Home Office

Country Information and Guidance

Turkey: Sexual Orientation and Gender Identity

Version 1.0

March 2016

Preface

This document provides country of origin information (COI) and guidance to Home Office decision makers on handling particular types of protection and human rights claims. This includes whether claims are likely to justify the granting of asylum, humanitarian protection or discretionary leave and whether – in the event of a claim being refused – it is likely to be certifiable as 'clearly unfounded' under s94 of the Nationality, Immigration and Asylum Act 2002.

Decision makers must consider claims on an individual basis, taking into account the case specific facts and all relevant evidence, including: the guidance contained with this document; the available COI; any applicable caselaw; and the Home Office casework guidance in relation to relevant policies.

Country Information

The COI within this document has been compiled from a wide range of external information sources (usually) published in English. Consideration has been given to the relevance, reliability, accuracy, objectivity, currency, transparency and traceability of the information and wherever possible attempts have been made to corroborate the information used across independent sources, to ensure accuracy. All sources cited have been referenced in footnotes. It has been researched and presented with reference to the Common EU [European Union] Guidelines for Processing Country of Origin Information (COI), dated April 2008, and the European Asylum Support Office's research guidelines, Country of Origin Information report methodology, dated July 2012.

Feedback

Our goal is to continuously improve the guidance and information we provide. Therefore, if you would like to comment on this document, please e-mail us.

Independent Advisory Group on Country Information

The Independent Advisory Group on Country Information (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to make recommendations to him about the content of the Home Office's COI material. The IAGCI welcomes feedback on the Home Office's COI material. It is not the function of the IAGCI to endorse any Home Office material, procedures or policy.

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Information about the IAGCI's work and a list of the COI documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector's website at http://icinspector.independent.gov.uk/country-information-reviews/

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Guidance

Updated: 2 March 2016

1. Basis of Claim

1.1.1 Fear of persecution or serious harm by the state and/or non-state actors because of the person's actual or perceived sexual orientation and/or gender identity.

1.1.2 For the purposes of this instruction, unless specified, the above are collectively referred to as 'Lesbian, Gay, Bisexual and Transgender (LGBT) persons'.

1.1.3 In addition to the guidance in this section, decision-makers should refer to the Asylum Instructions on Sexual Identity Issues in the Asylum Claim; Gender Identity Issues in Asylum Claims and Gender Recognition in Asylum Claims.

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2. Consideration of Issues

2.1 Credibility

2.1.1 For further guidance on assessing credibility, see sections 4 and 5 of the Asylum Instruction on Assessing Credibility and Refugee Status.

2.1.2 Decision-makers must also check whether there has been a previous application for a UK visa or another form of leave. Asylum applications matched to visas should be investigated prior to the asylum interview (see the Asylum Instruction on Visa Matches, Asylum Claims from UK Visa Applicants).

2.1.3 Decision-makers should also consider the need to conduct language analysis testing (see the Asylum Instruction on Language Analysis).

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2.2 Particular social group (PSG)

2.2.1 LGBT persons form a PSG within the meaning of the Refugee Convention because they share a common characteristic that cannot be changed and have a distinct identity which is perceived as being different by the surrounding society.

2.2.2 Although LGBT persons in Turkey form a PSG, this does not mean that establishing such membership will be sufficient to be recognised as a refugee. The question to be addressed in each case is whether the particular person will face a real risk of persecution on account of their membership of such a group.

2.2.3 For further guidance on PSGs, see section 7.6 of the Asylum Instruction on Assessing Credibility and Refugee Status.

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2.3 Assessment of risk

2.3.1 Decision-makers must establish whether or not the person would live freely and openly as an LGBT person if returned to their country of origin. This involves a wide spectrum of conduct which goes beyond merely attracting partners and maintaining relationships with them. If it is found that the person would in fact conceal aspects of their sexual orientation/identity if returned, decision-makers must consider why the person would do so. If this would simply be in response to social pressures or for cultural or religious reasons of his or her own choosing, and not because of a fear of persecution, then they may not have a well-founded fear of persecution. But if the person would resort to concealment because they genuinely fear that they would otherwise be persecuted, it will be necessary to consider whether that fear is well-founded.

2.3.2 For further guidance, see Section 3.2 of the Asylum Instruction on Sexual Identity Issues in the Asylum Claim.

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Treatment by the state

2.3.3 Same-sex sexual activity is legal and is not in general subject to discrimination or ill-treatment by the state (see State attitudes).

2.3.4 However, Turkey has not enacted hate crime legislation that specifically includes gender identity and sexual orientation. There have been reports of undue police interference in the lives of some LGBT persons, including LGBT sex workers and demonstrators attempting to celebrate Pride. There have also been incidents of harassment and police violence and abuse towards LGBT organisations and particularly towards gay men on 'moral grounds.' Reports suggest that there has been a lack of governmental training and of awareness-raising campaigns relating to the rights of LGBT individuals (see State attitudes).

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Treatment by non-state actors

2.3.5 LGBT people may be subject to discrimination in accessing health services, education and employment, as well as societal stigmatization and occasional violence by non-state actors. Most societal violence is directed at transgender persons, and in particular transgender sex workers (see Societal treatment and attitudes). The UN have expressed deep concern over attacks and incitement to violence against LGBT people in Turkey and called on the authorities to take active measures to combat homophobic and transphobic violence and discrimination (see Homophobic violence).

2.3.6 LGBT persons may suffer discrimination, social stigmatization and ill-treatment from the general public, and in some cases from rogue state agents, but in general LGBT persons are not subjected to any action on the part either of the populace or the authorities which would amount to persecution within the terms of the Refugee Convention, or otherwise inhuman or degrading treatment.

2.3.7 Personal circumstances may place some LGBT persons at risk from non-state actors, and each case will need to be considered on its individual facts.

