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**“MY FAMILY IS  
SAFE” OPERATIONS:**

**MONITORING AND  
EVALUATION  
REPORT IN LIGHT  
OF HUMAN RIGHTS  
STANDARDS**



**TIHV**  
TÜRKİYE  
İNSAN  
HAKLARI  
VAKFI



Avrupa Birliği tarafından  
finanse edilmektedir

# 1.Executive Summary

During the night of 12–13 September 2026, operations referred to as the “My Family Is Safe” operations were carried out under the coordination of the Chief Public Prosecutor’s Offices in Istanbul, Ankara, İzmir, Aydın, and Mersin. According to a statement by the Minister of Justice, the operations, coordinated across five provinces, covered 15 provinces, and judicial proceedings were initiated against 162 individuals, nine associations, and 13 businesses. Seven of the associations targeted by the operations work in the field of LGBTI+ rights, while the other two are human rights organisations working with people living with HIV. Detentions were carried out at the homes of individuals who serve as founders or members of the governing bodies of the associations. Searches were conducted at association premises, digital devices and portable storage devices were seized, and access to numerous websites and social media accounts was blocked.

According to information obtained from open sources and verified by the solidarity groups of the Human Rights Foundation of Türkiye (HRFT), as of 21 September 2026, at least 117 people had been detained and at least 83 people had been remanded in pre-trial detention. 44 of those detained were human rights defenders working in the field of LGBTI+ rights. At least 25 human rights defenders, including association founders and members of governing bodies, are among those remanded in pre-trial detention. A significant proportion of those detained are transgender women facing charges related to prostitution. In addition, at least 125 people who had gathered to protest the operations were separately detained in Istanbul, Ankara, and İzmir.

The charges underlying the investigations include “obscenity,” “procuring prostitution, providing premises for prostitution, or facilitating prostitution,” violations of the Law on Associations, and, in some locations, drug-related offences. In Istanbul, it has also been reported that charges of “establishing an organisation for the purpose of committing a crime” were brought. In official statements, the protection of children, the protection of the family institution, and the safeguarding of society’s shared moral values are presented as the primary objectives.

<sup>1</sup>Ministry of Justice, “Minister Gürlek: ‘We will not tolerate any criminal organisation targeting our children, young people, and families,’” 13 September 2026, <https://www.adalet.gov.tr/bakan-gurlek-cocuklarimizi-genclerimizi-ve-ailelerimizi-hedef-alan-hicbir-suc-yapilanmasina-musam>

<sup>2</sup>Kaos GL, “Chronology of the ‘My Family Is Safe’ operations from 12 September to the present: 82 people remanded in pre-trial detention!,” 17 September 2026, <https://kaosgl2.org/haber/12-eylul-den-bugune-ailem-guvende-operasyonlarinin-kronolojisi-82-kisi-tutuklandi>

# Key Findings of the Report

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## Regarding detention and reasonable suspicion



Serious concerns have been identified in the decisions and records examined regarding the insufficient individualisation of the link between individuals' roles within associations, association activities, social media posts, and news reports, on the one hand, and their detention, on the other. Some decisions appear to rely on abstract and repetitive reasoning, while the classification of certain offences as "catalogue offences" appears to be inconsistent with the existing list under Article 100/3 of the Code of Criminal Procedure (CMK).

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## Regarding freedom of association



Subjecting associations' activities, membership structures, and legally obtained foreign funding to investigation may have a chilling effect on their ability to operate freely, particularly where no specific unlawful conduct has been demonstrated.

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## Regarding freedom of expression



Restricting content on the grounds of "obscenity," "public morality," or the protection of children requires the content in question to be specifically identified and it to be demonstrated that the interference is necessary and proportionate. Blanket or comprehensive access-blocking measures should be examined separately in this regard.

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## Regarding freedom of assembly



Peaceful press statements organised to protest the operations were met with interventions by law enforcement involving the use of force amounting to torture and other forms of ill-treatment. In Istanbul alone, 107 people were detained with their hands cuffed behind their backs. These individuals were kept waiting in vehicles for extended periods, without their basic needs, including water and food, being provided. In İzmir, participants in the press statement were encircled by law enforcement officers using shields, forming a cordon, and were exposed to large quantities of chemical irritants, including tear gas, discharged at close range.

## Regarding the absolute prohibition of torture



There are specific allegations that LGBTI+ and transgender detainees have been placed in male wards, subjected to verbal harassment, held in isolation, and subjected to strip searches. These allegations must be investigated promptly, effectively, and transparently by the authorities, and must also be independently examined by human rights organisations.

## Regarding the right to a defence and the right to privacy



It is alleged that police statements were taken without the presence of lawyers and that phone passwords were obtained without a court order. In addition, restriction orders are reportedly in place in the investigation files.

<sup>3</sup>Anka News Agency, "Istanbul Bar Association Releases Its Report on the 'My Family Is Safe' Operations," 21 September 2026, <https://ankahaber.net/haber/istanbul-barosu-ailem-guvende-operasyonlari-ile-ilgili-raporunu-acikladi-186fee5d>.

## Regarding discrimination and hate speech



In a statement, the Minister of Justice used the expression “associations promoting LGBT and immorality.” Furthermore, the Ministry of Justice’s circular dated 14 September 2026, entitled “Protection of the Family, Youth, and Society from Content and Organisations that Violate and Negatively Affect Public Morality,” includes the undefined concept of “degendering”. This expression and concept equate LGBTI+ identity with “immorality.”

This report sets out the concerns raised by the available information and documentation in light of international human rights standards. In particular, allegations relating to torture and other forms of ill-treatment, detention and prison conditions, and investigative procedures must be examined independently and effectively.



*Photo: Kemal Aslan/AFP/Getty Images*

## 2.Introduction And Context

### 2.1 Purpose, Scope, and Methodology

This report has been prepared to document the practices reported during and following the operations targeting LGBTI+ people, human rights defenders, and human rights organisations working in the field of LGBTI+ rights and with people living with HIV between 12 and 21 September 2026, and to assess these practices under the European Convention on Human Rights (ECHR) and the International Covenant on Civil and Political Rights (ICCPR).

In accordance with the principles of do no harm and confidentiality, the names of individuals, identifying and health information, and unnecessary details that could lead to the identification of individuals have been excluded from the report. Personal statements contained in court or law enforcement records have also been reproduced without identifying the individuals concerned and only to the extent necessary for the assessment.

Where discrepancies were found among sources, priority was given to: (i) investigation and court documents that could be reviewed, (ii) information obtained directly by the HRFT Solidarity Groups, and (iii) reports from other civil society organisations and the media.

Soruşturma dosyalarındaki kısıtlılık kararları, sosyal medya içerik ve hesaplarına erişimin engellenmesi kararlarının seri biçimde uygulanması ve bazı belgelere erişilememesi bağımsız doğrulamayı sınırlamıştır. Bu nedenle rapor, mevcut bilgiler ışığında makul olarak desteklenebilen bulgularla sınırlı tutulmuş; kanıtlanmamış iddialar kesin olgu gibi sunulmamıştır.

