



Home Office

# **Country Policy and Information Note** **Turkey: Sexual orientation and gender** **identity**

**Version 2.0**

**June 2017**

# Preface

This note provides country of origin information (COI) and policy guidance to Home Office decision makers on handling particular types of protection and human rights claims. This includes whether claims are likely to justify the granting of asylum, humanitarian protection or discretionary leave and whether – in the event of a claim being refused – it is likely to be certifiable as ‘clearly unfounded’ under s94 of the Nationality, Immigration and Asylum Act 2002.

Decision makers must consider claims on an individual basis, taking into account the case specific facts and all relevant evidence, including: the policy guidance contained with this note; the available COI; any applicable caselaw; and the Home Office casework guidance in relation to relevant policies.

## Country information

COI in this note has been researched in accordance with principles set out in the [Common EU \[European Union\] Guidelines for Processing Country of Origin Information \(COI\)](#) and the [European Asylum Support Office’s research guidelines, Country of Origin Information report methodology](#), namely taking into account its relevance, reliability, accuracy, objectivity, currency, transparency and traceability.

All information is carefully selected from generally reliable, publicly accessible sources or is information that can be made publicly available. Full publication details of supporting documentation are provided in footnotes. Multiple sourcing is normally used to ensure that the information is accurate, balanced and corroborated, and that a comprehensive and up-to-date picture at the time of publication is provided. Information is compared and contrasted, whenever possible, to provide a range of views and opinions. The inclusion of a source is not an endorsement of it or any views expressed.

## Feedback

Our goal is to continuously improve our material. Therefore, if you would like to comment on this note, please email [the Country Policy and Information Team](#).

## Independent Advisory Group on Country Information

The Independent Advisory Group on Country Information (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to make recommendations to him about the content of the Home Office’s COI material. The IAGCI welcomes feedback on the Home Office’s COI material. It is not the function of the IAGCI to endorse any Home Office material, procedures or policy. IAGCI may be contacted at:

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Information about the IAGCI’s work and a list of the COI documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector’s website at <http://icinspector.independent.gov.uk/country-information-reviews/>

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# Policy guidance

Updated: 6 June 2017

## 1. Introduction

### 1.1 Basis of claim

1.1.1 Fear of persecution or serious harm by the state and/or non-state actors due to the person's actual or perceived sexual orientation and/or gender identity.

### 1.2 Points to note

1.2.1 This note provides policy guidance on the general situation of gay men, lesbians, bisexuals and transgender persons. They are referred collectively as 'LGBT persons', though the experiences of each group may differ.

1.2.2 Decision makers must also refer to the [Asylum Instruction on Sexual identity issues in the asylum claim](#) and the [Asylum Instruction on Gender identity issues in the asylum claim](#).

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## 2. Consideration of issues

### 2.1 Credibility

2.1.1 For information on assessing credibility, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

2.1.2 Decision makers must also check if there has been a previous application for a UK visa or another form of leave. Asylum applications matched to visas should be investigated prior to the asylum interview (see the [Asylum Instruction on Visa Matches, Asylum Claims from UK Visa Applicants](#)).

2.1.3 Decision makers should also consider the need to conduct language analysis testing (see the [Asylum Instruction on Language Analysis](#)).

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### 2.2 Particular social group

2.2.1 LGBT persons in Turkey form a particular social group (PSG) within the meaning of the Refugee Convention because they share an innate characteristic or a common background that cannot be changed, or share a characteristic or belief that is so fundamental to their identity or conscience that they should not be forced to renounce it, and have a distinct identity which is perceived as being different by the surrounding society.

2.2.2 Although LGBT persons in Turkey form a PSG, establishing such membership is not sufficient to be recognised as a refugee. The question in each case is whether the particular person will face a real risk of persecution on account of their membership of such a group.

2.2.3 For further guidance on particular social groups, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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## 2.3 Assessment of risk

### a. General points

- 2.3.1 Decision makers must establish whether or not the person, if returned to their country of origin, will live freely and openly as an LGBT person. This involves a wide spectrum of conduct which goes beyond merely attracting partners and maintaining relationships with them. If it is found that the person will in fact conceal aspects of his or her sexual orientation/identity if returned, decision makers must consider why the person will do so.
- 2.3.2 If this will simply be in response to social pressures or for cultural or religious reasons of their own choosing and not because of a fear of persecution, then they may not have a well-founded fear of persecution. Decision makers should also consider if there are individual or country specific factors that could put the person at risk even if they choose to live discreetly because of social or religious pressures.
- 2.3.3 But if a material reason why the person will live discreetly is that they genuinely fear that otherwise they will be persecuted, it will be necessary to consider whether that fear is well-founded.
- 2.3.4 Although same-sex sexual activity is legal in Turkey, there is considerable prejudice against gay and transgender people. One survey in 2013 found that 78% of Turkish people believed that homosexuality was morally unacceptable whilst another survey found that 84% of respondents did not want to have LGBT neighbours. There is more generally a wider societal urban/rural divide with those living in rural areas tending to be more religious and conservative than urban areas where LGBT persons are reportedly accepted in parts of major metropolitan areas (see [Public opinion](#) and [State attitudes: Overview](#)).
- 2.3.5 A person's ability to live freely and openly as an LGBT person in Turkey will therefore be dependant on factors such as the person's place of residence in Turkey and in turn their socio-economic background.
- 2.3.6 For further guidance, see the [Asylum Instruction on Sexual identity issues in the asylum claim](#).

### b. Treatment by the state

- 2.3.7 Same-sex sexual activity is legal in Turkey and there is an equal age of consent for same and different-sex sexual acts. However, incidents of discrimination in accessing health services and education have been reported. There have also been reports of police harassment, occasional violence and interference in the lives of some LGBT persons, particularly LGBT sex workers. Similarly, LGBT organisations have also experienced harassment by some members of the police (see [State attitudes](#)).
- 2.3.8 Since the imposition of the state of emergency following the failed coup attempt in July 2016, violence by police on the streets has reportedly increased in general and particularly adversely impacted LGBT activists and trans women. Some trans sex workers are said to have in practice been confined to their homes due to police pressure (see [Homophobic violence](#)).

