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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 support the call by Turkish organizations for the protection of lesbian, gay, bisexual, and transgender (LGBT) individuals' human rights.

The Turkish groups, which include Kaos GL from Ankara, Lambda Istanbul, and Pink Life, call for a vigorous investigation into a series of murders of gay men and transgender people, and for proactive legislative and policy measures to protect LGBT individuals from violence and discrimination, including discrimination concerning the right to freedom of association and expression, illustrated by the legal action taken to shutdown the organization Lambda Istanbul.

This is a question of international human rights law to which Turkey is subject.

**International human rights law offers specific protection against discrimination based on sexual orientation and gender identity.**

In its decision, *Toonen v. Australia* (1994), the United Nations Human Rights Committee affirmed that existing protections against discrimination in Articles 2 and 26 of the International Covenant on Civil and Political Rights (ICCPR) include sexual orientation. Numerous UN treaty bodies, the Human Rights Council, and Special Procedures have recognized sexual orientation and gender identity as nondiscrimination grounds.

The European Court of Human Rights 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. Other Council of Europe bodies, including the Parliamentary Assembly and the Human Rights Commissioner, have taken strong stands against discrimination of LGBT people.

As for the European Union, discrimination based on sexual orientation is explicitly prohibited in Art. 13 of the Treaty of the European Community (Amsterdam) and Art. 21(1) of the Charter of Fundamental Rights in the European Union. Turkey is also required to observe the political criteria for accession to the European Union, as established by the European Council in Copenhagen in 1993, which includes respect and protection for of all minorities.

**The series of murders of gay men and transgender people, which appear to be motivated by hatred, needs to be vigorously investigated.**

Abdulkali Kosar, a gay man, was murdered in February 2006 in Istanbul, Ahmet Yildiz, a gay man, was shot to death on July 15, 2008 also in Istanbul. Dilek Ince was shot to death in October 2008 in Ankara, while Dilan Pirinc was murdered in March 2009 in Istanbul; both were transsexual women. Eda Yildirm, a transgender woman, was found dead in March 2009 in Bursa, and Turgut Koklu (Melek Köklü) a transsexual woman, was stabbed to death in April 2009 in Ankara.

Hate crimes are criminal acts, such as violence and hate speech, which are motivated by hostility against any identifiable group of people within society. Hate crimes have a deep impact not only on the immediate victim, but the group with which the victim identifies; they affect community cohesion and social stability. Anti-LGBT hate crimes are those in which victims are targeted because of their actual or perceived sexual orientation, or gender identity and expression. Therefore a rigorous investigation, as well as stiff penalties for crimes motivated by hate are needed, for both individual and communal security.

The European Parliament called on the Member States in its January 19, 2006 resolution on homophobia in Europe to strongly condemn “any discrimination on the basis of sexual orientation” and “ensure that lesbian, gay, bisexual and transgender people are protected from homophobic hate speech and violence.”

The United Nations High Commissioner for Human Rights Louise Arbour also stated on November 7, 2007: “Just as it would be unthinkable to deny anyone their human rights because of their race, religion or social status, we must also reject any attempt to do so on the basis of sexual orientation or gender identity. States have a legal obligation to investigate and prosecute all instances of violence and abuse with respect to every person under their jurisdiction. Respect for cultural diversity is insufficient to justify the existence of laws that violate the fundamental right to life, security and privacy by criminalizing harmless private relations between consenting adults.”

The United Nations Committee Against Torture, which monitors the implementation of the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment, clearly indicated in a 2007 General Comment that states need to take legal measures to address violence and ill-treatment toward marginalized people including LGBT people. “The protection of certain minority or marginalized individuals or populations especially at risk of torture is a

part of the obligation to prevent torture or ill-treatment. States parties must ensure that (...) their laws are in practice applied to all regardless of (...) sexual orientation and gender identity. (...) States parties should, therefore, ensure the protection of members of groups especially at risk (...) by fully prosecuting and punishing all acts of violence and abuse against these individuals (...).”

