

ILGA-Europe's submission to the European Commission's 2012 Progress Report on Turkey

Brussels, May 11, 2012

Political criteria

Human rights and the protection of minorities	
Freedom of assembly and association	<p>Since 2003 annual Pride Parades are held in Istanbul. The Pride Parade in June 2011 was attended by several thousand people. Rallies on the International Day Against Homophobia (IDAHO) are also organized annually since 2008 by LGBT organisations in Ankara.</p> <p>Freedom of association is guaranteed for every citizen in the Turkish Constitution. However, Art. 56 of Turkish Civil Code allows for the closure of an association that goes against 'laws and ethics'. The Directories of Associations of cities are the bodies deciding whether an association applying to register is in violation of that article. So far, whenever an LGBT organization applied to register, the Directory of Association of that city applied to the Public Prosecutor to close down the organization. Closure cases were filed against Lambdaistambul, Kaos GL, Pink Life and Black Pink Triangle.</p>

<p>Freedom of expression</p>	<p>In April 2011, internet sites of some LGBT organisations in Turkey were blocked. After an inquiry to Turkish Telecommunications Directorate (TİB) LGBT organisations were provided with an official document stating that officially registered LGBT sites cannot be on a list of banned sites. However, there are still problems, where web access is subject to general filters; for example the word ‘gay’ or ‘lesbian’ are filtered in internet cafes, hotels and university campuses, etc. and unblocking those sites is therefore dependant on individuals reporting each block.</p> <p>In the Turkish Grand National Assembly, access to LGBT organisations’ websites is blocked, and Members of Parliament wishing to access sites need to make a specific request to be allowed to do so¹. Aylin Nazlıaka, Ankara deputy of the Republican People’s Party (CHP), tabled a formal question in September 2011 asking why this block was in place, suggesting it was unconstitutional, and that it reinforced discrimination against the LGBT community². In October 2011, Minister for Family and Social Policies, Fatma Şahin replied to the question stating that everyone is equal in the country and that the constitution is being revised to combat all forms of discriminations³.</p>
<p>Hate crime</p>	<p>There are no provisions in the Criminal Code of Turkey that allow the bias motive of crimes against LGBT people to be treated as an aggravating circumstance. On the contrary, the courts in Turkey often give reduced sentences to the perpetrators of violence against LGBT people on the grounds that they have committed the crimes under ‘unjust provocation’. In the absence of any legal protection LGBTI people are continuously subjected to violence and ill-treatment which often cost them their lives.</p> <p>In the course of 2011 Kaos GL reported the murders of 1 lesbian, 6 trans women and 2 gay men as well as 4 incidents of wounding with harmful devices and guns. Pink Life also reported at least 30 cases of severe violence against trans women. Some incidents involved multiple victims, and there were two incidents of non-fatal lynching and two separate cases of rape. In</p>

¹ <http://www.hurriyetdailynews.com/default.aspx?pageid=438&n=access-to-gay-organizations8217-sites-barred-in-parliament-2011-09-20>

² <http://www2.tbmm.gov.tr/d24/7/7-0093s.pdf>

³ <http://www2.tbmm.gov.tr/d24/7/7-0093sgc.pdf>

	<p>several cases, the suspects were caught and specifically gave homophobic or transphobic reasons for the violence.</p> <p>In January 2012, a trans woman was stabbed by a knife 14 times in Izmir. She was taken to hospital in a critical condition. Investigation is under way to find out the perpetrator.</p> <p>In April 2012, two trans women were murdered in Izmir and two other trans women were attacked, raped and robbed in Ankara. One trans woman was attacked in Istanbul and one was beaten up by the police in Izmir.</p> <p>Honor crimes in Turkey are also committed against LGBT people. In September 2011, a trans woman was killed in southeastern province of Gaziantep by her brother who declared ‘I have cleaned my honor’⁴. In February 2012, another trans person was killed in Izmit by her brother. The case is in the court. The case of Ahmet Yıldız –who was killed in 2008 at the age of 26, allegedly by his father on the bases of his same-sex orientation-, is still unresolved. A documentary film <i>Zenne</i> –which is based on the story of Ahmet Yıldız and won a variety of local and international prizes -addresses sexual orientation in relation to traditions, family, state and the military⁵.</p> <p>These are some of the reported cases but LGBT organisations in Turkey are well aware that violence is very under reported.</p>
<p>Police misconduct</p>	<p>The prosecution of 3 trans activists for “resisting police officers in the execution of their duty” and for “revilement” continued during the reporting period. One of the women was sentenced to 5 months with immediate effect, the second was sentenced to 6 months suspended for 5 years, and the third woman was sentenced to a year suspended for 5 years. The charges against trans human right defenders were brought when they had refused to be taken to the police station without good reason after they were stopped as part of a traffic check. When being taken to the police station and while in custody they had suffered verbal and physical abuse by the police⁶.</p>

