



**Murat Çekiç Human Rights Association**

**Kaos GL & May 17 Association**

**Joint Written Contribution**

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**ISSUE: HATE CRIMES AND DISCRIMINATION  
AGAINST LGBTI+'s**

# SITUATION IN THE 3TH CYCLE

## Hatred and Discrimination<sup>21</sup>

### Article 122 – (Amended on 2 March 2014 – By Article 15 of the Law no. 6529)

- (1) Any person who
- (a) Prevents the sale, transfer or rental of a movable or immovable property offered to the public,
  - (b) Prevents a person from enjoying services offered to the public,
  - (c) Prevents a person from being recruited for a job,
  - (d) Prevents a person from undertaking an ordinary economic activity

on the ground of hatred based on differences of language, race, nationality, colour, gender, disability, political view, philosophical belief, religion or sect shall be sentenced to a penalty of imprisonment for a term of one year to three years.

# **RECCOMENDING STATES FOR THE INVESTIGATION OF HATE CRIMES AGAINST LGBTI+ INDIVIDUALS IN 3TH CYCLE**

- **Chile, 45.119**
- **Argentina, 45.84**
- **Norway, 45.83**
- **Malta, 45.78**
- **Iceland, 45.76**

# CURRENT SITUATION

- After cycle 3 there is no progress at the legislative level.
- There is regression at the policy level.
- The number of hate crimes and discrimination cases against LGBTI+ individuals have been increased.

# THEREFORE;

Within one year, we recommend that Article 122 of the Turkish Penal Code be amended to prohibit discrimination on **any** grounds, including sexual orientation and gender identity, in hiring, renting, and selling goods and services.

# **ISSUE: NATIONAL HUMAN RIGHTS INSTITUTION**

**HUMAN RIGHTS AND EQUALITY INSTITUTION  
OF TÜRKİYE ( TİHEK ) TO COMBAT ALL FORMS  
OF DISCRIMINATION  
&  
INDEPENDENCE**

# SITUATION IN THE 3TH CYCLE

## **Principle of Equality and Non-Discrimination**

**ARTICLE 3** – (1) All are equal in the exercise of legally recognized rights and freedoms.

(2) It is prohibited under this Law to discriminate against persons based on the grounds of sex, race, colour, language, religion, belief, sect, philosophical or political opinion, ethnical origin, wealth, birth, marital status, health status, disability and age.

## **Human Rights and Equality Institution of Türkiye**

**ARTICLE 8** – (1)(Amended 2/7/2018 – Decree Law – Article 703/149)  
The Human Rights and Equality Institution of Türkiye, affiliated to the Minister which nominated by the President of the Republic of Türkiye, with public legal entity status and administrative and financial autonomy, has been established in order to fulfil the duties and execute the powers conferred on it by this Law and other relevant legislation. The President of the Republic of Türkiye may exercise powers regarding the administration of this organization through the Minister whenever deems necessary.



# RECCOMENDING STATES FOR THE INVESTIGATION OF HATE CRIMES AGAINST LGBTI+ INDIVIDUALS IN 3TH CYCLE

45.74, Sweden

45.70 Italy

45.64 Honduras

45.82 Myanmar

45.39 Finland

45.38 Estonya

45.44 Fransa

45.46 Lüksemburg

45.60 Çek Cumhuriyeti

45.43 India

45.33 Zambia

# CURRENT SITUATION

- There has been no progress at the legislative level since the last cycle.
- There is regression at the policy level.
- TIHEK categorically rejects LGBTI+ discrimination applications as inadmissible
- Among THREI members there are those who spread hate speech
- TIHEK is still affiliated and dependent on the president
- Not a category A human rights national mechanism according to GANRI

# THEREFORE

- Amend the 3rd article of TIHEK founding law, titled "Principle of equality and prohibition of discrimination", to ensure that applications regarding discrimination submitted by LGBTI+ people are also examined, within a year.
- Amend the TIHEK founding law to guarantee the independence of its members and the impartiality of the institution.

# **ISSUE: LEGAL GENDER RECOGNITION**

# SITUATION IN THE 3TH CYCLE

## **Article 40 on gender change -**

A person who wants to change their gender can apply in person and request that the court grant permission for gender change. However, in order for permission to be granted, the applicant must be over eighteen years of age and unmarried; and must also be transsexual and document the necessity of gender change in terms of mental health (...) with an official health board report from a training and research hospital.

If an official health board report confirms that a gender change surgery has been performed in accordance with the purpose and medical methods in accordance with the permission granted, the court decides to make the necessary corrections in the population registry.

# CURRENT SITUATION

For legal gender recognition

- People are forced to accept hormonal intervention

- People are forced to have surgery. In female-to-male transitions, some courts do not consider surgical removal of the breast and uterus to be sufficient, and people are forced to phalloplasty surgery

- Transgender people under the age of 18 are forced to wait until they turn 18

- People are forced to lose the ability to fertility. For transgender people who want to have children, this means that this possibility disappears.

# THEREFORE

Amend article 40 of Turkish Civil Code to guarantee legal gender recognition available for trans persons, without forced surgical and hormone interventions while guaranteeing free gender affirming healthcare including hormone medications and surgeries covered by social security institutions.