2.3.9 Not all members of the LGBT community experience the same level of ill-treatment by state actors. In general, the treatment of LGBT persons by the state is not sufficiently serious by its nature and repetition as to reach the high threshold of persecution or serious harm. Each case must however be considered on its facts with the onus on the person to demonstrate that they would be at real risk from the state authorities on return.

#### c. Treatment by non-state actors

2.3.10 LGBT people are subject to societal discrimination in, for example, accessing employment, and experience societal stigmatization, intimidation and occasional attacks and violence, resulting in the case of transgender persons death, by non-state actors (see [Societal treatment and attitudes](#) and [Homophobic violence](#)).

2.3.11 Although some members of the LGBT community face discrimination, stigmatization and ill-treatment from the general public – and in some cases from rogue state agents – it is not in general sufficiently serious by its nature or repetition as to amount to persecution or serious harm. The onus is on the person to demonstrate that on return they would face treatment which would reach the high threshold of being persecutory or otherwise inhuman or degrading. Decision makers must therefore carefully consider the individual factors of each case, taking full account of the person’s circumstances.

2.3.12 For further guidance on assessing risk, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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## 2.4 Protection

2.4.1 Where the person’s fear is of persecution or serious harm at the hands of the state, they will not be able to avail themselves of the protection of the authorities.

2.4.2 Where the person’s fear is of persecution or serious harm at the hands of the the non-state actors (including rogue state actors), there are protections in law and avenues of redress.

2.4.3 Although Turkey has not enacted hate crime legislation that specifically includes gender identity and sexual orientation, there are existing general provisions in Turkish law which enable perpetrators of hate crimes to be brought to justice. The law provides for up to three years in prison for hate speech or harmful acts against LGBT persons. There have been calls for the government to enact comprehensive and specific legislation on hate crimes in accordance with international standards. Currently, the lack of explicit legal protection for LGBT persons and immunity for the perpetrators of hate crimes has given an impression of tacit legal endorsement of acts of violence and discrimination (see [Anti-discrimination legislation](#)).

2.4.4 The government do not effectively protect vulnerable LGBT persons from societal abuse, discrimination and incidents of violence. Impunity for crimes against LGBT individuals continues to be reported as a problem. In practice, law enforcement officials and judiciary in some cases take a lenient attitude towards crimes committed against LGBT persons (see [Anti-discrimination legislation](#), [State attitudes](#) and [Police and Judiciary](#)).

- 2.4.5 Court sentences for hate crime offenders, including those who have perpetrated acts against LGBT persons, are often reduced on the basis of 'unjust provocation' by the victim and good behaviour on the part of the offender. In addition, in numerous cases, crimes against people of a different sexual orientation or gender identity remain unpunished. Shortcomings in the investigation and prosecution of crimes are reported, as well as reluctance by LGBT people to file complaints (see [Police and Judiciary](#)).
- 2.4.6 Avenues exist for LGBT persons to lodge complaints against police officers they accuse of harassing them based on their sexual orientation or gender identity (see [Anti-discrimination legislation](#) and the country policy and information note on [Turkey: Background information including actors of protection and internal relocation](#)).
- 2.4.7 Where the person's fear is of ill treatment/persecution at the hands of non-state actors – including rogue state agents – then effective state protection is likely to be limited.
- 2.4.8 Decision makers must carefully consider the individual factors of each case, taking full account of the person's circumstances. The onus is on the person to demonstrate why they would not be able to seek and obtain protection.
- 2.4.9 For further guidance on assessing the availability of state protection, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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## 2.5 Internal relocation

- 2.5.1 Where the person's fear is of persecution or serious harm at the hands of the state, they will not be able to relocate to escape that risk.
- 2.5.2 Where the person's fear is of a localised risk of persecution or serious harm from non-state actors – including rogue state agents – internal relocation is likely to be an option to escape such risk, in particular to parts of major metropolitan areas.
- 2.5.3 In such cases the onus is on the person to demonstrate why they could not relocate to another part of Turkey where they could openly express their sexual orientation and/or gender identity.
- 2.5.4 Internal relocation will not be an option if it depends on the person concealing their sexual orientation and/or gender identity in the proposed new location for fear of persecution.
- 2.5.5 See also the country policy and information note on [Turkey: Background information including actors of protection and internal relocation](#).
- 2.5.6 For further guidance on internal relocation and the factors to be considered, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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## 2.6 Certification

- 2.6.1 Where a claim is refused, it is unlikely to be certifiable as 'clearly unfounded', under section 94 of the Nationality, Immigration and Asylum Act 2002.

- 2.6.2 For further guidance on certification, see [Certification of Protection and Human Rights claims under section 94 of the Nationality, Immigration and Asylum Act 2002 \(clearly unfounded claims\)](#).

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### 3. Policy summary

- 3.1.1 Although same-sex sexual activity is legal in Turkey, there have been reports of police harassment, occasional violence and interference in the lives of some LGBT persons – particularly sex workers – and LGBT organisations. LGBT persons may also face discrimination in accessing services, including health and education.
- 3.1.2 However, not all members of the LGBT community experience the same level of ill-treatment by state actors. In general the treatment of LGBT persons by the state is not sufficiently serious by its nature and repetition as to reach the threshold of persecution or serious harm.
- 3.1.3 Turkey is a conservative society where homophobic attitudes persist. LGBT persons may experience societal discrimination, stigmatization, intimidation and occasional violence by non-state actors. In general the level of discrimination is not such that it will reach the high level of being persecutory or otherwise inhuman or degrading treatment. Personal circumstances may, however, place some LGBT persons at risk from non-state actors.
- 3.1.4 State protection is likely to be limited as there are shortcomings in the way that such crimes are investigated and prosecuted.
- 3.1.5 Internal relocation is likely to be possible where a person experiences local hostility but will not be an option if it depends on the person concealing their sexual orientation and/or gender identity in the proposed new location for fear of persecution.
- 3.1.6 Where a claim is refused, it is unlikely to be certifiable as ‘clearly unfounded’.