## 2.2 Context and Official Grounds

In his statement dated 13 September 2026, the Minister of Justice stated that the operations were conducted in line with the President's "2026–2035 Vision for the Decade of Family and Population" and "Presidential Circular No. 2026/4." The Minister stated that the investigations concerned allegations of facilitating or providing premises for prostitution; businesses considered to be providing an environment conducive to such activities; the production of obscene content; and activities involving the exposure of children to such content. He further stated that methods including the use of undercover investigators, technical and physical surveillance, and digital examination had been employed. The same statement indicated that substantial amounts of funding had been transferred to certain associations from public institutions abroad and foreign organisations, and that the source of these funds and their connection to the activities under investigation were being examined.

The Istanbul Chief Public Prosecutor's Office, for its part, stated that the investigation was being conducted on the basis of "evidence indicating that children and underage young people were being directed with regard to sexual orientation and gender identity," the associations considered to be carrying out such activities, and the individuals and groups financing them. The investigation also concerned businesses considered to be providing an environment for unlawful activities under the guise of exploitation and entertainment through what was described as "paid social companionship services." The Chief Public Prosecutor's Office stated that one of the aims of the operation was to prevent the "normalisation" of these activities in society, as well as to protect the best interests of children, the institution of the family, and society's shared moral values.

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<sup>4</sup>Ministry of Justice, statement dated 13 September 2026 (see footnote 1 above).

<sup>5</sup>Anadolu Agency, "20 suspects detained in Istanbul-centred 'My Family Is Safe' operation," 16 September 2026, <https://www.aa.com.tr/tr/gundem/istanbul-merkezli-ailem-guvende-operasyonunda-20-supheli-tutuklandi/4059538>.

The circular entitled “Protection of the Family, Youth, and Society from Content and Organisations that Violate and Negatively Affect Public Morality,” issued by the Ministry of Justice on 14 September 2026, was sent to the Chief Public Prosecutor’s Offices of the 175 High Criminal Courts across the 81 provinces. The circular states that organisations “targeting children and young people and encouraging society towards immorality and degendering” have a negative impact on the family and public order. It also instructs that digital evidence be collected immediately, that there should be no hesitation in applying protective measures in a proportionate manner, and that the removal of content or blocking of access to content under Law No. 5651 be pursued. Where activities are found to constitute an organised structure, the circular calls for simultaneous financial investigations to be conducted under legislation concerning organised crime. The circular does not contain the terms “LGBT” or “LGBTI+,” nor does it define the concept of “degendering.” It also instructs that, proceeding from the assumption that such activities are “carried out through the commission of various ancillary offences,” the “purpose behind the activities and the methods used” should be investigated.

The operations have also been criticised by the United Nations (UN) Special Rapporteur on Human Rights Defenders, the Council of Europe Commissioner for Human Rights, the spokesperson for the European Commission, the Parliamentary Assembly of the Council of Europe’s General Rapporteur on LGBT rights, and the European Parliament’s Türkiye rapporteur. Organisations such as Human Rights Watch (HRW) and the International Federation for Human Rights (FIDH), meanwhile, have called for the release of those detained.

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<sup>6</sup>Ministry of Justice, General Directorate for Criminal Affairs, Circular dated 14 September 2026, No. E-19120602-[659-1467-2026]-2821/58248 (the original document was reviewed; specifically, the grounds section and instructions 2, 4, 5, and 6). The distribution section of the circular contains only the wording “To the Chief Public Prosecutor’s Office of the High Criminal Court”; the number “175” does not appear in the document.

### 3. DOCUMENTED AND REPORTED PRACTICES

This section examines the provinces in which the operations were conducted, in sequence, and then addresses practices observed across all provinces, including protests, digital restrictions, detention and prison conditions, the right to defence, and official discourse.

Table 1. Figures by province (as of 19 September 2026)

| Province         | Detention  | Arrest    | Judicial Control |
|------------------|------------|-----------|------------------|
| İstanbul         | 34         | 20        | 7                |
| Mersin           | 34         | 26        | 9                |
| İzmir            | 22         | 19        | 3                |
| Ankara           | 21         | 13        | 8                |
| Aydın (Kuşadası) | 6          | 5         | –                |
| <b>Total</b>     | <b>117</b> | <b>83</b> | <b>27</b>        |

#### 3.1. İstanbul

From the early hours of 13 September, simultaneous operations were carried out at numerous addresses in Beyoğlu and Şişli in İstanbul. Searches were conducted at businesses reportedly including nightclubs and massage parlours. The founders and board members of Lambdaistanbul, HEVİ LGBTİ+ Association, the Association for Social Policy, Gender Identity and Sexual Orientation Studies (SPoD), LGBTİ+ Families and Relatives Association (LİSTAG), Pozitif Yaşam Association, and Pozitif-İz Association were detained at their homes.

According to information received by HRFT, the association premises were searched after their doors were either broken down or opened by a locksmith. Telephones, computers, tablets, and portable storage devices were also seized. Those detained were taken to the Istanbul Provincial Gendarmerie Command.

The Istanbul Chief Public Prosecutor's Office announced that proceedings had been initiated against 38 people in an operation covering 12 provinces. According to the Chief Public Prosecutor's Office, searches and seizures were carried out at 54 addresses, including six LGBTI+ associations and 10 businesses. According to the statement of the Chief Public Prosecutor's Office, the proceedings were conducted on suspicion of "establishing an organisation for the purpose of committing a crime," "prostitution," "obscenity," and "possessing or purchasing narcotic drugs for personal use." The statement did not specify under which paragraph of the relevant provision the charge of establishing an organisation was brought.

Among those remanded in pre-trial detention on 16 September 2026 were at least 10 people associated with HEVİ LGBTİ+ Association, Pozitif-İz Association, SPoD, and Lambdaistanbul. HRW reported that nine of them were remanded in pre-trial detention on charges of "violating the Law on Associations." According to the statement cited as part of the grounds for detention, "the institutional structure of the associations was used as a tool for activities targeting children." The same statement alleged that the associations "weakened the nature of the Turkish family structure." It was also alleged that, through fundraising and various events, the associations sought to "encourage, promote, and disseminate" being LGBTİ+. According to reports, during the questioning process, questions were asked about the structure of the associations, membership procedures, staff selection, and sources of funding, particularly international funding. Questions were also reportedly asked as to whether the associations' activities "encouraged" children and young people towards homosexuality or transgender identities.

