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December 22, 2010

Dear Minister Ergin and Minister Atalay,

On behalf of three international organizations,ⁱ we write to express our deep concern with the mistreatment of three human rights defenders from the Turkish transgender rights organization Pembe Hayat LGBTT Dayanışma Derneği.ⁱⁱ Naz (legal name Burhan) GÜDÜMEN,ⁱⁱⁱ Buse (legal name Bülent) KILIÇKAYA,^{iv} and Selay (legal name Derya) TUNÇ.^v These women were arrested by the Ankara police on June 19, 2010 and subsequently charged.^{vi} We believe that these incidents were arbitrary, unjustifiable and provide further evidence of the systematic abuse of transgender people in Turkey, including by the police.^{vii} We request that the government of Turkey drop all charges against these women and commit to concrete steps to improve the safety and well-being of transgender individuals.

On June 19, 2010, the police stopped the car of the three transgender women as they drove on Seyranbağları Mah in Ankara and informed them that they were under arrest. The women showed the police their identification and requested a justification for their arrest. The police officers then forcefully dragged the women into a waiting police van. Ms. Kılıçkaya informed the police that they were hurting her arms, a remark that we believe was subsequently misrepresented in the indictment as insulting a police officer. During these events, an officer's cellular telephone fell to the ground, an incident that we believe was subsequently misrepresented in the indictment as damage to public property. The women were transported to the police station and held for approximately five hours before being released.

On June 24th, these human rights defenders were formally charged with *Damaging Public Property, Insult, and Resisting Public Officials and Preventing Them from Performing Their Duty*.^{viii} If convicted, they would face up to three years in prison, limitations of parental guardianship, and would be barred from public office or leadership within any political, public, or non-profit organization. The next hearing will be December 29, 2010.

The three human rights defenders filed a complaint with the Ankara Public Prosecutor because of their treatment in these arrests, however the Public Prosecutor dismissed their complaint.

Ms. Kılıçkaya and Ms. Tunç are co-founders of Pembe Hayat, and Ms. GÜDÜMEN is an active member. We believe that the initial arrest, brutality and subsequent indictment may well have been motivated by a combination of factors: transphobia; disregard for the law in the case of people who are, or may be perceived as, sex workers; and a specific desire to deter transgender human rights defenders from activism. We are particularly concerned with what appears to be the targeting of Ms. Kılıçkaya and Ms. Tunç. As described below, this is the second time in less than one month that these women were arbitrarily arrested by the police. Evidence suggests that they may be targeted because of their work for transgender human rights.

This is not the first time that transgender human rights defenders – or these individuals in particular – have been targeted by the police. On May 17, 2010, five trans activists from Pembe Hayat, including Ms. Kılıçkaya and Ms. Tunç, were brutally assaulted and illegally detained by Ankara police. They were charged with *Resisting Public Officials and Preventing Them from Performing Their Duty*.^{ix} On October 21, the court dismissed the charges against the activists, citing the lack of evidence against the defendants.^x During the case, the judge also reprimanded the police officers for their mistreatment of the human rights defenders, stating that their style of intervention "against these five people was totally wrong."

Over the past twenty months, at least nine transgender people have been murdered.^{xi} All too often, transgender people in Turkey are victims of violent crimes and senseless persecution. Furthermore, police regularly apply a range of laws, particularly The *Law of Misdemeanors (No. 5326)*, to justify harassment and acts of violence against transgender people in Turkey.^{xii} In this context of extreme violence, it is essential that Turkish authorities actively protect transgender citizens and prevent the misuse of police authority against them.

The mistreatment of transgender human rights defenders by the police violates Turkey's own laws, including Article 10 (which guarantees the equality of all citizens before the law without discrimination), Article 20 (which protect individual's privacy) and Article 23 (which guarantees freedom of movement) of the Turkish Constitution.

Furthermore, the discriminatory treatment of transgender people in Turkey also contradicts international human rights law. The Commissioner for Human Rights of the Council of Europe, Thomas Hammarberg, recommended that member states, "[E]nact hate crime legislation which affords specific protection for transgender persons against transphobic crimes and incidents."^{xiii} In its 2009 *Progress Report*, the European Commission reiterated Turkey's obligation to provide genuine protections to all minorities, including LGBT people.^{xiv} The European Parliament affirmed this obligation on February 10, 2010, reminding the Turkish government that the protection of LGBT minorities is a non-negotiable condition for entry into the European Union.^{xv} In its July 2010 periodic review of Turkey, the United Nations Committee on the Elimination of Discrimination Against Women expressed concern over the "vulnerable situation of various disadvantaged groups of women," including transgender women and asked the government "to take effective measures to eliminate discrimination" against this community.^{xvi} In May 2010, Turkey accepted a recommendation by the United Nations Human Rights Council to ensure non-discrimination on grounds of sexual orientation and gender identity.^{xvii}

We request that:

1. All criminal charges against Ms. Kılıçkaya, Ms. Tunç, and Ms. Güdümen relating to this case be dropped.
2. The police officers responsible for the events of June 19, 2010 be held accountable to the fullest extent of the law.
3. An independent investigation be launched into the discriminatory treatment by the police of transgender people under the pretext of implementing the law.
4. Discriminatory laws, such as the *Law on Misdemeanors*, be amended or revoked.
5. The *Police Duty and Authority Law* and other laws on the powers and duties of the police be improved to prevent the police from misusing their powers to harass LGBT activists and to hold them accountable when they do. The Turkish government should prepare and pass further legislation to protect the rights of transgender people—such as a law prohibiting hate crimes, a more comprehensive anti-discrimination law, and specific changes to the Turkish Constitution and Penal Code.
6. A comprehensive national training for police and law-enforcement officers on treating members of sexual minorities, including trans people, be provided to prevent future cases of police harassment, brutality and mistreatment of LGBT people.

We would appreciate the opportunity to enter into dialogue with the government about implementing the above recommendations and taking other action to protect transgender people from violence and discrimination.

Sincerely,

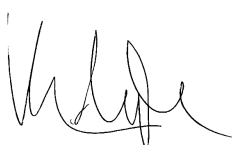
Cary Allan Johnson
Executive Director,
International Gay and Lesbian Human Rights
Commission



Justus Eisfeld
Co-Director,
GATE - Global Advocates for Trans Equality



Koen van Dijk
Executive director,
COC Netherlands



CC: Mr. Mehmet Yılmaz Küçük, Human Rights Commissioner, The Office of the Prime Minister of the Republic of Turkey

Mr. Zafer Uskul, Turkish Parliamentary Human Rights Investigative Commission

Mr. Egemen Bagis, Minister of State responsible for European Affairs

Mr. Marc Pierini, Head of EU Delegation to Turkey

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- ⁱ The organizations that authored this letter include the International Gay and Lesbian Human Rights Commission (IGLHRC), COC Netherlands, Global Advocates for Trans Equality.
- ⁱⁱ Pembe Hayat (*Pink Life Lesbian, Gay, Bisexual, Transgender and Transsexual Solidarity Association*) is an Ankara-based organization that works to eliminate all forms of discrimination and violence motivated by homophobia and transphobia.
- ⁱⁱⁱ Child of IBRAHIM and AYSE FATMA, born in 01/07/1982
- ^{iv} Child of MUSTAFA and BAHTISAH, born in 01/01/1977
- ^v Child of ALI HAYDAR and NURIYE, born in 28/08/1973
- ^{vi} Inquiry Number : 2010/75420, Docket Number : 2010/26414, Indictment Number : 2010/9063
- ^{vii} See Joint Letter to Turkish Officials on the Upcoming Trial of Pink Life Activists; available online in English : <http://www.iglhrc.org/cgi-bin/iowa/article/takeaction/resourcecenter/1208.html> and Turkish : <http://www.iglhrc.org/cgi-bin/iowa/article/takeaction/resourcecenter/1209.html>. See also letter from IGLHRC, HRW, ILGA-Europe, COC Netherlands and Pemba Hayat to Prime Minister Recep Tayyip Erdoğan on February 26, 2010; available online at <http://www.iglhrc.org/cgi-bin/iowa/article/pressroom/pressrelease/1095.html>. [STANDARDIZE / NEATEN LANGUAGE]
- ^{viii} Turkish Penal Code Article Article 265/1, 53, and 61.
- ^{ix} Supra note ix
- ^x See Case Dismissed Against Transgender Activists in Turkey available online at : <http://www.iglhrc.org/cgi-bin/iowa/article/takeaction/resourcecenter/1234.html>
- ^{xi} Supra note xi
- ^{xii} see Turkey: Change Law of Misdemeanors to End Abuse of Trans People available online at <http://www.iglhrc.org/cgi-bin/iowa/article/takeaction/globalactionalerts/1018.html>
- ^{xiii} Gender Identity and Human Rights Issue Paper (2009) p. 44, available at <https://wcd.coe.int/ViewDoc.jsp?id=1476365>
- ^{xiv} Gay and Lesbian Rights Intergroup, “European Parliament reaffirms LGBT rights are a condition to join the European Union,” February 18, 2010, available at <http://www.lgbt-ep.eu/news.php>.
- ^{xv} Citation.
- ^{xvi} See Concluding observations of the Committee on the Elimination of Discrimination against Women in Turkey, CEDAW/C/TUR/CO/6, July 30, 2010, available at <http://www2.ohchr.org/tbruce/cedaw/CEDAW-C-TUR-CO-6.pdf>
- ^{xvii} “Report of the Working Group on the Universal Periodic Review”. United Nations Human Rights Council. Fifteenth session, agenda item 6. 17 June 2010. Available <http://www2.ohchr.org/english/bodies/hrcouncil/15session/reports.htm> .