



Third Party Intervention

**In the Case of KAOS GEY VE LEZBİYEN KÜLTÜREL
ARAŞTIRMALAR VE DAYANIŞMA (KAOS GL) DERNEĞİ v. Türkiye.
(nos. 5797/22 and 27507/23),
by**

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An independent non-governmental organization specialized in defending and promoting freedom of expression

I. Introduction and Background

1. İFÖD will address the legitimacy of the prohibition on all collective activities of LGBTI+ persons, including pride marches, in Türkiye in its intervention in the case of *KAOS Gey ve Lezbiyen Kültürel Araştırmalar ve Dayanışma (KAOS GL) Derneği v. Türkiye*. (nos. 5797/22 and 27507/23). These applications concern bans imposed by the Ankara Governor's Office on meetings, demonstrations and any cultural activities organised by associations or NGOs advocating for the rights of LGBTI+ individuals, including the applicant association.
2. Application no. 27507/23 concerns the refusal by the Ankara Governor's Office to grant permission for an open-air meeting planned for 22.05.2016. The applicant alleged a violation of her rights under Articles 10 and 11 of the Convention, taken alone and in conjunction with Articles 13 and 14. The applicant association argued that the ban was based on stereotypical assumptions regarding an alleged risk of hostilities from others, and that the association was not given the opportunity to refute the information that, according to the domestic courts, justified the measure. Furthermore, the applicant contended that the administrative courts failed to identify the various interests at stake, did not seek to maintain a fair balance between them, and disregarded relevant elements of the case law.
3. Application no. 5797/22 concerns the Ankara Governor's Office's prohibition of all public events organised by LGBTI+ persons for an indefinite period, starting on 17.11.2017. The applicant alleged violations of the right to respect for private life, freedom of thought and expression, and freedom of demonstration and assembly, as protected under Articles 8, 9, 10 and 11 of the Convention, taken alone or in conjunction with Articles 13 and 14. Additionally, the applicant invoked Article 3, arguing that the indefinite ban constituted degrading treatment of the LGBTI+ community.
4. With regard to application no. 27507/23, the Court asked the parties whether the applicant association's freedom of peaceful assembly, within the meaning of Article 11 § 1 of the Convention, was infringed by the Ankara Governor Office's ban on the Pride March on 18.05.2016. If the response was affirmative, the Court further inquired about the legal basis for this interference and the legitimate aim, within the meaning of Article 11 § 2, of the prohibition. Additionally, the Court questioned whether the ban met a pressing social need and was proportionate to the aim pursued.¹
5. The Court also explored whether the State had fulfilled its positive obligation to take reasonable and appropriate measures to ensure the peaceful conduct of the Pride March, prevent disorder, and guarantee the safety of all participants before imposing the ban. In this context, it questioned whether the domestic courts had properly balanced the competing interests at stake.
6. The Court further questioned, in light of its case-law on the practical conditions of a meeting (*ACCEPT and Others*, § 144, and *Sáska v. Hungary*, no. 58050/08, § 21, 27.11.2012), whether the remedy available before Chamber No. 1 of the Ankara Regional Administrative Court could be considered effective within the meaning of Article 13 of the Convention. It

¹ *Bączkowski and others v. Poland*, no. 1543/06, § 63, 03.05.2007, *Christian Democratic People's Party v. Moldova* (no. 2), no. 25196/04, §§ 20 to 25, 02.02.2010, *Alekseyev v. Russia*, nos. 4916/07 and 2 others, §§ 73 and 81, 21.10.2010, *Kudrevičius and Others v. Lithuania [GC]*, no. 37553/05, §§ 142-146 and 158-160, ECHR 2015 and *Association ACCEPT and Others v. Romania*, no. 19237/16, § 140, 01.06.2021

also asked what judicial remedy, if any, the applicant could have used after the event, once it was no longer possible to organize the Pride March on the desired date, to obtain a satisfactory redress for the alleged breach of Article 11.