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# Country information

Updated: 24 April 2017

## 4. Legal rights

### 4.1 Criminal code

4.1.1 The International Lesbian and Gay Association (ILGA) report, 'State-sponsored Homophobia 2016, released in May 2016, noted that Turkey has considered homosexual acts as legal since 1858 and has an equal age of consent for same and different-sex sexual acts.<sup>1</sup>

4.1.2 A 2015 Submission to the United Nations Universal Periodic Review on Turkey noted:

'Domestic legal provisions do not explicitly discriminate against individuals on the basis of sexual orientation and/or gender identity. However, there are numerous examples of discriminatory applications of the laws being against LGBT persons. In addition, the lack of explicit legal protection for LGBT individuals has amounted to a tacit legal endorsement of acts of violence and discrimination.

'...According to Article 29 of the Turkish Criminal Code, "A person committing an offense with effect of anger or asperity caused by an unjust act is sentenced to imprisonment from eighteen years to twenty-four years instead of heavy life imprisonment, and to imprisonment from twelve years to eighteen years instead of life imprisonment". The Code does not define or set criteria for what constitutes an "unjust act", leaving it up to the sentencing judge to determine whether an assault or murder was the result of "unjust provocation". As a result, judges have routinely used Article 29 to reduce the sentences of those who have killed LGBT individuals. As recent as February 26, 2014, a man who killed a trans woman was given an "unjust provocation" sentence reduction from life to 18 years. According to the verdict, the "unjust act" was the victim's "being a transvestite".'<sup>2</sup>

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### 4.2 Anti-discrimination legislation

4.2.1 The US State Department 2016 Human Rights Practices Report noted:

'The law does not include specific protections based on sexual orientation or gender identity. The law allows for up to three years in prison for hate speech or injurious acts related to language, race, nationality, color, gender, disability, political opinion, philosophical belief, religion, or sectarian

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<sup>1</sup> International Lesbian, Gay, Bisexual, Trans & Intersex Association (ILGA). 'State sponsored homophobia: A World Survey of Laws: criminalisation, protection and recognition of same-sex love,' dated May 2016 [http://ilga.org/downloads/02\\_ILGA\\_State\\_Sponsored\\_Homophobia\\_2016\\_ENG\\_WEB\\_150516.pdf](http://ilga.org/downloads/02_ILGA_State_Sponsored_Homophobia_2016_ENG_WEB_150516.pdf). Accessed: 3 March 2017

<sup>2</sup> International Gay and Lesbian Human Rights Commission - Submission to the United Nations Universal Periodic Review on Turkey, Human Rights Violations of LGBT Individuals in Turkey, January/February 2015 <http://www.iglhrc.org/sites/default/files/uprSubTurkey.pdf>. Accessed: 3 March 2017

differences. Human rights groups criticized the law's failure to include protections based on gender identity and noted that the law was sometimes used to restrict freedom of speech rather than to protect minorities. The Ministry of Family and Social Policies noted that LGBTI definitions were not included in the law but reported that protections for LGBTI individuals are provided under a general "gender" concept in the constitution. KAOS-GL, a domestic NGO focused on LGBTI rights, maintained that due to the law's failure to recognize the existence of LGBTI individuals, authorities withheld social protection from them.

'...The law does not explicitly discriminate against LGBTI individuals; however, legal references to "offenses against public morality," "protection of the family," and "unnatural sexual behavior" sometimes served as a basis for discrimination by employers and abuse by police.'<sup>3</sup>

- 4.2.2 The UN Committee for the Elimination of Discrimination against Women (CEDAW) Concluding observations on the seventh periodic report of Turkey from July 2016 noted:

'...discrimination and violence targeted at lesbian, bisexual and transgender women continues; this violence is exacerbated by impunity for the perpetrators of hate crimes, including severe violence against and killings of lesbian, bisexual and transgender women and by the lack of integration of "sexual orientation and gender identity" into legislation on hate crimes or into the prohibited grounds of discrimination in Law No. 6701, which is in violation of article 4 (3) of the Istanbul Convention, and by the courts' acceptance of the applicability of article 29 of the Penal Code on "unjust provocation" to cases of killings of lesbian, bisexual and transgender women, thus providing mitigating circumstances for perpetrators of such crimes.'<sup>4</sup>

- 4.2.3 The press release for the Council of Europe's Commission against Racism and Intolerance (ECRI) 2016 Turkey report, taking into account developments up to 17 March 2016, 'Prejudice against LGBT persons forces them to "stay invisible", as neither the Criminal Code nor the draft anti-discrimination law provide them with basic protection.'<sup>5</sup>

- 4.2.4 The International Lesbian, Gay, Bisexual, Trans & Intersex Association (ILGA-Europe) 2016 annual report covering 2015 noted:

'LGBTI people remained legally unprotected against discrimination and hate speech. Of particular concern was the consistent hate speech from leading political figures and the fact that such actions were not publicly condemned.

'In January, the Ministry of Justice replied to a question from Mahmut Tanal MP (The Republican People's Party, CHP; social-democratic) on their

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<sup>3</sup> US State Department – 2016 Human Rights Practices Report, 3 March 2017 <https://www.state.gov/documents/organization/265694.pdf>. Accessed: 10 March 2017

<sup>4</sup> UN Committee for the Elimination of Discrimination against Women - Concluding observations on the seventh periodic report of Turkey, July 2016 [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/TUR/CO/7&Lang=En](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/TUR/CO/7&Lang=En). Accessed: 31 March 2017

<sup>5</sup> Council of Europe - European Commission against Racism and Intolerance (ECRI) 2016 Turkey report press release, 4 October 2016 <http://www.coe.int/t/dghl/monitoring/ecri/Library/PressReleases/TUR-PR-V-2016-225-EN.asp>. Accessed: 20 March 2017

LGBTI-related work by saying “there is no work on the protection and recognition of lesbian, gay, bisexual and trans citizens’ human rights conducted by our Ministry.”<sup>6</sup>

