

# ILGA-Europe's submission to the European Commission's 2010 Progress Report on Turkey

Brussels, May 31, 2010

## Political criteria

Human rights and the protection of minorities	
<i>Civil and political rights</i>	
<b>Freedom of assembly</b>	<p>Since 2003 annual Pride Parades are held in Istanbul. According to Lambdaistanbul there were about 3000 participants in the Pride last year and they expect the number of participants to be even more in this year's march planned for the 27th of June. Although the Pride marches are not banned by the authorities since 2003, Lambdaistanbul (the main organizer of the event) has to negotiate every time about the location of the march<sup>1</sup>.</p> <p>Rallies on the International Day Against Homophobia are also organized annually since 2008 by LGBT organizations in Ankara. The demonstration on this year's IDAHO day-17 May, 2010 went peacefully. Peaceful protests were also organized on 18 May 2010 in 3 cities in Turkey by LGBT groups to denounce the police violence against trans people.<sup>2</sup></p> <p>Cases of restriction on the freedom of assembly have been reported in previous years. In August, 2006, the Rainbow Association (Rainbow Solidarity and Cultural Association for Gay, Lesbian and Transgender people) of Bursa called for a protest demonstration in response to the attempt by the governor of Bursa to dissolve the association using the "general morality" clause. Before the start of actual demonstration, a group of 500 counter demonstrators gathered around the association's office chanting homophobic statements, inciting hatred and throwing stones. The demonstration has then been banned based on the argument that the police can not provide adequate protection. While the criminal complaint was filed against the person leading the counter-demonstration and publicly inciting to violence against LGBT people, he has been</p>

<sup>1</sup> Meeting with Lambdaistanbul in Istanbul on 18 May, 2010. Fact finding trip by ILGA-Europe

<sup>2</sup> Fact finding trip by ILGA-Europe, [http://www.ilga-europe.org/europe/news/latest\\_news/ilga\\_europe\\_s\\_statement\\_on\\_the\\_recent\\_incident\\_of\\_police\\_violence\\_against\\_trans\\_activists\\_in\\_ankara](http://www.ilga-europe.org/europe/news/latest_news/ilga_europe_s_statement_on_the_recent_incident_of_police_violence_against_trans_activists_in_ankara)

	released without any charges.
<b>Freedom of association</b>	<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.</p> <p>On October 16, 2009 Public Prosecutor filed a closure case against Izmir based Black Pink Triangle Association- an LGBT organisation founded in February 2009, on the grounds that its charter goes against "public morality" and "Turkish family structure." However, on 30 April, the local court ruled against the closure of the Black Pink Triangle.</p> <p>The Black Pink Triangle Association is the fourth LGBT group that authorities in Turkey have tried to close down on the same grounds. The charges against Kaos GL (September 2005) and Pink Life (July 2006) in Ankara were subsequently dropped. Lambdaistanbul, however, went through a lengthy legal battle when finally in November 2008 the decision by the local court to close down the organization was overturned by the Supreme Court of Appeals and the last decision was then confirmed in April 2009 by the local court.</p>
<b>Homophobic and transphobic violence/hate crime and hate speech</b>	<p>There are no provisions in the Criminal Code of Turkey that allow the homo/transphobic motive to be treated as an aggravating circumstance. On the contrary, the courts in Turkey often give reduced sentences to the perpetrators of violence and crimes against LGBT people on the grounds that they have committed the murders under 'unjust provocation'.</p> <p>At the same time, LGBT people are continuously subjected to violence and ill-treatment which often cost them their lives. In 2008, the LGBT Rights Platform<sup>3</sup> reported 34 cases of violence</p>

<sup>3</sup> A platform consisting of seven LGBT organisations in Turkey, established in 2007 for the purposes of monitoring and reporting on human rights violations of LGBT people.

against LGBT people of which 14 were cases of police violence against LGBT persons in public places and 9 cases of police raids and ill treatment of trans women.<sup>4</sup> Pink Life (Pembe Hayat) reported five murders of transgender women during 2009 alone.<sup>5</sup> ILGA-Europe together with Human Rights Watch, the International Gay and Lesbian Human Rights Commission (IGLHRC) and Pink Life addressed a letter to the government of Turkey on 22 Feb. 2010, urging for actions to end ongoing violence and murders of transgender people in Turkey.<sup>6</sup>

Transgender people in Turkey are indeed a particularly vulnerable group. The inability to access the formal labour market often forces them into sex work further increasing their vulnerabilities. Although prostitution is legal in Turkey transgender sex workers are treated as criminals by the police. Police harassment and abuse of transgender women is a widespread practice in Turkey. Physical violence, psychological abuse, rape and unjustified fines are common practice in the police forces against transgender women in Turkey.

While on a fact finding trip to Turkey, ILGA-Europe documented the case of police violence against 5 transgender women in Ankara on 17 May, 2010<sup>7</sup>.

When a trans person is beaten up by the police they interfere in the medical examination of the victim to make sure that the reports do not reflect the real medical condition of the victim and that the victim doesn't seek further medical care and examination. As for the procedural examination, medical staff is often insensitive and doesn't respect the privacy and dignity of

<sup>4</sup> LGBT Rights Platform (2009) *Human Rights Violations Against LGBT Individuals in Turkey in 2008*, Istanbul.

