, trainings for the related public employees and social awareness campaigns are essential.

The cases of hate crimes committed against LGBTI+s in 2017 and 2018, or the proceedings that are ongoing in these years, to the extent that they are reflected in the judiciary or the press are listed as follows. We were able to acquire information on three hate murders committed in 2017 and four in 2018, and two hate murders committed in prior years and still in the judicial process by 2018.<sup>4</sup>

In addition to these data, among the applications received by Kaos GL Association, one client sent an e-mail about committing suicide.

### **VIOLATIONS IN 2017:**

|  |   |
|--|---|
| Title and subject of the case                      | Murder of Director Mustafa Kemal Uzun   |
| Court  | 9th High Criminal Court of İstanbul Anatolia  |
| Case Summary/Stage of the Case/Outcome of the Case | <p>Director Mustafa Kemal Uzun was murdered in his home by being battered with a baseball bat and stabbed on December 10, 2017. After arriving at Uzun’s home upon receiving a call, police saw that director was killed, and their phone and wallet were taken along with their car.</p> <p>It has been identified that Uzun’s murderer was Osman A., a figurant in one of the series of which Uzun was the director. Osman A., who surrendered to the police station after the murder, expressed in his statement: “I take part as an extra in a series directed by Mustafa Kemal Uzun. Yesterday around noon I met with Mustafa Kemal Uzun in a cafe in Mecidiyeköy. After a little chat there, we went to Şile. There, we sat in a cafe and drank tea and coffee.</p> |

<sup>3</sup> [http://www.kaosgldernegi.org/resim/yayin/dl/nefret\\_suclari\\_raporu\\_2017\\_web.pdf](http://www.kaosgldernegi.org/resim/yayin/dl/nefret_suclari_raporu_2017_web.pdf)

<sup>4</sup> <https://www.gazeteduvar.com.tr/gundem/2018/11/20/turkiye-avrupada-en-cok-trans-cinayeti-islenen-ulke/>

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|  | <p>Then we had dinner in a fish restaurant. Then we moved to Uzun's house. We drank alcohol there. We had an argument during the conversation. I got very angry. I stabbed him, then hit him on the head with a baseball bat.” Expressing in their statement that the director promised to give him a role, Osman A. also said: “I did everything he said in order to take a role”.</p> <p>In 24 December 2018, in the last hearing of the case of Osman A., who killed Director Mustafa Kemal Uzun at December 10, 2017 at their home by batting and stabbing to death, the prosecutor asked for an “unjust provocation” discount on the punishment of the defendant.</p> <p>The prosecutor stated in their statement of opinion that there was not enough evidence on the crime of “willful and torturous murder based on monstrous feelings”, and the defendant’s thievery of the victim’s possessions after the act of murder constitutes the crime of “qualified theft” instead of “qualified robbery” as written in the accusation.</p> <p>In the opinion statement, Osman A. was asked to be sentenced to imprisonment from 12 to 18 years for “willful murder under unjust provocation”, and from 5 to 10 years imprisonment for “qualified theft”. The defendant’s lawyer declared that they did not agree with the opinion and requested time for preparing their last plea.</p> <p>Court has decided to the continuation of detention of the defendant and postponed the hearing.</p> <p>On social media, assessments have been shared that director Uzun's murder was a homophobic hate murder.<sup>5</sup></p> |
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|---------------------------|---|
| The Incident of Violation | Hate murders reflected to Hürriyet Newspaper in 26.01.2018  |
| Case Summary              | On March 20, 2017 Baran Aslan in Keçiören Tepe Neighborhood of Ankara; on June 2, Serkan Kılıç in Şenlik Neighborhood and Yılmaz Çetinkaya in Yenimahalle |

<sup>5</sup> <https://kaosgl.org/sayfa.php?id=27254>

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|  | <p>Batkent Neighborhood of Ankara were shot to death. A special squad of detectives from the Ankara Public Security Homicide Bureau found a link between these three murders which took place in different places and different times. Yiğit K.G., Ahmet A., Eren E.A. and Murat K. were taken in custody in a police raid on a house in Yenimahalle. In the cross-examination, the suspects admitted that they had committed those murders.</p> <p>While the investigations for these three homicides were continuing, the suspects confessed that they killed another two people and buried them in the village cemetery of Çubuk, Ankara. Two male bodies were found in the excavation at the cemetery, one of them was shot and the other one was killed with a knife.</p> <p>The confession of the suspects shows that these killings were hate murders. The suspects told that they did not personally know two victims, but when they saw two of them together and naked at workplace, they killed them because of being gay”.<sup>6</sup></p> |
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**VIOLATIONS IN 2018:**

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|---------------------------|--|
| The Incident of Violation | Hate Murder on Hürriyet Newspaper, 2018  |
| Case Summary              | <p>Details of a hate murder in İstanbul has surfaced in a report that has been published on Hürriyet newspaper. According to the news, 24-year-old G.A. has been killed in Sefaköy, İstanbul. While it is claimed that 44-year-old M.A. was the perpetrator of the murder, it has been revealed that M.A. was attacked by the three people that killed G.A.</p> <p>Police have found the surveillance video that shows three people moving away from where the incident took place. Through this video, police identified three people under the age of 18. The three people said in their investigation that “they saw G.A. and M.A. under the trees in an inappropriate situation”; therefore, they started to argue</p> |

<sup>6</sup> <https://kaosgl.org/sayfa.php?id=25358>

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|  | and they killed the victims. <sup>7</sup> |
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| Incident of Violation | Trans Woman Simge's murder in Samsun  |
| Case Summary          | 24-year-old trans woman Simge, who lived in Samsun has been shot to death by her boyfriend at home that they lived. It has been revealed that the suspect boyfriend told "she mocked my manhood and I killed her" in their statement <sup>8</sup> . |

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| Incident of Violation | The murder of Esra Ateş   |
| Case Summary          | <p>In 25th August 2018, trans woman Esra Ateş living in Beyoğlu, İstanbul was attacked in the doorstep of the apartment that she lives. A person wielding a knife has tried to grab her possessions, and killed her by slitting her throat. The perpetrator grabbed Esra's phone and money.</p> <p>Police and healthcare team arrived to the apartment after the attack occurred around 8:00 am. Police has taken one person in custody after examining the surveillance videos. The court on duty has decided to arrest the suspect on crimes of robbery and murder. The murderer has confessed the crime in their statement at the police station. According to the citation of Esra's friend to KaosGL.org, the statement of the murderer is as follows:</p> <p>"I had her number from an escort website. I couldn't understand if she was a male or female. I understood that she was male during the intercourse."</p> <p>"After the intercourse, she asked for money, again. She took a knife. I took the knife from her and hit her on the leg two times, she ran downstairs. I slit her throat at the door of the apartment. Then I went upstairs. I washed my hands and face. I mistakenly took her phone instead of mine. I got out of the apartment by jumping over the corpse. I got in</p> |

<sup>7</sup> <https://kaosgl.org/sayfa.php?id=25358>

<sup>8</sup> <https://kaosgl.org/sayfa.php?id=26328>

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|  | my car and went to home. I took a shower and changed my blood stained clothes. I got out of the house to give her phone back, but the police took me into custody in Zeytinburnu.” <sup>9</sup> |
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### **VIOLATIONS THAT ARE STILL IN JUDICIAL PROCESS IN 2018:**

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|--|---|
| Title and Subject of the Case                      | Hate-motivated murder of Ahmet Yıldız   |
| Court and Date of the Trial                        | 16.05.2019  |
| Case Summary/Stage of the Case/Outcome of the Case | The trial started on the claims that Ahmet Yıldız was murdered by the people who were abetted by his father Yahya Yıldız in 2008. However, trial could not continue, because defendant Yahya Yıldız could not be arrested even though he has been sought with red notice of Interpol. |
| Effect of the Case on the Legal System             | State of impunity still continues for the case which has been continuing for 10 years. <sup>10</sup>  |

|  |   |
|--|---|
| Title and Subject of the Case                      | The murder of Hande Kader   |
| Court and Date of the Trial                        | Still in the Stage of Investigation   |
| Case Summary/Stage of the Case/Outcome of the Case | <p>A suspected person has been arrested in the case of Hande Kader, a 23-year-old trans woman who was burned to death after subjected to violence and her body was left on the side of the road in 2016 at Zekeriyaköy, İstanbul.</p> <p>According to the report of Seyhan Avşar from the Cumhuriyet Newspaper, the suspect has been arrested by İstanbul’s 6th Penal Court of Peace on the demand from the Chief Public Prosecutor’s Office of İstanbul. For the security of the investigation, a state of confidentiality was declared for the case, at the request of the Public Prosecutor's Office.<sup>11</sup></p> |

<sup>9</sup> <https://kaosgl.org/sayfa.php?id=26446>-<http://kaosgl.org/sayfa.php?id=26450>

<sup>10</sup> <https://www.evrensel.net/haber/371452/oldurulen-ahmet-yildizin-davasinda-yine-tutuklama-yok>

<sup>11</sup> <http://kaosgl.org/sayfa.php?id=27152>

## II. HATE CRIMES

Even though the hate murders, hate crimes and hate speech against LGBTI+s are all fed from the same kind of homophobia, transphobia, and biphobia motivationally, due to their different practices of perpetration and different effects from the outcomes and to make analyzing easier, we chose to address these three different violation categories under separate headlines.

We sorted out hate murders and hate crimes in terms of whether the action violated the right to life of the victim.

There is no legislation in the judicial system of Turkey regarding the hate crimes against disadvantaged groups, including LGBTI+s. The need for legislation on this subject is crucial, not just for the LGBTI+s, but for the other disadvantaged groups too.

In the extent of this report regarding the hate crimes against LGBTI+s; one case in 2017, ten cases in 2018 and one case which was subjected to a trial in the prior years but still in judiciary process in 2018 have been addressed.

Besides these data, amongst the 2018 applications to Kaos GL Association;

- Nine individuals stated they were threatened by their whole family or by a family member,
- Eleven individuals stated they were threatened by persons who they were not related to.

### **VIOLATIONS IN 2017:**

|                       |  |
|-----------------------|--|
| Incident of Violation | Extortion and Blackmail Gang Targeting LGBTI+s   |
| Case Summary          | According to the report that is published in Milliyet Newspaper, serial cases of extortion have come to light. According to the report, a gang bringing people they contacted via an LGBTI+ dating site to a rendezvous location and running away after extorting their possessions has been busted, and it was identified that they were finding their targets from a dating site and lure them into the trap.<br><br>Murat G., who mugged two individuals with whom he met |

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|  | <p>from the same dating site after having intercourse with them, was arrested by a special squad from the Extortion Bureau just before performing his third action. It was found out that the suspect was threatening the victims by sending their private pictures to their families and asking for one thousand Turkish Liras in return of deleting the pictures.<sup>12</sup></p> |
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### **VIOLATIONS IN 2018:**

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|--------------|--|
| Case Subject | Fraud Against Gay Men Through Intimidation and Blackmail   |
| Court        | Küçükçekmece's 17th Penal Court of General Jurisdiction  |
| Case Summary | <p>According to the report of Mesut Hasan Benli from Hürriyet Newspaper, B.D. has been sentenced to prison for fraud in three of the lawsuits applied by 22 individuals from different cities.</p> <p>There are dozens of criminal complaints against D. in various provinces. Besides three major court houses in Istanbul, the total number of the complaints made to the prosecution offices in provinces like Gemlik, Mudanya as well as cities like Giresun are over 50.</p> <p>The complainers stated that D. asked them for money after meeting with them. It was stated that although D. told some of the individuals he would pay the money back shortly, he did not, and he also extorted money from them through blackmail and intimidation.</p> <p>D. has been sentenced to 1 year 3 months of prison and 2490 TL judicial fine by Küçükçekmece 17th Penal Court of General Jurisdiction. D.'s lawyer objected to the verdict, but the higher court affirmed the sentence.</p> <p>The summary of the justified decision is as follows: "It is against the natural flow of life that a group of people consisting from homosexuals claiming the defendant has extorted money from them for no apparent reason. These claims cannot be produced easily. These claims, which are not commonly seen in daily life, are hard to direct to a</p> |

<sup>12</sup> <https://kaosgl.org/sayfa.php?id=25358>

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|  | <p>person without concrete events. It is unnatural for a group to conspire in this way against the defendant...”</p> <p>A.A., one of the applicants to the public prosecutor's office, stated that they had to give up seniority and compensation rights and resign from their workplace that they have been working for 4 years, because D. shared the information about their sexual orientation without their consent.</p> |
| Stage of the Case/Outcome of the Case  | Singer B. D., who defrauded people that they met through LGBTI+ dating sites, has been sentenced to 1 year 3 months of imprisonment and 2490 TL judicial fine.  |
| Effect of the Case on the Legal System | One of the few court judgments that recognizes deliberate crimes against LGBTI+s due to their sexual orientation. <sup>13</sup>   |

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| Incident of Violation | Assault with Knife Against Trans Woman Cansu in Adana  |
| Summary of the Case   | <p>On March 12, 2018, a 39-year-old trans woman, Cansu C., who was living in Adana, was attacked by an unidentified person with a knife. Injured Cansu C. was hospitalized.</p> <p>Doğan News Agency reported that Cansu C. was stabbed in the hip by an unidentified person approaching from behind at around 5:00 AM. Cansu C. fell to the ground because of the knife wound while the attacker fled the scene.</p> <p>Police and ambulances were dispatched to the scene upon the report of a citizen passing by. It was stated that the condition of Cansu C. was good after she was transported to the Adana City Hospital by ambulance.</p> <p>Police have started an investigation to arrest the attacker while examining the surveillance cameras of the surrounding buildings.<sup>14</sup></p> |

<sup>13</sup> <http://kaosgl.org/sayfa.php?id=27025>

<sup>14</sup> <https://kaosgl.org/sayfa.php?id=25293>

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|-----------------------|---|
| Incident of Violation | Trans Activist Kivilcim Arat was attacked in İstanbul   |
| Case Summary          | <p>Kivilcim Arat, a trans activist from İstanbul LGBTI Solidarity Association was attacked in her house in the early hours of 12 March 2018. The person who attacked Arat with a cutting tool also grabbed Arat's phone and money. Arat was injured in her left wrist and back as a result of the attack.</p> <p>Kivilcim Arat shared her experience from her social media account:</p> <p>“3 days after thinking that I am lucky as a trans that seen her 31st birthday, I was nearly killed last morning. Just when I thought that I got rid of the scalpel that tried to slit my throat by biting it, the same scalpel came down to my back. The punch that I took nearly tripped me over, but I was able to get right up. I got a deep cut when I tried to block the scalpel a second time with my left hand. It seems that the hand cuts are pretty open wounds and the meat that you see is pretty nauseous: If the dizziness that came with the nausea had continued, maybe today I wouldn't be among you.”</p> <p>“I was able to elude with the stitches on my hand and back, my stolen phone and 400 liras that I've raised over time.”</p> <p>Arat shared her emotions after the attack in her social media account:</p> <p>“How am I? I'm pretty fine and stronger than ever. The incident that I experienced made me remember life is short and it is not clear when will it be over. If there are some people that I have intentionally or unintentionally hurt, I want them to know that I love them.”<sup>15</sup></p> |

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|-----------------------|--|
| Incident of Violation | Attack Against Trans Woman Sıla in Ankara  |
| Case Summary          | According to the report of Pink Life LGBTI Association, trans woman Sıla was attacked in her car on Bağlar Street of Ankara on March 1, 2018. The attacker who broke the |

<sup>15</sup> <https://kaosgl.org/sayfa.php?id=25310>

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|  | front windshield of Sila’s car by throwing a bottle, ran away from the scene. The investigations to find the perpetrator has started after the deployment of police and Crime Scene Investigation units to the crime scene. <sup>16</sup> |
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| Incident of Violation | Attack Against Trans Woman Serap in Mersin   |
| Case Summary          | <p>Trans woman Serap was attacked by two people on the night of March 28, 2018, in Mersin. Two men attacked Serap on the street. Serap’s nose and teeth have been broken and she lost her vision temporarily due to the attack.</p> <p>Yağmur Arıcan from Mersin 7 Colors LGBTI Solidarity Association, who met Serap after the attack, drew attention to the ignorance of the police:</p> <p>“Recently, the attitudes of law enforcement officers in Mersin encourages the attackers on the streets. Police recently chased a trans woman with dogs on the street. The trans woman who reached us said that the police gave instructions to the people on the street such as ‘catch them’. This attitude of law enforcement forces raises questions in our minds.”</p> <p>“In the attack yesterday, two people battered Serap. She went to the hospital. Police did not go to the hospital for a long time. Then, the hospital police came for her. Later on, we went to the police station with our lawyers to press charges. The police at the station told us “This is a minor case, lawyers are not needed”. The case was tried to be passed over somehow. When we reminded them that police chased trans women with dogs, they told us to file a complaint about that squad.”<sup>17</sup></p> |

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| Incident of Violation | Transphobic Attack in Ankara   |
| Case Summary          | According to Pink Life Association’s report, a trans woman was subjected to a hate assault in İskitler neighborhood of |

<sup>16</sup> <https://kaosgl.org/sayfa.php?id=25358>

<sup>17</sup> <https://kaosgl.org/sayfa.php?id=25433>

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|--|---|
|  | <p>Ankara on the night of April 5, 2018.</p> <p>The attackers who approached the victim with a black car, attacked the trans woman with bats. After the trans woman rode away from the scene with her friend's vehicle, the attackers followed the vehicle for a while and opened fire with guns.</p> <p>First, trans woman and her friend went to the police station. When encountered with the negligence of the police, they took medical report from the hospital and proceeded to İsmetpaşa Police Station. The attackers came to the police station with their families and threatened the trans women in order to withdraw their complaint.</p> <p>The police brought trans women and the attackers together. Then, highly intoxicated attackers came upon trans women while yelling “we attacked you because you are fags”.</p> <p>Trans women left the station after giving their official statement to the officials. The attackers were released shortly after.<sup>18</sup></p> |
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|-----------------------|--|
| Incident of Violation | Homophobic Hate Assault in Adana   |
| Case Summary          | <p>26 years old gay man Erhan was attacked in Adana by unidentified people on June 2, 2018. Erhan who was attacked and mugged by two people in the Yüreğir Neighborhood of Adana shared their experience:</p> <p>“Two people in their twenties yelled at me from behind by saying things like ‘gay, fag, be a man’. Then, they punched me. Then took my wallet and phone by force. When I asked for help, they attacked me more violently. They told me ‘we do not want see you here again. If we see you, we kill you’.”</p> <p>According to the medical report that Erhan took after the attack, there was significant damage on his jaw area.</p> |

<sup>18</sup> <https://kaosgl.org/sayfa.php?id=25539>

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|  | <p>Erhan applied to the Human Rights Association Adana Branch Office LGBTI Rights Commission after the attack. Mehmet Bayram from the branch said that they were following the case and told about the incident to KaosGL.org:</p> <p>“We are monitoring the legal process of the incident as the Human Rights Association Adana Branch Office LGBTI Rights Commission. In addition, we are helping the victim to overcome the psychological problems that he is facing after the incident by providing medico-social support from the related institutions. As a result of our correspondence with the security forces and the prosecution office, the investigation has started to find the perpetrators of this incident.”<sup>19</sup></p> |
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| Incident of Violation | Attack to Social Policies, Gender Identity and Sexual Orientation Studies Association (SPoD) Office   |
| Case Summary          | <p>Four people attacked the Beyoğlu, İstanbul office of SPoD on the evening hours of June 26, 2018.</p> <p>Attackers punched the office door of the association and yelled death threats. While one of the attackers claimed that “their kid was kept there against their will”, the SPoD members and volunteers who was participating in a meeting in the office at that time called the police.</p> <p>Police came to the scene, but did not intervene right away. Marsel from SPoD, who came to the office upon receiving the news of the attack told the incident to KaosGL.org:</p> <p>“While I was trying to learn what the situation was from the police officers, one of the attackers attacked me. He tried to punch me. Due to my stepping back, the punch just scraped my jaw. I entered the office and they followed me. Police didn’t intervene. When I asked why they did not intervene, they said ‘It’s not our job, a squad is coming’. Then the police came to the doorstep of the office and said that they would search the place. When we asked if they had a search warrant, the answer they gave to us was: ‘If</p> |

<sup>19</sup> <https://kaosgl.org/sayfa.php?id=25950>

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|  | <p>necessary, we would call the prosecutor and get the warrant and smash that door to the ground'."</p> <p>After the incident, Att. Hayriye Kara from Kaos GL and LGBTI+ rights defender Att. Levent Pişkin went to the office. Upon showing the warrant, police searched the building. Police left the office after finding that the alleged "hostage" was not in the office. Police took the attackers to the Beyoğlu County Police Station with the police vehicle.</p> <p>People who were in the office building during the attack and the officials from the association has applied to the Beyoğlu County Police Station with Att. Levent Pişkin to file a complaint against the attackers.<sup>20</sup></p> |
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| Incident of Violation | Attack to a Trans Woman in Ankara   |
| Case Summary          | <p>A trans woman was attacked in Dikmen, Ankara in July 21, 2018. According to the information that Att. Emrah Şahin from Pink Life Association gave to KaosGL.org, incidents during and after the attack were as follows:</p> <p>An ex-boyfriend attacked to a trans woman living in Dikmen. First, he beat the woman down, then stabbed her on the groin with a fruit knife. While the perpetrator was trying to find a bigger knife, the victim saved herself by jumping down from the balcony.</p> <p>The attacker was taken into custody after the attack while the attacked woman was taken into medical operation. The victim was able to give her official statement three days after, on July 24. Pink Life Association is monitoring the judicial process. Att. Şahin says that the perpetrator must be judged for attempted murder in the first degree.<sup>21</sup></p> |

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| Incident of Violation | Attackers Targeting Gays were Arrested in Mersin        |
| Case Summary          | According to the report of İhlas News Agency (İHA), two |

<sup>20</sup> <https://kaosgl.org/sayfa.php?id=26117>

<sup>21</sup> <https://kaosgl.org/sayfa.php?id=26328>

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|  | <p>muggers targeting gays in Mersin were arrested on December 3, 2018. G.Y. and A.A. met with the people they contacted from LGBTI+ dating sites and mugged them. It turned out that the attackers have so far wounded 4 gay persons with a sharp object and mugged them.</p> <p>When one of the injured people made an official complaint about the attackers. The attackers were arrested and put in prison.</p> <p>According to the report of the İHA, the usurper G.Y. said that he was verbally abused by a gay at a young age and hated gays because of him. He said, "They got the punishment they deserved. They should praise that I didn't do much," while he was being transported to the courthouse.<sup>22</sup></p> |
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**VIOLATIONS THAT ARE STILL IN JUDICIAL PROCESSES IN 2018:**

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| Title and Subject of the Case                      | The Incident of a Gay Man, Siyabend, Stabbed and Expelled from Home by His Brother  |
| Court and the Date of Trial                        | İstanbul/Anatolia's 16th Penal Court of General Jurisdiction - March 19, 2019   |
| Case Summary/Stage of the Case/Outcome of the Case | <p>Siyabend is a 20 years old gay man. He pursue a legal struggle to ensure the violence that he was exposed to in 2015, when he was only 17 years old.</p> <p>When Siyabend was 17 years old, his brother learnt about his sexual orientation. Upon this, he both expelled Siyabend from the house and attacked him with a knife. Siyabend took an medical report after the incident. 20 days later, Siyabend was hospitalized and remained in the intensive care unit for 3 days because of the psychological effects of the assault. When Siyabend felt ready, he filed an official complaint. After the investigation stage, law-suit was sued in January 31, 2017 on the basis of "willful bodily harm, threatening with weapon and defamation". Four trials have been held until now.</p> |

<sup>22</sup> <https://kaosgl.org/sayfa.php?id=27150>

Siyabend told about his experience, legal struggle and expectations from the case to KaosGL.org.

Siyabend said that his younger brother saw them with a rainbow flag during the election campaigns on June 7, 2015 and said, "This is how my older brother learned my sexual orientation. About five months later, my big brother attacked me in the house we lived together. He threw a glass at me and then attacked me with a knife. He beat me by specifically targeting my face."

Siyabend took a medical report from the hospital in the evening of the same day. By his words, "he couldn't press charges right away" and "went through a traumatic experience".

"After the incident, I was taken into the special care unit 20 days after the attack. It was a traumatic and stressful experience for me. While I was unconscious, my brother came and threatened my friends. As soon as I woke up, the police came and filed my official statement."

Siyabend said that his brother had confessed that he committed the attack, but lied about his motivations.

"My brother not only just beat me, but he also disclosed me to all family members. He told that I was 'slid' to family members. All my family members came to know my sexual orientation without my consent. This strained my relations with other family members too."

Siyabend, who was exposed to violence and expelled from the home, said that he sought for a job for a long time, but feared: 'What if my brother finds me'. Even though he occasionally thought about withdrawing the case, Siyabend persisted and started the legal struggle by the motivation of 'hate crimes should not go unpunished'.

"A very dear person to me, my brother did these evil things to me. He assaulted me. He expelled me from home and revealed my sexual orientation to whole family. At one point, I wanted to give up the case and did not want to make effort on it anymore. However, I thought that he might harm another person, so I persisted. I thought that this hate crime should not go unpunished. I repeatedly say on every trial that 'this is a LGBTI+ case'. I

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|  | <p>hope this to be a precedent case if we win. I feel strong, because now I know that I am not alone. I expect your support for the trials.”<sup>23</sup></p> <p>Trial has been postponed to March 19, 2019, in order to gather the missing evidence.</p> |
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### III. HATE SPEECH

Hate speech is not classified as a crime within the legal system of Turkey.<sup>24</sup> However, through the legislation of an appendix of “Provoking people to be rancorous and hostile” to the 216th article of the Turkish Penal Code (TCK), hate speech is legislated as a crime under certain conditions;

Article 216-

(1) Any person who openly provokes a group of people belonging to different social class, religion, race, sect, or coming from another origin, to be rancorous or hostile against another group, is punished with imprisonment from one year to three years in case of such act causes risk from the aspect of public safety.

(2) Any person who openly humiliates another person just because he belongs to different social class, religion, race and sect or comes from another origin, is punished with imprisonment from six months to one year.

(3) Any person who openly disrespects the religious belief of group is punished with imprisonment from six months to one year if such act causes potential risk for public peace.

As it can be seen from the scope of the article, article regulation does not define hate speech based on sexual orientation and gender identity (SOGI) as a crime. Since the extension of the criminal laws by comparison is prohibited (Article 2/3 of the TPC), the article regulation does not cover SOGI-based hate speech. It is clear that there is a legal gap with respect to these acts.

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<sup>23</sup> <https://kaosgl.org/sayfa.php?id=27107>

<sup>24</sup> <http://www.hurriyet.com.tr/gundem/ilk-kez-nefret-suclari-tanimlandi-40265961>

In the cases given below, it is observed that relying on the grounds that there is no obvious or imminent danger, the courts and the Court of Cassation deal with hate speech within the scope of freedom of expression, and state of impunity is general outcome for such cases. The state of impunity paves the way for such crimes to be repeatedly committed by the same individuals and increases the frequency of hateful discourse targeting LGBTI+s on traditional and social media.

As hate speech against LGBTI+s from the media has become widespread, we could only address a limited number of the cases that took place in 2017 and 2018 or happened to be in judicial process in these years that we encountered through their appearance in judiciary system or the media. Regarding the hate speeches, two cases that took place in 2017, and twenty-three cases that happened in 2018 have been addressed in this report with details. Detailed information can be obtained from Kaos GL Association's Media Watch Report 2018.<sup>25</sup> According to the report, research on the news, interviews and articles on LGBTI+s published in 2018 showed that 1130 of these texts, almost half of them, were against the principles of rights-based-journalism. It has been identified that these texts either violate the fundamental rights of LGBTI+s, contain hateful and/or discriminatory discourse; or cultivates prejudices against LGBTI+s. The right of sexual orientation and gender identity has been violated within the 85% (957) of the texts that falls out of the rights-based-journalism. LGBTI+s were represented by discriminatory discourse in 782 news, interviews and articles that were published in 2018. This number consists 34% of the whole content regarding LGBTI+s. Hate speech have been identified in 383 texts, which consists 16% of whole related content. Hate crime has been committed in the 123 of these texts by pointing to the LGBTI+ individuals or associations and institutions.

We analyzed 2442 pieces of text that were published by the media in 2018 within the extent of the Kaos GL Association's Media Watch 2018 Report. 56% of these texts (1366 pieces) were published on national media; 44% of them (1076 pieces) were on local media. We analyzed 2442 news, interviews and articles which we identified by the keywords that were published on the national and local media. On 164 of these texts (7%), LGBTI+ was not the subject of the text, but just took place as a word.

We analyzed roughly 50% (1148) of the texts based on the principles of rights-based-journalism within our research on the news, interviews, and articles about the LGBTI+s. We have found 1130 of these texts, which consists roughly half of the whole texts, against the principles of rights-based-journalism. We have identified either there are violations against the fundamental rights of LGBTI+s and there are discriminatory and/or hateful discourse, or the texts are feeding certain prejudices against LGBTI+s.

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<sup>25</sup> [http://www.kaosgldernegi.org/resim/yayin/dl/medya\\_izleme\\_raporu\\_2018a.pdf](http://www.kaosgldernegi.org/resim/yayin/dl/medya_izleme_raporu_2018a.pdf)

When we further analyzed the 1148 pieces of texts, we found out that most of the texts (671 texts, 58%) were settled only for a journalism approach that respected the most basic fundamental human rights of LGBTI+s. Rights violations such as discrimination and hate attacks experienced by LGBTI+s were visible within the framework of rights-based journalism principles in 33% (384 texts) of the news and in only 16 percent of all news published within the scope of rights reporting. Only 93 reports spoke of ways to combat these violations.

Opinions of LGBTI+ organizations regarding LGBTI+ rights could only be found in 70 texts in the printed media in 2018. This consists of 6% of the news that were addressed as rights-based-journalism and only corresponded to 3% of all news. Half of the published opinions of LGBTI+ organizations regarding LGBTI+ rights consisted of the activities and press briefings, statements of the officials of Kaos GL Association.

There were violations of sexual orientation and gender identity rights in the 85% (957) of the news that were not classified as rights-based-journalism. LGBTI+s were represented by discriminatory discourse in the 782 news, interviews and articles in 2018. This constituted 34% of the whole content regarding LGBTI+s. Hate speech was identified in 383 texts which constituted 16% of all texts. Hate crime was committed in 123 texts via pointing LGBTI+ individuals or associations and institutions as targets. On 603 texts (26% of the texts on LGBTI+s); being lesbian, gay bisexual, trans or intersex was shown as a "crime". On 381 texts (16%), LGBTI+s were marked as "immoral". The percentages of "perversion", "illness" or "sin" markings were thusly: "Perversion": 344 texts, 15%; "Illness": 249 texts, 10%; "Sin": 313 texts, 13%.

Prejudices against LGBTI+s were identified in the 99% (1121) of the news that were not classified as rights-based-journalism. Within the sub-categories of the prejudice headline, misinformation about LGBTI+s and stereotyping took the lead. Numerous misinformation about LGBTI+s were published in 2018. Among the misinformation, there were claims that had no scientific basis. These were discourses that were far away from the truth as all gay people were abused in their childhood. Alternatively, there were generalizations about transition processes. By 783 pieces of text (35%), misinformation regarding LGBTI+s got into circulation. Then again, LGBTI+s were confined into stereotypes in the 37%(852) of all content.

In sum, 2018 was a year in which LGBTI+ identity and existence was shown as a "crime" in the printed media. Discriminatory discourse was very frequently used in the printed media. There was discrimination in the 34% of the whole LGBTI+ related

content. Taking place in 16% of all texts that LGBTI+s were the subject of, hate speech targeted the equal representation of LGBTI+s in the media.

LGBTI+ news and articles were mostly found on local media published in Bursa. Bursa was followed by Istanbul and Antalya. Eight cities where LGBTI+ issues were mentioned most frequently on local media were Bursa, Istanbul, Antalya, Adana, Mersin, Ankara, Samsun and Izmir, respectively. When the distribution of the news in Bursa, which is the city where the most news is published in the local media, was examined, it became clear that the majority of the news published in the city in 2018 was either a violation of rights or contained prejudice towards LGBTI+s. Only 11% (16) of the news, interviews or articles published in the city could be identified as examples of rights-based journalism. Discriminatory discourse, hate speech and/or prejudices were identified in 89% (124) of the news.

1579 news, interviews and articles about LGBTI+s were published on national media. Top 10 newspapers that published majority of news about LGBTI+s, without addressing whether the news, interviews and articles they published contained any discrimination, hate speech, prejudice or any right violation against the LGBTI+s or not, are as follows: Cumhuriyet, 159 texts, 12%; Hürriyet, 148 texts, 11%; Yeni Akit, 111 texts, 8%; BirGün, 110 texts, 8%; Evrensel, 100 texts, 7%; Milliyet, 83 texts, 6%; Habertürk, 71 texts, 5%; Posta, 67 texts, 5%; Vatan, 41 texts, 3%; Şok, 34 texts, 3%.

6% (1381) of the content that mentioned LGBTI+s was the news. LGBTI+s were included in 764 articles (33%), while interviews remained at 96 (4%). In contrast to the columns and the news, LGBTI+s could have been scarcely involved in interviews and commentaries, which allow subjects to make their voices heard more.