#### 4.2.5 A 2015 academic paper on Same Sex Sexualities in Turkey noted:

‘Despite the fact that the state, especially through the army, acknowledges the existence of homosexual citizens and labels them whenever it can, law does not recognize them otherwise and does not guarantee any sort of social rights that heterosexual citizens virtually have including but not limited to marriage, civil union contracts, and partnership benefits such as retirement, heritage, insurance, social security, and access to the corpse in case of death. No Turkish law specifically forbids discrimination on the basis of sexual orientation or sexuality in social institutions, government offices, or corporations. In fact, Turkey encourages discrimination through the distinct Ministry for Family and Social Policies (previously The State Ministry for Women), which reiterates the priority to protect families instead of individuals who opt for staying out of families; precludes alternative definitions of the family with a focus on definitions based on the conventional, traditional heterosexual family; and proselytizes reproductive policies.’<sup>7</sup>

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### 4.3 Gender reassignment

#### 4.3.1 In March 2015 an Amnesty International public statement stated: ‘The European Court of Human Rights ruling striking down a sterilization requirement for transgender individuals who wish to access gender reassignment surgery is an encouraging step towards equality for transgender people in Europe.

‘On 10 March, in *Y.Y. v Turkey*, the Court found that requiring a transgender man to be permanently incapable of reproduction as a precondition to undergoing gender reassignment surgery violated his right to private and family life (Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms).

‘Turkish Courts had denied for many years the possibility for Y.Y. to access gender reassignment surgery on the basis that he was not sterilised. The European Court found that the resulting restriction of his private life was not necessary to achieve the aims upheld by domestic Courts, namely the protection of the general interest as well as the physical and moral integrity of the applicant.

‘According to Turkish law (Article 40 of the Civil Code), a person can “change gender” (*cinsiyet degisikligi*) only upon the fulfilment of specific requirements. These include obtaining a psychiatric diagnosis as well as

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<sup>6</sup> International Lesbian, Gay, Bisexual, Trans & Intersex Association (ILGA-Europe). ‘Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe 2016’ [http://www.ilga-europe.org/sites/default/files/2016/full\\_annual\\_review.pdf](http://www.ilga-europe.org/sites/default/files/2016/full_annual_review.pdf). Accessed: 20 March 2017

<sup>7</sup> Cenk Ozbay (University of Bogazici, Istanbul) – Same-Sex Sexualities in Turkey, 2015 <https://cenkozbay.files.wordpress.com/2011/12/2015-same-sex-sexualities-in-turkey.pdf>. Accessed: 13 March 2017

being single, aged 18 or above and permanently incapable of reproduction. In the case of Y.Y., Turkish Courts interpreted Article 40 as requiring him to be permanently incapable of reproduction as a pre-requisite for accessing gender reassignment surgery.

‘This is the first case in which the Court found that the sterilization requirement for the purpose of accessing gender reassignment surgery contravenes the European Convention of Human Rights. However, the judgment did not address the issue of whether requiring transgender people to undergo sterilization as a prerequisite to obtain legal gender recognition contravenes the European Convention.

‘In as many as 21 European countries including Belgium, Finland, France, Italy, Norway and Turkey, transgender people must be sterilized to obtain legal documents that reflect their gender identity. This violates their rights to be free from inhuman and degrading treatment, to the highest attainable standard of health and to private and family life.’<sup>8</sup>

- 4.3.2 The 2016 ILGA-Europe Annual Report for Turkey noted that ‘An inmate at Maltepe prison had their request to undergo gender reassignment surgery (after changing her name and gender) approved in January [2015].’<sup>9</sup>

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## 5. State attitudes

### 5.1 Overview

- 5.1.1 The US State Department 2016 Human Rights Practices Report noted that ‘Minority groups, including...lesbian, gay, bisexual, transgender, intersex (LGBTI) individuals, continued to face threats, discrimination, and violence and reported that the government took insufficient steps to protect them. Progovernment media used anti-LGBTI...rhetoric.’<sup>10</sup>

- 5.1.2 A 2015 academic paper on Same Sex Sexualities in Turkey noted:

‘Turkey is one of the few countries in which homosexuality or counternormative sexualities are legal yet they are subjugated by state institutions, including the restrictive actions of police forces and public prosecutors...A simultaneous double life is experienced in terms of same-sex...On the one hand, the Turkish state and society are becoming more conservative, religious, and oppressive...On the other hand, same-sex sexualities are performed as they are tolerated within the zones of exception, especially in certain neighborhoods of the major metropolitan areas.’<sup>11</sup>

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<sup>8</sup> Amnesty International. ‘Turkey: sterilization as a prerequisite to access gender reassignment surgeries contravenes the European Convention of Human Rights,’ 1 EUR 44/1205/2015, dated 13 March 2015. <https://www.amnesty.org/en/documents/document/?indexNumber=eur44%2F1205%2F2015&language=en>. Accessed: 20 March 2017

<sup>9</sup> International Lesbian, Gay, Bisexual, Trans & Intersex Association (ILGA-Europe). ‘Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe 2016’ <http://www.ilga-europe.org/>. Accessed: 27 March 2017

<sup>10</sup> US State Department – 2016 Human Rights Practices Report, 3 March 2017 <https://www.state.gov/documents/organization/265694.pdf> date accessed: 10 March 2017

<sup>11</sup> Cenk Ozbay (University of Bogazici, Istanbul) – Same-Sex Sexualities in Turkey, 2015

### 5.1.3 The Freedom House 2017 Freedom in the World Report noted:

‘Same-sex sexual activity is legally permitted, but LGBT (lesbian, gay, bisexual, and transgender) people are subject to widespread discrimination, police harassment, and occasional violence. There is no legislation to protect people from discrimination based on sexual orientation or gender identity. In June 2016, the government refused to grant permission for an Istanbul gay pride parade on security grounds.’<sup>12</sup>

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## 5.2 Police and Judiciary

### 5.2.1 The European Commission 2016 Progress Report on Turkey noted that ‘LGBTI marches in Ankara and in Istanbul were again banned in 2016.’<sup>13</sup>

### 5.2.2 The US State Department 2016 Human Rights Practices Report noted:

‘Police harassment of LGBTI persons, particularly transgender sex workers, remained common.

