



Turkey



Hate speech, violence and murders targeting LGBTI people, including ‘honour killing’ by the families, continued to cause grave concern. The *Criminal Code* and *Law on Misdemeanour* continue to be used to discriminate against LGBTI people, particularly trans people. Turkey’s practice classifying gay men as ‘psychosexually disordered’ and ‘unfit’ for the military which exposed them to further discrimination was condemned by the Parliamentary Assembly of the Council of Europe as degrading treatment.

Bias motivated speech

- In January, the High Court of Appeals found newspaper Yeni Akit (subsequently renamed: Vakit) guilty of insulting LGBT people in a story titled *Üskül prefers perverts*. The piece was published in 2008 after Zafer Üskül, the Head of the Parliamentary Human Rights Commission at the time, attended an *International Anti-Homophobia Meeting* organised by Kaos GL. The court ordered the newspaper to pay compensation of 4,000 TRL (circa €1,800) and the author Serdar Arseven to pay 2,000 TRL (circa €900). The court emphasized that “the freedom of press does not encompass the freedom to insult the personal freedoms of individuals.” The decision overruled earlier verdicts of two Ankara courts.

- In March, Pembe Hayat filed a complaint against Erol Köse, a popular TV personality, who spread hate speech against LGBT people on several occasions. The case, demanding Köse’s imprisonment for 2 years and 8 months, had been accepted by the Ankara Prosecution Office. However, the court decided to suspend the public trial against Erol Köse.

- In May, a youth group affiliated with the Islamist party Saadet Partisi, displayed a large placard stating “Homosexuality is immoral” in the centre of Kocaeli. The police removed the placard, after a complaint was made to the prosecutor’s office. A similar placard was displayed in the city of Eskisehir the following week. On that occasion it was endorsed by the governor of the city. The same group facilitated a campaign collecting signatures to introduce a constitutional provision criminalising same-sex sexual relations.

- In May, the leader of the Islamist Great Unity Party (BBP) stated that homosexuality is a disaster resulting from Western corrupted family structure and that supporting LGBT rights will lead to AIDS. These statements were printed as part of an interview in a mainstream newspaper.

Bias motivated violence

- Turkey became the first country to ratify the *Council of Europe Convention on preventing and combating violence against women and domestic violence* (the ‘Istanbul

Convention’), which aims to prevent violence, protect victims and “to end with the impunity of perpetrators” including on the grounds of sexual orientation and gender identity.

- LGBT organisations gathered information about bias motivated violence against members of the LGBT community during the year which included the cases listed below:

- ◆ In January, a trans woman in Izmir was stabbed 14 times with a knife and was taken to hospital in a critical condition. An investigation is underway to identify the perpetrator. Later in the month, another attack was recorded against a trans woman, the perpetrators being police officers. A third case, the murder of a 17-years-old gay man, was also registered.

- ◆ In February, a trans woman was killed in Kocaeli by her brother. The police arrested the murderer.

- ◆ In March, two trans women were murdered because of their gender identity. The first case took place in Izmir, where a trans woman was shot in the head and left in a car. The killer was identified with the help of security cameras and was arrested. The other case took place in Antalya, where a trans woman was found stabbed to death in her home. The murderer was caught and imprisoned.

- ◆ In March, a man was killed in Adana by a friend who cut his throat because of feeling bad “as [the victim had] touched his backside” and allegedly made sexual proposals.

- ◆ In March, a gay man went to a police station to report that he was being followed by someone who might attack him because of his sexual orientation. According to his testimony he was beaten up at the police station after having an argument with the police officer who refused to take his report seriously. Shortly after leaving the police station, he was also attacked by the person following him. He reported the case to a human rights organisation which supported him in getting a medical report of his injuries and filing a complaint with the prosecutor’s office.