2.3.8 For further guidance on assessing risk, see section 6 of the Asylum Instruction on Assessing Credibility and Refugee Status.

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2.4 Protection

2.4.1 There are calls for Turkey to enact comprehensive and specific legislation on hate crimes in accordance with international standards. However, there are existing general provisions in Turkish law which enable perpetrators of hate crimes to be brought to justice (see Anti-discrimination legislation).

2.4.2 Court sentences for hate crime offenders are often reduced on the basis of 'unjust provocation' by the victim and good behaviour on the part of the offender. In addition, in numerous cases, crimes against people of a different sexual orientation or gender identity remain unpunished. Shortcomings in the investigation and prosecution of crimes are reported, as well as reluctance by LGBT people to file complaints (see Police and Judiciary).

2.4.3 Avenues of complaint exist for LGBT persons to lodge complaints against police officers they accuse of harassing them based on their sexual orientation or gender identity (see Anti-discrimination legislation and the country information and guidance on Turkey: Background).

2.4.4 Where the person's fear is of ill treatment/persecution at the hands of non-state agents - or rogue state agents - then effective state protection is likely to be available, depending on the individual circumstances of the case.

2.4.5 Decision-makers need to consider each case on its facts. The onus is on the person to demonstrate why they would not be able to seek and obtain state protection.

2.4.6 For further guidance on assessing the availability or otherwise of state protection, see section 8.1 of the Asylum Instruction on Assessing Credibility and Refugee Status.

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2.5 Internal relocation

2.5.1 Where a LGBT person encounters local hostility, they may be able to avoid this by moving elsewhere in Turkey, but only if the risk is not present there and if it would not be unduly harsh to expect them to do so.

2.5.2 Decision-makers must however take into account that the Supreme Court in the case of HJ (Iran) made the point that internal relocation is not the answer if it depends on the person concealing their sexual orientation in the proposed new location for fear of persecution.

2.5.3 Decision-makers must give careful consideration to the relevance and reasonableness of internal relocation on a case-by-case basis, taking full account of the individual circumstances of the particular person.

2.5.4 For further guidance on considering internal relocation and the factors to be taken into account, see section 8.2 of the Asylum Instruction on Assessing

Credibility and Refugee Status. See also Asylum Instructions on Sexual Identity Issues in the Asylum Claim and the country information and guidance on Turkey: Background including actors of protection and internal relocation.

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2.6 Certification

2.6.1 Except in the case of LGBT sex workers and gay men undergoing military service, where a claim falls to be refused, it is likely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002 because, in general, state protection is available.

2.6.2 For further guidance on certification, see the Appeals Instruction on Certification of Protection and Human Rights claims under Section 94 of the Nationality, Immigration and Asylum Act 2002 (clearly unfounded claims).

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3. Policy summary

3.1.1 LGBT persons may experience societal discrimination and stigmatization and occasional violence by non-state actors. Most societal violence is directed at transgender persons, particularly transgender sex workers.

3.1.2 However, in general, LGBT persons are not subjected to any action on the part either of the authorities or society which would amount to persecution within the terms of the Refugee Convention or otherwise inhuman or degrading treatment.

3.1.3 There have been reports of police interference in the lives of some LGBT persons, and harassment of, and violence towards, LGBT organisations, LGBT sex workers and people attempting to celebrate Pride.

3.1.4 LGBT people may experience discrimination in accessing health services, education and employment.

3.1.5 Within the general framework of the principle of non-discrimination in the Turkish legislation, the rights of LGBT persons are protected and guaranteed by law.

3.1.6 However, there are reports of shortcomings in the way that such crimes are investigated and prosecuted, and crimes against LGBT people may be left unpunished.

3.1.7 There are avenues available to LGBT people should they wish to complain about the police.

3.1.8 Internal relocation is likely to be possible where a person experiences local hostility.

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Updated: 2 March 2016

4. Legal rights

4.1 Criminal code

4.1.1 The International Lesbian and Gay Association (ILGA) report, 'State-sponsored Homophobia 2015,' released in May 2015, noted that Turkey has considered homosexual acts as legal since 1858 and has an equal age of consent for same and different-sex sexual acts.[1]

4.1.2 In 2013, in a case of a vendor charged with the unlawful sale of 125 DVDs depicting gay and group sex pornography, Judge Mahmut Erdemli ruled that gay sex was "natural", stating that an individual's sexual orientation should be respected, and citing examples of same-sex marriages in Europe and in the Americas. This ruling countered a decision made by the appellate court in 2012, which said that video or photographic depictions of gay sex were "unnatural."[2]

4.1.3 The US Department of State (USSD) Human Rights report covering 2014 stated that: 'While the law does not explicitly discriminate against LGBT individuals, references in the law relating to "offenses against public morality," "protection of the family," and "unnatural sexual behavior" sometimes served as a basis for discrimination by employers and abuse by police.' [3]

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4.2 Anti-discrimination legislation

4.2.1 The US Department of State (USSD) Human Rights report covering 2014 stated:

'On March 3, the parliament approved a law known as the Democratization Package that introduced an article on hate speech or injurious acts related to language, race, nationality, color, gender, disability, political opinion, philosophical belief, religion or sectarian differences. Perpetrators of these acts may be punished by up to three years in prison. While observers

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[1] International Lesbian, Gay, Bisexual, Trans & Intersex Association (ILGA). 'State sponsored homophobia: A World Survey of Laws: criminalisation, protection and recognition of same-sex love,' dated May 2015 (page 27). http://old.ilga.org/Statehomophobia/ILGA_State_Sponsored_Homophobia_2015.pdf Date accessed: 22 July 2015

[2] Lgbqtnation. 'Turkish Court says gay sex is "natural" in ruling against pornography vendor,' dated 20 February 2013. http://www.lgbtqnation.com/2013/02/turkish-court-says-gay-sex-is-natural-in-ruling-against-pornography-vendor/ Date accessed: 22 July 2015