‘...LGBTI prostitutes reported that police detained them to extract payoffs. LGBTI advocates accused courts and prosecutors of creating an environment of impunity for attacks on transgender persons involved in prostitution. Human rights attorneys reported that police and prosecutors frequently failed to pursue cases of violence against transgender persons aggressively. They often did not arrest suspects or hold them in pretrial detention, as was common with other defendants. When arrests were made, defendants could claim “unjustifiable provocation” under the penal code and request a reduced sentence. The “unjustifiable provocation” provision states that punishment “will be reduced if the perpetrator commits a crime under the influence of rage or strong, sudden passion caused by a wrongful act.” Judges routinely applied the law to reduce the sentences of those who killed LGBTI individuals. Courts of appeal upheld these verdicts based, in part, on the “immoral nature” of the victim.’<sup>14</sup>

### 5.2.3 According to the UN Special Rapporteur on extrajudicial, summary or arbitrary detentions:

‘The challenges relating to the protection of lesbian, gay, bisexual and transgender persons are exacerbated by the attitude of some family members of such individuals, as well as the trend observed by the Special Rapporteur during his visit, whereby law enforcement officials and the

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<https://cenkozbay.files.wordpress.com/2011/12/2015-same-sex-sexualities-in-turkey.pdf>. Accessed: 13 March 2017

<sup>12</sup> Freedom House – 2017 Freedom in the World Report, January 2017 <https://freedomhouse.org/report/freedom-world/2017/turkey>. Accessed: 20 March 2017

<sup>13</sup> European Commission – 2016 Turkey Progress Report, November 2016 [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key\\_documents/2016/20161109\\_report\\_turkey.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_turkey.pdf). Accessed: 31 March 2017

<sup>14</sup> US State Department – 2016 Human Rights Practices Report, 3 March 2017 <https://www.state.gov/documents/organization/265694.pdf>. Accessed: 24 March 2017



judiciary seem to take a lenient attitude towards crimes committed against such individuals.<sup>15</sup>

#### 5.2.4 The 2016 ILGA-Europe Annual Report for Turkey noted:

‘In April [2015], justice minister Bekir Bozdog (AKP) announced plans to construct LGBT-only prisons. While the ministry stated this was a safety measure designed to protect LGBT prisoners from abuse, LGBTI NGOs and activists said that segregation was another means of ostracising the LGBT community. Construction began on a site in Izmir and from 2017, it is expected that all LGBT inmates will be imprisoned there.

‘An LGBTI activist who visited an inmate at Bakirkoy Women’s Prison in July was harassed by guards. The trans woman was denied entry via the female visitor security entrance and was then verbally harassed by male guards.’<sup>16</sup>

#### 5.2.5 For further information about the judicial system see the country information and policy note on [Turkey: Background](#).

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### 5.3 Freedom of assembly

#### 5.3.1 The Freedom House 2017 Freedom in the World Report for Turkey noted that ‘Freedoms of association and assembly are protected in the constitution, and Turkey has an active civil society. Since the 2013 Gezi Park protests, however, the authorities have broken up numerous demonstrations and passed laws to expand police powers to use force against protesters.’<sup>17</sup>

#### 5.3.2 The Radio Free Europe/Radio Liberty article from June 2016 noted:

‘Police in the Turkish city of Istanbul have fired rubber bullets and tear gas to break up a rally by the LGBT community.

‘Riot police surrounded the main Taksim Square on June 19 [2016] to prevent the “Trans Pride” rally of about 150 people, which had gathered to kick off a week of LGBT events. Demonstrations on the square have been banned since 2013.

‘Turkish media reported that at least two people were detained after riot police fired tear gas and rubber bullets to disperse the crowd.

‘Citing security concerns over ultra-nationalist warnings against any such events on Turkish soil, authorities announced on June 17 [June 2016] that transgender and gay pride marches had been banned this month.

‘Included in the restriction is Turkey’s annual Gay Pride parade which was scheduled for June 26.’<sup>18</sup>

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<sup>15</sup> United Nations Human Rights Council - Special Rapporteur on extrajudicial, summary or arbitrary detentions, May 2015 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/090/35/PDF/G1509035.pdf?OpenElement>. Accessed: 24 March 2017

<sup>16</sup> International Lesbian, Gay, Bisexual, Trans & Intersex Association (ILGA-Europe). ‘Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe 2016’ <http://www.ilga-europe.org/>. Accessed: 27 March 2017

<sup>17</sup> Freedom House – 2017 Freedom in the World Report, January 2017 <https://freedomhouse.org/report/freedom-world/2017/turkey>. Accessed: 27 March 2017

<sup>18</sup> Radio Free Europe/Radio Liberty – Police In Istanbul Crack Down On LGBT Rally, 20 June 2016

### 5.3.3 A June 2016 Middle East Eye article noted:

‘A group of ultra-nationalists asked the authorities last week to cancel the gay pride parade, threatening that it would make sure it did not take place if police did not heed their call.

‘The annual Istanbul parade has taken place for the last 12 years without incident, with thousands of people taking part, to become the most important LGBT gathering in a Muslim country in the region.