7. Finally, the Court inquired whether, under the circumstances of the case, the applicant could claim to be a victim of discrimination based on its pro-LGBTI+ statutory mission and the sexual orientation of potential participants in the planned Pride March, in violation of Article 14 of the Convention. In doing so, the Court referred to relevant case law, including *Genderdoc-M* (§§ 50-53), *Kozak v. Poland* (no. 13102/02, § 92, 02.03.2010), and *Alekseyev* (§ 108).
8. In the context of application no. 5797/22, the Court asked whether, in light of the Ankara Regional Administrative Court's judgment of 21.02.2019 annulling the contested prefectural ban and the Constitutional Court's finding that this judgment precluded the applicant from claiming to be a victim, the applicant could still claim to be a victim of a violation of the Convention within the meaning of Article 34.
9. The Court further inquired whether the Ankara Governor Office's ban of 17.11.2017 interfered with the applicant association's pursuit of its statutory aims, specifically its rights under Articles 10 and/or 11 of the Convention. The Court questioned the legal basis for this interference, noting that the ban was justified by concerns over "certain social sensitivities and emotivities." Additionally, the Court sought clarification regarding the legitimate aim of this interference within the meaning of Article 11 § 2, as the decision referred to Law No. 2935 (Law on State of Emergency) and used the ambiguous term "certain circles." Finally, the Court asked whether the prohibition met a pressing social need and was proportionate to the stated aim, citing relevant case law.
10. In this context, the Court questioned whether domestic courts had appropriately balanced the competing interests and ruled with due diligence, thereby ensuring the effectiveness of remedies under Article 13 of the Convention. It also inquired what judicial remedy the applicant could seek *a posteriori*, once it was no longer possible to organise activities within its statutory aims, to obtain redress for the alleged breach of Articles 10 and/or 11. Finally, the Court asked whether the applicant could claim to be a victim of discrimination based on its pro-LGBTI+ mission, in violation of Article 14 of the Convention, referencing relevant case law.
11. In this third-party intervention İFÖD will provide the Court with detailed information on the restriction of LGBTI+ activities by public authorities and the legal basis for the impugned interferences within the Turkish legal system. Additionally, the peculiarities of the Pride Parade and the specific challenges posed by the administrative judiciary in addressing time-sensitive cases, such as marches or demonstrations, will be highlighted. İFÖD will also summarize the relevant case-law of the Court and the opinions of other Council of Europe bodies.

II. ECtHR's Case-Law

12. The European Court of Human Rights has delivered several judgments concerning bans on LGBTI-related marches or events.² In all such cases, the Court found violations of Article 11 on freedom of assembly and Article 14 in conjunction with Article 11.
13. The Court rejected arguments that the bans were necessary for public safety, the prevention of crime, the protection of the rights of others or the protection of morals. It emphasised that governments have a duty to take reasonable and proportionate measures to ensure that applicants can march peacefully.
14. The Court's case law clearly establishes that peaceful pride demonstrations and the display of LGBTI+ identity constitute the exercise of rights protected under the Convention. It further holds that prohibiting or obstructing the free expression of sexual orientation, gender identity, gender expression, sex characteristics, or political advocacy related to these personal characteristics amounts to a violation of the Convention.
15. The Court has held that prohibiting public pride events, such as parades or other activities aimed at raising awareness of discrimination against LGBTI+ persons or advocating for their rights, is not necessary in a democratic society and is therefore contrary to Article 11 of the Convention.³ Furthermore, the Court found that the absence of an effective remedy to challenge such bans constituted a violation of the right to an effective remedy (Article 13), read in conjunction with Article 11, even if the parade eventually took place despite the ban and legal remedies could only be exercised after the event.⁴
16. The Court emphasised that, in cases involving restrictions on freedom of assembly imposed before a planned event - such as a refusal to grant prior authorisation where such authorisation is required - the concept of an effective remedy implies the possibility of obtaining a final decision on such restrictions before the date of the assembly. A post hoc remedy cannot adequately address violations of Article 11. For the effective enjoyment of freedom of assembly, it is essential that applicable laws establish reasonable time limits within which public authorities must act when making relevant decisions.⁵ Furthermore, the Court has held that discrimination on grounds of sexual orientation constitutes a violation of Article 14 (prohibition of discrimination), read in conjunction with Article 11.⁶
17. In *Alekseyev and others*, the Court ruled that the persistent refusal by Russian authorities to approve requests to hold LGBTI+ gatherings constituted violations of Articles 11, 13 and 14 of the Convention.⁷ The Court emphasised that States have an obligation to execute its judgments and concluded that the rejection of the applicants' requests to hold public LGBTI+ events could not be justified by concerns over public disorder, thereby breaching