[3] US Department of State. 'Country Report on Human Rights Practices 2014,' Turkey, dated 26 June 2015. Section 6. Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity (paragraph 323). http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dlid=236586 Date accessed: 21 July 2015

considered the legislation a positive step, they noted its categories did not match OSCE's recommendations because ethnic identity, sexual orientation, sexual identity, age, and profession were not included. Consequently civil society organizations asserted the grounds for punishing discrimination and hate in the law remained too limited and excluded major offences that may be motivated by discrimination and/or hate, especially failing to protect the most vulnerable groups, including women, persons with disabilities, LGBT individuals, Roma and religious minorities.'[4]

4.2.2 The UN Human Rights Council's Special Rapporteur noted in a report in May 2015 that: 'The Special Rapporteur highlighted the vulnerability of lesbian, gay, bisexual and transgender persons in Turkey. The Special Rapporteur recommended that Turkey enact comprehensive and specific legislation on hate crimes in accordance with international standards and review legislation to include language sensitive to gender identity and sexual orientation.

'Turkey indicated, in its response, that an amendment to article 122 of the Criminal Code, introduced in 2014, provides for hate crimes. However, the Special Rapporteur notes with regret that sexual orientation has not been included as a ground.

'The Special Rapporteur was also informed that a draft law on the establishment of an anti-discrimination equality board was still pending before the Office of the Prime Minister. It is unfortunate that references to gender identity and sexual orientation were removed from the bill in the early stages of drafting. Turkey has yet to enact hate crime specific legislation that is inclusive of gender identity and sexual orientation.

'The Law to Protect Family and Prevent Violence Against Women is silent on gender identity and sexual orientation.

'The challenges relating to the protection of lesbian, gay, bisexual and transgender persons are exacerbated by the attitude of some family members of such individuals, as well as the trend observed by the Special Rapporteur during his visit, whereby law enforcement officials and the judiciary seem to take a lenient attitude towards crimes committed against such individuals. In order to address those challenges, the Special Rapporteur recommended that awareness-raising campaigns and training should be launched on the rights of those individuals. The Government of Turkey informed the Special Rapporteur that members of the judiciary were under an obligation to investigate and adjudicate crimes against lesbian, gay, bisexual and transgender persons. Despite this, it appears that discrimination and lenient attitudes continue, in practice. The Special Rapporteur notes with regret that no explicit training or awareness-raising

[4] US Department of State. 'Country Report on Human Rights Practices 2014;' Turkey, dated 26 June 2015. Section 6. Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity
http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dlid=236586
Date accessed: 3 September 2015

campaigns in relation to the rights and protection of lesbian, gay, bisexual and transgender persons are taking place in the country.'[5]

4.2.3 In its response of October 2014 to the UN Committee against Torture, the Turkish government stated that:

'Within the general framework of the principle of non-discrimination in the Turkish legislation, the rights of the Lesbian, Gay, Bisexual and Transgender (LGBT) persons are protected and guaranteed by law. Perpetrators of any criminal act including all types of hate crimes are brought to justice as in any other democratic State governed by the rule of law. LGBT persons, as all other individuals, are free to lodge complaints against police officers. They can do so concerning officers that they accuse of harassing them based on their sexual orientation or gender identity.'[6]

4.2.4 The International Lesbian, Gay, Bisexual, Trans & Intersex Association (ILGA-Europe) annual report covering events in 2014 recorded that

'The Constitutional Court acknowledged for the first time that referring to LGBTI people as "perverts" constituted hate speech. The court was examining a case against website Habervaktim.com, which had referred to Sinem Hun as a lawyer of "the association of the perverts called Kaos GL." However, the court didn't rule against the website. Ms Hun appealed before the European Court of Human Rights.

'In March, the Bakirkoy Second Court of First Instance acquitted conservative newspaper Yeni Akit for calling LGBTI NGO Kaos GL "deviants" and "perverts" in a 2012 article. In 2013, the Istanbul Criminal Court told the lower court the case had to go ahead, because "a group with different sexual orientation [was] clearly humiliated and insulted" by the article in question. Yet the local court ruled that Yeni Akit had exercised its right to freedom of expression. Kaos GL indicated they would appeal the decision.'[7]

4.2.5 The ILGA-Europe 2015 annual report noted that 'A judge in the Aydin 3rd Penal Court of First Instance filed a complaint to the Constitutional Court, asking it to modify article 225 of the Penal Code. The judge requested that "unnatural acts" be removed from the list of pornographic materials which, together with materials featuring rape, paedophilia, zoophilia, or necrophilia, may be punished by up to four years in prison. "Unnatural acts" is commonly

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[5] UN Human Rights Council. 'Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions,' Addendum Follow-up to country recommendations: Turkey, dated 6 May 2015. A/HRC/29/37/Add.4, C. Killings of lesbian, gay, bisexual and transgender individuals (paragraphs 42 – 46). http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session29/Documents/A_HRC_29_37_Add_4_en.doc Date accessed: 22 July 2015

[6] UN Committee against Torture. 'Replies of the Government of Turkey to the list of issues prepared by the Committee against Torture' (CAT/C/TUR/Q/4), dated 22 October 2014 (paragraph 323). http://www.ecoi.net/file_upload/4232_1422523472_g1501025.pdf. Date accessed: 21 July 2015

[7] International Lesbian, Gay, Bisexual, Trans & Intersex Association (ILGA-Europe). 'Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe 2015' (pages 161 – 164), dated 7 May 2015. http://www.ilga-europe.org/sites/default/files/01_full_annual_review_updated.pdf Date accessed: 22 July 2015

understood to include acts between persons of the same sex. The Constitutional Court agreed to open the case.'[8]

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4.3 Gender reassignment

4.3.1 In March 2015 an Amnesty International stated: 'The European Court of Human Rights ruling striking down a sterilization requirement for transgender individuals who wish to access gender reassignment surgery is an encouraging step towards equality for transgender people in Europe.