⁴ <http://www.hurriyetdailynews.com/default.aspx?pageid=438&n=gays-and-transsexuals-in-turkey-target-in-8216honor-killings8217-2011-10-09>

⁵ http://www.ilga-europe.org/home/guide/country_by_country/turkey/turkish_film_highlights_gay_honor_killing

⁶ http://www.ilga-europe.org/home/guide/country_by_country/turkey/detailed_account_of_the_recent_case_of_police_violence_against_transgender_women_in_ankara

	<p>The human rights defenders had filed complaints against police officers for ill treatment but there was no further action on that complaint.</p> <p>In January 2012, police officers took into custody 18 men who they arrested in a cinema on the basis that they were having sexual intercourse in the cinema. The owners of the cinema were also charged for ‘providing space for prostitution’⁷.</p> <p>In March 2012, a gay man went to a police station to report that he is being followed by potential attacker on the ground of his sexual orientation. According to his testimony he was beaten up at the police station after having an argument with the police officer who refused to take seriously his report. Shortly after leaving the police station, he was also attacked by the person following him. He reported the case to a human rights organisation which supported him get a medical report of his injuries and file a complaint to the prosecutor’s office.</p>
<p>Equality and non-discrimination</p>	<p>Turkey’s constitution or domestic law does not provide protection from discrimination on the grounds of sexual orientation and gender identity. In January 2011, the Government of Turkey prepared the Draft Law on Combating Discrimination and Equality Committee in Turkey. Initially the Ministry of Interior, responsible for proposing the law, 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. However, the Ministry removed sexual identity ground from final draft of the law. Thus, the first and the only law that was going to provide protection from sexual orientation and gender identity discrimination in Turkey is now denying LGBT individuals this protection. The bill is still with the Justice Commission with no known date for it to be tabled before Parliament.</p> <p>In contrast to advances made by the government to safeguard nondiscrimination on other grounds, the rights of LGBT people have continued to be ignored.⁸ This has been combined by homophobic statements by government officials.</p> <p>Minister of Interior İdris Naim Şahin in his speech in December 2011 called homosexuality as an</p>

⁷ <http://kaosgl.org/sayfa.php?id=10488>

⁸ http://www.amnesty.org.uk/uploads/documents/doc_21578.pdf

example of “all sorts of immorality, indecency and inhuman situation.” Various LGBT organisations reacted to the Minister's speech, highlighting that LGBT individuals face discrimination, violence and murder in Turkey that and by making such statements, the Minister, and therefore the government, provide support to those who engage in such hatred. The organisations highlighted the particularly precarious situation of trans people in Turkey who have been murdered, as well as ill-treated and tortured by the police. LGBT organisations called for the Minister's resignation and an apology from him and the government to the LGBT population of Turkey.⁹

Negative stereotyping and portrayal of LGBTI people in Turkey further exacerbates violence and discrimination against them. LGBT organisations have therefore taken some legal actions in this regard.

In January 2012, Kaos GL opened a court case against Vakit Newspaper for using derogatory language when referring to LGBT people. While the local court ruled that the language of the articles was within the limits of freedom of expression, the higher court decided that the used terms intended insult. As a result, the newspaper and the author of the articles were charged 4.000 liras and 2.000 liras fines respectively.

In March 2012, Pembe Hayat filed a complaint at Ankara Prosecution Office against Erol Köse, a popular TV persona, who has been constantly attacking LGBT individuals with hateful and targeting discourse. The hearing of the case is scheduled in December 2012.

Absence of any legal protections coupled with government and media hostility perpetuates the situation where LGBTI people continually face discrimination and violence.

In 2011, a gay referee Halil İbrahim Dinçdag was fired from the Turkish Football Federation [TFF]. He filed a case against TFF for pecuniary and non-pecuniary damages. The hearing of the case continued in the reporting period.

There are a number of other employment discrimination cases documented by the local LGBT

⁹ http://www.ilga-europe.org/home/guide/country_by_country/turkey/lgbt_organizations_in_turkey_demand_the_resignation_of_interior_minister

organisations particularly in the fields of education, military service and law enforcement which goes to show that many laws regulating the rights and duties of specialized civil servants that provide for disciplinary actions on the bases of 'immoral behavior' are used to discriminate against LGBT people. Many cases of discrimination, however, remain unreported and the victims never file complaints. Employment discrimination is a particularly serious problem for transgender people who face extreme social exclusion. Unable to find employment, many are forced into sex work and subjected to violence, harassment and psychological abuse.

GBT people are also not allowed to serve in Turkish army. According to the Turkish Armed Forces Health Requirement Regulations, GBT people are considered unfit to serve in the military. Furthermore, military doctors subject GBT people to humiliating and degrading tests and procedures as to 'diagnose their pathology'.