² See among others, *Baczkowski and others v. Poland*, no. 1543/06, 03.05.2007; *Alekseyev v. Russia*, no. 4916/07, 21.10.2010; *Genderdoc-M v. Moldova*, no. 9106/06, 12.06.2012; *Identoba and others v. Georgia*, no. 73235/12, 12.05.2015; *M.C. and C.A. v. Romania*, no. 12060/12, 12.04.2016; *Lashmankin and others v. Russia*, no. 57818/09, 07.02.2017; *Alekseyev and others v. Russia*, no. 14988/09, 27.11.2018; *Berkman v. Russia*, no. 46712/15, 01.12.2020; *Association ACCEPT and others v. Romania*, no. 19237/16, 01.07.2021; *Women's Initiatives Supporting Group and others v. Georgia*, no. 73204/13, 16.12.2021.

³ *Baczkowski and others v. Poland*, no. 1543/06, 03.05.2007; *Alekseyev v. Russia*, no. 4916/07, 21.10.2010.

⁴ *Alekseyev v. Russia*, no. 4916/07, 21.10.2010; *Genderdoc-M v. Moldova*, no. 9106/06, 12.06.2012.

⁵ *Lashmankin and others v. Russia*, no. 57818/09, § 345, 07.02.2017.

⁶ *Baczkowski and others v. Poland*, no. 1543/06, 03.05.2007; *Alekseyev v. Russia*, no. 4916/07, 21.10.2010; *Genderdoc-M v. Moldova*, no. 9106/06, 12.06.2012.

⁷ *Alekseyev and others v. Russia*, no. 14988/09, 27.11.2018.

their right to freedom of assembly. The absence of any requirement for the authorities to decide on the events before their scheduled dates amounted to a lack of an effective remedy. Furthermore, the Court found that the authorities' decision to block LGBTI+ events was clearly motivated by disapproval of the demonstrations, amounting to discrimination, in violation of Article 14 of the Convention.

18. The Court has found that disproportionate and unjustified restrictions on peaceful LGBTI+ gatherings—such as requirements regarding their location, time, date, or manner of conduct, which undermine the very purpose of the gatherings—constitute a violation of Article 11, interpreted in light of Article 10 (freedom of expression) of the Convention.⁸ The Court also criticized the use of legal provisions that fail to protect against the arbitrary and discriminatory use of authority, considering such practices as further contributing to the violation.
19. The Court emphasised that the right to freedom of assembly includes the right to choose the time, place, and manner of the assembly, within the limits established under Article 11 § 2. It stressed the importance of organizers' autonomy in determining the assembly's specifics, including whether it is static or moving and how its message is conveyed—whether through speeches, slogans, banners, or other means. The Court further underlined that the purpose of an assembly is often intrinsically linked to a specific location and/or time, allowing it to take place within “sight and sound” of its intended audience or object and ensuring that the message has the strongest possible impact.⁹
20. Authorities are obligated, when gatherings and other LGBTI+ events are permitted, to take sufficient measures to facilitate access to the gathering and to protect participants from LGBTI+-phobic and violent counter-demonstrators, ensuring that the event can proceed peacefully. These measures may include making public statements in advance to promote a conciliatory attitude, assessing the resources necessary for the smooth running of the event during the planning phase, and deploying adequate police personnel. The Court has ruled that failure to meet this obligation constitutes a violation of Article 11, taken in conjunction with Article 14 of the Convention.¹⁰
21. In this context, the Court affirmed that freedom of assembly protects demonstrations even if they may cause annoyance or offense to individuals who oppose the ideas or claims being promoted. It emphasized that measures to restrict freedom of assembly and expression—except in cases of incitement to violence or rejection of democratic principles—undermine democracy and may even endanger it. The Court has consistently held that States have not only a duty to refrain from imposing disproportionate or indirect restrictions on the right to peaceful assembly but also positive obligations to guarantee the effective enjoyment of this right. While the main purpose of Article 11 is to protect individuals from arbitrary interference by public authorities, it also entails additional positive obligations to ensure that these rights can be exercised effectively.¹¹
22. Furthermore, in its examination of the Russian gay propaganda law (anti-LGBT law), the Court rejected Russia's arguments that laws limiting public discourse, including events,

⁸ *Lashmankin and others v. Russia*, no. 57818/09, 07.02.2017.