'On 10 March, in Y.Y. v Turkey, the Court found that requiring a transgender man to be permanently incapable of reproduction as a precondition to undergoing gender reassignment surgery violated his right to private and family life (Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms).

'Turkish Courts had denied for many years the possibility for Y.Y. to access gender reassignment surgery on the basis that he was not sterilised. The European Court found that the resulting restriction of his private life was not necessary to achieve the aims upheld by domestic Courts, namely the protection of the general interest as well as the physical and moral integrity of the applicant.

According to Turkish law (Article 40 of the Civil Code), a person can "change gender" (cinsiyet degisikligi) only upon the fulfilment of specific requirements. These include obtaining a psychiatric diagnosis as well as being single, aged 18 or above and permanently incapable of reproduction. In the case of Y.Y., Turkish Courts interpreted Article 40 as requiring him to be permanently incapable of reproduction as a pre-requisite for accessing gender reassignment surgery.

'This is the first case in which the Court found that the sterilization requirement for the purpose of accessing gender reassignment surgery contravenes the European Convention of Human Rights. However, the judgment did not address the issue of whether requiring transgender people to undergo sterilization as a prerequisite to obtain legal gender recognition contravenes the European Convention.

'In as many as 21 European countries including Belgium, Finland, France, Italy, Norway and Turkey, transgender people must be sterilized to obtain legal documents that reflect their gender identity.'[9]

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[8] International Lesbian, Gay, Bisexual, Trans & Intersex Association (ILGA-Europe). 'Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe 2015' (pages 161 – 164), dated 7 May 2015.
http://www.ilgaeurope.org/sites/default/files/01_full_annual_review_updated.pdf
Date accessed: 3 September 2015

[9] Amnesty International. 'Turkey: sterilization as a prerequisite to access gender reassignment surgeries contravenes the European Convention of Human Rights,' 1 EUR 44/1205/2015, dated 13 March 2015.
https://www.amnesty.org/en/documents/document/?indexNumber=eur44%2F1205%2F2015&language=en Date accessed: 22 July 2015

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5. State attitudes

5.1 Overview

5.1.1 The US Department of State (USSD) Human Rights report covering 2014 stated that 'The government did not effectively protect vulnerable populations from societal abuse, discrimination and violence.... lesbian, gay, bisexual and transgender (LGBT) individuals were also subject to discrimination and abuse'.[10]

5.1.2 In 2012, the UN Human Rights Committee expressed concern 'about the social stigmatization and social exclusion of lesbian, gay, bisexual, and transgender (LGBT) persons in terms of their access to health services, education, or to their treatment in the context of the regulations concerning compulsory military service and while serving in the military.' [11]

5.1.3 The same report noted that 'KAOS-GL [an NGO] also reported that social protection was withheld from LGBT individuals due to the failure of the Ministry of Family and Social Policies and the Ministry of Labor to acknowledge the existence of LGBT individuals. KAOS-GL reported that neither ministry would engage with LGBT groups or consider the rights of LGBT persons or their need for services and protection'.[12]

5.1.4 Freedom House's 'Freedom in the World 2015' report stated that 'Homosexual activity is legal, and an annual gay pride parade has taken place in Istanbul since 2003, but LGBT (lesbian, gay, bisexual, and transgender) people are subject to widespread discrimination, police harassment, and occasional violence. Some online gay dating platforms have been banned, and no legislation protects people from hate crimes based on their sexuality.'[13]

5.1.5 Amnesty International Report 2014/15 stated that 'The authorities ignored the rights of … lesbian, gay, bisexual, transgender and intersex people' and 'Lesbian, gay, bisexual, transgender and intersex people continued to face discrimination in employment and in interactions with the state authorities. No progress was made in bringing provisions to prohibit discrimination on

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[10] US Department of State. 'Country Report on Human Rights Practices 2014;' Turkey, dated 26 June 2015 (Executive Summary). http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dlid=236586 Date accessed: 3 September 2015

[11] UN Human Rights Committee. 'Concluding observations on the initial report of Turkey adopted by the Committee at its 106th session (15 October – 2 November 2012),' CCPR/C/TUR/CO/1. http://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=418&Lang=en Date accessed: 3 September 2015

[12] US Department of State. 'Country Report on Human Rights Practices 2014;' Turkey, dated 26 June 2015; Section 6. Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity. http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dlid=236586 Date accessed: 3 September 2015

[13] Freedom House. 'Freedom in the World 2015;' Turkey, dated 10 March 2015. https://freedomhouse.org/report/freedom-world/2015/turkey Date accessed: 22 July 2015

grounds of sexual orientation and gender identity into the Constitution or into domestic law. A number of murders of transgender women were reported during the year.'[14]

5.1.6 The European Commission's 2014 Progress Report on Turkey recorded that:

'Transgender people faced bureaucratic difficulties after sex-change operations and discrimination in access to health services. LGBTI sex workers faced police violence, arbitrary administrative interventions, fines and discriminatory measures aimed at protecting "general morality" and "general health." A 2012 ECtHR judgment, where the court upheld a complaint relating to sexual orientation by a gay man about the treatment he suffered while in detention, was not implemented (X v. Turkey case).'[15]

5.1.7 The Institute for War and Peace reported in June 2015 that: 'In recent comments about Armenians, Turkish president Recep Tayyip Erdoğan appeared to portray them as a hostile, alien presence, reviving uneasy memories of the past.