News, interviews and columns on LGBTI+s were published mostly on the current / agenda pages of newspapers (41% with 937 content). While LGBTI+s were mentioned in 225 world news, 10%; 216 texts (10%) were on the supplements of the newspapers. 11% of the news were published on third pages. In most of the news that LGBTI+s were mentioned in 2018, there were opinions of academicians and specialists more than the LGBTI+ individuals or organizations. In the great majority of the texts, there were no sources indicated or the column writer only included their own ideas.

Although “LGBTI+” itself is perceived as pointing to a single identity, we have also focused on to which extent does the lesbian, gay, bisexual, trans and intersex diversity is represented in the print media of Turkey. In a vast majority of 2278 texts, the indication of LGBTI or LGBTI+ has been used. Transgender people were the most mentioned group with 556 contents. It has also been observed that most of the news

that included transgender people were on judicial cases and police operations. Most invisible groups among the LGBTI+ society were the bisexuals and intersex people. There were only 10 texts regarding intersex persons. Bisexuals were included in just 107 texts.

**VIOLATIONS IN 2017:**

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| Title and Subject of the Case  | Case of Threatening Mersin Pride Week   |
| Court and Date of the Trial    | 2nd Court of General Jurisdiction in Sakarya  |
| Case Summary/Stage of the Case | <p>First trial of the lawsuit against the officials of islamianaliz.com(Islamic political analysis website) that targeted 2017 Mersin Pride Week with a homophobic and transphobic discourse was held in June 26, 2018.</p> <p>Yağmur Arıcan from Mersin 7 Colors LGBTI Solidarity Association that filed the lawsuit, and Att. Ezgi Özkan and Att. Hayriye Kara from Kaos GL Association participated in the trial.</p> <p>Att. Özkan underlined that Pride Weeks were organized around the world and in Turkey to make the violations against LGBTIs more visible, and as follows she stated that last year Mersin Pride Week was subjected to hate speech by the press :</p> <p>“Last year, we received some threats on Pride Week. The extent of threats increased through the report that Milat Newspaper published first and then the publication of the news by the newspaper of which the defendant is the publishing manager. Several reservations were canceled and additional security precautions were taken. Mersin Pride Week was held under these conditions. There were attacks to the last stage of march. We are declaring our complaint.”</p> <p>Özkan has declared their wish to participate to the lawsuit by reminding the related Constitutional Court and European Court of Human Rights criteria.</p> <p>Att. Kara reminded the court that LGBTIs were being</p> |

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|  | <p>targeted in Turkey through press and discourses and said, “Hate speech is not a regular harassment. It threatens the public peace. It fuels the intolerance against a group within the society and it is a call for violence. Therefore, when it would not be controlled, hate speech can turn into the hate crime”. They also reminded the court of the data from the hate crime reports of LGBTI associations.</p> <p>Court has decided on the participation of Mersin 7 Colors LGBTI Association to the lawsuit because of “the probability of being suffered from the crime”; and participation of the lawyers Özkan and Kara to the trials.</p> |
| Outcome of the Case                    | As a result of the trial, the defendant's statements were assessed in the scope of freedom of expression and they were acquitted <sup>26</sup> . The association appealed the decision, but the Istanbul Regional Court of Justice rejected the request because the association did not have the title of participant to the case.  |
| Effect of the Case on the Legal System | An example of the impunity of hate speech against LGBTI+s through legal gaps.   |

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| Title and Subject of the Investigation | Akit Newspaper Hate Speech   |
| Prosecutor and number                  | Chief Public Prosecutor's Office of Küçükçekmece, investigation date 05.03.2018, Investigation no: 2018/13018, Resolution no: 2018/10240, Constitutional Court Application no: 2018/20035  |
| Case Summary                           | Kaos GL Association has pressed charges against the newspaper that targeted the association by the contents including the statements of : “EU Feeds the Perverts”, <sup>27</sup> “Who Will Put This Perversion to a Stop”. <sup>28</sup> |
| Outcome of Investigation               | It was decided that there was no need to prosecute the case as the mentioned statements did not constitute a crime.  |
| Effect of the Case on the              | An example of the impunity of hate speech against  |

<sup>26</sup> <http://kaosgl.org/sayfa.php?id=2610>

<sup>27</sup> <https://www.yeniakit.com.tr/haber/sapkinlari-ab-besliyor-399402.html>

<sup>28</sup> <https://www.yeniakit.com.tr/haber/bu-sapkinliga-kim-dur-diyecek-401057.html>

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| Legal System | LGBTI+s through legal gaps. |
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### **VIOLATIONS IN 2018:**

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| Title and Subject of the Case                 | takvim.com.tr Access Block Request   |
| Court and Decision Number                     | Decision of 1st Penal Court of Peace of Ankara, dated 15.01.2018, Docket no: 2018/314.<br><br>Constitutional Court Application No: 2018/10605  |
| Case Summary                                  | Regarding that the news constitutes a crime, Kaos GL Association has requested the block of access to the content of <a href="https://www.takvim.com.tr/guncel/2017/11/14/kuresel-guclerin-gudumunde-chp-ve-hdp-destekli-lgbti-provokasyonu">https://www.takvim.com.tr/guncel/2017/11/14/kuresel-guclerin-gudumunde-chp-ve-hdp-destekli-lgbti-provokasyonu</a> , based on the statement that “The LGBTI groups supported by CHP and HDP are being funded especially by the German foundations to legitimize immorality by undermining national and moral values of our nation under the name of ‘democracy and freedom’. The imperialist forces use LGBTI groups as projects to damage the Turkish family values and to lead our youth to perversion.” <sup>29</sup> |
| Outcome of Application                        | The request was rejected on the grounds that the statement remained within the scope of the journalism activity.   |
| Effect of the Application on the Legal System | An example of not being able to use the available means to prevent hate speech against LGBTI+s.  |

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| Incident of Violation | Pink Life Association has pressed charges against the transphobic judge to the Council of Judges and Prosecutors |
| Case Summary          | In May 16, 2018, Pink Life LBTT Association has pressed charges to the Council of Judges and                     |

<sup>29</sup> <https://www.takvim.com.tr/guncel/2017/11/14/kuresel-guclerin-gudumunde-chp-ve-hdp-destekli-lgbti-provokasyonu>

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|  | <p>Prosecutors (HSK) against the judge who posted the lawsuit petition about a gender transition case on Instagram and ridiculed it. Emrah Şahin, the lawyer of the association, has underlined the fact that the judge's actions were contrary to the Bangalore Principles of Judicial Conduct , the law of Judges and Prosecutors and Principles of Ethical Conduct of Public Servants, and continued to their statement:</p> <p>“Such actions of a judge, who has to act according to the principles of equality, neutrality, honesty and righteousness, not only impairs the faith of our citizens on the neutrality of the judiciary, also damages their honor and dignity. For this reason, we have filed an official complaint to the Council of Judges and Prosecutors of such actions that openly undermines the professionalism and the dignity of being a judge.”<sup>30</sup></p> |
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| Incident of Violation | LGBTI+ Individuals and Families were Targeted  |
| Case Summary          | <p>2nd Denizli Pride Week held in June 30 - July 1, 2018.</p> <p>Anatolian Youth Association Denizli Branch targeted Denizli Pride Week. Ekrem Çetin, the president of Anatolian Youth Association Denizli Branch Commission of Publicity and Media gave a statement to the mihraphaber.com website involving the statement of “sick perverts” against the LGBTI+s. Çetin continued his hateful discourse by saying, “These perverts are getting ready to puke their immorality all around in their activities that will be held between June 30 and July 1 in Denizli.”</p> <p>The Denizli LGBTI+ Individuals and Families Group organizing the activities made a statement against Çetin’s hate: “We are neither wrong, nor alone. We are here even if you try to scapegoat us with your press or try to push us away from society by making us a subject of violence. We were here, we are here, we will be here and we will continue our rightful struggle while getting bigger.”</p> <p>Denizli Pride Week started on 30th of June and ended on the 1st of July with a high number of participation. People</p> |

<sup>30</sup> <http://kaosgl.org/sayfa.php?id=25825>

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|  | against homophobia, biphobia and transphobia came together on panel discussions and workshops for two days. <sup>31</sup> |
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| Incident of Violation | “No to Homosexuality” Leaflets were Distributed in Esat / Ankara   |
| Case Summary          | Leaflets that “No to Homosexuality and Homosexual Institutions” written on them were distributed to mailboxes and streets in Esat Neighborhood of Ankara on July 2018. On the hate speech leaflets, it was claimed that the homosexuals were supported by the “British shadow state” and homosexuals were referred as “sexual perverts”. <sup>32</sup> |

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| Incident of Violation | Akit Newspaper’s Systematical Hate Speech Against LGBTI+s  |
| Case Summary          | <p>Akit Newspaper has committed hate speech against LGBTI+s in 11 contents in just one month, between June-July 2018. Nine of these texts of hate speech are news while the other two are column articles.</p> <p>The first content was the Mehtap Yılmaz’s article published on June 1, 2018. Yılmaz declared the Republican People’s Party (CHP) and People’s Democratic Party (HDP) as the “parties that support LGBTI+s most”, and targeted these two parties and LGBTI+s.</p> <p>Another article of the Akit dated June 4, 2018, titled “HDP and its soulmate CHP are the patrons of perverts”. Akit used the statement of “scandalous statements aimed to legitimize homosexual perversion” for the expressions of sexual orientation and gender identity which were included in the election bulletins of the mentioned parties.</p> <p>The claim of United Nations has “loosened the strings of the purse to popularize homosexuality” took place in the</p> |

<sup>31</sup> <http://kaosgl.org/sayfa.php?id=26198>

<sup>32</sup> <http://kaosgl.org/sayfa.php?id=26307>

“Support to ‘homo’s in UN” titled article of Harun Sekmen in the June 13 issue of Akit. The article was targeting Kaos GL Association’s “Advancing the Human Rights of LGBTI+ Refugees” program and claiming there were “pervert propaganda actions towards refugees”.

Ali İhsan Karahasanoğlu was saying “the ones that promote LGBTIs and impair the morals of the public” in his article in the June 23 issue of Akit. He continues to the discriminatory discourse against LGBTIs.

Yeni Akit targeted the 26th İstanbul Pride Week by publishing a report, titled “LGBTI perverts are on to a provocation” in June 28, 2018.

The text of Harun Sekmen from Yeni Akit is containing statements of hate like, “pervert LGBTI homos”, “homosexuals that show their dishonor as pride”, “immoral LGBTIs”. It is claimed that “homosexuals are trying to create a provocation” in the text.

Yeni Akit that targeted Pride Week a day before the event has called for a ban against the İstanbul LGBTI Pride March on June 29, 2018.

Akit article titled “Stop this march of perversion!” of Harun Sekmen continues thusly: “A call has been made to prevent the pervert march from happening, which is arranged by the homos organized under the name of Lesbian, Gay, Bisexual, Transgender, Intersex (LGBTI).” It is unclear who has made the call to “prevent” the Pride March which Sekmen has stated in his text.

Akit has published another news on the same day, titled “Patrons of homos are in the assembly”. The report which is announced as “8 CHP and 8 HDP members who support LGBTIs, the roof organization of the perverts, have entered into the assembly” was targeting the congressmen who signed the LGBTI+ Rights Covenant.

Akit’s article dated July 1, 2018, is titled as “EU is funding, homos are getting fat”. The report that continues as “The LGBTI perverts who are funded by the EU in order to impair the structure of Turkish society has founded 18 associations in 14 years”, have hate speech statements like “perversion threat that grows bigger”,

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|  | “pervert homosexuals” against LGBTIs. <sup>33</sup> |
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| Incident of Violation | Yeni Akit Newspaper Targeted Adana LGBTI+ Pride March  |
| Case Summary          | <p>The Pride March, which was planned to be held on July 7, 2018 by Adana LGBTI+ Solidarity, was targeted by the July 6, 2018 issue of Yeni Akit Newspaper. It was claimed that LGBTI+s were organizing “provocation squads to undermine the peace and safety of Turkey” in Harun Sekmen’s article titled “Mobile homos are onto provocation”. Sekmen continued his claims as: “It has been reported that homos are organizing provocative actions in cities with high sensitivity on national and moral values. It has been found out that the so-called pride march that has been tried to be held in İstanbul, Ankara and Denizli before, but prevented with the most reasonable attitudes of the governorates, will be held in Adana on June 7, 2018.” However, the claims of “the Pride Week activities in Denizli has been banned by the Governorate and there is an application for 2018 in Ankara” are not true.</p> <p>It has been claimed that “Citizens are waiting for a ban” in the text. The report continues as “Adana public wants the provocative march to be banned by the governor”, but it is unclear who the ‘citizens’ are.<sup>34</sup></p> |

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| Incident of Violation | Hate Leaflets in Osmaniye   |
| Case Summary          | <p>In July 2018, leaflets written “Danger of Homosexuality”, “Homosexuality is a sin according to the Koran”, “The family and the generation are tried to be corrupted by homosexuality, the moral structure is tried to be undermined” on them were dropped to the mailboxes of the apartments near the University and onto the streets of Osmaniye.</p> <p>Eray Deniz, who lives in Osmaniye talked about the</p> |

<sup>33</sup> <http://kaosgl.org/sayfa.php?id=26207>

<sup>34</sup> <http://kaosgl.org/sayfa.php?id=26220>

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|  | <p>leaflets to KaosGL.org. Stating that they were worried about these posters as a gay person, Deniz continued:</p> <p>“These leaflets are very dangerous for us. It triggers homophobia. I am even worried about walking on the streets. This is humiliating. Unacceptable. We will sort this out.”</p> <p>According to the information that Deniz acquired from their friend, leaflets involving hateful discourse were distributed in the neighboring cities like İskenderun, Adana and Antakya.<sup>35</sup></p> |
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| Incident of Violation | Homophobic Reaction to the Rainbow Umbrella   |
| Case Summary          | <p>Çankaya Street of Karesi / Balıkesir was colored by the municipality with rainbow umbrellas. Yücel Yılmaz, Major of Karesi has announced the coloring activities from their social media account with the hashtag of #ColorfulKaresi. Yılmaz stated the umbrella street has colored Karesi: “The umbrella street that colored our beautiful province Karesi has created a scenery that gives joy to the citizens and taking place in the social media accounts by being the subject of marvelous selfies.”</p> <p>The project was welcomed by the residents, but disturbed the homophobes. The ones that posted comments under Yılmaz’s post by saying the colors are “rather meaningful” aimed to organize the hate on social media.</p> <p>It was seen that, one of the homophobic commentators posted comments under the post as “The street is getting beautiful, ISN’T THE COLOR CHOICE MEANINGFUL”, and “This color is rainbow, symbol of fags, queers”, “These colors are against the manhood” and “The municipality must have been looking for these colors”.<sup>36</sup></p> |

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| The Title and Subject of | Yeni Akit Newspaper “Homos Shall not Pass in Mardin” |
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<sup>35</sup> <http://kaosgl.org/sayfa.php?id=26313>

<sup>36</sup> <https://kaosgl.org/sayfa.php?id=26338>

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| Investigation                                 | Investigation  |
| Prosecutor's Office and Number                | Decision of Küçükçekmece Chief Public Prosecutor's Office dated 06.09.2018, Investigation no: 2018/25546, Decision no: 2018/22243<br><br>Constitutional Court Application No: 2018/10351   |
| Summary of Investigation                      | Kaos GL Association applied with an official complaint against the newspaper that publicly targeted the association with the contents that involved statements of "Homos Shall not Pass Mardin", "Who will put a stop to this perversion" and "Who will put a stop to this shamelessness", <sup>37</sup> dated 20.11.2017, 02.12.2017 and 13.03.2018 |
| Outcome of Investigation                      | As the result of the investigation, it was decided that there was no need for prosecution on the grounds that the statements did not constitute a crime. Application against the decision has been made to the Constitutional Court, the investigation is still under progress.  |
| Effect of the Application on the Legal System | An example of the impunity for hate speech against LGBTI+s through legal gaps.   |

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| Incident of Violation | The Homophobia of Altuntaş, a member of Human Rights and Equality Committee of Turkey, Have Been Reported to the Ombudsperson  |
| Case Summary          | Former president of Prime Minister's Office of Human Rights and current member of Human Rights and Equality Committee of Turkey, Mehmet Altuntaş has targeted Pride March from his social media account. He wrote "Which pride, which love! Love is between two genders. The divine creation and the nature say so. This is bigotry. It is a turn back from what is natural to what is primitive," under the tweet of Amnesty International Turkey Branch regarding the İstanbul Pride March.<br><br>After Altuntaş's homophobic statements, Pink Life Association took action and applied to the Ombudsperson of Turkey on 22 September, 2018 <sup>38</sup> . |

<sup>37</sup> <https://m.yeniakit.com.tr/haber/bu-arsizliga-kim-dur-diyecek-433944.html>

<sup>38</sup> <http://kaosgl.org/sayfa.php?id=26624>

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| Incident of Violation | Hate Speech from Lawyer  |
| Case Summary          | <p>A young gay man, Cem has pressed charges against the doctor who said “I don’t know if I should call you my son or my daughter” during the appointment and targeted Cem on his social media with homophobic statements on July.</p> <p>Spc. Dr. N.K.Ö. posted Cem’s home address and name from their social media account. N.K.Ö. has used homophobic statements like “there is no limit of being a f....t”, “I guess they are advertising their butt”. Several people have posted comments of hate speech under the N.K.Ö.’s post. One of those comments was posted by Att. Saygın B. G.</p> <p>Cem has pressed charges against the attorney as well. Upon this, Att. Saygın B. G. has sent their defense to the Chief Public Prosecutor’s Office of İstanbul. Att. Saygın has published their whole defense from the social media, and continued their homophobia.</p> <p>Att. Saygın B. G. wrote thusly in the social media:</p> <p>“We are declaring our solidarity with Dr. Kemal Özalp, against the systematical attack of homos, fags, twats who are in total contrast with our social progress and dynamics, and lured by the dark groups to the field. ...Lets put these scumbags to their place... Pathetic people that assaults to our culture and the institution of family are trying to operate on our society by lynching Dr. Kemal Özalp. The heads of these nobodies are funded from abroad.”</p> <p>The lawyer, put under investigation after making these statements, has continued his homophobia in the defense that he made on October 2018. He claimed that homosexuals are a threat to the institution of family:</p> <p>“People are born as either a male or a female, like all the other living beings. The hermaphrodites, as the third medical option deserves the respect that is shown to the woman and man, as a natural gender. Apart from these</p> |

three gender situations, ‘the trans genders, who voluntarily changed their genders against the nature’ should deserve equal respect that the males, females and hermaphrodites receive with respect to their freewill, and they have to deserve, as long as this would remain as their own issue. However, objecting to the social recognition of voluntary gender transitions, which prevents human race to remain healthy with respect to body and soul, and objecting to the public show of the later-changed-genders, against social moral code could only be classified as an act of freedom of speech, which is guaranteed by the constitution. Above all, in the developed capitalist countries, USA and Europe in particular, the activities of fictional gay communities that are attempted to be placed under the so-called libertarian umbrella of modernism and post-modernism period and are operated with a certain plan. Such activities must be monitored carefully by the relevant state organs responsible with protecting the family and our children in particular, and the actions towards deteriorating the public health must not be free from judicial and administrative supervision.”

Att. Saygın did not confine himself with those and continued his homophobic arguments over “family” and “pedophilia”. In his defense, he used such expression “the community known in the society as LGBT-I (lesbian, gay, bisexual, transsexual faggot). He also targeted CHP MP Mahmut Tanal and HPD MP Garo Paylan, who reacted against the ban on Istanbul Pride March and prevention of LGBTI+s freedom of assembly, by using these expressions: “In this country where the majority of the society is Muslim and people fast during Ramadan, hidden purposes of men kissing each other or women walking naked in the squares of Ankara and Istanbul have to be investigated by the prosecutors, and those elements threatening our country’s security have to be revealed.”

Att. Saygın B.G. also targeted LGBTI+ related work of TOG Young Women Fund, Open Society Foundation and Friedrich Naumann Stiftung as well as LGBTI+ associations and academic articles regarding LGBTI+ rights.<sup>39</sup>

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<sup>39</sup> <http://kaosgl.org/sayfa.php?id=26930>

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| Incident of Violation | “Perverts at Tüyap Book Fair” News of Akit Newspaper  |
| Case Summary          | <p>NotaBene Publishing has posted a statement from their social media account regarding the “Perverts at Tüyap” news of Akit Newspaper targeting Kaos GL Association on October 14, 2018.</p> <p>NotaBene Publishing commented on the news of Akit which contained homophobic hate speech as “a new invitation for the acts of oppression and provocation that targets book fairs” and mentioned the following in their statement:</p> <p>“A new example of shrinking and closing the public space to everything that are progressive... Latest invitation for the acts of oppression and provocation that targets book fairs... In addition, it is an example of the up to date extent of homophobic ‘perversion’...</p> <p>“These acts of call for oppression and provocation will only create more resistance. NotaBene Publishing will continue its oppositional stance on everywhere possible.”</p> <p>Harun Sekmen from Akit targeted Natabene Publishing, which took Kaos GL publications to the Tüyap Book Fair with these sentences: “It has been reported that the immoral LGBTIs who armor themselves with the NotaBene Publishing are making propaganda to lure the youth in their web.”<sup>40</sup></p> |

### **VIOLATIONS THAT ARE STILL IN JUDICIAL PROCESSES IN 2018:**

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|-------------------------------|--|
| Title and Subject of the Case | Indictment of the “Butlers of Zionism” News of Yeni Akit Newspaper on the Grounds of Hate Speech   |
| Court / Number                | <p>Verdict of Chief Public Prosecutor’s Office of Ankara as “no need for prosecution”, Date 18.07.2014, Investigation no:2014/4152</p> <p>-Decision of “denial of contest against the verdict of non-prosecution” of the 8th Penal Court of Peace of Ankara,</p> |

<sup>40</sup> <http://kaosgl.org/sayfa.php?id=27033>

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|                                     | Docket no: 2014/3466<br>-Case of Constitutional Court, Docket no: 2014/18891   |
| Case Summary / Stage of the Lawsuit | Indictment against Yeni Akit Newspaper’s “Butlers of Zionism” news on the grounds that the content of the news is constituting a crime has been filed to the Chief Public Prosecutor’s Office of Ankara, but the outcome was the verdict of non-prosecution on the grounds of the content of the news is not constituting a crime. Upon the verdict of denial of the contest against the verdict of non-prosecution from the Penal Court of Peace, application to the Constitutional Court has been made. The case is still under investigation in the Constitutional Court. |

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| Title and Subject of the Case | Indictment of the Hate Speech Statements on the Young Islamic Defense Website  |
| Court / Number                | - Verdict of Chief Public Prosecutor’s Office of Ankara as “no need for prosecution” to the application numbered as 2015/5223<br><br>- Decision of “denial of contest against the verdict of non-prosecution” of the 7th Penal Court of Peace of Ankara, Docket no: 2016/423<br><br>- Case of Constitutional Court, Docket no: 2016/4564 |

#### IV. GENDER BASED VIOLENCE

In order to ensure the visibility of gender based violence crimes that LGBTI+s are exposed to in different ways and dynamics than heterosexuals due to their sexual orientation and gender identity, we deem it appropriate to address rights violations through gender based violence as a separate title in this report.

Gender based violence are regulated in the articles 102-105 of Turkish Penal Code under the title of “Crimes against Sexual Inviolability”. There is no distinction in the legislation regarding if the crime is based on gender or SOGI.

In 2018, three applicants requested support from Kaos GL Association, stating that they had been exposed to sexual assault because of their sexual orientations. In addition, one incident on the judicial authorities has been identified.

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|---------------------------------------|--|
| Title and Subject of the Case         | Sexual Abuse of a Child by Their Doctor  |
| Court / Number                        | - Verdict of Ankara Regional Court, 17th Penal Chamber, Dated 11.07.2018   |
| Case Summary / Stage of Lawsuit       | Applicant who is under the age of 18 and describes themselves as trans was exposed to sexual violence of a doctor in a private hospital. They pressed charges. |
| Outcome of the Case                   | Application to the Supreme Court has been made against the verdict on the defendant.   |
| Effect of the Outcome on Legal System | It has been observed that other victims who have been abused by the doctor have been encouraged by this case and started to show themselves.                   |

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| Title and Subject of the Case   | Lawsuit for mental anguish against the doctor who has been found guilty by the Criminal Court                |
| Court / Number                  | 22nd Penal Court Of General Jurisdiction of Ankara   |
| Case Summary / Stage of Lawsuit | Lawsuit for mental anguish has been filed within the lawsuit mentioned above, the case is still under trial. |

## V. BAN ON TORTURE AND MALTREATMENT

The ban on torture has been regulated under the 17th article of the Constitution of Turkey, titled "Personal inviolability, corporeal and spiritual existence of the individual" as, "**No one shall be subjected to torture or maltreatment**".

The ban on torture and mal-treatments is regulated in the 5th article of Universal Human Rights Declaration, 3rd article of European Convention on Human Rights and 7th article of The International Covenant on Civil and Political Rights, therefore it is a part of the legal system of Turkey through the mentioned contracts.

The crime of torture is legislated in the 94-96th articles of Turkish Penal Code (TPC), under the title of “Torture and maltreatment”.

One suspicious case regarding a possible torture/maltreatment of a trans woman in a police station and six cases of violation of the ban on torture and maltreatment were identified in 2018.

**VIOLATIONS IN 2018:**

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| Title and Subject of the Investigation | Law enforcement officers force trans sex worker into sexual intercourse  |
| Court / Number                         | Çorum Chief Public Prosecutor’s Office   |
| Case Summary                           | Applicant, who is a trans woman was forced to have sexual intercourse with the law enforcement officers. Upon her decline, the law enforcement officers harassed her by constantly fining her with administrative fines, spying on her home and following her on the streets. The indictment against the officers has been filed. It has been observed that the oppression against trans sex workers in Çorum has declined since the start of the investigation. |

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|------------------------------------|---|
| Title and Subject of Investigation | Law enforcement officers blackmail trans sex worker   |
| Court / Number                     | Çorum Chief Public Prosecutor’s Office  |
| Case Summary                       | The applicant, who is a trans woman, is blackmailed by certain law enforcement officers. The indictment against these officers has been filed. It has been observed that the oppression against trans sex workers in Çorum has declined since the start of the investigation. |

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|-----------------------|---|
| Incident of Violation | Police attack against the trans woman in Ankara   |
| Case Summary          | According to the report of Pink Life LGBTT Association, a trans woman who went to buy gas for her car was attacked by a group of policemen. Trans woman parked her car in front of the Police House at night, and she was |

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|  | <p>stopped by the police while she was returning to her car around 8:00 am to take it to the gas station. Police checked the documents of the car and locked her in the police car upon her return from buying gas. Police started harassing the trans woman upon her reaction and called other policemen to beat her down together. Trans woman has taken a medical report and filed an indictment against the police officers.<sup>41</sup></p> |
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| Incident of Violation | Suspicious suicide attempt in the police station   |
| Case Summary          | <p>It was claimed that trans woman Ceyda had attempted suicide by drinking agricultural pesticide in Merkezefendi Police Station, Zeytinburnu / İstanbul in April 24, 2018. Kivilcim Arat from the İstanbul LGBTI Association commented on the suspicious suicide incident on their Twitter account. Arat stated that the sex workers in Merter Neighborhood were being threatened by the police for two weeks. Three trans women were arrested in the night of the incident and one of them was Ceyda.</p> <p>Arat stated that Ceyda has attempted suicide by drinking pesticide while she was being held in the Merkezefendi Police Station to be proceeded, and added that police waited until white foam came out of Ceyda's mouth, then took her to hospital.</p> <p>Kivilcim Arat said that the Ministry of Justice was investigating the case. Arat asked these questions:</p> <p>“Are your law enforcement officers able to make individual inspections in the middle of the night?</p> <p>If they are, do they have the authority to threaten, blackmail and harass the citizens, opposing the law?</p> <p>Where are the official reports for the detentions?</p> <p>How can agricultural pesticide be found in the detention room?</p> <p>Do law enforcement officers have the luxury of not</p> |

<sup>41</sup> <https://kaosgl.org/sayfa.php?id=25358>

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|  | <p>believing to a citizen whose conditions are getting worse? Or is their obligation to take the citizen to the nearest hospital for immediate medical attention?</p> <p>Is it a necessity or an order that assignment of the officer to the same area where he has been harassing the women by an undercover police vehicle for two weeks?</p> <p>Why did hospital police take no action regarding the case?</p> <p>Are there surveillance videos regarding the incident?</p> <p>Let's say that the pesticide was drunk in the custody because of negligence, Did any investigation start against the chief of the police center and the relevant persons that are responsible for the negligence?</p> <p>While the right to life was guaranteed by law, why local police branches did not issue an explanation regarding the incident?"</p> <p>Trans activist Niler Albayrak, a friend of Ceyda stated the following: "Our friend was taken to Dr. Sadi Konuk State Research Hospital at first. But her stomach was not washed there."<sup>42</sup></p> <p>Note from Kaos GL: Ceyda was taken to the GATA Hospital under risk of death, but she recuperated after the medical intervention.</p> |
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| Incident of Violation | Transphobic violence against trans woman by police during the 1st of May demonstrations   |
| Case Summary          | <p>During the demonstrations at Maltepe Square of İstanbul on May 1, 2018, police tried to search a trans woman by force in the entrance of the square.</p> <p>Trans woman İ.C. was attempted to be searched by male policemen while she was trying to enter the demonstration zone with LGBTI+ Collective and Women from University Collective. İ.C. told that she was a trans</p> |

<sup>42</sup> <http://kaosgl.org/sayfa.php?id=25654>

woman and she did not want male police to search her, but police responded with laughter. When they tried to search her by force, four members of Student Collectives who tried to intervene the situation were beaten and arrested.

I.C. posted about her experience on social media; “While I was entering to the square at around 14:00 with LGBTI+ Collective and Women from University Collective, female police officers pointed to the male police officers by saying ‘Sir, the man section is right over there’. When I told them I was not a man, a female police officer said mockingly ‘You don’t look like so’ to me. Me and other friends in the collective tried to explain the situation by telling them that I was a trans woman and they should act based on my statement. Police officers wanted to see my identity card. We told them that I had a blue identity card, but they should predicate on my statement. Police said ‘If you have a blue card, then male police officers will search you’. Meanwhile, a male officer tried to take me by saying ‘Come inside, female officers will search you, come’ in a harsh tone. A female friend got in between me and the police officer, and we continued to explain the situation. Then police intervened to a friend while they were making an explanation and it became a brawl. Several people from the University Collectives were arrested with rear-handcuffs. Many people from the collective, including me, could not enter inside.”

I.C. stated that she encountered the same attitude when she tried to enter from a different gate, that the police brought forward the “color of identity card” persistently. I.C. narrated her experience as “I was exhausted in the process of making my way in, both physically and psychologically”.

“In the first attempt of entering, police stood a step away from me and said ‘a female officer will search you’. The brawl started at that moment.”

“We tried to explain the situation while we were trying to enter from the second gate. Then a police officer hit me on the shoulder and said ‘Is there a problem,’ in a depreciatory way.”

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|  | <p>Cengiz from LGBTI+ Collective, who witnessed the transphobic attitude of the police, shared the incident to KaosGL.org:</p> <p>“Police officers pointed at our trans woman friend by shouting and laughing. While we were trying to explain ourselves, a police officer started to pull me from behind. In the meanwhile, another police officer started to pull our friend saying ‘Come inside, female police will search you, come’. While our friends from the Student Collectives were trying to rescue us, they pulled out their batons. Police attacked us with batons. Three people were beaten and were arrested at the gate and one inside. They kept us for a long time while we were handcuffed from rear.”</p> <p>Four people who were arrested while intervening the transphobic attitude of the police were released on May 2, with the condition of “ban on leaving the country” after their precautionary statements were taken.<sup>43</sup></p> |
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| Incident of Violation | Police violence against trans women in İzmir  |
| Case Summary          | <p>Police blockade of Alsancak / İzmir continues. According to the information from the residents of the neighborhood, law enforcement officers took two trans women to the police station by force around 23:00 on May 9, 2018, without declaring the justification for such an act. Police imposed pecuniary fines to the women, who were forcibly taken to Alsancak Police Station. They released them after taking their statements.</p> <p>Women who contacted Att. Kerem Dikmen from Kaos GL stated that the law enforcement has blockaded Alsancak and they were harassing the trans women who resided in the neighborhood.</p> <p>Att. Kerem Dikmen pointed out that fining had become an arbitrary practice and said “Although taking the ones for issuing the punishment to the station is exceptional, and not to take them is the rule of administrative fining, the exact opposite is being observed on the cases of</p> |

<sup>43</sup> <http://kaosgl.org/sayfa.php?id=25732>

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|  | <p>trans women. There is no qualitative difference between a parking ticket and a fine to a trans person on street. Even though there is no obligation to go to the police station for the issuance of the ticket, this practice has turned into an illegal practice of detention”.</p> <p>“The neighborhood that is under blockade is an area where trans people live and work. The natural outcome of living and working in the same are, as it is in this case, making transactions with the local shopkeepers. Fines to the people that not actually committed the actions described in the law on misdemeanors are illicit.”<sup>44</sup></p> |
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|-----------------------|--|
| Incident of Violation | Police violence to trans women in Ankara   |
| Case Summary          | <p>Group of trans women who work in İskitler Neighborhood of Ankara were taken to the Gölbaşı District of Ankara in a squad car by the law enforcements. The rest of the trans women were taken to Polatlı and Kayaş Districts of Ankara. The deforced trans women were exposed to violence and harassmt by the police.</p> <p>A trans woman that we contacted regarding the incident stated that she was taken to Gölbaşı in a police car by force and she was exposed to violence and harassmt along the way. A group of trans women who were taken to Kayaş were left in the middle of nowhere after getting heavily beaten. The trans women who were threatened for not to do any sex work are preparing to take legal action regarding the case.</p> <p>Another trans woman who we spoke to about the incident told us that law enforcements were threatening the women working in İskitler Neighborhood. She stated that police officers, who threw a canister of gas bomb inside their vehicle, said “If you come here again, we will beat you”. In addition, vehicles of trans women were constantly damaged by the police.<sup>45</sup></p> |

<sup>44</sup> <https://kaosgl.org/sayfa.php?id=25777>

<sup>45</sup> [hp://www.pembehayat.org/haberler/detay/1925/translar-alikonuluyor](http://www.pembehayat.org/haberler/detay/1925/translar-alikonuluyor)

## VI. PERSONAL LIBERTY AND SECURITY

Right to personal liberty and security is regulated in the 19th article of the Constitution of Turkey, under the title of “Personal liberty and security” as; **“Everyone has the right to personal liberty and security”**, the conditions that can limit this right is specified by the constitution.

