

Brussels, 04 January, 2011

Dear Commissioner Füle,

We are writing to express our deep concern with regard to the removal of sexual identity ground from the list of protected grounds in the Draft Law on Combating Discrimination and Equality Committee in Turkey.

In January 2010, the Ministry of Interior, responsible for proposing the law, published the final draft law on the government website which excludes the ground of sexual identity from the list of protected grounds.

Initially the Ministry consulted civil society organizations and experts on the law and approved the draft prepared by the Human Rights Joint Platform which included sexual identity as a protected ground of discrimination under Article 1.

Regretfully, the final draft of the law does not reflect the consultations with the national human rights groups and denies protection from discrimination against lesbian, gay, bisexual and transgender (LGBT) individuals in Turkey.



As the European Commission acknowledged in its 2010 Progress Report on Turkey, [...] the current legal framework [on anti-discrimination] is not adequately aligned with the EU acquis. There have been several cases of discrimination at the workplace, where LGBTT employees have been fired because of their sexual orientation. Provisions of the Turkish Criminal Code on public exhibitionism and offences against public morality are sometimes used to discriminate against LGBTT people. The Law on misdemeanours is often used to impose fines against transgender persons.

Indeed, LGBT people face discrimination, are denied basic human rights in their everyday life and are regularly subjected to violence in Turkey. Employment discrimination on the ground of sexual orientation and gender identity is a particularly serious issue. There are a number of accounts of people being fired from work based on their real or perceived sexual orientation and/or gender identity.

Yet, no legal protection against discrimination is provided for LGBT people in Turkey. There is no specific reference to sexual orientation as a ground for non-discrimination in the main anti-discrimination provision of the Labour Act (Article 5). Also, there is no legislation specifically prohibiting discrimination in recruitment. Moreover, under Article 25 of the Labour Act an employer may terminate an employment contract for immoral behavior, which can be used to dismiss employees because of their real or perceived sexual orientation and gender identity. Similarly, Civil Servants Code and many other laws regulating the rights and duties of specialized civil servants provide for disciplinary actions on the bases of immoral behavior. In the absence of legal definition of immoral behavior the sexual orientation and/or gender identity of LGBT people is almost always defined as such.



All 27 Member States of the European Union have adopted employment non-discrimination legislation that explicitly covers sexual orientation in accordance with the Council Directive 2000/78/EC. Most countries adopted comprehensive anti-discrimination laws to combat discrimination in areas such as access to goods and services, health care and education in addition to employment.

As a candidate country to EU membership, Turkey is expected to transpose the EU acquis into national legislation and provide protection from discrimination based on 6 grounds of discrimination, including sexual orientation.

We, therefore, call on the Commissioner to urge the relevant executive and legislative branches of the Government of Turkey to maintain the full list of protected grounds, including sexual identity in the proposed ~~+~~Draft Law on Combating Discrimination and Equality Committee in Turkey.

Yours sincerely,



Evelyne Paradis,

ILGA-Europe, Executive Director