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<sup>7</sup>Human Rights Watch, "Türkiye: LGBT Rights Crackdown Strikes at Rule of Law", 18.09.2026, <https://www.hrw.org/news/2026/09/18/turkiye-lgbt-rights-crackdown-strikes-at-rule-of-law>

## 3.2. Ankara

It was reported that 14 people, including both full and alternate members of the governing and supervisory boards of Kaos GL Association, were detained at their homes in Ankara, that the association's office was searched, and that digital materials were seized. A journalist who had prepared a news report for Kaos GL and six people alleged to be engaged in sex work were also detained. The Ankara Chief Public Prosecutor's Office conducted the investigation on suspicion of "obscenity" and violations of the Law on Associations, based on content published on the association's website and social media. It was reported that a Criminal Judgeship of Peace issued a decision on 11 September 2026 authorising searches, seizures, and digital examination, and that the devices could be seized if their passwords could not be decrypted or accessed. It was also reported that the investigation file did not clearly specify which content was alleged to constitute an offence.<sup>8</sup>

According to reports, police questioning covered numerous items of content, ranging from news articles published on the association's website to social media posts. A scene from a television series, an image featuring two male football players, a news report concerning the elections in Georgia, and a social media account were reportedly raised during questioning. HRW reported that the only evidence cited against the journalist was a 2024 news report concerning LGBTI+ rights in Georgia. In the prosecutor's submission to the court, some content was alleged to be of a nature that "would violate the understanding of public morality" and to "encourage children to become interested in homosexuality." Kaos GL also reported that detained association members were kept handcuffed while waiting at the courthouse and that footage of them was recorded.<sup>9</sup>

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<sup>8</sup>Medyascope, " 'My Family Is Safe' operation targeting LGBTI+ associations: What you need to know," 14 September 2026, <https://medyascope.tv/2026/09/14/ailem-guvende-operasyonu-iste-bilmeniz-gerekenler/>.

<sup>9</sup>Kaos GL, "Chronology of the 'My Family Is Safe' operations from 12 September to the present: 82 people remanded in pre-trial detention," 17 September 2026, <https://kaosgl2.org/haber/12-eylul-den-bugune-ailem-guvende-operasyonlarinin-kronolojisi-82-kisi-tutuklandi>

Following the judicial questioning, seven full members of the governing and supervisory boards and the journalist were remanded in pre-trial detention. Seven alternate members were released subject to judicial control, including a ban on leaving the country. The detention order was reportedly based on charges of “violating the Law on Associations,” “facilitating the publication of obscene publications,” and “obscenity in places accessible to children.” According to information reported in the media, five of the six transgender women detained on allegations of engaging in sex work were also remanded in pre-trial detention.<sup>10</sup>

### 3.3. İzmir

It was reported that the İzmir Chief Public Prosecutor’s Office was conducting an investigation on suspicion of obscenity and encouraging, facilitating, or providing premises for prostitution, citing social media posts among the grounds for the investigation. Arrest warrants were reportedly issued for 24 people, of whom 18 were initially detained. Sixteen people were remanded in pre-trial detention, while two were released subject to judicial control; following an objection by the prosecution, these two individuals were subsequently also remanded in pre-trial detention. Kaos GL reported that the telephone passwords of some detainees had been obtained without a court order and that images found on their phones had been added to the investigation file.<sup>11</sup>

It was also reported that LGBTI+ flags were seized during searches of homes in İzmir and Aydın. In addition, although it was alleged that no search and seizure orders had been issued for some individuals’ phones, the devices were nevertheless seized, their passwords obtained, and the devices accessed.

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<sup>10</sup>Medyascope, “‘My Family Is Safe’ Operation Targeting LGBTI+ Associations: What You Need to Know,” 14 September 2026, <https://medyascope.tv/2026/09/14/ailem-guvende-operasyonu-iste-bilmeniz-gerekenler/>.

<sup>11</sup>Kaos GL, “Chronology of the ‘My Family Is Safe’ operations from 12 September to the present: 82 people remanded in pre-trial detention,” 17 September 2026, [Kaos GL](#).

### 3.4. Aydın (Kuşadası)

Five of the six people detained in Kuşadası were remanded in pre-trial detention on charges of “obscenity” and “prostitution.” At least two activists associated with a local LGBTI+ initiative were reportedly among those remanded in pre-trial detention.

### 3.5. Mersin

It was reported that the investigations conducted by the Mersin Chief Public Prosecutor’s Office covered Muamma LGBTI+ Association, Mersin 7 Renk LGBTI+ Solidarity Association, and a broader group reportedly assembled around allegations of obscenity and prostitution. Both association premises were searched. It was reported that the management had not been informed of the search in advance, that the search was conducted in the absence of any representatives of the management and in the presence of two external witnesses, and that no material considered to constitute evidence of an offence was found during the search.

The Criminal Judgeship of Peace’s questioning records examined in the preparation of this report indicate that the decisions to remand individuals in pre-trial detention were based on reasons that were not individually substantiated. The records examined for the purposes of this report show that the grounds for detention were largely formulated using repeated standardised language. The records contain references to the nature of the offence, the suspects’ statements in their defence, “open-source findings reports,” information notes and research reports concerning the associations, indicators of strong suspicion, the existence of concrete evidence, the fact that the evidence had not yet been fully collected, the potential sentence, and the inadequacy of judicial control measures. Some records also state that the offence constituted one of the “catalogue offences set out in Article 100/3 of the Code of Criminal Procedure (CMK).”

The same generalised language was also used in relation to individuals released subject to judicial control, while personalised reasoning explaining the distinction between those remanded in pre-trial detention and those released remained limited.<sup>12</sup>

The lawyers argued that the charges brought under Articles 226 and 227 of the Turkish Penal Code (TCK) and Law No. 5253 were not among the catalogue offences listed in Article 100/3 of the CMK. They further argued that the evidence in the case file was in the nature of intelligence information and that the images could not be considered obscene. The questioning records also indicate that the statements of at least two suspects were taken by law enforcement without the presence of a lawyer; in one of these cases, the statement was reportedly signed without being read to the suspect.

### **3.6. Common Practices Observed Across All Provinces**

**(a) Interference with freedom of assembly:** On 15 September, labour and democracy organisations and women's organisations called for a press statement to be held in front of Çağlayan Courthouse. According to information obtained by HRFT, part of the group was surrounded by a police cordon, which was not opened despite announcements calling on the group to disperse. Participants were reportedly directed towards the area where police vehicles were stationed and detained with their hands cuffed behind their backs.

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<sup>12</sup>Code of Criminal Procedure No. 5271, Article 100/1–3. The offences listed in the current Article 100/3 do not expressly include Articles 226 and 227 of the TCK or Law No. 5253 on Associations. Official Legislation Information System: [Official Legislation Information System](#)

The relevant report by the Istanbul Bar Association states that, during the detention of 107 people, including seven lawyers, physical intervention, beating, and choking were used; individuals were kept handcuffed behind their backs for extended periods and subjected to physical violence and verbal abuse. The report also states that one person was not referred to a hospital despite having been subjected to force that resulted in a dislocated shoulder. It further notes that access to lawyers was prevented for 9.5 hours, that the delivery of food from outside was not permitted, that requests for prescription medication and sanitary pads were not met, and that some statements concerning ill-treatment were not recorded in forensic examination forms. Although the questioning procedures had been completed on the morning of 16 September, the detention period was reportedly extended by 24 hours, and the individuals were released later that evening.<sup>13</sup>

In Ankara, the area around the courthouse was placed under an extensive security cordon, and the press statement was therefore moved to Sakarya Street. The police did not allow anyone into the area. Approximately 15 people were subsequently detained following the use of force reportedly amounting to torture and other forms of ill-treatment. Kaos GL reported that the police also attempted to prevent journalists from recording footage. Those detained in Ankara were released on the same day following the completion of their statements.

A protest planned in Alsancak, İzmir, on 14 September against the operations was also prevented by law enforcement. It was reported that the protest was initially blocked because the banner displayed an LGBTI+ flag and the wording “LGBTI+,” while a march without the banner was permitted.