Personal liberty and security is regulated in the 3rd article of Universal Human Rights Declaration, 5th article of European Convention on Human Rights and 9th article of The International Covenant on Civil and Political Rights.

Nevertheless, as it can be seen from LGBTI+ human rights violations reports published by Kaos GL Association and its partners since 2008,<sup>46</sup> trans women are being fined with various pecuniary punishments regulated in the law on misdemeanors to dissuade them from existing in the public space, even if they do not commit any of the crimes regulated in the law.

Trans women are exposed to systematical pecuniary finings, generally on the grounds of article 32: **“Acting Against the Orders”**; article 36: **“Noise”**; and article 37: **“Harassment”** of the Law on Misdemeanors. Same person can be fined extraordinary times in one day and a law that is rarely enforced on non-trans people is being enforced on trans women in an incomparable manner.<sup>47</sup>

Another type of violation that targets trans women is the deprivation of liberty. The crime of deprivation of liberty is legislated in the 109th article of Turkish Penal Code.

One case from 2017 and three cases in 2018 were identified regarding the violation of personal freedom and security of LGBTI+s.

### **VIOLATIONS IN 2017:**

|                        |  |
|------------------------|--|
| Case Title and Subject | Pecuniary fine to trans woman is on the ECHR |
| Court and Trial Date   | Penal Court of Peace of Bursa                |

<sup>46</sup> [http://www.kaosgldernegi.org/resim/yayin/dl/rapor\\_web.pdf](http://www.kaosgldernegi.org/resim/yayin/dl/rapor_web.pdf),  
<http://www.multeci.org.tr/wp-content/uploads/2016/10/2008-Lgbt-Bireylerin-Insan-Haklari-Raporu.pdf>,  
[https://insanhaklarimerkezi.bilgi.edu.tr/media/uploads/2015/02/24/Cinsel\\_Yonelim\\_veya\\_Cinsiyet\\_Kimligi\\_Izleme\\_Raporu.pdf](https://insanhaklarimerkezi.bilgi.edu.tr/media/uploads/2015/02/24/Cinsel_Yonelim_veya_Cinsiyet_Kimligi_Izleme_Raporu.pdf)

<sup>47</sup> <http://www.kirmizisemsiye.org/SourceFiles/pdf-2018525142226.pdf>

|                                     |  |
|-------------------------------------|--|
| Case Summary / Stage of the Lawsuit | <p>Appeal against the pecuniary fine that a trans woman received in Bursa on the grounds of “endangering the traffic” because of her gender identity was declined by the Penal Court of Peace of Bursa.</p> <p>Att. Murat Özdemir monitoring the trial explained the appeal process to KaosGL.org: The appeal process is based on the violation of personal freedom and security and violation of equality and right to respect for private life by the police. Practice of fining has become a mean of oppressing the gender identity.</p> <p>“Currently there is a law enforcement policy for oppression and intimidation against the trans women. Only trans women are fined on the grounds of ‘hogging the traffic’ because of their gender identities. My client was taken to the police station for the same reason. Despite the nature of that fine is administrative, not a criminal one, she had been kept there for 2 hours. She was fined to 80TL. Her request for an attorney was denied.”</p> |
| Outcome of Lawsuit                  | <p>Application to Constitutional Court was made to appeal this fine. The appeal was denied by the majority of votes, but the deputy chairman of the court has voted in favor of the appeal. Applicant carried this case to the ECHR in June, 2017, because the possible domestic authorities were exhausted.<sup>48</sup></p>  |
| Effect of the Case on Legal System  | <p>Impunity against the violation of personal freedoms and security of LGBTI+s.</p>  |

### **VIOLATIONS IN 2018:**

|                               |  |
|-------------------------------|--|
| Title and Subject of the Case | Administrative fine against a trans woman  |
| Court                         | Penal Court of Peace of Ankara   |
| Case Summary                  | <p>Applicant was filed with an administrative fine, according to the 37th article of the Law on Misdemeanors, on the grounds of prostitution on the street. The appeal was declined by the Penal Court of Peace. Application for</p> |

<sup>48</sup> <http://www.kaosgl.org/sayfa.php?id=23950>

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|  | appeal for the sake of law has been made. |
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| Incident of Violation | Guards ( <i>bekçi</i> in Turkish, a branch of centralized law enforcement) impose curfew on trans women   |
| Case Summary          | <p>According to the report of Pink Life LGBTT Association's report from September 13, 2018, the guards are oppressing trans women on the street.</p> <p>According to the report, a sex worker trans woman was stopped by guards on the night of September 10, 2018. Trans woman told the guards that they had to protect her against the person who was intimidating her with a beer bottle, but the guards told the trans woman to go away and said that they had received executive orders against trans women. The trans woman stated that the situation was unlawful and then the guard called police to fine the trans woman.</p> <p>On the same night, guards followed a group of trans women to a restaurant at the Libya Street of Ankara and asked them to show their identity while they were dining. Trans women said that they were eating and refused to show identity. Upon the refusal, a law enforcement squad came. The squad forced the women to their show identities and waited in front of the restaurant until they finished their meal and left the restaurant.</p> <p>A police officer, who represented himself as a police chief, intimidated the managers of the restaurant by saying, "If you let them inside and serve them food again, I will take your license from you, you will be in trouble too".</p> <p>A trans woman living in Esat / Ankara who was contacted by Pink Life stated that their addresses were known by the police; they waited in front of their buildings, and they did not let them even go to market. Another trans woman told that she was stopped by guards while she was traveling in a taxi,. Guards forced her out and threatened the taxi driver. She also said:</p> <p>"A trans friend was forced to get out of a taxi last night. They do not even let us go to the market anymore. These incidents are happening in every street of Esat and the</p> |

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|  | <p>guards tell us that the governor has appointed them for us, and they will not let us walk around. I was stopped while I was walking my dog in my pajamas and they told me they would fine me if I would not return to my home immediately. We all live in Esat, they do not even let us out.”</p> <p>The guard practice has started last year and guards are given the authority to use weapons.<sup>49</sup></p> |
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| Incident of Violation | Unlawful action of the guards against a trans woman in Mersin  |
| Case Summary          | <p>Guards stopped a trans woman for identity check on the evening of October 11, 2018. Guards said the trans woman, who was returning to her home after withdrawing money from an ATM, “What are you doing here? You can’t walk around here like this”. Trans woman recorded this conversation on her phone. Then the guards called the police and trans woman was fined by the law for misdemeanors.</p> <p>Mersin 7 Colors LGBTI Association has publicized this incident from their social media account with the following message: “The trans woman went to the police station to state that this was a violation of rights, and she pressed charges against the officers and guards who fined her, and officers pressed charges against her. Again a violation, again the law on misdemeanors, just like the chain of injustices suffered by people who were afraid to go out in the late 18th century.”</p> <p>The association has announced that they will monitor the progress of the charges and the legal process.<sup>50</sup></p> |

<sup>49</sup> <https://kaosgl.org/sayfa.php?id=26561>, <https://kaosgl.org/sayfa.php?id=26724>

<sup>50</sup> <https://kaosgl.org/sayfa.php?id=26823>

## VII. PRIVACY AND PROTECTION OF PRIVATE LIFE

Privacy and protection of private life is regulated by the 20th article of the Constitution of Turkey as, “**Everyone has the right to demand respect for his/her private and family life. Privacy of private or family life shall not be violated,**” and the conditions that can limit this right is specified by the constitution.

Privacy and protection of private life is regulated in the 12th article of the Universal Human Rights Declaration, 8th article of the European Convention on Human Rights and 17th article of the International Covenant on Civil and Political Rights.

It has been observed that, frequently, LGBTI+s hide their identities because of the fear of SOGI based discrimination and being exposed to violence due to their identities.<sup>51</sup> Fear of living openly with an LGBTI+ identity expose LGBTI+ individuals to intimidation and blackmail by disclosing of their sexual identity without their consent.<sup>52</sup>

Crime of violating privacy is regulated in the 134th article of Turkish Penal Code, under the title of “Violation of Privacy”.

One case regarding the violation of privacy of LGBTI+s was identified in 2018, which was committed through disclosing of sexual orientation to public without the consent of the individual.

Besides, 11 people applied to Kaos GL Association in 2018 for being blackmailed by non-family members through exposing their SOGI without consent. We have addressed these cases under the title of Hate Crimes in this report.

### **VIOLATIONS IN 2018:**

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| Incident of Violation | Disclosure of singer İntizar and Sinem Gedik’s sexual orientations without consent |
| Case Summary          | Singer Mustafa Ceceli claimed that there was a lesbian                             |

<sup>51</sup><http://www.openaccess.hacettepe.edu.tr:8080/xmlui/bitstream/handle/11655/1805/bfa4105d-54ce-485c-9d38-b0e7103a087b.pdf?sequence=1>, <https://m.bianet.org/kadin/lgbti/187632-acilmak-sadece-lgbti-danisanlarina-mi-mahsus-ya-terapistler>, [http://panel.stgm.org.tr/vera/app/var/files/p/s/psikologlar\\_icin\\_lgbtilerle\\_calisma\\_kilavuzu\\_todap.pdf](http://panel.stgm.org.tr/vera/app/var/files/p/s/psikologlar_icin_lgbtilerle_calisma_kilavuzu_todap.pdf), <http://lgbtisagligi.org/index.php/2016/11/07/acilma/>

<sup>52</sup> <https://www.cnnturk.com/turkiye/escinsellerin-kullandigi-uygulamada-buyuk-tuzak>

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|  | <p>relationship between her ex-wife and singer İntizar, in the trial for custody of their children. After the release of the news about the trial, İntizar’s recording company Poll Production made a statement, “We read the news about them in sadness and shock” and annulled İntizar’s contract.</p> <p>İntizar underlined that Mustafa Ceceli had committed a dire crime before the law by submitting the camera footage that he had obtained from the cameras, which he placed in İntizar's house. Mustafa Ceceli's disclosure of sexual orientation caused powerful public reactions.<sup>53</sup></p> <p>After the incident, an investigation has been started by Istanbul Chief Public Prosecutor’s Office against Mustafa Ceceli for violating the privacy of private life.<sup>54</sup></p> |
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## VIII. FREEDOM OF EXPRESSION

Freedom of expression is regulated in the 26th article of the Constitution of Turkey, under the title of “Freedom of expression and dissemination of thought”, as, **“Everyone has the right to express and disseminate their thoughts and opinions by speech, in writing or in pictures or through other media, individually or collectively. This freedom includes the liberty of receiving or imparting information or ideas without interference by official authorities,”** and the conditions that can limit this right are specified by the constitution.

Freedom of expression is regulated in the 19th article of Universal Human Rights Declaration, 10th article of European Convention on Human Rights and 19th article of The International Covenant on Civil and Political Rights.

It is observed that limitation of rights on the grounds of “public morality”, which takes place in various laws, causes the violation of freedom of speech of LGBTI+s. It means excluding the very existence and self-expression means of LGBTI+s outside of the “public morality”. In this respect, we refer to the reports, “LGBTI People's Freedom of

<sup>53</sup> <http://www.kaosgl.org/sayfa.php?id=26279>

<sup>54</sup> <http://www.kaosgl.org/sayfa.php?id=26308>

Expression on the Internet 2016”<sup>55</sup> and “Sexual Orientation and Gender Identity Based Human Rights Watch Report 2013 - 2014 - 2015 - 2016 – 2017”<sup>56</sup>.

There are five identified cases regarding the violation of LGBTI+ freedom of speech in 2018.

**VIOLATIONS IN 2018:**

| Incident of Violation | Ban of QueerFest Film Screening   |
|-----------------------|---|
| Case Summary          | <p>Pembe Hayat’s appeal to Ombudsman for Beyoğlu Governorate’s banning of previously postponed screening of “Queer Shorts” to have taken place on 12 January 2018 in cooperation with Pera Museum and British Council, is overturned on the grounds that it cannot be examined by the Ombudsman.</p> <p>Pembe Hayat Queer Fest’s screening of Queer Shorts in cooperation with Pera Museum and British Council to have taken place firstly on 25 November 2017 was postponed due to a notification delivered to Pera Museum by Beyoglu Prefecture. Another notification of banning was delivered on 29 December 2017 to Pera Museum for the postponed event to 12 January 2018. The reason for banning was “to ensure public peace by preventing any risks to personal safety, public security and peace.”</p> <p>Following the ban from Beyoglu Governorate, Pembe Hayat LGBTT Solidarity Association’s Attorney Emrah Şahin appealed to the Ombudsman on 4 January 2018 on the grounds of unlawful banning of “Queer Shorts” screenings. The notification of the ban was delivered on the last moment, which caused the violation of freedom of expression by stripping off the right to access legal procedures for appeal, and it was violating the principle of good governance.</p> <p>Beyoglu Governorate stated in their defense to the Ombudsman that the “Queer Shorts” event might have been targeted by terrorist groups and this might cause an irreversible internal war. The Governorate stated that their</p> |

<sup>55</sup> <http://kaosgl.org/page.php?id=25477>

<sup>56</sup> <http://www.kaosgldernegi.org/yayindetay.php?id=127>

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|  | <p>purpose was not to oppress LGBTI+ people or strip them of their rights and freedoms, but it was a decision taken to keep public order and prevent criminal activities.</p> <p>The Governorate who did not state their cause of banning the last moment asked the Ombudsman to reject appeal request.</p> <p>The Ombudsman, following the defense by the Beyoğlu Governorate, rejected the appeal request because the case did not fit in the “duties and responsibilities” of the Ombudsman.<sup>57</sup></p> <p>Application for appeal has been made to the Constitutional Court upon the rejection of the case by the Administrative Court of İstanbul and the rejection of the appeal by the Regional Administrative Court on 26.10.2018.</p> |
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| Case Title and Summary              | Prohibition of LGBTI+ related publication in prison  |
| Court                               | Ankara-West 2nd Heavy Criminal Court - Constitutional Court  |
| Case Summary / Stage of the Lawsuit | <p>Book named Voltaçark, which is about the LGBTI+ prisoners in Turkey, was not delivered to the recipient prisoner in Ankara F Type Closed Penitentiary Institution due to the claim of “Having statements that indicate the Republic of Turkey as criminal, points to certain public institutions and its officers as targets and untrue in nature”. The convict applied to the Penitentiary Court for the book to be given to him, but the application was rejected. The convict has appealed against the verdict of rejection. Ankara-West 2nd Heavy Criminal Court has rejected the appeal on the grounds of the verdict of Penitentiary Court being statutory.</p> |
| Outcome of the Lawsuit              | <p>Then the applicant applied to the Constitutional Court. With the verdict dated April 17, 2018, the Constitutional Court decided as, “Failure to provide a written document sent to the convict at the prison shall be an interference with their right to freedom of information or opinion and, therefore, to freedom of expression.” It was decided that in</p>   |

<sup>57</sup> <http://kaosgl.org/sayfa.php?id=25353>

order to evaluate whether the intervention is proportionate, the court has to submit reasons that can be inspected. The Constitutional Court underlined that the parts of the book, which contains the reasons for detainment, were not specified concretely. The Constitutional Court investigated if the verdicts of the prison management and the other applied courts compatible to the “needs of the democratic order of society” and “the principle of proportionality”, and if the mentioned authorities had put forward the compatibleness to these principles in a credible manner.

The Constitutional Court stated that the courts did not act in accordance with the principles in their decisions and that the statements contained in the book did not establish a concrete connection with the grounds that “could pose a danger to the security of the execution facility and prevent the prisoner's rehabilitation progress”. It was also stated that it was not discussed whether it was possible to submit the remainder of the book to the applicant after subtracting the sections containing the mentioned statements with the addition of:

“Therefore, it has not been shown with concretely related and sufficient reason that it is necessary for a democratic society to not to give the applicant the written document in the form of the book, which is the subject of the application.”

The Constitutional Court also stated that the decision on the violation could not be understood as the publication subject to the application should be given to the applicant:

“The relevant courts should retry the criteria and the method set out in the Constitutional Court's decision and decide whether or not the publication or a part of the publication in question should be given to the applicant.”

The Constitutional Court has rejected the claim for non-pecuniary damages, stating that “it is sufficient to determine that a violation of freedom of expression took place and to send the decision to the relevant jurisdiction for retrial”. In this process, the prisoner was released.<sup>58</sup>

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<sup>58</sup> <http://kaosgl.org/sayfa.php?id=25605>

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| Incident of Violation | Governorate banned the LGBTI+ film-screening of Ankara Bar Association   |
| Case Summary          | <p>Governorate of Ankara banned the LGBTI+ film-screening event of the Ankara Bar Association's Human Rights Center on the grounds of "social sensitivities" on May 29, 2018. Following statement took place in the verdict of the ban:</p> <p>"Considering the aforementioned posts, as they will publicly incite grudges and enmity towards a part of society from another part which is different in sense of social class, race, religion, sect, and region; therefore, an imminent threat against public safety could occur, and considering the intelligence reports that terror organizations are seeking to attack dissident groups or individuals, it is evaluated that this film screening could be provocative and draw reactions from certain parts of society due to a variety of public sensitivities."</p> <p>Two busses of anti-riot police officers were deployed around the planned place of the screening, Ankara Bar Association Education Center (ABEM). The lawyers protested the governorate's ban by watching the movies from their smartphones in front of the ABEM.<sup>59</sup></p> |

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| Incident of Violation | Ban on the screening of the movie "Pride" in Ankara   |
| Case Summary          | <p>The Governorate of Ankara banned the film-screening event of the movie "Pride". The event was organized by the Communist LGBT's for the Pride Week. The event was planned to be held in Ankara Nazım Hikmet Cultural Center on 19:30, June 28, 2018.</p> <p>Governorate used following statements in the decision:</p> <p>"Through social media, various printed and visual media outlets, it has come to our attention that Communist LGBT (lesbian, gay, bisexual and transsexual) is organizing a film screening of 'Pride' at Nazım Hikmet Cultural Center in Çankaya at 19:30 on June 28, 2018.</p> |

<sup>59</sup> <http://kaosgl.org/sayfa.php?id=25926>

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|  | <p>“It was decided that the aforementioned social media posts might deliberately incite a certain segment of society with different characteristics of social class, race, religion, sect or region against another segment of society, that this might lead to imminent peril with regards to public security, that considering the intel regarding the terrorist groups preparing to act against opposing groups, that there may be reactions and provocations against the groups and individuals taking part in the organization due to certain social sensibilities.”</p> <p>“Due to these circumstances, according to the Article 11/C of No 5442 Provincial Administration Law, stating that in the scope of taking necessary measures in order to ensure peace and security, personal immunity, saving security, public welfare within the borders of our city, and in line with the Article 17 of Law No. 2911 on Assembly and Demonstration Marches and Article 11/F of Law No. 2935 on the state of emergency, aforementioned movie screening organization to be held in Nazım Hikmet Cultural Center has been banned by our Governorate until 28.06.2018. It is announced to the public.”</p> <p>Stating that the ban was notified at 18.15, Communist LGBTs said “the movie screening to be held today evening has been banned by the Governorate decision notified at 18.15 today”.</p> <p>The movie is about the strike of miners in the UK in 1984, and what the group named “Lesbians and Gays Support the Miners” (LGSM) that was found to support them<sup>60</sup> has been through.</p> |
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| Incident of Violation | Censorship on a painting in the Subway of İstanbul  |
| Case Summary          | <p>LGBTI+ activist and artist Özgürcan Taşçı’s painting was censored by the metro security while Taşçı was carrying it to the exhibition to be held within scope of İstanbulbearFest. Taşçı told KaosGL about the incident:</p> <p>“On September 3, 2018, I left my home at Kadıköy and</p> |

<sup>60</sup> <http://kaosgl.org/sayfa.php?id=26146>

took Marmaray to go to the exhibition opening. I was worried about the reaction of the passengers because the painting was nude, but I did not have any problems in Marmaray except for a few looks. Then I went through the turnstiles to take the Yenikapı-Haciosman subway. After passing through the turnstiles, two police officers came to me and wanted to look at my painting. I asked why they wanted to look, and I said I did not want to show. After some insistence, I went on. Then, as I approached to the escalators, this time private security guard came to me and said that he wanted to see the painting. After seeing the painting, he said he could not let me take the metro with this painting. When I asked why, he said it was “inappropriate content”. Although I said that my painting was not inappropriate, it was a work of art and I was trying to catch up with the exhibition, the security who spoke to me did not allow me to take the subway. He asked me to cover the painting with newspaper or something else. After arguing for a while, and because I was alone and panicked, I agreed to wrap the painting with the newspaper and asked him for the newspaper. This time he kept distracting me with words like ‘Is it us who have to find it’. After a while, he led me to a room where I had to cover my painting with newspaper. As if it was not enough to wrap my painting, I was subjected to harassment of the metro security with questions such as ‘Is the one in the painting a male or a female?’<sup>61</sup>

## IX. RIGHT TO ASSEMBLY AND DEMONSTRATION

Right to assembly and demonstration is regulated in the 34th article of the Constitution of Turkey under the title of “Right to assembly and demonstration” as; **“Everyone has the right to hold unarmed and peaceful meetings and demonstration marches without prior permission”** and the conditions that can limit this right have been specified by the constitution.

Right to assembly and demonstration is regulated in the 20th article of Universal Human Rights Declaration, 11th article of European Convention on Human Rights and 21st article of The International Covenant on Civil and Political Rights.

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<sup>61</sup> <https://kaosgl.org/sayfa.php?id=26500>

Nevertheless, the Governorate of Ankara at first banned all LGBTI+ activities in Ankara indefinitely by showing the state of emergency as the reason on November 18, 2017.<sup>62</sup> After the end of the state of emergency, it declared a second ordinance on October 3, 2018, regarding the indefinite ban of all activities.<sup>63</sup> These prohibition decisions, with respect to their scope, constitute a limitation of LGBTI+ activities in an unprecedented immensity. Considering that even the declaration of the state of emergency is subject to a certain time limit, it is undisputed that the suspension of fundamental rights and freedoms indefinitely and without any concrete justification is a serious violation of rights. On the other hand, in February 2019, the date this report was issued, the abolition of the bans and the restoration of rights was still not possible with the verdicts that were declared after the applications to the judiciary authorities against the prohibition decisions.

Two cases from 2017, four cases from 2018 and one case that took place in 2016 and still under trial in 2018 have been identified regarding the violations of the right to hold meetings and demonstration marches of LGBTI+'s.

### **VIOLATIONS IN 2017:**

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| Case Title and Subject              | Trial of the people who were detained in the Pride March 2017  |
| Court                               | 48th Penal Court of General Jurisdiction of İstanbul   |
| Case Summary / Stage of the Lawsuit | <p>Persons who were detained on June 25, 2017, regarding the planned march in scope of the LGBTI+ Pride Week were sued on the grounds of opposition to the Law on Assemblies and Demonstrations No: 2911.</p> <p>The Governorate of İstanbul declared that LGBTI+ Pride March on June 25 was banned by posting a last-minute statement from their website. The statements such as “It is seen that there are serious reactions from the various sections of the society”, “considering the safety of tourists and the public order, any meetings and demonstration marches on the mentioned day and the day after will not be allowed,” took place in the declaration text.<sup>64</sup></p> |

<sup>62</sup> <http://www.ankara.gov.tr/yasaklama-kararina-iliskin-basin-duyurusu-19112017>

<sup>63</sup> <http://haber.sol.org.tr/toplum/ankara-valiligi-icin-ohal-bitmedi-lgbt-etkinliklerine-yeni-yasak-248876>

<sup>64</sup> <http://kaosgl.org/sayfa.php?id=24079>

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|  | <p>On the day of the march, police and nationalist Islamist groups attacked the 15th LGBTI+ Pride Parade. The police who closed İstiklal Street did not allow people with a rainbow symbol to enter the street or those who the police “thought” that they would participate in the march. Despite all the attacks, protests took place in various parts of Beyoğlu.</p> <p>Police closed İstiklal Street earlier in the day. They arbitrarily let people inside or not. Moreover, to those who asked how they selected select which people to let in, they replied as, "According to our intuition".<sup>65</sup></p> <p>Some of the activists in custody said they were “forced to listen to Koran”. Most people were beaten while being detained. The police used reverse handcuffs as a method of torture.</p> <p>Four lawyers who provided legal support for the Pride Week were also detained by force. After about an hour of detention, the lawyers were released.</p> <p>Nationalist and Islamist groups attacking the Pride March were around Taksim throughout the day. Some of the attackers were detained by police, while LGBTI+ activists observed in some places that police were caressing the attackers' heads and posing closely for group selfies.<sup>66</sup></p> <p>The trial was postponed in the lawsuit of people who were detained on the grounds of participation in the march, because some of the defendants could not be reached and their statements could not be taken.<sup>67</sup></p> |
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|------------------------|--|
| Case Title and Subject | The case on the annulment of the ban that prohibits LGBTI+ activities in Ankara                              |
| Court and Number       | Verdict of the 4th Administrative Court of Ankara, 15.11.2018, Docket No: 2017/3255, Decision No: 2018/2623. |

<sup>65</sup> <http://kaosgl.org/sayfa.php?id=24092>

<sup>66</sup> <http://kaosgl.org/sayfa.php?id=24097>

<sup>67</sup> <http://kaosgl.org/sayfa.php?id=26137>

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|   | <p>-The Constitutional Court, Case Application No: 2018/10351</p> <p>-ECHR Application No: 32261/18</p>   |
| <p>Case Summary / Stage of the Case</p> | <p>Kaos GL Association filed a lawsuit against the Governorate of Ankara on November 18, 2017, against the indefinite ban of the LGBTI activities.</p> <p>Cancellation of the prohibition was requested by stating that the ordinance of the ban was not based on concrete and legal reasons; as the application of the prohibition would have irreversible consequences, it was requested to stop the execution as soon as possible.</p> <p>One of the lawyers that filed the lawsuit, Att. Kerem Dikmen stated the following regarding the application: “Even if the ordinance of the Governorate seems to confine itself to not ban all activities of the LGBTI associations, just their social activities, it practically prohibits all kinds of activities of the LGBTI associations. In summary, the Governorate tells the associations that I will not touch your legal entity, you may remain open, but do not show your nose out of your offices; do not reach anyone that is not your member or activist. It is possible to ask the question ‘Is the Governorate able to take such a decision in the state of emergency’, but the answer is ‘no’. Governorates do not have such authority even in the state of emergency. We say they do not have, because the Governorate has banned activities of movie screening, theater, panel discussions, etc. of the associations that work on the field of LGBTI rights, indefinitely. By indefiniteness, we mean there is no end date of this ban here. Undisputedly, this is a violation of organization and self-expression rights of the LGBTI individuals. When you ban all activities of an association, you practically ban the association itself, and this in fact, is the annulment of the right of association that is granted by the constitution. While the constitution does not grant the authority to overturn the right of association not even to the parliament itself.</p> <p>We should also clarify, there are no legal categorizes for LGBTT or LGBTI associations in Turkish law. However, “LGBTT-LGBTI” associations are the subject of the new decision. While civil society can coin such terms or</p> |

categories, a serious concern is raised when these terms are used by the state. Additionally, there can be no discriminatory consequences for organizations or their members because the association is LGBTT or LGBTI. We need to think of discrimination that exists not only on the individual level, but also on the community level too. When you ban the right of the LGBTI and LGBTT community associations to organize and form peaceful assemblies, it is a discriminatory decision that also negatively affects individuals. As a result, we find this decision to be inconsistent within the administrative framework of the state of emergency and of state policy. As such, we would like to see this inconsistency eliminated through the judiciary process as soon as possible.”<sup>68</sup>

4th Administrative Court of Ankara declined Kaos GL Association’s request on the stay of execution against the ordinance. The court stated, “ordinance of the ban would not have irreversible consequences and it is not openly against the law” in the justification of the verdict.

The Governorate of Ankara pointed out the 15th article of the constitution that involves “suspension of the exercise of fundamental rights and freedoms” in their defense. Governorate stated that the ordinance did not violate the international covenants, and did not violate the “core rights” by showing the emergency state as justification. They said, “The ordinance that our management has legislated is compliant with the regulations”.

Kerem Dikmen, one of the lawyers who requested the suspension of the execution on behalf of Kaos GL Association, evaluated the court’s decision. Reminding that Kaos GL filed a lawsuit immediately after the prohibition and the court ruled on January 25, Dikmen said:

“The effects of blatant unlawfulness are being ignored by the rejection of our request.”

Lastly, Dikmen assessed the statement of “ordinance of the ban would not have irreversible consequences” from the verdict:

“The verdict on the suspension of execution is a must

<sup>68</sup> <http://kaosgl.org/sayfa.php?id=25014>

when the ban is openly against the law and when it would have irreversible consequences. We are talking about a legal obligation, not the judicial discretion. The court's rejection on our request of suspension of execution tells us two things. One, Governorate of Ankara has the authority to ban any event, forever. And two, if I do not suspend the execution and accept the lawsuit later, it is always possible to compensate for any damages. Here are two unrelated theses. One is based on the law and the other is not. Because the constitution does not give any authority forever, not to the council of ministers, not to do newly legislated presidency, let alone the governorates; it seems that the court assumes the governorates have more authority than the president of the republic does. We can understand that it is a legal interpretation, even if we do not agree. But the one that is really hard to understand is how will they compensate for the past time, the events that could not take place. For example, there is the March 8 from 2018, how the verdict that will be given in 2020 will provide an alternative for the March 8 World Women's Day activities that we could not realize? We will see."

"Roughly, the meaning of the right to association is the same as the right to travel, right to the communication of an actual individual. The current practice has led to this: Associations active in the field of LGBTI rights are detained and even arrested indefinitely. Only in this way can we make the ban more understandable. Therefore, as the measures such as detention and arrest restrict the granted rights of the individuals, the ordinance of this ban has produced and still producing the same results for associations."<sup>69</sup>

Upon the rejection of its request on the suspension of execution of the ban, Kaos GL Association applied to the Constitutional Court and stated that the ban was violating freedom of expression, right to association and right to assembly. It stated that by this ban, the Governorate has committed the crime of discrimination and the administrative court has violated the principle of the fair trial by rejecting the lawsuit on the suspension of the execution. The association demanded the Constitutional Court to suspend the ordinance of the Governorate by issuing a temporary injunction because the ordinance is "has

<sup>69</sup> <http://kaosgl.org/sayfa.php?id=25129>

irreversible effects, causes harm openly, and it is a very serious violation of rights”.

Attorneys who applied to the Constitutional Court on behalf of the Kaos GL Association; Hayriye Kara, Kerem Dikmen and Yasemin Öz, have explained how the freedom of expression is violated by this ban in the petition letter:

“With this ban, none of the associations that work on the LGBTI rights, including the claimant association, could carry out their activities and actively harmed. Expression disclosure activities on current and theoretical issues cannot be carried out.”

The association pointed out the 25th article of constitution, which regulates the freedom of expression, the European Convention on Human Rights and related verdicts of the European Court of Human Rights, and stated that it was unlawful to justify the ban for an indefinite time with an abstract reason such as a section of society would be provoked by the LGBTI events.

On the application, it was reminded that there was no concrete evidence on whether a section of society was provoked, or was there an imminent danger because of this provocation in the ban? It was said, “All activities of the LGBTI+ associations are being banned without a time period, based on abstract statements and speculative estimations.”

Kaos GL reminded the statement of “cinema, cinevision, theater, panel discussions, exhibitions, etc.” took place in the ban ordinance, and said “All possible kinds of activities of the mentioned association are banned. Thus, activities of LGBTI+ rights associations are prohibited by this ban. Even if they are not prohibited, the criminal sentences carry personal responsibilities, and practically the activities cannot be held.”

It is also reminded that the freedom of thought and speech are rights that can be used both individually and collectively:

“Opinions and thoughts can be individually expressed, as well as collectively. Without a doubt, there is not just one mean to utilize this right with. Cinema screenings, movie

screenings, panel discussions as a classic way of expressing opinions, are means of using the freedom of expression collectively.”

The ordinance of ban has been paralleled to “putting an individual under house arrest”. The statement of “the legal entity does not come to an end, the activities are not prohibited, yet all of the activities that represent the legal entity are banned without a time period” took place in the application letter.

In the application, it has been stated that without the right to hold any events there is no factual outcome of being a legal association. It has been said, “What makes an association to exist is not the name of that association in the register of associations, but to be able to hold the planned events in order to actualize the aims in its code in addition to its existence on the registry”.

