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Your Excellencies,

On behalf of the International Gay and Lesbian Human Rights Commission (IGLHRC), I am writing to you as honorable representatives of the executive and legislative branches of the Government of Turkey to ask that you include the concepts of *sexual orientation and gender identity* (in addition to *sex*) as prohibited grounds for discrimination in the equality clause of the Constitution of Turkey—which is currently under revision. We are presenting below several arguments in support of this request initiated from Turkish civil society.

First of all, Turkey is not alone in its efforts to draft a constitution that would protect all its citizens against discrimination, including lesbian, gay, bisexual, and transgender (LGBT) people. Countries that have revised their constitutions in the last decade have included protection for LGBT in their equality clauses. Ecuador, Fiji, Portugal, South Africa, Sweden, Switzerland included sexual orientation as a protected category in their constitutions. At present, Venezuela is currently revising its constitution as well; the constitution drafting committee of the country's legislative assembly has already included sexual orientation in the draft equality clause.

Forty-nine countries, including non-European ones such as South Africa, South Korea, and Mexico, prohibit by law discrimination based on sexual orientation in employment; 39 countries, including those previously mentioned, protect the rights of LGBT in areas other than employment as well.

Turkey is already among many countries that recognize the new gender of transsexuals who have undergone gender reassignment surgery. This protection would increase if gender were written in

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the Constitution as a non-discrimination ground, which would send a stronger message to the public that transgender people are citizens with equal rights.

Under European law, prior to acceding to the European Union, Turkey is required to adopt employment non-discrimination legislation, explicitly covering sexual orientation, in accordance with the Council Directive 2000/78/EC, November 27, 2000 establishing a general framework for equal treatment in employment and occupation. All 27 EU member states and accession states such as Croatia adopted anti-discrimination laws to meet this requirement. The European Court of Human Rights of the Council of Europe has also established a consistent jurisprudence in support of the elimination of discrimination based on sexual orientation and gender identity, under the European Convention on Human Rights.

At the United Nations level, the Human Rights Committee affirmed in its decision in *Toonen v. Australia* (1994) that existing protection against discrimination in Articles 2 and 26 of the International Covenant on Civil and Political Rights (ICCPR) includes sexual orientation as a protected status.

Unlike most other countries in Europe, Turkey has never adopted criminal penalties against consensual same-sex relations among adults, therefore showing respect for the human being even before human rights became a universal reference and an element of international law. We urge you to continue this vision and grant protection in the revised Constitution to all citizens, irrespective of their *sexual orientation or gender identity*. Without such protection, LGBT continue to be forced to live as second-class citizens, under the constant pressure of secrecy, job discrimination, violence from authorities and non-state agents, as well as family rejection because of societal condemnation. With the constitutional protection, public authorities will treat them equally, no longer question their rights to free association or expression, and recognize their dignity. Society at large will eventually follow the state's leadership and Turkey will be among the growing number of countries that explicitly respect the human rights of LGBT people.

Sincerely,



Paula Ettelbrick
Executive Director

IGLHRC works to secure the full enjoyment of the human rights of all people and communities subject to discrimination or abuse on the basis of sexual orientation or expression, gender identity or expression, and/or HIV status. A US-based nonprofit, nongovernmental organization, IGLHRC effects this mission through advocacy, documentation, coalition building, public education, and technical assistance. www.iglhrc.org