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EUROPEAN SOCIAL CHARTER

Comments submitted by
Kaos GL Association & May 17 Association
concerning the 16th National Report on the implementation of
the European Social Charter

submitted by
THE GOVERNMENT OF THE REPUBLIC OF TÜRKIYE
Articles 2, 3, 4, 5, 6, and 20

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CYCLE 2024



**THIRD-PARTY OBSERVATIONS ON THE
16TH NATIONAL REPORT SUBMITTED BY
THE REPUBLIC OF TÜRKİYE ON THE
IMPLEMENTATION OF THE EUROPEAN
SOCIAL CHARTER, DATED 22 JANUARY
2025**

Kaos GL Association & May 17 Association

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I. INTRODUCTION

a. Kaos GL Association:

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

b. May 17 Association

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

II. Executive Summary

a. Methodology

The report presents a third-party observation on the report submitted by the Republic of Türkiye in response to the Council's call. The data in the report was collected through media monitoring, while also drawing on reports on the subject by Kaos GL, other civil society organizations, and trade unions.

The report submitted by the Republic of Türkiye focuses on Articles 2, 3, 4, 5, 6, and 20 of the Charter. This report will contain observations on the content of the report submitted by the State Party regarding Articles 3 and 20 of the Charter.

Evidence is provided in the footnotes.

b. Key Findings

LGBT+ persons, especially those who are visible, face discrimination when seeking employment and accessing employment. This discrimination takes the form of either refusing to hire LGBT+ persons or signing employment contracts that violate the principle of equal pay for equal work. Guarantees aimed at ensuring equality among employees during the employment relationship do not cover the pre-employment phase, meaning there is no norm preventing discrimination based on sexual orientation or gender identity in access to employment. The national human rights mechanism known as the Human Rights and Equality Institution Türkiye is LGBT+ exclusive and does not serve as a mechanism that LGBT+ persons can apply to during the employment phase. As a result of all these, discrimination against LGBT+ persons in the field of employment is becoming systematic. The extent of violations can be more severe for trans persons. Discrimination faced by trans women in employment often leads them to turn to sex work as their first option. However, the legal framework for registered sex work makes it impossible for trans women whose gender is not legally recognized to become registered sex workers. Trans women whose gender is legally recognized are not accepted into registered workplaces.

The systemic problem mentioned above with regard to trans women sex workers also leads to systematic violations of rights under Article 3 of the Standard. Due to the denial of their right to registered employment, trans women sex workers are denied access to social security and, consequently, to health care. Hate-motivated violence is prevalent. In such cases, there are no effective investigations by law enforcement authorities or the justice system. Widespread stigmatization and intersectional discriminatory practices create a lack of protection against sexual exploitation and human trafficking.

In this sense, there is no policy aimed at preventing occupational diseases and accidents that arise during work or are related to work for trans women sex workers who are pushed into an unsecured and unregistered area. This unregulated sector also entails a lack

of oversight. The only regulation pertaining to this sector is the Regulation on the Rules Applicable to General Women and Brothels and the Prevention of Venereal Diseases Transmitted Through Prostitution. The regulation is used as a tool to close down the working environments of trans sex workers. In this context, the absence of policies supporting the development of occupational health services for sex work affects trans women sex workers.

LGBT+ persons face systematic discrimination in employment and access to professions. When it comes to openly LGBT+ persons, employers avoid their obligation to treat them equally. There are no protective rules for access to employment. Mechanisms to prevent discrimination in dismissal are meaningless for LGBT+ persons who are not hired. In this context, there are no re-employment services. No positive action is taken to reduce the impact of discriminatory treatment against LGBT+ persons. In situations where they are entitled to equal treatment, LGBT+ persons are often forced into worse employment conditions and face discrimination in promotion. Visible awareness of LGBT+ identity or LGBT+ rights is considered a legal ground for termination of employment, particularly in the public sector.

The founding law of the Human Rights and Equality Institution of Türkiye, which is considered an important mechanism in the fight against discrimination, has been criticized by many international and regional mechanisms, and recommendations have been made for its amendment. In its 2024 concluding observations on the review of the International Covenant on Civil and Political Rights in TuTürkiye, the UN Human Rights Committee criticized the law establishing the institution for its exclusion of LGBT+ persons.¹ During Türkiye's universal periodic review, member states also criticized the founding law in their recommendations.² The European Commission against Racism and Intolerance made similar criticisms in its 2016 report and recommended that the institution accept applications from LGBT+ persons.³ The exclusionary structure of the Human Rights and Equality Institution of Türkiye towards LGBT+ persons is also contrary to the 12th Protocol to the European Convention on Human Rights, which Türkiye has signed but not yet ratified. As a result, the national mechanism deprives LGBT+ persons of an important tool for preventing violations.