⁹ *Ibid*, § 405.

¹⁰ *Identoba and others v. Georgia*, no. 73235/12, 12.05.2015; *Berkman v. Russia*, no. 46712/15, 01.12.2020; *Association ACCEPT and others v. Romania*, no. 19237/16, 01.07.2021; *Women's Initiatives Supporting Group and others v. Georgia*, no. 73204/13, 16.12.2021.

¹¹ *Lashmankin and others v. Russia*, no. 57818/09, § 405, 07.02.2017.

about LGBTI+ issues were necessary to protect children. The Court concluded that “the very purpose of the laws and the way they were formulated and applied were discriminatory” and “served no legitimate public interest.” Moreover, it found that “by adopting such laws, the authorities had reinforced stigma and prejudice and encouraged homophobia,” actions fundamentally incompatible with the values of a democratic society.¹²

23. Similarly, the Court found that the seizure and confiscation of all copies of a magazine issue published by Kaos GL, along with the initiation of criminal proceedings against the association’s president and the magazine’s editor-in-chief, constituted a violation of Kaos GL’s right to freedom of expression.¹³ The Court dismissed the government’s claim that these measures were necessary to protect the morals of children.
24. The Court also found violations of Article 3 in conjunction with Article 14, in cases where authorities failed to protect demonstrators from violent attacks by counter-demonstrators and/or did not conduct an effective investigation into such incidents. The Court particularly emphasised the need to establish the discriminatory motives behind the attacks.¹⁴
25. Case law has clearly established that public order concerns cannot justify banning or imposing disproportionate restrictions on peaceful LGBTI+ public events. Authorities are obligated to ensure the availability of an effective remedy if an application to hold such an event is refused, including the ability to use that remedy before the scheduled date of the event. Moreover, rather than obstructing the organisation and conduct of such events, authorities must take all reasonable measures to prevent foreseeable attacks, protect the participants and conduct effective investigations if attacks occur. This includes examining any potential LGBTI+-phobic motives behind such attacks.

III. Opinions of the Parliamentary Assembly of the Council of Europe

26. The Parliamentary Assembly of the Council of Europe (“PACE”) has consistently addressed the challenges faced by LGBTI individuals in exercising their rights to freedom of expression and assembly.¹⁵ In its Resolution 2543 (2024), titled “Freedom of expression and assembly of LGBTI people in Europe,” PACE highlighted various forms of discrimination, including bans on LGBTI events, law enforcement crackdowns, inadequate protection against attacks, harassment, and the adoption of “anti-LGBTI propaganda” laws. These actions contribute to the stigmatization and invisibility of LGBTI persons, making them more vulnerable to human rights violations. Furthermore, PACE’s Resolution 2417 (2022), “Combating rising hate against LGBTI people in Europe,” expressed deep concern over the increase in hate speech, violence, and hate crimes targeting LGBTI communities across member states. The Assembly noted that such hostility often stems from political figures and leaders, including government representatives and religious leaders, thereby exacerbating the challenges LGBTI individuals face in exercising their fundamental rights.
27. These resolutions underscore the importance of protecting the visibility of LGBTI persons in public spaces as an affirmation of their identity and existence. They call upon member

¹² *Bayev and others v. Russia*, nos. 67667/09, 44092/12, 56717/12, 20.06.2017, *Macaté v. Lithuania*, [GC], no.61435/19, 23.01.2023.

¹³ *Kaos GL v. Turkey*, no. 4982/07, 22.11.2016.

¹⁴ *Identoba and others v. Georgia*, no. 73235/12, 12.05.2015; *M.C. and C.A. v. Romania*, no. 12060/12, 12.04.2016; *Women’s Initiatives Supporting Group and others v. Georgia*, no. 73204/13, 16.12.2021.