‘...Earlier on Sunday, 11 anti-gay protesters demonstrating near Taksim Square were arrested, according to the Dogan news agency.’<sup>19</sup>

### 5.3.4 The US State Department 2016 Human Rights Practices Report noted:

‘Prior to “pride week” in June [2016], the country’s LGBTI community reported receiving hate messages and threats from a variety of sources. Istanbul security officials provided police protection for some pride week events. On June 19 [2016], police dispersed crowds using tear gas when activists attempted to hold a “trans pride” parade. The Istanbul Governor’s Office banned the LGBTI community’s annual pride parade, which had been planned for June 26 [2016], citing security concerns. Police actively prevented those who gathered, nonetheless, for the pride parade, and also prevented an anti-LGBTI group that had gathered the same day to protest parade participants, arresting two of the protesters. The government did not respond to allegations of disproportionate use of force by police against transgender pride activists, police intimidation, or calls by groups for anti-LGBTI violence.’<sup>20</sup>

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## 5.4 Healthcare

### 5.4.1 The US State Department 2016 Human Rights Practices Report noted:

‘Due to pervasive social stigma against HIV/AIDS, many individuals feared that the results of tests for HIV would be used against them and, therefore, avoided testing. Since medical benefits are conditional on employment status, LGBTI persons who were unemployed or unofficially employed due to discriminatory hiring practices had difficulty obtaining treatment for HIV/AIDS.’<sup>21</sup>

### 5.4.2 Contribution from Kaos GL, SPoD, Pembe Hayat, ILGA---Europe and ERA to Turkey's ILGA Report 2016 noted:

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<http://www.rferl.org/a/turkey-lgbt-rally-/27808454.html>. Accessed: 27 March 2017

<sup>19</sup> Middle East Eye – Istanbul police break up LGBT rally held in spite of ban, 20 June 2016  
<http://www.middleeasteye.net/news/istanbul-police-break-lgbt-rally-held-spite-ban-271755599>.  
Accessed: 27 March 2017

<sup>20</sup> US State Department – 2016 Human Rights Practices Report, 3 March 2017  
<https://www.state.gov/documents/organization/265694.pdf>. Accessed: 27 March 2017

<sup>21</sup> US State Department – 2016 Human Rights Practices Report, 3 March 2017  
<https://www.state.gov/documents/organization/265694.pdf>. Accessed: 27 March 2017

'On the 4<sup>th</sup> of May [2016], SES (Union for Health and Social Services Workers) organised an event on "Accessing Social Services for LGBTI people". Hospital staff tore up the poster for that event.

'...Trans and intersex individuals face hardships in accessing healthcare due to discriminatory attitudes of the hospital staff. In a legal case concerning discrimination in access to health care against trans individuals, a doctor refused to examine a trans woman patient because of her gender identity. There has been no investigation into the doctor's conduct, but the victim was punished for allegedly insulting the doctor. An intersex person was also faced with ill treatment and discrimination when they applied to be examined for a physical ailment. Finally, a trans individual was refused by the university from which he graduated, when he asked them to reissue his diploma with his new name. He filed a complaint against the university's decision, but the court upheld it. He cannot practice his profession due to this.'<sup>22</sup>

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## 5.5 Military service

5.5.1 The 2016 ILGA-Europe Annual Report for Turkey noted that 'The Turkish military amended its exemptions policy in November [2015], renaming sexual orientation as a 'sexual attitude and behaviour' instead of a 'psychotic disorder.' However, LGBTI NGOs were unclear about the effect the change will have for gay and bisexual soldiers in practice.'<sup>23</sup>

5.5.2 A Pink News article from November 2015 noted:

'Gay men who want to be exempt from military service in Turkey will no longer be made to prove their sexual orientation with sex pictures and anal examinations.

'The country has got a strict policy on exemptions from military service. Those allowed exemption must be sick, disabled or gay.

'The whole ordeal often proves humiliating for gay men either because they have to disclose their sexual orientation or hide it.

'Previously, those who wish to be exempt on the basis of their sexual orientation had to make a public declaration, often leading to discrimination.

'If they go into the draft, gay men usually have to hide their sexual orientation for a year of service.

'Now the rules of pre-draft medical examinations have been relaxed, removing some of the stipulations for "tests" on men who say they are gay.

'The requirement for men to "prove" their homosexuality by showing photos of them having sex with men has also been removed.

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<sup>22</sup> Kaos GL, SPoD, Pembe Hayat, ILGA---Europe and ERA – Contributions to to ILGA-Europ Turkey Report 2016, 18 May 2016 [http://www.ilga-europe.org/sites/default/files/enlargement\\_review\\_turkey\\_2016.pdf](http://www.ilga-europe.org/sites/default/files/enlargement_review_turkey_2016.pdf). Accessed: 27 March 2017

<sup>23</sup> International Lesbian, Gay, Bisexual, Trans & Intersex Association (ILGA-Europe). 'Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe 2016' <http://www.ilga-europe.org/>. Accessed: 28 March 2017



‘However, gay men will still be forced to undergo examinations by doctors, who will “observe the behaviours” of gay men, and the way they speak.

‘But the disclosure of a man’s sexual orientation will constitute the sole basis for the decision on military exemption.

‘This is a massive change for Turkey, in bringing in line military regulations with basic human rights.

‘It has been compared to the ‘Don’t Ask, Don’t Tell’ policy in the US, which has now been removed.’<sup>24</sup>

5.5.3 See also the country information and policy note on [Turkey: Military Service](#).

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## 6. Societal treatment and attitudes

### 6.1 Public opinion

6.1.1 The Guides.Global 2017 guidance on sexuality issues (largely aimed at tourists) noted that ‘Many people in Turkey are prejudiced against gay and transgender people.’<sup>25</sup>

6.1.2 In an Ipsos 2015 survey, just 46% of Turks said they wanted some form of legal recognition (be it civil union or marriage) for same sex couples.<sup>26</sup>

6.1.3 The ILGA-Europe Rainbow Index ranking of European countries on the basis of their respect for the rights of LGBT individuals ranked Turkey 46<sup>th</sup> out of 49. Only Armenia, Russia and Azerbaijan ranked lower.<sup>27</sup>

6.1.4 A 2013 Pew Research Center Survey noted that only 4% of respondents in Turkey rated homosexuality as morally acceptable, 12% as not a moral issue, and 78% as morally unacceptable.<sup>28</sup>

6.1.5 Turkish author Elif Shafak wrote in an opinion piece in a Guardian article of 23 June 2016:

‘There is no doubt that Turkey is a homophobic country: the 2011 World Values Survey found out that 84% of Turkish respondents did not want to have LGBT neighbours. But there is also a great deal of hypocrisy. Zeki Muren, who was one of our most beloved and most famous music icons for decades and referred to as “Turkey’s David Bowie”, was gay. This week, while LGBT protesters were being teargassed on the streets, Erdoğan