[http://transx.transgender.at/2904/Dokumente/Human\\_Rights\\_Violations\\_Against\\_LGBT\\_Individuals\\_in\\_Turkey%85.pdf](http://transx.transgender.at/2904/Dokumente/Human_Rights_Violations_Against_LGBT_Individuals_in_Turkey%85.pdf)

<sup>5</sup> On June 29, 2009, Hadise was murdered in her house in Istanbul. Turkish LGBT organizations have no further information on this case. On May 22, 2009 Çağla, born under the name Đlyas Çağan, was murdered in her house in Ankara. Police arrested a suspect and an Ankara court found him guilty of murder and sentenced him to life imprisonment. 25-year old Melek Köklu, born under the name Turgut Köklu, was stabbed to death in front of her house in Ankara on April 11, 2009. Police arrested a suspect and an Ankara court sentenced him to life imprisonment for murder. 38-year old Eda Yıldırım was found dead on March 23, 2009 in Bursa. Her head and her genitals were cut from her body and have still not been found. Police captured a suspect who is currently being prosecuted. In court, the prosecutor asked for life imprisonment. On March 10, 2009, 28-year old Ebru Soykan, a prominent transgender human rights activist, was stabbed to death in her home in Cihangir, a neighbourhood in central Istanbul. Prior to her murder, Soykan had asked the Prosecutor's Office for protection from a man who had beaten her on several occasions and threatened to kill her in her home. The alleged killer confessed and surrendered, and is currently subject to prosecution.

<sup>6</sup> [http://www.ilga-europe.org/europe/news/for\\_media/media\\_releases/turkey\\_stop\\_violence\\_against\\_transgender\\_people](http://www.ilga-europe.org/europe/news/for_media/media_releases/turkey_stop_violence_against_transgender_people)

<sup>7</sup> <http://www.ilga->

[europe.org/europe/guide/country\\_by\\_country/turkey/detailed\\_account\\_of\\_the\\_recent\\_case\\_of\\_police\\_violence\\_against\\_transgender\\_women\\_in\\_ankara](http://www.ilga-europe.org/europe/guide/country_by_country/turkey/detailed_account_of_the_recent_case_of_police_violence_against_transgender_women_in_ankara)

trans sex workers.

Furthermore, police routinely fines transgender women under the Code on Misdemeanour. The fines issued are for 'disturbance of the traffic' or 'disturbance of the public peace'. The transgender women in fact claim that they do not need to be doing any sex work in order to be stopped by the police and be fined. At times, the police has also issued them fines without their being in the location at the indicated time. They have been fined an average of 16 times each.<sup>8</sup> The fines started to be issued since 2007 with the amount of 58 TL (€29,30). It then rose to 140TL (€70,80) and then dropped to 70TL (€35,40) in 2010. As mentioned by a trans sex worker "It is [the fines] the Turkish state's informal system of taxing us without having to accept our existence." In the event that fines are not paid, the Ministry of Finance is known to block all the bank accounts held by the fined person, and the accounts remain blocked until all fines have been paid. On a number of occasions the transgender women have presented the prosecutor's office with complaints about the fines, but to date they have always been made to pay them. No actions are taken by the government to address this issue. On the contrary, a new point base bonus system has been introduced recently encouraging the police officers to issue fines to different 'trouble groups' including trans people.<sup>9</sup>

*Economic and social rights*

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<sup>8</sup> The least number of fines is 14 and the highest is 20.

<sup>9</sup> Interviews with trans people in Istanbul and Ankara, 18-23 May, 2010, Fact finding trip by ILGA-Europe

**Discrimination /  
Anti-discrimination laws  
and policies**

Although the Constitution of Turkey provides for non-discrimination, sexual orientation and gender identity are not among the nondiscrimination grounds in its article 10. A comprehensive anti-discrimination legislation is not introduced.

Sex education is not included in the school curricula and bullying at schools is described by local LGBT organisations as a serious problem. According to the reports by LGBT organizations in Turkey many LGBT students are bullied at school which often leads to school drop outs. This limits further employment opportunities for many LGBT people, especially for trans people.<sup>10</sup> Evidently, many LGBT students prefer to conceal their sexual orientation or gender identity to avoid discriminatory attitudes and bullying at school. No actions are taken by the government to address the mentioned issue.

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 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 gender identity of LGBT people is almost always defined as such.

Employment discrimination on the grounds of sexual orientation and gender identity is a serious issue in Turkey. There are number of accounts of LGBT people being fired from work based on their sexual orientation and gender identity.

In 2008, a teacher of a religion was fired from work on the grounds of his sexual orientation. He lost the case filed against the Ministry of Education when his sexual orientation was interpreted as ‘immoral behavior’.<sup>11</sup> In 2009, 6 complaints of employment discrimination on the grounds of sexual orientation have been filed.<sup>12</sup>

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<sup>10</sup> Meeting with Pink Life trans activists in Ankara, 21 May, 2010. Fact finding trip by ILGA-Europe

There are number of other similar cases documented by local LGBT organizations. Many cases of discrimination, however, go 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'.

Given the widespread discrimination and violence against LGBT persons in Turkey, there is a need for introduction of specific legislative and policy measures for the protection of LGBT people, namely amending the Constitution to include sexual orientation and gender identity as grounds of nondiscrimination or adopting comprehensive anti-discrimination legislation.

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<sup>11</sup> Report by KAOS GL-Ankara Turkey, April 2009

<sup>12</sup> Meeting with KAOS GL lawyer. Fact finding trip by ILGA-Europe