**Turkey should adopt legislative and policy measures for the protection of LGBT people.**

The violence and discrimination against LGBT individuals in Turkey call for specific measures of protection, which are supported by international human rights law. Among its human rights protection measures, Turkey should consider:

Amend its Constitution to include sexual orientation and gender identity among the nondiscrimination grounds in article 10. Several countries including Bolivia, Ecuador, Fiji, Portugal, South Africa, Sweden and Switzerland have included sexual orientation and/or gender identity in their constitutions, establishing a trend for constitutional reform in the last decade. International law is supportive of such a measure; several United Nations human rights treaty bodies, including the Human Rights Committee, called for the adoption of nondiscrimination measures based on sexual orientation and gender identity. The 1995 Ottawa Declaration of the Parliamentary Assembly of the Organization for Security and Cooperation in Europe called upon states to: “ensure that all persons belonging to different segments of their populations be accorded equal respect and consideration in their **constitutions**, legislation and administration and that there be no subordination, explicit or implied, on the basis of ethnicity, race, color, language, religion, sex, **sexual orientation**, national or social origin or belonging to a minority...”

Introduce provisions in the criminal law to punish “hate crimes” against LGBT people. Such a measure is supported under the Convention Against Torture: in its Concluding Observations regarding Poland in July 25, 2007, the Committee Against Torture stated: “the State party should incorporate in its Penal Code an offence to punish hate crimes as act of intolerance and incitation to hatred and violence based on sexual orientation.”

Amend Art. 122 of the Turkish Penal Code on discrimination in employment in order to include sexual orientation and gender identity among the grounds for nondiscrimination. Sexual orientation nondiscrimination measures are required for Turkey’s accession to the European Union under the EU Council Directive 2000/78/EC, November 27, 2000, establishing a general framework for equal treatment in employment and occupation. In its 2004 Regular Report on Turkey’s progress towards accession, the European Commission noted that the country “Still lacks legislation against discrimination on the basis of all prohibited grounds, such as ... sexual orientation.”

**Adopt measures against the closure of the LGBT group Lambda Istanbul.** We are concerned by the decision of the 7<sup>th</sup> Judicial Office of the Supreme Court of Appeals which, while overturning the decision of the Istanbul’s 3<sup>rd</sup> Civil Court of Instance (which had decided to close down Lambda Istanbul for a “violation of general morals”) contains language that can be used to deny the right to free association and expression of LGBT people: *“the dissolution of the defendant association could still be demanded, if it would act counter to its charter, in the ways of encouraging or provoking lesbian, gay, bisexual, transvestite and transsexual behavior or acting with the aim of spreading such sexual orientations.”*

Freedom of association and expression are guaranteed under international human rights law. LGBT people are entitled to the right of freedom of association and expression; discrimination on the basis of sexual orientation or gender identity is prohibited (the Council of Europe's European Convention of Human Rights, art. 11 and 10, and the United Nations' International Covenant on Civil and Political Rights art. 22 and 19). The executive government's position in the various legal proceedings should seek the protection of these rights in the case of Lambda Istanbul.

We ask that the Turkish government honor its obligations under existing international human rights law and in relation to EU accession, protecting the rights of the LGBT community to live without the threat of violence and discrimination. Ensuring the rights to free association and expression of Turkish groups, Lambda Istanbul in particular, should be a priority.

Sincerely,

A handwritten signature in dark ink, appearing to read "C. Johnson". The signature is fluid and cursive, with the first name "Cary" and last name "Johnson" clearly distinguishable.

Cary Johnson,  
Executive Director

The International Gay and Lesbian Human Rights Commission (IGLHRC)'s mission is advancing human rights for everyone, everywhere to end discrimination based on sexual orientation, gender identity and gender expression. IGLHRC has offices in New York, Buenos Aires, and Cape Town. [www.iglhrc.org](http://www.iglhrc.org)