'As his Justice and Development Party (AKP) party went into this month's parliamentary ballot, Erdoğan listed various forces that he viewed as "sponsors" of the People's Democratic Party (HDP). As well as some of Turkey's Alevi faith group and the Doğan media group, he named "homosexuals" and "the Armenian lobby".'[16]

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5.2 Police and Judiciary

5.2.1 The US Department of State (USSD) Human Rights report covering 2014 stated: 'Human rights organizations ... noted that LGBT persons, particularly gay men, were subject to police abuse and harassment on "moral" grounds'.[17] The report further stated:

'LGBT advocates accused the courts and prosecutors of creating an environment of impunity for attacks on transgender persons in prostitution. Human rights attorneys reported that police and prosecutors frequently failed to pursue violence against transgender persons aggressively. They often did not arrest suspects or hold them in pretrial detention, as was common with

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[14] Amnesty International. 'Amnesty International Report 2014/15;' Turkey, dated 25 February 2015. https://www.amnesty.org/en/countries/europe-and-central-asia/turkey/report-turkey/ Date accessed: 12 November 2015.

[15] European Commission. '2014 Progress Report on Turkey', dated 8 October 2014 (chapter 23: Judiciary and fundamental rights, page 59). http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-turkey-progress-report_en.pdf Date accessed: 22 July 2015

[16] Institute for War and Peace Reporting. 'Armenian Immigrants "Hostage" to Turkish Politics,' dated 19 June 2015. http://www.ecoi.net/local_link/305746/429072_en.html Date accessed: 3 September 2015

[17] US Department of State. 'Country Report on Human Rights Practices 2014;' Turkey, dated 26 June 2015. Section C. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dlid=236586 Date accessed: 3 September 2015

other defendants. When arrests were made, defendants could claim "unjustifiable provocation" under the penal code and request a reduced sentence. That code states that punishment "will be reduced if the perpetrator commits a crime under the influence of rage or strong, sudden passion caused by a wrongful act." Judges routinely applied the law to reduce the sentences of those who killed LGBT individuals. For example, on February 26 [2014], a court reduced the sentence of a man who killed a transgender woman from life imprisonment to 18 years under the "unjust provocation" provision. According to the verdict, the "unjust act" was the victim's "being a transvestite." Courts of appeal upheld these verdicts based, in part, on the "immoral nature" of the victim.

'On April 21 [2014], two transgender women were assaulted in the district of Tarlabasi in Istanbul. One woman, Nalan, was injured and her companion, 21-year-old Cagla, died. Another transgender woman recounted the attack and reported that police and ambulance staff refused to touch the dead body, so the victim's friends were forced to carry her.'[18]

5.2.2 The US Department of State (USSD) Human Rights report covering 2014 stated that:

'LGBT prostitutes reported that police detained them to extract payoffs. The law provides that "no association may be founded for purposes against law and morality." Authorities applied this law in attempts to shut down or limit the activities of NGOs working on LGBT matters, and the TIB [telecommunications agency] blocked LGBT social websites. For example, the website Grindr, blocked in August 2013, remained blocked during the year.

'LGBT individuals continued to suffer discrimination, intimidation, and violent crimes. The NGO KAOS-GL reported that between 2010 and June 2014, there were at least 41 reported hate murders of individuals known to self-identify as lesbian, gay, bisexual, or transgender.' [19]

5.2.3 In a statement of 17 July 2015, Amnesty International raised concerns about immunity from prosecution for a father responsible for the 'honour' killing of his son. The statement reads:

'Ahmet Yıldız was just 26 years old when he was shot dead on 15 July 2008, in what has been widely regarded by Lesbian Gay Bisexual Transgender and Intersex (LGBTI) rights activists as a gay "honour" killing. Seven years on, his killer or killers are still at large and the lack of progress in bringing

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[18] US Department of State. 'Country Report on Human Rights Practices 2014;' Turkey, dated 26 June 2015. Section 6. Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity. http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dlid=236586 Date accessed: 21 July 2015

[19] US Department of State. 'Country Report on Human Rights Practices 2014;' Turkey, dated 26 June 2015. Section 6. Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity. http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dlid=236586 Date accessed: 21 July 2015

about justice is viewed by LGBTI organizations in Turkey as an indictment of the lack of protection of LGBTI individuals and a symbol of impunity for homophobic violence…

'After 20 hearings in the case in six years, justice for Ahmet Yıldız is as remote as it has ever been. During the last three hearings, in November 2014, March and July 2015, the prosecution stated that they were in correspondence with law enforcement authorities to check addresses associated with Ahmet Yıldız' father [the only named suspect in the case]. The fact that seven years on, such basic steps are yet to be taken is an indictment of the lack of diligence and commitment of the authorities to bring about justice in this case'.[20]

5.2.4 In its 2014 Progress Report on Turkey (which covers the period from October 2013 to September 2014), the European Commission reported that:

'Regarding the right to life, 4 transgender people were killed as a result of suspected hate crimes. Court sentences for hate crime offenders were often reduced on the basis of "unjust provocation" by the victim and good behaviour. In addition, in numerous cases, crimes against people of a different sexual orientation or gender identity remained unpunished. Shortcomings in the investigation and prosecution of crimes were reported, as well as reluctance by LGBTI people to file complaints.'[21]

5.2.5 The ILGA-Europe 2015 annual report stated that:

'[In 2014] The Diyarbakir Third Criminal Court gave its judgment in the landmark case of a gay man murdered by his father and two uncles in 2012. The court found that Roşin Cicek had indeed been killed because of his sexual orientation, and that his murderers' wish to save family honour was no justification. They were given life sentences (without reduced sentencing due to unjust provocation), which is a rare occurrence. In Kocaeli, a man stabbed his friend 28 times because the latter had suggested they have sex. The police arrested the man, who admitted his crime.'[22]

5.2.6 According to ILGA-Europe during 2014 LGBTI NGOs reported 'several cases of police mistreating trans women. This included a trans sex worker receiving two fines for "causing disturbance" after local residents complained of her presence in the street (two courts annulled the fines); police officers providing insincere assistance to trans women who had just been shot; and