- ♦ In April, a transgender woman was attacked by a group of seven men in Istanbul. She was walking her dog in front of her house when the assault happened. The neighbours saw the situation, but did not intervene. The victim reported the incident to the police, but no-one was charged. The victim believed that the attack was related to her earlier attempt to press charges against undercover police officers who had attacked her the previous year.
- ♦ In April, two transgender sex workers were attacked in Ankara. The women were threatened with knives, raped and robbed. Two men were arrested for the assaults and imprisoned.
- ♦ In April, other cases were documented by LGBTI NGOs, including the rape of a soldier in the army, and an attack against an LGBT activist in Istanbul.
- ♦ In April, a transgender sex worker was shot in an incident with the police. The police officer had stopped the woman and wanted to fine her. She resisted, after which the police grabbed her arm. As she tried to run away from the situation, the woman was shot in her back by the police officer. She was taken to hospital.
- ♦ In May, a transgender sex worker was beaten up by two men in Istanbul. The men stole her money and took her clothes, leaving her naked on the street.
- ♦ In May, a gay university student was killed in Aydin. He was found at his apartment with stab wounds to his stomach. As the victim's family rejected his sexual orientation, a public prosecution was not possible.
- ♦ In May, a man in Gaziantep who had murdered his former partner for being a lesbian, was sentenced to 25 years in prison.
- ♦ In June, a group affiliated with the BBP attacked a trans parade in Istanbul throwing stones and bottles. The police intervened and prevented any serious injuries. The same month, a transphobic demonstration took place in Antalya, with explicit threats of physical violence targeting the local trans community.
- ♦ In July, a trans woman was murdered in Antalya. She was found in her home with her throat slit and deep cuts to her face. The case is being investigated by the police.
- ♦ In August, a gay teenager in the south eastern province of Diyarbakır was killed allegedly by his father and uncle because of his sexual orientation. According to the news reports, the 17-year-old victim sought refuge at a friend's house after being beaten up by his family members. He was forced out of his friend's house by his uncle and had a fight with his father on the same evening he was found dead with 14 gunshot wounds. The victim's father and uncle were arrested. The case is pending.
- ♦ In October, a lynch attempt was reported against trans people in Avcılar, Istanbul. 50 attackers took part to the mob, which also incited the police to raid three houses of trans people who were said to perform sex work.
- ♦ In October, a 25-year-old trans woman had her throat cut by two attackers in Antalya.
- ♦ In November, two transphobic attacks took place in Ankara. In one case, the attack happened in front of a police station.
- ♦ In December, a 19-year-old trans woman was murdered. The criminal attorney investigating the case told media that the suspect in her murder had been arrested.
- ♦ In December, gay fashion designer Barbaros Şansal was attacked and beaten up in Istanbul. Mr Şansal had defended LGBT rights a few weeks previously in an interview he gave to Turkey's Sözcü newspaper. The incident was clearly related to the interview since during the attack, the assailants told Barbaros: "You will pay for what you have written and what you have practised".
- In July, as a result of the high number of bias motivated incidents, a petition was launched to make President Abdullah Gül act on 'honour killings' of LGBT people. The petition calls on the President to "express his disapproval for the murders, to ensure that the offenders are punished, to establish laws condemning hate crime, homophobia and honour killings, provide extra protection for victims of hate crime, and establish laws to prevent violence against gay and transgender citizens".

- In October, the European Court of Human Rights (ECtHR) delivered its judgment in the case of *X v. Turkey* (Application No. 24626/09) finding violations of Article 3 (prohibition of torture and inhuman or degrading treatment) of the Convention and Article 14 (prohibition of discrimination) taken together with Article 3. The case concerned a gay prisoner who, after complaining about acts of intimidation and bullying by his fellow inmates, was placed in solitary confinement in a small rat infested cell for over 8 months and denied even the possibility of exercise outside his cell. This case is significant because: (i) a significant problem in some countries is that the authorities ignore homophobic or transphobic motivation in the case of hate crimes or other forms of discrimination, or even fail even to investigate such incidents, where they involve LGBTI people; (ii) maltreatment of LGBTI prisoners is a serious problem in a number of Council of Europe member states; and (iii) the case is very important for the situation in Turkey.

Employment

- In April, a Written Declaration by the Council of Europe Parliamentary Assembly (PACE) delegates called on Turkey to cease the degrading treatment of gay men in relation to service in the Armed Forces, and to put in place measures to enable them to serve without danger of violence and discrimination.
- In May, the European Council criticised the current degrading treatment and exclusion of LGBTI people in the Armed Forces. While military service is mandatory for Turkish men in general, gay men are exempted from it on the basis of being 'unfit' because of their sexual orientation. In order to prove they are gay, the men were previously asked to provide material proof such as intimate photos. Recently, a new procedure was introduced, in which the medical authorities interview the applicant's family. The men, who are not usually openly gay, suffer under the procedure since it creates a fear of their family learning about their sexual orientation, which might lead to conflicts. If the exemption from military service is granted, it is classified as a 'psycho sexual disorder'.

- In November, the draft of a new *Military Code* labelled homosexuality an 'unnatural imminence' which is a basis for discharge from military service. Other reasons for discharge include murder, fraud, bribery, and serving a prison sentence of more than a year.

- In December, to mark *International Human Rights Day*, Kaos GL organised a *Symposium Against Discriminations* focusing on social rights of LGBT people. The participants and speakers at the event were human rights defenders, trade unionists and social work experts from Turkey and abroad. The organisation issued a media statement, noting that in addition to the disrespect for its international and regional human rights obligations the country "reproduces and institutionalises discrimination against LGBT people".