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<sup>13</sup>Anka News Agency, “Istanbul Bar Association Releases Its Report on the ‘My Family Is Safe’ Operations,” 21 September 2026, [Anka News Agency](#).

Subsequently, the group was surrounded and placed under a cordon by law enforcement officers using shields in front of the Türkan Saylan Cultural Centre, and the press statement was allowed to proceed without the banner. One person was reportedly injured in the hand while being detained and was taken to hospital. After the banner was displayed again, pepper spray, shields, and batons were reportedly used, and two people, including one lawyer, were detained. The detainees were released the following day after their statements were taken.

A total of at least 124 people were detained in the three provinces.

**(b) Digital restrictions and seized data:** It was reported that, on 12 September 2026, the Istanbul 7th Criminal Judgeship of Peace issued a decision numbered 2026/9559 blocking access to the websites and social media accounts of numerous LGBTI+ organisations; on 13 September, the Bakırköy 4th Criminal Judgeship of Peace reportedly blocked access to KaosGL1.org pursuant to decision no. 2026/9112 D. İş. The Freedom of Expression Association recorded that the blocked accounts also included accounts belonging to human rights organisations, a newspaper, and journalists.<sup>14</sup>

It was reported that phones, computers, tablets, and portable storage devices were seized during the searches, and that some individuals in İzmir were allegedly asked to provide their phone passwords without a court order.

**(c) Detention and prison conditions:** According to information obtained by the HRFT, three of the people remanded in pre-trial detention in Ankara were reportedly placed in the men's ward at Sincan Prison, subjected to verbal harassment, and transferred the following day to single-occupancy sections where trans people were being held. It was also reported that some detainees in Mersin were still wearing the clothes they had been wearing at the time of detention.

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<sup>14</sup>Freedom of Expression Association, <https://ifade.org.tr/engelliweb/>.

A statement issued by Kaos GL on 19 September 2026 contained allegations of more serious violations, including being forcibly taken for drug testing while in detention; physical ill-treatment exceeding the scope of the test; forced hair cutting; strip searches of some individuals in Sincan; detainees being separated from one another and some being held in isolation; and difficulties accessing regular medication, clean clothing, hygiene supplies, and drinking water.<sup>15</sup> These allegations require prompt, effective, and independent investigation.

During meetings between lawyers and detainees on 21 September 2026, it was reported that 14 people were being held in a temporary ward and two people in single-occupancy wards at İzmir No. 2 T-Type Closed Prison; in the 14-person ward, 12 people were sleeping on bunk beds and two on the floor. It was also reported that detainees had been unable to make purchases from the prison canteen for approximately one week, that their bank accounts and cards had not yet been made available for use, that their personal clothing had not been delivered, and that some items sent by their families had not been accepted. At Menemen T-Type Closed Prison, it was reported that there are separate wards designated for trans women and gay men, but that some detainees were being held in mixed sections; that there were difficulties accessing hormone medication; and that there were accounts indicating that individuals had been assigned to wards based on their physical appearance. At Söke Closed Prison, it was reported that there was no separate section for LGBTI+ detainees and that, as a result, the four people visited were being held in the infirmary room and had been subjected to strip searches upon entry.

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<sup>15</sup>Kısa Dalga, "Kaos GL Association: Our friends in Sincan Prison are being subjected to torture, ill-treatment and isolation," 19 September 2026, <https://kisadalga.net/haber/gundem/kaos-gl-dernegi-sincan-cezaevindeki-arkadaslarimiz-iskence-kotu-muamele-ve-tecrite-maruz-birakiliyor-140466>.

**(d) Official discourse and hate speech:** The Minister's statement used the expression "associations promoting LGBT and immorality." The circular was based on the concept of "degendering." Communications authorities, meanwhile, presented the operations as a fight against "new-generation criminal organisations." Hours before the operations, a columnist for a pro-government newspaper posted a statement on their X account.<sup>16</sup> In the post, LGBTI+ people were described as "perverts," it was stated that they should be "rounded up," and they were stigmatised through a religious-historical reference. This is not merely a matter of political discourse; it is also an issue that should be examined in terms of the communication obligations of public authorities under the prohibition of discrimination, the protection of human rights defenders, and the presumption of innocence.

## **4. ASSESSMENT: IN LIGHT OF INTERNATIONAL HUMAN RIGHTS STANDARDS**

This section does not seek to establish definitive judicial findings of violations based on the information currently available. Rather, it identifies the human rights issues arising from the reported and documented facts under the ECHR and ICCPR, to which Türkiye is a party.

### **4.1. Applicable Standards**

Türkiye is a party to the ECHR and the ICCPR. In this report, particular relevance is given to the safeguards enshrined in Articles 3, 5, 6, 8, 10, 11 and 14 of the ECHR and Articles 7, 9, 10, 14, 17, 19, 21, 22 and 26 of the ICCPR.

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<sup>16</sup> See [https://x.com/\\_yayabaki/status/2098807206040740063](https://x.com/_yayabaki/status/2098807206040740063)

With regard to the ICCPR, it is emphasized that, even under a state of emergency regime, certain rights and safeguards may not be derogated from. Moreover, the requirement that deprivation of liberty must not be “arbitrary” remains a fundamental safeguard, including in emergency situations.<sup>17</sup>

The UN Human Rights Committee has stated that the obligations under the Covenant are binding on all organs of the State and that domestic law cannot be invoked as a justification for failure to comply with international obligations. States’ obligations extend not only to refraining from interfering with protected rights, but also to ensuring effective mechanisms for investigation, remedies, and redress.<sup>18</sup>

## **4.2. Arbitrary Deprivation of Liberty, Reasonable Suspicion, and Grounds for Detention**

The “everyone” guarantee under Article 9 of the ICCPR expressly extends to LGBT persons. The Committee has also stated that arrest or detention undertaken for the purpose of punishing the legitimate exercise of the freedoms of expression, peaceful assembly, and association protected by the ICCPR is arbitrary, and that arrest or detention based on discriminatory grounds is likewise, in principle, arbitrary.<sup>19</sup>

For a deprivation of liberty not to be arbitrary, compliance with domestic law alone is insufficient. The grounds for deprivation must be legally sufficiently precise, and the measure must be reasonable, necessary, and proportionate in the circumstances of the particular case. In particular, the criminal offence serving as the basis for restricting liberty, as well as the material conditions triggering the interference, must be sufficiently foreseeable.<sup>20</sup>

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<sup>17</sup>The UN Human Rights Committee, General Comment No. 29 (2001), §§ 2–7, 16; see also General Comment No. 35 (2014), §§ 65–66 (regarding the fundamental safeguard against arbitrary detention in states of emergency under Article 9 of the ICCPR).

<sup>18</sup>UN Human Rights Committee, General Comment No. 31 (2004), §§ 4, 6, 8 and 15–19.

<sup>19</sup>UN Human Rights Committee, General Comment No. 35 (2014), §§ 3 and 17.

<sup>20</sup>UN Human Rights Committee, General Comment No. 35 (2014), §§ 12, 14 and 22.