Kaos GL reminded that the aim of the freedom of assembly is “Conducting collective activities as well as individual activities as a requirement and result of the democratic system”, and stated that every mean of freedom of assembly has been banned in general and with an indefinite time. It is said that the constitution does not grant the authority to ban something for an indefinite time to the council of ministers, and it is absurd to assume that it has granted that authority to the governorates.

Kaos GL has explained that the ban is based on discrimination:

“The associations that were founded by LGBTIs or the ones that work in this field, in summary; the LGBTI associations were targeted directly.

“The state has forbidden the rights granted to the non-LGBTI associations, to the LGBTIs and to the associations established in this field without submitting any record. In essence, without showing any other evidence, even the prohibition text itself openly and almost embracingly express discrimination.

“The suspension of a certain right for an indefinite time essentially means the abolishment of that right.

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|                        | <p>“The state is saying this: We are limiting the enjoyment of this right because of the existence of people that can commit crime, in other words, we are ruling this society according to the people with criminal tendencies.”</p> <p>Kaos GL pointed out to the verdict of Administrative Court and stated it as “It is just an abstract repetition of the law, which is far away from answering to the points that were addressed in the petition letter or in the appeal text or even did not feel the need to answer; did not argue if the damages because of the governorates ban were compensable or not; did not underline the uniqueness of the case, it was just a printed verdict.” and as an addition:</p> <p>“The outcome of the first examination is a right which is granted to everyone as a freedom, is not defined as freedom for LGBTIs and an association founded by them.”<sup>70</sup></p> <p>Upon the Constitutional Court’s rejection of the Kaos GL Association’s request on the suspension of execution of the governorates ban, the association carried the case to the European Court of Human Rights (ECHR). However, the case has put to wait because of the non-exhaustion of domestic legal means. The appeal to the Constitutional Court was found unacceptable because of the same reason too.</p> |
| Outcome of the Lawsuit | <p>4th Administrative Court of Ankara rejected the appeal on the grounds of “It has been assessed by the court that the state of emergency was in progress while the ban subject of this lawsuit has been declared; thus, the fundamental rights and freedoms can be limited in accordance with the principles stated in the article 15 of our Constitution and also temporary ban without a time limit can be ordered too, as the subject of this lawsuit, with regards to whether the ban; the subject of this lawsuit is in accordance with the principles of limiting fundamental rights and freedoms during the state of emergency or not, it has been assessed by the court that, there could be certain reactions to the groups and individuals that will participate in the activities, from certain sections of the society due to certain social sensitivities and therefore mass reactions and provocative demonstrations could take place, and due to in a situation</p>   |

<sup>70</sup> <https://bianet.org/biamag/lgbti/196215-ankara-valiligi-nin-lgbti-etkinlikleri-yasagi-aym-de>

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|                                    | <p>like this the law enforcement may not be efficient to prevent the provocative actions and to provide an effective intervention at the right time and place, and thusly public safety could be harmed irreversibly, and it has been observed that the subject ban is ordered with the aim of protecting public safety and within the frame of authority granted to the defendant administration by the Law For Provincial Administration No:5442, Emergency State Law No:2935 and Meetings and Demonstrations Law No:2911 in accordance with the principles of the Constitution, and therefore, the subject ordinance of this lawsuit is found compliant with the law. On the other hand, it is clear that the ordinance will be abolished with the ending of the state of emergency, because it has been regulated based on the Emergency State Law No:2935.”</p> <p>The application to the Ankara District Administrative Court against the court's rejection is expected to be finalized.</p> |
| Effect of the Case on Legal System | <p>The court's decision did not assess any claim of the plaintiff that the procedure was conducted against procedure and law and the ordinance of the mentioned ban has been shown as compliant with the law. Besides that, the ban is still in effect despite the statement of “the ordinance will be abolished with the ending of the state of emergency state” in the verdict, due to the second ordinance of the Governorate of Ankara on October 3, 2018, after the state of emergency has ended.</p>   |

**VIOLATIONS IN 2018:**

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| Incident of Violation | Ban of 2018 LGBTI+ Pride March   |
| Case Summary          | <p>The Governorate of İstanbul banned LGBTI+ Pride March to be held in Taksim on Sunday, 1 July 2018. With this decision, the Governorate has forbidden the İstanbul Pride March for the fourth time in a row.</p> <p>The Governorate stated the following as a response to the demonstration application of İstanbul LGBTI+ Pride Week Committee, “... the İstiklal Street and Beşiktaş İskele Square are not amongst the places indicated in the Meetings and Demonstrations Law No: 2911, and due to concerns about security, holding open air demonstrations</p> |

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|  | <p>is disapproved”. The 26th Istanbul LGBTI + Pride Week, which started on June 25, 2018, was planned to end with a march in Taksim on Sunday, July 1 at 18.00. Since 2015, the Governorate has banned the Istanbul LGBTI+ Pride March every year. In recent years, the police attacked those who went to the streets for the march, many people were beaten and detained. Istanbul LGBTI+ Pride Week Committee made a statement after the Governorate's ban decision, said: “By banning our march, which had not coincided with Ramadan for the last two years and had not received any threats this year, the Governorate of İstanbul has proven that their justifications for the bans are just excuses, and this decision of the Governorate is a part of the hatred against us.”<sup>71</sup></p> <p>After negotiations between the law enforcement officers and the LGBTI+s who wanted to continue marching despite the ban, police chiefs said LGBTI+s would be allowed to hold a press release on Mis Street in a group not exceeding 100 people. However, the police intervened subsequently and several activists were detained.<sup>72</sup></p> |
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| Incident of Violation | Ban of LGBTI+ Pride March in Adana   |
| Case Summary          | <p>The Governorate of Adana banned the Pride March that was planned to be held on 7 July 2018, a day before the march. The march planned for the first time in Adana by Adana LGBTI+ Solidarity was banned by the Governorate on the grounds of “public security” and “social sensitivities”.</p> <p>The Governorate stated the following in the justification of the ban:</p> <p>“As the demonstration to be held in open air will publicly incite grudges and enmity towards a part of society from another part which is different in sense of social class, race, religion, sect, and region; therefore, an imminent threat against public safety could occur, and considering the intelligence reports that terror organizations are seeking to attack dissident groups or individuals,</p> |

<sup>71</sup> <https://kaosgl.org/sayfa.php?id=26160>

<sup>72</sup> <http://kaosgl.org/sayfa.php?id=26173>

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|  | <p>considering there could be social sensitivities against the individuals and groups that will attend to the demonstration, the mentioned demonstration is found inappropriate.”</p> <p>On the other hand, New Akit Newspaper targeted the Adana Pride March under the title of “Mobile homos are after a provocation” on its July 6, 2018 issue. After the call for “ban” from the newspaper, which previously targeted the İstanbul LGBTI+ Pride March, the Governorate of Adana declared the ban.<sup>73</sup></p> |
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| Incident of Violation | Activist Özgür Gür was detained after METU (Middle East Technical University) LGBTI+ Pride March   |
| Case Summary          | <p>Police attacked to the students at METU graduation parade who carried rainbow flags and banners.</p> <p>On the previous day, private security forces threatened the students from METU LGBTI+ Solidarity who hanged rainbow flag on the tribunes of university stadium and said, “We will bring it down”. Upon seeing the banners that written “We are not a group of students, we are the LGBTI+’s of this university. We are here! It’s our right to be secure in the streets, in the campus” and “Verşan Kök could not be the rector of METU” on them, private security attacked the students carrying them.</p> <p>After the protests in the graduation ceremony, three students were detained on July 6, 2018. On July 8, Özgür Mehmet Gür, member of METU LGBTI+ Solidarity and the president of Students’ Representative Council, were detained after getting picked up from their home. Gür was released after making his statement to the Chief Public Prosecutor’s Office.</p> <p>Erkan Çiftçi, the lawyer of Gür, told to KaosGL.org that, Gür was questioned about the banners of “We are not a group of students, we are the LGBTI+s of this university. We are here! It’s our right to be secure in the streets, in the campus” and “Verşan Kök could not be the rector of METU”.</p> |

<sup>73</sup> <http://kaosgl.org/sayfa.php?id=26222>

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|  | Çiftçi also told that Gür was asked: “Did you shout as ‘rector resign’?” <sup>74</sup> |
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| Case Title and Subject          | Lawsuit for annulment of the ban on LGBTI+ activities, 2018   |
| Court and Number                | 2nd Administrative Court of Ankara’s verdict, dated 27.11.2018 and Docket No: 2018/2378, Decision No: 2018/2294   |
| Case Summary / Stage of Lawsuit | <p>The Governorate of Ankara declared the ban on activities “related to LGBTT-LGBTI etc. subjects” with a correspondence to the Police Headquarters of Ankara on October 3, 2018.</p> <p>Section of Legal Affairs of the Governorate of Ankara sent an official letter to the Police Headquarters of Ankara, titled as “LGBTT and LGBTI activities”. The governorate cited “social sensitivities”, “public security”, “common wellbeing and protection of moral values” and “protecting the rights and freedoms of other people” as the justification of the ban.</p> <p>Following statements were in the official letter that was sent to the Police Headquarters on 3rd of October:</p> <p>“We have received information from social media, printed and visual media organs about LGBTT (lesbian, gay, bisexual, transsexual and transvestite) and LGBTI (lesbian, gay, bisexual, transgender and intersex) named events including social sensitivities and sensibilities such as cinema, theatre, panel, exhibition, etc. to be organized by several civil society organizations in various places in our city.</p> <p>“These events may cause that a certain segment of the society differing from their social class, race, religion, sect or region may be provoked against another segment with hatred and hostility, and it may cause an open risk for public security. Additionally, taking into consideration the protection of public order, prevention of potential crimes,</p> |

<sup>74</sup> <http://kaosgl.org/sayfa.php?id=26231>

protection of public health, security, morality or the rights of the others, such events may cause provocations and reactions from some segments of the society through the organizations and individuals to be participated to the events.”

The previous ‘indefinite’ ban was declared based on the state of emergency law on November 2017. State of emergency is over, but the Governorate indicated the Provincial Administrative Law No.5442 and Law No.2911 on Meetings and Demonstrations as the justification for the new ban. It said, “activities of LGBTT-LGBTI organizations such as film screenings, cinevision, theater plays, panels, talks, exhibitions which include certain social sensitivities and sensibilities in various locations around our city are banned by our Governorship”.

The document that was signed by the governor has been delivered to the district governorates, the mayor's office and to the military police headquarters of Ankara besides the Police Headquarters of Ankara.

The contents of the 17th Article of Law No:2911 which was used by the governorate to justify the ban is as follows:

“The regional governor, governor or the district governor has the authority to postpone a specified meeting for a maximum of one month to ensure national security, public order, prevention of criminal activity and to protect common wellbeing, public morality or the rights and freedoms of others; or, if there is an obvious and immediate danger of committing a crime, the event can be banned.”

Pink Life Association is amongst the institutions that is supposed to receive the document. Att. Emrah Şahin from Pink Life Association told that no such document was delivered to them. Şahin said that after the end of the state of emergency they have applied for the annulment of the ban that was declared based on the state of emergency.

Kaos GL Association has applied to the 2nd Administrative Court of Ankara for the annulment of the

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|   | ban. <sup>75</sup>   |
| Outcome of the Lawsuit                    | <p>2nd Administrative Court of Ankara declined the appeal stating that, “It has been understood that the claimant filed herein lawsuit on their request of nullification of the internal correspondence document which was sent from Governorate of Ankara to Police Headquarters of Ankara. It is clear that informative processes or processes that does not intervene with the 3rd parties’ interests regarding internal structure and operations of an administrative management such as advices, remarks, suggestions and thoughts cannot be the subjects of a lawsuit. Based on that, it has been assessed that the correspondence sent from Governorate of Ankara to Police Headquarters of Ankara within the scope of Law on Meetings and Demonstrations No: 2911 does not bear any legal consequences regarding the claimant association; does not have the qualifications to intervene to its rights and interests. It has been decided, based on the mentioned reasons, to decline the case without an investigation, according to the Article 15/1-(b) of Law on Administrative Judiciary Method No: 2577.”<sup>76</sup></p> <p>The appeal for the suspension of execution has been made to Ankara Regional Administrative Court against the verdict of decline from the court. The court already declined the request of suspension of execution. The essence of the lawsuit is still to be determined.</p> |
| Effect of the Outcome on the Legal System | <p>Even it is claimed that the subject of the lawsuit is an internal correspondence and it does not bear any consequences regarding the claimant, there is an obvious mistake in the verdict, because LGBTI+ activities are still banned due to the mentioned correspondence. In addition, none of the claims of claimant that the procedure is against the methodology and the law itself have been assessed by the court and the authority has come up with a verdict that lacks the needed investigation by not investigating the outcomes and the compatibility with the law of the mentioned ban.</p>   |

### **VIOLATIONS THAT ARE STILL IN JUDICIAL PROCESSES IN 2018:**

<sup>75</sup> <http://kaosgl.org/sayfa.php?id=26758>

<sup>76</sup> <http://kaosgl.org/sayfa.php?id=27173>

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| Case Title and Summary              | Lawsuit for the annulment of the ban against the March Against Homophobia and Transphobia in Ankara, 2016  |
| Court / Number                      | <p>-Verdict of 15th Administrative Court of Ankara, date:29.12.2016, Docket No: 2016/2272, Decision No: 2016/6002</p> <p>-Verdict of 12th Department of Administrative Cases of Regional Administrative Court of Ankara, date 07.11.2017 and Docket No:2017/778, Decision No: 2017/1135</p> <p>-Constitutional Court Docket No:2018/5700</p>   |
| Case Summary / Stage of the Lawsuit | <p>On May 18, 2016, the Ankara Governor's Office banned the Anti-Homophobia and Transphobia March, which was planned to be held by the Kaos GL Association on May 17, 2016, on the occasion of International Day Against Homophobia and Transphobia. Upon the association's appeal to the 15th Administrative Court of Ankara against the ordinance, the court decided to suspend the execution on May 20 on the grounds that the prohibition decision was not in accordance with the law.</p> <p>The Governorate, which expressed disagreement on the march by citing "several social sensitivities" and claimed that it would not be able to ensure the safety of the march, appealed against the decision of suspension of execution to the Regional Administrative Court. The governorate has used a privilege that no other institution or individual had in Turkey and applied to the Regional Administrative Court of Ankara outside of its working hours. Regional Administrative Court overturned the verdict of 15th Administrative Court of Ankara, which was declared by the unanimity of votes, after the working hours and without declaring the justification of the verdict to Kaos GL.</p> <p>Kaos GL Association is holding events in scope of The Meeting Against Homophobia and Transphobia in the week of 17th of May since 2006. Since 2008, the March against Homophobia and Transphobia had been held in the streets of Ankara. With the overturn of the suspension of execution by the Regional Administrative Court, the march was banned officially for the first time.</p> |

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|                               | <p>On May 17th, 1990, the World Health Organization has removed homosexuality from the list of illnesses. This date is celebrated since 2004, as the Day Against Homophobia and Transphobia to draw the attention of the public, officials, media and politicians to hate, discrimination and violation of rights. Kaos GL is holding the International Meeting Against Homophobia and Transphobia within the extent of May 17 International Day Against Homophobia and Transphobia since 2006. In this scope, there were various activities, workshops, conferences that with the international participants and at the end of the activities, the March Against Homophobia were held until 2016.</p>  |
| <p>Outcome of the Lawsuit</p> | <p>After the trials, the 15th Administrative Court of Ankara rejected the appeal of Kaos GL against the ban. The association objected the verdict of rejection. Regional Administrative Court of Ankara, which assessed the appeal of the association, said “the right to express thought and to hold demonstrations in order to create a public opinion exists, but there is a congress of a political party at the day of the demonstrations, so there could be provocative activities against the members of your association”. Therefore, they decided that “it is unsuitable to hold a demonstrative march”. At the day of the planned demonstrations in May 22, 2016, Justice and Development Party (AKP) was holding an extraordinary congress.</p> <p>Kaos GL stated that the verdict of the 12th Administrative Case Department of Regional Administrative Court of Ankara was against the European Covenant on Human Rights and to the Constitution of Turkey. Plus, their association was harmed morally by the verdict in the appeal application that the association made to the Constitutional Court upon the rejection from the Regional Administrative court.</p> <p>Hayriye Kara, one of the attorneys who applied to the Constitutional Court on behalf of Kaos GL Association, assessed their applications and the process to KaosGL.org. Att. Kara reminded the 34th article of the Constitution that says “Everyone has the right to hold unarmed and peaceful meetings and demonstration marches without prior permission”, and stated the following:</p> |

“Main object of this law is to ensure the regulations that guarantee the congruous usage of the rights that are guaranteed by the constitution with other rights and freedoms.

“As long as there is no encouragement for violence or rejection of democratic principles, even if the opinions and certain statements that are expressed in scope of the freedom to hold demonstrations and freedom of thought are unacceptable or even shocking to the authorities, or the demands of that group are illegitimate; extreme measures to abolish the freedom of expression and to hold demonstrations does not serve democracy, they even jeopardize its essence.”

Att. Kara underlined that the present risk against the march was not enough to ban it, and they said the authorities must take necessary precautions to handle potential attacks: “To protect individuals from being targeted due to their sexual orientations and gender identities is a part of being a democratic society”. They also underlined that the Governorate of Ankara was not able to provide any concrete evidence on the threats against the march:

“It is stated in the verdict of the Regional Administrative Court of Ankara that the demonstration could incite a mass reaction and provocative actions due to sexual orientation and gender identities.”

“There is no subjective and reasonable reason to ban this march. Prohibition of the meeting and the demonstration just because sexual orientation and gender identity is a violation of the ban on discrimination.”

“Holding an event on another day than its supposed date deprive it from its meaning. The administration's request for this is to violate the essence of the right. In a same way, right to receive the justified verdict carries key importance regarding the trust in the law, and the ability of individuals to use their right to defense themselves and to use efficient legal means besides being a methodical guarantee.”<sup>77</sup>

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<sup>77</sup> <http://kaosgl.org/sayfa.php?id=25283>

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| Effect of the Lawsuit on the Legal System | None of the claims of claimant that the procedure is against the methodology and the law itself were assessed by the court and the violation was continued by showing the ban as in compliance with the law. |
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| Case Title and Summary              | The appeal for the rejection of the prosecution of law enforcement officers on the use of violence against activists during the prevented Pride March of 2015   |
| Court / Number                      | -The Constitutional Court Docket No: 2017/5800  |
| Case Summary / Stage of the Lawsuit | 2015 LGBTI+ Pride March was prevented by the Governorate of İstanbul and activists who tried to continue to march was dispersed by excessive violence of the law enforcement. Against the complaint about the law enforcement officers that used violence, the Chief Public Prosecutor's Office gave the verdict of non-prosecution. This verdict has been appealed to the Constitutional Court and the case is still under investigation of the court. |

## X. RIGHT TO WORK

Right to work is regulated in the 48th article of the Constitution of Turkey under the title of "Right to work and contract" as; ***"Everyone has the right to work and conclude contracts in the field of their choice."***, by the 49-55th continuation articles, several regulations regarding the right and freedom to work have been made.

Right to work is entitled in the 23rd article of the Universal Human Rights Declaration.

Ban on discrimination in employment is regulated in the 5th and 18th articles of the Labor Law of the Republic of Turkey.

Principle of equal treatment

Article 5 - No discrimination based on language, race, sex, political opinion, philosophical belief, religion or similar reasons is permissible in the employment relationship.

Justification of termination with a valid reason

Article 18 - The following, inter alia, shall not constitute a valid reason for termination:

d) Race, color, sex, marital status, family responsibilities, pregnancy, religion, political opinion, national origin or social origin.

The non-inclusion of SOGI discrimination to the ban on discrimination through integrating “sexual orientation and gender identity” statements to the 5th and 18th articles of Labor Law, prevents LGBTI+s to benefit from the protection against discrimination.

However, it is observed that with the Public Servants Law No:657 and various laws that regulate the employment conditions of public servants with special statutes such as public officials, teachers, judges and prosecutors, military personnel and lawyers; the conditions of diverse enforcements, including dismissal from profession, have been regulated with ambiguous and open-ended criteria like “acting against the common moral values” or “living a unvirtuous life”. Regarding the detailed information on the employment regulations that are open to interpretations against LGBTI+s and evidently interpreted against the LGBTI+s, we refer to Turkey’s Sexual Orientation and Gender Identity Based Discrimination Watch Report.<sup>78</sup> Violations in the military will be referred in the “Military” section.

In the Situation of Lesbian, Gay Bisexual, Transgender and Intersex Employees in the Private Sector in Turkey 2017 Research of Kaos GL Association, the following data was been included:<sup>79</sup>

We are conducting research on the private sector employment since 2015, as Kaos GL Association. When we comparatively assess our 2017 research with the prior years, the first fact that pleases us is the increase in the number of the participants and the variety in the declared sexual orientation and gender identities of the participants. Contrary to the prior years, the percentage of the participants who identified themselves as gays decreased, and the percentages of lesbians, bisexual women, transgender and intersex participants increased. In a similar way, the ratios of sector, business field and positions are more balanced when it is compared to the prior years. This fact is gladsome, regarding the increasing extent of the research’s sampling. In this way, addressed problems and experiences are getting more and more diversified.

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<sup>78</sup>[https://insanhaklarimerkezi.bilgi.edu.tr/media/uploads/2015/02/24/Cinsel\\_Yonelim\\_veya\\_Cinsiyet\\_Kimligi\\_Izleme\\_Raporu.pdf](https://insanhaklarimerkezi.bilgi.edu.tr/media/uploads/2015/02/24/Cinsel_Yonelim_veya_Cinsiyet_Kimligi_Izleme_Raporu.pdf)

<sup>79</sup> [http://www.kaosgldernegi.org/resim/yayin/dl/ozel\\_sektr\\_raporu\\_2017.pdf](http://www.kaosgldernegi.org/resim/yayin/dl/ozel_sektr_raporu_2017.pdf)

Similar to results in previous years, most of our participants stated that they are partially or completely undisclosed in their gender identity and sexual orientation. In addition, it can be said that numerous participants were exposed to direct or covert discrimination and this situation prevents the improvement of working conditions, sense of affinity with the workplace, and perception of future of the individuals. It is clear that there is a direct or indirect link between job satisfaction and efficiency. As the position of our participants in the workplace decreases, the fear of being a victim of sexual identity discrimination increases, the anxiety of losing the job due to their sexual identity and the concern of not being able to find new jobs are reinforced. It is observed that some LGBTI employees in higher positions prefer not to establish relationships between their sexual identities and professional lives and have more confidence in their careers and professional qualifications.

In a similar way with the prior years, most of our participants emphasized the need for "protective legal regulations" to combat discriminatory practices in the workplace. However, in fact, the outcome of this research shows that the existence of a regulation does not mean that they will be implemented. Even in domestic or foreign companies known to be egalitarian regarding LGBTI rights through written or oral sources, employees may not have the conditions to be open in terms of their sexual identities and may encounter problems about discrimination. There are companies that advocate egalitarian attitudes regarding LGBTI rights in terms of workplace culture or employer/managerial attitude, but do not transfer these attitudes and approaches to written, public sources. While many companies have boards or rules that can protect LGBTI rights under the gender umbrella or under the general provisions, they are not sufficiently known to employees or are not effectively implemented for LGBTI people.

This year's findings more strongly show that the overall sociopolitical climate in the country affects working life. This year as a first time, our participants had a greater response as "political pressure concern" than "lack of legal sanctions" to the question of "What are the three main reasons why companies are reluctant to employ LGBTI people". Moreover, it is not welcome for employees to participate in activities on LGBTI rights in the workplace or not, even in some institutions where LGBTI people can work in relatively comfortable conditions. Among these institutions, there are non-governmental organizations too, and this approach can be observed in job advertisements, workplaces and activities of some NGOs. As a result of the general political climate, body policies and internalized discrimination norms, it is noteworthy that even a transgender employee defines being LGBTI as a private life issue and a private space. Furthermore, according to our findings, it may be assessed that the expectations of our participants regarding the working life are gradually decreasing:

Despite their numerous personal experiences of discrimination or incidents that they are a witness of and a small number of concrete protective legislation, a considerable number of LGBTI employees rated their workplaces with 4 out of 4 or 3. This finding can be interpreted as that the political climate in general lowers expectations about equality and that employees are content with an employer that does not fire them.

The results of our research show that the working life conditions are far from a context that will address the grievances of LGBTI workers and support their right to work, to produce and to develop themselves by freely implementing their own existence as equal individuals. Deficiencies in national legislation, company regulations and practices are accompanied by social prejudices and negative mentality structures. As long as there is no protective legislation and mechanism for rights violations in the working environment and impunity practices continue, very few victims will seek out justice for rights. Thus, violations continue, perhaps it is also expanding its scope by targeting people from disadvantaged segments of the society other than LGBTI people; poisoning workplace peace and institutionalizing a culture, which is contrary to human rights. Consequently, as many of our participants have suggested, discrimination against sexual orientation and gender identity in workplaces and in the work life can be stamped out by making the violations visible and conducting an institutional struggle against it, besides the legislation of the constitution and regulations.

A total of 166 people who state themselves as a private sector employee and identify themselves as lesbian, gay, bisexual, transgender or intersex (LGBTI) have participated in the Research on LGBTI Employees in Private Sector in Turkey, which was conducted through SurveyMonkeyPro online survey system. The number of participants in the previous year's report, which was carried out under the same framework, was 85.

Only 17 percent of the participants are completely open in the workplace. The report states that LGBTI people working in the private sector are unable to be open about their sexual identity in the recruitment process and have compelling intrinsic experiences. Approximately "1 out of 7 employees" stated that they were able to be completely open, comfortable and free of their sexual identity during their job application.

The report reports that 26 out of the 166 respondents, or 16 percent, were discriminated against in the workplace because of their sexual identity, and 82 of them "concealed their sexual identity in order not to be discriminated against". In summary, 65 percent of respondents were discriminated against at work or had to hide their identity to prevent it.

According to the report, LGBTI's were unable to report cases of discrimination to internal, trade union or judicial authorities. The results of the research show that none of

the participants, with the exemption of one, were reported to the authorities of a case of direct or indirect discrimination. The reasons for this are the fears of participants such as "losing their jobs" and "learning their identities against their consent", as well as belief that it won't work.

The Situation of Lesbian, Gay Bisexual, Transgender and Intersex Employees in the Public Sector in Turkey 2017 Research of Kaos GL Association was portraying the following data:<sup>80</sup>

80 people participated, including 59 public servants (73.75%), 11 contractual personnel (13.75%) and 10 employees of a subcontractor who worked for the public sector (12.5%). The majority of our participants were from education, health, academia, social services and mental health fields. Similar to research findings of previous years, there were few senior officers and mid-level managers in the sample this year, and no senior managers participated.

Given that this finding is consistent with previous research in both the private and public sectors, it can be considered that we have faced a practice of systematic and institutional discrimination that is not easily observable. That the public administration has demonstrated an understanding that rather than fulfilling its legal and normative obligations, creates working conditions that will further aggravate the cost of the visibility of LGBTI workers based on the statements of our participants we are observing this year.

The vast majority of the employees who make up our sample spend their working days by hiding their sexual orientations or gender identities, acting like someone they are not, perceiving direct or indirect threats against themselves. However, the anxiety of acting in solidarity may increase their visibility, prevents such an interaction.

According to the findings of our research, professional organizations and trade unions are also unable to escape the pressure of this political environment altogether, failing to transform the necessary mentality, and therefore not able to provide their function of effectively helping LGBTI employees against discrimination and being a field of solidarity. It is assessed that there are no mechanisms to protect and support LGBTI rights in public sector workplaces, and in the exceptional institutions that provide such mechanisms, there are serious doubts about their effectiveness. Considering that 71 percent of our respondents either experience direct discrimination or conceal their sexual identity in order not to live, the necessity for a general institutional and social

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<sup>80</sup> [http://www.kaosgldernegi.org/resim/yayin/dl/kamu\\_calisani\\_2017.pdf](http://www.kaosgldernegi.org/resim/yayin/dl/kamu_calisani_2017.pdf)

perception that these boards are not only existent and that they will work for the protection of the rights of LGBTI employees once again shows itself.

The findings of our research reveal that the working environment of LGBTI workers in the public sector not only leads to rights violations that cause direct or indirect harm to individuals, but also have implications that directly affecting workplace affiliation, work satisfaction and productivity. Discrimination experiences and rights violations are not limited to workplace and business hours, but also out of work through general public control. Recently, the political environment and the obstacles to democratic organization and freedom of expression created by the state of emergency practices have made it more difficult to seek rights and to be open in terms of sexual identity in the workplace and outside of work. Moreover, restrictive public practices against LGBTI organization and freedom of expression - such as the ban ordinance of the Governorate of Ankara - have a negative impact on the possibilities of gaining social legitimacy and visibility in general. Consequently, as our participants have often stated, the improvement of the working conditions of LGBTI workers in public sector and the fulfillment of state's obligations are only possible by changing the dominant mentality and political climate. Elimination of rights violations and discrimination based on gender, sexual orientation and gender identity, and the equitable and fair transformation of working conditions can only be ensured by professional organizations and non-governmental organizations being able to work freely.

In the 2017 Status of LGBTI Public Sector Employees Survey conducted through the online survey system SurveyMonkey Pro, 36 out of 80 respondents, i.e. 45 percent, responded that they were completely closed about their sexual identity in the workplace. These findings indicate that the public sector has a very low rate of openness in terms of gender identity and sexual orientation.

The research also reveals that the state of emergency conditions undermines the relationship between LGBTI employees in the workplace. The report states that 48 percent of all participants and the 19 percent of LGBTI public employees experience direct discrimination in the workplace and 52 percent of the participants believe that the reason for they were not discriminated against is their disclosure of their sexual identity. The survey reveals that only 16 percent of the participants have not experienced discrimination.

The report states that the participants met criteria that prevent LGBTI employees from applying for jobs during the job applications. In addition, the report found that only 26 percent of respondents did not experience any direct discrimination in the recruitment

process, and 50 percent, i.e. 1 in 2, needed to conceal their sexual identity in order to avoid being discriminated against during the application process.

In addition, the report found that only 26 percent of respondents did not experience any direct discrimination in the recruitment process, and 50 percent, i.e. 1 in 2, needed to conceal their sexual identity in order to avoid being discriminated against during the application process.

The report states that 29 percent of the respondents do not belong to any trade union or professional organization, while 22 percent states that they have not encountered any discrimination within these institutions. In the same question, 32 percent of respondents said that they did not face discrimination in these institutions because they concealed their sexual identity. Only 3 participants reported discrimination in trade unions or professional organizations. The report states that LGBTI employees are less closed or face discrimination less frequently in their trade unions and professional organizations than the institution in which they work for.

The report reflects that the working conditions of LGBTI employees during the state of emergency have worsened. 40 percent of respondents state that working conditions have changed and worsened with the state of emergency. Among the respondents, there were those who were expelled during this process, who feared being suspended and expelled, who were discriminated against because of the increased conservatism, and those who expressed increased pressure on workload.

Three cases from 2017, one case from 2018 and one case that took place in 2016 and still under trial in 2018 were identified regarding the violations of the LGBTI rights in the work life. Additionally, among the applications that were made to Kaos GL Association;

- One applicant asked what kind of job they could find,

- One applicant asked for support about their discharge from job,

- Two applicants asked support regarding the discrimination that they faced in workplace,

- One applicant asked for support regarding the revelation of their sexual identity in the workplace without their consent.

## VIOLATIONS IN 2017:

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| Title and Subject of the Case          | Lawsuit on mobbing against gay employee   |
| Court                                  | 9th Labor Court of İstanbul   |
| Case Summary / Stage of the Lawsuit    | <p>On the 8th trial of the lawsuit, dated June 7, 2018; on the alleged forced resignation of M.G., a gay employee of GAP / Turkey, which announced that it will struggle against the sexual orientation-based discrimination within its International Diversity Policies, the statement of the corporation's witness was taken. The witness claimed that they "never witnessed sexual orientation discrimination or mobbing in the workplace". The hearing was postponed to July 25, 2018 in order to submit written statements against the witness' statement.</p> <p>The medical report from January 19, 2017 and the statements of other witnesses state the mental hardships that M.G. has lived through are related to the incident that M.G. has lived and the aftermath of it.</p> <p>At the hearing of the case on February 28, the witness who worked with M.G. before their resignation said:</p> <p>"I have witnessed the condescending looks of the personnel manager to the claimant, because of their homosexuality."</p> <p>Gay employee M.G., who stated that he was forced to resign, told that the new personnel manager had gossiped about himself. He had not encountered any problems for ten years but with the new manager, they were exposed to mobbing.<sup>81</sup></p> |
| Outcome of the Lawsuit                 | The lawsuit was rejected on 25.07.2018 <sup>82</sup> .  |
| Effect of the Case on the Legal System | With the rejection of the lawsuit, it has become an example for SOGI based discrimination that it cannot be prevented through legal means.  |

<sup>81</sup> <https://kaosgl.org/sayfa.php?id=25976>

<sup>82</sup> <https://kaosgl.org/sayfa.php?id=26343>

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| Title and Subject of the Case          | Discriminatory verdict against the gay public servant from the Constitutional Court   |
| Court                                  | The Constitutional Court  |
| Case Summary / Stage of the Lawsuit    | A public servant who was discharged on the grounds of being gay wanted to be reemployed in the scope of the declared pardon. However, the institution rejected this request due to "being gay". The public servant, whose lawsuits were also rejected, has applied to the Constitutional Court in 2013. |
| Outcome of the Lawsuit                 | General Board of the Constitutional Court discussed the application and rejected the reemployment request of the public servant on October 18, 2018. <sup>83</sup>  |
| Effect of the Case on the Legal System | With the dismissal of the case, it was decided by the highest court that civil servants could be removed from their jobs due to their SOGIs.  |

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|-------------------------------------|---|
| Title and Subject of the Case       | Constitutional Court's discriminatory decision about the gay military personnel   |
| Court                               | The Constitutional Court, Docket No: 2015/68, Decision No: 2017/166, Date 29.11.2017  |
| Case Summary / Stage of the Lawsuit | The Constitutional Court has decided that the provision that enables the discharge of the military personnel that have same-sex intercourse is compliant with the law and the constitution. The court has decided to reject the request for the annulment of punishments against the military personnel who committed the crime of "having unnatural intercourse" within the scope of article 153 of the Military Punishment Code which foresees the discharge of guilty soldiers and degradation of higher-ranked soldiers. The decision was published in the Official Gazette of Turkey on February 20, 2018. |
| The Outcome of the Lawsuit          | <b>Appeler:</b> 1st Military Court of Appeals<br><b>Subject of the Appeal:</b> The request for the verdict of rejection against the 2nd article of 153rd amendment,   |

<sup>83</sup> <https://www.memurlar.net/haber/702201/aym-den-escinsel-memura-ret.html>

which was replaced by the 31st amendment of law No: 4551 of the Military Punishment Law No: 1632 dated 22.03.2000, and dated 22.5.1930.