Enlargement

- In April, the European Parliament discussed the EU accession reports of candidate countries. Turkey was urged to include homophobia and transphobia in its laws tackling hate crime. The Parliament also condemned the frequent prosecutions of LGBT people and drew attention to the procedure of the Turkish Armed Forces which classifies homosexuality as a 'psychosexual disorder'.
- In October, the European Commission published its *2012 Progress Report on Turkey* as a candidate country for EU membership, and criticised the government of Turkey for removing references to the ground of sexual orientation from the draft anti-discrimination law, reiterating that "The current legal framework is not in line with the EU acquis". The report also highlights that LGBT people continue to suffer from discrimination, intimidation and violent crimes. The Commission also spells out that some laws, namely the *Criminal Code* and the Law on Misdemeanour are often used to discriminate against LGBT people, particularly transgender persons. Moreover, courts continue to apply the principle of 'unjust provocation' in favour of perpetrators of transphobic crimes. The Commission also highlights the court cases brought by police against transgender human rights defenders in response to their allegations of police brutality and arbitrary arrests. The report on Turkey also

notes that negative stereotyping by political figures and media against LGBT people continues.

Equality and non-discrimination

- During the year, Turkey was drafting its first civilian *Constitution*. LGBT organisations voiced their common demand for a constitutional article that would prohibit all kinds of discrimination on the basis of sexual orientation and gender identity. The proposal to include sexual orientation and gender identity as protected grounds in the constitution has been jointly introduced by the main opposition Republican People's Party (CHP) and the Peace and Democracy Party (BDP). However, Turkey's ruling Justice and Development Party (AKP) rejected the proposal. "We don't find it right to have an expression concerning gays" an AKP deputy said. The European Parliament LGBT Intergroup in the European Parliament expressed its concern over the country's hate crime record, common hate speech, discrimination in employment, media censorship, homophobic bullying and the treatment of LGBT asylum seekers and encouraged Turkish parliamentarians to cover the rights of LGBT people in the Constitution. No progress was achieved by the end of the year, as the Reconciliation Commission suspended the writing of Article 3 (equality before the law) due to disagreement on the inclusion of sexual orientation, gender identity and ethnic identity.

Freedom of assembly

- In May, to mark the *International Day against Homophobia and Transphobia* (IDAHO), LGBT organisations in Ankara marched *Against Homophobia and Transphobia* calling for constitutional protection from discrimination and violence against the LGBT community in Turkey. The march was attended by around 500 people, including LGBT refugees and asylum seekers currently residing in Turkey, who ended the demonstration with a press statement "Sexual orientation and gender identity reality should be recognised for constitutional equality".
- In June, the third Trans Pride was attacked by counter-demonstrators. The Pride was protected and the violent counter-demonstrators were kept apart

from the Pride. However, the counter-demonstrators were not prosecuted. Istanbul Pride Week took place during late June. In honour of the 20th anniversary of the Pride Week, the organisers chose memory as the overarching subject of the week of activities and events. Pride Week is organised by Istanbul's LGBT community which currently includes three organisations: Lambdaistanbul, SPoD and Istanbul LGTT. The week-long activities included panels, discussions, workshops, exhibitions and performances, related to the theme of the memory of the LGBT movement in Turkey. The panellists included local and international politicians. Pride Week culminated in the Pride March on the last Sunday of the week. More than 10,000 people marched down Istiklal Street including parents and families of LGBT people, who have been organising as a separate group called LISTAG, also had a strong showing at the march.

Freedom of expression

- In June, the High Court ruled that oral and anal sex in films should increase the penalty handed down to the accused for selling CDs with sexual content. S.K. was given an increased penalty for selling films that contained displays of anal and oral sex. The High Court decided that S.K. should be judged under *Penal Code* Article 226 Paragraph 4 which states that a "person selling products containing writing, sound or images of unnatural sexual behaviour can be sentenced to 1 to 4 years and to a punitive fine of up to 5000 TRL" (circa €2150).
- In December, LGBT news portal kaosgl.org was hacked right after Kaos GL's *Symposium against Discriminations*. The attack blocked access to kaosgl.org for a short period of time displaying messages of "hadith" (sayings of the prophet Muhammad) about homosexuality. A similar attack by religious fundamentalists occurred during IDAHO.

Human rights defenders

- Kaos GL won the European NGO network SOLIDAR's Silver Rose Award. SOLIDAR's Silver Rose Awards were launched in 2000 to help raise the profile of individuals

and organisations who contribute greatly to social justice and equality throughout the world.

- Ali Erol, an LGBT activist in Turkey was honoured with this year's David Kato award, which was set up in memory of the gay Ugandan campaigner who was murdered in 2011.

Police and law enforcement

- In January, police officers took 18 men into custody who they arrested in a cinema on the basis that they were having sexual intercourse on the premises. The owners of the cinema were also charged for 'providing space for prostitution'.

Member organisations of ILGA-Europe

Black Pink Triangle Izmir Association - Siyah Pembe Üçgen
Izmir
www.siyahpembe.org

Gay & Lesbian to socialize and Rehabilitation

Kaos GL
www.kaosgl.com

Lambdaistanbul LGBT Solidarity Association
www.lambdaistanbul.org

LISTAG - Families of LGBTs in Istanbul
www.listag.wordpress.com

Pink Life Association LGBTT Solidarity

Social Policies, Gender Identity and Sexual Orientation
Studies Association – SPOD
www.spod.org.tr