The ECtHR likewise examines the concept of “reasonable suspicion” under Article 5 §1(c) of the ECHR from two perspectives: first, whether there are concrete facts or information capable of satisfying an objective observer that the person may have committed an offence; and second, whether those facts can reasonably be connected to the offence in question. Where the suspicion is based solely on activities related to the exercise of a right protected by the Convention, such suspicion cannot be regarded as reasonable.<sup>21</sup>

In *Sabuncu*, the ECtHR found it insufficient to associate journalists’ and publishers’ professional activities with terrorism-related offences solely on the basis of their institutional positions or editorial lines, and required a concrete link to be established between legitimate expressive activities and conduct constituting a criminal offence. The Court also accepted that unlawful detention may have consequences under Article 10 of the ECHR. This report does not contend that the factual circumstances in *Sabuncu* are identical to those at issue here; rather, it draws on the judgment for its standard requiring concrete and individualized grounds for suspicion.<sup>22</sup>

In the interrogation records examined in this report, some of the grounds cited for pre-trial detention appear to be linked in general terms to the suspect’s position within the governing bodies of an association, the association’s activities, social media posts, and news reports. It has also been reported that the records do not contain specific responses to the defenses raised by certain individuals that the posts were not theirs or that fake accounts had been used. Accordingly, the link between the alleged conduct, the evidence, and the relevant criminal offence must be examined separately in respect of each individual. With regard to the Associations Law, it is likewise important to compare the use of the term “association executive” with the precise wording of the legislation, including the persons to whom it may apply and the offences in respect of which it may be invoked.<sup>23</sup>

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<sup>21</sup>ECtHR, *Sabuncu and Others v. Türkiye*, no. 23199/17, 10 November 2020, §§ 143, 145–148.

<sup>22</sup>ECtHR, *Sabuncu and Others v. Türkiye*, no. 23199/17, §§ 154, 156, 172–175, 179–184 and 226, 230–231.

<sup>23</sup>Associations Law No. 5253, Articles 30, 32 and 33/2. In particular, Article 33/2 provides that the term “association executives” refers to the chairperson of the board of directors. Official Legislation Information System: <https://www.mevzuat.gov.tr/mevzuat?MevzuatNo=5253&MevzuatTur=1&MevzuatTertip=5>.

In *Buzadji*, the ECtHR requires relevant and sufficient reasons even for the initial imposition of pre-trial detention, while emphasizing the exceptional nature of pre-trial detention and the need to consider alternative measures. Abstract, stereotyped, or case-unrelated grounds are insufficient.<sup>24</sup>

The UN Human Rights Committee has likewise stated that pre-trial detention should be the exception, and that concrete risks such as absconding or interference with evidence, or similar risks, must be individualized and alternative measures considered.<sup>25</sup>

Against these standards, the use of identical or substantially identical formulations for persons placed in pre-trial detention and those released subject to judicial control; the limited explanation of what specific risk made pre-trial detention necessary in respect of each individual; and the absence of a clear demonstration as to whether the reliance on the notion of “catalogue offences” corresponds to the actual statutory list are matters requiring careful scrutiny in assessing the adequacy of the reasoning given for the pre-trial detention decisions.

### 4.3. Freedom of Association

Articles 11 of the ECHR and 22 of the ICCPR protect the right of individuals to organize around common objectives and to operate through associations. This protection also applies to associations working in the field of LGBTI+ rights. In *Zhdanov*, the ECtHR examined the refusal to grant legal personality to organizations advocating LGBTI+ rights, as well as attempts to compel them to abandon their objectives, in light of the essence of freedom of association. The Court required restrictions on organizations to be based on compelling and convincing reasons and to be applied proportionately. The *Bayev* judgment likewise demonstrates that public debate concerning LGBTI+ rights cannot be suppressed without limit on grounds of public morality or the protection of the family.<sup>26</sup>

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<sup>24</sup>ECtHR, *Buzadji v. the Republic of Moldova* [GC], no. 23755/07, 5 July 2016, §§ 87–91, 102 and 122.

<sup>25</sup>UN Human Rights Committee, General Comment No. 35 (2014), § 38.

<sup>26</sup>ECtHR, *Zhdanov and Others v. Russia*, no. 12200/08 and 2 other applications, 16 July 2019, §§ 138–141, 146, 152–155, 158, 162; see also *Bayev and Others v. Russia*, no. 67667/09 and others, 20 June 2017, §§ 66–71.

The Committee has stated that freedom of association is a right exercised collectively by individuals and that restrictions must be necessary and proportionate, in a manner that does not impair the essence of the right.<sup>27</sup>

In the present case, although the associations continue to exist as legal entities, the collective detention of their executives, searches of association premises, seizure of digital data, and blocking of their websites are measures capable of seriously hindering the organizations' ability to operate in practice. With regard to foreign funding received by the associations being made the subject of investigation, it is important to identify and substantiate a specific unlawful act. Law No. 5253 permits associations, subject to a prior notification requirement, to receive assistance from persons, institutions, and organizations abroad.<sup>28</sup>

The fact that an individual has had contact with foreign nationals or persons who are the subject of an investigation is not, in itself, sufficient to establish a suspicion of a criminal offence in the absence of other relevant and sufficient circumstances. In *Kavala*, the ECtHR emphasized that contact with foreign nationals and similar relationships, considered in isolation, would not be sufficient to persuade an objective observer of the possibility that the person had participated in the commission of a serious offence.<sup>29</sup>

Accordingly, where no clear link has been established between an association's receipt of foreign funding or its activities in the field of LGBTI+ rights and the constituent elements of a specific criminal offence, there is a risk that investigative and pre-trial detention measures may have a chilling effect on freedom of association.

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<sup>27</sup>UN Human Rights Committee, General Comment No. 31 (2004), §§ 6 and 9; see also Article 22 of the ICCPR.

<sup>28</sup>Associations Law No. 5253, Article 21. Official Legislation Information System: <https://www.mevzuat.gov.tr/mevzuat?MevzuatNo=5253&MevzuatTur=1&MevzuatTertip=5>

<sup>29</sup>ECtHR, *Kavala v. Türkiye*, no. 28749/18, 10 December 2019, § 154; see also *Kavala v. Türkiye* [GC], 11 July 2022, § 140.

## 4.4. Freedom of Expression, “Public Morals,” and the Protection of Children

Freedom of expression under Article 19 of the ICCPR encompasses human rights advocacy, journalism, public debate, and cultural expression. Restrictions may be imposed only for the purposes specified in the Covenant and must be prescribed by law, necessary, and proportionate. The concept of “morals” cannot be reduced to the protection of a single tradition or the views of a majority; restrictions must not be applied in a discriminatory manner. The Committee has also stated that arbitrary detention, threats, or other attacks against persons exercising their freedom of expression are incompatible with Article 19.<sup>30</sup>

In *Bayev*, the ECtHR held that general assumptions that expressions concerning LGBT issues would negatively affect children or be incompatible with family values were not, in themselves, sufficient to justify an interference, and that measures adopted for the protection of children must be concrete, necessary, and proportionate.<sup>31</sup>

In *Kaos GL v. Türkiye*, the ECtHR criticized the failure of the domestic courts to sufficiently explain which particular articles or images in a publication containing LGBTI+ content were considered contrary to public morals and why. The Court also indicated that narrower measures, such as restricting children’s access, should have been considered, and that a broad seizure of the publication was disproportionate.<sup>32</sup>

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<sup>30</sup>UN Human Rights Committee, General Comment No. 34 (2011), §§ 11–12, 22–23, 25–26, 32–36. General Comment No. 34 superseded the earlier General Comment No. 10 (GC 34, § 1).

