

## **Background: The UPR Review of Turkey by the UN Human Rights Council**

The January 27, 2015 review of the Republic of Turkey at the U.N. Human Rights Council marks the second time that Turkey volunteered to present its human rights records to be evaluated by members of the international community. In May 2010, Turkey had its first UPR review at the Human Rights Council.<sup>1</sup> The Universal Periodic Review is a state-driven process, which allows states to discuss their human rights performance and receive feedback on how they can improve.

### **The First Cycle**

In 2010, states raised concerns about Turkey's record of discrimination based on sexual orientation and gender identity. Turkey accepted recommendations by Norway, Canada and the Netherlands and committed to take steps to eliminate discrimination based on sexual orientation and gender identity. Paradoxically, the Government rejected similar non-discrimination recommendations by the Czech Republic and Ireland but accepted amendments to combat discrimination against women with the removal of the term sexual orientation in the case of the Czech Republic and the removal of the terms sexual orientation and gender identity in the case of Ireland. The Government also noted the Czech Republic's recommendation on human rights education and training for state personnel with a focus that includes sexual orientation and gender identity.<sup>2</sup>

### **Follow-up to the First Cycle and New Developments**

Since undergoing its first review, Turkey has failed to implement the accepted recommendations of non-discrimination based on sexual orientation and gender identity. The terms "sexual orientation" and "gender identity" were not included in the 6<sup>th</sup> Democratization Package of February 2014 that includes the Anti-Discrimination Bill and regulations on the basis of Hate Crimes. Furthermore, no reference to sexual orientation and gender identity were included in the Article on Equality of the New Constitution's draft.

Article 90 of the Constitution of the Republic of Turkey stipulates that international agreements duly put into effect have the force of law. The non-discrimination provision of the Convention on preventing and combating violence against women and domestic violence which Turkey ratified in November 2011, includes the terms "sexual orientation" and "gender identity". This means that Turkey must fulfill its international obligation to bring its domestic laws in line with this convention to ensure the protection of LGBT individuals, something that the government in Ankara has so far refused to undertake.

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<sup>1</sup> In order to view the official records of Turkey's first UPR review, please visit UNHCR's website:

<http://www.ohchr.org/EN/HRBodies/UPR/PAGES/TRSession8.aspx> [Accessed January 20, 2015]

<sup>2</sup> To view the full list of recommendations accepted by the Republic of Turkey during the first UPR review, please visit:

[http://www.upr-info.org/database/index.php?limit=0&f\\_SUR=179&f\\_SMR=All&order=&orderDir=ASC&orderP=true&f\\_Issue=All&searchReco=&resultMax=300&response=&action\\_type=&session=&SuRRgrp=&SuROrg=&SMRRgrp=&SMROrg=&pledges=RecoOnly](http://www.upr-info.org/database/index.php?limit=0&f_SUR=179&f_SMR=All&order=&orderDir=ASC&orderP=true&f_Issue=All&searchReco=&resultMax=300&response=&action_type=&session=&SuRRgrp=&SuROrg=&SMRRgrp=&SMROrg=&pledges=RecoOnly) [Accessed January 20, 2015]

## **The Second Cycle: LGBT Group's Submission**

In the summer of 2014, a coalition of local and international LGBTI organizations submitted a joint UPR report to the U.N. Human Rights Council documenting rights violations against LGBTI individuals between 2010 and 2014. The report highlighted the murder of at least 41 individuals due to their real or imputed sexual orientation or gender identity. This number is limited to data compiled from reports by LGBTI associations and the Turkish media.

Despite Turkey's pledge to implement comprehensive anti-discrimination legislation with the inclusion of the terms "sexual orientation" and "gender identity" (SOGI) in the first UPR cycle back in 2010, the government of Turkey has not taken any steps to legally recognize or protect these categories. In the absence of state recognition and protection of LGBTI individuals, Turkey does not collect data on crimes committed on the basis of SOGI; while some Judges apply reductions to prison sentences of perpetrators of hate crimes against LGBT individuals. Though homosexuality is not criminalized, homosexuality is often considered "indecent" and "contrary to law and ethics". Such troubling interpretations of sexual orientation and gender identity have in effect limited the right to free speech and freedom of association for the LGBTI community. Furthermore, the lack of legal protection for LGBTI persons have resulted in systematic discrimination against individuals because of their sexual orientation and/or gender identity: Civil servants are fired because their sexual orientation is considered shameful and "unfit for the position of a civil servant". Trans individuals have no access to employment because of rampant discrimination and are arbitrarily fined by the police when they turn to sex work.

Officials from the ruling AKP government in some cases contribute to a homophobic and transphobic environment by making derisive statements about LGBTI persons in public. In 2010, Aliye Kavaf, then the State Minister of the Affairs of Women and Families, stated that she believes "homosexuality is a biological disorder, a disease ... something that needs to be treated".<sup>3</sup> In 2013, Türkan Dağoğlu, Istanbul MP and Deputy President of the Committee on Health, Family, Labor, and Social Affairs, stated in that "'LGBT' is a behavior that is outside the bounds of normality".<sup>4</sup> These statements are then mirrored in pro-government newspapers, potentially contributing to a context in which the cycle of discrimination and hate crimes can continue.

Finally, the Republic of Turkey's National Report submission for the second cycle of the UPR does not include any reference to sexual orientation, gender identity or LGBTI issues.<sup>5</sup>

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<sup>3</sup> Hurriyet Daily News, "'Homosexuality is a disease' says Turkish minister", 7 March 2010, available at: <http://www.hurriyetdailynews.com/default.aspx?pageid=438&n=8216homosexuality-is-a-disease8217-says-minister-2010-03-07> [Accessed January 20, 2015]

<sup>4</sup> LGBTI News Turkey, "AKP Dağoğlu's rebuttal of CHP's motion to investigate LGBT problems", 9 August 2014, available at: <http://lgbtinewsturkey.com/2013/08/09/akp-rebuttal-lgbt-motion/> [Accessed January 20, 2015]

<sup>5</sup> Human Rights Council, A/HRC/WG.6/21/TUR/1