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[20] Amnesty International. 'Turkey: Seven years on – Still No Justice for Ahmed Yildiz', Index number: EUR 44/2108/2015, dated 16 July 2015. https://www.amnesty.org/en/documents/eur44/2108/2015/en/ Date accessed: 3 September 2015

[21] European Commission. '2014 Progress Report on Turkey', dated 8 October 2014 (Chapter 23: Judiciary and fundamental rights, page 59). http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-turkey-progress-report_en.pdf Date accessed: 22 July 2015

[22] International Lesbian, Gay, Bisexual, Trans & Intersex Association (ILGA-Europe). 'Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe 2015,' dated 7 May 2015 (pages 161 – 164). http://www.ilga-europe.org/sites/default/files/01_full_annual_review_updated.pdf Date accessed: 22 July 2015

police officers tear-gassing and arresting trans women for 'disturbing the peace'. [23]

5.2.7 For further information about the judicial system see the country information and guidance on Turkey: Background.

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5.3 Freedom of assembly

5.3.1 In its 2014 Progress Report on Turkey, the European Commission reported that 'Lesbian, gay, bisexual, transgender and intersex (LGBTI) pride parades went ahead without disruption in major cities, with the right to assembly being respected.'[24]

5.3.2 However the 2015 pride parade in Istanbul was prevented from taking place. In a statement issued on 30 June 2015, Amnesty International stated: 'Amnesty International is dismayed by the actions of the Turkish authorities, who on 28 June, prevented the annual Pride march from taking place after thousands had already gathered in Taksim, central Istanbul. Police arbitrarily used force against peaceful demonstrators attempting to celebrate Pride, who were targeted with water cannon, tear gas and pepper-ball projectiles.

'According the Istanbul Governor, who issued a statement yesterday, the authorities had decided to ban the march due to the risk of "provocations" with counter-demonstrators planning to target the Pride and the lack of a formal notification.

'The decision to ban the march had not been communicated to representatives of the Pride despite the fact that they had been in discussions with the authorities in the days leading up to the march.

'The events are the latest testament to the authority's intolerance of peaceful protest, which fly in the face of Turkey's obligations to uphold the right to peaceful assembly. The Turkish authorities should launch prompt, independent and impartial investigations into the use of force by police and commit to ensuring that future Pride marches can take place.

'Pride marches have taken place in Istanbul annually since 2003 and have passed without incident, with an estimated 90,000 taking part in 2014. The authority's previous respect for the right of Lesbian, Bisexual, gay, Transgender and Intersex (LGBTI) people to hold the annual Pride march in Istanbul was in stark contrast to their use of homophobic rhetoric and refusal to prohibit discrimination on grounds of sexual orientation and gender

[23] International Lesbian, Gay, Bisexual, Trans & Intersex Association (ILGA-Europe). 'Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe 2015,' dated 7 May 2015 (pages 161 – 164). http://www.ilga-europe.org/sites/default/files/01_full_annual_review_updated.pdf Date accessed: 22 July 2015

[24] European Commission. '2014 Progress Report on Turkey', dated 8 October 2014 (Chapter 23: Judiciary and fundamental rights, page 53). http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-turkey-progress-report_en.pdf Date accessed: 22 July 2015

identity in law, a longstanding demand of lesbian, bisexual, gay, transgender and intersex (LGBTI) groups in Turkey.

Sunday's unannounced Pride ban represents a new low in the failure to uphold the rights of LGBTI individuals in Turkey'....

'The Pride ban came just two days after the Turkish authorities had pledged to the UN Human Rights Council to uphold the right to peaceful assembly and the rights of LGBTI individuals during its Universal Periodic Review (UPR).' [25]

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5.4 Healthcare

5.4.1 On the subject of AIDS cases in general (as opposed to LGBTI persons with AIDS), the US Department of State (USSD) reported in its Human Rights report covering 2014 that:

'The Ministry of Health reported 1,313 new cases of HIV/AIDS in 2013, of which 1,220 were of HIV and 93 were AIDS, the highest one-year increase recorded. Through the end of 2013, there were 6,381 HIV-positive persons and 1,147 persons with AIDS in the country. Human rights organizations complained the media and medical professionals often did not respect the privacy of individuals with HIV/AIDS. Many persons with HIV/AIDS reported discrimination in access to employment, housing, public services, benefits, and health care. The Positive Life Foundation noted the country lacked laws protecting persons with HIV/AIDS from discrimination and that there were legal obstacles to anonymous HIV testing. The EU progress report noted that the government had not yet finalized its strategic action plan on HIV/AIDS and that further awareness-raising activities were needed.'[26]

5.4.2 The ILGA-Europe 2015 annual report reported that during 2014 'The mayor of the Istanbul Şişli district announced his municipality would provide free healthcare services to LGBTI individuals, residents or not, including free and anonymous testing for sexually transmitted diseases.'[27] The same report noted, however, that 'A gynaecologist at the Reşat Berger Hospital in Istanbul denied prescribing medicines after a patient's gender reassignment

[25] Amnesty International. 'Turkey: Pride march ban is a new low' [EUR 44/1978/2015], dated 30 June 2015. http://www.amnesty.eu/content/assets/public_statements/EUR4419782015ENGLISH.pdf Date accessed: 22 July 2015

[26] US Department of State. 'Country Report on Human Rights Practices 2014;' Turkey, dated 26 June 2015. Section 6. Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity. http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dlid=236586 Date accessed: 21 July 2015

[27] International Lesbian, Gay, Bisexual, Trans & Intersex Association (ILGA-Europe). 'Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe 2015' (pages 161 – 164), dated 7 May 2015. http://www.ilga-europe.org/sites/default/files/01_full_annual_review_updated.pdf Date accessed: 22 July 2015

surgery, telling her that she "didn't condone" the treatment. The patient filed her own complaint against the doctor.'[28]