<sup>31</sup>ECtHR, *Bayev and Others v. Russia*, no. 67667/09 and others, 20 June 2017, §§ 66–83

<sup>32</sup>ECtHR, *Kaos GL v. Türkiye*, no. 4982/07, 22 November 2016, §§ 49, 55 and 57–63.

In the Ankara investigation, the fact that the investigation documents do not clearly identify which content was considered “obscene” or “contrary to public morals” and the specific reasons for such classification is significant in light of these standards. As Article 226(7) of the Turkish Criminal Code (TCC) also contains a provision excluding certain scientific, artistic, or literary works from the scope of the offence, the statutory exceptions and the nature of the content must be assessed separately in respect of each item subject to the investigation.<sup>33</sup>

The protection of the family and children may constitute legitimate aims; however, these aims do not create a new category of restriction beyond those listed in Article 19 §3 of the ICCPR. The Committee has also stated, in the context of Article 23, that the concept of the family cannot be reduced to a single form of life or family arrangement.<sup>34</sup>

Accordingly, in assessing the content covered by this report, it should be clearly established what specific risk to children’s protection is at issue, which content gives rise to that risk, why less intrusive means would be insufficient, and why the scope of the measure is proportionate to the risk it seeks to address.

With regard to access restrictions, the ECtHR has considered the blanket blocking of an entire Internet domain, resulting in the denial of access to a large amount of lawful content, to constitute a serious interference under Article 10 of the ECHR. Effective judicial review, a narrowly tailored scope, and consideration of less extensive alternatives are therefore required.<sup>35</sup>

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<sup>33</sup>ECtHR, *Kaos GL v. Türkiye*, § 57; Turkish Criminal Code No. 5237, Article 226/7. Official Legislation Information System: <https://www.mevzuat.gov.tr/mevzuat?MevzuatNo=5237&MevzuatTur=1&MevzuatTertip=5>

<sup>34</sup>UN Human Rights Committee, General Comment No. 19 (1990), §§ 1–3; General Comment No. 34 (2011), § 22.

<sup>35</sup>ECtHR, *Ahmet Yıldırım v. Türkiye*, no. 3111/10, 18 December 2012, §§ 47, 54, 57, 59, 64, 66–68.

The UN Human Rights Committee has likewise stated that general prohibitions on websites and information-dissemination systems may be incompatible with Article 19 §3 and that restrictions should, to the greatest extent possible, be content-specific.<sup>36</sup>

## 4.5. Freedom of Assembly

Under Article 21 of the ICCPR, the protection of peaceful assemblies is fundamental. The Committee has stated that assemblies held without prior notification or spontaneous assemblies may also fall within the scope of protection; that isolated acts of violence do not, as a whole, render an assembly violent; and that dispersal should be exceptional and, where necessary, participants should be effectively warned and given an opportunity to disperse. Police cordons and mass detentions should be used only where there is concrete violence or an imminent threat of violence and only to the extent that they are necessary and proportionate. Journalists and observers should also be protected during assemblies.<sup>37</sup>

In *Oya Ataman*, the ECtHR found the dispersal with tear gas of a small, peaceful demonstration that had not been notified in advance to be disproportionate and held that the authorities must demonstrate a certain degree of tolerance towards peaceful assemblies.<sup>38</sup>

In *Bączkowski*, the ECtHR emphasized the protection of minorities and views that are unpopular within society as one of the fundamental elements of a pluralistic democracy. The Court also considered the potential influence of the strong personal views of persons holding positions within the executive branch on decision-making processes.<sup>39</sup>

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<sup>36</sup>UN Human Rights Committee, General Comment No. 34 (2011), § 43.

<sup>37</sup>UN Human Rights Committee, General Comment No. 37 (2020), §§ 2, 12, 14–18, 25, 30, 33, 36, 38, 46, 56, 71, 82, 84–85, 87 and 94.

<sup>38</sup>ECtHR, *Oya Ataman v. Turkey*, no. 74552/01, 5 December 2006, §§ 36–43.

<sup>39</sup>ECtHR, *Bączkowski and Others v. Poland*, no. 1543/06, 3 May 2007, §§ 63–64, 67; for the Court's assessment of discrimination, §§ 97–101.

The information currently available concerning the intervention outside Çağlayan Courthouse should be examined in terms of the peaceful nature of the assembly, the manner in which the police established a cordon and used force, whether participants were given an effective opportunity to disperse, and whether detention was necessary and proportionate. The detention of 107 individuals, their being held in handcuffs with their hands behind their backs, and the extension of the detention period should be assessed separately for each person, particularly with regard to the existence of specific grounds and the individualization of the measure.

## 4.6. Private Life, Digital Data, and Seizure

Article 17 of the ICCPR prohibits unlawful or arbitrary interference with private life and personal data. Searches and seizures must have a legal basis, be limited to their legitimate purpose, and be subject to procedural safeguards designed to prevent arbitrariness. Legal safeguards must also govern the collection and storage of personal information contained in computers and databases; body searches must be conducted in a manner compatible with human dignity.<sup>40</sup>

In *Kırdök and Others v. Türkiye*, the ECtHR held that the copying and retention of electronic data may, in themselves, constitute an interference with private life. It further indicated that where the scope of a search warrant is insufficiently defined, and digital data are copied indiscriminately, adequate safeguards against abuse may be lacking. The factual context of that judgment concerned lawyer-client confidentiality; it is invoked here by analogy solely with regard to the scope of digital seizure and the procedural safeguards applicable to it.<sup>41</sup>

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<sup>40</sup>UN Human Rights Committee, General Comment No. 16 (1988), §§ 3–5, 7–8 and 10.

<sup>41</sup>ECtHR, *Kırdök and Others v. Turkey*, no. 14704/12, 3 December 2019, §§ 34, 36, 43, 49–54 and 58. The judgment concerns legal professional privilege; it is relied upon here by analogy with regard to the scope of digital data and procedural safeguards.

In Ankara, it is important to examine whether the search and seizure order authorized the examination of electronic devices without sufficiently specifying the content allegedly connected to the offence. In İzmir, it is likewise important to establish the legal authority under which passwords were obtained, the scope within which the data were copied, and how and for how long they were retained. With regard to sensitive personal data, including information concerning sexual orientation, health status, and persons receiving services, data minimization, purpose limitation, and safeguards against unauthorized access are of particular importance.