¹⁵ PACE Report, Doc. 15953, “Freedom of expression and assembly of LGBTI people in Europe”, 27.03.2024, at <https://rm.coe.int/doc-en-freedom-expression-lgbti-2769-2882-2537-v-1/1680aef13a>

states to implement the judgments of the European Court of Human Rights, provide clear political support against discrimination, train law enforcement authorities, and conduct awareness-raising campaigns to foster a diverse and inclusive society where everyone's rights to freedom of expression and assembly are safeguarded.

28. The Assembly affirmed that the concept of a so-called “LGBTI ideology” has no basis and emphasised that the rights of LGBTI persons are identical to those of all other individuals. It further asserted that the full enjoyment of freedom of expression and assembly is not only fundamental to any democratic society but also a binding human rights obligation.
29. The Assembly urged member states of the Council of Europe to repeal “anti-LGBTI propaganda” laws and ensure access to information about diverse sexual orientations, gender identities, and expressions; promote the visibility of LGBTI persons in public spaces; support Pride Marches and other demonstrations by protecting participants, facilitating access, managing counter-demonstrators, and condemning any illegal interference with LGBTI rights; implement inclusive sex and emotional education programs tailored to students' ages; train law enforcement to protect vulnerable groups, including LGBTI persons, during public events; and run awareness campaigns to promote LGBTI rights and diversity.

IV. Prohibition of LGBTI+ Activities by Turkish Authorities

30. In Türkiye, pride marches were held peacefully for several years. However, since 2015, with the rise of authoritarian tendencies, anti-LGBTI+ rhetoric has become increasingly prevalent in government discourse. This shift has coincided with a growing practice of banning the activities of LGBTI+ groups and individuals. LGBTI+ persons and organisations have increasingly become targets of hostile statements by the President and in the media, fostering an environment that encourages national and local authorities to restrict LGBTI+ events. As a result, bans on such events have become routine, with pride marches and all types of cultural activities prohibited in many provinces, including major cities like Istanbul and Ankara.
31. Pride marches in Türkiye have been banned for the past nine years, beginning in 2015. The 13th Istanbul LGBTI+ Pride March in 2015 was disrupted by police intervention, resulting in injuries and detentions. In 2016, governors in major cities like Ankara and Istanbul imposed formal bans on pride marches for the first time. As highlighted in a recent PACE report, “the Istanbul Pride march has been banned every year since 2015. In 2019, Pride marches were also banned in Izmir, Antalya and Mersin, a film screening was banned in Tunceli, and the Queer Olympix event was cancelled. In 2022, 11 Pride events were banned in Türkiye, including those planned at Boğaziçi University, Middle East Technical University (“METU”) and in Eskişehir, Ankara and Istanbul. Such bans are imposed even though the courts regularly declare them contrary to respect for freedom of assembly and underline that the State must allow peaceful gatherings”.¹⁶
32. The Commissioner for Human Rights of the CoE has raised concerns with Turkish authorities regarding the inability of LGBTI+ individuals to exercise their right to peaceful

¹⁶ PACE Report, Doc. 15953, § 30.

assembly, highlighting the broad and persistent restrictions imposed on LGBTI events by authorities at various levels over the years.¹⁷