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5.5 Military service

5.5.1 In their June 2014 Joint Submission to the UN UPR Working group on Turkey, NGOs Kaos GL, LGBTI News, and IGLHRC reported:

'The Turkish military's Medical Competence Regulation continues to use the antiquated Diagnostic and Statistical Manual of Mental Disorders (DSM) from 1968, which labels homosexuality and transsexuality as psychosexual illnesses.On that basis, those who self-identify as gay, bisexual, or transgender are deemed "unfit to serve" after a grueling process of interviews with military and hospital personnel. This designation continues to haunt those individuals when employers question applicants on the status of their military service. Not only does this constitute unjustifiable State-sponsored discrimination on the basis of sexual orientation and gender identity, it also exacerbates social stigmatization against LGBT individuals and violates their right to privacy.'[29]

5.5.2 The European Commission's 2014 Progress Report on Turkey noted that: 'The Turkish Armed Forces' disciplinary system continued to define homosexuality as "unnatural" and envisaged the discharge of "morally indecent" personnel. The military's Medical Competence Regulation continued to refer to homosexuality and transsexuality as illnesses.'[30]

5.5.3 See country information and guidance on Turkey: Military Service.

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6. Societal treatment and attitudes

6.1 Public opinion

6.1.1 The ILGA-Europe 2015 annual report stated that in a global survey on morality published in April 2014 by Pew Research, 'only 4% of respondents in Turkey rated homosexuality as morally acceptable, 12% as not a moral

[28] International Lesbian, Gay, Bisexual, Trans & Intersex Association (ILGA-Europe). 'Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe 2015' (pages 161 – 164), dated 7 May 2015. http://www.ilga-europe.org/sites/default/files/01_full_annual_review_updated.pdf Date accessed: 22 July 2015

[29] Human Rights Violations of LGBT individuals in Turkey, June 2014, Kaos GL, LGBTI News, IGLHRC Submission to the United Nations Universal Periodic Review of Turkey 21st Session [January – February 2015] http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRTRStakeholdersInfoS21.aspx Date accessed: 22 July 2015.

[30] European Commission. '2014 Progress Report on Turkey', dated 8 October 2014 (Chapter 23: Judiciary and fundamental rights, page 59). http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-turkey-progress-report_en.pdf Date accessed: 22 July 2015

issue, and 78% as morally unacceptable, the highest of all European countries surveyed.' [31]

6.1.2 The same report notes that 'Two men received death threats from their own family members, were evicted from their flat, and fired from their jobs after holding a symbolic wedding in Istanbul in September, a move they had hoped would help improve public opinion'.[32]

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6.2 Homophobic violence

6.2.1 The ILGA-Europe 2015 annual report stated that:

'Trans women continued to be subjected to vicious attacks. Three trans women were killed (Sevda, by her partner in Gaziantep; Cingene Gul, by an unidentified murderer in Istanbul; and Cağla Joker, by two young clients she had met for sex work in Istanbul). Two others were stabbed and/or shot while meeting clients for sex work; one of them was denied legal aid by the Corum Bar Association, who claimed they "do not assign lawyers to transvestites". At least five other trans women were shot, stabbed, or beaten. The murderer of B.U., a trans woman beaten to death in 2013, saw his prison sentence reduced from life to 18 years for "unjust provocation," because his victim was trans....

'Community website LGBTI News Turkey collected information on 47 homophobic and transphobic murders which took place in 2010-2014, but estimated the overall total for this period to be significantly higher due to under-reporting.'[33]

6.2.2 On 14 July 2015 the Office of the United Nations High Commissioner for Human Rights (OHCHR) expressed deep concern over attacks and incitement to violence against lesbian, gay, bisexual and transgender (LGBT) people in Turkey and called on the authorities to take active measures to combat homophobic and transphobic violence and discrimination. The UN OHCHR spokesperson stated:

'"In the past two weeks alone, reported incidents include the appearance of posters in Ankara encouraging the murder of LGBT people; a violent homophobic attack against a group of young gay men in Istanbul; as well as

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[31] International Lesbian, Gay, Bisexual, Trans & Intersex Association (ILGA-Europe). 'Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe 2015,' dated 7 May 2015 (pages 161 – 164). http://www.ilga-europe.org/sites/default/files/01_full_annual_review_updated.pdf Date accessed: 22 July 2015

[32] International Lesbian, Gay, Bisexual, Trans & Intersex Association (ILGA-Europe). 'Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe 2015,' dated 7 May 2015 (page 162) http://www.ilga-europe.org/sites/default/files/01_full_annual_review_updated.pdf Date accessed: 3 September 2015

[33] International Lesbian, Gay, Bisexual, Trans & Intersex Association (ILGA-Europe). 'Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe 2015,' dated 7 May 2015 (pages 161 – 164). http://www.ilga-europe.org/sites/default/files/01_full_annual_review_updated.pdf Date accessed: 22 July 2015

rape, assault and robbery against Kemal Ördek, a human rights defender and founder of the Red Umbrella Sexual Health and Human Rights Association." He went on to say that the Office is "further concerned about allegations that in the last case, police officers trivialized the attack, used discriminatory language, tried to dissuade the victim from filing a complaint, and did not provide protection from additional threats by the alleged perpetrators."'[34]

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6.3 Employment

6.3.1 The US Department of State (USSD) Human Rights report covering 2014 stated that:

'LGBT individuals faced discrimination in employment. The law includes a clause that allows for dismissal if a government employee is found "to act in a shameful and embarrassing way unfit for the position of a civil servant," and other statutes criminalize the vague practice of unchastity. In March [2014] an LGBT police officer in Gaziantep was fired and charged with the crime of "unchastity." The administrative court rejected the officer's appeal to annul the decision.' [35] The same reported stated that 'Discrimination in employment or occupation occurred with regard to gender, ethnicity, religion, sexual orientation, HIV-positive status, and presence of a disability.'[36]