**Incident:** The court that assessed the law that was the subject of the appeal was against the Constitution during the public lawsuit that was filed with the allegation of “having unnatural intercourse” against the defendant has applied for an appeal.

#### I. THE PROVISION THAT IS REQUESTED TO BE ANNULLED

The 153rd article of the law, which involves the rule that is the subject of appeal is as follows:

*“The ones that marry to unvirtuous person or the ones that lives with a unvirtuous person*

*Article 153- (Change :22/3/2000 - 4551/31)*

*Military personnel who willingly marry with an obviously unvirtuous person or the ones who are committed to marriage or the ones that insist on keeping someone like that close, or live with them without marriage are punishable by being discharged from military and degradation of the higher ranks than private.”*

#### II. FIRST ASSESSMENT

1. In the first assessment meeting on 03.09.2015 by the participation of Zühtü ARSLAN, Alparslan ALTAN, Burhan ÜSTÜN, Serdar ÖZGÜLDÜR, Serruh KALELİ, Osman Alifeyyaz PAKSÜT, Recep KÖMÜRCÜ, Engin YILDIRIM, Nuri NECİPOĞLU, Hicabi DURSUN, Celal Mümtaz AKINCI, Erdal TERCAN, Muammer TOPAL, M. Emin KUZ, Haşan Tahsin GÖKCAN, Kadir ÖZKAYA and Rıdvan GÜLEÇ, it has been anonymously decided to asses the subject of the case due to there is no lack of file within the case, in accordance with the related provisions of the constitutions.

#### III. ASSESSING THE SUBSTANCE

2. It is considered by the court, after the application decision and its supplements, the report regarding the substance of the case, written by Reporter Fatih Şahin,

the appealed provision, the constitutional provisions, and their justification which are relied upon or seen related and other legislative documents have been read and assessed that:

A. Justification of the Appeal

3. The application decision claims that, without the concrete reasons that the unnatural sexual behavior of the soldiers would harm the dignity of the military profession or cause non-disciplinary outcomes, the punishment of the expulsion of the personnel from the Turkish Armed Forces (TSK) was not compatible with the sense of justice; that the dismissal from the profession on the grounds of the most private parts of an individual's life unduly interferes with the right to demand respect for private life, and that the same crime is also being punished in accordance with the Turkish Armed Forces Disciplinary Law No. 6413; and it is against human dignity to be punished by two different legislation for the same crime, and it is against the principle of equality when the law enforcement officers, civil service officers, judiciary members, and religious service officers are not punishable by such a heavy punishment like expulsion from the profession like the military personnel, the rule is contrary to Articles 2, 10 and 20 of the Constitution.

B. The problem of Contradiction with Constitution

4. Due to its relevance with the 43rd article of the Law on the Establishment and Trial Procedures of the Constitutional Court No: 6216, it is also assessed in the scope of the 13th article of the Constitution.

5. The provision, which is the subject of this appeal, foresees punishments of discharge from Turkish Armed Forces and degradation for higher ranks than private regarding the people who had unnatural intercourse or the ones that let this action done to themselves willingly; even if these actions constitute another crime.

6. The state of law which is stated in the 2nd article of the Constitution is; It is the state that its actions and procedures in accordance with the law, respecting human rights, protecting and strengthening these rights and freedoms, establishing and developing a fair legal order in

all areas, avoiding situations and attitudes contrary to the Constitution, bound itself with the superior rules of the Constitution and law, which is open to judicial control.

7. Penal Law; Since the level of culture and civilization of a society is related to social and economic life, the choice of penal system is related to the criminal policy of the state. In this context, the legislator in terms of the regulations on criminal law in the rule of law has the authority to decide; whether certain acts in society should be considered a crime, if they are considered criminal which kind and extent will be met with penalties, and in which cases and actions will be met with penalties, provided that they adhere to the basic principles of the Constitution. When the legislator exercises this discretion, the public interest must be considered. Legislator may envisage different penalties by assessing; the nature of crimes, the manner in which they were committed, and the damage it has done to society. In this context, the decisive function and weight of military service in ensuring national security require that certain actions that do not constitute a crime in civilian life or which require penalties that may be considered trivial must be considered a crime and sanctioned. However, a fair balance between these actions and sanctions is a requirement of the rule of law.

8. In the 20th article of the Constitution, titled as the "Secrecy of Private Life"; everyone has the right to respect for their privacy and family life, and the privacy of private life and family life cannot be touched. In the second paragraph of the article, it is accepted that this right is not absolute, stating that restrictions may be imposed on the right to protect private life for various reasons. As stated in many decisions of the Constitutional Court that there are some limits arising from the nature of fundamental rights and freedoms, and the rules contained in other articles of the Constitution constitute the natural limit of fundamental rights and freedoms. In other words, the scope of fundamental rights and freedoms and the objective application area should be determined not independently of each norm, but according to the meaning within the constitution as a whole. However, restrictions on the right to private life may not be contrary to the guarantees contained in Article 13 of the Constitution. According to the 13th Article of the Constitution, the limitations on fundamental rights and freedoms shall not be contrary to

the requirements of the democratic social order and the principle of moderation, nor shall it touch the essence of the rights and freedoms.

9. Fundamental rights and freedoms may be limited only by law and for reasons prescribed by the Constitution, without touching their essence. Although the untouchable "essence" differs in terms of every fundamental right and freedom, it does not seriously complicate the exercise of fundamental rights and prevent them from achieving their goal in order to acknowledge that the limitation stipulated by law does not touch the essence of the right, and should not be an elimination of its effect.

10. In terms of limitations made without touching the essence of fundamental rights and freedoms, it is stated that these limitations cannot be contrary to the requirements of the democratic social order and the principle of moderation.

11. The concept of "the requirements of a democratic social order", which is envisaged to be observed in terms of interventions that do not violate the prohibition of touching the essence; firstly, it requires that the limitations imposed in terms of the relevant rights to be mandatory or exceptional measures and that they present themselves as the last resort or the last measure that can be taken. "Being one of the requirements of a democratic social order means that a limitation is aimed at meeting a compelling social need in a democratic society and is moderated.

12. The "principle of moderation" expressed in Article 13 of the Constitution is another principle to be considered in the limitation of fundamental rights and freedoms. Although the requirements of the democratic social order and the principles of moderation are set as two separate criteria, there is a close relationship between these two. It needs to be assessed whether any limitations against the fundamental rights and freedoms are direly needed for the continuum of the democratic public order, in other words for the benefit of the public good and with minimal intervention to the fundamental rights in a moderate manner.

13. The concepts in the Article 13 of the Constitution; "the

essence of fundamental rights and freedoms", "the requirements of democratic public order" and "principle of moderation", which have a close relationship between them, are part of a whole and they constitute the basic criteria to be observed in the regime of freedoms of the "democratic rule of law".

14. With the provision, which is the subject of the appeal, the actions of "unnatural intercourse" of military personnel are being punished. Having unnatural intercourse is described as having sexual intercourse in an unnatural way. These types of actions can occur in a variety of ways and differ from person to person and nation to nation. As the Constitutional Court has stated by its verdict dated 01.04.2015 and Docket No: 2014/118, Decision No: 2015/35 that; these types of actions are sexual actions that are unacceptable in any society and have negative effects on the moral standards of society.

15. Private life primarily refers to a conceptual and physical space in which individuals can develop themselves and have intimate relationships with others. This area of privacy covers a special area where the state cannot interfere or can interfere at the minimum for legitimate purposes. The place of the individual's right to privacy is, as a rule, a private space. The area of an individual's privacy and the actions and behaviors that take place in this area are within the scope of one's private life. Therefore, it is clear that the rule, which stipulates that military persons should be punished with the penalty of expulsion from the TSK on the grounds of sexual behavior that is within the most intimate scope of private life, constitutes an interference with the right to private life.

16. The main purpose of the criminal sanctions stipulated in the Military Penal Code is to maintain military discipline. In other words, sanctions imposed on military personnel to maintain the public order; maintaining efficient, fast and efficient operational capabilities; to ensure the establishment and continuity of discipline; to protect the dignity and honor of the profession. From this point of view, in order to protect the military discipline and ensure that the public service is carried out properly, the removal of military personnel from the TSK and degradation of higher ranks than private by citing the sexual behaviors

which belongs in the most intimate area of private life; is based on a legitimate purpose. However, there must be a proportion between the intervention in the fundamental rights of individuals and the legitimate purpose driven by this intervention, and the intervention must be in accordance with the requirements of the democratic social order.

17. The legislator may impose certain rights or obligations on public officials whose status is established by law and who are recruited accordingly under its granted authority. The military profession is based on discipline and sacrifice. Therefore, it is considered normal that those performing this task are subjected to strict professional principles as a requirement of trust, reputation, and dignity. Furthermore, although people choose the military profession, they accept that some restrictions that can no longer be imposed on civilians could be applied for the establishment of discipline within the military. In this context, the same or similar actions may be punished in a relatively severe manner by military penal codes than the general civil penal code as it is required. In fact, it is possible that some acts and actions not foreseen in the general civilian penal code will be punished with military penal codes. As a matter of fact, the legislator also banned sexual behavior in an unnatural way, which is not regulated as a crime in the general penal code, and imposed criminal sanctions on military personnel.

18. The punishment stipulated by the legislator for the military personnel who had unnatural intercourse by the disputed provision is not a liberty-limiting punishment, but a penalty for expulsion from the TSK and the degradation of the rank. The rule does not contradict the requirements of the democratic social order, as it is an arrangement for only military personnel and aims to ensure that military service is carried out properly. The disputed provision, which does not impose an arbitrary or a limitation that touches the essence of the right to private life, is limited and moderate because it is in an exceptional and narrow area. The regulation, which limits the protection of private life to a minimum extent in an exceptional area and in accordance with constitutional principles, does not constitute a clear imbalance between individual rights and public interest.

19. In accordance with the principle of the rule of law and the principle of "there will be no second trial for the same act", a person cannot be judged or punished more than once for the same action. However, even if this principle is not absolute and they are similar in terms of subject matter, it is possible to consider the same action in different ways within the scope of separate legal disciplines. The sanctioning of an action by different legal disciplines does not contradict the rule of law and the principle of "there will be no second trial for the same act". In this context, due to the unnatural intercourse of military personnel, disciplinary investigation in accordance with the Turkish Armed Forces Disciplinary Law No. 6413 and criminal investigation in accordance with Military Penal Code No. 1632 does not contradict the principle of "there will be no second trial for the same act".

20. The "principle of equality before the law" specified in Article 10 of the Constitution shall apply to those with the same legal status. With this principle, legal equality, not equality of action, is foreseen. The purpose of the principle of equality is to ensure that persons in the same situation are subject to the same procedure before the law, and to prevent discrimination and privilege. With this principle, violation of equality by applying separate rules to some persons and communities in the same situation is prohibited. Equality before the law does not mean that everyone will be bound by the same rules in every way. Features in their status may require different rules and practices for some people or communities. If the same legal situations to the same, separate legal situations adhere to separate rules, the principle of equality prescribed in the Constitution shall not be undermined.

21. Given the duties of the TSK in the protection of national security and the characteristics of the military profession, it is clear that the legal status of the military and other public officials serving in the public are not the same. Since military personnel and other public officials are not in the same legal position, there can be no comparison of equality between them.

22. Based on the reasons that have been stated, the provision is found not contrary to the 2nd, 10th, 13th and 20th articles of the Constitution. The appeal must be rejected.

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|   | <p>23. Engin YILDIRIM disagreed with this statement.</p> <p>IV. VERDICT</p> <p>It has been decided that;</p> <p>The second amendment of the 153rd article of Law No 4551, which was changed with the 31rd article of the same law, dated 22.03.2000 and Military Penal Code No: 1632, dated 22.05.1930</p> <p>are not against the Constitution, therefore the appeal is to be rejected; by the dissenting vote of Engin Yıldırım and with a MAJORITY OF VOTES on 29.11.2017.<sup>84</sup></p> |
| Effect of the Lawsuit on the Legal System | With the rejection of the lawsuit, it became an example of the SOGI based discrimination in the workplaces cannot be prevented through legal means.   |

### **VIOLATIONS IN 2018:**

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| Incident of Violation | Discharge from the job because of same-sex relationship   |
| Case Summary          | <p>According to the news that was published on July 12, 2018 issue of Hürriyet Newspaper, three garbage truck drivers were discharged without compensation from their jobs in the Kağıthane Municipality on the grounds of “involvement in an inappropriate incident”. In the news, titled as “Homosexual relations of the garbage truck drivers have stirred the municipality up”, it was stated that “3 garbage truck drivers were discharged because of having a relation between themselves”.</p> <p>Two of the workers, who were discharged without compensation, have filed lawsuits to be reemployed. Kağıthane Municipality told the following in the statement it made to Hürriyet:</p> <p>“The incident took place outside of our area. It is not something that happened within our municipality. It’s also not an event that happened during working hours. Those named in this inappropriate incident are those who work</p> |

<sup>84</sup> <https://www.memurlar.net/haber/729653/aym-den-escinsel-asker-karari.html>

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|  | <p>for subcontracted cleaning services. That is the all relation that they have with our municipality. When we heard the incident, an investigation took place without wasting time and the persons concerned were immediately dismissed. Under no circumstances can we compromise such an event.”</p> <p>Att. Kerem Dikmen from Kaos GL Association assessed the discharge action of the Municipality of Kağıthane. The municipality did not provide any compensation and described the incident as “homosexual relation” and “inappropriate incident”:</p> <p>“Here is the very classic form of sexual orientation based discrimination. The important thing is that the worker's debt to work for his employer is fulfilled according to the contract between them. The fact that the incident took place outside of the workplace and of the working hours, provides clarity that will not include any hesitation that the decision was taken with discriminatory motivation. The action of discharge is a discriminatory intervention to private life, as well as a clear violation of the right to work. On the other hand, article 122 of the Turkish Penal Code, which prohibits discrimination in recruitment, is a law.”<sup>85</sup></p> |
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### **VIOLATIONS THAT ARE STILL IN JUDICIAL PROCESSES IN 2018:**

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| Title and Subject of the Case       | Case of Halil İbrahim Dinçdağ, a gay referee  |
| Court                               | - 20th Court of General Jurisdiction of İstanbul<br>- Supreme Court 4th Legal Department  |
| Case Summary / Stage of the Lawsuit | It has been ruled to the payment of three thousand TL pecuniary and twenty thousand TL non-pecuniary compensation to the Referee Dinçdağ in the lawsuit that was filed by Dinçdağ's lawyer against the Football Federation of Turkey at the 20th Court of General Jurisdiction of İstanbul that ended in 2015. However, the amount requested by Dinçdağ, whose sexual orientation was disclosed due to the fact that he had become unemployed, was 110 thousand TL. This amount was |

<sup>85</sup> <https://kaosgl.org/sayfa.php?id=26257>

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|                        | <p>calculated according to the matches that Dinçdağ had to play, but he couldn't because he was banned from the profession. However, the court decided to pay a compensation that was much lower than that amount and it was not certain according to what it was calculated.</p> <p>Referee Dinçdağ's lawyer, Fırat Söyle requested re-calculation of the pecuniary and non-pecuniary damages and re-assessment of the claim of being exposed from the Supreme Court. Supreme Court reversed the decision after three years and decided that there was no need for compensation for the alleged damages of Referee Dinçdağ.</p> <p>In its decision, the Supreme Court stated "the damage to personality values (TCC-Turkish Civil Code- 24), violation of the name (TCC 26), engagement disruption (TCC 121), annulment of marriage (TCC158), causing bodily harm and death (TCO-Turkish Code of Obligations- 47) and violation of personality rights (TCO 49)" among the conditions necessary for making a decision on compensation.</p> <p>However, it also says that the "damage to personality values" is a part of personality rights and the personality rights are related to the protection of personal assets. In the decision, the Supreme Court says "Personal beings possess two segments, first the beings that takes it power from being a human, like bodily and mentally completeness, the life and the ancestry of an individual; and the indirect notions such as the name, dignity or private space of an individual. When the notions that are defined by the advancements in the technique and living conditions are assessed together with the hereby defined notions, the subject incident is not within this extent and therefore the request for compensation must be rejected" and it decides that the conditions for compensation are not present.</p> |
| Outcome of the Lawsuit | <p>Att. Söyle requested a revision on the decision due to its contradictory nature against primarily the principles of legal method, the Constitution, international conventions that Turkey is a party of, laws and previous decisions of the Supreme Court.</p> <p>On the request petition that has been submitted on</p>  |

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|  | September 20, 2018, it has been stated that the Supreme Court has rejected the request for appeal altogether and created a completely new act of discrimination through reversing the previous decision of partial acceptance of the local court. <sup>86</sup> |
|  | With the reverse decision of the Supreme Court, it has become an example of SOGI based discrimination in the work life that cannot be prevented through higher courts either.   |

## XI. RIGHT TO EDUCATION

Right to education is regulated in the 42nd article of the Constitution of Turkey under the title of “Right and duty of education” as; **“No one shall be deprived of the right to education”**.

Right to education is regulated in the 26th article of Universal Human Rights Declaration, and 2nd article of the Supplementary Protocol of European Convention on Human Rights dated 1952.

However, it is observed that there are numerous ambiguous, open-ended criteria within the regulations of primary, high school and college level education institutions, such as acting against common moral values, having a unvirtuous life that regulates sanctions that can even punish students with suspension from educational institutions. Regarding the detailed information on the education regulations that are open to interpretations against LGBTI+s - some of them were evidently interpreted against LGBTI+s -, we refer to Sexual Orientation and Gender Identity Based Discrimination in Turkey Report.<sup>87</sup>

Besides, as it can be seen from the cases we addressed in this report, LGBTI+s are being exposed to discrimination and violations due to their SOGI.

Two cases from 2017 and 13 cases that happened in 2018 are addressed in this report. Additionally, among the applications that were made to Kaos GL Association in 2018;

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<sup>86</sup> <https://kaosgl.org/sayfa.php?id=26614>

<sup>87</sup> [https://insanhaklarimerkezi.bilgi.edu.tr/media/uploads/2015/02/24/Cinsel\\_Yonelim\\_veya\\_Cinsiyet\\_Kimli\\_gi\\_Izleme\\_Raporu.pdf](https://insanhaklarimerkezi.bilgi.edu.tr/media/uploads/2015/02/24/Cinsel_Yonelim_veya_Cinsiyet_Kimli_gi_Izleme_Raporu.pdf)

-Two trans applicants asked for information about what would they be exposed to in the schools that they were attending.

**VIOLATIONS IN 2017:**

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|---|---|
| Title and Subject of the Case             | Lawsuit on updating the diploma information in accordance with the new identity information that has changed after the gender transition process  |
| Court                                     | Administrative Court of Aksaray   |
| Case Summary / Stage of the Lawsuit       | <p>Trans male T., who finished the gender transition process after graduating from the university, has applied to the university in order to update the information on his diploma according to his new identity information, but the request was declined by the rectorate.</p> <p>T. carried the decision of the rectorate to the Administrative Court of Aksaray together with the Pink Life Association. The court reversed the decline of the rectorate and decided that it was a lawful request.</p> <p>The Administrative Court stated that the request for reissue of the diploma information is in accordance with the law. The decision underlined that if the rectorate did not update the diploma, the claimant might face more serious problems.</p> <p>Pink Life Association previously filed a legal application for the reissue of the diplomas of transgender people whose identities were approved after the gender transition process. In May, the association launched a legal process at Marmara University, which refused to reissue the diploma of a transgender woman, Ece.</p> <p>Pink Life Association made a video to support the #WeNeedALaw campaign towards legal struggle of Ece.<sup>88</sup></p> |
| Outcome of the Lawsuit                    | The case has been accepted.   |
| Effect of the Lawsuit on the Legal System | With the acceptance of the case, a significant step was taken to prevent the problems experienced by transgender people, due to the difference between their names in the   |

<sup>88</sup> <https://www.kaosgl.org/haber/rektorlugun-kararina-idare-mahkemesirsquonden-iptal>

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|  | diploma, which was taken before the transition process, and their present identity names. |
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| Title and the Subject of the Case   | Ege University rejects diploma change  |
| Court                               | -The decision of 2nd Administrative Court of İzmir, Date 23/05/2018 and Docket No: 2017/1918, Decision No: 2018/681<br><br>-Decision of İzmir Regional Administrative Court, Date 31.12.2018   |
| Case Summary / Stage of the Lawsuit | <p>A., a transgender man completed the gender transition process after graduating from the Faculty of Communication at Ege University and applied to the university to arrange their diploma according to new identity information. Ege University, citing the regulation of changing diplomas, rejected the request for the reissue of diploma.</p> <p>Through his lawyer Kerem Dikmen, A. took the decision of the rector's office to the Administrative Court of İzmir. He demanded that the court both stop the execution for the university's decision and annul the provision of the underlying directive. The court decided to halt the execution of the denial of the change of diploma, but did not stop the execution of the related regulation. The court ruled that the university's rejection "would create unlawful outcomes and irreversible problems if implemented".</p> <p>In his petition, Att. Dikmen said by referring to the article 40 of the Turkish Civil Code which governs the gender transition process: "The diploma information, which is incompatible with the client's name and gender, causes the information about the client's private life to gain publicity against his will as well as other problems."</p> <p>In his petition, Dikmen said the rejection of the request for the reissue of diploma was a violation of rights:</p> <p>"In addition to all these facts, one cannot be forced to live the day with the markers of a gender and name and a private life that they have left behind. Even if this is not the</p> |

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|  | case, reinstating the information of a completed process, a past is a fundamental violation of rights.”  |
| Outcome of the Lawsuit                 | The case has been accepted. The rector's appeal against the decision to the Regional Administrative Court was rejected. In addition to the rector's process, the court also annulled the "no changes after" clause in the Ege University's diploma directive. <sup>89</sup>  |
| Effect of the Case on the Legal System | With the acceptance of the case, a significant step was taken to prevent the problems experienced by transgender people whose official identities changed after the gender transition process due to the difference between their names in the diploma and their identity names in business life. In the case, in addition to requesting the reverse of the denial of the request for a change of name in the diploma, the cancellation of the underlying clause of the directive was also requested, allowing other transgender people to perform the necessary change of diploma without litigation. |

#### **VIOLATIONS IN 2018:**

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| Incident of Violation | Homophobic lecture notes at Istanbul University School of Medicine  |
| Case Summary          | <p>The fourth-grade pediatrics syllabus at Istanbul University's School of Medicine describes homosexuality as a 'disorder that needs to be corrected'. According to the course note shared by the 4th grade student of Istanbul University Faculty of Medicine on their social media account, homosexuality is defined by the phrases "Careful monitoring and correction of temporary tendencies of having interest in the same sex".</p> <p>The student, who made a statement to the KaosGL.org on March 26, 2018, said that they immediately posted the mentioned notes on social media and they did not know the professor who wrote the phrases.</p> <p>The student stated that they encountered other homophobic-transphobic phrases as well and said, “the</p> |

<sup>89</sup> <http://kaosgl.org/sayfa.php?id=26116>

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|  | endocrinology professor who gives lessons to 4th grades used statements which degraded transgender people and women.” <sup>90</sup> |
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| Incident of Violation | From İmam-Hatip workshop: "High school students perceive homosexuality as normal"   |
| Case Summary          | <p>Konya National Education Directorate held a workshop on 'Youth and Faith'. In the workshop, which was attended by 50 teachers consisting of teachers of Religious Culture and Ethics lessons and İmam Hatip High School teachers, participants held discussions in five groups.</p> <p>According to Ozan Çepni's report from Cumhuriyet Newspaper on April 3, 2018 issue, the change in the attitudes and perspectives of young people on homosexuality was also discussed. The result of this discussion was summarized as follows:</p> <p>“Homosexuality is seen as normal and even sympathetic in many high school students and it is considered as a sexual choice, not a perversion. Students understand homosexuality in the context of freedom, and the student are not adequately taught on what freedom is.”<sup>91</sup></p> |

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| Incident of Violation | Attack against the booth of Hacettepe University Queer Research Club  |
| Case Summary          | <p>On April 25, 2018, the Hacettepe University Queer Research Club opened a booth on campus to promote the community. A group of 10-15 people attacked the booth around 10:30.</p> <p>The association reported the attack to KaosGL.org as follows:</p> <p>“The leader of the aggressive group said they were school's police while tearing up Kaos GL publications and</p> |

<sup>90</sup> <https://kaosgl.org/sayfa.php?id=25407>

<sup>91</sup> <https://kaosgl.org/sayfa.php?id=25480>

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|  | <p>the rainbow flag. They suggested that our stand, which was permitted from the Health Culture Sports Directorate, was illegal. They walked up to us by taking our photos and videos, so we tried to make a video of the attack. The person claiming to be a police officer turned to us and said, 'I will file an official report on you'. During this attack, the security guards came and said we had to get behind the booth. We were targeted by finger pointing to the people who were around at the time.”</p> <p>“Finally, an official from the Health Culture Sports Directorate came and said that we should close the booth. After closing the booth, we did not disperse for a while, because the aggressive group continued to circle us, splitting into smaller groups.”<sup>92</sup></p> |
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| Incident of Violation | Request for genderless toilets at Bilgi University  |
| Case Summary          | <p>İstanbul Bilgi University Rainbow Club announced the transphobic attitude of the rector's office with the slogan of "Eşitlik bahane, transfobi şahane / Equality is an excuse, transphobia is fantastic!" On Monday, April 30, 2018, at 1:00 p.m., the club invited all students, employees and academics to the Rector's Building at the Central Campus, underlining the importance of their support on the request for genderless toilet:</p> <p>"The process started with our petition after the complaints about our transgender friend for using the women's bathroom at Istanbul Bilgi University Dolapdere Campus. Unfortunately, it ended up with a scandalous response to the petition with the signature of Acting Rector Ege Yazgan."</p> <p>"In their reply, which was filled with transphobia and confusion of concepts, rector's office of our university did not recognize our friend's statement by choosing to address our friend by the name she no longer used, even though the petition stated otherwise. They explained that they could restrict our rights by citing morality and social order. The rector defined our friend's gender identity statement as a personal preference. He cited the laws of</p> |

<sup>92</sup> <https://kaosgl.org/sayfa.php?id=25663>

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|  | <p>the Republic of Turkey and said, "There are no provisions that would allow legal recognition of the preferred gender" by ignoring the founding principles of this university and the decision of the board of trustees. He legitimized transphobia. The process, which has been going on since February 22nd, has not taken a step forward, and the rector's office has chosen to stall rather than bring a solution as usual. Despite all the anti-discriminatory and pro-equality rhetoric, we continue to be accused, discriminated, denied and ignored."<sup>93</sup></p> |
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| Incident of Violation | Rectorate cancelled LGBTI+ event in Dokuz Eylül University by citing security concerns   |
| Case Summary          | <p>The event on basic LGBTI+ concepts and frequently asked questions, which would be held by the Human Rights Society of İzmir 9 Eylül University Faculty of Law and the Equality Assembly of the Buca City Council, on 2 May 2018 was cancelled by the rector's office on the grounds of security concerns.</p> <p>Yeni Akit Newspaper targeted the event with the title of "CHP, the patron of perverts". After the Akit's news that says "It is a disgrace that a university that should be a hotbed of knowledge and wisdom is now the propaganda tool of LGBTI perverts", the rectorate told that they had received numerous complaints via phone and email and stated there were threats of attack to the event; therefore, the event was cancelled due to the inability to provide sufficient security measures.<sup>94</sup></p> |

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| Incident of Violation | Threats to Bilgi University Rainbow Association   |
| Case Summary          | Bilgi Rainbow was threatened by a group called "Nationalists of Bilgi" after their protest against Red Crescents policy of not to take blood donations from gay, bisexual men and sex workers on May 9, 2018. |

<sup>93</sup> <https://kaosgl.org/sayfa.php?id=25681>

<sup>94</sup> <https://kaosgl.org/sayfa.php?id=25716>

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|  | <p>Onur from Bilgi Rainbow, which organized the sit-down protest in front of the Red Crescent Booth with rainbow flags and banners that “we can’t take this discrimination anymore” written on them, told about the attack and threats to KaosGL.org:</p> <p>“Around 18:00, people who identified themselves as The Representative of Ülkü Ocakları and the President of the Nationalist Thought Club wandered around the Red Crescent stand. They met with people we did not know. Then they took chairs from the Red Crescent stand and sat down against us, making nationalist hand signs. Although we did not want to get into an argument, they got into one with the people who gathered around us by accusing us of ‘engaged in divisive activities’ and ‘being sick’.”</p> <p>The group continued to their threats by posting a statement that said, “It is our duty to protect Red Crescent against the propaganda of the organized perversion, called LGBT. We will never allow these types of immoral people who touches the nerves of the community to be normalized and to be praised,” on Twitter.</p> <p>Bilgi Rainbow declared their request for a safe campus environment; “We do not feel safe under these threats. In order to prevent a violent argument, we will not be there with our banners. But we want our voice to be heard and demand an investigation from the rectorate”.</p> <p>Onur said that they discussed the incident with the Student Support Office and said “We filed our petition for an investigation to the office. While we were there, we heard that the aggressive group has also filed a petition against us on the grounds of ‘swearing’. There will be an investigation on both our club and the aggressive group.”<sup>95</sup></p> |
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| Incident of Violation | METU Rectorate bans the Pride March   |
| Case Summary          | While METU LGBTI+ Solidarity were preparing for the Pride Week and March to be held in the campus on May 7-12, 2018, the rectorate sent an email that said “the events are banned” to all students. |

<sup>95</sup> <http://kaosgl.org/sayfa.php?id=25793>

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|  | <p>METU Rectorate claimed that they supported student clubs that carries out activities on culture, art and science. Rectorate continued to their statement as:</p> <p>“The group that identifies itself as ‘METU LGBTI+ Solidarity’ on social media is not a student community established in accordance with the related regulations. Therefore, the events that will be held on May 7-12, 2018 by the mentioned group is completely out of this context.”</p> <p>The Rectorate also mentioned the “Ban on LGBTI+ events” of the Governorate of Ankara and said, “The mentioned events will not be allowed in accordance with the ban on LGBT activities, declared by the administrative authorities without a definite time period on November 18, 2017.”<sup>96</sup></p> <p>8th Pride March was held despite the ban.<sup>97</sup></p> |
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| Incident of Violation | Attack against the rainbow flag at graduation ceremony of METU   |
| Case Summary          | <p>The private security forces attacked the LGBTI+ activists who held rainbow flag in the Middle East Technical University (METU) graduation ceremony on July 6,2018.</p> <p>The students protested the METU Rectorate at the graduation ceremony. The private security forces attacked the students who raised rainbow flags and protested Verşan K k, the Rector of METU who banned the METU Pride March.</p> <p>The private security forces threatened the students from METU LGBTI+ Solidarity, who hung rainbow flags to the stadium at first and said “we will take those flags down”. During the rector’s speech, they attacked the students that held banners “We are not a group of students, we are the LGBTI+s of this university. We are here! It’s our right to be secure in the streets, in the campus” and “Verşan K k could not be the rector of METU” on them.<sup>98</sup></p> |

<sup>96</sup> <http://kaosgl.org/sayfa.php?id=25747>

<sup>97</sup> <http://kaosgl.org/sayfa.php?id=25747>

<sup>98</sup> <https://www.kaosgl.org/haber/ozgur-gur-hak-ve-ozgurluk-mucadelesi-yurutuyorum>

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| Incident of Violation | Investigation on METU Pride March  |
| Case Summary          | <p>After the disciplinary investigation<sup>99</sup> against the claimed participants of the METU LGBTI+ Pride March, another investigation was initiated against the rainbow flags that were hung on the buildings.</p> <p>The Deanship of the Faculty of Science and Literature started a disciplinary investigation against the students that allegedly hung rainbow flags on the building of Physics Department.</p> <p>The deanship used the statements of “with the allegation of hanging so called ‘rainbow’ flags on the roof of physics department during the spring festivities’ in the mail sent to the students regarding the investigations.</p> <p>The deanships of Faculty of Economics and Administrative Sciences and Faculty of Architecture and the Directorate of Foreign Languages have also started disciplinary investigations against the alleged participants of the METU LGBTI+ Pride March.<sup>100</sup></p> |

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| Incident of Violation | Investigations against the Rainbow Flags in the METU Graduation Ceremony   |
| Case Summary          | <p>Investigations against the students who allegedly participated in METU LGBTI+ Pride March and hung rainbow flags on the buildings were followed by another wave of investigations in September 2018. This time the reason is the rainbow flags that were held while the Rector Verşan Kök was making a speech at the METU graduation ceremony.</p> <p>The rainbow flags were declared “unauthorized” in the mail sent to the students by the secretariat of the departments. The statements of “unauthorized LGBTI+ banners and the distribution of whistles in order to make noise” were included in the mail.</p> |

<sup>99</sup> <https://www.kaosgl.org/haber/ozgur-gur-hak-ve-ozgurluk-mucadelesi-yurutuyoruz>

<sup>100</sup> <https://kaosgl.org/sayfa.php?id=26366>

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|  | <p>According to the reports of the investigated students to KaosGL.org, more than twenty students from various faculties were being investigated on the grounds of “organizing the protest and distributing whistles and flags” during or prior to the graduation ceremony. The students were asked questions such as, “The flag is an element of crime, did you distribute them”, “did you distribute the flags to organize a protest”, “were there any whistles”.</p> <p>One of the students assessed the process as follows:</p> <p>“Numerous students were holding flags and if we understood correctly, the management was following a policy like ‘we cannot do anything to those many people, but at least we can oppress the activists’. The support for LGBTI+ rights struggle has risen at METU, especially in the last few years. Both students and academicians support our cause. They try to diminish this support by these types of investigations. They try to marginalize us and show our cause as a criminal activity. As we stated in our defenses, protesting is a democratic right. We have used our democratic right. METU LGBTI+ Solidarity is providing flags to the ones who wish to carry a rainbow flag during the graduation ceremonies. All this investigation process is neither democratic nor fair. It is the proof of the unfairness to start an investigation against us while we were already been attacked by the security forces. We are being accused, but we do not know what we are accused with. What is the crime here?”<sup>101</sup></p> |
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| Incident of Violation | Intervention to the Rainbow Flags at İstanbul Technical University  |
| Case Summary          | <p>The rainbow flags at the booth of İstanbul Technical University (İTU) Gender Identity and Sexual Orientation Studies Club, named Cins Arı, were tried to be removed by the security directorate of the university.</p> <p>Bilge from Cins Arı reported the incident to KaosGL.org as follows: “Three officers came to our booth, which we set up in scope of Back to School Festival on October 3, 2018 at</p> |

<sup>101</sup> <https://kaosgl.org/sayfa.php?id=26639>

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|  | <p>around 16:30. We were already packing up, because all booths were to be removed at 17:00. One of the officers grabbed the rainbow flags and said “these are banned, pack it up”. We explained them that the rainbow flags were not banned, our club was approved by the Rectorate and we would not remove the flags. Then they said, “LGBT things are banned”. Consequently, we called the professor who was in charge of the festival and the professor told us that they would discuss this with the Rectorate. We asked the security that came to our booth if there was a complaint against us, but we could not receive a clear answer. We learnt that they came to booth by the order of the security manager. When we invited the coordinator of the festival to our booth, they left immediately.”</p> <p>Bilge said that, “We told about the incident to the club organization crew and the said they will support us by saying that they will not let this discrimination go” and continued, “We will be at our booth with our flags, despite these arbitrary sanctions.”<sup>102</sup></p> |
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| Incident of Violation | Transgender students are not accepted to the dormitories of Credits and Dormitories Institution  |
| Case Summary          | <p>The hotline of the Social Policies Gender Identity and Sexual Orientation Studies Association (SPoD) rings frequently because of the complaints of trans students who are prevented from using the dormitories despite being qualified for them.</p> <p>The trans students who called SPoD hotline stated that they were not being accepted to the dormitories despite their acquired rights and asked what they could do about it.<sup>103</sup></p> <p>A student, trans man, who had achieved the qualification criteria for the dormitories of the Credits and Dormitories Institution (KYK), but was not accepted to the dormitory because of his transgender identity at first, told KaosGL.org about the process how they were accepted after the intervention of SPoD.</p> |

<sup>102</sup> <http://kaosgl.org/sayfa.php?id=26729>

<sup>103</sup> <http://kaosgl.org/sayfa.php?id=27017>

Trans male student who was not registered to a university despite he passed the exam because of his concern about the problems of housing told about what he felt in the process and how he regained the right of housing with the intervention of SPoD.