33. Despite widespread bans, pride marches that have occurred over the past eight years, despite being officially prohibited by local authorities—have frequently been met with violent police repression.¹⁸
34. In 2018 the roads leading to Taksim and Istiklal Street were closed under extensive security measures, with arbitrary searches conducted throughout the day. By 2019, not only Taksim but all of Istanbul was effectively placed under a ban for the Pride March. In subsequent years, detentions during Pride events escalated: 19 people were detained in Istanbul in 2021, 374 individuals—including 34 children—in 2022, and at least 237 people—including 4 children and 7 lawyers—in 2023. The intervention in 2022 involved the use of rubber bullets, sound bombs, and pepper spray. These bans and interventions persisted into 2024, with authorities altering the march route that year, yet still detaining 11 participants.¹⁹
35. In May 2019, a Pride march held on the campus of METU in Ankara was violently disrupted by law enforcement officers using pepper spray, rubber bullets and tear gas. Despite the event being peaceful, 22 participants were arrested and prosecuted, facing over two years of legal proceedings before being acquitted in October 2021.²⁰
36. On 30.06.2024, the Istanbul Governor’s Office issued a particularly hostile and discriminative statement, referring to the organizations and committees calling for the Pride March at Taksim Square as “various illegal groups.” ILGA-Europe later published a comprehensive report detailing interventions against Pride marches in 2024.²¹
37. In recent years, authorities have violently repressed not only LGBTI+ events, but also gatherings held for occasions such as International Women’s Day (8 March) and the International Day for the Elimination of Violence against Women (25 November). During these events, LGBTI flags carried by some demonstrators have been confiscated.
38. On 18.11.2017, the Ankara Governor’s Office imposed an indefinite ban on all LGBTI+ events in the province under the state of emergency first declared in July 2016. This led to a wave of similar bans across the country, halting plans for film screenings, exhibitions, forums, panel discussions, and public meetings. Local authorities justified these bans by citing reasons such as “social sensitivities,” “protecting public health and morality,” “safeguarding other people’s rights and freedoms,” and “ensuring public security.”²²
39. The Ankara Governor’s Office ban followed an anti-LGBTI+ social media campaign on Twitter targeting a film screening event organised by the German Embassy and the transgender rights group Pink Life LBTT Solidarity Association (“Pembe Hayat”) in

¹⁷ “Memorandum on freedom of expression and of the media, human rights defenders and civil society in Türkiye”, Commissioner for Human Rights, 05.03.2024. <https://rm.coe.int/memorandum-on-freedom-of-expression-and-of-the-media-human-rights-defe/1680aebf3d>

¹⁸ PACE Report, Doc. 15953, § 37.

¹⁹ See <https://spod.org.tr/22-istanbul-onur-yuruyusu-gozlem-raporumuz-yayinda/>

²⁰ PACE Report, Doc. 15425, “Combating rising hate against LGBTI people in Europe”, 17.12. 2021, § 37, at <https://pace.coe.int/en/files/29418/html>

²¹ Ilga-Europe, “The Turkish LGBTI+ community resists bans on Pride events again this year, amid increased repression from the Turkish government” at: <https://www.ilga-europe.org/blog/the-turkish-lgbti-community-resists-bans-on-pride-events-again-this-year-amid-increased-repression-from-the-turkish-government/>

²² See <https://www.hrw.org/news/2017/12/01/turkey-squelching-lgbt-events>

Ankara. Just a week earlier, President Erdoğan had criticised the Republican People’s Party, the largest opposition party in parliament, for including LGBTI+ candidates in a local municipality, describing it immoral, outrageous, and a war against national values.²³

40. Although the state of emergency ended in July 2018, the Ankara Governor’s Office did not lift the ban. Instead, on 03.10.2018, the Governor’s Office informed law enforcement and other authorities that the ban remained in force, provided no indication of when it would end, and extended its scope to include all LGBTI+ focused events, not just those organised by LGBTI+ associations.
41. As a result of these bans, Pembe Hayat was forced to cancel its three-day Transgender Day of Remembrance program, originally scheduled for 18-20 November, 2017. The association also had to cancel its six-day QueerFest Film Festival in January 2018. In response, other LGBTI+ organisations held simultaneous screenings of QueerFest films in seven other cities across Türkiye as an act of solidarity. Additionally, Pembe Hayat had to cancel an event planned for International Sex Workers Rights Day on 03.03.2018 and instead opted to broadcast it online.²⁴
42. To circumvent the ban, Pembe Hayat relocated its Transgender Day of Remembrance Program on 20.11.2018 to Istanbul. The association has also been forced to suspend its Ankara-based monthly events, such as coming-out talks, family meetings, trans men’s and women’s breakfasts, transition talks, and masculinity workshops, which were designed to provide social spaces for sexual and gender minorities.²⁵
43. Kaos GL, the applicant in the present cases, was forced to cancel eight events during this period, including a conference featuring international speakers, as well as symposiums and workshops to which public officials had been invited to discuss legal issues and the role of local authorities. Among the many official LGBTI+ student clubs at Ankara universities, only METU LGBTI+ Solidarity has actively continued efforts to organise public events and demonstrations.
44. The Ankara ban also appears to have had a chilling effect on the activities of LGBTI+ groups across the country. Authorities in other cities have, on several occasions, banned LGBTI+ events. Shortly after the Ankara ban took effect, police in Bursa, ordered the cancellation of a film screening organised by *Özgür Renkler* (Colours of Freedom) LGBTI+ Association on the 2017 Transgender Day of Remembrance. Similarly, the Beyoğlu district governor postponed Queer Shorts movie screenings organized by QueerFest in cooperation with the British Council and the Pera Museum on 25.11.2017, before banning them entirely on 12.01.2018.²⁶
45. Attacks against LGBTI+ community also target visibility of them in media and digital platforms. In July 2023, the Turkish Radio and Television Supreme Council (“RTÜK”) fined streaming platforms such as Netflix, Disney+, Prime Video, MUBI, BeIN and Blu TV for broadcasting LGBTI+ content.²⁷ In August 2023, a concert by the singer Gökçe was