6.3.2 The US SD report noted:

'In a letter to judges, the Interior Ministry defended its previous decision to sack a police officer due to his homosexuality. The policeman's house was raided in 2009, when "evidence" of his homosexuality led to an internal investigation, and his eventual dismissal. The man sued the ministry before the 8th Administrative Court and the Council of State, which ruled that the dismissal had been unjustified, but refused to cancel it. In a letter to the Council of State, the ministry described the policeman's actions as "disgraceful and shameful", and argued hiring him again would erode public trust in the force'.[37]

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[34] UN News Service. 'Turkish authorities urged to tackle anti-LGBT violence and discrimination – UN rights office,' dated 14 July 2015. http://www.un.org/apps/news/story.asp?NewsID=51412 Date accessed: 22 July 2015

[35] US Department of State. 'Country Report on Human Rights Practices 2014;' Turkey, dated 26 June 2015. Section 6. Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity. http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dlid=236586 Date accessed: 21 July 2015

[36] US Department of State. 'Country Report on Human Rights Practices 2014;' Turkey, dated 26 June 2015. d. Discrimination with Respect to Employment or Occupation. http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dlid=236586 Date accessed: 21 July 2015

[37] International Lesbian, Gay, Bisexual, Trans & Intersex Association (ILGA-Europe). 'Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe 2015,' dated 7 May 2015 (pages 161 – 164). http://www.ilga-europe.org/sites/default/files/01_full_annual_review_updated.pdf Date accessed: 3 September 2015

6.3.3 The ILGA-Europe 2015 annual report stated that: 'In July, the Council of State ruled that the firing of a gay teacher was against the law, stating that consensual homosexual relations in private life were not a disciplinary matter. The decision struck down the administrative court's previous judgment in the case'.[38]

6.3.4 The European Commission's 2014 Progress Report on Turkey recorded that:

'A self-identified LGBTI person was elected to serve on a municipal council in Istanbul. However, there were cases of discrimination at the workplace. Cases were reported of civil servants being dismissed from their jobs due to the disclosure of their sexual identity, and three court cases on grounds of discrimination on sexual orientation have been ongoing. A police officer's appeal against dismissal from his profession for his sexual orientation was awaiting a trial date.'[39]

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7. LGBT organisations

7.1.1 The International Center for Not-for-Profit Law reported in the NGO Law Monitor of April 2015 that: 'All Turkish citizens can establish or be a member of associations... In general, if the regulations are satisfied, NGOs will not be refused registration. Article 56 states that "No association may be formed for an object contrary to the laws and morality."'[40]

7.1.2 According to the US State Department, 'there were active LGBT organizations in Istanbul, Ankara, Izmir, Adana, Eskisehir, and Diyarbakir, and unofficial groups in smaller cities and on university campuses. Groups reported harassment by police and government authorities. Many university groups in small cities complained that rectors had denied them permission to organize. On June 18, the administration of Mardin Artuklu University canceled a "queer and architecture" workshop for a graduate class due to threats that included hate speech. LGBT organizations reported the government used regular and detailed auditing to create administrative burdens and threaten the possibility of large fines. They also reported challenges finding office space to rent due to discrimination from landlords. [41]

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[38] International Lesbian, Gay, Bisexual, Trans & Intersex Association (ILGA-Europe). 'Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe 2015,' dated 7 May 2015 (pages 162 – 163).
http://www.ilga-europe.org/sites/default/files/01_full_annual_review_updated.pdf
Date accessed: 3 September 2015

[39] European Commission. '2014 Progress Report on Turkey', dated 8 October 2014 (Chapter 23: Judiciary and fundamental rights, page 59).
http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-turkey-progress-report_en.pdf
Date accessed: 22 July 2015

[40] International Center for Not-for-Profit Law. 'NGO Law Monitor: Turkey,' dated 21 April 2015.
http://www.icnl.org/research/monitor/turkey.html Date accessed: 3 September 2015

[41] US Department of State. 'Country Report on Human Rights Practices 2014;' Turkey, dated 26 June 2015. Section 6. Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity.

7.1.3 The same report stated:

'LGBT and women's groups in particular complained that the government used regular and detailed audits to create administrative burdens and to intimidate them through the threat of large fines. According to the European Commission's October progress report, civil society organizations were subject to disproportionate state supervision – particularly through auditing- and restrictive interpretation of the law, causing many associations to seek court protection to defend their rights. For example, the LGBT rights group KAOSGL reported the Governorship of Van Province filed a legal suit to dissolve Ekogenc (the Youth and Ecology Association) in Van because it used the term "sexual orientation" in its by-laws and did not have a "hierarchical" administrative structure. The case remained pending'.[42]

7.1.4 The European Commission's Turkey 2014 Progress Report of October 2014 noted that 'Concepts such as 'general morality', 'Turkish family structure', 'national security', and 'public order' were used widely and allowed too large a margin of discretion to authorities, hindering the respect in practice of freedom of association. Two LGBTI associations faced closure requests based on 'general morality.'[43]

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http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dlid=236586 Date accessed: 21 July 2015

[42] US Department of State. 'Country Report on Human Rights Practices 2014;' Turkey, dated 26 June 2015. Freedom of Peaceful Assembly and Association http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dlid=236586 Date accessed: 21 July 2015

[43] European Commission. '2014 Progress Report on Turkey', dated 8 October 2014 (Chapter 23: Judiciary and fundamental rights, page 54). http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-turkey-progress-report_en.pdf Date accessed: 3 September 2015

Version Control and Contacts

Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors then email the Country Policy and Information Team.

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email the Guidance, Rules and Forms Team.

Clearance

Below is information on when this version of the guidance was cleared:

- Version: **1.0**
- valid from: **2 March 2016**
- this version approved by: **Sally Weston, Deputy Director, IBPD**
- approved on: **25 January 2016**

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