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<sup>24</sup> Pink News – Turkey relaxes rules for anal exams for gay men military service, 20 November 2015 <http://www.pinknews.co.uk/2015/11/20/turkey-relaxes-rules-for-anal-exams-for-gay-men-in-military-service/>. Accessed: 28 March 2017

<sup>25</sup> Guides.Global – Turkey: Sex, Sexuality and Gender Issues, 16 February 2017 <http://guides.global/guides/turkey/TUR-sex.php>. Accessed: 28 March 2017

<sup>26</sup> Ipsos - Of 23 Countries Surveyed, Majority (65%) in 20 Countries Support Legal Recognition of Same-Sex Unions, 29 May 2015 <http://www.ipsos-na.com/news-polls/pressrelease.aspx?id=6866>. Accessed: 28 March 2017

<sup>27</sup> ILGA Europe – Rainbow Index/Map, May 2016 [http://www.ilga-europe.org/sites/default/files/Attachments/side\\_a\\_rainbow\\_europe\\_map\\_2016\\_a3\\_small.pdf](http://www.ilga-europe.org/sites/default/files/Attachments/side_a_rainbow_europe_map_2016_a3_small.pdf). Accessed: 28 March 2017

<sup>28</sup> Pew Research Center – The Global Divide on Homosexuality, 4 June 2013 <http://www.pewglobal.org/2013/06/04/the-global-divide-on-homosexuality/>. Accessed: 28 March 2017

attended a celebrity dinner that included Bülent Ersoy, a popular singer and transgender celebrity, on the guestlist.

‘There are many in Turkish society who adore gay musicians and actors from afar but cannot bear the thought of having a gay relative.’<sup>29</sup>

- 6.1.6 A New York Times article from April 2017 about the referendum to give the president more power reflected a generically wider societal urban/rural divide noting that ‘the referendum reflected a country sharply divided, with voters in the major cities tending to oppose the changes while those in rural areas, who usually are more religious and conservative, voting in favor of them.’<sup>30</sup>

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## 6.2 Homophobic violence

- 6.2.1 The European Commission 2016 Progress Report on Turkey noted that ‘Gender-based violence, discrimination, hate speech against minorities, hate crime and violations of human rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) persons continue to be a source of a serious concern.’<sup>31</sup>

- 6.2.2 The OSCE (Organisation for Security and Co-operation in Europe) ODIHR (Office for Democratic Institutions and Human Rights) Hate Crime Reporting Bias against LGBT people 2015 incidents in Turkey reported by civil society noted:

‘Transgender Europe, the Anti-Defamation League (ADL) and Human Rights First reported one murder. Transgender Europe reported two additional murders; four sexual assaults; 33 physical assaults, 21 of which involved the use of a weapon, eight of which were committed by a group and two in which a weapon was used. Transgender Europe also reported three threats, an arson attack, one incident of damage to property, one robbery and two incidents of thefts accompanied by threats.

‘The London Legal Group reported the murder of a transgender woman; one attempted murder; and four physical assaults, one of which was carried out by a group and another involved a knife.’<sup>32</sup>

- 6.2.3 The US State Department 2016 Human Rights Practices Report noted:

‘During the year LGBTI individuals continued to experience discrimination, intimidation, and violent crimes.

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<sup>29</sup> The Guardian – Turkey’s LGBT community is fighting for freedom. That’s why it’s a target for extremists, 23 June 2016 <https://www.theguardian.com/commentisfree/2016/jun/23/turkey-lgbt-freedom-erdogan-istanbul-pride>. Accessed: 31 March 2017

<sup>30</sup> New York Times – In Supporting Erdogan, Turks Cite Economic and Religious Gains, 17 April 2017 [https://www.nytimes.com/2017/04/17/world/europe/turkey-referendum-erdogan.html?emc=edit\\_th\\_20170418&nl=todaysheadlines&nlid=47932772&r=2](https://www.nytimes.com/2017/04/17/world/europe/turkey-referendum-erdogan.html?emc=edit_th_20170418&nl=todaysheadlines&nlid=47932772&r=2). Accessed: 24 April 2017

<sup>31</sup> European Commission – 2016 Turkey Progress Report, November 2016 [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key\\_documents/2016/20161109\\_report\\_turkey.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_turkey.pdf). Accessed: 31 March 2017

<sup>32</sup> OSCE (Organisation for Security and Co-operation in Europe) ODIHR (Office for Democratic Institutions and Human Rights) - Hate Crime Reporting Bias against LGBT people 2015 incidents in Turkey <http://hatecrime.osce.org/what-hate-crime/bias-against-lgbt-people>. Accessed: 28 March 2017

'Violence against LGBTI individuals continued throughout the year, including several murders. The NGO Red Umbrella reported 227 assaults and murders of LGBTI individuals through October 1 [2016]. In one example, in August the burned and mutilated body of a transgender sex worker and LGBTI activist, Hande Kader, was found in Istanbul's Sariyer district. There was no report of an arrest in the case as of year's end.'<sup>33</sup>

#### 6.2.4 A Kaos GL March 2017 article noted:

'Two sad stories in July and August [2016] deeply affected the LGBTI society. Syrian gay refugee Wisam Sankara and trans woman Hande Kader were killed. LGBTIs gathered in the streets against violence. There is no legal process about these two murders following the coup attempt. Effective investigations have not and are not being done.

'...On the other hand, every day we receive news of rights violations on KaosGL.org. Trans sex workers in Izmir Alsancak were practically imprisoned in their homes due to police pressure. Violence by police has increased in the streets. Trans women across the country are trying to live in the throes of violence and survive the state of emergency.

'...the "state of emergency" practice which has been going on since July 20, 2016 has had a negative impact on LGBTIs.