²³ See <https://www.hrw.org/news/2019/02/14/turkey-end-ankara-ban-lgbti-events>

²⁴ *Ibid.*

²⁵ *Ibid.*

²⁶ See <https://www.hrw.org/news/2019/02/14/turkey-end-ankara-ban-lgbti-events>

²⁷ “RTÜK imposed sanctions on streaming platforms”, KAOS GL, 27.07.2023.

banned by the mayor of Sandıklı after she expressed support for LGBTI+ individuals by posting “love is love” on social media.²⁸

46. Although Turkish law contains no regulation explicitly prohibiting LGBTI propaganda, public authorities often act as if such a prohibition exists. For instance, the Tarlabası Community Centre (Tarlabası Toplum Merkezi, TTM) was targeted in a social media smear campaign accusing it of promoting LGBTI+ propaganda. This led to a closure lawsuit being filed against the association, along with criminal cases against its executives, merely because the association had conducted activities aimed at raising awareness about discrimination against LGBTI+ individuals.
47. The primary aim of restricting the freedom of expression and assembly of LGBTI+ groups is to render them invisible. Any activity or event that brings visibility to LGBTI+ groups is labelled as LGBTI+ propaganda and accused of promoting or normalizing LGBTI+ behaviour. These accusations are rooted in an increasingly hostile anti-LGBTI+ climate, which has developed alongside a broader mistrust of human rights. Over the past decade, this anti-LGBTI+ sentiment has significantly intensified within pro-government media and government circles in Türkiye, creating an environment where fundamental rights and freedoms, including those enshrined in the Convention, are systematically undermined.
48. The trajectory of restrictions against LGBTI+ communities in Türkiye reveals a deliberate strategy to suppress their visibility and voice under the guise of protecting public morals and security. These practices not only violate the rights to freedom of expression and assembly but also signify a **broader erosion of democratic principles** and human rights protections. Addressing this **systematic marginalization** is crucial to upholding the rule of law and the values of the Convention in Türkiye.

V. Legal Basis of Banning LGBTI+ Activities

49. In all the aforementioned bans, authorities cited the Law on Provincial Administration, the Law on Assemblies and Public Demonstrations, and the State of Emergency Law as the legal basis for their actions. Article 11/c of the Law No. 5442 on Provincial Administration obliges governors to maintain “peace and security” within their provinces.²⁹ However, as is evident, this provision cannot reasonably be interpreted as granting governors the authority to impose indefinite bans on all LGBTI+ events. Article 17 of Law No. 2911 on Assemblies and Public Demonstrations allows governors to postpone public assemblies for up to a month on grounds such as national security, public order, public health, public morality, or the protection of others’ rights and freedoms.³⁰
50. The law allows governors to ban assemblies entirely if there is a “clear and imminent threat” of a crime being committed. Authorities frequently justify such bans on grounds of “social sensitivities,” claiming that LGBTI+ events pose risks of “inciting hatred and enmity,” or

²⁸ “Stage ban for the musician who celebrated the Pride month,” KAOS GL, 09.08.2023.

