



ILGA-Europe's Review of the Human Rights Situation of LGBTI people in Turkey

Contribution to the 2015 EC Progress Report

In cooperation with KAOS GL and based on ILGA-Europe's 2015 Annual review

Reporting period: October 2014-May 2015

A summary of key developments and trends

Violence kept affecting LGBTI people's lives, and in particular those of trans women who were harassed by the police, attacked with impunity by citizens, committed suicide, or were murdered. The situation of LGBTI refugees coming from neighbouring countries is also a matter of great concern. The government's Democracy Reform Package failed to tackle homophobic or transphobic crime and further restricted freedom of assembly. Freedom of expression, access to employment, and access to goods and services remained under strain, while no law or policy includes LGBTI in its frame. While the governing party continues to ignore the human rights of LGBTI people and there is no dialogue between government and LGBTI organisations, there is growing support for LGBTI rights from opposition parties. Positively also, a few municipalities started LGBTI-friendly work and have shown public support for LGBTI rights.

Bias motivated speech

- In May 2014, The Constitutional Court acknowledged for the first time that referring to LGBTI people as "perverts" constituted hate speech. The court was examining a case against website *Habervaktim.com*, which had referred to Sinem Hun as a lawyer of "the association of the perverts called Kaos GL". However, the court didn't rule against the website. Ms Hun appealed before the European Court of Human Rights.
- In November 2014, two MPs from the Turkish parliament, including an AKP MP, attended the EU conference in Tirana on fundamental rights with a focus on LGBTI issues. *Milli Gazete*, an Islamist newspaper aggressively criticized the event and the fact that Turkish MPs attended it. It claimed to have received a response from *the Directorate of Religious Affairs of the State* to their inquiry stating that "homosexuality is a perversion' and those MPs who have attended the event should be named and shamed. The Directorate refused to respond to the civil society request for information regarding

this statement. An MP from the main opposition posed a parliamentary question on this matter to the Prime Minister Davutoğlu who is yet to respond to that question.

- In February 2015, another Islamist newspaper *Vahdet*, called for closing down of all LGBTI organisations. It has also targeted a high school LGBTI group calling them as 'perverts' as well as students in headscarves supporting LGBTI rights.
- During and after Lady Gaga's Istanbul concert in September, social media was filled with homophobic and transphobic speech coming also from publicly known figures.
- After their symbolic wedding, a gay couple lost their house, jobs and received death threats. Messages such as "If you had raped a five-year-old child, we would have been able to stomach it, but this we cannot!" appeared on social media. No actions were taken by the law enforcement institutions.

Bias motivated violence

- The parliament adopted the Democracy Reform Package in March 2014, including the Hate Crimes Bill, which failed to extend protection against hate crimes to the grounds of sexual orientation and gender identity. The package further limited the right to strike, to boycott, or to demonstrate.
- Trans women continued to be subjected to vicious attacks. In 2014, three trans women were killed (Sevda, by her partner in Gaziantep; Çingene Gül, by an unidentified murderer in Istanbul; and Çağla Joker, by two young clients she had met for sex work in Istanbul). Two others were stabbed and/or shot while meeting clients for sex work; one of them was denied legal aid by the Corum Bar Association, who claimed they "do not assign lawyers to transvestites". At least five other trans women were shot, stabbed, or beaten with a baseball bat. The murderer of B. Ü., a trans woman beaten to death in 2013, saw his prison sentence reduced from life to 18 years for 'unjust provocation', because his victim was trans.

In January 2015, a trans woman (B.E.) was killed in Istanbul by a man called Nejat Y who reportedly stayed in B.E.'s house for 3 days. The murderer was caught and arrested by police.

In March 2015, a trans sex worker was beaten, stabbed and left to die in Mersin. She was lucky to survive and was visited by a co-mayor of the Akdeniz Municipality in the hospital.