'...This "security concept" is making the streets less secure in general. The guarantee of impunity encourages transphobic, biphobic, homophobic people and gangs to assault...phobic assaults have increased all around the country during the state of emergency.'<sup>34</sup>

#### 6.2.5 According to KAOS GL, on 17 December 2016, 'Syrian refugee transgender woman Werde was stabbed by knife in her house in Cihangir by a man pretending as a customer. After the crime, police could not identify the murderer from the security footage. Werde's friends went to the Forensic Medicine Institute on Sunday, December 18<sup>th</sup> [2016], but they were not allowed to take the funeral. Her friends said that Werde's body has become unrecognizable.'<sup>35</sup>

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## 6.3 Employment

### 6.3.1 The 2016 Stonewall Global Workplace Briefing for Turkey noted:

'LGBT persons often feel the need to hide their sexual orientation or gender identity at work, and those that do not, or are unable to do so may face negative repercussions. Even where discrimination is obvious, it will often be ignored because unemployment rates are very high in Turkey and people do not want to risk their livelihoods. In particular, trans women and men will find

<sup>33</sup> US State Department – 2016 Human Rights Practices Report, 3 March 2017 <https://www.state.gov/documents/organization/265694.pdf>. Accessed: 27 March 2017

<sup>34</sup> Kaos GL – How Does the State of Emergency Affect Turkey's LGBTIs? 22 March 2017 <https://lgbtinewsturkey.com/2017/03/26/how-does-the-state-of-emergency-affect-turkeys-lgbtis/#more-4764>. Accessed: 28 March 2017

<sup>35</sup> KAOS GL, Refugee transgender woman was killed in Istanbul, 22 December 2016, <http://kaosgl.org/page.php?id=22676>. Accessed: 5 May 2017

it nearly impossible to be open at work. There have been some positive precedents set in the courts but these relate mainly to the police and army.<sup>36</sup>

6.3.2 The US State Department 2016 Human Rights Practices Report noted:

‘LGBTI individuals faced particular discrimination in employment. The law includes a clause that allows the dismissal of a government employee who is found “to act in a shameful and embarrassing way unfit for the position of a civil servant.” Other statutes criminalize the vague practice of “unchastity.” Some employers used these provisions to discriminate against LGBTI individuals in the labor market.’<sup>37</sup>

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## 7. LGBT organisations

7.1.1 An Al-Monitor article from November 2016 noted:

‘The number of nongovernmental organizations whose activities have been banned by the state of emergency rule is steadily increasing. The latest was the announcement that 370 more NGOs have been shut down, bringing the total number of NGOs banned since July 15 to 1,495. Of that number, 1,125 were banned with a decree issued July 23.

‘According to the latest data from the Department of NGOs in the Ministry of Interior, there are 109,898 registered NGOs in the country.

‘...[A group including] Istanbul LGBTI and Flying Broom, said their locations may be closed down, but their members are all over the country. “Obstructing anti-democratic practices that cannot be justified with democracy, law, legality and freedoms, civilian initiatives, preventing...organizing for their freedoms and equality cannot be legitimized by hiding behind the state of emergency.’<sup>38</sup>

7.1.2 The US State Department 2016 Human Rights Practices Report noted:

‘There were active LGBTI organizations in Istanbul, Ankara, Izmir, Adana, Mersin, Gaziantep, Eskisehir, and Diyarbakir, and unofficial groups in smaller cities and university campuses. Groups reported harassment by police, government, and university authorities. University groups in small cities complained that rectors had denied them permission to organize. LGBTI organizations reported the government used regular and detailed audits against them to create administrative burdens and threatened the possibility of large fines. They also reported challenges finding office space due to discrimination from landlords.’<sup>39</sup>

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<sup>36</sup> Stonewall - Global Workplace Briefing for Turkey, 2016 [https://www.stonewall.org.uk/sites/default/files/gwb\\_turkey\\_2016\\_final.pdf](https://www.stonewall.org.uk/sites/default/files/gwb_turkey_2016_final.pdf). Accessed: 28 March 2017

<sup>37</sup> US State Department – 2016 Human Rights Practices Report, 3 March 2017 <https://www.state.gov/documents/organization/265694.pdf>. Accessed: 28 March 2017

<sup>38</sup> Al-Monitor – State of emergency shuts down Turkey’s NGOs’, 21 November 2016 <http://www.al-monitor.com/pulse/originals/2016/11/turkey-emergency-rule-cracks-down-on-ngos.html>. Accessed: 30 March 2017

<sup>39</sup> US State Department – 2016 Human Rights Practices Report, 3 March 2017 <https://www.state.gov/documents/organization/265694.pdf>. Accessed: 30 March 2017

- 7.1.3 The LGBTI Turkey News website listed nearly fifty LGBTI organisations operating in the country on its website, [LGBTI Organizations in Turkey](#) .
- 7.1.4 A Kaos GL article from February 2017 noted the existence of the newly founded LADEG+ (LGBTI+ Families and Relatives Support Group) which in part existed to offer information and guidance on intersex issues<sup>40</sup> .
- 7.1.5 A Carnegie Endowment March 2017 report on civic activism generally (not LGBTI-specific) noted the wider picture: ‘The broader contextual challenge for both new and old activists in Turkey is the difficult overall political environment in Turkey. The spiralling polarization of Turkish political and social life is deepening the fragmentation of civil society. The country’s shrinking civic space makes it increasingly challenging for new actors to sustain their potential.’<sup>41</sup>

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<sup>40</sup> Kaos GL – Intersex Anatolia Meets Families in Istanbul, 17 February 2017  
<https://lgbtnewsturkey.com/2017/03/01/intersex-anatolia-meets-families-in-istanbul/>. Accessed: 31 March 2017

<sup>41</sup> Carnegie Endowment – Global Civic Activism in Flux, 17 March 2017  
<http://carnegieeurope.eu/2017/03/17/global-civic-activism-in-flux-pub-68301>. Accessed: 24 April 2017

# Version control and contacts

## Contacts

If you have any questions about this note and your line manager, senior caseworker or technical specialist cannot help you, or you think that this note has factual errors then [email the Country Policy and Information Team](#).

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## Clearance

Below is information on when this note was cleared:

- version **2.0**
- valid from **14 June 2017**

## Changes from last version of this note

Update of country information

Change to guidance on certification.

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