## **4.7. Prohibition of Torture and Other Ill-Treatment and Conditions of Detention**

Article 7 of the ICCPR imposes an absolute prohibition on torture and other cruel, inhuman, or degrading treatment or punishment. The Committee has stated that the prohibition also provides protection against acts committed by private individuals; that complaints must be investigated promptly and impartially; that places of detention must be subject to proper record-keeping; and that persons in detention must be guaranteed access to doctors, lawyers, and their families. Article 10 of the ICCPR further requires that all persons deprived of their liberty be treated with humanity and with respect for their inherent human dignity.<sup>42 43</sup>

In *Bouyid*, the ECtHR held that persons under the control of law-enforcement authorities are in a position of particular vulnerability; that physical force which has not been rendered strictly necessary by a person's own conduct may undermine human dignity; and that it is the responsibility of the authorities to provide a convincing explanation for any such injuries. Allegations of ill-treatment must be investigated by an authority independent of the alleged perpetrators or those responsible for the incident.<sup>44</sup>

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<sup>42</sup>UN Human Rights Committee, General Comment No. 20 (1992), §§ 2–6 and 11–14. General Comment No. 20 superseded General Comment No. 7.

<sup>43</sup>UN Human Rights Committee, General Comment No. 21 (1992), §§ 3–5, 9 and 12.

<sup>44</sup>ECtHR, *Bouyid v. Belgium [GC]*, no. 23380/09, 28 September 2015, §§ 83–84, 88, 100–101, 107–108 and 118–120

In the Çağlayan detentions, matters such as being kept for prolonged periods with hands cuffed behind the back, difficulties in accessing food and water, the use of physical force, access to medical care, and allegations of ill-treatment that were not reflected in forensic medical examination records should be examined separately under Articles 3 of the ECHR and 7 and 10 of the ICCPR. The available sources contain serious and detailed allegations; however, in order to establish a violation, evidence such as independent medical records, detention records, camera footage, and statements from the personnel concerned would need to be examined.

With regard to the placement and alleged solitary confinement of trans detainees, *X v. Türkiye* is particularly relevant. The ECtHR found that keeping a homosexual detainee in solitary confinement for more than eight months, ostensibly to protect him from other prisoners, constituted a violation of Articles 3 and 14 of the ECHR, having regard both to the severity of the conditions and to the discriminatory dimension based on sexual orientation. While the Court accepted that the need for protection may require certain specific measures, it emphasized that the risk must be assessed individually and that the proportionality of the measure must be subject to review.<sup>45</sup>

Accordingly, the placement of trans detainees in male wards or in single-occupancy units should not, in itself, be characterized as a violation. Rather, it should be examined whether an individual risk assessment was conducted in each case, whether the measure effectively resulted in solitary confinement, whether access to social and medical needs was preserved, and whether the decisions were subject to regular review. With regard to allegations of strip searches, the legal basis, necessity, and manner of the search should likewise be assessed, including whether it was carried out in a discriminatory or degrading manner.

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<sup>45</sup>ECtHR, *X v. Turkey*, no. 24626/09, 9 October 2012, §§ 33, 40, 42–45 and 50–57

## 4.8. Defence Rights and the Presumption of Innocence

In *Salduz v. Türkiye [GC]*, the ECtHR held that, as a rule, a suspect must be provided access to a lawyer from the time of the first police interrogation; that this right may be restricted only where compelling reasons exist in the circumstances of the particular case; and that any restriction must not unduly prejudice the rights of the defence. Any waiver must be based on clear and sufficient safeguards. *Türk v. Türkiye* likewise demonstrates that a waiver of the right to legal assistance, and the procedure by which such a waiver is made, must be assessed in light of the safeguards applicable in the particular circumstances.<sup>46</sup>

The UN Human Rights Committee considers facilitating access to a lawyer from the outset of detention, ensuring confidential communication with counsel, and providing adequate facilities for the preparation of the defence to be elements of a fair trial.<sup>47</sup>

If the records in Mersin show that at least two suspects were questioned by law-enforcement authorities without a lawyer present, and that, in one case, a statement was signed without being read to the person concerned, the circumstances in which these procedures took place and the manner in which the statements were subsequently used in the proceedings should be examined. With regard to the restriction order in the Istanbul case file, it should likewise be assessed whether the defence was granted access to the basic evidence and grounds necessary to challenge the pre-trial detention effectively. In *Kavala v. Türkiye*, the ECtHR attached importance to procedural safeguards concerning access to the investigation materials and the review of pre-trial detention.<sup>48</sup>

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<sup>46</sup>ECtHR, *Salduz v. Turkey [GC]*, no. 36391/02, 27 November 2008, §§ 50–55, 59; see also *Türk v. Turkey*, no. 22744/07, 5 September 2017, §§ 42, 45, 51–53.

<sup>47</sup>UN Human Rights Committee, General Comment No. 35, § 35; General Comment No. 32, §§ 32–34, 38 and 41. .

<sup>48</sup>ECtHR, *Kavala v. Turkey*, no. 28749/18, 10 December 2019, §§ 31 and 192.

The presumption of innocence applies not only to courts but also to statements made by public authorities concerning an investigation. In *Allenet de Ribemont*, the ECtHR found that statements by senior public officials presenting an individual, without qualification, as the perpetrator or instigator of an offence were incompatible with Article 6 §2 of the ECHR.<sup>49</sup>

The UN Human Rights Committee has likewise stated that all public authorities should refrain from statements that prejudice the outcome of judicial proceedings.<sup>50</sup>

The available official statements cannot be said to have explicitly declared individual suspects guilty by name. Nevertheless, allegations that, before the conclusion of the investigation, associations were collectively characterized as organizations that “promote LGBT and immorality,” or that images of detainees in handcuffs were made public, should be assessed separately in terms of the presumption of innocence and protection against stigmatization.

## 4.9. Non-Discrimination and Official Discourse

Articles 14 of the ECHR and 2 §1 and 26 of the ICCPR prohibit discrimination in the enjoyment of the rights guaranteed by the respective instruments. The ECtHR requires particularly convincing and weighty reasons to justify differential treatment based on sexual orientation and does not consider tradition, negative attitudes on the part of a majority, or general assumptions sufficient on their own. Under the ICCPR, deprivation of liberty on discriminatory grounds is, in principle, arbitrary, and the right of peaceful assembly must be guaranteed without discrimination on any ground, including sexual orientation and gender identity.<sup>51 52</sup>

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<sup>49</sup>ECtHR, *Allenet de Ribemont v. France*, no. 15175/89, 10 February 1995, §§ 36–41.

<sup>50</sup>UN Human Rights Committee, General Comment No. 13 (1984), § 7; General Comment No. 32 (2007), § 30.

<sup>51</sup>ECtHR, *Bayev and Others v. Russia*, §§ 68, 88–92; *X v. Turkey*, § 50; *Bączkowski and Others v. Poland*, §§ 97–101.

<sup>52</sup>UN Human Rights Committee, General Comment No. 18 (1989), §§ 1, 7, 9, 12–13; General Comment No. 35, § 17; General Comment No. 37, § 25; General Comment No. 34, § 26 and footnote 55.