In April 2015, a young trans woman from Ankara almost lost her hand after a brutal knife attack by transphobic people. In the first week of May 2015, 4 trans women from 3 different provinces of Turkey have become victims of severe violence. Gulsen, a sex worker trans person was stabbed several times in her apartment by allegedly 2 of her clients. She is in critical condition. During the same weekend, 2 other trans women were shot by their clients and one was stabbed from her back.

- Gay men too often become targets of homophobic attacks. In March 2015, an LGBTI activist and a university student was attacked by a group of 4-5 people in Kars. The victim didn't report the incident to the police because of the past experience of unprofessionalism and harassment by the police. Also, in March 2015, a young gay man was attacked on a street in Bolu on his way to buy bread. The attackers said they were

'Bahçeli's soldiers' (Bahçeli is the leader of the far right-wing Nationalist Movement Party, MHP). When reporting the case to the police, he was mocked at and harassed. The police officer taking the statement asked mockingly 'why to become gay and bringing trouble to yourself?' adding 'do these kind of incidents only happen to you when you are out buying bread?'

Equality and non-discrimination

- There is widespread discrimination against LGBTI people in Turkey and yet no single piece of legislation includes sexual orientation and/or gender identity as protected grounds. The Ombudsperson and the National Human rights institution do not take any proactive actions to raise awareness on LGBTI discrimination and hate crimes. Neither of the two institutions is well known or trusted by LGBTI community and general public.
- In March 2015, the European Court of Human Rights (ECtHR) declared the requirement of permanent infertility in order to undergo gender reassignment surgery as incompatible with human rights in the case of Y. Y. v. Turkey. The applicant Y.Y. was refused a permission by the local court to undergo gender reassignment surgery on the bases that he was not yet permanently infertile before undergoing gender reassignment surgery leading to infertility. The Court, in unanimity, decided that by barring Y.Y. from access to gender reassignment surgery for several years, Turkey violated his right to respect for private life. It also stated that making infertility a mandatory requirement for such medical treatment is not necessary in a democratic society.
- The Council of State ruled that the firing of a gay teacher was against the law, stating that consensual homosexual relations in his private life were not a disciplinary matter. The decision struck down the administrative court's previous judgment in the case.
- Several municipalities started LGBTI-friendly work, notably in the field of health. In October 2014, Şişli Municipality provided free and anonymous health care services for the LGBTI people. In December 2014, Beşiktaş Municipality conducted LGBTI rights training for its senior level management and begun offering free health services to elderly and vulnerable trans people in January 2015.
- In January 2015, a trans woman was refused access to historical Galatasaray Bath in İstanbul by the owner who said 'we do not let in trannies like you'. She filed a complaint and the owner of the bath was fined 3000 TL for discriminating on the bases of her gender identity. This is the first case when Article 122 of the Turkish Penal Law is used to establish discrimination against a trans person.
- An Olympic gold medalist player for Fenerbahçe (one of the most popular sport clubs in Turkey) women's basketball team was threatened to be fired if she didn't deny her relationship with her girlfriend. She stated that she will take the case to the court.
- In January 2015, Turkey was reviewed under the Universal Periodic Review. 11 states have put forward recommendations to Turkey to ensure protection from discrimination on the bases of sexual orientation and gender identity. The deputy Prime Minister, Bülent Arınç responded by saying that there is no discriminatory legislation against LGBTI people in Turkey and that their rights are not ignored despite the lack of 'special reference to their rights'.

- A number of parliamentary questions were put forward by the opposition party on discrimination and violence against LGBTI people, requesting the government institutions to address those. The government institutions either didn't respond or responded in very general terms implying that protections from discrimination and violence are there for all.
- Turkey hosts an important number of LGBTI refugees, mostly coming from Iran, Iraq, Syria and Afghanistan. However, legislation and its implementation on refugees are not LGBTI-sensitive. Most of the LGBTI refugees are sent to conservative satellite cities where they are subjected to severe discrimination, sometimes violence.