Kaos GL's employment research also reveals that hate speech in the workplace negatively affects work productivity and that LGBT+ persons are neither visible in trade unions nor report incidents to them.

c. Recommendations

1. The law of Human Rights and Equality Institution of Türkiye should be amended to include sexual orientation and gender identity, and a mechanism should be established to combat these forms of discrimination,

¹ CCPR/C/TUR/CO/2 para. 14, <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=X2tENtYozry3GZmhODeGqZk0Oc1Vm6aWIFrIPvegEuuuQyH0IFqVH3Dek5I8M0%2FdIEo6QCtAeQKrPBvYmv%2FGPQ%3D%3D>

² <https://docs.un.org/en/A/HRC/WG.6/49/TUR/2>

³ <https://rm.coe.int/fifth-report-on-turkey/16808b5c81>

2. Legal and practical barriers to registered work for trans women sex workers should be removed, and they should be included in the social security system,
3. Policies should be developed regarding the work safety and health of trans women sex workers,
4. Article 5 of the Labor Law, which guarantees the employer's obligation to treat employees equally, should be amended to cover the hiring process.

III. Observations on Türkiye's Responses to Issues and the Actual Situation of LGBT+ Persons

a. Issues Related to Article 3 of the Chartes

a.1. In Terms of Policy-making Processes

There are no trade unions for LGBT+ persons in Türkiye. Trade unions do not carry out specific work in this area. For these reasons, it is necessary for official institutions to consult with organizations defending the rights of LGBT+ persons. However, in the context of Article 3 of the Charter, the Ministry of Labor and Social Security does not communicate with LGBT+ rights organizations at any stage.

There is no policy or norm regarding stress, psychological consequences, and trauma that may arise from discrimination based on sexual orientation and gender identity in relation to discriminatory practices in the workplace.

In particular, there is no policy or regulation aimed at preventing illnesses and accidents that arise during work or are related to work by minimizing the causes of danger inherent in the nature of the work environment, especially for trans sex workers.

a.2. From the Perspective of Regulating the Field of Security and Health

There are no norms preventing discrimination against LGBT+ persons when they are asked to work overtime even though other employees are not, and when they refuse to do so. There is no concrete example of the implementation of Article 5 of the Labor Law, which guarantees the obligation of employers to treat employees equally, with regard to LGBT+ persons. On the other hand, the barriers faced by LGBT+ persons in gaining employment, i.e., the fact that it is more difficult for them to find a new job, emerges as a factor that makes it difficult for them to refuse overtime work.

According to data from the Address-Based Population Registration System, as of the beginning of 2025, the population of Türkiye is 85,664,944. In contrast, the most recent health records published by the Ministry of Health date back to 2000, and according to these records, there were 37 brothels in Türkiye at that time, but 31 of them were active.⁴ No one is employed in the remaining six brothels. According to a newspaper report published in October 2024, there are 30 registered brothels in Türkiye, so it can be assumed that there are several hundred registered sex workers. Sex work outside brothels is not permitted. Trans women whose gender is not legally recognized are absolutely prohibited from working in these brothels. Trans women whose gender is legally recognized are unable to work in registered brothels due to policies aimed at reducing the number of brothels and registered workers. As a result, sex workers are forced to work outside the registered system.

There is no legislation regulating occupational health and safety for trans sex workers who do not work in registered brothels but in their own homes or workplaces.

For inclusion in this report, the number of registered brothels operating in Türkiye, the number of registered sex workers, and the number of sex workers awaiting registration were requested from the Ministry of Health and the Ministry of the Interior on May 26, 2025, under the Information Act. The ministries did not respond to the request. Therefore, there is a complete blackout of information, particularly in the area of sex work. On the other hand, brothels have been demolished with ceremonies in some cities and⁵ closed with ceremonies in others.⁶

b. Issues Related to Article 20 of the Chartes

Every year, Kaos GL prepares a report on discrimination in both the public⁷ and private sectors⁸ with the support of academics from Kadir Has University. The information in this section is largely based on these reports and the findings of Kaos GL's human rights reports on LGBT+ persons.

b.1. From the Perspective of Employment, Protection Against Dismissal, and Reemployment Processes