In *Nepomnyashchiy and Others v. Russia*, the ECtHR, when assessing public statements concerning LGBTI+ persons, took into account the vulnerability of the group and its history of stigmatization, the content and context of the statements, their potential reach, and the position held by the speaker. The statements at issue in that case were clearly much more severe than the official statements at issue here. Accordingly, the judgment is not invoked to establish an automatic equivalence, but rather to illustrate how the stigmatizing effects of official discourse may be assessed.<sup>53</sup>

The Minister's reference to "associations that promote LGBT and immorality," together with the undefined concept of "degendering" used in the circular, may create a risk of associating LGBTI+ identity with a negative moral framework. Rather than concluding that these statements, in themselves, constitute a violation of Article 14 of the ECHR, it is necessary to examine the scope of the operations, the grounds invoked in the investigations, and the statements made by public authorities together in order to determine whether they have resulted in discriminatory effects or differential treatment.

In *Bączkowski*, the ECtHR also considered the possibility that strong personal views capable of influencing decision-making processes at the municipal level might produce discriminatory consequences. This approach makes it necessary to examine statements by senior officials together with any instructions given by the same authorities to investigative bodies. However, further factual evidence would be required to establish such a link in the present case.<sup>54</sup>

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<sup>53</sup>ECtHR, *Nepomnyashchiy and Others v. Russia*, nos. 39954/09 and 3465/17, 30 May 2023, §§ 57–59, 61–62, 75 and 85.

<sup>54</sup>ECtHR, *Bączkowski and Others v. Poland*, no. 1543/06, 3 May 2007, §§ 97–101.

Information indicating that a significant proportion of those placed in pre-trial detention were trans women facing allegations relating to prostitution should also be carefully examined from a non-discrimination perspective. In *B.S. v. Spain*, the ECtHR considered, in conjunction with Article 14, the failure of an investigation to adequately address the particular vulnerability of a sex worker and the possibility of discriminatory police conduct, in the context of Article 3 of the ECHR. In the present context, that judgment is relevant by analogy in demonstrating the need for measures directed at trans women to be individualized in light of their personal circumstances, the alleged conduct, and their security and protection needs.<sup>55</sup>

## 4.10. Legality, Accessibility, and Foreseeability

In the field of criminal law, Article 7 of the ECHR requires that a person be able to reasonably foresee, from the wording of the relevant provision and, where necessary, from the interpretation given by the courts, which acts or omissions may give rise to criminal liability. Criminal provisions may not be extended against an accused person in an unforeseeable manner. Articles 8, 10, and 11 of the ECHR likewise require an interference to be “prescribed by law,” which entails that the legal basis must be accessible and contain adequate safeguards against arbitrary application.<sup>56</sup>

Three issues are particularly relevant in the present case. First, the concept of “degendering” not defined in the text of the circular. Second, the specific statutory provision of the Associations Law and the particular conduct on which the allegation of a violation is based must be clarified in respect of each individual.

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<sup>55</sup>ECtHR, *B.S. v. Spain*, no. 47159/08, 24 July 2012, §§ 39–47 and 58–63.

<sup>56</sup>ECtHR, *Kokkinakis v. Greece*, no. 14307/88, 25 May 1993, §§ 40 and 52; *Ahmet Yıldırım v. Turkey*, no. 3111/10, 18 December 2012, §§ 57 and 59; *Kırdök and Others v. Turkey*, no. 14704/12, 3 December 2019, § 43; *Bączkowski and Others v. Poland*, no. 1543/06, 3 May 2007, §§ 67–68; with regard to Article 15 of the ICCPR, General Comment No. 29, § 7

Third, where offences under Articles 226 and 227 of the TCC are applied to content or activities relating to human rights advocacy, journalism, or LGBTI+ visibility, it must be demonstrated how the specific conduct alleged corresponds to the constituent elements of the relevant offence. In the absence of such a link, the use of general formulations may raise concerns regarding legal certainty and foreseeability.<sup>57</sup>

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<sup>57</sup>Turkish Criminal Code No. 5237, current Articles 122, 216, 226 and 227. Official Legislation Information System: <https://www.mevzuat.gov.tr/mevzuat?MevzuatNo=5237&MevzuatTur=1&MevzuatTertip=5>.

## 5. CONCLUSION

The assessment in this report, based on the information and documents currently available, indicates that the manner in which the operations were conducted may give rise to serious human rights concerns affecting multiple fundamental rights. In particular, detailed scrutiny is required with regard to the individualization of deprivation-of-liberty and pre-trial detention decisions; the protection of associations' activities; the necessity and proportionality of interferences with freedom of expression and freedom of assembly; the scope of access to and seizure of digital data; conditions of detention and imprisonment; access to legal counsel; and the language used by public authorities.

At the same time, this report has been prepared at a stage when full access to the underlying investigation files has not been available. Accordingly, the assessments set out here do not constitute findings of individual criminal responsibility or definitive findings of violations of the ECHR or ICCPR. The purpose of the report is to assess the available facts against international standards and to identify the risks that require attention and remediation by the competent authorities. In particular, allegations concerning ill-treatment and conditions of imprisonment, as well as the grounds underlying the pre-trial detention decisions, should be subjected to independent examination of the relevant evidence.

### Key Recommendations

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- Ensure that pre-trial detention decisions clearly and individually set out, in respect of each person, the specific suspicion of a criminal offence, the grounds for pre-trial detention, and the reasons why less restrictive measures would be insufficient; ensure that presumptions concerning grounds for pre-trial detention provided by law for certain offences do not in any circumstances result in automatic or categorical detention and do not replace the requirement for an individualized assessment.

- Ensure that all allegations concerning the use of physical force in detention, handcuffing with hands behind the back, access to medical care, food and water, access to legal counsel, and medical examination records are promptly, effectively, and independently investigated; that perpetrators are prosecuted and, where found guilty, receive penalties proportionate to the seriousness of their conduct; and that victims are provided with adequate compensation. Ensure the preservation of relevant camera footage, records, and medical documentation, and provide victims with appropriate access to such materials.
- Ensure that investigations concerning associations' activities and their receipt of foreign funding are not generalized on the basis of association membership or legitimate and legally protected activities in the field of LGBTI+ rights; and refrain from imposing criminal or coercive measures unless a specific, lawful, and individualized violation has been established.
- Ensure that access restrictions concerning websites and social media accounts remain content-specific, necessary, and proportionate; where measures render an entire domain or account inaccessible, ensure effective judicial review and consideration of narrower alternatives.
- Ensure that searches of digital devices and copying of data are limited to data relevant to the alleged criminal conduct; and apply clear procedural safeguards governing the protection, filtering, retention, and deletion of sensitive personal data.

- Ensure access to legal counsel from the outset of detention, as well as access to the basic case-file information necessary for the effective preparation of the defence; and ensure that public authorities use language concerning ongoing investigations that is consistent with the presumption of innocence and the prohibition of discrimination.
- With regard to trans and other LGBTI+ detainees in pre-trial detention, ensure that security needs are addressed on the basis of individualized risk and needs assessments; ensure that measures taken for protective purposes do not amount to punitive solitary confinement and are subject to regular review.

Finally, when pursuing legitimate aims such as the protection of children and the prevention of crime, public authorities should refrain from using language that collectively stigmatizes LGBTI+ persons, human rights defenders, or organizations, or that equates the exercise of rights with criminal conduct. Public policies and investigations should instead be based on individual conduct, concrete evidence, and clear legal grounds.