Trans*

- During the reporting period, trans women were harassed by the police, attacked with impunity by citizens, committed suicide, or were murdered (see **Bias motivated violence**).
- In November, MP Mahmut Tanal from the Republican People's Party (CHP, social-democratic) submitted a bill to amend legal gender recognition requirements by removing the obligation to be single and sterilised.

Freedom of expression

- In October 2014, Turkey's Telecommunications Authority (TİB) blocked dating website *gay.com*, making it inaccessible nationwide. LGBTI community and dating service *PlanetRomeo.com* and the smart phone app *Grindr* have been banned earlier as a 'protective measure'. The ban on *Grindr* has been taken to the Constitutional Court by an individual application in March 2015.
- In January 2015, the Supreme Board of Radio and Television (RTÜK) issued a fine to a TV channel for broadcasting a film containing a lesbian relationship. A month later, RTÜK issued 13.600 TL fine to another TV channel for broadcasting the film 'The Normal Heart' –a film about the love relationship of two men. RTÜK's expert report considered this movie as 'damaging society's sense of shame and forcing the limits of public morality'.
- In March 2015, the management of İnönü University in the eastern city of Malatya refused permission for an LGBTI rights panel in a conference, expressing concerns about the reputation of the university if it allows a discussion on 'such issues'.

Participation in public, cultural and political life

- In April 2015, the People's Democratic Party, HDP (Kurdish minority/centre-left, previously called Peace and Democracy Party, BDP) nominated 3 LGBTI activists as

* *Trans* is an inclusive umbrella term referring to those people whose gender identity and/or a gender expression differs from the sex they were assigned at birth.

candidates for the upcoming parliamentary elections. At the same time, a trans activist was nominated as the newly founded Anatolia Party candidate.

- In March 2015, an openly lesbian LGBTI activist was elected as a member of Beşiktaş Municipality in Istanbul receiving the public support of the mayor. At the same time, an openly gay man was hired as mayoral adviser in Şişli Municipality.
- MPs from the main opposition party CHP and from HDP have shown increasing support for LGBTI human rights. In November 2014, MP Mahmut Tanal, CHP held a press conference in the Parliament for Trans Remembrance Day. A number of MPs have posed parliamentary questions to the government on the rights of LGBTI people and have proposed laws inclusive of sexual orientation and gender identity as protected grounds (i.e. Social cohesion and social inclusion, antidiscrimination in employment, etc).
- A few municipalities have shown public support for LGBTI rights. In November 2014, Beşiktaş municipality publicly commemorated Trans Remembrance Day by locating various billboards around the city. In March 2015, the co-mayor of Mardin Metropolitan Municipality publicly stated her opposition to discrimination of LGBT people. In February 2015, the Ataşehir Municipality in Istanbul pledged to give all needed support to LGBTI people. It also responded to a viral tweet on their official account about the license plate of the municipality police vehicle reading "GAY" with a popular pride slogan: 'So what if we are gay?'

Police and law enforcement

- LGBTI victims of violence and discrimination do not trust police and law enforcement authorities. According to the study by KAOS GL with the support of ILGA-Europe only 10% of the victims of homophobic and transphobic violence report their case to the police. Those who do report often face harassment and further discrimination at the hands of the police officers. There are documented cases when the police refused to take statements of the victims, mocked and insulted them, revealed their identity to their family and media and used physical violence. Trans sex workers are particularly vulnerable to becoming victims of police misconduct and violence. Police misconduct and violence remains unpunished. It is therefore important to ensure that the Law Enforcement Oversight Commission- envisaged by the current draft law- is truly independent.
- In November and December 2014, LGBTI NGOs reported several cases of house raids and arbitrary detentions of trans women by the police. NGOs link this increased incidents of raids and detentions to the government's new Legislative package on judicial procedure allowing for police raids on the bases of 'reasonable suspicion'.

Public opinion

- In a global survey on morality published in April by Pew Research, only 4% of respondents in Turkey rated homosexuality as morally acceptable, 12% as not a moral issue, and 78% as morally unacceptable, the highest of all European countries surveyed.