“For these three years, I passed the university exam, but back down from registering to one because I was thinking that I would have housing problems. It did not end with passing the exam... I am a person who has just started to the gender transition process, so I have not gotten my male ID card yet. I knew that I would encounter problems in the dormitory, but until this year I was not able to fight for my right for the dormitory.”

“I went to see the manager of the dormitory when I first gained the right to be housed in the dormitory. Because I was assigned to the women’s block due to the fact that the gender marker on my identity card was female. However, the manager told that I would not be accepted to the women's block due to my newly started hormone therapy, and there would also be problems if I would use the men’s block. Therefore, I could not be accepted to the dormitory. Owing to the support of my family, I was able to stay at a hotel for a while, but soon after it became a financial burden. I was either to give up the university or go back to my home, or be housed in the dormitory that I deserved and I had the rights for. Thus, I reapplied to the dormitory and told about my situation to the officials.”

“They directed me to a directorate in Ankara at first. Then the directorate at Ankara directed me to a manager in another town. I told about my situation to the manager and they replied to me as, “Why do we have to care? It’s your problem, so solve it”. Reminding them that there was room for everybody in the dormitories: the rich, the poor, male and female, I said that I would have to give up the university if I would not be able to use the dormitories. I said “Is it just me that you cannot fit in?” to them. They said “They do not have a problem like yours, solve it on your own” to me.”

“Then my mental health went bad. I thought even the state did not want my kind. They were disgusted by me and they could not fit me anywhere. I thought that my life was

worthless, and I was a repugnant thing to other people. They disinclined me from myself; they took my will to live. I thought about suicide; because I said even the state did not give the right to housing, right to live to me.”

“Just when I lost all hope, I saw the information line of SPoD. I wanted to give it a shot. Fortunately, I called them. Attorney Hatice Demir guided me pretty well during the process. They said, “We can file a lawsuit and we can get a good result, we support you”. I have learnt that numerous transgender people have left the school because of this problem. I said to myself that my mental health could not go any worse and I started to fight for my right.”

“Yes, I went to the dormitory again. I explained my situation again and told them I was seeing a lawyer and housing at a dormitory was my deserved right. I reminded them I will would drop out the university otherwise. I told them that I started to use hormones and showed them the papers that documented my hormone therapy from Hacettepe University. I also wrote a petition that explained my transgender being and I could not stay at a women’s dormitory, because I was on hormone therapy. I stated that I would apply to legal means in case of not being accepted to the dormitory despite my lawful right.”

“My petition was not answered for five days. I was about to lose hope and my family could not be able to pay for my hotel bills anymore. On a Friday, I was about to drop out the school and return to my hometown. My belongings were at the dormitory. I decided to take my belongings upon the delay of a reply. I explained the situation to the manager of the dormitory, that I would give up the university due to my family’s inability to support me anymore. They said “Why are you going? The reply for your petition has just arrived, you are accepted to the dormitory” to me. I could not believe. I was very happy.”

“The manager of the dormitory supported me immensely. They told that a place for me will be prepared at the personnel floor and said ‘We have children too, it can happen to them and it would make us upset. You came to get education, we cannot send you back,’ to me”<sup>104</sup>.

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<sup>104</sup> <http://kaosgl.org/sayfa.php?id=27079>

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| Incident of Violation | Request for a genderless toilet at Boğaziçi University   |
| Case Summary          | <p>Club of Boğaziçi University LGBTI+ Studies (BÜLGBTI+) reminded that they would not accept gendered toilets on World Toilet Day on November 19, 2018.</p> <p>The club said, “On this day, we remind that we do not accept the gendered toilets which are a product of binary gender and heterosexist school of thought. Access to genderless toilets is everybody’s right”.</p> <p>BÜLGBTI+ filed a petition for having genderless toilets in the campus while making a press release on November 19, 2014.</p> <p>They released another press release on November 19, 2015, on another World Toilet Day titled “Toilet is Toilet”. A forum was held after the release.</p> <p>In November, 2016, the first “genderless toilet” brought into service in the university, as an outcome of the struggle of BÜLGBTI+. The Club said, “You need to get rid of the barriers to achieve equality.”<sup>105</sup></p> |

## XII. RIGHT TO HEALTH

The right to health is regulated by the 56th article of the Constitution of Turkey, under the title of “Health, the environment and housing”, as; **“Everyone has the right to live in a healthy and balanced environment. It is the duty of the State and citizens to improve the natural environment, to protect the environmental health and to prevent environmental pollution. The State shall regulate central planning and functioning of the health services to ensure that everyone leads a healthy life physically and mentally, and provide cooperation by saving and increasing productivity in human and material resources. The State shall fulfil this task by utilizing and supervising the health and social assistance institutions, in both the public and private sectors. In order to establish widespread health services, general health insurance may be introduced by law.”**

<sup>105</sup> <https://kaosgl.org/sayfa.php?id=27060>

Even if there is no legislation that defines the LGBTI+ identities as disease, it is very common in the society including the authorities to perceive them as illnesses.<sup>106</sup> In practice, it is observed that LGBTI+s face discrimination and prevention in enjoyment of right to health.

In addition, LGBTI+ identities are defined as illnesses and LGBTI+ military personnel are being punished with expulsion from the profession by the supplementary regulation that has been added to the Article 17 of List of Illnesses and Defects of the Turkish Armed Forces Health Capability Regulation, stated as “**Sexual identity and behavioral disorders - Phenomena that are assessed as able to create problems on harmony and functionality within military environment**”. We will address the compulsory military service and practices against LGBTI+ identities within the military under a different title, so we have addressed them as a summary under the title for right to health.

In addition, the regulations and practices towards the gender transition operations will be addressed under a separate headline.

As in numerous fields of violation, violations against lesbian, bisexual and cisgender women are mostly invisible. Because of this situation, Kaos GL Association conducted a survey on this issue and published a series of articles.<sup>107</sup>

Three cases took place in 2018 regarding the discrimination against LGBTI+s in the field of right to health. Additionally, amongst the applications made to Kaos GL Association in 2018;

- An applicant asked for a recommended doctor,
- Six applicants asked support regarding HIV,
- Two applicants asked for recommended gynecologists,
- Thirteen applicants asked for recommended psychologists,
- One psychologist and one counselor teacher asked for information regarding their counselees.

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<sup>106</sup> <http://bianet.org/bianet/siyaset/120589-ruh-sagligi-orgutlerinden-kavafa-escinsellik-hasta-lik-degil>

<sup>107</sup> <http://kaosgl.org/sayfa.php?id=26669>

**VIOLATIONS IN 2018:**

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| Incident of Violation | Transphobic statement from the Pedagogy Association   |
| Case Summary          | <p>The Pedagogy Association published an article on July 19, 2018, that claimed that trans children could develop “a sexual identity that is compatible with their biological design” with therapy-like practices.</p> <p>Just two months after the World Health Organization has removed trans identities from the category of “mental disorders”, the Pedagogy Association insisted on describing trans beings as “unnatural” and “disorder”.</p> <p>The association claimed that it was ‘natural’ that “a male perceiving itself as a male” and “a female perceiving itself as a female” and the contradicting individuals should be treated.</p> <p>The association explained the children that were unhappy with their biological gender due to faulty parenthood and environmental factors and referred to binary gender system instead of science.</p> <p>The article of the association said, “What is natural is to develop a sexual identity that suits its own biological design” and went on: “Sometimes a boy starts to feel like a girl, act like a girl, and sometimes girls start to feel and act like boys. This situation shows that they were unable to develop a gender identity that fits their sex.”</p> <p>The association described the trans beings with the word “unnatural” and proposed an unscientific claim: “It is unnatural for a child to develop a gender identity that does not fit to their sex. This situation must be carefully handled and the factors that diverted the sexual identity of the child must be examined. If necessary, the child should be assisted by experts to develop a gender-appropriate gender identity”.</p> <p>The Pedagogical Association told parents with transgender children that it was a waste of time to go to psychiatrists and claims that the child will get 'better' by 'early' intervention: “... asking psychiatrists for counsel pushes</p> |

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|  | <p>people with the problem of gender identity to hopelessness. Parents are told that this problem of gender identity experienced by children is normal and should not be interfered with. However, with the correct interventions in the early stages, the problem of gender identity of a child can be solved.”<sup>108</sup></p> |
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| The Title and Subject of the Violation | Homophobic attitude of a doctor  |
| Case Summary                           | <p>Cem, a young gay, pressed charges against the doctor who discriminated Cem based on their sexual orientation and said “I don’t know if I should call you a boy or a girl” during the examination and pointed Cem as a target on social media with a homophobic statement in July, 2018.</p> <p>Spç. Dr. N.K.Ö. posted Cem’s address and full name on their social media account. N.K.Ö. used homophobic statements such as “there is no limit on f....tness”, “I guess they are advertising their ass” on their social media posts.<sup>109</sup></p> <p>Cem filed a complaint to the İstanbul Chamber of Doctors and the Ministry of Health. Cem also made an application to the Presidential Communication Center (CİMER) regarding the doctor.<sup>110</sup></p> <p>There are recommendations for doctors regarding the problems of LGBTI+s in accessing healthcare in the booklet of ‘LGBTI Health for Doctors’ which was published by the Turkish Medical Association in 2016.<sup>111</sup></p> |

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| Title and Subject of the Violation | HIV+ discrimination in the hospital  |
| Case Summary                       | There was a statement that said “HIV+ patients are not treated in our hospital” on the website of the İstanbul |

<sup>108</sup> <https://kaosgl.org/sayfa.php?id=26300>

<sup>109</sup> <http://kaosgl.org/sayfa.php?id=26930>

<sup>110</sup> <https://kaosgl.org/sayfa.php?id=26358>

<sup>111</sup> <http://kaosgl.org/sayfa.php?id=26332>

Aesthetic Center, a plastic surgery clinic in İstanbul. Tekin Tutar, one of the founding members of Pozitif-iz Association and the lawyer of SPoD (Social Policies Gender Identity and Sexual Orientation Studies Association), Hatice Demir met with the managers of the clinic and the clinic changed their statement.

Tutar and Demir emphasized the fact that HIV was a chronic health condition that could be suppressed by treatment and reminded the fact that HIV positive people were no longer able to spread the virus via sexual intercourse as proven by the Centers for Disease Control and Prevention (CDC).

Tutar and Demir explained that, if every individual was assumed to have a contagious disease and compliance with the ‘Universal Rules of Infection’ was ensured, the safety of medical personnel would be secured. After risky contact, prophylaxis could be performed in risky situations, and demanded the removal of this statement from their website.

Pozitif-iz Association's social media account quoted an official who stated that they could not accept HIV positive patients because they did not have an infection specialist in their clinic. Consequently, Tutar and Demir stated that separation of HIV positive individuals from patients with other contagious diseases was discrimination.

Statement changed after the meeting as follows:

“We are unable to provide healthcare service to the patients with blood-borne diseases because it is not our field of expertise.”

Pozitif-iz made a statement regarding the outcome of the meeting:

“In the meeting, they have promised to provide HIV education to their personnel. We hope that they will provide the necessary education and we can ensure the removal of the statement from the website.”<sup>112</sup>

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<sup>112</sup> <http://kaosgl.org/sayfa.php?id=26887>

## XIII. FREEDOM OF RESIDENCE AND TRAVEL - RIGHT TO PROPERTY

Freedom of residence and travel is legislated in the Constitution of Turkey's 23rd Article, under the title of "Freedom of residence and travel", as; ***"Everyone has the freedom of residence and travel."***, and its limits are defined by the Constitution.

Freedom of residence and travel is defined in the 13th article of Universal Human Rights Declaration, 2nd article of Protocol No:4 of European Convention on Human Rights and 2nd article of The International Covenant on Civil and Political Rights.

Right to property is legislated in the Constitution of Turkey's 35th Article, under the title of "Right to property", as; ***"Everyone has the right to own and inherit property."*** and its limits are defined by the Constitution. Right to property is legislated by the 1st article of Supplementary Protocol 1952 of the European Convention on Human Rights.

LGBTI+s, especially transgender women, prefer to live together in the same areas in big cities to ensure their safety. Systematic attacks to the areas that transgender people live together such as Beyoğlu İstanbul Ülker Street, Pürtelaş Street, Avcılar Meis Complex and Eryaman, Esat neighborhoods of Ankara were reflected to press, judiciary and to studies.<sup>113</sup> The cases reflected in the judiciary are examined below within the scope of the report. Unusual and out-of-the-rail prices can be demanded from LGBTI+s, especially the trans women when buying and renting property. In this way, their right can be indirectly restricted and access to the right is made difficult. Likewise, transgender women's homes are constantly sealed for no entry by law enforcement on the grounds of being sex workers, and their housing and property rights are violated, because they are being prohibited from entering the sealed houses.<sup>114</sup>

In a same way, since LGBTI+ relationships are not legally recognized, partners' right to bequeath their property to each other is also restricted.

One case that took place in 2017, one case from 2018 and a case that is still under trial in 2018 have been addressed in the scope of this report, regarding the violation of the freedom of housing of LGBTI+s. Additionally amongst the applications made to the Kaos GL Association in 2018;

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<sup>113</sup> <http://www.mimdap.org/?p=20143>

<https://www.goodreads.com/book/show/18772786-ba-kald-ran-bedenler>

<sup>114</sup> <https://t24.com.tr/haber/mahkeme-ikamet-edilen-ev-muhurlenemez,304534>

-Two applicants asked for support regarding their housing problems.

### **VIOLATIONS IN 2017:**

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|----------------------------|---|
| Case Title and Summary     | Attack on transgender people in Meis Complex  |
| Court and Date of Decision | Küçükçekmece's 9th Criminal Court of General Jurisdiction - 16.06.2017  |
| Case Summary and Outcome   | <p>In September 2013, torch-lit marches were launched by some residents of Meis, with verbal and physical attacks against transgender people also residing on the complex and their gender identities. These marches started at a certain time of night and continued for a long time as a result of the constant passivity of the security forces.<sup>115</sup></p> <p>In November 2013, a transgender woman living on the Meis Complex was attacked. The trans women living in the complex and their lawyer, Rozerin Seda Kip, said that the house had been shot twice two days in a row and that the incident had previously been carried out by those who organized transphobic actions on the site.</p> <p>According to Çiçek Tahaoğlu's report from Bianet, the victim Sanem Karaman stated there were shots on two different dates.</p> <p>Sanem Karaman, who pressed charges on intentional wounding and threats, said police arrived after the incident. "I am at my friend's house right now. I will go back home once the crime scene investigators complete their investigation. I am afraid, but I do not have a choice."<sup>116</sup></p> <p>"This is a continuation of the events that have begun in November," lawyer Rozerin Seda Kip told to Bianet.</p> <p>The last trial of the lawsuit on the attacks against the right to housing and right to life of the trans women living in İstanbul Avcılar Meis Complex, was held on June 16, 2017 at Küçükçekmece's 9th Criminal Court of General</p> |

<sup>115</sup> <http://www.kaosgl.org/sayfa.php?id=13144>

<sup>116</sup> <https://yesilgazete.org/blog/2013/05/21/avcilar-meis-sitesinde-translarin-yasadigi-ev-kursunlandi/>

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|---|---|
|   | <p>Jurisdiction. The court decided the defendants who were under trial for “transgressions against the Law on Meetings and Demonstrations” and “defamation” were not guilty on the 11th hearing of the lawsuit.</p> <p>Att. Firat Söyle, one of the lawyers of the complainants, told KaosGL.Org about the acquittal. They said activists were not taken into the courtroom except the first hearing of the case, and sufficient public opinion to ensure the fair judgement of the judge could not been formed. Att. Söyle continued as, "All the hearings of the lawsuit were closed for public despite although there were no security problems or an outburst that could interrupt the hearings. At the last hearing, in front of the court, there was an armored vehicle of the police, which was referred to as a "scorpion"; also, there were police officers inside the courtroom. Any activist who came to court to support the victims was taken to the hall. We failed to create public opinion that would affect judge's decision".</p> <p>Att. Söyle assessed the verdict of acquittal as unfair. They also stated that the mob’s action was against the Law on Demonstrations and Meetings. There were lit torches in their hands and the mob swore and threatened the victims. This unlawful action could not be legitimized by getting a permit from the police station. Att. Söyle also stated, “To give permit to a demonstration that is organized at night and involved illegal actions is against the law. The 7th article of the Law on Meetings and Demonstrations clearly states that all public demonstrations and meetings are to be ended before sundown. Despite this, the permit from the police station has been evaluated as a factor to acquit the defendants. This situation is unlawful”.</p> <p>Att. Söyle explained that the defendants did actions that violated the housing and personality rights of the victims. The verdict on acquittal despite the surveillance records is simply unfair. Additionally, they will take the case to the court of appeal and object to this unlawful decision.<sup>117</sup></p> |
| Effect of the Outcome on the Legal System | Impunity against the systematic violation of housing rights of transgender people shows that judicial authorities do not protect the right of LGBTI+s whose housing rights are constantly violated.   |

<sup>117</sup> <http://kaosgl.org/sayfa.php?id=24014>

## **VIOLATIONS IN 2018:**

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|------------------------------------|---|
| Title and Subject of the Violation | Police prevented sex workers from renting a house in Konya  |
| Case Summary                       | <p>According to the report of Mehmet Ali Kayacı from Sözcü Newspaper on August 13, 2018, police in Konya distributed the name list of the people who were claimed to be sex workers. On the list that was distributed by saying “Be careful, do not rent any houses to them”, there were the names of 113 individuals whose homes were sealed during last month. Some of the names on the list had the additional statement of “transvestite” beside them.</p> <p>The people that were staying in the houses that were eventually sealed by the police due to the community pressure, were paying higher rents than usual and they were only able to rent the homes by showing a guarantor.<sup>118</sup></p> |

## **VIOLATIONS THAT ARE STILL IN JUDICIAL PROCESS IN 2018:**

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|--|--|
| Title and Subject of the Case                                | Lawsuit on Eryaman and Esat gangs  |
| Court and Date of Hearing                                    | Under the investigation of Supreme Court   |
| Case Summary / Stage of the Lawsuit / Outcome of the Lawsuit | <p>In April 2006, a gang in Ankara / Eryaman attacked transgender women to remove them from the area. Many transgender women were forced to leave Eryaman. Some of them moved to other cities, some moved to Esat Neighborhood of Ankara. The attacks continued in Esat.</p> <p>Pink Life Association's establishment was also an outcome of the organization against these attacks. Transgender women who were attacked filed criminal charges, and lawsuit commenced. The trials that were participated by lawyers Senem Dođanođlu and Hakan Yıldırım ended in</p> |

<sup>118</sup> <https://www.kaosgl.org/haber/konyada-polis-seks-iscilerini-fisledi-emlakcilara-liste-dagitti>

2008. One of the defendants, Şammas Taşdemir, was arrested for 45 months on the grounds of intentional wounding by gun at a raid to a hairdresser that was frequently visited by the trans women. The other defendants Harun Çardak and Ahmet Gunay were sentenced to 40 months in prison, and Ahmet Gunay was sentenced to 34 months in prison for wounding a transgender woman in Kurtuluş Neighborhood.

The court assessed the attackers as a gang but punished them with minimal charges. The court also did not assess the crime of looting. The verdict has been appealed.

From 2008 to today, the judicial process has turned into an endless story. The Supreme Court overturned the verdict in 2011. At the time, the courts that handled the case changed. With amendments to the Penal Procedure Law, the case went from one court to another. Eventually, in 2018, the case went back to the Supreme Court. A retrial may begin following the Supreme Court's decision, but the legal prescription period is coming up.

Att. Senem Doğanoğlu assessed the process to [KaosGL.org](http://KaosGL.org):

“The minimum punishments were given for both organized crime and wounding. Upon this, we sent the case to the Supreme Court, so did they. They were discharged in the last hearing, because they were already condemned to the lowest limit of punishment. The special thing about that verdict was the statement of ‘a gang that has come together due to the ideas triggered by the societal prejudices’. That was the language of the court. I believe its historical importance comes from that. They were searching for a motivation in that gang.

“Besides, the court also did not state ‘they came together for looting’. It was a factor that would aggravate the punishment, but they chose to state it as ‘they came together because of the ideas triggered by the societal and individual prejudices against the people known as transvestite within society’.

“A group that came together politically is being defined. It was important to charge them with a heavier punishment. It was also important that looting took place but in the

meanwhile not hiding the economic motivation that brought them together was also equally important. For this reason, we took the case to the Supreme Court. So did they. Consequently, the Supreme Court has overturned the verdict by citing the need for ‘court had to assess the crime of looting’”.

The process following the overturn of the verdict is a game of puss in the corner. Att. Dođanođlu says that the case is going back and forth due to the amendments made in the law:

“There were competent courts, but they were abolished with the 250th article of the Penal Procedure Law. Then it has been said that general courts have the authority, then the 10th article of the Anti-Terror Law came in and it was said that we need to take it into consideration. The case has gone back and forth many times. Finally, the case has been returned to the 30th Heavy Penal Court of Ankara. The reason was that they could not file a notification to one of the claimants. They returned the case because they could not find the file of procuration of one person. Because of all these transfers, the case probably is lacking many of its files. Years after we were able to file the documents of procuration and the case is now at the Supreme Court.”

“The Supreme Court is now going to assess the claim of looting but the time limit of prescription is very soon. We do not have much time. If the verdict is to be overturned, there could be problems of passing that limit because there would be retrials.”

So, what happened in 2006? Senem Dođanođlu describes the attacks and forced migration to transgender women at that time:

“The reason that the case is called Eryaman is because the incident took place in Eryaman, but the case also involves the incidents in Esat. There was an economic boom of building sector in Eryaman and that was the time when organized gang attacks against the trans women had started. The aggressions of the gangs that formed by the construction corporations against trans women increased in frequency, and they collaborated with the police too. After a time, the paramilitary forces started to

extortion. However, the main idea was to banish them. Most of the girls escaped to Mersin, a city 500 km away from Ankara. A group settled in the Esat Neighborhood of Ankara.

“We were able to commence a lawsuit against Şammas Taşdemir. Dilek İnce, who was killed in 2008, was one of the complainants. We also watched a lawsuit against Şammas Taşdemir on the grounds of damaging property. Şammas was punished for that case, but the punishment transformed to a pecuniary one. They paid. The verdict was finalized and it was over. It was finalized as judicial punishment and the motivation of the aggressors was not investigated.”

“When the Esat incidents started, police did nothing for a long time. It became a course that every night somebody got wounded. Properties were being damaged and people were threatened via phone calls. That was the time that shroud demonstrations started. The people said ‘if the violence against us is not ending, we are starting a hunger strike’. Canded demonstrations were started to be held every night. There were demonstrations with shrouds. Silent protests were participated by LGBTI and women associations. Soon after the Police Station of District of Çankaya called us. In summary, it was a period that the public pressure was very effective. If that pressure was not present, no one would give that instruction to Çankaya Police Station.”

“There were incidents of wounding. The hairdressers were under attack. The cars were being damaged. There were many cases that people with huge knives intimidated and attacked the girls. We gathered them all. All the complaints were filed one by one. Then all the perpetrators were gathered. They were arrested and the lawsuit has been commenced.”

“The lawsuit was commenced at the general court at first. It was transferred to the Heavy Penal Court due to the presence of the claim of looting. Most of the girls came to the first hearing and stated their complaints. They told about the incidents in detail. We explained that it was an organized action and they were a gang.”

“We changed the face of the court house at that time. It

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|  | <p>was important in the sense of seeing the subject there; a subject that fights for its rights, in the sense of seeing the legitimate one.”</p> <p>Doğanoğlu told that they pressed charges against the police, but it was decided not to prosecute them and other aggressors could not be identified.</p>  |
| Effect of the Case on the Legal System | <p>As in her book, “The Angels, The Cavalry, The Girls”; Pınar Selek narrated in detail, the systematic violence of the paramilitary forces to chase transgender people away from their neighborhoods happened before in İstanbul Beyoğlu in 1996.<sup>119</sup> This period, called “Ülker Street Incidents”, was never investigated. Upon the start of another wave of systematic violence in 2006, a legal process started against the systematic paramilitary attacks against LGBTI+s, first time in the history of Turkey. The court decided that the crime had been committed due to their prejudices, for the first time. However, in the case of passing the time limit of prescription, these aggressions would go unpunished, again.<sup>120</sup></p> |

## XIV. ACCESS TO GOODS AND SERVICES

Even though discrimination in access to goods and services is prohibited by the Article 122 of Turkish Penal Code, SOGI based discrimination is not regulated in the legislation itself. The mentioned regulation is as follows:

Discriminatory Behavior

ARTICLE 122-(1)

Any person who makes discrimination between individuals because of their racial, lingual, religious, sexual, political, philosophical belief or opinion, or for being supporters of different sects and therefore;

<sup>119</sup> [https://www.pinarselek.com/public/page\\_item.aspx?id=90](https://www.pinarselek.com/public/page_item.aspx?id=90)

<sup>120</sup> <https://kaosgl.org/sayfa.php?id=27318>

- a) Prevents sale, transfer of movable or immovable property, or performance of a service, or benefiting from a service, or bounds employment or unemployment of a person to above listed reasons,
- b) Refuses to deliver nutriments or to render a public service,
- c) Prevents a person to perform an ordinary economic activity,

is sentenced to imprisonment from six months to one year or imposed punitive fine.

In practice, it is observed that LGBTI+s face discrimination in many areas regarding access to goods and services. Four cases related to discrimination in terms of access to goods and services that took place in 2018 are included in the report.

**VIOLATIONS IN 2018:**

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| Title and Subject of the Case | Discrimination against a trans man in gym  |
| Case Summary                  | <p>A trans man, K.Ç. who wanted to become a member of a fitness center in Istanbul Kartal were told that they could not use the men's locker room. Transphobic expressions were used as well.</p> <p>According to the article that took place on soL News Portal in March 15, 2018, trans man K.Ç. talked with the employee in order to start his membership to the gym and got information about the gym. After 45 minutes of discussion, K.Ç. went to the office and said that he was a man and he wanted to use men's locker room. Employee said "What now, are you a woman, do you use bra, I don't know what to say, we never had a member like you" in a shocked manner. Then the manager of the gym was informed about the situation. The manager came to the office and asked "What do you want, will you use the men's locker room?" The manager told that it would not happen, before K.Ç. said anything.</p> <p>K.Ç. left the fitness center with his friends, by saying "I didn't know that you were a transphobic establishment."<sup>121</sup></p> |

<sup>121</sup> <http://haber.sol.org.tr/toplum/fitness-salonunda-transfobik-muamele-231714>

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| Title and Subject of the Case | Discrimination against trans women in a hotel   |
| Case Summary                  | <p>Two trans women were not allowed to get in by Cinnah Hotel on August 10, 2018. The trans women, who had already booked but were not allowed to stay at the hotel, told KaosGL.org about their experiences.</p> <p>The trans women, who were not accepted to The Cinnah Hotel, said that they went to the hotel before making a reservation and wanted to book for a later date, but the hotel staff did not register them to the booking record:</p> <p>“Before August 10th, I visited the Cinnah Hotel and asked if the room was available for the day I wanted to stay. The receptionist said the room was full at the time that I wanted, and they could not see the reservations for the later days. Therefore, I asked another friend to call the hotel and ask them if the room I wanted was suitable at that time. When the hotel staff told my friend that the room was free for that date, I called the hotel again and made a reservation for the room I wanted with my identity name. I checked my reservation twice before going to the hotel to spend the night.”</p> <p>Trans woman who reserved her room and checked the reservation twice, told that they turned her away with a variety of excuses, and police did not come to the scene, despite her calls.</p> <p>Trans woman, who is also a board member of the Pink Life Association, told about the incident from August 10, 2018:</p> <p>“And when I got to the hotel, same story started again. I talked with three different employees, and all three told different lies. One of the hotel employees told me that the room allocated to me was given to a newly arrived honeymooner and another to someone else who booked days in advance... So, I said I'd pay for it and that I wanted to stay in the room I booked a week ago, but they said they couldn't give me the room. So, I told them I'd call the police and file a complaint against them, but another hotel official came and said, "You can call the police." We called the police, but they did not show up. So we wrote an official record on our own. We will take the case to the prosecutor's office and press charges against the</p> |

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|  | management of Cinnah Hotel.” <sup>122</sup> |
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| Title and Subject of the Case | Homophobic discrimination from a taxi driver in Marmaris   |
| Case Summary                  | <p>A drag queen performer who works in an entertainment establishment in the Barlar Street of Marmaris has filed a complaint against a taxi driver who refused to provide service to her, to the Marmaris Chauffeurs, Motorists and Truckers Association.</p> <p>According to the report of Demirören News Agency (DHA) from September 13, 2018, the performer who performs at drag queen shows wanted to hire a cab from a cab depot in the city center of Marmaris. However, the driver of the taxi did not want to take her into the vehicle and said, “I am not letting you in because you are homosexual”.</p> <p>The drag performer went to the police station the next day. They filed their complaint about the driver. They also filed a complaint to the Marmaris Chauffeurs, Motorists and Truckers Association.</p> <p>Marmaris Drivers, Motorists and Truckers Chamber General Secretary Mert Baykara stated the mentioned complaint reached to them and said, "These are not approved behaviors. If it is found that there is a fault in the behavior of that driver after the necessary investigations, we will give him the punishment he deserves.”<sup>123</sup></p> |

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|-------------------------------|---|
| Title and Subject of the Case | Homophobic statement from the President of Chamber of İzmir’s Public Baths  |
| Case Summary                  | <p>İzmir Metropolitan Municipality will rent the Namazgah Hamam (public bath), which was built in the 16th century and renewed by the restoration in last January.</p> <p>According to the report of Ege News on January 19, 2018, the President of Chamber of İzmir’s Public Baths</p> |

<sup>122</sup> <https://kaosgl.org/sayfa.php?id=26406>

<sup>123</sup> <https://kaosgl.org/sayfa.php?id=26559>

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|  | <p>announced the chamber’s offer with a homophobic statement as, “we do not want this bath to be handed to gays because of their bad purposes”.</p> <p>“We offered to rent this place. We also rented the public bath at Pınarbaşı as a room. Now we are renting this one too. I said, ‘There could be people that offers 2-3 times more money than what I can offer but they will turn this place into a gay bath. It is the jewel of İzmir’. (...) We want to protect the historical vibe and use it as a real public bath. We say, let it be a classic Turkish bath. According to the offers that would come from the gays, the price could rise up but we do not want them to use this place for their malicious purposes.”</p> <p>Ege News reported the President Karaca’s homophobic statement as, “he stated that they have developed a reflex to prevent LGBTI (Lesbian, Gay, Bisexual, Transgender and Intersex) individuals from using the place.”<sup>124</sup></p> |
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## XV. RIGHT TO REPRODUCE - LEGAL STATUS OF INTERSEX PEOPLE

The right to reproduction is not defined as a constitutional right and is not directly included in the fundamental conventions that legislate human rights. It derives its basis and historical development from various rights and freedoms that implicitly indicate the right to reproduction.<sup>125</sup> Reproductive health is interpreted as having a fulfilling, safe sex life, reproductive abilities and the freedom to decide whether to use it and when and how often to use it.<sup>126</sup>

The reasons why legal status of trans and intersex people and the right to reproduction are discussed together in this report are that lacking of reproductive capabilities is the prerequisite for the gender transition operations regulated by the 40th article of Turkish Civil Code. Similarly, the main criteria for determination of which gender to be assigned to intersex people is the genital organs.