²⁹ The relevant part of the provision states: “C) Ensuring peace and security, personal inviolability, security of the person, security in relation to savings, public well-being, and preventive law enforcement authority within the provincial borders are among the duties and powers of the governor. The governor shall take the necessary decisions and measures to ensure these.”

³⁰ The provision states: “The regional governor, governor or district governor may postpone a certain assembly for a period not exceeding one month for the purposes of national security, public order, prevention of crime, protection of public health and public morals or the rights and freedoms of others, or prohibit it if there is a clear and imminent danger that an offence will be committed.”

present a “clear and imminent risk to public security.” These bans are further rationalized as necessary to “prevent crimes,” “protect public health and morality,” and “safeguard other people’s rights and freedoms.” However, authorities have failed to substantiate why LGBTI+-themed events specifically constitute a clear and imminent threat warranting such restrictions.

51. İFÖD holds the view that none of these provisions can be reasonably interpreted as granting governors the authority to impose indefinite bans on any type of activity. Such an interpretation is unforeseeable, constitutes arbitrary interference with the freedom of expression and assembly protected by the Convention, and reflects an anti-LGBTI+ bias. Furthermore, these bans fail to demonstrate a legitimate purpose or necessity, as required by the Constitution and the Convention.
52. As the Court has sought clarification from the parties on the interpretation of Law No. 2935 (Law on State of Emergency), it would also be useful to examine whether this provision can legitimately serve as a basis for imposing bans, particularly during a state of emergency. Article 11/f of the Law No.2935 on State of Emergency allows for the prohibition of broadcasts of all kinds to preserve general security, law and order, public safety, and to prevent violence.³¹ This provision raises important questions about its scope and potential misuse, especially in the context of restrictions on LGBTI+ events.
53. İFÖD would like to emphasise that the ban continued for a certain period even after the state of emergency had ended. İFÖD also maintains that this provision cannot be interpreted as granting unlimited authority to prohibit any type of activity for an indefinite period. Such an interpretation would be incompatible with the principles of legality and proportionality under the Convention.
54. According to İFÖD’s research **no stay of execution decision has been granted** in lawsuits challenging the bans imposed by authorities on LGBTI+ events. In rare instances where a stay of execution was granted, as in the present case, it was subsequently overturned by a Regional Court of Appeal. Similarly, the Constitutional Court has rejected requests for such injunctions, citing its own Rules of Court. Even when a long-term ban is lifted, whether ex officio or through a court decision, authorities typically impose a new ban, initiating another lengthy and exhausting judicial process. Consequently, there is, in practice, no effective legal remedy available against bans on LGBTI+ events in Türkiye.

VI. Conclusions

55. Considering the foregoing, İFÖD respectfully invites the Court to evaluate whether the interference with the applicant’s freedom of expression and freedom of assembly was foreseeable. As emphasised in this submission, the overly broad interpretation and arbitrary application of law to ban LGBTI+ events in Türkiye pose a significant threat to the fundamental values upheld by the Convention, namely, democracy, the rule of law, and human rights.

³¹ The relevant part of the provision states: “In the declaration of a state of emergency pursuant to subparagraph (b) of the first paragraph of Article 3 of this Law, the following measures may be taken in addition to the measures stipulated in Article 9 in order to protect general security, public safety and public order and to prevent the spread of violence: f. Supervising, recording or prohibiting when necessary, all kinds of speech, writing, pictures, films, records, audio and video tapes and all kinds of broadcasting made by sound.”

56. Furthermore, İFÖD contends that Turkish authorities' biased approach to LGBTI+ community is in direct contradiction with the fundamental values of the Convention. The portrayal of LGBTI+ public activities as criminal acts undermines the fundamental rights and freedoms of LGBTI+ individuals, eroding their dignity and equality under the law.
57. Therefore, İFÖD urges the European Court to take into account these broader systemic issues when evaluating the current case. A judgment that reaffirms the necessity of strict adherence to the principle of legality is essential to addressing these persistent violations and ensuring the proper protection of Convention rights in Türkiye. Such a ruling would not only reinforce the safeguarding of fundamental rights and the rule of law but also send a strong message emphasising the importance of precise and foreseeable legal standards in a democratic society.

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