Almost all LGBT+ persons applying for jobs in the public sector are forced to hide their identity. This situation reveals a widespread belief that LGBT+ persons will not be employed in the public sector if they are open about their identity. This situation is also closely related to the absence of rules prohibiting discrimination on the basis of sexual orientation and gender identity in public sector recruitment. On the other hand, a judgement by the Constitutional Court of Türkiye regarding the refusal to hire a gay teacher revealed

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https://web.archive.org/web/20120712211942/http://www.saglik.gov.tr/extras/istatistikler/ger_bil_2000/t_28.htm

⁵ https://www.ntv.com.tr/turkiye/akpli-baskan-genelevi-torenle-yikti,Tv8Ng33Q7EW_W9MtLGv1Nw

⁶ <https://www.haberturk.com/kayip-hayatlardan-izler-zurafa-sokak-notlari-3294459>

⁷ <https://kaosgldernegi.org/images/library/2024-kamu-c-alis-ani-son.pdf>

⁸ <https://kaosgldernegi.org/images/library/2024-o-zel-sekto-r-son.pdf>

the systematic structure of discrimination against LGBT+ persons in public sector recruitment and the concrete risk of being openly gay.⁹ In another judgment, the Constitutional Court ruled that a law providing for the dismissal of soldiers found to have engaged in same-sex relations in their private lives did not violate the principle of equality.¹⁰

The situation is similar in the private sector. Although slightly higher than in the public sector, not sharing or hiding one's identity is more common during recruitment. Looking for work through private employment agencies or the public institution Türkiye İş Kurumu (Turkish Employment Agency) is not an option. This is because LGBT+ persons believe that they cannot access employment through these institutions. Based on this, looking for work through social circles is the most common method.

According to a survey conducted by Kaos GL, 61 participants (44.2%) answered “no” to the question “Have you encountered any discriminatory attitudes, statements, behaviors, or practices during the hiring process due to your gender identity/sexual orientation/gender characteristics?” However, as seen in the following graph, 41 participants (29.7%) attributed this situation to hiding their gender identity/sexual orientation/gender characteristics. Additionally, 23.9% of participants stated that they did not experience discrimination “because their gender identity/sexual orientation/gender characteristics were not apparent.”

There is no state policy or regulation promoting the participation of LGBT+ persons in the labor market or focusing on removing barriers to such participation.

b.2. In Terms of Working Conditions, Including Employment Conditions and Remuneration

The lack of any guarantees during the recruitment process forces individuals not to disclose their identity. As is the case during recruitment, there are no norms in place to prevent discrimination based on sexual orientation or gender identity during the course of the employment relationship.

According to a research conducted by Kaos GL, 26.9% of participants (19 people) answered “Yes, I have” to the question “Have you encountered any discriminatory attitudes, statements, behaviors, or practices in your workplace due to your gender identity/sexual orientation/gender characteristics?” Additionally, 19.7% (14 people) of participants stated they had not experienced discrimination but attributed this to keeping their gender identity/sexual orientation/gender characteristics hidden. Considering that not being open about one's identity is a form of security, the effort to remain hidden in the workplace is a factor that negatively affects the performance of LGBT+ persons. For openly LGBT+ persons, the possibility of facing discrimination in global corporations is very high.¹¹

⁹ <https://kararlarbilgibankasi.anayasa.gov.tr/BB/2013/2928>

¹⁰ <https://normkararlarbilgibankasi.anayasa.gov.tr/ND/2017/166?EsasNo=2015%2F68>

¹¹ <https://bianet.org/haber/ayrimciliga-ugrayan-lgbti-calisani-starbucks-kapsayici-degil-305786>

b.3. Conditions for Advancement in the Profession, Including Promotion

The attitude of “SOGI hiding,” which is a tool to protect against discrimination, results in LGBT+ persons being invisible among senior managers.

In terms of the position held at their current workplace, 69.6% of participants are not managers. However, as can be seen in the detailed table below regarding the question “What is your position at your workplace?”, there are many LGBT+ persons working in different positions. The statements of many participants regarding “not being promoted” or “reluctance to compete for promotion” suggest that LGBT+ persons, similar to other disadvantaged groups such as heterosexual cisgender women, face difficulties in getting promoted and have limited opportunities to benefit from the principle of equality. (pg. 23)

According to the findings, only two of the 12 participants who stated that they worked as senior managers declared that they were open about their sexual orientation/gender identity/gender characteristics at their workplace.