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<sup>124</sup> <https://kaosgl.org/sayfa.php?id=27231>

<sup>125</sup> [http://www.ikgv.org/pdf/Ureme\\_Haklarinin\\_Yasal\\_Temelleri\\_ve\\_Etik\\_Degerlendirme.pdf](http://www.ikgv.org/pdf/Ureme_Haklarinin_Yasal_Temelleri_ve_Etik_Degerlendirme.pdf)

<sup>126</sup> <http://w3.bilkent.edu.tr/www/saglik-merkezi/genclik-danisma-birimi/ureme-haklari/>

The 40th article of Turkish Civil Code regulating the gender transition is as follows:

Article 40- A person who wants to change their gender may apply to a court in person to request the allowance of gender change. However, in order to be allowed [to do so], the person have to be over the age of 18 and unmarried; and they have to document via an official health council report from an education and research hospital that they are of transsexual disposition and it is necessary to undergo gender change for their psychological health. The court will rule for the necessary changes in the official register if an official health council confirms that the gender change surgery is conducted in line with the goal and medical procedures dependent on the granted permission.

The prerequisite of lacking of reproductive capabilities to be eligible for a gender transition operation is overruled by the Constitutional Court's decision, which we will address later, in 2017. The decision to overrule has become effective in 2018. Therefore, intervention to the reproductive capabilities through binding gender transition to an unrelated criteria has been prevented.

There is no specific legislation regarding the situation of intersex people. Intersex people generally undergo a surgical operation by the decision of their family members before their own age of consent, and the 40th article of Turkish Civil Code is being showed as the legal basis for these operations.<sup>127</sup>

Two important decisions of the Constitutional Court from 2018 is addressed in the scope of this report regarding gender transition processes. Besides, amongst the applications made to the Kaos GL Association in 2018;

- Ten applicants asked for information about the transition process,
- Two applicants asked for information about the identity card change,
- One applicant asked for financial support to their gender transition operation.

**VIOLATIONS IN 2018:**

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|-------------------------------|--|
| Title and Subject of the Case | The Constitutional Court's decision to overrule the prerequisite of not having reproductive capabilities in order to be eligible for gender transition operation |
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<sup>127</sup> <http://kaosgl.org/sayfa.php?id=19621>

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|-------------------------------------|--|
| <p>Court and Number of Decision</p> | <p>Decision of the Constitutional Court, Date 20/03/2018, published in Official Gazette no: 30366 on 29/11/2017, Docket no: 2017/130, Decision No: 2017/165</p>  |
| <p>Case Summary</p>                 | <p>Two decisions of the Constitutional Court (AYM) regarding the Article 40 of the Turkish Civil Code which regulates the gender transition process were published on March 20, 2018 issue of the Official Gazette. Both of these decisions include important regulations on the gender transition process.</p> <p>The Constitutional Court has assessed the request of Edirne 1st Civil Court of General Jurisdiction, as the statement of "... and prolonged lack of reproductive capabilities..." in Article 40 is against the Constitution and it should be overruled.</p> <p>Edirne 1st Civil Court of General Jurisdiction stated that the prerequisite of "prolonged lack of reproductive capabilities" posed inequality.</p> <p>The Constitutional Court has stated that the prerequisite of "lacking reproductive capabilities" in order to be eligible for a gender transition operation is limiting the "right to develop material and nonmaterial possessions and the right to private life" of the individuals. The Constitutional Court also said, "It is obvious that a transsexual individual who undergo a gender transition operation in accordance with the medical methods, will lose their reproductive capabilities forever, as a natural outcome of that procedure" in their decision.</p> <p>The Constitutional Court has said, "having medical operations in order to lose the reproductive capabilities to be eligible for the gender transition operation is an unnecessary intervention regarding both the body and the mind of the individual" and described the prerequisite as "an immoderate limitation".</p> <p>The Constitutional Court has overruled the prerequisite of "lacking reproductive capabilities" to get a "permit of gender transition operation" from the courts, on the mentioned grounds.</p> <p>On the other hand, the Constitutional Court has decided that the 2nd amendment of the Article 40 of Turkish Civil</p> |

Code, "The court will rule for the necessary changes in the official register if an official health council confirms that the gender change surgery was conducted in line with the goal and medical procedures dependent on the granted permission," which was requested to be overruled, is constitutional. It was decided not to be overruled.

Ankara 4th Civil Court of General Jurisdiction stated in their objection that forcing transgender people to carry an identity that they do not belong to "just because not having the genital organ operations" is against the principle of protection of material and nonmaterial being.

The Constitutional Court that assessed the application of the court has stated that "the sexual preferences, the private lives and material and nonmaterial beings of the individuals" must be protected. However, they decided that "the gender transition operations must be regulated by the state" by stating that "these operations are irreversible". Reminding that the change in the official register/ ID cannot be made without the "gender transition surgery" with the restriction brought by the objected rule, the Constitutional Court argued that trans people have the right to choose whether or not to have surgery and this does not interfere with the right to private life. The court said that the condition of surgery for the change in the official register/ ID is "necessary for the permanent and unwavering register records and the maintenance of public order".

The Constitutional Court also argued that if trans women can change the gender info in the official register/ ID without surgery, there would be conflicts with principles such as "women retiring at an early age by paying less premium than men" and "principles that involves positive discrimination regarding the women". They stated that in the event of the abolition of the operation condition, "It would create problems in terms of legal order and would have negative effects on social order". The Constitutional Court has declined the request for overrule by defending that it is "not an immoderate limitation".

The Constitutional Court's Deputy Chairman Engin Yıldırım, who voted against this decision, reminded the opinion of the United Nations special rapporteur on torture that "medical interventions on gender identity can be

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|  | <p>regarded as torture and degrading treatment" said that in terms of international law and conventions, gender identity is one of the fundamental elements of self-determination or self-identification.</p> <p>Yıldırım reminded the Parliamentary Assembly of the Council of Europe's call to end the obligation to undergo medical procedures as a prerequisite for the recognition of trans people by their preferred gender, and continued:</p> <p>"The rule that we examine defines gender from a purely biological basis, and as a reflection of this, transsexual individuals are obliged to undergo a gender transition process in order to make the legal system accept the gender that they identify themselves with.</p> <p>"Forcing transgender people to undergo gender transition operations to attain the gender they feel compels them to choose between their fundamental rights. For the public order, transgender people have to choose one of two unfavorable situations for themselves. Either they will agree that the gender they feel as is not legally recognized, or they will endure interference with their physical and personal integrity."</p> <p>"The fact that the transgender individuals have to undergo an operation in order to legal system to recognize the gender they describe themselves with, brings them a physical and psychological burden."</p> <p>Yıldırım emphasized that the desire of the individual should be taken as basis in medical operations that require intervention to the integrity of body. They reminded that trans people are not a kind of 'weird creatures and bizarre existences' that have 'corrupted' bodies and souls that must be corrected by society or the state. Yıldırım stated that they disagreed with the majority.<sup>128</sup></p> |
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|-------------------------------|---|
| Title and Subject of the Case | The Constitutional Court assessed the rejection of gender transition operation application as a violation of rights |
| Court and Decision            | -Şanlıurfa 1st Civil Court of General Jurisdiction  |

<sup>128</sup> <http://kaosgl.org/sayfa.php?id=25372>

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|--------------|---|
| Number       | -The Constitutional Court   |
| Case Summary | <p>In July 2018, the Constitutional Court has decided that the “right to protect and to develop material and nonmaterial possessions” of M.K., whose gender transition operation application has been rejected on the grounds of not lacking reproductive capabilities, was violated.</p> <p>In 2015, trans male M.K., has applied to the Constitutional Court claiming the decision of Şanlıurfa 1st Civil Court of General Jurisdiction is a violation of his rights. The Constitutional Court has recognized the claim and stated that the “right to protect and to develop material and nonmaterial possessions” of M.K has been violated.</p> <p>This decision of the Constitutional Court is based upon the 17th Article of the Constitution.</p> |

## XVI. RIGHT TO MARRY AND TO FOUND A FAMILY

Right to marry and to found a family is regulated in the 41st Article of the Constitution of Turkey, under the title of “Protection of the family, and children’s rights” as; **“Family is the foundation of the Turkish society and based on the equality between the spouses. The State shall take the necessary measures and establish the necessary organization to protect peace and welfare of the family, especially mother and children, and to ensure the instruction of family planning and its practice. Every child has the right to protection and care and the right to have and maintain a personal and direct relation with his/her mother and father unless it is contrary to his/her high interests. The State shall take measures for the protection of the children against all kinds of abuse and violence.”**

Right to marry and to found a family is defined in the 16th article of Universal Human Rights Declaration, 12th article of European Convention on Human Rights and 23rd article of The International Covenant on Civil and Political Rights.

The procedures, conditions and obligations regarding the marriage is regulated under the 124-144th articles of the Turkish Civil Code (TCC).

Both the Constitution and especially the articles 132-134-136 of the TCC clearly describes marriage as a right granted only to the heterosexual couples, and that what is

meant by the family is a heterosexual family. There is no recognized right regarding the union of LGBTI+s. Consequently, LGBTI+ relationships lack some rights acquired through inheritance, co-adoption, marriage and family-building.

Lack of recognition of these rights in Turkey reinforces society's negative opinions against LGBTI+ relationships and has various negative consequences. Forced marriage of LGBTI+s, forcing LGBTI+ unions to be kept private,<sup>129</sup> inability to take advantage of the rights granted in heterosexual unions in the form of marriage, and settling in countries where their rights are fully recognized are the first results that comes to mind regarding this situation.

In addition, one of the requirements of gender transition surgery that we examined above is that the applicant must not be married, which states a violation of the rights of married persons who wish to have gender transition operation.

Furthermore, since LGBTI+ relationships do not have legal status in Turkey, LGBTI+ marriages that formed legally outside the country also do not have any legal status in Turkey and have no legal rights.<sup>130</sup>

Amongst the applications made to the Kaos GL Association in 2018;

- Five applicants asked for information regarding same sex marriage,
- Two applicants asked for information regarding marrying abroad for a legal same sex marriage,
- Two applicants asked for support that they were forced to marry by their families.

## XVII. RIGHT TO SOCIAL SECURITY

Right to social security is regulated in the 60th Article of the Constitution of Turkey, under the title of "Right to social security" as; **"Everyone has the right to social security. The State shall take the necessary measures and establish the organization for the provision of social security."** Regulations regarding how to use the right are included in the supplementary articles 61-65.

Right to social security is legislated in the 9th article of the International Covenant on Economic, Social and Cultural Rights dated 1966.

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<sup>129</sup> <http://kaosgl.org/sayfa.php?id=27051>

<sup>130</sup> <https://www.ntv.com.tr/yasam/lezbiyen-anne-cocuklari-istiyor,hl4LUu8enkuWsoyNq0Hh2Q>

As mentioned above in the section on founding a family and accompanying rights, the consequence of the lack of legal recognition of the marriages of LGBTI+s is that LGBTI+s do not enjoy each other's social security rights.

In addition, since age, working time and number of premium days that determines the status of entitlement to retirement in Turkey are calculated differently by gender, trans women whose identities are not registered in the population registry and who are registered as men, have a disparity regarding the retirement, salary entitlements, number of premium days compared to biological women.

In addition, LGBTI+s, especially transgender people, are subjected to situations such as inability to find work due to SOGI. Therefore, being pushed into unregistered and unsecure sex work, or under-paid employment, they either can't benefit at all, or can't benefit sufficiently from the social security rights.<sup>131</sup>

## XVIII. RIGHTS OF PRISONERS AND CONVICTS

Rights of prisoners and convicts are regulated by the Law on the Execution of Sentences and Security Measures No 5274.

Rights of prisoners are legislated in the 10th article of the International Covenant on Economic, Social and Cultural Rights dated 1966.

The main problems faced by LGBTI+s, especially transgender people in prison can be listed as:

-Since prisons are separated by sex and trans prisoners and convicts are placed in prisons on the basis of their identity cards, if their gender identity is not compatible with their registry, they are being placed in prisons that are not compatible with their gender identity,

-Rejection of the demands of trans people who want to have gender transition operation while in prison, as it is not accepted as an emergency health condition,

- Transgender people who are not placed in a compatible prison to their gender identities or the gays - even though they are placed in a compatible prison to their

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<sup>131</sup> <https://m.bianet.org/bianet/lgbti/151448-orospufobik-politikalar-translari-hedef-aliyor>

gender identities- are not kept together with the other prisoners due to security concerns and they are placed in isolated cells,<sup>132</sup>

-Prevention of access to goods and services they need in prisons, according to their gender identities.

The Prisoner and Detainee Sub-Commission of the Grand National Assembly of Turkey (TBMM) Human Rights Investigation Commission visited the Elazığ T Type Closed Penal Execution Institution. Justice and Development Party (AKP) Deputy Fatma Benli, Republican People's Party (CHP) Ankara Deputy Şenal Sarihan, People's Democratic Party (HDP) Deputy Sibel Yiğitalp and Legislative Expert Zeynep Duran attended the visit, and a report was published after the meeting.

The commission's monitoring report, which was adopted on February 7, 2018, stated that LGBTI prisoners were mistreated, threatened and their petitions were ignored.

The section of the report titled "LGBT Prisoners" included the following statements;

"Transvestites in the ward feel like women, so they have demands such as makeup, hair dye, but when they transmit these demands, the administration scolds them and ignore their demands. They have troubles with communication There might be a prejudice against them due to more problematic prisoners in the past. They generally expect understanding and courtesy from civil servants",

"When the officer-calling button in the room is pressed more than 2-3 times a day, they have to be afraid of the officer who enters; 2 friends are mistreated and they are threatened because of this",

"In cases of illness, the management do not believe that they are sick from time to time, requests for referral to hospital are not fulfilled",

"Petitions are not taken into consideration",

"Maximum of 2-3 people are being sent to the doctor daily and the requests are being rejected",

"During the visit in the room, it was observed that the two prisoners did not attend the meeting with the delegation and sat away by leaning against the ward door with both hands. The members of the delegation tried to talk to them, and due to the answers that

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<sup>132</sup> <http://kaosgl.org/sayfa.php?id=20910>

they gave implied that their psychological health was not good, the institution psychologist were asked to take care of them.”<sup>133</sup>

In recent years, the government initiated a debate on the creation of a special prison for LGBTI+s, though no such practice has yet been implemented. However, in the event of such a prison built, risks such as the disclosure of the identity of closed LGBTI+s against their consent, and limitation of access of the relatives of the prisoners and the convicts if the prison is established away from their residential areas would rise.<sup>134</sup>

Four cases regarding the violation of the rights of the LGBTI+s in prison from 2018 are in the extent of this report.

### **VIOLATIONS IN 2018:**

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| Title and Subject of the Case | Hunger strike of a trans woman prisoner, Diren Coşkun   |
| Case Summary                  | <p>Diren Coşkun, one of the trans women prisoners of Tekirdağ Type F Closed Men's Prison, had begun a death fast in order to end the isolation and the mistreatment against her, and for prison management to provide gender transition surgery, hair removal services and other psychological, psychiatric and social support.</p> <p>Trans woman prisoner Diren Coşkun had suspended the “death fast” on the day 27. Diren’s lawyers, friends and family announced her decision from social media, after her meeting with the prison management:</p> <p>“We, the family, friends and lawyers of Diren, went to Tekirdağ Type F Closed Men’s Prison today, on the 27th day of her death fast that she started on January 25. We met with the prison management to discuss the first tier of Diren’s demands; hair removal, vegan diet and end of the discriminatory attitude of prison employees against Diren because of her trans identity. In the meeting that we held regarding these demands, we came to an agreement with the prison management to carry out this period together. As her family friends and lawyers, we told Diren that we would be monitoring the legal process for meeting all of</p> |

<sup>133</sup> <http://kaosgl.org/sayfa.php?id=25506>

<sup>134</sup> <http://www.kaosgl.org/sayfa.php?id=25382> - <http://kaosgl.org/sayfa.php?id=25383>

her demands in the coming days. She stated that she will suspend the death fast in accordance with the cooperative attitude of the management regarding her demands in the meeting we held with her. She stated her thanks to everybody that showed solidarity and requested her friends that started hunger strikes and death fasts to end their protests. Trans activist Kivılcım Arat, who began death fast to show solidarity with Diren Coşkun, declared that she ended the death fast upon these developments.”<sup>135</sup>

Sezgin Tanrıkulu, deputy of Republican People’s Party (CHP) submitted the human rights violations that Diren Coşkun was exposed to as a parliamentary question to be answered by Prime Minister Binali Yıldırım.

Tanrıkulu asked whether the Ministry of Justice would be instructed regarding Coşkun’s demands, if there would be investigations against the prison management who ignored her demands, and the reasons for not providing the gender transition operation and all kinds of medical psychological, psychiatric and social support which are the most fundamental demands regarding the gender transition.

Filiz Kerestecioğlu, deputy of People’s Democratic Party (HDP) also took this matter to parliamentary agenda.

Kerestecioğlu stated the following in her speech at the Grand National Assembly of Turkey (TBMM):

“It does not matter if you agree or disagree; a person’s gender identity is one of the most fundamental constituents of their existence. This is also a universal principle of law. Social denial of this identity would be traumatizing, especially for transgender people who are already marginalized by society.”

A petition was launched on change.org to meet the most fundamental rights of Diren Coşkun. Ministry of Justice and Tekirdağ Type F High Security Prison No 2 had received a petition to ensure that the prison administration takes steps to allow Diren to stop the death fast as soon as possible, to remove practical isolation, and for the

<sup>135</sup> <http://kaosgl.org/sayfa.php?id=25110>

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|  | <p>compensation for the rights violations that she had suffered.</p> <p>Kaos GL Association made a call on the 20th day of Diren Coşkun's death fast. The call reminded that the prison management was responsible for providing surgery, hair removal and all other medical, psychological, psychiatric and social support, which were the most basic needs of Diren Coskun's gender identity, gender expression and gender transition. The statement noted that Diren Coskun was being held in isolation unlawfully, and called all relevant national and international institutions, especially the prison administration, to fulfill the rights of Diren Coskun and to do their duty.<sup>136</sup></p> <p>Diren Coşkun was released from prison on December 17, 2018.<sup>137</sup></p> |
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| Title and Subject of the Case | Death fast of a prisoner trans woman, Buse   |
| Case Summary                  | <p>Buse, one of the trans woman prisoners in Tekirdağ F Type Closed Men's Prison, announced through her lawyer that she was on a "death fast" as of June 5, 2018.</p> <p>Buse said she took that decision because her requests for a gender transition operation were denied. She stayed in the same cell with Diren Coşkun whose access to health care was prevented in the past months and who demanded to undergo a gender transition operation as soon as possible.</p> <p>Derya Özata of the Women's Solidarity Foundation, which monitored the process of the violations against the rights of Diren Coşkun and Buse in prison, told KaosGL.org about Buse's experiences and demands.</p> <p>According to Özata, Buse went to prison at the age of 22. She is 45 now. She serves a life sentence, and she is going to be in prison for another 20 years. Diren Coşkun was kept in solitary confinement for many years before</p> |

<sup>136</sup> <http://kaosgl.org/sayfa.php?id=25110>

<sup>137</sup> <http://kaosgl.org/sayfa.php?id=27229>

she was transferred to Tekirdag F Type Closed Men's Prison.

Özata said that Buse and they had developed a friendship through letters and explained the latest developments as follows:

“Buse has been writing petitions for gender transition surgery for a very long time. She is fighting for a transition surgery, so we wrote petitions together. Att. Eren Keskin monitored the process and she is still doing it. In the end, Buse wrote in her letter that the hospital had reported that 'gender change is imperative for mental wellbeing'. Then a petition was re-written to the Ministry of Justice. However, according to Buse, the Ministry replied to the prison management as, 'surgery is mandatory but has no urgency'. As of June 5, Buse is fasting to death, demanding both a transfer to another prison and the surgery.”

Özata says that Buse has told “I want to see my body as a woman. I do not want to live with this body anymore. It is not clear how many years that I will live or whether I will get out of the prison or not” to her lawyer in their meeting.

Özata also stated that Att. Eren Keskin would write a petition to the Ministry of Justice again.

While legal steps are being taken for gender transition operation and free access to healthcare of Buse, there are also protests took place on social media. Social media protest with the hashtag of #BuseyeSesVer (Speak up for Buse) has made into the list of trending topics of Twitter Turkey on June 27, 2018.<sup>138</sup>

Buse suspended her death fast upon seeing the “outside support” on July 14, 2018.<sup>139</sup> However, she began fasting to death on January 31, 2019, after rejection of her demands<sup>140</sup>.

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<sup>138</sup> <https://kaosgl.org/sayfa.php?id=26140>-<https://kaosgl.org/sayfa.php?id=26212>

<sup>139</sup> <http://kaosgl.org/sayfa.php?id=26276>

<sup>140</sup> <http://www.kaosgl.org/sayfa.php?id=27588>

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| Title and Subject of the Case | The Ministry will pay for the breast operation of the transgender prisoner  |
| Case Summary                  | <p>The Ministry of Health and the Ministry of Labor and Social Security will cover the expenses of the mammoplasty (breast enlargement) operation of a prisoner, a trans woman that is being held in Gebze Women’s Prison.</p> <p>The trans woman prisoner received a report from the Department of Forensic Medicine of Kocaeli University Research and Application Hospital. The report stated that the augmentation mammoplasty surgery “is not for aesthetic purposes, but a necessity for one’s physical and mental well-being”. Since it is not an aesthetic operation, the costs must be met by the state.</p> <p>The report reminded that the World Health Organization describes health as "a state of well-being in the body and in a social aspect" and underlined the fact that "although it is a surgery for genital organs, the female phenotype (appearance) is not just about genital organs".</p> <p>Hilal Başak Demirbaş from the Civil Society Association in the Penal Execution System (CISST) informed KaosGL.org about this development. Stating that they have been monitoring the situation with lawyers from CISST and Kaos GL for a long time, Demirbaş said, “The transgender person who fought for their rights and had the first gender transition operation in Turkish prisons, has pursued this struggle and procured a verdict that became a precedent case. During their time in prison, they changed their identity by opening a name change lawsuit and started epilation by covering own expenses, upon their applications”.</p> <p>Demirbaş stated that applications for the mammoplasty operation of the trans woman prisoner was made and the Board of Forensic Medicine decided that “the surgery is not for aesthetic purposes, but a necessity for one’s physical and mental well being” by referring to the related UN resolution, and the expenses of this operation would be met by the state.</p> <p>Demirtaş told that, according to the data that they have, this was a first, and continued as:</p> |

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|  | <p>“In addition to stating that this decision and all the struggle put in the process is encouraging for other trans prisoners; Forensic Medicine Departments and other health authorities should ensure that LGBTI+ individuals have equal access to the right to health as everyone else, and that health service institutions should develop policies that prevent homophobic and transphobic attitudes.”<sup>141</sup></p> |
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| <p>Title and Subject of the Case</p> | <p>Hunger strike of Esra Arıkan, a trans woman prisoner</p>  |
| <p>Case Summary</p>                  | <p>Prisoner Esra Arıkan announced that she had begun hunger strike because her petitions had been ignored and her breast enhancement operation was prevented.</p> <p>Esra Arıkan told her trustee Merve Arkun on the phone about what she had been through in Bakırköy Women's Prison and announced that she began a hunger strike on 17 October 2018.</p> <p>According to the information provided by Arkun to KaosGL.org, Esra wrote a petition for the breast augmentation surgery expenses to be covered by the Ministry of Health like a precedent case from the Gebze Women's Prison. However, the petition was not forwarded to the Ministry of Health.</p> <p>Esra sued for changing her gender and name information on her identity registries after the gender transition surgery. The trial lasted about a year and a half. In the process, the letters written by the court to the prison were left unanswered for a long time. As an outcome of Esra's struggle in prison, however, the report was sent from prison. That is why the case, which could be over long ago, is still ongoing. However, in this process prison officials are calling Esra with her identity name, not with her real name.</p> <p>Esra makes her living by crafting jewelries in prison, but she has been prevented from getting the beads that are necessary for her craft.</p> |

<sup>141</sup> <http://kaosgl.org/sayfa.php?id=26697>

Arkun said that for all these reasons, Esra had begun a hunger strike and would continue until her demands, especially breast augmentation surgery, were met.

Esra Arikan, who has been imprisoned for 14 years and remained in solitary confinement in different prisons during this time, was transferred to Bakirköy Women's Prison after gender transition surgery.

Esra Arikan was subjected to harassment and violence by guards in all prisons where she stayed for 14 years, and many of her rights were violated. In 2016, Arikan was tortured at Eskisehir H Type Closed Prison and prevented from being transferred to the hospital after torture. During this period, "Solidarity with Trans Prisoner Esra Initiative" was created for Arikan<sup>142</sup>.

Arikan ended the hunger strike that she began on October 17, after meeting with the prison prosecutor on November 8, 2018. Arikan stated that she had been told that the expenses of the operation would be covered by the state and related documents had been showed to her.

Arikan had been transferred to Bağcılar State Hospital and she was notified that she would be able to acquire the crafting ingredients.

Anarchist Women initiative, which was monitoring Arikan's process, made an announcement at the end of the hunger strike. According to the information published by the initiative, Arikan stated that the difficulties in the process of receiving and sending letters had decreased, thus resulting the hunger strike with significant gains.

The lawsuit filed to change the registered gender and ID name was also terminated and the requests were accepted. After the finalization of the verdict, the necessary actions will be taken.<sup>143</sup>

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<sup>142</sup> <http://kaosgl.org/sayfa.php?id=26858>

<sup>143</sup> <http://kaosgl.org/sayfa.php?id=27002>

## XIX. RIGHTS OF FOREIGNERS, ASYLUM SEEKERS, REFUGEES, IMMIGRANTS

The rights of refugees is not regulated directly in the Constitution of Turkey, and the rights of foreigners is regulated in the 16th article, titled “Status of foreigners”, as **“The fundamental rights and freedoms in respect to foreigners may be restricted by law compatible with international law”** .

Rights of foreigners and asylum seekers - refugees - immigrants is regulated by the Law No. 6458 of 2013 on Foreigners and International Protection within the legal system of Turkey.

Rights of foreigners is regulated in the 14th article of Universal Human Rights Declaration, 4th article of Protocol no:4 1963 and 1st article of 7th Protocol of European Convention on Human Rights and 13th article of The International Covenant on Civil and Political Rights. The legal status of the rights of asylum seekers and refugees is regulated by the Convention Relating to the Status of Refugees in 1951.

Due to the geographical limitations introduced to the Convention Relating to the Status of Refugees 1951 and the Protocol of 1967, Turkey accepts refugees only from the member states of the Council of Europe. The persons who come from out of the Council of Europe states and seek asylum in Turkey and who are under International Protection (IP), can obtain the conditional refugee status from Turkey after their applications are evaluated, and they are allowed to stay in Turkey until they get settled in a third country.<sup>144</sup>

According to the Foreigners and International Protection Law (YUKK) enacted in 2013, the only institution responsible with the evaluation, registration and acceptance process of international protection applications is the Directorate General of Migration Management (DGMM). In September 10, 2018, United Nations Refugee Agency (UNHCR) has terminated International Protection applicants’ process of registration and evaluation of the refugee status.<sup>145</sup>

Currently, in the asylum system of Turkey, there are no explicit criteria for evaluation of applications on ground of sexual orientation, gender identity and sexual characteristics (SOGIESC) as they are recognized within the international law on ground of

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<sup>144</sup> Yabancılar ve Uluslararası Koruma Kanunu madde 61 Mülteci, madde 62 Şartlı Mülteci

<sup>145</sup> <http://iibfdergi.sdu.edu.tr/assets/uploads/sites/352/files/yil-2017-cilt-22-sayi-goc-yazi08-29122017.pdf>

“membership to a certain social group”. Similarly, criteria regarding evaluation for applications on ground of SOGIESC is defined in UNCHR Guiding Principles.

Similarly, Implementation Regulations of YUKK also do not clarify the evaluation process of these applications. Additionally, knowledge of the immigration experts who make the status determination interviews about gender, sexual orientation, gender identity and intersex status, whether they would act regarding their personal prejudices and how to conduct the evaluation are still controversial.

Syrian refugees living in Turkey are under temporary protection.

In addition, numerous applications were submitted to Kaos GL Association regarding seeking asylum in foreign countries due to hatred, discrimination and violence against LGBTI+ people in Turkey.

Rights violations against LGBTI+ refugees are addressed in the extent of this report via three cases that took place in 2018. Besides, amongst the applications made to the Kaos GL Association in 2018;

- Ten applicants asked for information regarding asylum due to SOGI based discrimination,
- One refugee applicant asked for information regarding staying in Turkey.

**VIOLATIONS IN 2018:**

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| Title and Subject of the Case | Murder of a refugee trans woman in İstanbul  |
| Case Summary                  | <p>Syrian trans woman was found dead in her hotel room in Beyoglu, Istanbul, on March 9, 2018. Hotel staff told that there were two women staying in the room. One of them as transgender. Then, they found the trans woman as her throat slit in the room after they checked upon hearing noises.</p> <p>The suspected murderer of the trans woman was arrested in Bursa. According to media reports, the accused killer A.K. fled to Bursa where he tried to hijack the cars of two different women. After the tip of the women, law</p> |

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|  | <p>enforcement forces arrested A.K. in Bursa.</p> <p>Sengül Kılınç, the assistant of the "Advancing Human Rights of LGBTI Refugees in Turkey" program of Kaos GL Association, who has been working on refugees since 2007, said LGBTI+ refugees were the direct targets of all forms of violence. Noting that non-governmental organizations working with refugees should produce policies and solutions for LGBTI refugees, Kılınç said, "Institutions working in the field must underline the fact that the refugee identity is not a homogenous identity that could be described by the image of 'heterosexual, cisgender and children'; and they must emphasize the existence of LGBTI+ refugees and their special needs of protection in the country of refuge, again and again".</p> <p>Koray Arkadaş, the social work specialist of the program, underlined that the murder was the result of impunity, injustice and negligence. "When the victim is an LGBTI+ and a refugee, the culture of impunity becomes layered and strengthens existing transphobia. Turkish and refugee LGBTI+s living in this country, especially the trans women, receive death threats almost daily. LGBTI+ lives will continue to be taken away unless concrete steps are taken," he said.<sup>146</sup></p> |
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| Title and Subject of the Case | Hate attack against a refugee trans woman in Yalova |
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<sup>146</sup> <https://kaosgl.org/sayfa.php?id=25274>

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| <p>Case Summary</p> | <p>In Yalova, a refugee trans woman, Ayda, was attacked by a large group of men in her neighborhood. On May 30, 2018, a large group attacked Ayda and her lover in the middle of the street. After the attack, Ayda was taken to hospital.</p> <p>After the incident, social media accounts were created to stand in solidarity with her and campaigns were launched on the issue. According to the posts shared in “My Name is Ayda” account in Twitter, what happened is as follows:</p> <p>“In Turkey where she fled to due to the transphobia in her own country, she was subjected to transphobic violence.”</p> <p>“This is not the first attack against LGBTI refugees in Yalova. The prior incidents were all ignored.”</p> <p>Ramtin Zigorat, an LGBTI+ and refugee rights activist from Yalova, accompanied Ayda at the police station and in the hospital. Zigorat told KaosGL.org what happened in Yalova:</p> <p>“Ayda and her lover were attacked on their way home. Seven or eight people gathered in the neighborhood. They were clapping and yelling, "Bastards." Then, one person run at them with a knife. Ten people beat them when they were yelling, "I'm calling the police." She was beaten with rocks, fists and slaps. Every passing moment, the crowd got bigger and bigger. When they saw two cops passing by, they yelled at the police. The police took Ayda and her lover out of there and took them into a store. Then, gendarmerie arrived.”</p> <p>“We accompanied Ayda through the hospital and police station. They did not hand over the official reports of the incident to us. We went back to the police today. They said some of the attackers were captured.</p> <p>“This was the fourth attack in the last two weeks. One person had attacked Ayda before. We filed a criminal complaint against them. A gay friend of ours was attacked by a man who said 'I'm going to kill you' while they were on the way back from the store at night. The next day, the same person said 'Did not I tell you that I would kill you in Yalova' while attacking. Our friend barely saved his life by entering a cafe. We filed a criminal complaint against</p> |
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them.”

N., one of the founders of the solidarity page on the social media from Yalova, told about the incident and their call of solidarity to KaosGL.org:

“Ayda and her lover were attacked by a large group of men as they tried to enter their house. It was not the first time, but this time too many people attacked them. The police and then the gendarmerie arrived to the scene and moved Ayda and her lover away from the scene of the attack.”

“It is clearly a case of lynch. Ayda's lover recorded the incident with their phone because police told them 'There is no evidence' when they tried to file their complaint on the prior attacks.”

“When Ayda asked for the official report, it had not been handed to her. Ayda was kept in hospital for three days in İstanbul. The scars of the attack are still on her body. And beside all, she is afraid for her life because the attack took place in front of their home.”

A social media protest call was made with the #MyNameisAyda hashtag from the campaign page on June 3, 2018.<sup>147</sup>

Ayda and LGBTI+ refugees told their experiences through the “My Name Is Ayda” page which was created for solidarity;

“My migration to Turkey took place after my painful experiences in the land where I was born and raised. I was cremated by my parents because I was transgender. I fled from Iran to Turkey, believing that Turkey valued human rights. I applied to the United Nations. I started hormone therapy, and I had the freedom to make changes on my appearance. Now I can dress like a woman, and I do not have to hide my looks. Unfortunately, I started to face similar problems here with the country where I grew up. I realized there are similar problems here.”

"I couldn't find a job and I was subjected to violence. In the workplaces that I applied for work, I was getting the job, but in return they were making ugly, sexual demands. How could I be seen as a sexual object, not a human being and

an individual like them? After these problems, I asked the United Nations to get help about my financial situation, and I received financial support that somewhat helped my situation.”

“It has been two years since I came to Turkey and I have been subjected to violence seven times in two years. Much later, I found out that I had the rights such as to complain and get a medical report from a hospital.”

“Now I will tell you about a worse incident that happened to me on May 30, 2018.”

“I received a message from MÜDEM association where there was a meeting. After my attendance, I left the meeting with my friend around 6:00 p.m. We saw eight or ten people on the street that I entered with my friend to go to my house, four blocks from the association.”

"As we continued to walk, we heard these people applauding and shouting, 'Bastard transvestite'. When we saw one of them pull a knife out of his pocket, we kept moving fast, but in the meantime this mob started attacking us with stones. I started yelling at my friend next to me, "Call the police," and my friend was in the melee so couldn't call the police, but started videotaping the incident. The number of the individuals in the mob were eight or ten and reached to seventy to one hundred people within minutes. I have seen a few middle-aged people try to stop the knife attack. I owe them a debt of gratitude.”

“Everyone was trying to lynch us by attacking me and my friend with rage. My friend Muhammed and I were getting beaten up in separate places. At that moment, a police officer took me and my friend Mohammed from the crowd into a shop. The crowd started attacking the shop this time. Then a gendarmerie vehicle came to our location, and the soldiers tunneled with their hands and put us in the vehicle. When I got in the car, I saw the crowd putting their hands around their throats and making a "kill the transvestite" sign to the soldiers. When we were taken from the scene, we were transferred to Yalova State Hospital after the gendarmerie made a report of the incident, where we received a medical report of the attack. From there, we were taken to Yalova Provincial Police Department, accompanied by gendarmes. The gendarme handed over

its own report to the police station. Then we were told by the police to testify about how it happened. Despite our statements and hospital reports, we were not given a copy of any report. It was just the last incident that I had.”

“I just want to legally pursue my rights with the support of my friends and my close ones in a way that doesn’t harm them.”

“I sincerely thank everybody who supported me through this bitter incident. Stay with love...”<sup>148</sup>

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| Title and Subject of the Case | Arbitrary detainment of two trans women and a gay man   |
| Case Summary                  | <p>Two trans women and a gay man from Azerbaijan were held at İstanbul's Kartaltepe Police Station for six days from July 17, 2018. These three persons detained as witnesses at the police station were subjected to ill-treatment and homophobic, transphobic insults.</p> <p>Att. Ferdi Yamar from Libertarian Lawyers Platform went to the police station upon Solidarity With Women Foundation (KADAV) became aware of the incident. According to Att. Yamar, Azerbaijani trans woman R. who came to Turkey in order to be treated in medical institutions, her trans woman friend O. and another Azerbaijani gay person who came to accompany them kept under surveillance at Kartaltepe Police Station for four days.</p> <p>Four days ago, police arrived at the house "on a tip", detaining four people in the house. The Turkish citizen friend of Azerbaijani trans woman R., also the one who vouched for the house where R. lived was released after the testimony; while three Azerbaijani citizens in the house were held at Kartaltepe Police Station. Three Azerbaijani citizens detained for allegedly working as sex workers in the house were also taken into custody as "witnesses" and not as "suspects".</p> <p>Att. Yamar told about the incident to Kaos GL.org:</p> <p>"They were detained for being alleged as sex workers because there are trans women among the people in the house. There is a serious transphobic and homophobic prejudice. If the detained individuals were citizens of the Republic of Turkey, they would be released after their statements were taken. Being a sex worker is not a crime under the laws of the Republic of Turkey. The Turkish Penal Code states that 'the person who encourages prostitution, facilitates the way for it, or mediates or provides space for prostitution' would be punished, and then refers to the sex worker as 'the person who is dragged into prostitution can be subjected to treatment or psychological therapy' so there is no indication of a punishment against the sex worker. Although there is a claim of 'prostitution', there is no concrete evidence that 'prostitution took place', and the prerequisites of the</p> |

punishment defined in the law are not found.”

“There was no evidence, and they were kept in detainment just because they hang out and had dinner in that house. In fact, there was no detention because these three people were not 'suspects'. They were kept there as 'witnesses'. These persons should not be taken into custody. However, they were in custody for four days unlawfully and without justification. There was no deportation order yet too. A letter from the Directorate of Immigration Administration was expected. Even if a deportation decision was taken, they should be kept in the Immigration Administration, not the police station. In this case, it would be unlawful to deport them. All these three individuals were not 'suspects' of the alleged incident, but witnesses.”

R., who was kept in the Kartaltepe Police Station, told about her experiences to her lawyer and friends:

“We are held in Bakirköy Kartaltepe. We are here unlawfully. They brought us for our testimonies, but we are held here by force. They slandered us. They held the door of our home. They do not even serve food in the heat. I am a sick person with surgery wounds all over. We do not know how long we are going to be here. We do not even have a case. I am asking you to get us out of here. They are swearing at us. We are staying in the basement.”

O., the other trans woman kept in the police station told the following:

“I came to Turkey. I am in İstanbul. I liked İstanbul, but I am detained here. I expect support from everybody. They are insulting us.”

Att. Yamar also said that gay man and trans women in detention were subjected to ill-treatment and homophobic and transphobic hate speech. "One day, the cops are nice to them, another day there are other police officers who say 'You're faggots', kicking the bars. R. needs to go to toilet more because of her condition, but cops kick the door while she is in the bathroom. There were days when no food was given. R., on the other hand, recently underwent surgery. She has stitches in her abdomen and these stitches may be ripped up in the slightest physical intervention."

Att. Yamar told that they wrote to the Directorate of Immigration Administration, and were waiting for a reply and said, "We are working to end the ill-treatment and prevent deportation as there is no justification".

In September 2017, police in Azerbaijan launched a detention operation against people they "suspect to be gay or transgender". Numerous people were tortured in the operation and had to leave the country.

According to a friend of R., who requested to remain anonymous, last year while living in Istanbul, R. was detained in Baku while visiting her family in Azerbaijan. Her friend O., the trans woman who was detained in Istanbul with R., was one of the people detained and tortured in Azerbaijan. They fear being detained and tortured again in Azerbaijan if they are to be deported.<sup>149</sup>

After KaosGL.org's news on the subject and social media campaign with the hashtag of #KartaltepeyeSesVer (Speak up for Kartaltepe), a case was created for detained LGBTI+s. According to Att. Ferdi Yamar, the case stated that three detained people were "identified as sex workers". After meeting their clients, Yamar told the following to KaosGL.org:

"Although there is not a slightest evidence, it says 'detected sex worker' for all of them. We were put waiting a long time by them to write to the Directorate of Immigration Administration. Today we are waiting for the documents to be forwarded to the Directorate of Immigration Administration. My clients are concerned about their arrest and their lives if they are deported and sent back to Azerbaijan."<sup>150</sup>

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<sup>149</sup> <https://kaosgl.org/sayfa.php?id=26310>

<sup>150</sup> <https://kaosgl.org/sayfa.php?id=26323>

## XX. RIGHT TO POLITICAL PARTICIPATION

Right to political participation is regulated in the 67th article of the Constitution of Turkey, titled "Right to vote, to be elected and to engage in political activity" as, **"In conformity with the conditions set forth in the law, citizens have the right to vote, to be elected, to engage in political activities independently or in a political party, and to take part in a referendum"**. The prerequisites to use this right are regulated in the 67th formal article and the 68th-69th supplementary articles.

Right to political participation is defined in the 25th article of the International Covenant on Civil and Political Rights.

Due to negative prejudices against LGBTI+ identities, there are few people who entered the political scene with their open sexual identities. It is observed that officials of other political parties target them.<sup>151</sup>

LGBTI+ activist Sedef Çakmak is the first and only politician in Turkey to take office with an open identity and has been a member of the Republican People's Party (CHP) Istanbul Beşiktaş City Council since 2015.<sup>152</sup>

According to the Assessment Report of Programs and Constitutions of Political Parties from a Feminist Perspective, which Women Coalition published on January 2019;

- Only party that regulated violence against LGBTI+s in the disciplinary mechanisms is the People's Democratic Party (HDP),

- And only party that regulated the SOGI based discrimination, hate and violence in its program and constitution is again, People's Democratic Party.

No other political party has included a regulation that specifically addresses LGBTI+s in their programs and constitutions.

## XXI. RIGHT TO BENEFIT FROM SCIENTIFIC PROGRESS

Right to benefit from scientific progress is defined in the 27th article of the Universal Declaration of Human Rights. There is no legislation in the legal system of Turkey regarding the mentioned rights category.

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<sup>151</sup> <https://bianet.org/bianet/siyaset/164866-erdogan-biz-escinsel-aday-gostermeyiz>

<sup>152</sup> <https://www.kaosgl.org/haber/lgbti-aktivisti-cakmak-besiktas-belediye-meclis-uyesi-oldu>

It is observed that the regulations and practices related to LGBTI+ people in Turkey, especially in the field of mental health, do not follow the scientific progress in the world. For example, the World Health Organization,<sup>153</sup> which removed homosexuality from the disease list on May 17, 1990, updated the list of diseases in 2018, and excluded transsexualism from the disease classification.<sup>154</sup> However, scientific advances on LGBTI+ people are not reflected in public policies. This lack of public policies to inform LGBTI+s and institutions creates a situation that makes LGBTI+s to perceive their identities as “disease” or makes them contact with institutions that still classify these identities as diseases, thus prevents LGBTI+s right to benefit from the scientific advances.

## XXII. RIGHT TO INFORMATION

Right to information is regulated in the 74th article of the Constitution of Turkey, titled “Right of petition, right to information and appeal to the Ombudsperson” as, “ **Citizens and foreigners resident in Turkey, with the condition of observing the principle of reciprocity, have the right to apply in writing to the competent authorities and to the Grand National Assembly of Turkey with regard to the requests and complaints concerning themselves or the public.**”.

Right to information is regulated in the 19th article of the International Covenant on Civil and Political Rights.

The Right to Information Act No: 4982 regulates how the right to information will be used.

Some of the applications made by Kaos GL during the state of emergency period to institutions within the scope of the right to information in 2018 were not responded. Two applications that were found outside of the scope of state of emergency laws and responded are addressed below.

### **VIOLATIONS IN 2018:**

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| Title and Subject of the Case | Application about the LGBTI+ soldiers to obtain information from the Ministry of National Defense |
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<sup>153</sup> <http://kaosgl.org/sayfa.php?id=24502>

<sup>154</sup> <http://kaosgl.org/sayfa.php?id=24502>

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| <p>Case Summary</p> | <p>Kaos GL Association made an application to the Ministry for National Defense to obtain information on 04.04.2018</p> <p>-Some of the individuals who have reached the military age are exempt from military service due to their sexual orientation. The reason for this exemption, popularly referred to as the "disability report" or "pink report", is due to "sexual disorder", "psychosexual gender disorder" or sometimes " Psychosexual disorder" reports. These are given due to sexual orientations (being gay) of the individuals. These reports, which were previously given by military hospitals, are now being written by physicians of the hospitals affiliated with the Ministry of Health after the transfer of military hospitals to the Ministry of Health. The process is to receive a report from the hospital upon referral of the family physician.</p> <p>While these determinations are being made through the List of Diseases and Defections in the appendix of the Turkish Armed Forces Health Capability Regulation at the time of the existence of military hospitals, we do not know which regulations are being used to organize these reports since they are started to be given by the physicians of Ministry of Health.</p> <p>From many applications made to the Kaos GL Association, we see that there is no single standard for this process. In other words, there is no standard practice of who shall receive a report and who will not. As a result of the individual autonomous decisions of physicians, we receive reports that eligible individuals not getting the report, or that a family member is invited to an interview, that photos or video footage taken during same-sex intercourse are requested.</p> <p>In the light of these information, following data is requested:</p> <ol style="list-style-type: none"><li>1- If there is a statute, circular or regulation for psychiatric departments of hospitals or psychiatric physicians which are supposed to issue the mentioned reports,</li><li>2-To inform us on the criteria on which the current reports are given and, if any, the statutes, regulations, directives or specifications,</li><li>3-The number of transvestite or transgender persons who</li></ol> |
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|                                   | <p>were reported in 2017 that they were not eligible for military service,</p> <p>4-The number of gay people who were reported in 2017 that they were not eligible for military service.</p>  |
| <p>Outcome of the Application</p> | <p>The Ministry of National Defense replied the application as;</p> <ol style="list-style-type: none"> <li>1.The candidates must have the conditions specified in the health capability regulation of the Turkish Armed Forces, Gendarmerie General Command and Coast Guard Command and must receive the medical report that states "eligible to be private/private officer" from the hospitals that they are transferred to.</li> <li>2. Turkish Armed Forces, Gendarmerie General Command and Coast Guard Command Health Capability Regulation are being updated periodically according to their class and branches on the basis of the requirements of military service by commissions consisting of relevant military force branch representatives, including the Ministry of Health, the Ministry of Interior and doctors who are experts in their fields.</li> <li>3. The health criteria sought for compulsory military service and the health criteria of outsourced officers, non-commissioned officers, specialist privates/privates, student candidates or civil servants are not the same. For the subject you mentioned in the health capability regulation;</li> </ol> <p>ANNEX-C</p> <p>LIST OF DISEASES</p> <p>III. MENTAL HEALTH AND ILLNESSES</p> <p>ARTICLE 17</p> <ol style="list-style-type: none"> <li>A) 1. Adaptation disorders.</li> <li>2. Drug abuse disorders.</li> <li>3. Personality patterns.</li> </ol> <p>EXPLANATION: Personality patterns that does not include the qualities described in the sub-article (2) of section (B) of</p> |

this article, sub-articles (4), (5) and (6) of section (D) and sub-article (2) of section (D) of the 15th article are assessed in this scope.

B) 1. Adaptation disorders

EXPLANATION: Features that are assessed with the military functionality reports that shows the efforts to provide motivation and adaptation are failed.

2. Personality disorders

EXPLANATION: Pathological features in the personality pattern were found to meet the diagnostic criteria of a specific personality disorder, and considering past behavioral pathologies, assessed as impairs functionality to be not sufficient for military service and duties.

C) Treatment, monitoring and recuperation processes of the illnesses listed in the (A), (B) and (D) sections of this article.

D) 1. Recurrent adaptation disorder.

EXPLANATION: Features that assessed as impairs the ability of adaptation that military duty demands, presence in the Turkish Armed Forces, Gendarmerie General Command or Coast Guard Command posed or would pose a significant psychiatric risk, that assessed together with the mental treatment reports of the adaptation disorder and/or psychometric assessment reports and/or contingent functionality documents.

2. Drug abuse disorders.

3. Mental retardation and mental inadequacies.

EXPLANATION: (Annex: 22/09/2017 - 2017/10844 D.) Patients with proven cases with IQ and other intelligence tests and/or the ones with guardianship certificates.

4. Sexual identity and behavioral disorders.

EXPLANATION: Sexual attitudes and behaviors that creates or could create problems of harmony and functionality in the military environment.

5. Personality disorders that is seen with heavy behavioral

pathologies.

EXPLANATION: At least one prison sentence for intentional murder, attempted intentional murder or qualified looting or at least three prison sentences for other antisocial acts, and cases that assessed as military service capacity and functionality level will not be sufficient.

6. Personality and behavioral disorder that cannot be rephrased under other names.

EXPLANATION: Pathological elements in personality patterns, impulse control problem, behavioral problems, inadequate social skills and bad habits, which carry pathological elements in many areas, cases of these features on the condition of meeting the military service inability criteria reinforced by observations and/or documents during the follow-up process.

B. Implementing the Disease List on the Reserve Officer Candidate-Candidates, Reserve Officer Candidates, Reserve Officers, Privates and Private Officers

All diseases are covered by this regulation in terms of adaptation to the duties of Turkish Armed Forces, Gendarmerie General Command or Coastal Security Command. Accordingly, the List of Diseases;

1. Section (A) includes the illnesses that are suitable for military service,

2. Sections (B) and (D) contains illnesses that are not suitable for military service [section (B) contains the ones that are not suitable for military in times of peace but can be recruited in time of need, section (D) contains illnesses that renders individuals unsuitable for military service whether in peace or war.]

3. Section (C) contains the temporary features that renders individuals unsuitable for military service during the treatment and recuperation process of the illnesses listed in sections (A), (B) and (D).

Statistical data is kept by the Ministry of Health, not Ministry of National Defense.

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| Title and Subject of the Application | Application to the governorate regarding the ban on LGBTI+ activities in Ankara   |
| Case Summary                         | <p>Kaos GL Association, with the application to receive information that has been made to the Governorate of Ankara on 03.10.2018,</p> <p>- LGBTI+ related activities were banned due to the state of emergency by the decision of the Governorate, titled "LGBTI and LGBTI activities", No: 58604142.39264.(12254).-45771-2017, date 17.11.2017. Considering the state of emergency ended on July 19, 2018 and Kaos GL asked for information on whether the decision of the Governorate is still in effect in order to clarify the situation and to dissipate any hesitations.</p> |
| Outcome of the Application           | The Governorate of Ankara replied as "Mentioned LGBTI and LGBTI activities are banned by the decision No: 56486 on 03/10/2018 of the Governorate of Ankara and a copy of this decision were sent to the related association through mail".  |

## XXIII. COMPULSORY MILITARY SERVICE

Unlike some countries, Turkey has the practice of compulsory military service and does not recognize the right of conscientious objection. As discussed in the working life section of the report, even though military service is mandatory in Turkey, LGBTI+ identities are on the list of illnesses in military regulations and GBTI+s are not able to serve in the military as military personnel. Since they are exempt from military service, we found it suitable to evaluate military service under a separate heading in order to draw attention to the practices related to GBTI+s in the military.

Because, if the violations experienced by GBTI+s in the field of military service were limited to military personnel, it would be possible to treat them as violations in the workplace. However, the discriminatory practices experienced by GBTI+s, who are required to receive a medical report as "not eligible to military service" in order to be exempted from compulsory military service due to SOGI, appear to be a completely different type of violation of rights. After all, military service is one of the areas where GBTI+s rights are most violated.

Compulsory military service is regulated by the 1st article of the Military Law No: 1111 as **“Every man who is a citizen of the Republic of Turkey is obliged to do military service”**.

As stated in the freedom of work section, it is observed that various sanctions, including expulsion from the military on the grounds of unspecified, open-ended criteria such as “immoral conduct”, are regulated in the special laws regarding military personnel and compulsory military service. For detailed information about the legal regulations that may be or are evidently interpreted against LGBTI+s related to military, we refer to Turkey Sexual Orientation and Gender Identity Based Human Rights Watch Report.<sup>155</sup>

As stated in the right to health section, LGBTI+ identities are regarded as disease in the 17th article of the List of Diseases and Defects of the Turkish Armed Forces Health Capability Regulation: **“Sexual identity and behavioral disorders - Phenomena that are assessed as able to create problems on harmony and functionality within military environment”**. GBTI+ military personnel can be exposed to sanctions up to be expelled from the military.

Regarding the discriminatory practices and experiences that GBTI+s are exposed to during the process of getting the medical report for being “not eligible for military service” to be exempted from the military service, we refer to the “Military” article series that published on the website of Kaos GL Association.<sup>156</sup>

We addressed the Constitutional Court’s rejection of the application for abolishment of the regulation that enables the discharge of GBTI+ personnel from the military in 2017, in the Right of Work section of this report.<sup>157</sup> With the mentioned decision of the Constitutional Court, not only the right of work, but also the right to private life of the military personnel is violated.

Regarding the process of GBTI+’s getting “not eligible for military service” report in order to be exempted from the military service, three cases from 2018 are addressed in the report. Through the examined cases, the impact of the previous LGBTI+s human rights reports on the field of military and on the attitudes of military and hospital personnel may

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<sup>155</sup>[https://insanhaklarimerkezi.bilgi.edu.tr/media/uploads/2015/02/24/Cinsel\\_Yonelim\\_veya\\_Cinsiyet\\_Kimli\\_gi\\_Izleme\\_Raporu.pdf](https://insanhaklarimerkezi.bilgi.edu.tr/media/uploads/2015/02/24/Cinsel_Yonelim_veya_Cinsiyet_Kimli_gi_Izleme_Raporu.pdf)

<sup>156</sup><http://kaosgl.org/sayfa.php?id=26378>-<http://kaosgl.org/sayfa.php?id=25867>-<http://kaosgl.org/sayfa.php?id=25399>-<http://kaosgl.org/sayfa.php?id=25416>-<http://kaosgl.org/sayfa.php?id=25817>-<http://kaosgl.org/sayfa.php?id=25878>-<http://kaosgl.org/sayfa.php?id=26123>

<sup>157</sup> <http://kaosgl.org/sayfa.php?id=25139>

be seen. Besides, amongst the applications that were made to Kaos GL Association in 2018;

- 34 applicants asked for information on the process of getting the “not eligible for military service” report.

**VIOLATIONS IN 2018:**

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| Case         | Mersin - Not eligible for military service report - March 23, 2018  |
| Case Summary | <p>Berk from Mersin, who obtained a “not eligible for military service” report, told their experience to KaosGL.org:</p> <p>“I went to Tarsus Military Induction Office in February. After filling out the 'Conscription' forms, I said, 'I am requesting to be transferred to the psychiatrist' The officer asked me to check with the family doctor, and get a transfer document.”</p> <p>“I got the transfer documents from the family doctor and went back to the office. The officer gave me some documents in a yellow envelope to take to the hospital. After I gave the envelope to the chief doctor at the hospital, I went to psychiatry and eye clinics. I told the psychiatrist about the situation. The doctor said 'homosexuality is not a disease, so you don't have a problem that prevents you from doing military service'. He referred me to a psychologist, and the psychologist made the same statement. We had a little argument there. I mentioned the related article in the regulation, but since the Ministry of Defense and the Ministry of Health have not issued a joint regulation on this issue, it is entirely up to the doctors.”</p> <p>“The next day, I went back to the psychiatrist to change their mind before the committee. They said someone else came after me and they wouldn't give him an exemption too.”</p> <p>Berk told that they contacted Mersin 7 Colors LGBTI Solidarity Association and its lawyers. After the meeting with the association, they decided to change the hospital:</p> <p>“I went back to the hospital the next day to be transferred</p> |

to a university hospital. However, there was no psychiatrist to interview me, but there was another doctor. The doctor was a member of the committee, and I told them about my situation. They said it was not a disease, but because of the inadaptability and discrimination that I was going to experience there, they were going to give me this document. I went to the committee that day.”

“In the committee meeting, the ophthalmologist said that I could get a report on the discomfort in my eye, and I had to go back and forth to Adana. I wasted three weeks in Adana. They diagnosed me with cataracts and sent me back to Tarsus.”

“In Tarsus, I met a new doctor again. They asked me 'How do I know you're gay', and I said, 'The same way how I can know you're heterosexual'.”

“I went back on the committee, and the committee said on Monday that I could get my document of pre-notification. When I went to get a report on Monday, they said the decision was the same, but I had to see the doctor. I spoke to the doctor on Wednesday. For the person they gave a report before me, the Ministry of Defense refused to accept the report because there was no concrete document. The doctor said he could not ask me for an image and anal exam, so instead, they asked me to answer their questions.”

“The questions were, 'When did you start to feel, when did you have your first anal sex, when did you have your first group sex, does your family know, does your friends know, do you have a partner'. They asked these questions and wrote down my physical characteristics on paper; 'feminine tone, feminine gestures and attitudes, unisex dressed', and asked me to walk. They wrote down that, too. Then I took that papers to the chairman of the health board.”

“They made an explanation before I asked. They said 'A young man, named F., came too. We filed a report for him, but the Ministry of Defense said there were missing documents and sent the files back. He tried to get the report again. We wanted to make an extensive report for you. Don't get us wrong'.”

“And then they said, "You seem so sincere, why are you

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|  | <p>so cramped around us? We do not see you as a faulty person. It can be. That is how I could have been born'.</p> <p>"I finally got the pre-notification document to the military induction office. I handled the procedures there as well. I did not see any negative reaction or action at the office. Now I'm waiting for the Ministry of Defense to sent the report to my home by mail."<sup>158</sup></p> |
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| Case         | İstanbul Kadıköy- Not eligible for military service report- March 26, 2018  |
| Case Summary | <p>The person who received the report shared their experiences as follows:</p> <p>"I went to Kadıköy Military Induction Office to get the report of not being eligible for military service. We told all the officers (including the branch manager) that we wanted to get the ineligible report because we were gay. I have to note, everyone was extremely helpful and friendly."</p> <p>"As a matter of procedure, we had to be transferred to family doctor first. We explained the situation to the physician there, and they explained the process in a very nice way. They transferred us to the psychiatric ward on the documents that they gave to us. We took that paper back to the military office."</p> <p>"This time they wrote us a medical transfer document. They directed us to the psychiatric department of Göztepe Education and Research Hospital based on the district that we lived in."</p> <p>"In the first day of meeting, I was asked general questions such as when did I first noticed my being gay."</p> <p>"After this interview, the doctor transferred us to the psychology department and were were asked to do the mmpi (minnesota multiphasic personality inventory) test. The psychologist who gave the test said the test results would be ready in two or three days, so we should come back. Four days later, we went back in the morning to the</p> |

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|  | <p>hospital, and we were taken straight back to a psychiatrist interview. This time there was a different doctor, but the notes and test results from our previous interview were on the doctor's computer. They did not go into too much detail, we talked for about five or ten minutes about general LGBTI issues. They diagnosed us with "sexual orientation disorder." They wrote on the paper that it was appropriate to postpone our military service for a year. Even though we tried to convince the doctor (They tried to help, but could not make it unfortunately) they said the exemption decision could not be made at the first time. They said Turkish Armed Forces sent letters to all public hospitals, stating the report for exemption must not be given in the first application based on homosexuality. Instead one year postponement should be given."</p> <p>"We were told that our results report would be sent to the hospital board, and the board was just a gathering of doctors from many branches at the hospital. There was no decision made there, they just confirmed the diagnosis the psychiatrist gave you and returned the document to you. We took this document to the military office and got one-year postponement. They said we should be back by February 2019 and that we would be transferred back to the hospital, but this time, they said, it was going to result in only one psychiatric interview instead of this long process."<sup>159</sup></p> |
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| Case         | İstanbul Üsküdar - Not eligible for military service report - May 16, 2018   |
| Case Summary | <p>The person who received the report shared their experiences as follows:</p> <p>"I went to the military induction office to get my military service to be postponed. I was thinking about using my two-year postponement after graduation and to worry about it after two years. Because of my high level eye disorder, my approval from the Community Health Center was not enough and they transferred me to the hospital. 'Since I have to go to the hospital' I said to myself, 'I can deal with the pink report while I am at it'. Half an hour after</p> |

<sup>159</sup> <http://kaosgl.org/sayfa.php?id=25416>

I received my exemption from military service document, I set out to write this article.”

“When I went to the Community Health Center, they told me I should be transferred to the hospital for my eye disorder, and they wrote, "Suitable to be transferred to the Eye Clinic". I also stated that I wanted to be referred to the Psychiatric Clinic here, and without asking any questions, they wrote a paper for my transfer to the Psychiatric Clinic.”

“The paper from the military office had the names of two hospitals, if it was deemed necessary to be referred to the hospital. That week, Üsküdar State Hospital was doing the military-related procedures. I went straight to see a psychiatrist and stated that I was gay, unfit for military service. The psychiatrist referred me to a psychologist without asking further questions. They gave me the MMPI test.”

“You have to be a little careful about this part. Since I'm not a person who fits the gay stereotypes in the eyes of society in everyday life, I tried to give them the answers they wanted hear. I guess I overdid it, so I did not meet the consistency criteria of the test, and my test score was invalid. In such case, you are not allowed to do the test again. The psychologist did a different test called the SCL-90R, saying they could not comment on my test score.”

“The psychologist gave me the results of these two tests by adding them into a report. Then, I went to the psychiatrist with it. After looking at the results, they stated that there was a possibility that we would not get a positive result with these results, and if I did a Rorschach Test, my process would be a lot easier. Unfortunately, this test is not performed in public hospitals and you have to do it in a private hospital. I had this test done at a private hospital, and the next day, my test was sent to a psychiatrist. After the test was delivered, I met with the psychiatrist and they told me to come back on the meeting days of the board.”

“I went back to the psychiatrist the day of the board meeting and they asked me a few simple, non-sexual questions such as what was my education level, did I have tattoos on my body). Then they gave a report stating that I was ineligible for military service because of these

information and "sexual identity was inclined in a feminine way". They said I had to register to the board with this report. After the board registration, the doctor that examined you last time signs the paper that was given to you and you proceed to the board meeting. The process is actually over here. It took me about ten seconds to get into the committee and get out. I just said my name. The officer next to the chief said I would get an ineligible certificate for military service, and the chief physician signed it. A few hours later, I picked up the report from the hospital and took it to the military office, where I signed a few signatures, and the process was complete."

"I have never encountered any bad behavior or attitude the whole time. Both the military office and the hospital employees were very helpful and well intentioned. No documents, acquaintances/family meetings, etc. were requested except for my test. No question was asked about my sexual identity, even at a level that was not disturbing. The most specific question i asked was when I realized I was homosexual."

"There was no such decision as a one-year postponement. A certificate was given that I had no direct military obligation, and the whole process was completed. This exemption document only says, 'Not eligible for military service.' There is no statement such as 'sexual identity disorder'."<sup>160</sup>

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<sup>160</sup> <https://kaosgl.org/sayfa.php?id=25817>

# CONCLUSION

As addressed in the previous years' LGBTI+ human rights watch reports, rights violations against LGBTI+s are still drastic due to the lack of protective regulations within the legal system of Turkey and lack of public policies in this field. The need for special legal regulations and policies, awareness-raising training activities for the relevant public personnel and awareness-raising activities to ensure social transformation remain crucial for the prevention of discrimination based on SOGIESC. Only legislation that refers the rights of LGBTI+s in Turkey is the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (İstanbul Convention / Law no: 6251), which entered into force on 01.08.2014. Despite the entry into force of the Convention, there has not been any regulations within the domestic law made parallel with the Convention.

On the contrary, LGBTI+ Pride Marches and LGBTI+ events, which are essential to increase the social acceptance towards LGBTI+s, to break prejudices against LGBTI+s and to prevent the rights violations against the LGBTI+s, are being prohibited by conservative policies. Hate speech against LGBTI+s is almost normalized and not being prevented. SOGI-based crimes against LGBTI+s are not being punished; religious programs on television channels inculcate that LGBTI+ identities are abnormal.

On the other hand, in parallel with the globally rising LGBTI+ struggle, and the rights gained, there is an uptick in the process of self-constitution of LGBTI+s. Despite all the rights violations, along with advancing technology, communication, consciousness and awareness, it is a fact that LGBTI+s have made their existence to be irreversibly accepted within society. Wishing for a world where everyone passes under the rainbow one day...